

April 20, 2004

VIA E-MAIL AND UPS OVERNIGHT

Ms. Trudy Jaynes
Oregon Public Utility Commission
550 Capitol Street NE, Suite 215
PO Box 2148
Salem, OR 97308-2148

Re: UM 1121: Motion for Additional Protection Under Protective Order

Dear Ms. Jaynes:

Enclosed for filing in the above-referenced docket are the original and five copies of Applicants' Motion for Additional Protection Under Protective Order. Please contact me with any questions.

Very truly yours,



Sarah Wallace

Enclosures

cc: UM 1121 Service List (via E-mail and U.S. Mail)

1 **BEFORE THE PUBLIC UTILITY COMMISSION**

2 **OF OREGON**

3 **UM 1121**

4
5 In the Matter of the Application of OREGON
6 ELECTRIC UTILITY COMPANY, LLC, et al., for
7 an Order Authorizing Oregon Electric Utility
Company, LLC to Acquire PGE Company

**APPLICANTS' MOTION FOR
ADDITIONAL PROTECTION
UNDER PROTECTIVE ORDER**

8
9 Oregon Electric Utility Company, *et al.* ("Applicants") move for additional protection
10 under paragraph 16 of the Commission's Standard Protective Order No. 04-139 entered in this
11 proceeding. Specifically, Applicants move that certain information requested by Commission
12 Staff in Data Requests OEUC 1, 5, 9, 24, and 68 be subject to disclosure only to Staff, except on
13 terms described below.

14 Applicants certify that they have conferred pursuant to paragraph 11 of the Standard
15 Protective Order and have not been able to secure a resolution satisfactory to all parties.

16 **INTRODUCTION**

17 Within days of the filing of the Application in this case, the Commission Staff served a
18 series of data requests upon Oregon Electric Utility Company, *et al.* ("Applicants"), many of
19 which requested that Applicants produce sensitive trade secret and commercial information
20 belonging to TPG Partners III, L.P., TPG Partners IV, L.P., and Tarrant Partners, L.P.
21 (collectively "TPG"). In response, Applicants have produced over 3,000 pages of documents to
22 Staff and have answered over 100 questions. In so doing, Applicants designated many of the
23 documents "confidential" under the Standard Protective Order. However, certain of the
24 documents – specifically, those produced in response to Staff's Data Requests 1, 5, 9, 24, and 68
25 – are so highly proprietary and competitively sensitive that Applicants designated them
26

1 “Extremely Confidential” and stated objections to producing them to any other party. A number
2 of intervenors subsequently have requested that Applicants produce to them copies of all
3 production made to Staff. For that reason, Applicants now file this Motion for Additional
4 Protection.

5 Applicants understand the intervenors’ need for reasonable disclosure of relevant
6 information in this case. However, that legitimate need for disclosure must be balanced against
7 TPG’s right to maintain the confidentiality of its most sensitive information, with due
8 consideration to the harm that TPG would suffer if that information were to be publicly
9 disclosed. In an attempt to balance these interests, Applicants have proposed procedures for
10 producing to intervenors all relevant information, including a procedure to allow an
11 Administrative Law Judge (“ALJ”) to view certain information *in camera* to determine whether
12 any party is entitled to it. These proposals, fully described below, will allow all parties to
13 examine relevant information, and should be adopted by the Commission.

14 **BACKGROUND FACTS**

15 On March 10, 2004, Commission Staff served its First Set of Data Requests to Applicants
16 in this proceeding. Those data requests included the following:

17 *OEUC 1. “Please identify and provide a copy of all financial models, used for any*
18 *purpose, including, but not limited to, the one created by . . . TPG.”*

19 *OEUC 5. “Please provide copies of any prospectuses for any TPG entity that has a*
20 *vested financial interest in the purchase of PGE”*

21 *OEUC 9. “Provide the names and partnership interests of all the partners for the*
22 *various associated TPG entities”*

23 *OEUC 24. “Provide copies of all written or electronic recorded minutes of any*
24 *governing group in which the proposed transaction was considered and discussed”*

1 *OEUC 68. "Provide any studies or analyses conducted for or by the Company: (a)*
2 *Including any determination or support of the value-creation potential of the transaction; (b)*
3 *Including potential risks and benefits from reorganization"*

4 In response to those specific data requests, TPG produced to Staff some of its most
5 sensitive and commercially valuable information that, if inadvertently released to competitors or
6 even to some of the intervening parties in this case, would cause a clearly defined and serious
7 injury to TPG. Applicants accordingly designated that information "Extremely Confidential
8 Trade Secret Information" and expressly stated their unwillingness to disclose it to any other
9 party. Applicants informed Staff that they would seek additional protection if asked by
10 intervening parties to produce the information. *See Introduction to Responses to Staff OEUC*
11 *Requests, attached as Exhibit 1.*

12 The Citizens' Utility Board of Oregon ("CUB"), Industrial Customers of Northwest
13 Utilities ("ICNU"), and PacifiCorp¹ each have asked Applicants to produce its responses to some
14 or all of the above data requests. Accordingly, Applicants now move for additional protection,
15 namely, to restrict any further disclosure of its responses to Staff's Data Requests OEUC 1, 5, 9,
16 24, and 68 except on the terms described below.

17 **AUTHORITY FOR ADDITIONAL PROTECTION**

18 Paragraph 16 of the Standard Protective Order provides that "[t]he party desiring
19 additional protection may move for any of the remedies set forth in ORCP 36(C)." Oregon Rule
20 of Civil Procedure 36 C, entitled "Court Order Limiting Extent of Disclosure," states in pertinent
21 part:

22 [F]or good cause shown, the court . . . may make any order which justice requires
23 to protect a party or person . . . including one or more of the following: . . .
24 (3) that the discovery may be had only by a method of discovery other than that

25 ¹ Of the data requests identified, PacifiCorp currently has requested to review only Applicants' response to
26 OEUC 9. PacifiCorp has informed Applicants that the procedures Applicants have proposed in this motion for
disclosing information with respect to OEUC 9 will allow for production of the information that PacifiCorp is
seeking.

1 selected by the party seeking discovery; (4) that certain matters not be inquired
2 into, or that the scope of the discovery be limited to certain matters. . . (7) that a
3 trade secret or other confidential research, development, or commercial
information not be disclosed or be disclosed only in a designated way

4 Paragraph 16 of the Standard Protective Order further provides that a motion for
5 additional protection shall state: (a) the parties and persons involved; (b) the exact nature of the
6 information involved; (c) the exact nature of the relief requested; (d) the specific reasons the
7 requested relief is necessary; and (e) a detailed description of the intermediate measures,
8 including selected redaction, explored by the parties and why such measures do not resolve the
9 dispute.

10 For purposes of this motion, the parties are Applicants and the intervening parties that
11 have requested some or all of the information that Applicants have disclosed to Staff as
12 “Extremely Confidential Trade Secret Information” in response to Staff’s Data Requests OEUC
13 1, 5, 9, 24, and 68. Those parties currently include CUB, ICNU, and PacifiCorp. The exact
14 nature of the information involved, the nature and reason for the relief requested, and the
15 description of intermediate measures explored by the parties are set out in detail below.

16 **ARGUMENT**

17 Applicants acknowledge the intervenors’ need to fully investigate Applicants’ proposal in
18 this case. This need must be balanced against TPG’s legitimate need to safeguard its most
19 proprietary information. There are currently 30 parties who have intervened in this case, and that
20 number can be expected to increase. Each of these intervenors has the right to designate any
21 number of persons to become Qualified Persons under the Standard Protective Order. Given
22 these numbers, the risk of inadvertent disclosure of confidential information is substantial.

23 Applicants acknowledge and accept the risk of inadvertent disclosure, as long as
24 confidential information is clearly relevant and cannot be produced in a less sensitive form or
25 manner. However, much of the confidential information at issue here is of limited relevance,
26 and, as for that information that is clearly relevant, it can be disclosed in forms less likely to

1 result in disclosure than those provided for under the Standard Protective Order. Additional
2 protection therefore is appropriate.

3 In the ScottishPower-PacifiCorp merger docket, the Commission approved measures for
4 protecting ScottishPower's and PacifiCorp's most sensitive information similar to measures that
5 Applicants propose here. See *In the Matter of the Application of ScottishPower plc and*
6 *PacifiCorp for an Order Authorizing ScottishPower plc to Exercise Substantial Influence Over*
7 *the Policies and Actions of PacifiCorp* ("ScottishPower"), UM 918, Order Nos. 99-106 (Feb. 19,
8 1999) and 99-293 (Apr. 27, 1999). In that case, ScottishPower and PacifiCorp ("movants") filed
9 motions for additional protections for certain documents requested by Staff. Specifically,
10 movants argued that they should not be required to produce to intervenors the Board Minutes and
11 other due diligence documents that they produced to Staff in response to Staff requests. Movants
12 claimed that that such information contained "PacifiCorp's financial information of the most
13 commercially sensitive nature," and that its Board minutes were "full of extremely confidential,
14 commercially sensitive materials, including business plans and strategies, the status and
15 evaluation of various other transactions, and information pertaining to specific employees and
16 general employment issues."²

17 The movants requested that they be allowed to produce the relevant information to Staff
18 only. Movants stated that they would confer with intervenors who felt that they had a need for
19 that information and, in the event they could not work out a consensual arrangement with any
20 intervenor, that the intervenor could seek an exemption from the Order. The Commission
21 granted the movants' motions, noting the procedural protections offered to intervenors and
22 concluding that the movants had made an initial showing of the need for additional protection.
23 See *ScottishPower*, Order Nos. 99-106 and 99-293.

24 ² *PacifiCorp's Motion for Additional Protection Under Protective Order at ¶ 6 (filed Jan. 21, 1999).*
25 ScottishPower, in its motion, added that dissemination of Board minutes "could potentially compromise [the]
26 incomplete [merger between ScottishPower and PacifiCorp] by allowing a competitor access to information which
could allow it to make a competing bid for PacifiCorp or jeopardize the transaction in other ways." *ScottishPower's*
Motion for Additional Protection Under Protective Order at ¶ 5 (filed Mar. 23, 1999).

1 In this case, Applicants are offering similar procedures to safeguard intervenors' ability
2 to conduct a thorough investigation, while protecting TPG's commercially sensitive information.

3 **A. Staff's Data Request OEUC 1 (Financial Model)**

4 *a. Nature of information involved and relief requested*

5 In response to Staff's Data Request OEUC 1, Applicants produced an electronic copy of
6 TPG's financial model on a CD-ROM disc. The financial model allowed TPG to vary inputs and
7 assumptions to produce 48 possible scenarios (also called "model runs") showing how Portland
8 General Electric ("PGE") might perform as a company over time. Analyzing those 48 scenarios
9 was one way in which TPG evaluated an acquisition of the company.

10 The software copy of the financial model is one of TPG's most valuable and proprietary
11 assets. In short, it is a unique model constructed by TPG and, as such, it is commercially
12 sensitive. Moreover, Applicants view the model as irrelevant to this proceeding. Rather, the 48
13 scenarios that TPG produced and analyzed using the financial model constitute the relevant
14 information that an intervening party needs to review to understand TPG's financial evaluation
15 of PGE. Each scenario can be produced in summary form (20 pages) or in full-length form (80
16 pages), and Applicants already have produced summaries of all 48 scenarios to CUB and ICNU.
17 Accordingly, Applicants request an order that restricts disclosure of the electronic copy of the
18 financial model to the Staff, but that requires disclosure of scenarios as proposed below.

19 *b. Reasons relief is necessary*

20 Additional protection for TPG's financial model is warranted in this case. A financial
21 model is at the heart of a private equity firm's ability to effectively evaluate risks and rewards of
22 potential investments – and to effectively compete against other potential acquirers of
23 companies. The model constitutes a trade secret under Oregon law. Indeed, the Commission
24 specifically has recognized that computer models are sensitive trade secrets. *See CUB v. OPUC*,
25 128 Or. App. 650, 656-57 (1994) (holding that a computer model used to measure cost of
26 products and relating revenues to costs qualified as confidential trade secret information). If

1 distributed to intervening parties in CD-ROM form, the risk substantially increases that the
2 financial model could be copied, modified, and/or disseminated to a competitor by electronic
3 means.

4 Moreover, disclosure of the electronic financial model is not necessary because
5 Applicants are willing to produce copies of all 48 scenarios that TPG generated with that model.
6 New scenarios that TPG did not consider can be generated by varying inputs and assumptions.
7 Upon request, Applicants are willing to generate a reasonable number of these new scenarios
8 using inputs and assumptions selected by an intervening party. Therefore, there is no reason for
9 any party to obtain the electronic financial model itself.

10 *c. Intermediate measures explored by parties have not been successful*

11 Applicants produced to CUB and ICNU the summaries of the 48 scenarios that TPG
12 created using its financial model. Applicants also informed CUB and ICNU that Applicants
13 were willing to produce the full-length scenarios, if desired, and to create a reasonable number of
14 new scenarios using inputs and assumptions chosen by CUB and ICNU. Applicants believe that
15 those accommodations obviate the need for an electronic copy of the financial model, provide
16 the requesting parties the information to which they are entitled, and protect TPG from
17 disclosure of its most valuable and sensitive asset. Nonetheless, some parties have suggested
18 that Applicants' efforts will not satisfy them, and the dispute remains unresolved.

19 **B. Staff's Data Request OEUC 5 (Prospectuses)**

20 *a. Nature of information involved and relief requested*

21 In response to Staff's Data Request OEUC 5, Applicants produced TPG's equivalent of
22 prospectuses (called "Private Placement Memoranda" or "PPMs") for TPG Partners III, L.P., and
23 TPG Partners IV, L.P. The PPMs contain two categories of extremely confidential information
24 that are not relevant to this case: (1) the internal rate of return on individual investments by the
25 funds, many relating to non-public companies that are not at issue here; and (2) key investment
26 terms governing investments in TPG (*i.e.*, the terms between the investors in TPG (called

1 Limited Partners) and each fund's General Partner). Applicants request that the Commission
2 issue an Order limiting the disclosure of those two sensitive categories of information to the Staff
3 only, but that allows for a procedure for *in camera* review of the information by an ALJ, as
4 proposed below.

5 *b. Reasons relief is necessary*

6 TPG's internal rates of return on unrelated investments and the manner in which TPG is
7 structured are trade secrets and confidential commercial information. *See* ORS 192.501(2) (trade
8 secrets include plans or compilations of information having commercial value that are known
9 only to certain individuals in organization and are used in its business to obtain a business
10 advantage). If this information became known, competitors could use this information to more
11 effectively compete against TPG, and the firm's competitive advantage would be severely
12 impaired. Accordingly, TPG takes great care in limiting the disclosure of the PPMs, each of
13 which is prefaced with the following agreement:

14
15 Each potential investor, by accepting delivery of this memorandum, agrees not to
16 make a photocopy or other copy or to divulge the contents hereof to any person
17 other than a legal, business, investment, or tax advisor in connection with
18 obtaining the advice of such persons with respect to this offering. This
19 memorandum has been furnished on a confidential basis solely for the
20 information of the person to whom it has been delivered and may not be
21 reproduced or used for any other purpose.

22 Moreover, none of these materials discuss TPG's proposed acquisition of PGE, and
23 therefore they have little relevance to the Commission's overall inquiry under ORS 757.511 into
24 whether this transaction will serve PGE's customers in the public interest. Under those
25 circumstances, additional protection is appropriate.

26 *c. Intermediate measures explored by parties have not been successful*

To allow parties the fullest possible review of the PPMs while protecting TPG's most
commercially sensitive information contained in those documents, Applicants have proposed to

1 produce PPMs to Qualified Persons with the information described above redacted. In addition,
2 Applicants have proposed to provide a written summary of the subject matter of the redacted
3 terms. Applicants believe that a review of that summary, along with the remainder of the
4 prospectuses, will provide parties with all relevant information. However, if, after review,
5 parties believe that they are entitled to any of the redacted information, Applicants have
6 proposed that, on a case-by-case basis, parties may request that the ALJ conduct an *in camera*
7 inspection of the information to determine whether it should be produced. Notwithstanding these
8 proposals, some parties have suggested that they are inadequate, and the dispute remains
9 unresolved.

10 **C. Staff's Data Request OEUC 9 (Customer Lists)**

11 *a. Nature of information involved and relief requested*

12 In response to Staff's Data Request OEUC 9, Applicants produced the names of the
13 partners in the various associated TPG entities, including the limited and general partners in TPG
14 Partners III, L.P., and TPG Partners IV, L.P. By identifying the limited partners, Applicants
15 disclosed the investors in the TPG funds, which is analogous to a bank disclosing a confidential
16 list of "customers." By contract, these investors have no opportunity to control the day-to-day
17 operation, including investment and disposition decisions, of the TPG funds. Applicants request
18 that the Commission issue an order restricting the disclosure of these investor lists to Staff only.

19 *b. Reasons relief is necessary*

20 TPG has a contractual duty to maintain the confidentiality of its investors. Further,
21 Oregon law protects "valuable commercial financial information," particularly when that
22 information has been entrusted to a bank or other financial institution. *See, e.g., Banaitis v.*
23 *Mitsubishi Bank, LTD*, 129 Or. App. 371, 377-79 (1994) (confidentiality of information relating
24 to customers of banks and financial institutions is important public policy). Indeed, the Oregon
25 Court of Appeals noted that "[i]t is inconceivable that a bank would at any time consider itself
26 at liberty to disclose the intimate details of its depositors' accounts. Inviolate secrecy is one of

1 the inherent and fundamental precepts of the relationship of the bank and its customers or
2 depositors.” *Id.* at 379 (quoting *Peterson v. Idaho First Nat’l Bank*, 367 P.2d 284 (Idaho
3 1961)). This duty of secrecy is grounded in common law and various Oregon statutes, some of
4 which apply both to banks and any “medium of savings or collective investment.” ORS
5 165.075(5); *see, e.g., Banaitis*, 129 Or. App. at 380 (grounding duty of nondisclosure in, among
6 other statutes, ORS 165.095(1), which makes the misapplication of property entrusted to a
7 “financial institution” (*i.e.*, a medium of collective investment) a misdemeanor).

8 Moreover, the identities of TPG’s Limited Partners are not relevant to the inquiry under
9 ORS 757.511 whether it is in the public interest to permit Applicants to exercise influence over
10 PGE. These Limited Partners/investors are passive; they have no right to control the day-to-day
11 operation, including the investment and disposition decisions, of the funds. Their identities
12 therefore are of little to no value in the context of this proceeding.

13 Lastly, TPG must protect itself from the severe competitive harm that would result if the
14 names of its investors – its customers – became known to other competing private equity firms,
15 which could then solicit TPG’s investors.

16 The Commission has granted additional protection for customer lists in the past. In
17 analogous circumstances, PacifiCorp sought additional protection for its customers or potential
18 customers in the PGE Pilot Program (UE 101). *See In the Matter of the Application of PGE*
19 *Company for Approval of the Customer Choice Plan*, UE 102, Order No. 98-294 (Jul. 16, 1998).
20 There, PacifiCorp requested that such information be barred or, “at the least, allowed only if the
21 customers consent to the disclosure.” *Id.* at 2. The Commission stated that “PacifiCorp’s
22 concern about the sensitive nature of some of the material is understandable” and that additional
23 protection under the Standard Protective Order was appropriate. *Id.* Accordingly, the
24 Commission allowed PacifiCorp to “redact the names of customers from all information
25 disclosed.” *Id.* at 3.

26 //

1 c. *Intermediate measures explored by parties have not been successful*

2 Applicants recognize that parties may have legitimate questions of a general nature as to
3 the number and types of investors in the funds, as well as other questions about the investors
4 (such as whether the investors are affiliated with Enron or PGE). However, those questions do
5 not require disclosure of specific identities. Therefore, Applicants have offered to provide
6 requesting parties with summary information about the investors in the funds (*e.g.*, the
7 percentage of investors that are pension funds). In addition, Applicants have offered to respond
8 to specific questions about the investors (*e.g.*, “are any of the investors affiliates of Enron or
9 PGE?”). Nonetheless, some intervening parties have suggested that Applicants’ proposals will
10 not satisfy them, and the dispute remains unresolved.

11 **D. Staff’s Data Request OEUC 24 and 68 (Minutes and Supporting Studies)**

12 a. *Nature of information involved and relief requested*

13 In response to Staff’s Data Requests OEUC 24 and 68, Applicants produced memoranda
14 and presentation materials that TPG reviewed at Investment Review Committee (“IRC”)
15 meetings and the diligence studies upon which those materials were based (“IRC materials”).
16 This information includes TPG’s detailed analysis of the transaction over a five-month period
17 and reveals the inner-workings by which TPG decided to invest in PGE. Applicants request that
18 the Commission issue an order restricting the disclosure of IRC materials only to Staff, except on
19 the terms proposed below.

20 b. *Reasons relief is necessary*

21 The IRC materials reflect in detail the methodology that TPG uses to evaluate potential
22 investments and constitute extremely confidential commercial information. Indeed, in a similar
23 proceeding, the Commission previously recognized the highly sensitive nature of documents,
24 such as board minutes, that reveal a company’s innermost workings and deliberations and that
25 contain sensitive and open discussions pertaining to specific employees and general employment
26 issues. *See ScottishPower*, UM 918, Order Nos. 99-106 and 99-293 (restricting disclosure of

1 PacifiCorp’s and ScottishPower’s Board Meeting minutes and diligence studies to Staff). In
2 particular, the Commission acknowledged the position that disclosure of board discussions
3 “would affect the ability of [a] Board of Directors to candidly debate highly sensitive issues and
4 rigorously review management issues.” *ScottishPower*, UM 918, Order No. 99-106. Disclosure
5 of the IRC materials would have an identical harmful effect upon TPG’s ability to evaluate
6 potential investments.

7 In addition, disclosure of IRC materials would expose TPG to competitive harm by
8 increasing the risk that competitors could access information that would allow them to jeopardize
9 this incomplete transaction.

10 *c. Intermediate measures explored by parties have not been successful*

11 Applicants recognize that IRC materials contain information that is relevant to the
12 parties’ analyses of TPG’s proposed acquisition of PGE. Accordingly, Applicants have proposed
13 to allow Qualified Persons to review the information in a more limited manner. Specifically,
14 Applicants have proposed that Qualified Persons review the IRC materials in a data room that
15 Applicants establish for that purpose. Qualified Persons would be allowed to take notes, but
16 could not retain copies. In the event that a Qualified Person wished to file a copy of IRC
17 materials in the proceeding, Applicants would cooperate with the party to do so on that party’s
18 behalf. Notably, Applicants’ proposal is more generous than that offered by ScottishPower,
19 which, in its 1999 application to exercise influence over PacifiCorp, sought to completely bar
20 disclosure of its Board Meeting minutes to any intervening party.

21 Notwithstanding Applicants’ proposed solution, some parties have suggested that it is
22 inadequate, and the dispute remains unresolved.

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1 **CONCLUSION**

2 For the foregoing reasons, Applicants move for additional protection to restrict any
3 further disclosure of its responses to Staff's Data Requests OEUC 1, 5, 9, 24, and 68 except on
4 the proposed terms proposed herein.

5 Respectfully submitted this 20th day of April, 2004.

6 ATER WYNNE LLP

7
8
9 By: 

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**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1121**

In the Matter of the Application of OREGON ELECTRIC UTILITY COMPANY, LLC, TPG PARTNERS III, L.P., TPG PARTNERS IV, L.P., MANAGING MEMBER LLC, NEIL GOLDSCHMIDT, GERALD GRINSTEIN, and TOM WALSH for an Order Authorizing Oregon Electric Utility Company, LLC to Acquire Portland General Electric Company

APPLICANTS' RESPONSES TO STAFF'S FIRST SET OF DATA REQUESTS (OEUC 1-74)

Oregon Electric Utility Company, LLC, TPG Partners III, L.P., TPG Partners IV, L.P., Managing Member LLC, Neil Goldschmidt, Gerald Grinstein, and Tom Walsh (collectively "Applicants"), by and through their attorneys, hereby submit responses to Staff's First Set of Data Requests (OEUC 1-74) served on March 10, 2004.

I. DEFINITIONS

1. "Applicants" shall have the meaning set forth in the introductory paragraph.
2. "CSFB" shall mean Credit Suisse First Boston LLC.
3. "Enron" shall mean Enron Corp.
4. "FERC" shall mean the United States Federal Energy Regulatory Commission.
5. "Gates Foundation" shall mean the Bill & Melinda Gates Foundation.
6. "Local Applicants" shall mean Neil Goldschmidt, Gerald Grinstein and Tom Walsh.
7. "Managing Member" shall mean Managing Member LLC.
8. "Oaktree" shall mean Oaktree Capital Management, LLC and OCM Principal Opportunities Fund.

9. "OCM Principal Opportunities Fund" shall mean OCM Principal Opportunities Fund III, L.P.
10. "Oregon Electric" shall mean Oregon Electric Utility Company, LLC.
11. "Passive Investors" shall mean the Gates Foundation and OCM Principal Opportunities Fund, collectively.
12. "PGE" shall mean Portland General Electric Company.
13. "PUHCA" shall mean the Public Utility Holding Company Act of 1935.
14. "SEC" shall mean the United States Securities and Exchange Commission.
15. "TPG" shall mean TPG Partners III, TPG Partners IV, and Tarrant Partners, L.P.
16. "TPG Applicants" shall mean TPG Partners III and TPG Partners IV, collectively, and affiliated funds that will invest in Oregon Electric with them or any special purpose entity that is created to facilitate this transaction.
17. "TPG Partners III" shall mean TPG Partners III, L.P. and affiliated funds that will invest in Oregon Electric with it or any special purpose entity that is created to facilitate this transaction.
18. "TPG Partners IV" shall mean TPG Partners IV, L.P. and its affiliated funds that will invest in Oregon Electric with it or any special purpose entity that is created by such entities to facilitate this transaction.

II. REGARDING "CONFIDENTIAL" AND "EXTREMELY CONFIDENTIAL TRADE SECRET INFORMATION"

Many of Staff's Data Requests call for the type of confidential and proprietary commercial information commonly regarded as "Trade Secret Information." Some of this information can be adequately protected by labeling it as "Confidential" under the Commission's Standard Protective Order No. 04-139 issued in this case (the "Protective Order") which would limit its distribution to "Qualified Persons" under the Protective Order. However, some of the information requested by Staff constitutes Applicants' most sensitive

and commercially valuable information that, if inadvertently released to competitors or even to some of the Intervenors in this case, could cause Applicants substantial competitive harm. This most sensitive type of information will be referred to throughout these responses as "Extremely Confidential Trade Secret Information."

Applicants desire to be as forthcoming as possible and to provide Staff with all the information it seeks. However, there are approximately 25 parties to this case; each with different interests and priorities. Applicants expect that even more parties will intervene over time. In an effort to balance Staff and Intervenors' need to investigate this transaction with Applicants' legitimate need and legal rights to confidentiality, Applicants are producing to Staff the Extremely Confidential Trade Secret Information that Staff has requested. However, in doing so, Applicants expressly do not agree to provide all such Extremely Confidential Trade Secret Information to all Qualified Persons under the Protective Order.

Instead, in the event that any Qualified Persons request Extremely Confidential Trade Secret Information, Applicants will work with such persons to provide the requested information in a form that will be helpful and informative, but possibly in a more limited and/or redacted form than the information provided to Staff. In addition, when and if Intervenors request Extremely Confidential Trade Secret Information, Applicants will file a motion with the Commission requesting the adoption of a modified protective order in this case.

Applicants believe that the procedures outlined above will allow a full and fair investigation of their Application by all parties while according appropriate protections.

CERTIFICATE OF SERVICE
UM 1121

I hereby certify that a true and correct copies of **APPLICANTS' MOTION FOR ADDITIONAL PROTECTION UNDER PROTECTIVE ORDER and SIGNATORY PAGE TO THE PROTECTIVE ORDER (Gerald Grinstein)** was served via U.S. Mail on the following parties on the date stated below:

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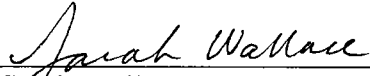
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