

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the amended appli-) Application No. NG-0053
cation of Nebraska Resources Com-)
pany, LLC, Tulsa, Oklahoma, seeking)
a Certificate of Public Convenience) HEARING OFFICER ORDER GRANTING
and Necessity authorizing it to) MOTION FOR ENFORCEMENT OF
operate as a jurisdictional utility) PROTECTIVE ORDER
in Nebraska and approval of tariff.)

Entered: June 9, 2008

BY THE HEARING OFFICER:

On June 5, 2008, Nebraska Resources Company, LLC (NRC) filed an Emergency Motion for Enforcement of Protective Order with respect to certain precedent agreements produced to Northern Natural Gas Company (Northern) as a result of the Hearing Officer's May 20, 2008 Order on Motions to Compel. NRC seeks a determination that the precedent agreements constitute confidential and proprietary information and that said materials cannot be reviewed or otherwise provided to Northern's "Competitive Duty" personnel.

On June 6, 2008, Northern filed a response. In its response, Northern informed the Commission that no action is required in response to NRC's Emergency Motion. Northern stated it has no intention of disregarding or violating the Protective Order. Accordingly, Northern stated that an order enforcing the Protective Order would be unnecessary.

The Commission entered a Protective Order in this matter on February 5, 2008, governing the use of all confidential information and documents produced by, or on behalf of, any Party. Pursuant to the Protective Order, the term "Confidential Material" means in part materials (including depositions) provided by a Participant in the Application, workpapers, responses to discovery requests and other materials designated by such Participant as protected. A Participant may designate as protected those materials which customarily are treated by that Participant as sensitive and proprietary, which are not available to the public, and which, if disclosed freely, would subject that Participant or its customers to risk of competitive disadvantage or other business injury NRC has consistently maintained that the precedent agreements at issue are proprietary in nature.

The Protective Order specifically states that a reviewing representative shall not be an individual involved in (i) consulting, marketing, purchase, or sales of energy or the supervision of consulting, marketing, purchasing, or sales of energy if the information at issue is confidential, or (ii) negotiating gas supply, transportation or sale arrangements if the information at issue is confidential and involves customers, suppliers, interstate transporters, shipping, or potential shippers' negotiations regarding capacity arrangements, or (iii) negotiating with customers (current or potential) for service if the information at issue is confidential and concerns potential expansion or extension of existing facilities or the renewal or renegotiation of existing service agreements or the negotiation of new service agreements.

While an Order in this regard should not be required, the Hearing Officer clarifies for the parties that the Precedent Agreements constitute confidential and proprietary information subject to the Protective Order pending action by the Commission on any request by Northern to lift the confidentiality assigned by the Protective Order to the Precedent Agreements.

The use of the confidential information is also limited by the Protective Order which specifically states: Confidential Materials shall not be used except as necessary for the conduct of this proceeding, nor shall they be disclosed in any manner to any person except a Reviewing Representative who is engaged in the conduct of this proceeding and who needs to know the information in order to carry out that person's responsibilities in this proceeding and who qualifies for access to such material.

Based upon the Motion and Northern's response, it does not appear that the "competitive duty personnel" qualify as Reviewing Representatives under the Protective Order and are therefore not entitled to access to the precedent agreements. In addition, I agree with the statement in Northern's response that all parties must make good faith attempts to resolve disputed issues prior to filing motions with the Commission.

O R D E R

IT IS THEREFORE ORDERED by the Hearing Officer that the Motion for Enforcement of Protective Order is granted.

IT IS FURTHER ORDERED that the precedent agreements are deemed confidential and proprietary subject to the Protective Order and that they shall not be provided to "competitive duty personnel".

MADE AND ENTERED at Lincoln, Nebraska, this 9th day of June, 2008.

BY:


Hearing Officer