

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UF 4346

In the Matter of

PORTLAND GENERAL ELECTRIC  
COMPANY,

Application for Authority to Issue Stocks,  
Bonds, Notes, and Other Securities.

MODIFIED  
PROTECTIVE  
ORDER

DISPOSITION: MOTION FOR MODIFIED PROTECTIVE ORDER GRANTED AS  
REVISED

On September 30, 2024, Portland General Electric Company filed a motion for a modified protective order to provide additional protections for highly confidential, commercially sensitive information requested by parties during discovery. Specifically, PGE indicates that protections beyond the terms of General Protective Order No. 23-132 are needed to protect sensitive financial information it considers to be trade secrets as defined under ORCP 36(C)(1) and the Oregon Public Records Law.

PGE requests expedited consideration. PGE also states that Staff, the only other party to this proceeding, does not object to this request.

Under the modified protective order requested by PGE, access to highly protected information would be restricted to Commission employees (including assigned DOJ attorneys), and employees or counsel of PGE if the highly protected information is provided by PGE. Under paragraph 14 of PGE's proposed modified protective order, representatives for other parties, including counsel, may sign the consent to be bound section of Appendix B and access the highly confidential information only "upon the mutual agreement of that party and PGE, and subject to any additional restrictions mutually agreed-upon." PGE explains that the goal of its proposed protections is to minimize the number of persons who have access to the highly confidential information and to ensure that it does not fall into the hands of those who would cause harm.

Under many of the modified protective orders utilized in Commission proceedings, parties to the docket are eligible to sign the consent to be bound section of Appendix B to access the highly confidential information and parties may seek to qualify additional persons on a case-by-case basis. Similarly, many modified protective orders also establish a process for objecting to the qualification of any individual, including counsel. During the pendency of such an objection, the highly confidential information may not be disclosed to the person subject to the objection.

Under PGE's requested modified protective order, the process proposed by PGE would appear to require a party to reach agreement with PGE prior to submitting the Appendix B signatory page. PGE does not address in its motion the need for parties to reach agreement with the company ahead of submitting Appendix B or why a provision for objecting to a qualified individual is inadequate to address any concerns with qualifying a particular party.

I find good cause to issue a modified protective order as modified to allow parties to sign the consent to be bound and seek to qualify identified individuals in Appendix B without the need to first obtain agreement from PGE. PGE may object to the qualification of any individual, including counsel under the process set forth in the modified protective order. During the pendency of such an objection, the highly confidential information may not be disclosed to the person subject to the objection. The modified protective order is attached as Appendix A. The modified protective order will function alongside the existing modified general protective order, Order No. 23-132.

I also do not adopt PGE's proposal to include PGE employees and counsel as individuals qualified to access highly protected information owned by PGE. I do so because a protective order should not govern PGE's access to its own information. Instead, I direct PGE to file a list of individuals that will need access to the designated information to facilitate setting up permissions in Huddle. See, *e.g.*, [Appendix D - UM 2054 Blanket Protective Order Adopted.pdf](#)

As requested, I issue this modified protective order on an expedited basis pursuant to OAR 860-001-0080(3)(c). This expedited action does not foreclose a party from seeking *de novo* review of this modified protective order under OAR 860-001-0080(3)(d)&(e).

**ORDER**

IT IS ORDERED that the modified protective order, attached as Appendix A, is adopted.

Made, entered, and effective on Oct 2, 2024.



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Michael Grant  
Administrative Law Judge



**MODIFIED PROTECTIVE ORDER**  
UF 4346

**Scope of this Order:**

1. This order supplements General Protective Order No. 23-132 and governs the acquisition and use of “Highly Protected Information” produced or used by any party to this docket.

**Designation of Highly Protected Information**

2. Any party may designate as Highly Protected Information any information the party reasonably determines:
  - a. Falls within the scope of ORCP 36(C)(1) (a trade secret or other confidential research, development, or commercial information) or the exemptions under Oregon Public Records law, ORS 192.345 and 192.355 (OPRL);
  - b. Is not publicly available; and
  - c. Is not adequately protected by the general Protected order.
3. To designate information as Highly Protected Information, a party must place the following legend on the material:

HIGHLY PROTECTED INFORMATION  
SUBJECT TO MODIFIED PROTECTIVE ORDER NO. 24-\_\_\_

4. The party should make reasonable efforts to designate as Highly Protected Information only the portions of the information that satisfies paragraph 2 of this Modified Protective Order. Each page of a document containing Highly Protected Information filed with the Commission or provided to Qualified Persons under this order, must be clearly marked as Highly Protected Information and maintained in a separate, secure folder. Any file or folder containing Highly Protected Information must be designated “Highly Protected.” If the cells in a spreadsheet or other native document include information that has been designated as Highly Protected and that would be impractical or unduly burdensome to mark as required above, the party designating information as Highly Protected need not comply with this requirement but must identify that information in a way that reasonably provides the Commission and Qualified Persons with sufficient identification of the information to be protected.
5. Highly Protected Information disclosed by a designated party to a person qualified to access Highly Protected Information through informal discovery or by means of Commission’s Huddle website will be marked “Highly Protected Information” and uploaded to a file folder designated “Highly Protected” in Huddle, if applicable.
6. A party may designate as Highly Protected Information any information previously provided by giving written notice to the Commission and other parties. Parties in possession of newly designated Highly Protected Information must make reasonable efforts that all copies of the material containing the information bear the above legend if requested by the designating party.

7. A designating party must make reasonable efforts to ensure that information designated as Highly Protected Information continues to warrant protection under this order. If designated information becomes publicly available or no longer falls within the scope of ORCP 36(C)(1), the designating party should make reasonable efforts to remove the protected designation and provide written notice to the Commission and other parties.

**Challenge to Designation of Information as Highly Protected:**

8. A party may informally challenge any designation of Highly Protected Information 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)(1) and that the “Highly Protected Information” designation is necessary. Any party may request that the ALJ hold a conference to help resolve disputes about proper designation.
9. If the dispute cannot be resolved informally, the challenging party may file a written objection with the ALJ. The objection need only identify the information in dispute and certify that reasonable efforts to achieve informal resolution have failed.
10. Within five business days of service of the objection, the designating party must either remove the protected designation or file a written response. A written response must identify the factual and legal basis of how the challenged information is protected under the Oregon Public Records Act, ORS 192.410 *et seq.*, or the Uniform Trade Secrets Act, ORS 646.461(4). Broad allegations unsubstantiated by specific facts are not sufficient. If the designating party does not timely respond to the objection, the Commission will remove the protected designation from the challenged information.
11. The challenging party may file a written reply to any response within five business days of service of an objection. The designating party may file a sur-reply within three business days of service of a response. The ALJ will make all reasonable efforts to resolve the matter within 10 business days of service of the last filing.

**Access to Highly Protected Information:**

12. Only Qualified Persons may access Highly Protected Information designated by another party under this Modified Protective Order. Persons automatically bound and qualified to access Highly Protected Information are:
  - a. Commission employees; and
  - b. Assistant Attorneys General assigned to represent the Commission.
13. Persons qualified to access Highly Protected Information upon a signing the Consent to be Bound section of Appendix B are:
  - a. Any other party or party representative.

A party must identify all these persons in Appendix B when consenting to be bound by the order and must update this list throughout the proceeding to ensure it accurately identifies Qualified Persons. Any dispute that arises under this section will be resolved under paragraph 15.

14. A party bound by the General Protective Order in this docket may seek to qualify persons other than those described in Paragraphs 12 and 13 to access specific Highly Protected Information by having each such person complete and sign Appendix B and submitting the Appendix to the designating party and to the Commission. Within 5 business days of receiving a signed copy of Appendix B, the designating party either must provide access to the requested Highly Protected Information to the person who signed Appendix B or must file an objection under Paragraphs 15 and 16.

**Objection to Access to Highly Protected Information:**

15. All persons qualified to have access to Highly Protected Information will have access to Highly Protected Information unless the designating party objects as provided in this paragraph. As soon as the designating party becomes aware of reasons to restrict access to a Qualified Person, or objects to a person seeking qualification under Paragraphs 13, the designating party must provide the person and his or her counsel notice stating the basis for the objection. The parties must promptly confer and attempt to resolve the dispute on an informal basis.
16. If the parties are unable to resolve the matter informally, the designating party must file a written objection with the ALJ. The requesting party may file a response to the motion within 5 business days of service of an objection. The ALJ will make all reasonable efforts to resolve the matter within 10 business days of the last filing. Pending the ALJ's decision, the specific Highly Protected Information may not be disclosed to the person subject to the objection.

**Use of Highly Protected Information:**

17. All Qualified Persons must take reasonable precautions to keep Highly Protected Information secure. Qualified Persons may reproduce Highly Protected Information to the extent necessary to participate in these proceedings. A Qualified Person may discuss Highly Protected Information obtained under this order only with other Qualified Persons who have obtained the same information under this order.
18. Without the written permission of the designating party, any person given access to Highly Protected Information under this order may not disclose Highly Protected Information for any purpose other than participating in these proceedings.
19. Nothing in this Protected order precludes any party from independently seeking through discovery in any other administrative or judicial proceeding information or materials produced in this proceeding under this Protected order.
20. Counsel of record may retain memoranda, pleadings, testimony, discovery, or other documents containing Highly Protected 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. Any other person retaining Highly Protected 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 Highly Protected Information. This paragraph does not apply to the Commission or its Staff.

**Duration of Protection:**

21. The Commission will preserve the designation of information as Highly Protected Information or Highly Protected 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 Protected Information or Highly Protected Information.

**APPENDIX B: QUALIFICATION OF PERSONS TO RECEIVE  
HIGHLY PROTECTED INFORMATION  
DOCKET NO. UM 4346**

**I. Consent to Be Bound—Persons Qualified pursuant to Paragraph 13: Highly Protected Information**

I have read the Modified Protective Order and agree to be bound by the terms in the order. I understand that ORS 756.990(2) allows the Commission to impose monetary sanctions if a party subject to the jurisdiction of the Commission violates an order of the Commission. I also acknowledge that a designating party may object to my qualification to received Highly Protected Information under Paragraphs 15 and 16.

I provide the following information.

By: Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Physical Address: \_\_\_\_\_

Email Address: \_\_\_\_\_

Employer: \_\_\_\_\_

Associated Party: \_\_\_\_\_

Job Title: \_\_\_\_\_

If not employee of party, description of practice and clients:

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