

**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF THE STATE OF OREGON**

**MOTION FOR APPROVAL  
OF PROTECTIVE ORDER**

**PORTLAND GENERAL ELECTRIC COMPANY**

**April 1, 2011**

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE \_\_\_\_\_

In the Matter of Portland General Electric  
Company's 2012 Annual Power Cost Update  
Tariff (Schedule 125)

**MOTION FOR APPROVAL OF  
PROTECTIVE ORDER  
[EXPEDITED CONSIDERATION  
REQUESTED]**

Pursuant to ORCP 36(C)(7) and OAR 860-001-0080, 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 market information and confidential business information, plans and strategies. In support of this Motion, PGE states:

1. Concurrent with the filing of this Motion, PGE has filed its annual power cost update pursuant to its tariff Schedule 125.
2. Some of the exhibits and work papers supporting the power cost filing contain confidential information regarding PGE's natural gas, electric and coal market activities as well as other confidential business matters. This information will include proprietary modeling code, PGE's timing of and expected prices for electricity purchases, PGE's timing of and expected prices for natural gas purchases, PGE's forward position for electricity, PGE's forward position for natural gas, and whether and the amount by which PGE is long or short for electricity and natural gas during various periods in 2011 and 201. This information is confidential commercial information and/or trade secrets under ORCP 36(C)(7).
3. PGE would like to file with the Commission, and provide to other parties, a complete set of work papers as soon as possible, and requests expedited consideration of this motion.

4. PGE also anticipates that parties participating in this docket will make further requests for confidential information. PGE further anticipates it will be required to file periodic updates containing confidential information in this proceeding.


5. While PGE desires to provide parties with requested information, the information is of significant commercial value, and its public disclosure could be detrimental to PGE and its customers. The information discloses PGE's position, strategy and future needs to purchase and sell electricity, natural gas and coal. If other parties involved in the wholesale electricity, natural gas and coal markets obtained this information, they could use it to the financial harm of PGE and its customers.

6. 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 1<sup>st</sup> day of April, 2011.

Respectfully submitted,

  
\_\_\_\_\_  
Douglas C. Tingey, OSB No. 044366  
Assistant General Counsel  
Portland General Electric Company  
121 SW Salmon Street, 1WTC1301  
Portland, Oregon 97204  
(503) 464-8926 phone  
(503) 464-2200 fax  
[doug.tingey@pgn.com](mailto:doug.tingey@pgn.com)

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UE \_\_\_\_\_

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY'S

2012 Annual Power Cost Update Tariff  
(Schedule 125)

GENERAL  
PROTECTIVE  
ORDER

DISPOSITION:        MOTION FOR PROTECTIVE ORDER GRANTED

On April 1, 2011, 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 exhibits and work papers accompanying its initial testimony in this docket will contain confidential information regarding PGE's natural gas, electric and coal market activities as well as other confidential business matters. 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, plans and strategies. PGE adds that the public release of such information could prejudice PGE and its customers.

I find that good cause exists to issue a general protective order, which is attached as Appendix A. The order permits the broadest possible discovery consistent with the need to protect confidential information. It shields no specific documents and makes no judgment about whether any particular document contains a trade secret or commercially sensitive information. Rather, the order adopts a process for resolving discovery disputes that include sensitive information.

The order permits any party to designate information as confidential if the party reasonably believes that the information falls within the scope of ORCP 36(C)(7). The confidential designation must be made in good faith and be limited to only those portions of the document that qualify as a protected trade secret or other confidential research, development, or commercial information. Any other party may challenge the designation of information as confidential. The designating party bears the burden of showing that the challenged information is covered by ORCP 36(C)(7).

Confidential information may be disclosed only to a “qualified person” as defined in paragraph 3 of the general protective order. The authors of the confidential material, the Commission, Administrative Law Judges (ALJs), Commission Staff, and counsel of record for a party or persons directly employed by counsel are “qualified persons” and may review confidential information without individually signing the general protective order. Other persons wanting access to confidential information must become qualified under paragraph 10.

To receive confidential information, all parties except Commission Staff must sign the “consent to be bound” in section I of Appendix B. This includes the party that moved for issuance of the general protective order because any party may designate information as confidential under the order. By signing the “consent to be bound,” a party agrees to be bound by the terms of the general protective order and certifies that it has an interest in the proceedings that is not adequately represented by other parties to the proceedings.

All persons given access to confidential information must monitor their own conduct to ensure compliance with the general protective order. Without the written permission of the designating party, no person may use or disclose the information for any purpose other than participating in these proceedings. All qualified persons must take reasonable precautions to keep confidential information secure. Questions regarding whether a particular person is a “qualified person” under the general protective order may be directed to the Administrative Hearings Division at (503) 378-6678.

### **ORDER**

IT IS ORDERED that the General Protective Order, attached as Appendix A, governs the disclosure of confidential information in these proceedings.

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

\_\_\_\_\_  
[Judge’s name]  
Administrative Law Judge

A party may appeal this order to the Commission under OAR 860-001-0420.

**GENERAL PROTECTIVE ORDER**  
DOCKET NO. [    ]

**Scope of this Order:**

1. This order governs the acquisition and use of Confidential Information in these proceedings.

**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, addressee, or originator of Confidential Information;
- b. A Commissioner, Administrative Law Judge (ALJ), or Commission Staff;
- c. Counsel of record for a party;
- d. A person employed directly by counsel of record; or
- e. A person qualified under paragraph 10, including parties and their employees.

**Designation of Confidential Information:**

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

CONFIDENTIAL  
SUBJECT TO GENERAL PROTECTIVE ORDER

To the extent practicable, the party may designate as confidential only the portions of the material covered by 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 must, when feasible, ensure that all copies of the information bear the above legend if requested by the designating party.

6. Any other party may challenge the designation of information as confidential 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).

**Information Given to the Commission:**

7. Confidential Information filed or provided to the Commission or its Staff 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 CONFIDENTIAL INFORMATION. THE  
INFORMATION MAY BE SHOWN ONLY TO QUALIFIED  
PERSONS AS DEFINED IN THE ORDER.

**Disclosure of Confidential Information:**

8. To receive Confidential Information, all parties except Commission Staff must sign the "consent to be bound" in section I of Appendix B. Confidential Information may not be disclosed to any person other than a Qualified Person. When feasible, Confidential Information must 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 ALJ.

9. A Qualified Person may disclose Confidential Information to any other Qualified Person associated with the same party, unless the designating party objects under paragraph 11.

10. To become a Qualified Person under paragraph 3(e), a person must:
- a. Read a copy of this general 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 current, past, and expected clients.

Counsel must deliver a copy of the signed statement including the information in (d) and (e) to the designating party and to all parties of record. The notification may be made by electronic mail or facsimile. A person qualified under paragraph 3(e) may not have access to Confidential Information sooner than seven days after the designating party receives a copy of the signed statement.

11. All Qualified Persons may have access to Confidential Information unless the designating party objects as provided in this paragraph. The designating party must provide written notice to the Qualified Person and counsel for the party associated with the Qualified Person as soon as the designating 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 ALJ. After receipt of the written notice as required in this paragraph, the specific Confidential Information may not be disclosed to the Qualified Person until the issue is resolved.

**Preservation of Confidentiality:**

12. Without the written permission of the designating party, any person given access to Confidential Information under this order may not use or disclose Confidential Information for any purpose other than participating in these proceedings. All Qualified Persons must take reasonable precautions to keep Confidential Information secure. Disclosure of Confidential Information for purposes of business competition is strictly prohibited.

A Qualified Person may reproduce Confidential Information to the extent necessary to participate in these proceedings. A Qualified Person may disclose Confidential Information only to other Qualified Persons associated with the same party.

**Duration of Protection:**

13. The Commission will preserve the confidentiality of Confidential Information 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 Confidential Information.

**Destruction After Proceedings:**

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 these proceedings 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 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 Confidential Information. This paragraph does not apply to the Commission or its Staff.

**Appeal to the Presiding Officer:**

15. Any party may request that the ALJ conduct a conference to help resolve disputes related to this protective order.

A party challenging the designation of information as confidential may file an objection with the ALJ that identifies the information in dispute and includes a certification that reasonable efforts to achieve an informal resolution have been unsuccessful. Within seven days of the objection, unless otherwise ordered by the ALJ, the designating party must



either remove the confidential designation or file a written response identifying the legal basis for the claim of confidentiality. The challenging party may file a written reply to any response within seven days. If the designating party does not timely respond to the motion, the Commission will remove the confidential designation from the challenged information.

**Additional Protection:**

16. If a designating party seeks additional protection for Confidential Information, the party may move for any of the remedies in ORCP 36(C). The motion must include:

- a. The parties involved;
- b. The exact nature of the information involved;
- c. The legal basis for the claim that the information is protected under ORCP 36(C)(7) or the Public Records Law;
- d. The exact nature of the relief requested;
- e. The specific reasons the requested relief is necessary; and
- f. A detailed description of the intermediate measures, including selected redaction, explored by the parties and why these measures are insufficient.

Pending the Commission's ruling on a motion for additional protection, the information involved need not be released.

**SIGNATORY PAGE**  
DOCKET NO. [     ]

**I. Consent to be Bound:**

This general protective order governs the use of Confidential 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 Paragraphs 3(a) through 3(d):**

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

PRINTED NAME	DATE

**SIGNATORY PAGE**  
DOCKET NO. [    ]

**III. Persons Qualified under Paragraph 3(e):**

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

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Employer: \_\_\_\_\_  
Job Title: \_\_\_\_\_  
 Paragraph 10(e) information also provided.

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Employer: \_\_\_\_\_  
Job Title: \_\_\_\_\_  
 Paragraph 10(e) information also provided.

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Employer: \_\_\_\_\_  
Job Title: \_\_\_\_\_  
 Paragraph 10(e) information also provided.

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Employer: \_\_\_\_\_  
Job Title: \_\_\_\_\_  
 Paragraph 10(e) information also provided.