

**BEFORE THE
WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND
TRANSPORTATION COMMISSION,

Complainant,

v.

NORTHWEST NATURAL GAS
COMPANY,

Respondent.

Docket No. UG-200994

NORTHWEST NATURAL GAS
COMPANY’S MOTION FOR
AMENDED PROTECTIVE ORDER
WITH HIGHLY CONFIDENTIAL
PROVISIONS

(Expedited Treatment Requested)

I. INTRODUCTION

I Northwest Natural Gas Company (“NW Natural” or “Company”) files this Motion for Amended Protective Order with Highly Confidential Provisions pursuant to WAC 480-07-420(2).¹ The standard protective order issued on January 7, 2021, is sufficient to govern the discovery and use of the vast majority of proprietary and confidential documents in this proceeding.² However, a recent request for information from the Washington Utilities and Transportation Commission (“Commission”) Staff, described in more detail below, seeks the production of highly confidential information that requires greater protection than the standard protective order provides. Therefore, NW Natural files this motion for an amended protective order with highly confidential protections so that NW Natural can provide access to and protection of this highly confidential information.

¹ WAC § 480-07-420(2)(a).

² Docket UG-200994, Order 02, Protective Order (Jan. 7, 2021).

2 To facilitate discovery, NW Natural requests expedited consideration of this motion. NW Natural has conferred with the other parties in this docket; none object either to this motion or to the request for expedited treatment. Service of documents pertaining to this filing should be made to the following representatives:

Lisa Rackner
McDowell Rackner & Gibson PC
419 SW 11th Avenue, Suite 400
Portland, OR 97205
Telephone: (503) 595-3925
Email: dockets@mrg-law.com

Zach Kravitz
Director of Rates and Regulatory Affairs
NW Natural
220 NW 2nd Avenue
Portland, OR 97209
Telephone: (503) 220-2379
Email: Zachary.Kravitz@nwnatural.com

II. RELIEF REQUESTED

3 NW Natural respectfully requests that the Commission issue a new protective order that includes “highly confidential” provisions.

III. STATEMENT OF FACTS

4 On January 22, 2021, Commission Staff submitted a data request seeking “a copy of any presentations of [NW Natural] or [Northwest Natural Holdings Company] given to security analyses and rating agencies in 2020 and 2021.”³ To respond to this request, NW Natural would need to provide documents that contain highly sensitive financial forecasts not available to the public. If released to current or potential counterparties or competitors, this information could cause significant harm to the Company by providing competitors with a substantial advantage to NW Natural’s financial detriment.

5 NW Natural anticipates that the Commission’s standard form of protective order will be sufficient to protect materials identified “confidential,” and the amended protective order will continue to protect that information.

³ See UG-200994 Staff DR 6 (Jan. 22, 2021), attached to this motion as Exhibit A.

IV. AUTHORITY AND ARGUMENT

6 WAC 480-07-420(2) authorizes the Commission to amend a protective order and to
add protections for highly confidential information.⁴ Under WAC 480-07-420(2), it is
necessary to create a separate designation in this case and to establish a higher degree of
protection for certain documents, including those documents sought by Commission Staff.

7 The Commission has previously amended its standard protective order to allow for the
designation of highly confidential documents under the following circumstances: (1) the
information relevant to the case is sensitive competitive information that would be of value to
competitors if released; (2) a significant risk exists that confidential information might become
available to persons who have no legitimate need for such information; (3) a disclosing party
might suffer harm as a result of the information's disclosure; and (4) the entry of the protective
order will facilitate discovery.⁵

8 The presentations that NW Natural seeks to protect are precisely the type of
information that is eligible for a "highly confidential" designation under WAC 480-07-
420(2).⁶ While relevant to this case, these presentations contain highly sensitive financial
forecasts that would be valuable to competitors if released and the disclosure of which would
harm NW Natural. The public release of this highly sensitive information would provide a
distinct advantage to NW Natural's competitors and would harm NW Natural and, ultimately,
its customers.

⁴ WAC § 480-07-420(2)(a).

⁵ See, e.g., *WUTC v. Nw. Nat. Gas, d/b/a NW Nat.*, Docket UG-181053, Order 04 (Mar. 19, 2019); *WUTC v. Puget Sound Energy*, Docket UG-151663, Order 02 (Sept. 9, 2015); *WUTC v. Puget Sound Energy*, Docket No. UE-111048 and UE- UG-111049 (consolidated), Order 01 (June 17, 2011); *WUTC v. Puget Sound Energy*, Docket No. UE-090704 and UE-090705 (consolidated), Order 03 (June 23, 2009).

⁶ See WAC § 480-07-420(2)(a).

9 The additional protection provided by a “highly confidential” designation will help ensure that the parties receiving highly confidential information treat it with the utmost care and will limit the forms of duplication and transmission of such information. These enhanced protections will help ensure that highly confidential information does not fall into the possession of market competitors or those who have no legitimate need for such information.

10 NW Natural is not seeking to restrict access to “highly confidential” information by Commission Staff or the other parties to this proceeding beyond the protections contained in the Commission’s standard protective order for “confidential” information, provided that experts retained by Commission Staff or another party certify that they will not use the information to achieve a competitive advantage.

V. CONCLUSION

11 For the reasons set forth above, NW Natural respectfully requests that the Commission enter an amended standard form of protective order in this case with enhanced protection of highly confidential information.

Respectfully submitted this 4th day of February, 2021.

/s/ Lisa Rackner

Lisa Rackner, WSBA No. 39969
Jocelyn Pease, WSBA No. 50266
McDowell Rackner & Gibson PC
419 SW 11th Avenue, Suite 400
Portland, OR 97205
Telephone: (503) 595-3925
Email:
lisa@mrg-law.com
jocelyn@mrg-law.com

Attorneys for Northwest Natural Gas Company