

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 459

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Application for Distribution System Plan
Alternative Rate Mechanism

MODIFIED
PROTECTIVE
ORDER

DISPOSITION: MOTION FOR MODIFIED PROTECTIVE ORDER GRANTED AS
REVISED

On July 25, 2025, Portland General Electric Company filed a motion for a modified protective order to provide additional protections for highly confidential, commercially sensitive information. Specifically, PGE indicates that these proceedings will implicate information it considers highly confidential regarding PGE's resource procurement efforts and related third-party contracts, as well as sensitive customer information and information that PGE classifies as sensitive infrastructure information. PGE explains that public disclosure of this information would harm PGE and its customers by violating confidentiality obligations to third parties, disrupting negotiations regarding generation resources, and disrupting PGE's effort in negotiations regarding procurement of resources, thereby putting PGE at a commercial disadvantage. PGE represents that, as of the filing of its motion, no party has intervened in the docket.

Under the modified protective order requested by PGE, access to highly protected information would be restricted to Commission employees (including assigned DOJ attorneys), and PGE employees and counsel, if the highly protected information is provided by PGE. Additionally, employees or counsel of the Oregon Citizens' Utility Board and counsel for the Alliance of Western Energy Consumers who demonstrate a legitimate and non-competitive need for the highly protected information and who sign the consent to be bound section of Appendix B would be afforded access. Under 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 "upon the mutual agreement of that party and PGE,

and subject to any additional restrictions mutually agreed-upon” or if ordered by the Administrative Law Judge.¹ 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 persons not covered by Commission rules will not have access to the highly protected information. Finally, PGE specifically requests that the Commission prohibit the use of highly protected information with an Artificial Intelligence (AI) application or tool without the prior consent of the disclosing party. PGE asserts that sharing highly protected information with AI tools risks unintended disclosure since data may be processed or otherwise stored in a manner that may compromise the security of the information.

Under our rules, I am to provide an expedited review of any motion for a modified protective order and may issue a modified protective order to facilitate the filing of protected information and discovery.² This expedited review and issuance of a modified protective order does not preclude parties from filing responses to the motion for a modified protective order.³ Should any party file a response to the motion for a modified protective order, I am to conduct a *de novo* review of the terms of the modified protective order and issue a ruling explaining my determination and issue an amended modified protective order, if necessary.⁴ No information that was produced under the modified protective order in the interim will be released publicly without going through the process for objections to designations specified in the order itself.

Additionally, many modified protective orders issued by the Commission establish a process for parties to seek to qualify individuals on a case-by-case basis by signing and filing Appendix B. Such individuals are subject to a five-day waiting period to allow for the filing of an objection before access is provided. During the pendency of an objection, the highly protected information may not be disclosed to the person subject to the objection. PGE’s proposed modified protective order includes these provisions establishing a process for objecting to the qualification of an individual.⁵ PGE’s requested modified protective order would appear to additionally require a party to reach agreement with PGE or obtain an ALJ ruling prior to signing the consent to be bound section of Appendix B. PGE has not addressed why parties must reach agreement with the company or obtain an ALJ ruling *before* submitting Appendix B. Moreover, PGE has not addressed why the objection process established

¹ Portland General Electric Company’s Motion for a Modified Protective Order, July 25, 2025 (Motion), Appendix A, §14.

² OAR 860-001-0080(3)(c).

³ OAR 860-001-0080(3)(d).

⁴ OAR 860-001-0080(3)(e).

⁵ Motion, Appendix A, §16.

in Sections 15 and 16 of the proposed modified protective order are inadequate to address any concerns with specific parties or party representatives.

Finally, PGE's motion appears to indicate that the company may intend to only allow for in-person inspection of certain types of highly protected information, "such as highly sensitive infrastructure information the disclosure of which poses a safety risk."⁶ The proposed modified protective order, however, does not establish a separate designation for this information and identifies four permissible means of accessing highly confidential information. Accordingly, I clarify that under this modified protective order, PGE may not limit access to highly protected information to physical inspection at a place identified by PGE. In the event the company seeks to restrict access to a specific type of highly protected information to a more limited means or specialized handling, PGE would need to file a revised modified protective order, identifying with specificity the highly confidential information for which that more restrictive treatment is sought, clearly establishing a separate designation for that information, and addressing in detail the need for the additional protections.

I find PGE's filing includes the elements required by OAR 860-001-0080(3). I find good cause to issue the modified protective order attached as Appendix A, with certain revisions addressed above. I issue this modified protective order on an expedited basis pursuant to OAR 860-001-0080(3)(c) to facilitate the filing of protected information and the exchange of material that may be exempt from disclosure under Oregon's public records law.

⁶ Motion at 4.

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). Notwithstanding this ruling, any party may file a response to the motion by 3:00 pm on August 11, 2025.

ORDER

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

Made, entered, and effective on Aug. 1, 2025.



A handwritten signature in blue ink, appearing to read "Brent Coleman", is written over a horizontal line.

Brent Coleman
Administrative Law Judge

MODIFIED PROTECTIVE ORDER
UE 459

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 protective 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. _____
Or
HIGHLY CONFIDENTIAL INFORMATION
SUBJECT TO MODIFIED PROTECTIVE ORDER NO. _____

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 and maintained in a separate, secure folder. Any file or folder containing Highly Protected Information must be designated "Highly Protected" or "Highly Confidential." If the cells in a spreadsheet or other native document include information that has been designated as highly confidential 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. All Highly Protected Information disclosed by a designating party to a qualified person will be provided either through: (a) the Commission's discovery portal; (b) a password protected and encrypted electronic ZIP file; (c) in a manner mutually agreed upon by the requestor and PGE; or (d) through physical inspection at a place identified by PGE.

6. Highly Protected Information disclosed by a designating 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 via the Commission's naming conventions and uploaded to a file folder designated "highly protected" in Huddle, if applicable.
7. 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.
8. 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:

9. 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.
10. 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.
11. 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 paragraph 2. 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.

12. 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:

13. 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;
 - (b) Assistant Attorneys General assigned to represent the Commission; and
 - (c) PGE employees or counsel if the Highly Protected information is provided by PGE. PGE must identify any employees it designates to receive highly protected information via the service list or Huddle access and must update the list throughout the proceeding to ensure it accurately identifies the employees who should have access.
14. Persons qualified to access Highly Protected Information upon a signing the Consent to be Bound section of Appendix B are:
 - (a) An employee or counsel of PGE or the Citizens Utility Board of Oregon; or counsel for the Alliance of Western Energy Users who have a legitimate and non-competitive need for the Highly Protected Information and not simply a general interest in the information; or
 - (b) Any party or party representative that the ALJ determines should have access under paragraph 17.
15. A party bound by the General Protective Order in this docket may seek to qualify persons other than those described in Paragraphs 13 and 14 to access Highly Protected Information by having each such person complete and sign Appendix B and submitting the Appendix to the designating party and the Commission. Within 5 business days of receiving a signed copy of Appendix B, the designating party must file an objection under paragraph 17 or access will be provided.
16. 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 Paragraph 14, 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.

Objection to Access to Highly Protected Information:

17. 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:

18. 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, and only in relation to this proceeding.
19. Without the written permission of the designating party, any person given access to Highly Protected Information under this order may not use or disclose Highly Protected Information for any purpose other than participating in these proceedings.
20. Nothing in this protective 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 protective order.
21. 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.
22. Highly Protected Information provided by a party shall not be used, copied, reproduced, or submitted by a Qualified Person in any manner through an

artificial intelligence (AI) application or tool without the prior consent of the disclosing party.

Duration of Protection:

23. The Commission will preserve the designation of information as Highly Protected Information or Highly Confidential 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. UE 459**

I. Consent to Be Bound—Persons Qualified pursuant to Paragraph 14: 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 certify that:

- (a) I am an employee of PGE or the Citizens Utility Board of Oregon, or counsel for the Alliance of Western Energy Users and have a legitimate and non-competitive need for the Highly Protected Information and not simply a general interest in the information; **or**
- (b) I am not an employee of PGE, the Citizens Utility Board of Oregon, or counsel for the Alliance of Western Energy Users and have a legitimate and non-competitive need for the Highly Protected Information and not simply a general interest in the information and am requesting to be qualified to receive Highly Protected Information under paragraph 15; **or**
- (c) I am not an employee of PGE or the Citizens Utility Board of Oregon, and the Administrative Law Judge has issued a ruling allowing my qualification to receive Highly Protected Information.

I provide the following information.

By: Signature: _____ Date: _____

Printed Name: _____

Employer: _____

Physical Address: _____

Email Address: _____

Job Title: _____

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

