

Portland General Electric Company

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March 22, 2011

Via Electronic Filing and U.S. Mail
Oregon Public Utility Commission
Attention: Filing Center
550 Capitol Street NE, #215
PO Box 2148
Salem OR 97308-2148

Re: UM ____

Attention Filing Center:

Pursuant to Oregon Public Utility Commission (Commission) Order No. 06-446, Portland General Electric Company (PGE) requests that the Commission open a docket and issue a Protective Order for PGE's Request for Proposals (RFP) for capacity resources. The RFP will be issued to fulfill the capacity resource actions identified by PGE in its 2009 Integrated Resource Plan (IRP), acknowledged by Commission Order No. 10-457. PGE anticipates that it will be providing a draft RFP to Commission Staff and stakeholders soon. A Motion for Approval of Protective Order is included.

Concurrent with this filing, PGE is also submitting a request to open a docket and issue a protective order for an RFP for energy resources. We request that the Commission schedule a combined pre-hearing conference in this and the energy RFP docket as soon as possible.

PGE is providing copies of this filing to all parties and interested persons in the utility's most recent general rate case, RFP and IRP dockets.

Please contact me at 541 752-9060 or Patrick Hager at 503 464-7857 if you have any questions concerning this filing. Please direct any formal correspondence or requests to the following email addresses: denise.saunders@pgn.com and pge.opuc.filings@pgn.com.

Sincerely,

V. DENISE SAUNDERS

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Assistant General Counsel

VDS:cbm Enclosures

cc: UE 215, UM 1345, LC 48 Service Lists

BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

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In the Matter of)	
PORTLAND GENERAL ELECTRIC COMPANY)	MOTION FOR APPROVAL OF A PROTECTIVE
Request for Proposals for Capacity Resources) ·)	ORDER

Pursuant to ORCP 36(C) (7) and OAR 860-001-0080(4), Portland General Electric Company (PGE) requests the issuance of a Protective Order in this proceeding. PGE believes good cause exists for the issuance of such an order to protect confidential bidder information and confidential business plans and strategies. In support of this Motion, PGE states:

- 1. Concurrent with this Motion, PGE has requested that the Commission open a docket for PGE's 2011 Request for Proposals for Capacity Resources (RFP-Capacity). PGE anticipates that parties participating in this docket may request detailed information on bidders' responses to the RFP-Capacity, confidential information related to PGE's benchmark resource, as well as information related to bid scoring and evaluation results and proprietary information concerning PGE's policies, procedures and models related to the RFP-Capacity.
- 2. 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, its customers, and RFP-IE and RFP bidders. Release of that information could provide advantages to competing bidders as well as sellers in the wholesale power markets to the detriment of PGE and RFP bidders. In addition, the public release of confidential and

proprietary bidder and benchmark resource information would have adverse consequences for the integrity of the RFP-Capacity and future PGE RFPs.

3. PGE's request is consistent with the Commission's Competitive Bidding Guidelines which state that certain bidding information, including information related to a benchmark resource be made available to the utility, Commission staff and non-bidding parties under protective orders that limit the use of the information to RFP approval and acknowledgment and to cost recovery proceedings. *See* Order No. 06-446, Guideline 12.

THEREFORE, for the reasons stated above, PGE moves for approval of a Protective Order in this proceeding.

Respectfully submitted, this 22nd day of March, 2011.

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BEFORE THE PUBLIC UTILITY COMMISSION OF OREGON

	UM	
In the Matter of		
PORTLAND GENERAL ELECTRIC COMPANY		GENERAL PROTECTIVE ORDER
Request for Proposals for Capacity Resources		ORDER
	{	

DISPOSITION: MOTION FOR PROTECTIVE ORDER GRANTED

On March 22, 2011, Portland General Electric Company ("PGE") filed a motion for a Protective Order with the Public Utility Commission of Oregon (Commission). PGE states that the order is needed to protect confidential bidder information and confidential business plans and strategies.

Specifically, PGE explains that it has asked the Commission to open a docket for PGE's 2011 Request for Proposals for Capacity Resources (RFP-Capacity). PGE anticipates that parties may request detailed information on bidder responses to the RFP-Capacity, confidential information related to PGE's benchmark resource, as well as information related to bid scoring and proprietary information related to PGE's policies, procedures, and models related to the RFP-Capacity.

PGE asserts that some of the material included within the scope of that request would contain confidential and proprietary information. PGE adds that the public release of such information could provide advantages to competing bidders as well as sellers in the wholesale power markets, thereby prejudicing PGE, its customers and bidders. In addition, PGE states that the public release of confidential and proprietary bidder and benchmark information would have adverse consequences for the integrity of the RFP-Capacity and future PGE RFPs.

PGE states that its request is consistent with the Commission's Competitive Bidding Guidelines which state that certain bidding information, including information related to a Benchmark Resource be made available to the utility, Commission staff and non-bidding parties under protective orders that limit the use of the information to RFP approval and acknowledgment and to cost recovery proceedings. *See* Order No. 06-446, Guideline 12.

I find that good cause exists to issue a Protective Order, which is attached as Appendix A. PGE's motion for a Protective Order is conditionally granted, subject to the timely filing of objections.

I find that good cause exists to issue a general protective order, which is attached as Appendix A. The order permits the broadest possible discovery consistent with the need to protect confidential information. It shields no specific documents and makes no judgment about whether any particular document contains a trade secret or commercially sensitive information. Rather, the order adopts a process for resolving discovery disputes that include sensitive information.

The order permits any party to designate information as confidential if the party reasonably believes that the information falls within the scope of ORCP 36(C)(7). The confidential designation must be made in good faith and be limited to only those portions of the document that qualify as a protected trade secret or other confidential research, development, or commercial information. Any other party may challenge the designation of information as confidential. The designating party bears the burden of showing that the challenged information is covered by ORCP 36(C)(7).

Confidential information may be disclosed only to a "qualified person" as defined in paragraph 3 of the general protective order. The authors of the confidential material, the Commission, Administrative Law Judges (ALJs), Commission Staff, and counsel of record for a party or persons directly employed by counsel are "qualified persons" and may review confidential information without individually signing the general protective order. Other persons wanting access to confidential information must become qualified under paragraph 10.

To receive confidential information, all parties except Commission Staff must sign the "consent to be bound" in section I of Appendix B. This includes the party that moved for issuance of the general protective order because any party may designate information as confidential under the order. By signing the "consent to be bound," a party agrees to be bound by the terms of the general protective order and certifies that it has an interest in the proceedings that is not adequately represented by other parties to the proceedings.

All persons given access to confidential information must monitor their own conduct to ensure compliance with the general protective order. Without the written permission of the designating party, no person may use or disclose the information for any purpose other than participating in these proceedings. All qualified persons must take reasonable precautions to keep confidential information secure. Questions regarding whether a particular person is a "qualified person" under the general protective order may be directed to the Administrative Hearings Division at (503) 378-6678.

ORDER

IT IS ORDERED that the General I governs the disclosure of confidential information	Protective Order, attached as Appendix A, in these proceedings.
Made, entered, and effective on	*
-	[Judge's name]
	Administrative Law Judge
A party may appeal this order to the Commission ur	nder OAR 860-001-0420.

GENERAL PROTECTIVE ORDER

DOCKET NO. []

Scope of this Order:

1. This order governs the acquisition and use of Confidential Information in these proceedings.

Definitions:

- 2. "Confidential Information" is information that falls within the scope of ORCP 36(C)(7) ("a trade secret or other confidential research, development, or commercial information").
 - 3. A "Qualified Person" is an individual who is:
 - a. An author, addressee, or originator of Confidential Information;
 - b. A Commissioner, Administrative Law Judge (ALJ), or Commission Staff;
 - c. Counsel of record for a party;
 - d. A person employed directly by counsel of record; or
 - e. A person qualified under paragraph 10, including parties and their employees.

Designation of Confidential Information:

4. A party providing Confidential Information must inform other parties that the material has been designated confidential by placing the following legend on the material:

CONFIDENTIAL SUBJECT TO GENERAL PROTECTIVE ORDER

To the extent practicable, the party may designate as confidential only the portions of the material covered by ORCP 36(C)(7).

- 5. A party may designate as confidential any information previously provided by giving written notice to the other parties. Parties in possession of newly designated Confidential Information must, when feasible, ensure that all copies of the information bear the above legend if requested by the designating party.
- 6. Any other party may challenge the designation of information as confidential 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).

Information Given to the Commission:

7. Confidential Information filed or provided to the Commission or its Staff 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 CONFIDENTIAL INFORMATION. THE INFORMATION MAY BE SHOWN ONLY TO QUALIFIED PERSONS AS DEFINED IN THE ORDER.

Disclosure of Confidential Information:

- 8. To receive Confidential Information, all parties except Commission Staff must sign the "consent to be bound" in section I of Appendix B. Confidential Information may not be disclosed to any person other than a Qualified Person. When feasible, Confidential Information must be delivered to counsel. In the alternative, Confidential Information may be made available for inspection and review by Qualified Persons in a place and time agreeable to the parties or as directed by the ALJ.
- 9. A Qualified Person may disclose Confidential Information to any other Qualified Person associated with the same party, unless the designating party objects under paragraph 11.
 - 10. To become a Qualified Person under paragraph 3(e), a person must:
 - a. Read a copy of this general protective order;
 - b. Execute a statement acknowledging that the order has been read and agreeing to be bound by the terms of the order;
 - c. Date the statement:
 - d. Provide a name, address, employer, and job title; and
 - e. If the person is a consultant or advisor for a party, provide a description of the nature of the person's consulting or advising practice, including the identity of current, past, and expected clients.

Counsel must deliver a copy of the signed statement including the information in (d) and (e) to the designating party and to all parties of record. The notification may be made by electronic mail or facsimile. A person qualified under paragraph 3(e) may not have access to Confidential Information sooner than seven days after the designating party receives a copy of the signed statement.

11. All Qualified Persons may have access to Confidential Information unless the designating party objects as provided in this paragraph. The designating party must provide written notice to the Qualified Person and counsel for the party associated with the Qualified Person as soon as the designating party becomes aware of reasons to restrict access. The parties must promptly confer and attempt to resolve any dispute over access to Confidential

Information on an informal basis before filing a motion with the ALJ. After receipt of the written notice as required in this paragraph, the specific Confidential Information may not be disclosed to the Qualified Person until the issue is resolved.

Preservation of Confidentiality:

12. Without the written permission of the designating party, any person given access to Confidential Information under this order may not use or disclose Confidential Information for any purpose other than participating in these proceedings. All Qualified Persons must take reasonable precautions to keep Confidential Information secure. Disclosure of Confidential Information for purposes of business competition is strictly prohibited.

A Qualified Person may reproduce Confidential Information to the extent necessary to participate in these proceedings. A Qualified Person may disclose Confidential Information only to other Qualified Persons associated with the same party.

Duration of Protection:

13. The Commission will preserve the confidentiality of Confidential Information 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 Confidential Information.

Destruction After Proceedings:

14. Counsel of record may retain memoranda, pleadings, testimony, discovery, or other documents containing Confidential 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 not be disclosed to any person. Any other person retaining Confidential 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 Confidential Information. This paragraph does not apply to the Commission or its Staff.

Appeal to the Presiding Officer:

15. Any party may request that the ALJ conduct a conference to help resolve disputes related to this protective order.

A party challenging the designation of information as confidential may file an objection with the ALJ that identifies the information in dispute and includes a certification that reasonable efforts to achieve an informal resolution have been unsuccessful. Within seven days of the objection, unless otherwise ordered by the ALJ, the designating party must either remove the confidential designation or file a written response identifying the legal

basis for the claim of confidentiality. The challenging party may file a written reply to any response within seven days. If the designating party does not timely respond to the motion, the Commission will remove the confidential designation from the challenged information.

Additional Protection:

- 16. If a designating party seeks additional protection for Confidential Information, the party may move for any of the remedies in ORCP 36(C). The motion must include:
 - a. The parties involved;
 - b. The exact nature of the information involved;
 - c. The legal basis for the claim that the information is protected under ORCP 36(C)(7) or the Public Records Law;
 - d. The exact nature of the relief requested;
 - e. The specific reasons the requested relief is necessary;
 - f. A detailed description of the intermediate measures, including selected redaction, explored by the parties and why these measures are insufficient.

Pending the Commission's ruling on a motion for additional protection, the information involved need not be released.

SIGNATORY PAGE DOCKET NO. []

I. Consent to be Bound:

This general protective order governs the use of Conf proceedings.	idential Information in these
Party) agrees to be bo protective order and certifies that it has an interest in these prepresented by other parties to the proceedings.	und by the terms of the general occeedings that is not adequately
Signature:	-
Printed Name:	
Date:	. · · · · · · · · · · · · · · · · · · ·
II. Persons Qualified under Paragraphs 3(a) through (Party) identifies the formula qualified under paragraphs 3(a) through (d).	3(d): ollowing person(s) automatically
PRINTED NAME	DATE
PRINTED NAME	

SIGNATORY PAGE DOCKET NO. []

III. Persons Qualified under Paragraph 3(e):

I have read the general protective order, agree to be bound by the terms of the order, and will provide the information identified in paragraph 10.

By:	Signature:	Date:	
	Printed Name:		
	Address:		
	Employer:		**************************************
	Job Title:	·	
	Paragraph 10(e) information also	provided.	
Ву:	Signature:	Date:	
	Printed Name:	**************************************	
	Address:		
	Employer:		
	Job Title:		
	Paragraph 10(e) information also	provided.	
Ву:	Signature:	Date:	·
	Printed Name:		
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	Employer:		
	Job Title:		
	Paragraph 10(e) information also	provided.	
Ву:	Signature:	Date:	
	Printed Name:		<u> </u>
	Address:		
	Employer:		
	Job Title:	·	
	Paragraph 10(e) information also	provided.	

CERTIFICATE OF SERVICE

I hereby certify that I have this day caused REQUEST TO OPEN DOCKET & MOTION FOR APPROVAL OF PROTECTIVE ORDER [WITH PROPOSED PROTECTIVE ORDER] to be served by electronic mail to those parties whose email addresses appear on the attached service list, and by First Class US Mail, postage prepaid and properly addressed, to those parties on the attached service list who have not waived paper service from OPUC Docket Nos. UE 215/UM 1345/LC 48.

Dated at Portland, Oregon, this 22nd day of March, 2011.

Ý. DÉNISÉ SÁUNDERS, OSB # 903769

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