

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1931

PORTLAND GENERAL ELECTRIC
COMPANY,

Complainant,

vs.

ALFALFA SOLAR I LLC, DAYTON SOLAR I
LLC, FORT ROCK SOLAR I LLC, FORT
ROCK SOLAR II LLC, FORT ROCK SOLAR
IV LLC, HARNEY SOLAR I LLC, RILEY
SOLAR I LLC, STARVATION SOLAR I LLC,
TYGH VALLEY SOLAR I LLC, WASCO
SOLAR I LLC,

Defendants.

**MOTION FOR GENERAL
PROTECTIVE ORDER**

*Expedited Consideration
Requested*

Pursuant to ORCP 36(C) and OAR 860-001-0080, Portland General Electric Company (“PGE”) requests the issuance of a General Protective Order in this proceeding. PGE believes good cause exists for the issuance of such an order to protect commercially sensitive and confidential information.

1. The Commission's rules authorize PGE to seek reasonable restrictions on discovery of trade secrets and other confidential business information. *See* 860-001-0080; ORCP 36(C) (providing protection against unrestricted discovery of "trade secrets or other confidential research, development, or commercial information"); see *also In re Investigation into the Cost of Providing Telecommunication Service*, Docket UM 351, Order No. 91-500 (1991) (recognizing that protective orders are a reasonable means to protect "the rights of a party to trade secrets and other confidential commercial information" and "to facilitate the communication of information between litigants").

2. On January 25, 2018, PGE filed the above-captioned complaint. It is expected that certain documents related to the proceeding, including documents related to discovery conducted

by the parties to the proceeding, will contain confidential material, which may include but is not limited to proprietary cost data and models, commercially sensitive load and resource projections, confidential market analyses and business projections, and/or confidential information regarding contracts for the purchase or sale of electric power, power services, or fuel. PGE also anticipates that parties participating in this docket will make further requests for protected commercial information and/or trade secrets under ORCP 36(C). While PGE desires to provide parties with that information, some of the material included within the scope of that kind of request would contain confidential and proprietary information. That information is of significant commercial value, and its public disclosure could be detrimental to PGE and its customers.

3. Expedited consideration and an immediate order granting a general protective order will facilitate initial discovery between the parties. Counsel for PGE has consulted with Counsel for Defendants and Counsel for Intervenors regarding this motion for general protective order and no party objects to the motion or to expedited consideration.

For the reasons stated above, PGE requests that the Commission provide expedited consideration of this motion and that a protective order be issued in this proceeding. The requested order, identical with one the Commission customarily issues, is attached.

DATED this 16th day of October, 2018.

Respectfully submitted,



David White, OSB #011382
Associate General Counsel
Portland General Electric Company
121 SW Salmon Street, 1WTC13
Portland, OR 97204
Tel: (503) 464-7701
Fax: (503) 464-2200
Email: david.white@pgn.com

ORDER NO.

ENTERED

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1931

PORTLAND GENERAL ELECTRIC
COMPANY,

Complainant,

vs.

ALFALFA SOLAR I LLC, DAYTON
SOLAR I LLC, FORT ROCK SOLAR I
LLC, FORT ROCK SOLAR II LLC, FORT
ROCK SOLAR IV LLC, HARNEY SOLAR
I LLC, RILEY SOLAR I LLC,
STARVATION SOLAR I LLC, TYGH
VALLEY SOLAR I LLC, WASCO SOLAR
I LLC,

Defendants.

**GENERAL
PROTECTIVE
ORDER**

DISPOSITION: MOTION FOR PROTECTIVE ORDER GRANTED

On October 16, 2018, Portland General Electric Company (“PGE”) filed a motion for a general protective order with the Public Utility Commission of Oregon (“Commission”) to govern the acquisition and use of protected information produced or used in these proceedings.

PGE states that certain information related to the above-captioned complaint proceeding will contain confidential material, including but not limited to proprietary cost data and models, commercially sensitive load and resource projections, confidential market analyses and business projections, and/or confidential information regarding contracts for the purchase or sale of electric power, power services, or fuel.

PGE also anticipates that parties participating in this docket will make further requests for protected commercial information and/or trade secrets under ORCP 36(C). PGE states that good cause exists for the issuance of a protective order to protect confidential business information, plans and strategies. PGE adds that public disclosure of the protected information could be detrimental to PGE, its customers, and market participants.

ORDER NO.

I find that good cause exists to issue a general protective order, which is attached as Appendix A. A party may appeal this order to the Commission under OAR 860-001-0110.

ORDER

IT IS ORDERED that the general protective order, attached as Appendix A, is adopted.

Made, entered, and effective on _____.

[Judge]
Administrative Law Judge

GENERAL PROTECTIVE ORDER
DOCKET NO. UM 1931

Scope of this Order:

1. This order governs the acquisition and use of Protected Information produced or used by any party to these proceedings.

Designation of Protected Information:

2. Any party may designate as Protected Information any information the party reasonably determines:

- (a) Falls within the scope of ORCP 36(C)(7) (a trade secret or other confidential research, development, or commercial information); and
- (b) Is not publically available.

3. To designate information as Protected Information, a party must place the following legend on the material:

PROTECTED INFORMATION
SUBJECT TO GENERAL PROTECTIVE ORDER

The party should make reasonable efforts to designate as Protected Information only the portions of the information covered by ORCP 36(C)(7).

4. Each page of a document containing Protected Information filed with the Commission or provided to Qualified Persons under this order must be printed on yellow paper and placed in a sealed envelope or other appropriate container. *Only the portions of a document that fall within ORCP 36(C)(7) may be placed in the envelope/container.* The envelope/container must bear the legend:

THIS ENVELOPE IS SEALED UNDER ORDER NO. _____
AND CONTAINS PROTECTED INFORMATION. THE
INFORMATION MAY BE SHOWN ONLY TO QUALIFIED
PERSONS AS DEFINED IN THE ORDER.

5. A party may designate as Protected Information any information previously provided by giving written notice to the Commission and other parties. Parties in possession of newly designated Protected Information must make reasonable efforts to ensure that all copies of the material containing the information bear the above legend if requested by the designating party.

6. A designating party must make reasonable efforts to ensure that information designated as Protected Information continues to warrant protection under this order. If designated information becomes publically available or no longer falls within the scope

of ORCP 36(C)(7), the designating party should make reasonable efforts to remove the protected designation and provide written notice to the Commission and other parties.

Challenge to Designation of Information as Protected:

7. A party may informally challenge any designation of Protected Information by notifying the designating party. Once notified, the designating party bears the burden of showing that the challenged information is covered by ORCP 36(C)(7). Any party may request that the ALJ hold a conference to help resolve disputes about proper designation.

8. If the dispute cannot be resolved informally, the challenging party may file a written objection with the ALJ. The objection need only identify the information in dispute and certify that reasonable efforts to achieve informal resolution have failed.

9. Within five business days of service of the objection, the designating party must either remove the protected designation or file a written response. A written response must identify the factual and legal basis of how the challenged information is protected under the Oregon Public Records Act, ORS 192.410 et seq, or the Uniform Trade Secrets Act, ORS 646.461(4). Broad allegations unsubstantiated by specific facts are not sufficient. If the designating party does not timely respond to the objection, the Commission will remove the protected designation from the challenged information.

10. The challenging party may file a written reply to any response within five business days of service of an objection. The designating party may file a sur-reply within three business days of service of a response. The ALJ will make all reasonable efforts to resolve the matter within 10 business days of service of the last filing.

Access to Protected Information:

11. Only Qualified Persons may access Protected Information designated by another party under this Protective Order. Persons automatically bound by this protective order and qualified to access Protected Information are:

- a. Commission employees; and
- b. Assistant Attorneys General assigned to represent the Commission.

12. Persons qualified upon a party signing the Consent to be Bound section of Appendix B are:

- a. Counsel for the party;
- b. Any person employed directly by counsel of record; and
- c. An employee of the Regulatory Division at the Citizens' Utility Board of Oregon.

A party must identify all these persons in section 2 of Appendix B when consenting to be bound by the order, and must update this list throughout the proceeding to ensure it accurately identifies Qualified Persons

13. A party bound by the protective order may seek to qualify other persons to access Protected Information by having those persons complete and sign Appendix C, and submitting that information to the Commission and all parties. Within five business days of receiving a copy of Appendix C, the designating party must either provide the requested access to Protected Information or file an objection under Paragraph 14.

Objection to Access to Protected Information:

14. All Qualified Persons have access to Protected Information unless the designating party objects as provided in this paragraph. As soon as the designating party becomes aware of reasons to restrict access to a Qualified Person, the designating party must provide the Qualified Person and his or her counsel notice stating the basis for the objection. The parties must promptly confer and attempt to resolve the dispute on an informal basis.

15. If the parties are unable to resolve the matter informally, the designating party must file a written objection with the ALJ. The requesting party may file a response to the motion within 5 business days of service of an objection. The ALJ will make all reasonable efforts to resolve the matter within 10 business days of the last filing. Pending the ALJ's decision, the specific Protected Information may not be disclosed to the person subject to the objection.

Use of Protected Information:

16. All Qualified Persons must take reasonable precautions to keep Protected Information secure. A Qualified Person may reproduce Protected Information to the extent necessary to participate in these proceedings. A Qualified Person may discuss Protected Information obtained under this order only with other Qualified Persons who have obtained the same information.

17. Without the written permission of the designating party, any Qualified Person given access to Protected Information under this order may not disclose Protected Information for any purpose other than participating in these proceedings.

18. Nothing in this protective order precludes any party from independently seeking through discovery in any other administrative or judicial proceeding information or materials produced in this proceeding under this protective order.

19. Counsel of record may retain memoranda, pleadings, testimony, discovery, or other documents containing Protected Information to the extent reasonably necessary to maintain a file of these proceedings or to comply with requirements imposed by another governmental agency or court order. The information retained may only be disclosed to

Qualified Persons under this order. Any other person retaining Protected Information must destroy or return it to the designating party within 90 days after final resolution of these proceedings unless the designating party consents in writing to retention of the Protected Information. This paragraph does not apply to the Commission or its Staff.

Duration of Protection:

20. The Commission will preserve the designation of information as protected for a period of five years from the date of the final order in these proceedings, unless extended by the Commission at the request of the designating party. The Commission will notify the designating party at least two weeks prior to the release of Protected Information.

CONSENT TO BE BOUND
DOCKET NO. UM 1931

I. Consent to be Bound:

This general protective order governs the use of Protected Information in these proceedings.

_____ Party agrees to be bound by the terms of the general protective order and certifies that it has an interest in these proceedings that is not adequately represented by other parties to the proceedings.

Signature: _____

Printed Name: _____

Date: _____

II. Persons Qualified under Paragraph 12:

_____ (Party) identifies the following person(s) qualified under paragraph 12.

PRINTED NAME	DATE

QUALIFICATION OF OTHER PERSONS
DOCKET NO. UM 1931

III. Persons Seeking Qualification under Paragraph 13:

I have read the general protective order, agree to be bound by the terms of the order, and provide the following information.

Signature:		Date:
Printed Name:		
Physical Address:		
Email Address:		
Employer:		
Associated Party:		
Job Title:		
If not employee of party, description of practice and clients:		