

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

LC 50

In the Matter of  
IDAHO POWER COMPANY  
2009 Integrated Resource Plan.

GENERAL  
PROTECTIVE ORDER

DISPOSITION: MOTION FOR PROTECTIVE ORDER GRANTED

On March 11, 2010, Idaho Power Company (Idaho Power) filed a motion for a general protective order with the Public Utility Commission of Oregon (Commission). Idaho Power states that the order is necessary to protect confidential customer information and confidential business plans and strategies. Specifically, Idaho Power states that discovery in this proceeding may include proprietary business and financial information and the general protective order will facilitate the production of relevant information, aid the discovery process, and expedite resolution of this case. Idaho Power adds that the public release of confidential information could prejudice the utility and its customers.

I find that there is good cause to issue a general protective order. The order permits the broadest possible discovery consistent with the need to protect confidential information. The order does not protect specific documents or determine whether any particular document is a trade secret or contains commercially sensitive information. Rather, the order adopts a process for resolving discovery disputes that include sensitive information.

Under the terms of the general order protective, any party may designate information that it reasonably believes falls within the scope of ORCP 36(C)(7) as confidential. All designations must be made in good faith and be limited to only those portions of the document that qualify as a protected trade secret or other confidential research, development, or commercial information. Any other party may challenge the designation of information as confidential. At that point, the designating party bears the "burden of showing that the challenged information falls within ORCP 36(C)(7)."

Confidential information may be disclosed only to a "qualified person" as defined in paragraph 3 of the general protective order. Authors of the confidential material, the Commission or its Staff, and counsel of record for a party or persons directly employed by counsel are "qualified persons" who may review confidential information with no need to individually sign the general protective order. Others seeking access to confidential

information must become qualified under paragraph 10. To receive confidential information, however, all parties—with the general exception of Staff—must sign the Consent to be Bound Form attached as Appendix B. This includes the party seeking the issuance of the general protective order, because any party may designate information as confidential under this order.

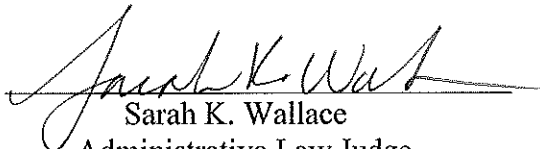
All persons who are given access to confidential information have the good faith obligation to monitor their own conduct to ensure compliance with the general protective order and must take all reasonable precautions to keep the confidential information secure. No person may use or disclose the information for any purpose other than to participate in this proceeding. If there is a question about the status of any person to receive confidential information, the parties may contact the Administrative Hearings Division at (503) 378-6678.

**ORDER**

IT IS ORDERED that the General Protective Order attached as Appendix A is adopted and governs the disclosure of confidential information in this docket.

Made, entered, and effective on MAR 16 2010.



  
Sarah K. Wallace  
Administrative Law Judge

A party may appeal this order to the Commission under OAR 860-014-0091.

**GENERAL PROTECTIVE ORDER**  
**DOCKET NO. LC 50**

**Scope of this Order**

1. This order governs the acquisition and use of “Confidential Information” in this proceeding.

**Definitions**

2. “Confidential Information” is information that falls within the scope of ORCP 36(C)(7) (“a trade secret or other confidential research, development, or commercial information”).

3. A “qualified person” is an individual who is:
- a. An author, addressee, or originator of the Confidential Information;
  - b. A Commissioner or Commission Staff;
  - c. Counsel of record for a party;
  - d. A person employed directly by counsel of record; or
  - e. A person qualified under paragraph 10, including parties and their employees.

**Designation of Confidential Information**

4. A party providing Confidential Information must inform other parties that the material has been designated confidential by placing the following caption on the information:

CONFIDENTIAL  
SUBJECT TO GENERAL PROTECTIVE ORDER

To the extent practicable, the party may designate as confidential only those portions of the document that fall within ORCP 36(C)(7).

5. A party may designate as confidential any information previously provided by giving written notice to the other parties. Parties in possession of newly designated Confidential Information must, when feasible, ensure that all copies of the information bear the above caption to the extent requested by the party desiring confidentiality.

**Information Given to the Commission**

6. Confidential Information that is: (a) filed with the Commission or its staff; (b) made an exhibit; (c) incorporated into a transcript; or (d) incorporated into a pleading, brief, or other document, must be printed on yellow paper, separately bound, and placed in a sealed envelope or other appropriate container. An original and five copies, each separately

sealed, must be provided to the Commission. **Only the portions of a document that are designated as Confidential Information may be placed in the envelope/container.** The envelope/container must be marked with the following:

THIS ENVELOPE CONTAINS CONFIDENTIAL  
INFORMATION AND IS SEALED UNDER ORDER NO. \_\_\_\_\_.  
THE INFORMATION MAY BE SHOWN ONLY TO  
QUALIFIED PERSONS AS DEFINED IN THE ORDER.

7. The Commission's Administrative Hearings Division will store the Confidential Information in a locked cabinet dedicated to the storage of Confidential Information.

#### **Disclosure of Confidential Information**

8. Parties seeking receipt of Confidential Information must sign the Consent to be Bound Form attached as Appendix B. This requirement does not apply to Commission staff. Confidential Information may not be disclosed to any person other than a "qualified person" as defined in paragraph 3. When feasible, Confidential Information must be delivered to the qualified person. In the alternative, Confidential Information may be made available for inspection and review by qualified persons in a place and time agreeable to the parties or as directed by the Administrative Law Judge.

9. A qualified person may disclose Confidential Information to any other qualified person, unless the party that has designated the information as confidential protests as provided in Section 11.

10. To become a qualified person under paragraph 3(e), a person must:
- a. Read a copy of this General Protective Order;
  - b. Execute a statement acknowledging that the order has been read and agreeing to be bound by the terms of the order;
  - c. Date the statement;
  - d. Provide a name, address, employer, and job title; and
  - e. If the person is a consultant or advisor for a party, provide a description of the nature of the person's consulting or advising practice, including the identity of current, past, and expected clients.

A copy of the signed statement must be provided to the party designating the information as confidential and to all parties of record. The copy may be sent by mail, e-mail, or facsimile. A person qualified under paragraph 3(e) may not have access to Confidential Information sooner than five business days after receipt of a copy of the signed statement by the party designating the information as confidential.

11. All qualified persons may have access to Confidential Information, unless the party designating the information as confidential protests as provided in this paragraph. The party seeking to restrict a qualified person from accessing specific Confidential Information must provide written notice to the qualified person and counsel of record for the party associated with the qualified person as soon as the party becomes aware of reasons to restrict access. The parties must promptly confer and attempt to resolve any dispute over access to Confidential Information on an informal basis before filing a motion with the Administrative Law Judge. If the dispute cannot be resolved informally, either party may file a motion with the Administrative Law Judge. Either party may also file a motion if the other party does not respond within five days to a request to resolve the dispute. A motion must describe in detail the intermediate measures, including selected redaction, explored by the parties and explain why these measures do not resolve the dispute. After receipt of the written notice as required in this paragraph, the specific Confidential Information may not be disclosed to the qualified person until the dispute is resolved.

#### **Preservation of Confidentiality**

12. All persons who are given access to Confidential Information under this order may not use or disclose the Confidential Information for any purpose other than to participate in this docket and must take all reasonable precautions to keep the Confidential Information secure. Disclosure of Confidential Information for purposes of business competition is strictly prohibited. Qualified persons may copy, microfilm, microfiche, or otherwise reproduce Confidential Information to the extent necessary to participate in this docket.

#### **Duration of Protection**

13. The Commission will preserve the confidentiality of Confidential Information for a period of five years from the date of the final order in this docket, unless extended by the Commission at the request of the party designating the information as confidential. The Commission shall notify the party designating the information as confidential at least two weeks prior to the release of Confidential Information.

#### **Destruction after Docket**

14. Counsel of record may retain memoranda, pleadings, testimony, discovery, or other documents containing Confidential Information to the extent reasonably necessary to maintain a file of this docket or to comply with requirements imposed by another governmental agency or court order. The information retained may not be disclosed to any person. Any other person retaining Confidential Information must destroy or return it to the designating party within 90 days after final resolution of this docket unless the designating party consents in writing to the person's retention of the Confidential Information. This paragraph does not apply to the Commission or its Staff.

**Appeal to the Administrative Law Judge**

15. If a party disagrees with the designation of information as confidential, the party must contact the designating party and attempt to informally resolve the dispute. If the parties are unable to resolve the dispute, the party disagreeing with the confidential designation may file a motion to remove the confidential designation. The motion must:

- a. Specifically identify the contested information; and
- b. Explain why the party believes the information does not fall within ORCP 36(C)(7).

The party resisting disclosure has the burden of showing that the challenged information falls within ORCP 36(C)(7). If the party resisting disclosure does not respond to the motion within 10 calendar days, the confidential designation will be removed from the challenged information. The challenged information may not be disclosed pending a ruling by the Administrative Law Judge on the motion.

**Additional Protection**

16. A party seeking additional protection for information may move for any of the remedies set forth in ORCP 36(C). The motion must include:

- a. The parties and persons involved;
- b. The exact nature of the information involved;
- c. The exact nature of the relief requested;
- d. The specific reasons the requested relief is necessary;  
and
- e. A detailed description of the intermediate measures, including selected redaction, explored by the parties and why such measures do not resolve the dispute.

The information need not be released and, if released, may not be disclosed pending the Commission's ruling on the motion.

**SIGNATORY PAGE**  
**DOCKET NO. LC 50**

**I. Consent to be Bound**

This General Protective Order governs the use of "Confidential Information" in this proceeding.

\_\_\_\_\_ (Party) agrees to be bound by the terms of this General Protective Order.

By: \_\_\_\_\_  
Signature & Printed Date

**II. Persons Qualified pursuant to Paragraphs 3(a) through 3(d)-**

\_\_\_\_\_ (Party) identifies the following person(s) automatically qualified under paragraph 3(a) through (d).

|         |       |
|---------|-------|
| _____   | _____ |
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**SIGNATORY PAGE**  
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**III. Persons Qualified under Paragraph 3(e) and Paragraph 10**

I have read the General Protective Order, agree to be bound by the terms of the order, and will provide the information identified in paragraph 10.

By: \_\_\_\_\_  
Signature & Printed Date

\_\_\_\_\_

By: \_\_\_\_\_  
Signature & Printed Date

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By: \_\_\_\_\_  
Signature & Printed Date

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