

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UE 416

In the Matter of

PORTLAND GENERAL ELECTRIC
COMPANY,

Request for a General Rate Revision.

MODIFIED
GENERAL
PROTECTIVE
ORDER

DISPOSITION: MOTION FOR MODIFIED GENERAL PROTECTIVE ORDER
GRANTED

On February 8, 2023, Portland General Electric Company filed a motion for a general protective order to govern the acquisition and use of protected information produced or used in these proceedings. PGE states that the order is needed to protect certain information that falls within the scope of ORCP 36(C)(1). Specifically, PGE states work papers and exhibits supporting the upcoming rate case filing, including responses to Standard Data Requests, contain confidential information regarding PGE's natural gas, electric, and coal market activities, contract terms and prices for goods and services, as well as other confidential business matters. PGE also anticipates that parties participating in this docket will make further requests for confidential information. PGE asserts that public disclosure of this information could be detrimental to PGE and its customers.

Also on February 8, 2023, PGE filed a motion requesting modifications to the general protective order to allow for alternative methods of providing confidential information. PGE asserts its request is consistent with Order No. 20-088, which waived the requirement of OAR 860-001-0070 to allow for the electronic submission of confidential information. PGE requests an exemption under OAR 860-001-0000(2) to allow for the production of confidential information through electronic means consistent with that waiver.

The waiver in Order No. 20-088 remains in effect and provides for different handling of confidential information from that specified in the general protective order. Specifically, the Commission ordered that "for the period during which this waiver applies confidential information may be submitted electronically, consistent with direction

provided to parties by AHD at a later date.” Accordingly I grant PGE’s requested exemption and direct the following handling of confidential information in this docket.

Protected Information will be provided either through: (a) the Commission’s discovery portal, Huddle; (b) a password protected and encrypted electronic ZIP file distributed electronically; or (c) through physical production. I find that good cause exists to issue a modified general protective order, which is attached as Appendix A. As requested, I issue this protective order on an expedited basis to allow PGE to file a complete set of work papers and exhibits with its initial filing. This expedited action does not foreclose a party from seeking reconsideration of this decision under OAR 860-001-0720.

ORDER

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

Made, entered, and effective on Feb 10, 2023.



Nolan Moser
Chief Administrative Law Judge



MODIFIED GENERAL PROTECTIVE ORDER
UE 416

Scope of this Order:

1. This order governs the acquisition and use of Protected Information produced or used by any party to these proceedings.

Designation of Protected Information:

2. Any party may designate as 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); and
- (b) Is not publicly available.

3. To designate information as Protected Information, a party must place the following legend on the material:

PROTECTED INFORMATION
SUBJECT TO MODIFIED GENERAL PROTECTIVE ORDER

The party should make reasonable efforts to designate as Protected Information only the portions of the information covered by ORCP 36(C)(1).

4. Protected Information will be provided either through: (a) the Commission's discovery portal, Huddle; (b) a password protected and encrypted electronic ZIP file distributed electronically; or (c) through physical production.

For materials provided through physical production, each page of a document containing Protected Information filed with the Commission or provided to Qualified Persons under this order must be printed on yellow paper and placed in a sealed envelope or other appropriate container. *Only the portions of a document that fall within ORCP 36(C)(1) may be placed in the envelope/container.* The envelope/container must bear the legend:

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

5. A party may designate as Protected Information any information previously provided by giving written notice to the Commission and other parties. Parties in possession of newly designated 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 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 Protected:

7. A party may informally challenge any designation of 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). Any party may request that the ALJ hold a conference to help resolve disputes about proper designation.

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 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 10 business days of service of the last filing.

Access to Protected Information:

11. Only Qualified Persons may access Protected Information designated by another party under this Protective Order. Persons automatically bound by this protective order and qualified to access Protected Information are:

- a. Commission employees; and
- b. Assistant Attorneys General assigned to represent the Commission.

12. Persons qualified upon a party signing the Consent to be Bound section of Appendix B are:

- a. Counsel for the party;
- b. Any person employed directly by counsel of record; and

- c. An employee of the Regulatory Division at the Citizens' Utility Board of Oregon.

A party must identify all these persons in section 2 of Appendix B when consenting to be bound by the order, and must update this list throughout the proceeding to ensure it accurately identifies Qualified Persons

13. A party bound by the protective order may seek to qualify other persons to access Protected Information by having those persons complete and sign Appendix C, and submitting that information to the Commission and all parties. Within five business days of receiving a copy of Appendix C, the designating party must either provide the requested access to Protected Information or file an objection under Paragraph 14.

Objection to Access to Protected Information:

14. All Qualified Persons have access to 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, the designating party must provide the Qualified 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 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 Protected Information may not be disclosed to the person subject to the objection.

Use of Protected Information:

16. All Qualified Persons must take reasonable precautions to keep Protected Information secure. A Qualified Person may reproduce Protected Information to the extent necessary to participate in these proceedings. A Qualified Person may discuss Protected Information obtained under this order only with other Qualified Persons who have obtained the same information.

17. Without the written permission of the designating party, any Qualified Person given access to Protected Information under this order may not disclose Protected Information for any purpose other than participating in these proceedings.

18. 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.

19. Counsel of record may retain memoranda, pleadings, testimony, discovery, or other documents containing 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. The information retained may only be disclosed to Qualified Persons under this order. Any other person retaining 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 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 protected 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.

QUALIFICATION OF OTHER PERSONS
UE 416

III. Persons Seeking Qualification under Paragraph 13:

I have read the modified general protective order, agree to be bound by the terms of the order, and provide the following information.

Signature:		Date:
Printed Name:		
Physical Address:		
Email Address:		
Employer:		
Associated Party:		
Job Title:		
If not employee of party, description of practice and clients:		