



4. On August 2, 2006, NWC announced, for the first time, the call and discovery would be conditioned on Intervenor's signing a confidentiality agreement. NWC proposed an agreement that left "confidential" undefined, allowed the company the unfettered unilateral ability to impose confidentiality on discovery material, and placed the burden of proving material was not confidential on the Intervenor. I objected, suggesting that South Dakota statutes and PUC regulations provided adequate mechanisms for confidentiality and document protections.

5. By way of compromise, I proposed that a confidentiality agreement would be acceptable if it incorporated the SD PUC regulatory definitions of confidential material and the SD PUC regulatory provisions placing the burden of proof on the party seeking confidentiality. NWC declined that compromise.

6. On August 22, 2006, I wrote counsel for NWC and suggested if compromise on an agreement could not be achieved, I would notice the deposition and proceed with discovery. Shortly thereafter, NWC proposed another draft confidentiality agreement that incorporated SD PUC confidentiality definitions and burden of proof. After some editing, the final form of agreement was settled mid-September. No depositions had occurred to that date.

7. A new schedule was laid out in a September 19, 2006, conference call. I agreed to an aggressive timetable, but with the caveat that I reserved the right to ask for a continuance if the timetable became too tight.

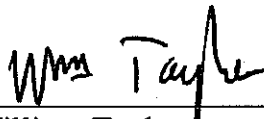
8. Heartland/SDPC deposed NWC's controller on September 26, 2006. NWC declared the entirety of the deposition confidential pending review of the transcript. Based on deposition testimony, Heartland determined that it needed to hire an expert to offer certain testimony relevant to the jurisdiction question. Heartland retained an expert last Friday, two days after the deposition transcript was delivered and nine days after the deposition was taken.

9. After consulting with Heartland's expert, we have determined it is necessary to take another deposition. It is impossible to take the deposition and complete a brief by the current deadline of October 17, 2006.

10. Had NWC not insisted on a confidentiality agreement, rather proceeding under the very well defined PUC regulations dealing with confidentiality, discovery would have been completed by mid September. Intervenors have proceeded rapidly and have done their best to accommodate an accelerated timetable, but completion of meaningful discovery in time to submit a brief on September 17, 2006, is impossible.

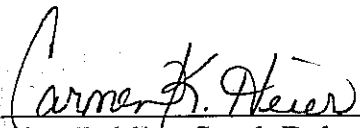
11. A thirty day extension will allow discovery to be completed and briefing to be done in the orderly and careful manner this important question deserves and won't prejudice NWC.

Dated this 10 day of October, 2006.

  
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William Taylor

Subscribed and sworn to before

me this 10<sup>th</sup> day of October, 2006.

  
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Notary Public - South Dakota

CARMEN K. HEIER  
NOTARY PUBLIC, SOUTH DAKOTA  
My Commission Expires:  
March 27, 2007