



Portland General Electric Company

Legal Department
121 SW Salmon Street • 1WTC1301 • Portland, Oregon 97204
Phone 503-464-7371 • Fax 503-464-2200
portlandgeneral.com

Brendan J. McCarthy

Assistant General Counsel III
brendan.mcarthy@pgn.com

October 6, 2022

Via Electronic Filing

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

Re: UM 1789 - Application to Defer Revenues and Costs Related to the Environmental Remediation Costs Recovery Adjustment, Schedule 149/
Motion to Amend General Protective Order No. 16-270 and Set Date Certain for Expiration

Dear Filing Center:

On behalf of Portland General Electric Company, enclosed for electronic filing today in the above-captioned docket are the following:

- Motion to Amend General Protective Order No. 16-270 and Set Date Certain for Expiration

Thank you for your assistance.

Sincerely,

/s/Brendan J. McCarthy

Brendan J. McCarthy
Assistant General Counsel III

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1789

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Application to Defer Revenues and Costs
Related to the Environmental Remediation
Costs Recovery Adjustment, Schedule 149.

**MOTION TO AMEND GENERAL
PROTECTIVE ORDER NO. 16-270
AND SET DATE CERTAIN FOR
EXPIRATION**

I. Background

In Order Number 16-270, a Ruling and General Protective Order issued by Michael Grant, Chief Administrative Law Judge, covering the consolidated dockets of UM 1789, UE 311 and UP 344, paragraph 20 provides:

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.

This provision was adopted because Judge Grant found good cause existed to issue a general protective order based on PGE’s claims that a general protective order was needed to protect certain information that fell within the scope of ORCP 36(C)(7),¹ that our filings in UM 1789 contain confidential information, including commercially sensitive cost estimates, and that parties might seek discovery of this confidential, commercial information, the public disclosure of which could be detrimental to PGE and its customers. The General Protective Order did not define “the

¹ As in original. Now ORCP 36(C)(1).

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final order in these proceedings” so the expiration date of the confidentiality provisions is unclear. Order Number 17-071, establishing the Portland Harbor Environmental Remediation Account (“PHERA”), was adopted by the Commission on March 2, 2017, and October 2022 is more than five years hence. Nevertheless, this docket remains open and, for the reasons set forth below, the need to maintain the confidentiality of this information continues and will continue for some time. Accordingly, PGE respectfully requests that paragraph 20 of the General Protective Order be amended to clarify that the protections of the General Protective Order will continue until December 31, 2026.

II. Current Status

Under the terms of Order Number 17-071, PGE must keep the Commission and parties apprised of new relevant information, report annually to the Commission and quarterly to the parties on the status of the environmental remediation activities in the Portland Harbor Superfund Site and our pursuit of insurance proceeds. The environmental remediation process conducted pursuant to the placement of the Portland Harbor Superfund Site on the National Priorities List under the federal Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”) has already taken longer than two decades. When PGE applied to the Commission for deferral of environmental-related costs and revenues that flow into the PHERA, a five-year term for the protective order may have seemed like a sufficient period of time to cover the remaining CERCLA liability process. However, the private allocation process noted in Order Number 17-071 that is designed to allocate liability among the designated Potentially Responsible Parties (“PRPs”) in the Portland Harbor Superfund Site is on-going. The participation agreement for that process, to which PGE is bound, requires that all information about that process be kept confidential. In addition,

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PGE still cannot reasonably estimate our final U.S. Environmental Protection Agency (“EPA”) liability. PGE continues to need to protect commercially sensitive information related to PGE’s Harborton Restoration Project, including revenues from the sale of Discount Service Acre Year credits, as the Natural Resource Damage process conducted by the Portland Harbor Natural Resource Trustee Council to compensate for injury to fish, wildlife and other such resources has also not been finalized and PGE expects to negotiate further sales of such credits to PRPs. As a result, the reasons for the original general protective order still exist, will continue for a significant period of time and PGE’s interest in requesting confidentiality of materials submitted to the Commission pursuant to UM 1789 remain.

PGE anticipates that by 12/31/2026, the private process to allocate liability to PRPs will likely have concluded and the environmental remediation damages, assessed by the EPA to fund the cleanup of contaminated sites on individual PRPs, may likely be publicly known. Further, PGE expects that settlement of Natural Resource Damage claims will also have advanced sufficiently by that date such that protection of DSAY cost information may no longer be necessary.

III. Effort to Seek Agreement Pursuant to OAR 860-001-0420 (2)

PGE requested feedback on this motion from entities on the service list for UM 1789. Staff, Oregon Citizens’ Utility Board, and the Alliance of Western Energy Consumers (AWEC) do not oppose this motion.

IV. Prayer for Relief

PGE respectfully requests the Commission amend the first sentence of Paragraph 20 of General Protective Order 16-270, setting a date certain for expiration of the Protective Order as follows:

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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~~ not to exceed 12/31/2026, unless extended by the Commission at the request of the designating party.

PGE asserts that this amendment will not harm PGE customers and is consistent with the public interest.

Dated this 6th day of October, 2022.

Respectfully Submitted,

/s/Brendan J. McCarthy

Brendan J. McCarthy, OSB#963556

Assistant General Counsel III

PORTLAND GENERAL ELECTRIC COMPANY

121 SW Salmon Street, 1WTC1301

Portland, Oregon 97204

Phone: 503-464-7371

Email: brendan.mccarthy@pgn.com