

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2274

In the Matter of
Portland General Electric Company,
Request for Waiver of 2023 RFP Process.

OREGON SOLAR + STORAGE
INDUSTRIES ASSOCIATION
RESPONSE TO PORTLAND GENERAL
ELECTRIC COMPANY'S MOTION
FOR MODIFIED PROTECTIVE ORDER

I. RESPONSE

Pursuant to OAR 860-001-0083(3)(d) and Administrative Law Judge Ruling dated March 8, 2024, Oregon Solar + Storage Industries Association (“OSSIA”) submits this response to Portland General Electric Company’s (“PGE”) motion for a modified protective order filed on March 8, 2024. OSSIA has previously expressed concerns about highly protected information in this docket, those concerns have compounded with the errata filing of Staff Summary Upon Conclusion of RFP in Docket No. UM 2166. Accordingly, OSSIA recommends some changes to avoid unnecessary designation of data as protected and ensure maximum transparency throughout the Request for Proposals (“RFP”) process.

OSSIA is troubled that PGE’s proposed language is too broad and when combined with the utilities discretion to designate information as protected could be problematic and result in information being designated as highly protected when it is not appropriate. To protect information that is “not adequately protected” by the general protective order, the proposed modified protective order contains the same exact language as the general protective order. Without clarity on the type of information that is not adequately protected by the general protective order, this standard is too vague and potentially subject to abuse. In fact, it is the same standard used in the 2021 RFP modified protective order, which prevented information relating

to PGE's winning benchmark bid not meeting the minimum bidding criteria from being made available to stakeholders prior to the establishment of criteria for the 2023 RFP. While this information was eventually made public through Staff's errata filing, it was only after the public meeting where the final decision on the 2023 RFP was made. Had this information been available to all involved stakeholders during the process it could have materially altered the way stakeholders treated minimum bid requirements and the independent evaluator in the current process. Accordingly, OSSIA recommends that all steps are taken to ensure that stakeholders can access critical information as quickly as possible. The modified protective order should not cover whether a bid met or did not meet the minimum bid requirements or any other objective criteria. There should be sufficient transparency to enable someone who did not sign the modified protective order to ensure that bids were all treated comparably in the bid evaluation process.

Additionally, some stakeholders should be permitted to access highly protected information without PGE's consent or a ruling from the ALJ. Parties that have a competitive interest should continue to be excluded, but those parties seeking this information without a competitive interest should be allowed to without the need to acquire PGE's consent or seek an ALJ ruling prior to gaining access. This change would be consistent with PacifiCorp's modified protective order and improves transparency for those parties that do not have a competitive interest.

II. CONCLUSION

These recommendations are meant to improve the modified protective order process and provide future stakeholders sufficient information to ensure the process is being conducted fairly. Instead of erring towards significant designation of highly protected information, the MPO

should provide sufficient protection to prevent projects from being individually identifiable without redacting so much that the process cannot be monitored for fairness and equity.

Dated this 18th day of March 2024.

Respectfully submitted,

OREGON SOLAR + STORAGE INDUSTRIES ASSOCIATION

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