

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1934

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

2018 Request for Proposals for  
Renewable Resources.

MEMORANDUM

DISPOSITION: PROTECTIVE ORDER EXPLANATION

On October 2, 2018, Portland General Electric Company made an inadvertent disclosure of confidential information in this proceeding. This memorandum explains the Commission's expectations for how stakeholders are to treat this information, as well as some of our relevant standards.

PGE's October 2, 2018 filing was a request for acknowledgement of PGE's final shortlist for its 2018 Request for Proposals (RFP) for Renewable Resources, and contained an attachment with the Independent Evaluator's (IE) closing report. Despite PGE's diligent efforts, certain information that should have been protected from disclosures as a trade secret was revealed in this initial filing. Specifically, information in the IE's closing report was not redacted properly.

The General Protective Order in this proceeding provides that 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."<sup>1</sup>

It is the Commission's understanding that PGE is in the process of communicating to stakeholders and recipients of the filing, and also in the process of making a corrected filing with the Commission noting the designation. PGE may seek the return of any protected materials that may have been inadvertently disclosed, as inadvertent disclosure should not be considered a waiver of any applicable privileges or rights.<sup>2</sup>

The Commission expects all parties to adhere to provisions governing protected information. Our administrative rules address potential sanctions for violating a protective order. OAR 860-001-0080(4) provides that the Commission may expel from

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<sup>1</sup> Order No. 18-063.

<sup>2</sup> *In the Matter of PacifiCorp, dba Pacific Power, Schedule 203, Renewable Resource Deferral Supply Service Adjustment*, Docket No. UE 313, Order No. 17-019 (Jan 24, 2017).

the subject proceedings any person who fails to comply with the terms of a protective order, prohibit the person from appearing in future proceedings, and impose penalties under ORS 756.990(2)(c). The rule also provides that the Commission will report any attorney who violates a protective order to the bar associations in all states where the attorney is admitted to practice law.<sup>3</sup>

Finally, a note on the potential impact of this disclosure. PGE's inadvertent disclosure of bid or scoring information provided more transparency into the RFP process than PGE intended, with non-signatories to the protective order receiving confidential information. However, it is late in the RFP process and PGE's RFP website shows that best and final prices were due on August 10, 2018. Thus, the disclosure should have no impact on the competitiveness of the RFP process or the Commission's evaluation of whether the shortlist should be acknowledged.

Dated this 3<sup>rd</sup> day of October, 2018, at Salem, Oregon.



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Sarah Rowe  
Administrative Law Judge

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<sup>3</sup> *In the Matter of Sierra Club, Regarding Violation of Protective Order No. 13-095*, Docket No. UM 1707, Order No. 14-392 (Nov 6, 2014).