

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1208

In the Matter of)	
)	SPECIAL
PACIFICORP)	PROTECTIVE
)	ORDER
Draft 2012 Requests for Proposals.)	

**DISPOSITION: MOTIONS FOR ADDITIONAL PROTECTION
CONDITIONALLY GRANTED**

On October 23, 2007, PacifiCorp filed a motion seeking additional protection as provided for under paragraph 16 of the General Protective Order issued in this docket. *See* Order No. 06-444.¹ Specifically, PacifiCorp asks for a Special Protective Order (SPO) be issued to govern the disclosure of Non-Public information submitted by PacifiCorp as part of a justification memorandum supporting an amendment of its 2012 request for proposals for base load resources (2012 RFP).

On October 26, 2007, PacifiCorp filed a revised motion to expand its original request. Specifically, PacifiCorp now seeks an SPO to govern the commercially sensitive information contained in the memorandum supporting an amendment of its 2012 RFP, as well as other, highly sensitive, non-public information submitted by parties and the Oregon Independent Evaluator (Oregon IE) in this proceeding related to the 2012 RFP.

Background

PacifiCorp made filings in Oregon and Utah seeking regulatory approval of its 2012 RFP. Although this Commission denied the company's request, the Public Service Commission of Utah (Utah PSC) approved it, and PacifiCorp submitted the RFP to the market earlier this year. Since that time, the company, with input from others, has been evaluating the bids to ensure they comply with the terms and requirements established in the RFP.

Recently, PacifiCorp has filed a motion with the Utah PSC requesting an amendment to the 2012 RFP to ensure that the process remains fair and reasonable, and meets requirement of Utah law. In support of its motion, PacifiCorp submitted a highly confidential justification memorandum containing commercially sensitive, non-public

¹ This is the second request seeking additional protection under paragraph 16 of the General Protective Order. In Order No. 06-585, I granted the Public Utility Commission of Oregon Staff's (Staff's) request for additional protection to govern the disclosure of confidential information submitted by persons responding to the Commission's Request for Proposals for an Independent Evaluator. That Special Protective Order is unrelated to PacifiCorp's current request for additional protection.

information, including bid scoring and evaluation results. This information was made available to Utah parties that signed a revised protective order.

In order to provide the Oregon parties with the same highly confidential information, PacifiCorp seeks a modification to the existing protective order in this proceeding. Specifically, it believes that the public disclosure of any information surrounding the bid evaluation process, and the status of the bids could prove detrimental to the integrity of the 2012 RFP process and jeopardize the bidders and the Company's competitive positions. PacifiCorp seeks a SPO limiting such information to the Public Utility Commission of Oregon (Commission) and its Staff, and non-bidding parties. PacifiCorp adds that its request is consistent with the Commission's guidelines, which provide that any bidding information, including detailed bid scoring and evaluation results, should be limited to the Commission and its Staff, and non-bidding parties under protective orders that limit use of the information to RFP approval and acknowledgement and to cost recovery proceedings. *See* Order No. 06-446, Guidelines 12 and 11.

I find that good cause exists to issue a Special Protective Order, attached as Appendix A. PacifiCorp's motion for additional protection, and revised motion, are conditionally granted, subject to the timely filings of objections. The attached Special Protective Order shall govern the disclosure of Non-Public information contained in PacifiCorp's justification memorandum supporting amendment of its 2012 request for proposals and other highly sensitive, non-public information submitted by parties and the Oregon Independent Evaluator in this proceeding related to the 2012 RFP. This includes the sharing of information from the Oregon IE to the Commission in advance of any acknowledgment or cost recovery proceeding.

All persons who are given access to Non-Public information have the good faith obligation to monitor their own conduct to ensure their compliance with the Special Protective Order. If questions exist as to the status of any person to receive Non-Public information, the parties may contact the Administrative Hearings Division at (503) 378-6678.

ORDER

IT IS ORDERED that the Special Protective Order, attached as Appendix A, shall govern the disclosure of Non-Public information contained in PacifiCorp's justification memorandum supporting amendment of its 2012 request for proposals and other highly sensitive, non-public information submitted by parties and the Oregon Independent Evaluator in this proceeding related to the 2012 RFP.

Made, entered, and effective on OCT 26 2007.



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

Michael Grant
Chief Administrative Law Judge

A party may appeal this order to the Commission pursuant to OAR 860-014-0091.

SPECIAL PROTECTIVE ORDER
UM 1208

Scope of this Order-

1. This order governs the acquisition and use of “Non-Public Information” which is highly sensitive and confidential information submitted by parties in this proceeding related to PacifiCorp’s 2012 RFP.

Definitions-

2. “Non-Public Information” is information that falls within the scope of ORCP 36(c)(7) (“a trade secret or other Non-Public research, development, or commercial information”) and includes bidding information, as well as detailed scoring and evaluation results, as discussed in Guidelines 11 and 12 of Order No. 06-446.

3. A “qualified person” is an individual who is:
- a. An author(s), addressee(s), or originator(s) of the Non-Public Information;
 - b. A Commissioner or Commission Staff;
 - c. A person qualified pursuant to paragraph 7 who is a non-bidding party. This includes parties and their employees.

Designation of Non-Public Information-

4. A party may designate information as Non-Public Information by placing the following legend on the information:

NON-PUBLIC INFORMATION
SUBJECT TO SPECIAL PROTECTIVE ORDER

Information Given to the Commission-

5. Non-Public Information that is filed with the Commission or its staff shall be printed on green paper, separately bound and placed in a sealed envelope or other appropriate container with the following legend on the envelope/container:

THIS ENVELOPE IS SEALED PURSUANT TO ORDER
NO. 07-471 AND CONTAINS NON-PUBLIC INFORMATION.
THE INFORMATION MAY BE SHOWN ONLY TO QUALIFIED
PERSONS AS DEFINED IN THE SPECIAL PROTECTIVE ORDER.

6. The Commission’s Administrative Hearings Division shall store the Non-Public Information in a locked cabinet dedicated to the storage of Non-Public Information.

Disclosure of Non-Public Information-

7. A person who is a non-bidding party may become a qualified person under paragraph 3(c) by completing the following:

- a. Read a copy of this Special 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; and
- d. Provide a name, address, employer, and job title.

The person shall deliver a copy of the signed statement including the information above to the party desiring confidentiality and to all parties of record. Such notification may be made via e-mail or facsimile.

8. All qualified persons shall have access to Non-Public Information, unless the person desiring confidentiality protests as provided in this paragraph. The person desiring to restrict the qualified person(s) from accessing specific Non-Public Information must provide written notice to the qualified person(s) and counsel for the party associated with the qualified person(s) as soon as the party becomes aware of reasons to restrict access. The parties must promptly confer and attempt to resolve any dispute over access to Non-Public Information on an informal basis before filing a motion with the Administrative Law Judge. If the dispute cannot be resolved informally, either party may file a motion with the Administrative Law Judge for resolution. Either party may also file a motion if the other party does not respond within five days to a request to resolve the dispute. After receipt of the written notice as required in this paragraph, the specific Non-Public Information shall not be disclosed to the qualified person(s) until the issue is resolved.

Use of Non-Public Information-

9. Any use of the Non-Public Information is limited to PacifiCorp's 2012 RFP approval and acknowledgement and to cost recovery proceedings.

Continuing Effect of Order No. 06-444-

10. These additional protective measures are intended to supplement, not supersede, Protective Order No. 06-444.

SPECIAL SIGNATORY PAGE
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I. Persons Qualified pursuant to Paragraph 3(c) and Paragraph 10.

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

By: _____
Signature & Printed Date

By: _____
Signature & Printed Date

By: _____
Signature & Printed Date