

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

PCN 9

In the Matter of

PACIFICORP, dba PACIFIC POWER,

Petition for Certificate of Public
Convenience and Necessity.

MODIFIED
PROTECTIVE
ORDER

DISPOSITION: MOTION FOR MODIFIED PROTECTIVE ORDER GRANTED AS
REVISED

On July 2, 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 including contract terms, customer project-specific information and other commercially sensitive information. Specifically, PacifiCorp asserts these proceedings implicate Highly Protected Information, the disclosure of which would harm the company's contract positions in current or future negotiations related to large load customer developments and contracts for electricity service. Accordingly, PacifiCorp seeks to limit review of Highly Protected Information to a limited set of qualified parties. Further, PacifiCorp seeks to specifically exclude developers or owners of data centers, trade associations, electric utilities other than PacifiCorp, and potentially affected landowners, and their counsel or consultants, from qualifying to access information designated as highly protected in these proceedings.

Under the MPO requested by PacifiCorp, automatic access to Highly Protected Information would be restricted to Commission employees, including assigned DOJ attorneys. Further, under PacifiCorp's proposed MPO, employees or counsel of PacifiCorp would be qualified to access Highly Protected Information after executing Appendix B of the MPO. Finally, representatives of select 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. As noted above, PacifiCorp's proposed MPO precludes counsel, consultants and employees of electric utilities other than PacifiCorp, developers or owners of energy generation facilities, trade associations for large load customers, existing and potential

large load customers, and potentially impacted landowners from qualifying to access 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.

PacifiCorp proposes to prohibit all owners and developers of data centers, trade associations, other electric utilities, potentially affected landowners, and counsel or consultants from any of these entities from qualifying to access Highly Protected Information. The company asserts this prohibition is necessary to protect PacifiCorp and ratepayers from commercial disadvantage if and when the company negotiates with third-parties in the future. I find that PacifiCorp has not addressed the specific reasons a blanket prohibition against the identified types of potential intervenors from seeking to become qualified to access Highly Protected Information is necessary. Specifically, PacifiCorp has failed to explain why it is necessary to exclude all Highly Protected Information from all of the identified types of intervenors. Further, PacifiCorp has not addressed why the objection process outlined in paragraphs 13-15 of the proposed MPO is inadequate to address any concerns PacifiCorp may have with qualification requests from a specific intervenor. I have revised the MPO to remove this provision. PacifiCorp may file a motion for an amended MPO with additional justification for the proposed restrictions for further consideration.

I find PacifiCorp's filing otherwise includes the elements required by OAR 860-001-0080(3). I find good cause to issue the MPO, revised as discussed above and with slight edits for consistency in addressing Highly Protected Information, attached hereto as Appendix A. 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.

¹ OAR 860-001-0080(3)(c).

² OAR 860-001-0080(3)(d).

³ OAR 860-001-0080(3)(e).

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 July 17, 2026.

Made, entered, and effective Jul 08 2026.



Brent Coleman
Administrative Law Judge



MODIFIED PROTECTIVE ORDER

DOCKET NO. PCN 9

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 docket PCN 9. Access to Highly Protected Information shall be limited to qualifying persons bound by this Modified Protective Order (“HPI Qualified Persons”).

Designation of Protected Information and “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.
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-_____

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 Protected. The Commission’s Filing Center receives files electronically. For discovery, Highly Protected Information may be provided via secure database on Huddle or a future Commission discovery portal. Highly Protected versions of filings and Highly Protected Information not distributed by the Filing Center or exchanged through Huddle or a future Commission portal shall be provided to HPI Qualified Persons in a password protected and encrypted electronic ZIP file or through a secure cloud-based storage service.
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 as Highly Protected:

7. 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.
8. If the dispute cannot be resolved informally, the challenging party may file a written objection with the Administrative Law Judge (“ALJ”). The objection need only identify the information in dispute and certify that reasonable efforts to achieve informal resolution have failed.
9. Within five (5) 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 covered by ORCP 36 C(1), including how it 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 (5) business days of service of an objection. The designating party may file a sur-reply within three (3) business days of service of a response. The ALJ will make all reasonable efforts to resolve the matter within ten (10) business days of service of the last filing.

Access to Highly Protected Information

11. Only HPI Qualified Persons may access Highly Protected Information designated by another party. Qualified Persons under General Protective Order 23-132 are not HPI Qualified Persons under this Modified Protective Order except as provided in Paragraphs 11 to 13 herein.

Persons automatically bound by this Modified Protective Order and qualified to access Highly Protected Information are:

- (a) Commission employees; and
 - (b) Assistant Attorneys General assigned to represent the Commission.
12. Persons qualified to access Highly Protected Information upon a party signing the Signatory Page for Highly Protective Information, Appendix B, are:

(a) An employee or counsel of PacifiCorp.

13. A party bound by General Protective Order No. 23-132 may seek to qualify other persons to access certain specific Highly Protected Information by having those persons complete and sign Appendix C, and submitting that information to the designating party and the Commission. Within five (5) business days of receiving a copy of Appendix C, the designating party must file an objection under paragraph 14 or access will be provided.

Objection to Access to Protected Information:

14. All HPI Qualified Persons 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 HPI 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 (5) business days of service of an objection. The ALJ will make all reasonable efforts to resolve the matter within ten (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.

Highly Protected versions of filings or Highly Protected Information that has been previously filed or exchanged shall be provided to HPI Qualified Persons in a password protected and encrypted electronic ZIP file, uploaded to a Huddle file folder designated "Highly Protected", or uploaded to a future Commission discovery portal as a "Highly Confidential Attachment".

Use of Protected Information:

16. All HPI Qualified Persons must take reasonable precautions to keep Highly Protected Information secure. HPI Qualified Persons may reproduce Highly Protected Information only to the extent necessary to participate in these proceedings. A HPI Qualified Person may discuss Highly Protected Information obtained under this order only with other HPI Qualified Persons who have obtained the same information under this order.
17. Without the written permission of the designating party, any HPI Qualified Person may not disclose Highly Protected Information for any purpose other than participating in these proceedings.
18. Nothing in this Modified 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.

19. 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:

20. The Commission will preserve the designation of information as Highly Protected Information for a period of five (5) 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 (2) weeks prior to the release of Highly Protected Information.

CONSENT TO BE BOUND AND SIGNATORY PAGE
DOCKET NO. PCN 9

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:		