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August 29, 2011

***Via Electronic and U.S. Mail***

Public Utility Commission  
Attn: Filing Center  
550 Capitol St. NE #215  
P.O. Box 2148  
Salem OR 97308-2148

Re: In the Matter of PORTLAND GENERAL ELECTRIC COMPANY  
2012 Annual Power Cost Update Tariff (Schedule 125)  
**Docket No. UE 228**

Dear Filing Center:

Enclosed please find the original and one (1) copy of the Motion Challenging Confidential Designation on behalf of the Industrial Customers of Northwest Utilities in the above-referenced docket. Thank you for your attention to this matter.

Sincerely yours,

/s/ Sarah A. Kohler  
Sarah A. Kohler

Enclosures  
cc: Service List

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this day served the foregoing Motion Challenging Confidential Designation on behalf of the Industrial Customers of Northwest Utilities upon the parties, on the service list, by causing the same to be deposited in the U.S. Mail, postage-prepaid, and via electronic mail where paper service has been waived.

Dated at Portland, Oregon, this 29th day of August, 2011.

/s/ Sarah A. Kohler

Sarah A. Kohler

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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

**UE 228**

In the Matter of	)	
	)	
PORTLAND GENERAL ELECTRIC	)	ICNU’S MOTION CHALLENGING
COMPANY	)	CONFIDENTIAL DESIGNATION
	)	
2012 Annual Power Cost Update Tariff	)	REQUEST FOR EXPEDITED
(Schedule 125)	)	CONSIDERATION
	)	
	)	
	)	

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**I. INTRODUCTION**

Pursuant to Protective Order No. 11-102 (the “Protective Order”) and through this motion, the Industrial Customers of Northwest Utilities (“ICNU”) hereby objects to and challenges the designation of certain information as confidential in this proceeding. Specifically, ICNU seeks to make public the figure for the overall hedging disallowance adjustment ICNU witness Don Schoenbeck has proposed in this docket, as public disclosure is appropriate as the proposed adjustment number is not a confidential piece of data. ICNU certifies that reasonable efforts to achieve an informal resolution with Portland General Electric Company (“PGE”) have been unsuccessful, as detailed in this motion. Under the Protective Order, PGE now bears the burden of showing that the challenged information is covered under ORCP 36(C)(7).

In light of the imminent evidentiary hearing scheduled for August 30, 2011, as well as the importance of being able to inform our clients about the issues and their magnitude, ICNU requests expedited consideration of this motion pursuant to OAR § 860-001-0420(7). We were unable to reach Staff’s or CUB’s legal counsel today.

## II. ARGUMENT

On the morning of August 29, 2011, counsel for ICNU emailed PGE counsel, requesting that ICNU witness Don Schoenbeck's overall proposed hedging disallowance adjustment be designated as non-confidential. ICNU counsel explained that Mr. Schoenbeck's overall adjustment was only designated as confidential out of an abundance of caution. That same day, PGE telephoned ICNU counsel and summarily refused the request to make Mr. Schoenbeck's overall adjustment public.

At this point, ICNU seeks to make Mr. Schoenbeck's overall adjustment public, and PGE has become the party designating the adjustment figure as confidential. Since ICNU has notified PGE that ICNU is challenging this confidential designation, PGE now "bears the burden of showing that the challenged information is covered by ORCP 36(C)(7)." Protective Order at Appendix A, p.1. At present, PGE has offered no more than an oral, summary refusal to support its insistence on designating Mr. Schoenbeck's overall adjustment as confidential. In the face of such a response, ICNU has satisfied its duty to make reasonable efforts to achieve an informal resolution and is now forced to seek Public Utility Commission of Oregon ("OPUC" or the "Commission") intervention.

The Commission should remove the confidential designation on Mr. Schoenbeck's overall adjustment for at least two primary reasons. First, in the simple interests of justice, publicly stating the precise figure of the proposed adjustment is a virtual necessity in order for the Commission to either draft an order or conduct any semblance of a comprehensible public hearing in this proceeding. The parties have settled all issues in this docket other than

hedging recovery—contention over Mr. Schoenbeck’s proposal and Mr. Jenks’ proposal essentially *are* the case.

Public disclosure of the figure Mr. Schoenbeck proposes cannot, by itself, reveal “a trade secret or other confidential research, development, or commercial information” protected under ORCP 36(C)(7). The adjustment figure is the product of Mr. Schoenbeck’s own calculations. ICNU does not challenge the confidential designation of whatever underlying support for that figure is already protected, although we believe much of the underlying data is stale and no longer confidential, since the majority of the disallowed transactions are from 2007 and 2008. Conversely, allowing the adjustment figure to be stated openly will allow the Commission to draft a final order which is not filled with references to an unknown adjustment figure at the heart of the decision. Disclosure will also allow the public to coherently follow the process while relieving the OPUC of the unnecessary logistical quandary of continually reverting to confidential status every time a party wishes to discuss the central issue in this docket. Finally, it is extremely awkward asking a client to fund a case but not be able to tell that client how much money is at issue. Counsel for ICNU cannot recall any case in which the proposed adjustments are deemed confidential.

Second, in significant measure, Mr. Schoenbeck’s proposed adjustment is based in part upon stale data from 2006, 2007, and 2008. It is hard to conceive of how the release of Mr. Schoenbeck’s proposed adjustment reveals anything related to PGE’s future hedging strategies. The overall adjustment number is derived from multiple sources and calculations. Revealing the overall number does not reveal any of the underlying data that PGE has designated as confidential.

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Good cause exists for expedited consideration of this motion due to the imminence of the August 30, 2011 hearing date scheduled in this proceeding. Pursuant to OAR § 860-001-0420(7)(a), ICNU certifies that it has attempted to contact all active parties to discuss this motion. As of the filing of this motion, no party has stated opposition to ICNU's motion besides PGE.

### III. CONCLUSION

WHEREFORE, for the reasons stated herein, ICNU respectfully requests that the Commission remove the confidential designation attached to ICNU witness Don Schoenbeck's overall proposed hedging disallowance adjustment and make such information publically available.

Dated this 29th day of August, 2011.

Respectfully submitted,

DAVISON VAN CLEVE, P.C

/s/ Melinda J. Davison

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