

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM _____

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Application to Open Docket for Selection of an
Independent Evaluator (IE).

**MOTION FOR GENERAL
PROTECTIVE ORDER**

**EXPEDITED CONSIDERATION
REQUESTED**

Pursuant to ORCP 36(C)(7) and OAR 860-001-0080(4), 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 confidential bidder information submitted in response to PGE's Request for Proposals for an Independent Evaluator (IE RFP). In support of this Motion, PGE states:

1. Concurrent with this Motion, PGE has submitted a request for the Commission to open a docket for the selection of an Independent Evaluator (IE) to be used in its Requests for Proposals to be issued by PGE in 2017 (2017 RFPs). PGE anticipates that parties who choose to participate in this docket may request detailed information on bidders' responses and scoring related to a Request for Proposal that PGE has issued for the selection of an IE (IE RFP).

2. While PGE desires to provide potential parties with that information, some of the material included within the scope of that kind of request would contain confidential and proprietary business and trade secret information. Such information is of significant commercial value to the bidders, and its public disclosure could be detrimental to PGE, its customers and IE-

RFP bidders. In addition, the public release of confidential bidder information would have adverse consequences for the integrity of the IE-RFP and future IE-RFPs.

3. The Commission's Competitive Bidding Guidelines require Commission staff, with input from the utility and interested, non-bidding parties, to recommend an IE to the Commission, which will then select or approve an IE for the RFPs. Order No. 14-149, Guideline 5. Based on discussions with Commission staff, PGE understands that staff will be working with PGE and any non-bidding parties who choose to participate in this docket to make a recommendation for approval of an IE at the June 13, 2017 Commission Public Meeting. Accordingly, PGE is requesting expedited review and approval of this Motion to allow IE bid information to be provided to any interested non-bidding parties as quickly as possible.

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.

DATED this 9th day of May, 2017.

Respectfully submitted,



V. Denise Saunders, OSB No. 903769
Associate General Counsel
Portland General Electric Company
121 S.W. Salmon Street, 1WTC1301
Portland, Oregon 97204
Telephone: 541-752-9060
Facsimile: 503-464-2220
denise.saunders@pgn.com

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**GENERAL
PROTECTIVE
ORDER**

DISPOSITION: MOTION FOR PROTECTIVE ORDER GRANTED

On May 9, 2017, Portland General Electric Company (“PGE”) filed a motion for a General 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 concurrently submitted a request for the Commission to open a docket for the selection of an Independent Evaluator (IE) for PGE’s 2017 Request for Proposals (RFPs) . PGE anticipates that parties may request detailed information on bidder responses, as well as information related to bid scoring and PGE’s policies, procedures, and models related to the Request for Proposals that PGE has issued for the selection of an IE (IE RFP).

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.

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. []

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. []

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. []

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:		