LISA RACKNER
Main (503) 595-3922
lisa@mrg-law.com

December 31, 2024

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Filing Center
201 High Street SE, Suite 100
Salem, Oregon 97301-3398

Re: Docket No. PCN 6 – In the Matter of Portland General Electric Company's Petition for Certificate of Public Convenience and Necessity.

Attention Filing Center:

Pursuant to OAR 860-001-0080, General Protective Order (GPO) No. 23-132, and Modified Protective Order (MPO) No. 24-087, Portland General Electric Company (PGE) files these objections to Kelly Bartholomew's requests to access information covered by the GPO[1] and the MPO issued in this case.[2]

Protected Information

PGE does not object to Ms. Bartholomew having access to the information submitted under the GPO with one exception. The information designated as Protected Information includes load requests from both current and prospective industrial customers of PGE. PGE proposes to provide those load requests to Ms. Bartholomew with the names of the customers redacted.

Load requests from PGE's industrial customers contain sensitive commercial information that, if made public, could result in competitive harm to those customers, and for that reason, the load requests are provided to PGE with the good faith understanding that the information will be held in confidence. The risk of harm to those customers from the release of unredacted copies of the load requests to a pro se litigant is high. While Ms. Bartholomew has asserted that she will follow appropriate procedures to keep materials confidential, PGE continues to have two unsatisfied concerns regarding her full access to the information. First, this is Ms. Bartholomew's first experience intervening in a Commission docket and she has, on more than one occasion, failed to comply with proper procedures and has violated procedural rules. [3] Therefore, PGE has a well-

[1] Kelly Bartholomew's Signatory Page to Protective Order No. 23-132 (Dec. 22, 2024).
[2] Kelly Bartholomew's Signatory Pages to Modified Protective Order No. 24-087 (Dec. 22, 2024).
[3] For example, in the notice filed on October 14, 2024, to request justice funding Ms. Bartholomew asserted that she had provided notice to all pre-certified organizations eligible to receive such funding. This was not the case. Similarly, prior to requesting modifications to the procedural schedule on December 18 and 19, 2024,

founded concern that Ms. Bartholomew may not comply with the requirement to keep this sensitive information confidential. Second, Ms. Bartholomew does not appear to have any legitimate need for unredacted copies of the load requests. Presumably, Ms. Bartholomew seeks access to the load requests in order to confirm PGE's evidence supporting the load forecasts that support the need for the Rosemont-Wilsonville Transmission Line. However, Ms. Bartholomew can confirm the accuracy of the load forecast without knowing the identity of the PGE customers submitting load requests.[4] Given these facts, the Administrative Law Judge (ALJ) should balance Ms. Bartholmew's interests with the interests of PGE's industrial customers by allowing Ms. Bartholomew access to redacted copies of the load requests submitted in this case.

Highly Protected Information

PGE objects to Ms. Bartholomew having access to any of the information filed in this case under the Modified Protective Order. That information falls into two categories: (1) highly sensitive information about landowner easement negotiations; and (2) Critical Energy Infrastructure Information (CEII). Ms. Bartholomew has stated that she is not seeking access to the landowner easement information but is seeking the CEII.[5] For this reason, PGE will confine its discussion of its objections to the latter category.

There is no dispute that the transmission studies submitted in this case contain CEII. The only question is whether this information should be made available to Ms. Bartholomew. The answer is no, for the following reasons.

CEII is highly sensitive information, the release of which could render utility infrastructure vulnerable to terrorist attack.[6] Therefore, the risks to the public of allowing Ms. Bartholomew access to CEII are high. As noted above, PGE's concerns regarding Ms. Bartholomew's compliance with procedural rules are well-founded. Additionally, because she is appearing *pro se*, she has no attorney to assist her in complying with the terms of the modified protective order. Indeed, ***PGE is unaware of any other circumstance under which a pro se litigant has been provided with access to CEII.***

Conversely, Ms. Bartholomew has not provided PGE or the ALJ with any credible explanation as to why she needs the CEII in order to litigate her case. The CEII is contained within

---

Ms. Bartholomew, contrary to the obligations of OAR 860-001-0420, failed to consult with parties, including PGE, prior to making her motions.

[4] At the prehearing conference on December 30, 2024, the Administrative Law Judge (ALJ) asked Ms. Bartholomew to explain whether she would be willing to accept the PGE's suggestion that it provide redacted versions of the load requests. In response, Ms. Bartholomew simply stated that she needed access to "all" of the information submitted in the docket. However, she did not explain how the names of the customers submitting the load requests would be helpful in her presentation of the case.

[5] Kelly Bartholomew's Response to PGE's Letter to ALJ Spruce Regarding Kelly Bartholomew's Access to Confidential Information (Dec. 23, 2024).

[6] *See* Federal Energy Regulatory Commission, *Critical Energy/Electric Infrastructure Information (CEII) Regulations*, https://ferc.gov/enforcement-legal/legal/major-orders-regulations/critical-energyelectric-infrastructure-information (last updated June 12, 2020).

highly technical power flow studies, and Ms. Bartholomew has offered no indication that she has the ability to assess or confirm those studies. She herself does not have the requisite qualifications, and she has not asked that a consultant be given access in order to review the studies on her behalf. Moreover, it is worth noting that it is past time for parties to offer new evidence into the record in this case. For this reason, even if Ms. Bartholomew was given access to the power flow studies containing CEII, and even if she had the expertise to interpret the power flow studies, there would be no process by which she would be allowed to offer an opinion on the subject. Therefore, it appears that Ms. Bartholomew has no real need for the CEII she seeks.

PGE understands that it may be frustrating for Ms. Bartholomew to be denied access to some of the more sensitive technical information in this case. However, given the risks associated with inadvertent disclosure, and given that she has provided no legitimate explanation as to *why* she needs such information to make her case, access should be denied.

If the ALJ determines that Ms. Bartholomew should be given access to the CEII submitted in this docket, that access should be provided only in the context of a PGE "safe room" under strict provisions that will minimize the risk of public disclosure. Such provisions should specify that PGE identify an office of its choice where it would allow Ms. Bartholomew to view the CEII at a date and time to be selected by Ms. Bartholomew, with the proviso that the date be scheduled during normal business hours, and up until one week before the oral argument is scheduled in this case. Ms. Bartholomew would be prohibited from making any manual, electronic or photographic copies of the CEII, although she would be allowed to make limited notes for reference purposes only. A PGE employee would remain in the safe room with Ms. Bartholomew to ensure that the provisions were followed.

The safe room approach has been used successfully in other dockets for the communication of highly protected information.[7] In adopting these safeguards, the ALJ should note that they would be in addition to the terms of the existing MPO, and that the more restrictive terms proposed above would apply over the more general terms of the MPO.

PGE notes that Ms. Bartholomew has argued that requiring her to view the CEII in a safe room would be less convenient than being allowed to view the CEII from her own home. PGE acknowledges that the safe room model would require more effort on Ms. Bartholomew's part. However, if Ms. Bartholomew is allowed to access the CEII from home — either through physical copies or on Huddle — PGE would be unable to ensure that the CEII is not copied either manually or photographically, nor would PGE be able to ensure that the information is maintained securely. Given the sensitivity of the information, the burden of requiring Ms. Bartholomew to travel a short distance to PGE's offices in downtown Portland is not undue. Moreover, PGE is willing to investigate whether other PGE offices, closer to Ms. Bartholomew's home, may substitute for the

[7] *In re Pacific Power & Light, dba PacifiCorp, Filing of Tariffs Establishing Automatic Adjustment Clauses Under the Terms of SB 408*, Docket UE 177 et al., Order No. 06-033 (Jan. 25, 2006) (protecting PacifiCorp's highly confidential tax information).

downtown location but not having investigated whether access can necessarily be provided to her to those facilities cannot offer those facilities as an option at this time.

Finally, during the prehearing conference, Staff suggested that Ms. Bartholomew might be allowed access to the CEII submitted in testimony, but not in exhibits, and PGE agreed to consider this approach. Upon reflection, PGE does not view Staff's suggestion as viable. The highly protected information contained in the testimony includes CEII, and it is no less sensitive because it is included in testimony than it is when it is contained in exhibits. PGE asks that the ALJ reject Staff's proposal.

Implementation Considerations

As detailed above, for both protected and highly protected information, PGE objects to Ms. Bartholomew's request for access to such information without further limitations. However, if the ALJ decides to grant Ms. Bartholomew access to the load requests with redactions for customer names and/or if the ALJ decides to grant Ms. Bartholomew access to CEII other than according to the terms outlined by PGE in this letter, additional process is warranted to protect PGE's information. The need for this additional protection arises because the current Huddle folders for protected versions contain unredacted load request information and because highly protected folders combine both CEII and landowner negotiation information — the latter of which Ms. Bartholomew does not seek. Moreover, protected and highly protected information is included not just in testimony folders but also in responses to data requests. For these reasons, depending on the ALJ's ruling, implementation may require considerable time and effort on PGE's part. Therefore, PGE requests that Ms. Bartholomew not be granted immediate access to protected or highly protected information via Huddle.

In the event that the ALJ allows Ms. Bartholomew access to redacted load requests or CEII via Huddle, PGE respectfully asks that the ALJ direct the parties to confer regarding the timing and plans for access. PGE also requests that the ALJ specify that PGE will be allowed one week from the date of its ruling to set up and populate a new folder in Huddle to provide the protected and/or highly protected information to which Ms. Bartholomew is allowed access.

Conclusion

For the reasons discussed above, PGE asks the ALJ to issue a ruling as follows:

1. Allowing Ms. Bartholomew access to information submitted under the GPO, except that the names of PGE customers shown on the load requests be redacted.

2. Denying Ms. Bartholomew access to information covered by the MPO, or alternatively, allowing Ms. Bartholomew access to information covered by the MPO in a safe room at PGE's offices, under the terms discussed herein.

3. Specifying that Ms. Bartholomew will not be granted immediate access to any information submitted under the GPO or MPO via Huddle, and directing the additional process described above as necessary to safeguard PGE's protected and highly protected information.

Please contact this office with any questions.

Sincerely,



Lisa Rackner
McDowell Rackner Gibson PC
419 SW 11th Ave., Suite 400
Portland, OR 97205
Telephone: (503) 595-3922
Email: lisa@mrg-law.com