



Portland General Electric Company

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Loretta I. Mabinton
Associate General Counsel

October 30, 2019

Via Electronic Filing

Public Utility Commission of Oregon
Attention: Filing Center
P.O. Box 1088
Salem, OR 97308-1088

Re: UM 1893 - PGE's Motion for a General Protective Order

Dear Filing Center:

Attached for filing today in Docket UM 1893 is Portland General Electric Company's Motion for a General Protective Order.

This letter and motion are being filed by electronic mail with the Filing Center.

Thank you in advance for your assistance.

Sincerely,

A handwritten signature in blue ink that reads "Loretta Mabinton".

Loretta Mabinton
Associate General Counsel

LM:al

Enclosures

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1893**

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON,

Investigation into the Methodology and
Process for Developing Avoided Costs Used
in Energy Efficiency Cost-Effectiveness
Tests.

**MOTION FOR A GENERAL PROTECTIVE
ORDER**

Pursuant to ORCP 36(C)(1) and OAR 860-001-0080(1) and (2), 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 business information, plans, and strategies. 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 860-001-0000(1); *see also* ORCP 36(C)(1) (providing protection against unrestricted discovery of “...trade secret(s) or other confidential research, development or commercial information...”).

2. PGE anticipates that stakeholders and other parties to this docket will make discovery requests that may include proprietary cost data and models, information covered by confidentiality agreements, commercially sensitive load and resource projections and other confidential analyses. The disclosure of this information would expose PGE to competitive injury if it is forced to make unrestricted disclosure of confidential business information and/or trade secrets.

3. While PGE desires the flexibility to provide confidential information in this proceeding, the public disclosure of sensitive and confidential information could be detrimental to PGE and its customers.

4. The Commission should, therefore, issue a protective order to protect commercially sensitive and confidential business information. 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 30th day of October, 2019.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Loretta Mabinton". The signature is written over a horizontal line that also contains the text "Type text here".

Loretta Mabinton, OSB No. 020710
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In the Matter of

PUBLIC UTILITY COMMISSION OF OREGON,

Investigation into the Methodology and Process for Developing Avoided Costs Used in Energy Efficiency Cost-Effectiveness Tests.

MOTION FOR A GENERAL PROTECTIVE ORDER

DISPOSITION: MOTION FOR PROTECTIVE ORDER GRANTED

On October 30, 2019, Portland General Electric Company (“PGE”) filed a motion for a general protective order to govern the acquisition and use of protected information produced or used in these proceedings. PGE states that the order is needed to protect confidential information and confidential business plans and strategies.

Specifically, PGE anticipates that parties will make discovery requests that may include proprietary cost data and models, information covered by confidentiality agreements, commercially sensitive load and resource projections and other confidential analyses, as well as other business matters that are protected.

In addition, PGE states that the public release of confidential and proprietary information would be detrimental to PGE and its customers and would expose PGE to competitive injury if it is forced to make unrestricted disclosure of confidential business information and/or trade secrets that falls within the scope of ORCP 36(C)(1).

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

ORDER

GENERAL PROTECTIVE ORDER
UM 1893

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)(1) (a trade secret or other confidential research, development, or commercial information); and
- (b) Is not publicly 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)(1).

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)(1) 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 publicly available or no longer falls within the scope

of ORCP 36(C)(1), 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)(1). 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
UM 1893

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

UM 1893

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:		