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**Douglas C. Tingey**  
Assistant General Counsel

January 25, 2010

*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 1417**

Attention Filing Center:

Enclosed for filing in the captioned docket are an original and one copy of:

- **MOTION FOR APPROVAL OF PROTECTIVE ORDER (WITH PROPOSED PROTECTIVE ORDER)**

This is being filed by electronic mail with the Filing Center.

An extra copy of the cover letter is enclosed. Please date stamp the extra copy and return to me in the envelope provided.

Thank you in advance for your assistance.

Sincerely,

**DOUGLAS C. TINGEY**  
Assistant General Counsel

DCT:cbm  
Enclosures

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON  
UM 1417**

In the Matter of Application of PORTLAND  
GENERAL ELECTRIC COMPANY for an  
Order Approving the Deferral of Revenues  
Associated with ROE Refund and Sales  
Normalization Adjustment and Lost Revenue  
Recovery

**MOTION FOR APPROVAL OF  
PROTECTIVE ORDER**

Pursuant to ORCP 36(C)(7) and OAR 860-12-0035(1)(k), 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 business information and financial projections. In support of this Motion, PGE states:

1. The Commission’s rules authorize Portland General Electric Company to seek reasonable restrictions on discovery of trade secrets and other confidential business information. See OAR 860-11-0000(3) (adopting Oregon Rules of Civil Procedure (“ORCP”)); ORCP 36 (C)(7) (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* (UM 351) Order No. 91-500 (1991) recognizing that protective orders are a reasonable means to protect “the rights of a part to trade secrets and other confidential commercial information” and to “facilitate the communication of information between litigants”).

2. PGE has been requested to produce fourth quarter 2009 results of the decoupling mechanisms related to the deferral in this docket, as well as 2010 projections. This financial information has not been publicly released. 2009 results will be publicly released in PGE’s next 10K filing in about one month. To avoid any possible financial disclosure problems, the 2009

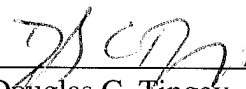
information needs to be kept confidential until that time, and 2010 projections beyond that date. PGE anticipates that there may be additional requests for confidential information in this docket the public release of which could be harmful to PGE and its customers.

3. The Commission should therefore issue a Protective Order to protect the confidentiality of that material. The requested order, identical to the one that the Commission customarily issues, is attached.

For the reasons stated above, PGE requests that a protective order be issued in this proceeding.

DATED this 15<sup>th</sup> day of January, 2010.

Respectfully submitted,

  
\_\_\_\_\_  
Douglas C. Tingey, OSB No. 044366  
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Portland General Electric Company  
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ORDER NO.

ENTERED

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

**UM 1417**

In the Matter of Application of PORTLAND  
GENERAL ELECTRIC COMPANY for an Order  
Approving the Deferral of Revenues Associated  
with ROE Refund and Sales Normalization  
Adjustment and Lost Revenue Recovery

**ORDER**

**DISPOSITION: MOTION FOR PROTECTIVE ORDER GRANTED**

On January 25, 2010, Portland General Electric Company (“PGE”) filed a Motion for a Protective Order with the Public Utility Commission of Oregon (“Commission”). PGE states it has been asked to provide projections of fourth quarter 2009, and year 2010 projections of the results of the decoupling mechanisms that are the subject of this docket. PGE anticipates that there may be requests for further confidential information in this docket. PGE states that good cause exists for the issuance of a protective order to protect confidential business information.

Pursuant to OAR 860-012-0035(1)(k), I find that good cause exists to issue a Protective Order, attached as Appendix A. Under the terms of the order, a party may designate as confidential any information that falls within the scope of ORCP 36(C)(7).

Confidential Information shall be disclosed only to a “qualified person” as defined in paragraph 3 of the Protective Order. Authors of the confidential material, the Commission or its Staff, and counsel of record for a party or persons directly employed by counsel are “qualified persons” who may review confidential information. Other persons desiring confidential information must become qualified pursuant to paragraph 10.

To receive confidential information, however, all parties—with the general exception of Staff—must sign the Consent to be Bound Form attached as Appendix B. This includes the party seeking the issuance of the protective order, because any party may designate information as confidential under this order.

The confidentiality of confidential information shall be preserved for a period of five years from the date of the final order in this docket, unless extended by the Commission at the request of the party desiring confidentiality.

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All persons who are given access to confidential information have the duty to monitor their own conduct to ensure their compliance with the Protective Order. Such persons shall not use or disclose the information for any purpose other than the preparation for and conduct of this proceeding, and shall take all reasonable precautions to keep the confidential information secure. If any questions exist as to the status of any person to receive confidential information, the parties may contact the Administrative Hearings Division at (503) 378-6678.

**ORDER**

IT IS ORDERED that the Protective Order, attached as Appendix A, shall govern the disclosure of confidential information in this case.

Made, entered, and effective on \_\_\_\_\_.

\_\_\_\_\_  
[Judge]  
Administrative Law Judge

A party may appeal this order to the Commission pursuant to OAR 860-014-0091.

**PROTECTIVE ORDER**  
DOCKET NO. UE \_\_\_\_\_

**Scope of this Order-**

1. This order governs the acquisition and use of “Confidential Information” in this proceeding.

**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(s), addressee(s), or originator(s) of the Confidential Information;
  - b. A Commissioner or Commission staff;
  - c. Counsel of record for a party;
  - d. A person employed directly by counsel of record; or
  - e. A person qualified pursuant to paragraph 10. This includes parties and their employees.

**Designation of Confidential Information-**

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

CONFIDENTIAL  
SUBJECT TO PROTECTIVE ORDER

To the extent practicable, the party shall designate as confidential only those portions of the document that fall within 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 shall, when feasible, ensure that all copies of the information bear the above legend to the extent requested by the party desiring confidentiality.

**Information Given to the Commission-**

6. Confidential Information that is: (a) filed with the Commission or its staff; (b) made an exhibit; (c) incorporated into a transcript; or (d) incorporated into a pleading, brief, or other document, shall be printed on yellow paper, separately bound and placed in a sealed envelope or other appropriate container. An original and five copies each separately sealed shall be provided to the Commission. **Only the portions of a document that fall within ORCP 36(C)(7) shall be placed in the envelope/container.** The envelope/container shall bear the legend:

THIS ENVELOPE IS SEALED PURSUANT TO ORDER NO. \_\_\_\_\_ AND CONTAINS CONFIDENTIAL INFORMATION. THE INFORMATION MAY BE SHOWN ONLY TO QUALIFIED PERSONS AS DEFINED IN THE ORDER.

7. The Commission's Administrative Hearings Division shall store the Confidential Information in a locked cabinet dedicated to the storage of Confidential Information.

**Disclosure of Confidential Information-**

8. Parties desiring receipt of Confidential Information shall sign the Consent to be Bound Form attached as Appendix B. This requirement does not apply to the Commission staff. Confidential Information shall not be disclosed to any person other than a "qualified person," as defined in paragraph 3. When feasible, Confidential Information shall 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 Administrative Law Judge.

9. Qualified persons may disclose confidential information to any other qualified person, unless the party desiring confidentiality protests as provided in Section 11.

10. To become a qualified person under paragraph 3(e), a person must:

- a. Read a copy of this 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 his/her current, past, and expected clients.

Counsel shall deliver a copy of the signed statement including the information in (d) and (e) above to the party desiring confidentiality and to all parties of record. Such notification may be made via e-mail or facsimile. A person qualified under paragraph 3(e) shall not have access to Confidential Information sooner than five (5) business days after receipt of a copy of the signed statement including the information in (d) and (e) above by the party desiring confidentiality.

11. All qualified persons shall have access to Confidential Information, unless the party desiring confidentiality protests as provided in this paragraph. The party desiring to restrict the qualified person(s) from accessing specific Confidential Information must provide written notice to the qualified person(s) and counsel for the party associated with the qualified person(s) as soon as the 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 Administrative Law Judge. If the dispute cannot be resolved informally, either party may file a motion with the Administrative Law Judge for resolution. Either party may also file a motion if the other party does not respond within five days to a request to resolve the dispute. A motion must describe in detail the intermediate measures, including selected redaction, explored by the parties and explain why such measures do not resolve the dispute. After receipt of the written notice as required in this paragraph, the specific Confidential Information shall not be disclosed to the qualified person(s) until the issue is resolved.

**Preservation of Confidentiality-**

12. All persons who are given access to any Confidential Information by reason of this order shall not use or disclose the Confidential Information for any purpose other than the purposes of preparation for and conduct of this proceeding, and shall take all reasonable precautions to keep the Confidential Information secure. Disclosure of Confidential Information for purposes of business competition is strictly prohibited.

Qualified persons may copy, microfilm, microfiche, or otherwise reproduce Confidential Information to the extent necessary for the preparation and conduct of this proceeding. Qualified persons may disclose Confidential Information only to other qualified persons associated with the same party.



**Duration of Protection-**

13. The Commission shall preserve the confidentiality of Confidential Information for a period of five years from the date of the final order in this docket, unless extended by the Commission at the request of the party desiring confidentiality. The Commission shall notify the party desiring confidentiality at least two weeks prior to the release of confidential information.

**Destruction After Proceeding-**

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 this proceeding 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 or documents containing such Confidential Information must destroy or return it to the party desiring confidentiality within 90 days after final resolution of this proceeding unless the party desiring confidentiality consents, in writing, to retention of the Confidential Information or documents containing such Confidential Information. This paragraph does not apply to the Commission or its Staff.

**Appeal to the Presiding Officer-**

15. If a party disagrees with the designation of information as confidential, the party shall contact the designating party and attempt to resolve the dispute on an informal basis. If the parties are unable to resolve the dispute, the party desiring to use the information may move for exclusion of the information from the protection conferred by this order. The motion shall:

- a. Specifically identify the contested information, and
- b. Assert that the information does not fall within ORCP 36(C)(7) and state the reasons therefore.

The party resisting disclosure has the burden of showing that the challenged information falls within ORCP 36(C)(7). If the party resisting disclosure does not respond to the motion within ten (10) calendar days, the challenged information shall be removed from the protection of this order.

The information shall not be disclosed pending a ruling by the Administrative Law Judge on the motion.

**Additional Protection-**

16. The party desiring additional protection may move for any of the remedies set forth in ORCP 36(C). The motion shall state:

ORDER NO.

- a. The parties and persons involved;
- b. The exact nature of the information involved;
- c. The exact nature of the relief requested;
- d. The specific reasons the requested relief is necessary; and
- e. A detailed description of the intermediate measures, including selected redaction, explored by the parties and why such measures do not resolve the dispute.

The information need not be released and, if released, shall not be disclosed pending the Commission's ruling on the motion.

ORDER NO.

**SIGNATORY PAGE**

DOCKET NO. UE \_\_\_\_\_

**I. Consent to be Bound-**

This Protective Order governs the use of “Confidential Information” in this proceeding.

\_\_\_\_\_ PGE agrees to be bound by its terms of this Protective Order.

By: \_\_\_\_\_  
Signature & Printed Date

**II. Persons Qualified pursuant to Paragraphs 3(a) through 3 (d)**

\_\_\_\_\_ PGE identifies the following person(s) automatically qualified under paragraph 3(a) through (d).

_____	_____
Printed	Date
_____	_____
Printed	Date
_____	_____
Printed	Date
_____	_____
Printed	Date
_____	_____
Printed	Date
_____	_____
Printed	Date

**III. Persons Qualified pursuant to Paragraph 3(e) and Paragraph 10.**

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

By: \_\_\_\_\_  
Signature & Printed Date

\_\_\_\_\_

By: \_\_\_\_\_  
Signature & Printed Date

\_\_\_\_\_

By: \_\_\_\_\_  
Signature & Printed Date

\_\_\_\_\_


By: \_\_\_\_\_  
Signature & Printed Date

\_\_\_\_\_

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused **MOTIONFOR APPROVAL OF 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 No. UM 1417.

Dated at Portland, Oregon, this 25<sup>th</sup> day of January, 2010.

  
\_\_\_\_\_  
DOUGLAS C. TINGEY, OSB # 044366  
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[doug.tingey@pgn.com](mailto:doug.tingey@pgn.com)

**SERVICE LIST**  
**OPUC DOCKET # UM 1417**

G. Catriona McCracken CITIZEN'S UTILITY BOARD <a href="mailto:catriona@oregoncub.org">catriona@oregoncub.org</a> (*Waived Paper Service)	Robert Jenks CITIZEN'S UTILITY BOARD <a href="mailto:bob@oregoncub.org">bob@oregoncub.org</a> (*Waived Paper Service)
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