

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 469

In the Matter of

PACIFICORP, d/b/a PACIFIC POWER,

2027 Transition Adjustment Mechanism.

MODIFIED
PROTECTIVE
ORDER

**DISPOSITION: MOTION FOR MODIFIED PROTECTIVE ORDER GRANTED AS
REVISED**

On March 24, 2026, PacifiCorp, dba Pacific Power filed a motion for a modified protective order (MPO) in these proceedings to provide additional protections for highly commercially sensitive, non-public information related to the company's coal supply agreements, fueling strategy and documents and records of affiliated coal mining companies. Specifically, PacifiCorp asserts these proceedings implicate highly protected information related to the company's coal inventory supplies and procedures and coal supply and transportation agreements, as well as the company's strategy for managing coal supplies and procuring coal fuel. PacifiCorp identifies the requirement previously established by the Commission that the company provide testimony regarding the prudence of coal supply agreements entered into since the prior year's proceedings. PacifiCorp asserts that public disclosure of highly protected information would put the company at a commercial disadvantage in negotiating coal supply agreements and would lead to higher customer prices. Accordingly, PacifiCorp seeks to limit review of Highly Protected Information to qualified parties and to accomplish the provision of such information via the Commission's Huddle platform or another secure cloud-based content management system.

Additionally, for certain Highly Protected Information, the company requests special handling, whereby qualified persons would have access only through a secure cloud-based content management system in view only mode and would be prohibited from downloading or printing any subject document. PacifiCorp further proposes to prohibit screen shots or other copies of any document designated as containing Highly Protected Information. PacifiCorp's proposed MPO permits only limited, non-verbatim notes

regarding Highly Protected Information and proscribes a “substantive transcript of the documents.” Any notes taken would be also considered Highly Protected Information and subject to the terms of the MPO. Finally, PacifiCorp proposes to provide, if necessary for purposes of these proceedings, a copy of a document containing Highly Protected Information upon request from a qualified person, within forty-eight hours, exclusive of weekends and state holidays, through a secure web portal.

Under the MPO requested by PacifiCorp, automatic access to highly protected information would be restricted to Commission employees, including assigned DOJ attorneys. Additionally, employees of the Regulatory Division and counsel for the Oregon Citizens’ Utility Board, and counsel for an intervening party, 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 PacifiCorp’s proposed MPO, other representatives of parties could become qualified to access Highly Protected Information upon execution of Appendix C to the MPO and demonstrating a legitimate and non-competitive need for the Highly Protected Information.

Under our rules, I am to provide an expedited review of any motion for MPO and may issue an MPO to facilitate the filing of protected information and discovery.¹ This expedited review and issuance of a MPO does not preclude parties from filing responses to the motion for MPO.² Should any party file a response to the motion for MPO, I am to conduct a *de novo* review of the terms of the MPO and issue a ruling explaining my determination and issue an amended MPO, if necessary.³ No information that was produced under the MPO in the interim will be released publicly without going through the process for objections to designations specified in the order itself.

I find PacifiCorp’s filing includes the elements required by OAR 860-01-0080(3) and has established good cause to issue an MPO, with certain revisions. The MPO proposed by PacifiCorp is substantially similar to, if not identical to, the protections requested by the company in docket. UE 450. In that docket, the Commission modified the requested scope and nature of protections for PacifiCorp’s coal supply agreements, fueling strategy and documents and records of affiliated coal mining companies in Order No. 25-195. Here, PacifiCorp has not addressed why the provisions in the proposed MPO here are warranted as compared to the MPO directed by the Commission in docket UE 450, nor has the company addressed the Commission’s prior rejection of the use of a separate

¹ OAR 860-001-0080(3)(c).

² OAR 860-001-0080(3)(d).

³ OAR 860-001-0080(3)(e).

discovery platform or Staff's need to records of documents used in the course of fulfilling its statutory duties, as discussed by the Commission in Order No. 25-195. Additionally, PacifiCorp has not discussed the Commission's prior remedy to eliminate any potential strategic advantage from the proposed process of requesting excerpts of Highly Protected Information directly from the company.

Accordingly, I issue the MPO attached as Appendix A, that includes certain revisions addressed above to conform the MPO in these proceedings with that approved by the Commission in docket UE 450. I issue this MPO 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.

This expedited action does not foreclose a party from seeking *de novo* review of this MPO 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 April 8, 2026.

Made, entered, and effective Mar 27, 2026.



Brent Coleman
Administrative Law Judge



MODIFIED PROTECTIVE ORDER

DOCKET NO. UE 469

Scope of this Order:

1. This order supplements General Protective Order No. 23-132 and governs the acquisition and use of "Highly Protected Information" and "Highly Protected Coal Documents" produced or used by any party to docket UE 469.

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);
 - (b) Is not publicly available; and
 - (c) Is not adequately protected by the general protective order.

Highly Protected Information that is requested in the form of copies of PacifiCorp's coal supply agreements, documentation of the fueling strategy at its coal-fired generation facilities, and the documents and records of affiliated coal mining companies may be designated as "Highly Protected Coal Documents." This designation is limited to copies of those documents.

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. 26-__

To designate information as Highly Protected Coal Documents, the following legend must be placed on the material:

HIGHLY PROTECTED INFORMATION
SUBJECT TO MODIFIED PROTECTIVE ORDER NO. 26-

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.

4. For a filing containing Highly Protected Information, a Highly Protected version and a public version of the document must be created and filed with the Filing Center. The Highly Protected versions of documents shall be

grouped together and should be clearly marked as Highly Confidential. The Commission's Filing Center receives files electronically outside of the Huddle program. For discovery containing Highly Protected Information, the file should be uploaded to a Huddle file folder designated "Highly Protected." For materials constituting Highly Protected Coal Documents, the file should be provided for upload to a view-only Huddle file folder designated as "Highly Protected Coal Documents."

5. 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 to ensure that all copies of the material containing the information bear the above legend if requested by the designating party.
6. 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:

7. A party may informally challenge any designation of Highly Protected Information or Highly Protected Coal Documents 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" or "Highly Protected Coal Documents" designation is necessary.
8. 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.
9. Within five business days of service of the objection, the designating party must either remove the challenged 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 192.311 *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.

10. 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 ten business days of service of the last filing.

Access to Highly Protected Information and Highly Protected Coal Documents:

11. Only Qualified Persons may access Highly Protected Information and Highly Protected Coal Documents designated by another party under this Modified Protective Order. Persons automatically bound by this protective order and qualified to access Highly Protected Information and Highly Protected Coal Documents are:
 - (a) Commission employees; and
 - (b) Assistant Attorneys General assigned to represent the Commission.
12. Persons qualified to access Highly Protected Information and Highly Protected Coal Documents upon a party signing the Signatory Page for Highly Protective Information and Highly Protected Coal Documents, Appendix B, are:
 - (a) Counsel for the party;
 - (b) An employee of the Regulatory Division at the Oregon Citizens' Utility Board.
13. A party bound by the General Protective Order No. 23-132 may seek to qualify other persons to access certain specific Highly Protected Information and Highly Protected Coal Documents by having those persons complete and sign Appendix C, and submitting that information to the designating party and the Commission. Within five business days of receiving a copy of Appendix C, the designating party must file an objection under paragraph 15 or access will be provided.

Objection to Access to Protected Information:

14. All persons qualified to have access to Highly Protected Information and Highly Protected Coal Documents will have access to Highly Protected Information and Highly Protected Coal Documents 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 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.

15. 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 five business days of service of an objection. The ALJ will make all reasonable efforts to resolve the matter within ten business days of the last filing. Pending the ALJ's decision, the specific Highly Protected Information and Highly Protected Coal Documents may not be disclosed to the person subject to the objection.
16. Access to Highly Protected Information that has been previously filed will be provided to Qualified Persons via download through Huddle or other secure cloud-based content management system. Access to Highly Protected Coal Documents will only be provided to Qualified Persons through Huddle on a view-only basis, which will not allow the document to be downloaded or printed. Qualified persons are not authorized to and shall not make screen shots or copies of any document designated as Highly Protected Coal Documents. Qualified persons reviewing the Highly Protected Coal Documents may make limited notes regarding the documents for reference purposes, and for inclusion in a filing consistent with paragraph 4. Such notes shall not constitute a verbatim or substantive transcript of the documents, and shall be considered Highly Protected Information subject to the terms of this protective order. If a limited, specific part of a document or an entire document containing Highly Protected Information is necessary for purposes of the proceeding, such as for use in testimony or a filing, the party may request such a copy. In response to such a request, PacifiCorp will prepare a copy of the requested portion of the document and provide it to that party within forty-eight hours, exclusive of weekends and state holidays, through a secure web portal. PacifiCorp shall designate at least two employees for responding to these requests. These individuals may not be active participants in this docket and may not share information about the excerpts that are being requested with those employees or counsel participating in this proceeding.

Use of Protected Information:

17. All Qualified Persons must take reasonable precautions to keep Highly Protected Information secure. Qualified Persons may reproduce Highly Protected Information only to the extent necessary to participate in these proceedings and subject to the limitations described in paragraph 16. 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 or Highly Protected Coal Documents for any purpose other than participating in these proceedings.

19. 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.
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 and Highly Protected Coal Documents 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 Highly Protected Information or Highly Protected Coal Documents.

CONSENT TO BE BOUND AND SIGNATORY PAGE

DOCKET NO. UE 469

I. Consent to be Bound:

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

Signature: _____

Printed Name: _____

Date: _____

II. Persons Qualified pursuant to Paragraph 12: Highly Protected Information

I have read the Modified Protective Order and agree to be bound by the terms of the order.

I certify that:

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.

The party I am associated with has a legitimate and non-competitive need for the Highly Confidential Information for this proceeding and not simply a general interest in the information.

By: Signature: _____ Date: _____

Printed Name: _____

Address: _____

Employer: _____

Job Title: _____

By: Signature: _____ Date: _____

Printed Name: _____

Address: _____

Employer: _____

Job Title: _____

III. Persons Seeking Qualification under Paragraph 13:

I have read the modified protective order, agree to be bound by the terms of the order, and provide the following information to seek access to certain specific information designated as Highly Confidential Information.

Signature:		Date:
Printed Name:		
Physical Address:		
Email Address:		
Employer:		
Associated Party:		
Job Title:		
If Not employee of party, description of practice and clients:		
I seek access to the following specific information designated as Highly Protected Information for the following reasons:		