

Speidel, Alexander

STAFF EXHIBIT 10

ORIGINAL

From: Speidel, Alexander Sent: Monday, June 06, 2011 5:06 PM To: hallsr@nu.com; eatongm@nu.com Cc: McCluskey, George; edward.arnold@jacobs.com; RLO@levitan.com Subject: Nondisclosure Agreement: Levitan/Jacobs Next Steps (DE-10-261)	N.H.P.U.C. Case No. <u>DE 10-261</u> Exhibit No. <u>Staff-10</u> Witness <u>Panel 9</u> DO NOT REMOVE FROM FILE
Importance: High	

Steve and Jerry,

I have discussed the possibilities for solutions to the impasse on nondisclosure between Jacobs and Levitan & Associates with my legal colleagues here at the Commission, and, in light of the continuing concerns outlined by Jacobs regarding their need for a retention carve-out for their work product under the non-disclosure agreement, I think that it is time to take stock of where we stand on this.

My hopes for a workaround using Staff as an information retention conduit are not supportable at this time, in light of further guidance from my supervisors. Therefore, Jacobs and Levitan need to come to a nondisclosure agreement that is reasonable for both parties, so that Jacobs/Ed Arnold can do the work that they need to do on behalf of Staff. In Staff's view, the version of the nondisclosure agreement with the work product carveout suggested by Jacobs is such a reasonable agreement.

At this time, it is useful to keep in mind what I told PSNH and Levitan staff at the Friday meeting. Levitan, and its client, PSNH, bear the burden of demonstrating to this Commission that the Newington Continuing Operation Study has been prepared using robust, verifiable scientific methods. In order for Staff to issue a recommendation on this docket stating that Staff has been able to independently verify the methodology of the Newington Study, Staff and our consultant, Jacobs/Ed Arnold, need to have access to information about the methodology, as determined by Staff and its consultant. We accept the need for a nondisclosure agreement between Jacobs and Levitan as a prerequisite for more granular levels of access by Jacobs/Ed Arnold that implicate possible trade secrets, but please bear in mind that if such an agreement cannot be reached, and the information needed for Staff/Jacobs analysis of the methodology used in the Newington Study is not made available, Staff will likely not be able to issue a recommendation to the Commission with a component verifying the Levitan methodology for the Newington Study.

Staff and Jacobs will not supply a written agenda for tomorrow's call/webinar (scheduled for 3:00 pm Eastern); as discussed at the Friday meeting, we would continue along with our general questions regarding the Levitan methodology.

Many thanks,

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