

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1224

In the Matter of)	
)	ORDER
UTILITY REFORM PROJECT and KEN)	
LEWIS)	
)	
Application for Deferred Accounting.)	

**DISPOSITION: MOTION FOR AMENDED PROTECTIVE
ORDER GRANTED**

On November 16, 2007, Portland General Electric Company (PGE) filed a Motion for Protective Order. PGE requests that the Public Utility Commission of Oregon (Commission) enter a modified protective order. PGE asks that the standard protective be amended in a manner consistent with the protective order entered by Order No. 06-033. Order No. 06-033 entered a modified protective order in order to protect the special sensitivity of Senate Bill (SB) 408 tax reports. PGE states that good cause exists to enter, in this proceeding, the same protective order that was entered by Order No. 06-033. PGE explains that similar tax information will be at issue in this proceeding. PGE further explains that the Commission ordered PGE, in Order No. 07-351, to calculate amounts to be deferred using the methodologies for determining Taxes Collected and Taxes Paid that were adopted (and defined) in the Commission’s rules implementing SB 408, OAR 860-022-0041. Accordingly, by December 1, 2007, PGE must submit in this proceeding, its calculation of Taxes Paid, Taxes Collected, and the deferred amount, along with an earnings test. To do so, PGE will provide its tax report filed on October 15, 2007 (the 2007 Tax Report) modified to include information about amount allocations for Taxes Paid and Taxes Collected to the deferral period. As the 2007 Tax Report is highly confidential, subject to the protections of the modified protective order entered in UE 178 by Order No. 06-033, PGE asserts that the modified 2007 Tax Report that will be submitted in this proceeding should be similarly protected.

Due to the December 1, 2007 deadline, PGE requests expedited consideration of the motion. To facilitate expedited consideration, a ruling that shortened the period to respond to PGE’s motion was issued on November 19, 2007. No responses were received.

I find that good cause exists to enter a modified Protective Order that is consistent with the protective order entered in Order No. 06-033, attached as Appendix A. The Commission has already determined that tax information provided pursuant to SB 408 is “Highly Confidential” information that should be safeguarded in the manner set forth in

Order No. 06-033. As PGE must provide SB 408 tax information in this proceeding, that information should receive the same protections provided by Order No. 06-033.

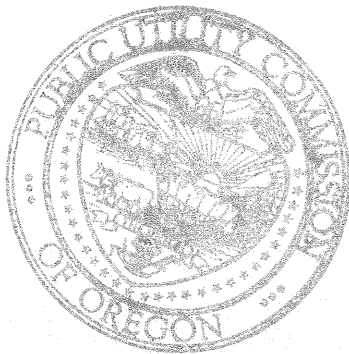
ORDER

IT IS ORDERED that the modified Protective Order, attached as Appendix A, shall govern the disclosure of confidential information in this case.

Made, entered, and effective on November 27, 2007.



Traci A. G. Kirkpatrick
Administrative Law Judge



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

PROTECTIVE ORDER
DOCKET NO. UM 1224

Scope of this Order-

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

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”). “Highly Confidential Information” is information contained in the Senate Bill 408 tax reports and other documents containing tax data or analysis that has been designated as such by the providing utility.

3. A “qualified person” is an individual who is:
- a. An author(s), addressee(s), or originator(s) of the Confidential Information;
 - b. A Commissioner or Commission staff;
 - c. Counsel of record for a party;
 - d. A person employed directly by counsel of record; or
 - e. A person qualified pursuant to paragraph 10. This includes parties and their employees.

Designation of Confidential Information-

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

CONFIDENTIAL
SUBJECT TO GENERAL PROTECTIVE ORDER

To the extent practicable, the party shall designate as confidential only those portions of the document that fall within 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 shall, when feasible, ensure that all copies of the information bear the above legend to the extent requested by the party desiring confidentiality.

Information Given to the Commission-

6. Confidential Information that is: (a) filed with the Commission or its staff; (b) made an exhibit; (c) incorporated into a transcript; or (d) incorporated into a pleading, brief, or other document, shall be printed on yellow paper, separately bound and placed in a sealed envelope or other appropriate container. An original and five copies, each separately sealed, shall be provided to the Commission. Only the portions of a document that fall within ORCP 36(C)(7) shall be placed in the envelope/container. The envelope/container shall bear the legend:

THIS ENVELOPE IS SEALED PURSUANT TO ORDER NO. _____
AND CONTAINS CONFIDENTIAL INFORMATION. THE
INFORMATION MAY BE SHOWN ONLY TO QUALIFIED
PERSONS AS DEFINED IN THE ORDER.

7. The Commission's Administrative Hearings Division shall store the Confidential Information in a locked cabinet dedicated to the storage of Confidential Information.

Disclosure of Confidential Information-

8. Parties desiring receipt of Confidential Information shall sign the Consent to be Bound Form attached as Appendix B. This requirement does not apply to the Commission staff. Confidential Information shall not be disclosed to any person other than a "qualified person," as defined in paragraph 3. When feasible, Confidential Information shall 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 Administrative Law Judge.

9. Qualified persons may disclose Confidential Information to any other qualified person, unless the party desiring confidentiality protests as provided in Section 11.

10. To become a qualified person under paragraph 3(e), a person must:
- a. Read a copy of this 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 his/her current, past, and expected clients.

Counsel shall deliver a copy of the signed statement including the information in (d) and (e) above to the party desiring confidentiality and to all parties of record. Such

notification may be made via e-mail or facsimile. A person qualified under paragraph 3(e) shall not have access to Confidential Information sooner than five (5) business days after receipt of a copy of the signed statement including the information in (d) and (e) above by the party desiring confidentiality.

11. All qualified persons shall have access to Confidential Information, unless the party desiring confidentiality protests as provided in this paragraph. The party desiring to restrict the qualified person(s) from accessing specific Confidential 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 Confidential 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. A motion must describe in detail the intermediate measures, including selected redaction, explored by the parties and explain why such measures do not resolve the dispute. After receipt of the written notice as required in this paragraph, the specific Confidential Information shall not be disclosed to the qualified person(s) until the issue is resolved.

Designation of Highly Confidential Information-

12. PGE has the right, at their option, to designate documents as containing "Highly Confidential Information" and to refuse to provide copies to the requesting party. These documents shall be printed on green paper and placed in a sealed envelope or other appropriate container. All documents designated as containing Highly Confidential Information shall be made available for inspection and review by qualified persons at the following location in Portland ("Portland Safe Room"): 121 SW Salmon Street, Suite 1301, Portland, Oregon 97204.

Access to the Portland Safe Room requires an appointment. A qualified person may make an appointment to review Highly Confidential Information during the following office hours: Monday through Friday, between the hours of 9:00 a.m. and noon and 1:00 p.m. and 5:00 p.m., excluding holidays. Notice of an appointment must be in writing, and received by mail, e-mail or facsimile, by the primary person designated by PGE, at least 24 hours in advance of the requested Safe Room appointment. PGE will notify all parties to contact a secondary person if the primary person is unavailable to receive notice. PGE may require the presence of a monitor. PGE shall designate a primary and a secondary person to receive notice within (5) five business days of the date of this order.

13. PGE shall deliver a copy of all documents designated as containing Highly Confidential Information to the Commission. These documents shall be printed on green paper and placed in a sealed envelope or other appropriate container. These documents will be available for inspection and review by the Commission Staff only at a Safe Room located in the offices of the Commission ("Salem Safe Room"). The documents in the Salem Safe Room

will be secured in a locked cabinet in a specially designated area at the Commission. One person designated by Staff 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. A second person will also be designated by Staff in the event the primary person is unavailable.

14. Qualified persons are not authorized to, and shall not make, copies of any document designated as containing Highly Confidential Information. Qualified persons reviewing the highly confidential documents may make limited notes regarding the documents for reference purposes only. Such notes shall not constitute a verbatim or substantive transcript of the documents, and shall be considered Confidential Information subject to the terms of this protective order.

15. Disputes between the parties regarding the proper designation of documents containing Highly Confidential Information shall be resolved pursuant to paragraph 20 of this protective order.

16. PGE shall Bates number all documents designated as containing Highly Confidential Information so that any party may reference any page it wants to use as an exhibit to testimony. Once referenced, PGE will file a copy of the document with the Commission's Administrative Hearings Division. All such copies must be printed on green paper, sealed in an envelope or other appropriate container, and contain the following legend:

THIS ENVELOPE IS SEALED PURSUANT TO
ORDER NO. _____ AND CONTAINS HIGHLY CONFIDENTIAL
INFORMATION REFERENCED IN ___(Party)___ TESTIMONY AT
___(Applicable Cite)___.

Preservation of Confidentiality-

17. All persons who are given access to Confidential Information or Highly Confidential Information by reason of this order shall not use or disclose the Confidential Information or Highly Confidential Information for any purpose other than the purposes of preparation for and conduct of this proceeding, and shall take all reasonable precautions to keep the Confidential Information or Highly Confidential Information secure. Disclosure of Confidential Information or Highly Confidential Information for purposes of business competition is strictly prohibited.

Qualified persons may copy, microfilm, microfiche, or otherwise reproduce Confidential Information to the extent necessary for the preparation and conduct of this proceeding. Qualified persons may disclose Confidential Information or Highly Confidential Information only to other qualified persons associated with the same party. No party may make copies of Highly Confidential Information without PGE's written permission.

Duration of Protection-

18. The Commission shall preserve the confidentiality of Confidential Information or Highly Confidential Information for a period of five years from the date of the final order in this docket, unless extended by the Commission at the request of the party desiring confidentiality. The Commission shall notify the party desiring confidentiality at least two weeks prior to the release of Confidential Information.

Destruction After Proceeding-

19. 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 this proceeding 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 or documents containing such Confidential Information must destroy or return it to the party desiring confidentiality within 90 days after final resolution of this proceeding unless the party desiring confidentiality consents, in writing, to retention of the Confidential Information or documents containing such Confidential Information. This paragraph does not apply to the Commission or its Staff.

Appeal to the Presiding Officer-

20. If a party disagrees with the designation of information as confidential or highly confidential, the party shall contact the designating party and attempt to resolve the dispute on an informal basis. If the parties are unable to resolve the dispute, the party desiring to use the information may move for exclusion of the information from the protection conferred by this order. The motion shall:

- a. Specifically identify the contested information; and
- b. Assert that the information does not fall within ORCP 36(C)(7) and state the reasons therefore.

The party resisting disclosure has the burden of showing that the challenged information falls within ORCP 36(C)(7). If the party resisting disclosure does not respond to the motion within ten (10) calendar days, the challenged information shall be removed from the protection of this order.

The information shall not be disclosed pending a ruling by the Administrative Law Judge on the motion.

Additional Protection-

21. The party desiring additional protection may move for any of the remedies set forth in ORCP 36(C). The motion shall state:

- a. The parties and persons involved;
- b. The exact nature of the information involved;
- c. The exact nature of the relief requested;
- d. The specific reasons the requested relief is necessary;
and
- e. A detailed description of the intermediate measures, including selected redaction, explored by the parties and why such measures do not resolve the dispute.

The information need not be released and, if released, shall not be disclosed pending the Commission's ruling on the motion.

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I. Consent to be Bound-

This Protective Order governs the use of “Confidential Information” or “Highly Confidential Information” in this proceeding.

_____ (Party) agrees to be bound by its terms of this Protective Order.

By: _____
Signature & Printed Date

II. Persons Qualified pursuant to Paragraphs 3(a) through 3(d)

_____ (Party) identifies the following person(s) automatically qualified under paragraph 3(a) through (d).

_____	_____
Printed	Date
_____	_____
Printed	Date
_____	_____
Printed	Date
_____	_____
Printed	Date
_____	_____
Printed	Date
_____	_____
Printed	Date

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III. Persons Qualified pursuant to Paragraph 3(e) and Paragraph 10.

I have read the 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

By: _____
Signature & Printed Date