

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

MID-AMERICA PIPELINE COMPANY,)	
)	
Plaintiff,)	8:09CV370
)	
vs.)	ORDER
)	
WILSON EXCAVATING, INC. and)	
DALE D. WILSON,)	
)	
Defendants.)	

This matter is before the court on the defendants’ Motion to Compel ([Filing No. 48](#)). The plaintiff does not oppose the motion. Although the parties agree the discovery sought is relevant and discoverable in the instant action, the plaintiff previously objected to the disclosure sought because production may violate federal statute absent a court order or consent of third parties. Specifically, the production sought is relevant to the plaintiff’s request for lost profits and includes the following.

- a. All contracts, agreements, invoices, or other documents relating to the sale of product from the plaintiff to its customers in March and April, 2007.
- b. All documents in any way supporting the plaintiff’s claim for lost profits due to the disruption of service in March and April, 2007.

Such discovery may reveal “information about the nature, kind, quantity, destination, consignee, or routing of property tendered or delivered to that carrier for transportation . . . without the consent of the shipper or consignee.” Interstate Commerce Act, [49 U.S.C. § 16103\(a\)](#). However, good cause exists for production of the requested discovery in this action. Furthermore, any such production is subject to the Protective Order ([Filing No. 23](#)) governing confidential information in this case. Accordingly,

IT IS ORDERED:

- 1. The defendants’ Motion to Compel ([Filing No. 48](#)) is granted.
- 2. **On or before October 26, 2010**, the plaintiff shall produce to the defendants:

- a. All contracts, agreements, invoices, or other documents relating to the sale of product from the plaintiff to its customers in March and April, 2007.
 - b. All documents in any way supporting the plaintiff's claim for lost profits due to the disruption of service in March and April, 2007.
3. The production of the above shall be subject to the court's Protective Order ([Filing No. 23](#)).

DATED this 12th day of October, 2010.

BY THE COURT:

s/ Thomas D. Thalken
United States Magistrate Judge

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