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December 13, 2005

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**VIA ELECTRONIC FILING**

PUC Filing Center  
Public Utility Commission of Oregon  
PO Box 2148  
Salem, OR 97308-2148

**Re: Joint Motion for Protective Order  
Dockets UE 177, UE 178, UG 170, UG 171**

Enclosed for filing please find the Joint Motion for Protective Order in the above-referenced proceedings. A copy of this filing has been served on all parties to these proceedings as indicated in the attached certificated of service.

Very truly yours,

A handwritten signature in black ink, appearing to read "SJL", written over a horizontal line.

Sarah J. Adams Lien

SJL:knp  
Enclosure  
cc: Service List

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UE 177, UE 178, UG 170 & UG 171

In the Matter of the Automatic Adjustment  
Clause Filing Under SB 408

**JOINT MOTION FOR PROTECTIVE  
ORDER**

Pursuant to OAR 860-12-0035(1)(k), Avista Corporation (“Avista”), Northwest Natural Gas Company (“Northwest Natural”), PacifiCorp and Portland General Electric Company (“PGE”) (collectively “Movants”) move for entry in these proceedings of the Oregon Public Utility Commission’s (the “Commission”) standard protective order as amended in paragraphs 6 through 9 below. As good cause for this motion, Movants state:

1. The Commission’s rules authorize Movants to seek reasonable restrictions on discovery of trade secrets and other confidential business information. *See* OAR 860-11-0000(3) (adopting Oregon Rules of Civil Procedure (“ORCP”)); ORCP 36(C)(7) (providing that “a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way”).

2. It is likely that Staff and others in these proceedings will seek to discover confidential tax information and commercially sensitive financial information, including information contained in the tax reports that Movants filed pursuant to Senate Bill 408 (“SB 408 Tax Reports”).

3. All the information contained in Movants’ SB 408 Tax Reports that has been designated as confidential by Movants is protected from disclosure under Oregon law. Letter Opinion at 1 (OPUC Nov. 18, 2005) (denying public records requests for disclosure of SB 408 tax reports). As the Oregon legislature and the Commission recognize, the public disclosure of such competitively sensitive information would create a risk of serious harm to the party producing such information as well as affiliates of that party. *See id.* at 4; SB 408 § 2(g) (“[p]ublic disclosure of tax information could provide a commercial advantage

1 to other businesses”); *see also id.* §§ 3(3), 3(11) (limiting disclosure and use of SB 408 Tax  
2 Reports).

3           4.       Events in other dockets illustrate that the Commission’s standard protective  
4 order is not always sufficient to protect confidential and sensitive information from  
5 unauthorized public disclosure. Specifically, confidential documents that PGE and Texas  
6 Pacific Group produced under the protective order in UM 1121 were provided to the  
7 *Willamette Week*, which published information from those documents, and such information  
8 was subsequently broadcast by television and radio stations and disclosed in other print  
9 media. *See In re Oregon Electric Utility Co.*, UM 1121, Order No. 05-114 at 9-10 (OPUC  
10 Mar. 10, 2005) (“We are displeased that someone chose to violate our order rather than  
11 follow the proper procedure outlined therein. We expect to see ramifications of this unlawful  
12 action in future cases, as utilities may be reluctant to provide essential information to  
13 intervening parties for fear of leaks that will harm their competitive standing.”). Movants  
14 understand that an Attorney General’s investigation of the violation of the protective order in  
15 UM 1121 remains pending.

16           5.       Issuance of the Commission’s standard protective order, modified to provide  
17 the additional alternative protection described in paragraphs 7 and 8 below, will facilitate the  
18 production of information and expedite the discovery process in these dockets. The  
19 documents for which Movants seek an alternative means of discovery are very limited and  
20 can generally be classified as Movants’ SB 408 Tax Reports and supporting documents  
21 containing tax data and analyses that have been designated as confidential by Movants.

22           6.       Movants propose a “safe room” discovery mechanism for these documents.  
23 Such a mechanism would allow for review of the documents with the opportunity to take  
24 limited notes. Documents subject to the safe room discovery mechanism may not be copied.  
25 Safe rooms would be provided in Portland for all intervenors and in Salem for Commission  
26 Staff (“Staff”). Access to the safe rooms would be by appointment and Movants may require

1 the presence of a monitor. Movants would make a monitor available during office hours as  
2 requested, upon notice. Notice must be in writing, received by mail, e-mail or facsimile by a  
3 person designated by the party whose information is requested during office hours at least 24  
4 hours in advance of the requested safe room appointment. The locations of the Portland safe  
5 rooms are listed in Exhibit A to this motion. The persons designated by Movants to receive  
6 notice are listed in Exhibit B to this motion. Documents in the Salem safe room would be  
7 secured in a locked cabinet in a specially designated room at the Commission; one person  
8 designated by Staff would control the key to the cabinet and maintain a log showing the  
9 names of Staff persons reviewing documents, the time and date of such review, and listing  
10 the documents reviewed. To facilitate the schedules of parties requesting to review these  
11 documents, the safe rooms would have the following office hours: Monday through Friday,  
12 between the hours of 9 a.m. and noon and 1 p.m. and 5 p.m., excluding holidays.

13 7. Specifically, Movants request that the Commission issue its standard  
14 Protective Order in these dockets, amended as provided in paragraphs 8 and 9 below, along  
15 with the following additional paragraph:

16 Inspection of highly confidential documents and information. As to  
17 highly sensitive documents and information, the parties shall have the  
18 right, at their option, to designate such documents and information as  
19 “highly confidential” and to refuse to provide copies to the requesting  
20 party. The “highly confidential” designation is reserved for documents  
and information the dissemination of which imposes a highly significant  
risk of competitive harm to the disclosing party, which may include but is  
not limited to SB 408 Tax Reports and supporting documents containing  
tax data and analyses.

21 In such cases, and as an alternative to seeking additional protection, each  
22 Movant shall make its highly confidential documents and information  
23 available for inspection and review by qualified persons at an office in  
24 Portland (a “Portland safe room”); provided that, for highly confidential  
documents to be made available to parties in a Portland safe room, the  
documents will be available for review in the locations stated in Exhibit A  
to this Order.

25 Additionally, highly confidential documents shall be made available for  
26 inspection and review by Oregon Public Utility Commission Staff  
 (“Staff”) at a safe room located in the offices of the Oregon Public Utility

1 Commission (the “Salem safe room”); provided that documents in the  
2 Salem safe room will be secured in a locked cabinet in a specially  
3 designated room at the Commission, and one person designated by Staff  
4 will control the key to the locked cabinet and maintain a log stating the  
names of Staff persons reviewing documents located in the Salem safe  
room, the time and date of such review, and listing the documents  
reviewed.

5 Access to the Portland or Salem safe rooms requires an appointment and  
6 Movants may require the presence of a monitor, who Movants will make  
7 available during office hours as requested, upon notice. Notice must be in  
8 writing, received by mail, e-mail or facsimile by a person designated by  
9 the party whose information is requested during office hours at least 24  
10 hours in advance of the requested safe room appointment. The persons  
designated by Movants to receive notice are listed in Exhibit B to this  
Order. Subject to this notice requirement, a qualified requesting party  
may make an appointment to review highly confidential documents during  
the following office hours: Monday through Friday, between the hours of  
9 a.m. and noon and 1 p.m. and 5 p.m., excluding holidays.

11 No party will make unauthorized copies of highly confidential documents.  
12 Qualified persons reviewing the highly confidential documents may make  
13 limited notes regarding the documents for reference purposes only. Such  
14 notes shall not constitute a verbatim or substantive transcript of the  
15 documents. For purposes hereof, notes made pertaining to or as the result  
16 of a review of highly confidential documents shall be considered  
Confidential Information and subject to the terms of this Protective Order.  
Disputes between the parties regarding the proper designation of highly  
confidential documents shall be resolved pursuant to Commission order  
pursuant to paragraph 15 of this Protective Order.

17 8. Additionally, to provide for use of documents and information subject to the  
18 proposed protective order in the Senate Bill 408 rulemaking docket, Docket AR 499,  
19 Movants request that the Commission replace paragraph 12 of the Commission’s standard  
20 Protective Order with the following language:

21 12. All persons who are given access to any Confidential or Highly  
22 Confidential Information by reason of this order shall not use or disclose  
23 such information for any purpose other than the purposes of preparation  
24 for and conduct of this proceeding or Oregon Public Utility Commission  
Docket AR 499, and shall take all reasonable precautions to keep any  
Confidential or Highly Confidential Information secure. Unauthorized  
disclosure of Confidential or Highly Confidential Information for purposes  
of business competition is strictly prohibited.

25 Qualified persons may copy, microfilm, microfiche, or otherwise  
26 reproduce Confidential Information to the extent necessary for the

1 preparation and conduct of this proceeding and Oregon Public Utility  
2 Commission Docket AR 499. Qualified persons may disclose  
3 Confidential Information only to other qualified persons associated with  
the same party. No party may make unauthorized copies of Highly  
Confidential Information.

4 9. Movants also request the following revisions to the Commission’s standard  
5 Protective Order:

6 a. Revise paragraph 1 as follows:

7 This order governs the acquisition and use of “Confidential Information”  
8 and “Highly Confidential Information” in this proceeding.

9 b. Revise references to “this proceeding” and “this docket” in paragraphs  
10 13 and 14 to say “this proceeding and Oregon Public Utility Commission Docket  
11 AR 499”; and,

12 c. Revise the Consent to be Bound statement as follows:

13 This Protective Order governs the use of “Confidential” and “Highly  
14 Confidential” information in this proceeding and in Oregon Public Utility  
15 Commission Docket AR 499.  
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1 For the foregoing reasons, Avista, Northwest Natural, PacifiCorp and PGE request  
2 entry in dockets UE 177, UE 178, UG 170 & UG 171 of the Commission's standard  
3 protective order as amended above.


4 DATED: December 13, 2005.

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6 STOEL RIVES LLP

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8

  
for David Meyer

  
for Marcus Wood

9 Attorney for Avista Corp.

Attorneys for Northwest Natural Gas Co.


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12 STOEL RIVES LLP

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Katherine A. McDowell  
Sarah J. Adams Lien

  
Douglas Tingey  
Inara Scott

16 Attorneys for PacifiCorp

Attorneys for Portland General Electric Co.

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4 DATED: December 13, 2005.

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6 STOEL RIVES LLP

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8 \_\_\_\_\_  
9 David Meyer

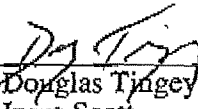
Marcus Wood

10 Attorney for Avista Corp.

Attorneys for Northwest Natural Gas Co.

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12 STOEL RIVES LLP

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14 \_\_\_\_\_  
15 Katherine A. McDowell  
Sarah J. Adams Lien

  
Douglas Tingey  
Inara Scott

16 Attorneys for PacifiCorp

Attorneys for Portland General Electric Co.

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## **Exhibit A**

PacifiCorp designates the following location as the Portland safe room for Docket UE 177:  
825 NE Multnomah Street, Portland, Oregon 97232.

PGE designates the following location as the Portland safe room for Docket UE 178:  
1 World Trade Center, 121 SW Salmon Street, Portland, Oregon 97204.

Northwest Natural designates the following location as the Portland safe room for Docket  
UG 170: 220 NW Second Avenue, Portland, Oregon 97209.

Avista designates the following location as the Portland safe room for Docket UG 171:  
200 SW Market Street, Suite 1750, Portland, Oregon 97201.

## Exhibit B

Movants designate the following persons to receive notice regarding appointments to view Highly Confidential Information in the Portland or Salem safe rooms:

For UE 177, notice shall be delivered to PacifiCorp's Data Request Response Center, as follows:

By E-mail (preferred):	datarequest@pacificorp.com
By Fax:	(503) 813-6060
By regular mail:	Data Request Response Center PacifiCorp 825 NE Multnomah, Suite 800 Portland, OR 97232

For UE 178, notice shall be delivered to Adam Menendez, as follows:

By E-mail (preferred):	adam.menendez@pgn.com
By Fax:	(503) 464-2200
By regular mail:	Adam Menendez 121 SW Salmon Street, Suite 1301 Portland, OR 97204

For UG 170, notice shall be delivered to Elisa Larson and Kelley Miller, as follows:

By E-mail (preferred):	eml@nwnatural.com kelley.miller@nwnatural.com
By Fax:	(503) 721-2516
By regular mail:	Elisa Larson and Kelley Miller 220 NW Second Avenue Portland, Oregon 97209

For UG 171, notice shall be delivered to David Meyer and Ron McKenzie, as follows:

By E-mail (preferred):	david.meyer@avistacorp.com ron.mckenzie@avistacorp.com
By Fax:	(509) 495-8851 (to David Meyer) (509) 495-8058 (to Ron McKenzie)
By regular mail:	David Meyer and Ron McKenzie 1411 East Mission Spokane, WA 99220

900 SW Fifth Avenue, Suite 2600, Portland, OR 97204  
Main (503) 224-3380 Fax (503) 220-2480  
STOEL RIVES LLP


**CERTIFICATE OF SERVICE**

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I hereby certify that I served the foregoing **Joint Motion for Protective Order** on the following named person(s) on the date indicated below by email and U.S. mail to said person(s) a true copy thereof, contained in a sealed envelope, addressed to said person(s) at his or her last-known address(es) indicated below.

- |   |   |
|---|---|
| Lowrey R. Brown<br>Citizens' Utility Board of Oregon<br>610 SW Broadway, Suite 308<br>Portland, OR 97205                      | Melinda J. Davison<br>Davison Van Cleve PC<br>333 SW Taylor, Suite 400<br>Portland, OR 97204                                    |
| Jason Eisdorfer<br>Citizens' Utility Board of Oregon<br>610 SW Broadway, Suite 308<br>Portland, OR 97205                      | Edward A. Finklea<br>Cable Huston Benedict<br>Haagensen & Lloyd LLP<br>1001 SW 5th Avenue, Suite 2000<br>Portland, OR 97204     |
| David Hatton<br>Department of Justice<br>Regulated Utility & Business Section<br>1162 Court Street NE<br>Salem, OR 97301-4096 | Jason W. Jones<br>Department of Justice<br>Regulated Utility & Business Section<br>1162 Court Street NE<br>Salem, OR 97301-4096 |
| Ron McKenzie<br>Avista Utilities<br>PO Box 3727<br>Spokane, WA 99220-3727   | Matthew W. Perkins<br>Davison Van Cleve PC<br>333 SW Taylor, Suite 400<br>Portland, OR 97204                                    |
| Chad M. Stokes<br>Cable Huston Benedict<br>Haagensen & Lloyd LLP<br>1001 SW 5th Avenue, Suite 2000<br>Portland, OR 97204      | Douglas C. Tingey<br>Portland General Electric<br>121 SW Salmon, 1WTC13<br>Portland, OR 97204                                   |

DATED: December 13, 2005.

  
\_\_\_\_\_  
Sarah J. Adams Lien  
Of Attorneys for PacifiCorp