

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 430

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Investigation into New Load Connection
Costs.

ORDER

DISPOSITION: ADMINISTRATIVE LAW JUDGE RULING UPHELD; HELD
OPEN FOR POTENTIAL FUTURE PROCEEDINGS.

I. INTRODUCTION AND PROCEDURAL HISTORY

The Oregon Citizens' Utility Board filed a motion for certification of an administrative law judge (ALJ) ruling declining to lift the protected status on certain information produced in discovery in this proceeding. On April 28, 2025, the ALJ granted certification, and we now review that earlier March 13, 2025 decision. We find that the ALJ ruling should be upheld pending possible future process, if requested. We direct the parties to confer on how the requested information can be released without identifying individual customers. If the parties are unable to come to an agreement, we will resolve the dispute in a future order after further development of the record on this issue.

CUB filed its request for certification on March 27, 2025. On April 2, 2025, the ALJ set deadlines for a response and a reply to CUB's request. Pursuant to that schedule, PGE filed a response on April 11, 2025, and CUB filed its reply on April 17, 2025. Subsequently, on May 6, 2025, PGE filed a motion for leave to file a brief on these issues along with a brief. In addition, AWEC filed comments on May 7, 2025. CUB filed an opposition to PGE's motion for leave to file a brief on May 13, 2025.

We base our decision on the filings made by the parties pursuant to the schedule established by the ALJ and decline to consider the later-submitted filings. We find that PGE has not shown good cause why a brief is necessary given that it had an opportunity to respond fully to CUB's motion for certification.

II. POSITIONS OF THE PARTIES

A. CUB's Motion for Certification

CUB argues that the ALJ erred in dismissing its objection to PGE's designation of highly confidential information under the Modified Protective Order entered in this proceeding. The specific information CUB seeks to have unredacted is information in columns listed with CUST ID, BILLED KWH, BILLED KW, and FACILITY CAPACITY for PGE's data center load. CUB argues that the public interest requires disclosure of information. It states that while the Oregon Public Records Law exempts trade secrets from disclosure, the law creates an exemption where "the public interest requires disclosure in a particular instance."¹ CUB argues that, in this case, making this information public is necessary for customers to understand the costs they are subject to in ratemaking. In particular, CUB argues that customers cannot understand the significant costs shifted from data centers to the public without understanding with more specificity the number, time to energization and size of the loads. CUB further argues that usage data is collected from data centers' use of the grid which is paid for collectively by PGE's customers; as a result, it states, PGE cannot exempt this data from disclosure.

CUB next argues that the information in question is necessary to support energy efficiency and reduce overall costs. It states that knowledge of other data centers' flexibility and efficiency innovations can provide benefits to the system that can help others, even competitors, adjust their operations, but only if that usage is known and shareable. It cites to the Opower "neighbor comparison" that spurs individual retail customers to lower electricity costs by sharing a comparison of their neighbors' usage.

Finally, CUB argues that the information is not protected by the Oregon Trade Secrets Act. It states that the purpose of trade secret protections is "to encourage innovation and development, and the law should not be used to suppress legitimate competition."² It also states that the declarations PGE attached to the complaint warn of harm if the information is released, but argues that the harm they cite are all forms of legitimate competition and result from an attempt to profit off the ignorance of competitors.

B. PGE's Response

PGE argues first that CUB's public interest argument is unpersuasive. While the Oregon Public Records Law does contain a public interest exemption, PGE states that its basis for protecting the information in question is ORCP 36(C) and the Oregon trade secrets law, neither of which contain a public interest exemption and both of which are independent

¹ *In the Matter of an Investigation Into Issues Related to the Commission Policy of Posting Service Quality Reports to Its Website Pursuant to ORS 756.510*, Docket No. 1038, Order No. 02-854 at 4 (Dec. 10, 2002).

² *Id.* at 12.

grounds to protect information under the Modified Protective Order. PGE further argues that making this information public is not in the public interest—and, in fact, that it suggests that under CUB’s standard, any private customer information could be made public, a “clearly unacceptable regulatory and policy result.”³

Next, PGE argues that CUB’s reliance on precedent is misplaced. For instance, CUB relies on an ALJ ruling in the *Zena Solar* case where the ALJ declined to rule that information was protected on economic grounds; but PGE points out, the ALJ maintained confidentiality on other grounds and did not rule that information could never be protected on economic grounds.⁴ Similarly, CUB notes PGE’s Opower model for “Neighbor Comparison,” which shows customers 10 comparable sized homes within a 6-mile radius. PGE argues that the identity of the 10 customers is not disclosed, only that they are within 6 miles and have a similarly sized home.

C. CUB’s Reply

CUB first argues that PGE’s arguments about customer privacy are not applicable because the data centers use common customer facilities and “the other customers who have paid for that system have to have some right to information about that customer’s impact.”⁵ It also notes that it is not looking for names specifically but rather anonymized information about customer size. CUB also argues that aggregate data is too blunt a tool to provide for fruitful discussions. They argue that a simple sum of potential load growth does not enable effective public policy discussions and record development because load characteristics directly impact the risk of cost shifting. Finally, CUB continues to argue that energy usage is not a trade secret and that the public interest necessitates disclosure.

III. DISCUSSION

Having reviewed the pleadings filed, we find ourselves unpersuaded by both sides. We see the value of a more informed public policy conversation on these issues and want to foster such a conversation to the greatest extent possible. On the other hand, we are not ready to release the full suite of information that CUB requests, fearing that it will expose individual customer information, something we believe should be subject to some degree of protection.

Accordingly, we do not lift the protections on this information at this time. However, we also do not dismiss CUB’s request. Instead, we direct the parties to confer in an attempt to reach a workable solution. The ALJ ruling encouraged parties to work together on how

³ PGE Response at 6.

⁴ *Zena Solar, LLC, v. Portland General Electric Company*, Docket No. UM 2164, ALJ Ruling at 6–7 (Apr. 14, 2022).

⁵ CUB Reply PGE’s Response to CUB’s Request for Certification at 2.

this data could be released on an aggregate basis. CUB states in its request for certification that “CUB already has this information in the aggregate. PGE provided this information publicly outside of this objection proceeding.”⁶ CUB argues it is seeking the ability to talk about the strain on the system, which requires more specificity.⁷

That does not mean, however, that this data cannot be made publicly available in a way that would provide CUB with more useful information while simultaneously not identifying individual customers. We are not convinced that the parties have effectively engaged with one another on how to accomplish this. We direct the parties to confer on the following question: how can customer size and usage data be characterized to support effective differentiation between loads and the risks and benefits they may bring to the grid without disclosing an individual customer’s use information? For example, in order to support problem solving, can the pace of new load additions, the range of sizes, or the percentage that are smaller or larger than the mean be provided? We expect that good faith discussions on this matter will bear fruit. If they do not, the parties may request further consideration of this issue. Any such request must address the options discussed and the parties’ concerns with those options.

IV. ORDER

It is ordered that:

1. The confidential status of the information at issue is maintained.
2. The parties will confer on how the data may be released without revealing individual customer use information.

Made, entered, and effective May 21 2025.



Letha Tawney
Commissioner



Les Perkins
Commissioner



⁶ CUB Request for Certification at 8.

⁷ CUB Reply to PGE’s Response to CUB’s Request for Certification at 3.