



**Portland General Electric Company**  
Legal Department  
121 SW Salmon Street • Portland, Oregon 97204  
(503) 464-8926 • Facsimile (503) 464-2200

**Douglas C. Tingey**  
Assistant General Counsel

November 19, 2007

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

Oregon Public Utility Commission  
Attention: Filing Center  
550 Capitol Street NE, #215  
PO Box 2148  
Salem OR 97308-2148

**Re: UM 1276**

Attention Filing Center:

Enclosed for filing in the above-captioned docket is an original and one copy of the following documents:

- Motion for Approval of Protective Order; and
- Request for Change to Service List of Portland General Electric Company.

This document is being filed electronically. Hard copies will be sent via postal mail. An extra copy of this cover letter is enclosed. Please date stamp the extra copy and return it to me in the envelope provided.

Thank you in advance for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "DCT", is written over a faint, larger version of the signature.

DOUGLAS C. TINGEY

DCT:saa  
Enclosures  
cc: Service List-UM 1276

**CERTIFICATE OF SERVICE**

I hereby certify that I have this day caused the foregoing **MOTION FOR APPROVAL OF PROTECTIVE ORDER AND REQUEST FOR CHANGE TO SERVICE LIST** to be served by electronic mail to those parties whose email addresses appear on the attached service list, and by First Class US Mail, postage prepaid and properly addressed, to those parties on the attached service list who have not waived paper service.

Dated at Portland, Oregon, this 19th day of November 2007.

A handwritten signature in black ink, appearing to read 'D.C. Tingey', is written over a horizontal line.

DOUGLAS C. TINGEY

UM 1276 SERVICE LIST

<p>Susan K. Ackerman          Attorney  <a href="mailto:Susan.k.ackerman@comcast.net">Susan.k.ackerman@comcast.net</a>          *Waived Paper Service</p>	<p>John DeMoss          Agent for PTW  <a href="mailto:turbineone@earthlink.net">turbineone@earthlink.net</a>          *Waived Paper Service</p>
<p>Ann L. Fisher          AF Legal and Consulting Services          PO Box 25302          Portland, Oregon 97298-0302</p>	<p>Wendy McIndoo          McDowell and Rackner  <a href="mailto:wendy@mcd-law.com">wendy@mcd-law.com</a>          *Waived Paper Service</p>
<p>Lisa F. Rackner          McDowell and Rackner  <a href="mailto:lisa@mcd-law.com">lisa@mcd-law.com</a>          *Waived Paper Service</p>	<p>Lowrey R. Brown          Citizens Utility Board of Oregon  <a href="mailto:lowrey@oregoncub.com">lowrey@oregoncub.com</a>          *Waived Paper Service</p>
<p>Jason Eisdorfer          Citizens Utility Board of Oregon  <a href="mailto:Jason@oregoncub.com">Jason@oregoncub.com</a>          *Waived Paper Service</p>	<p>Robert Jenks          Citizens Utility Board of Oregon  <a href="mailto:bob@oregoncub.com">bob@oregoncub.com</a>          *Waived Paper Service</p>
<p>Melinda J. Davison          Davison Van Cleve  <a href="mailto:mail@dvclaw.com">mail@dvclaw.com</a>          *Waived Paper Service</p>	<p>Michael T. Weirich          Assistant Attorney General          Regulated Utility and Business Section          1162 Court Street NE          Salem, Oregon 97301-4096</p>
<p>Karl Bokenkamp          Idaho Power Company  <a href="mailto:kbokenkamp@idahopower.com">kbokenkamp@idahopower.com</a>          *Waived Paper Service</p>	<p>Ric Gale          Idaho Power Company  <a href="mailto:rgale@idahopower.com">rgale@idahopower.com</a>          *Waived Paper Service</p>
<p>Sandra D. Holmes          Idaho Power Company  <a href="mailto:sholmes@idahopower.com">sholmes@idahopower.com</a>          *Waived Paper Service</p>	<p>Barton L. Kline          Idaho Power Company  <a href="mailto:bkline@idahopower.com">bkline@idahopower.com</a>          *Waived Paper Service</p>
<p>Lisa D. Nordstrom          Idaho Power Company  <a href="mailto:lnordstrom@idahopower.com">lnordstrom@idahopower.com</a>          *Waived Paper Service</p>	<p>Gregory W. Said          Idaho Power Company  <a href="mailto:gsaid@idahopower.com">gsaid@idahopower.com</a>          *Waived Paper Service</p>

<p>Steven Weiss  Northwest Energy Coalition  <a href="mailto:steve@nwenergy.org">steve@nwenergy.org</a>  *Waived Paper Service</p>	<p>Robert D. Kahn  NW Independent Power Producers  <a href="mailto:rkahn@nippc.org">rkahn@nippc.org</a>  *Waived Paper Service</p>
<p>Michelle R. Mishoe  Pacific Power and Light  <a href="mailto:michelle.mishoe@pacificorp.com">michelle.mishoe@pacificorp.com</a>  *Waived Paper Service</p>	<p>Natalie Hocken  PacifiCorp  <a href="mailto:Natalie.hocken@pacificorp.com">Natalie.hocken@pacificorp.com</a>  *Waived Paper Service</p>
<p>Oregon Dockets  PacifiCorp  <a href="mailto:oregondockets@pacificorp.com">oregondockets@pacificorp.com</a>  *Waived Paper Service</p>	<p>Randall J. Falkenberg  RFI Consulting, Inc.  <a href="mailto:consultrfi@aol.com">consultrfi@aol.com</a>  *Waived Paper Service</p>
<p>Lisa C. Schwartz  Public Utility Commission of Oregon  PO Box 2148  Salem, Oregon 97308-2148</p>	<p>John W. Stephens  Esler Stephens and Buckley  <a href="mailto:stephens@eslerstephens.com">stephens@eslerstephens.com</a>  *Waived Paper Service</p>
<p>Ann English Gravatt  Renewable Northwest Project  <a href="mailto:ann@rnp.org">ann@rnp.org</a>  *Waived Paper Service</p>	<p>Judy Johnson  Public Utility Commission of Oregon  PO Box 2148  Salem, Oregon 97308-2148</p>

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON  
UM 1276**

In the Matter of the

PUBLIC UTILITY COMMISSION OF  
OREGON

Staff's request to open an investigation  
Regarding performance-based ratemaking  
Mechanisms to address the potential build-vs-  
buy bias.

**MOTION FOR APPROVAL OF  
PROTECTIVE ORDER**

Pursuant to ORCP 36(C)(7) and OAR 860-12-0035(1)(k), Portland General Electric Company ("PGE") requests the issuance of a Protective Order in this proceeding. PGE believes good cause exists for the issuance of such an order to protect confidential market information and confidential business information, plans and strategies. In support of this Motion, PGE states:

1. PGE has received data requests in this docket requesting confidential, proprietary information. Specifically the requests seek information regarding PGE's electric market activities and power supply contracts and practices. PGE has contractual obligations to keep certain information confidential. In addition, if the information requested is made public it could disclose PGE's purchasing strategies. This information is confidential commercial information and/or trade secrets under ORCP 36(C)(7). The public disclosure of this information could be used by other parties to PGE's detriment in power markets.

2. While PGE desires to provide the requested information, the information is confidential, sensitive business information and of significant commercial value, and its public disclosure could be detrimental to PGE and its customers.

3. The Commission should therefore issue a Protective Order to protect the confidentiality of that material. The requested order, identical to the one that the Commission customarily issues, is attached.

For the reasons stated above, PGE requests that a protective order be issued in this proceeding.

DATED this 19<sup>th</sup> day of November 2007.

Respectfully submitted,

/s/ Douglas C. Tingey

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Douglas C. Tingey, OSB No. 04436  
Assistant General Counsel  
Portland General Electric Company  
121 SW Salmon Street, 1WTC1301  
Portland, Oregon 97204  
(503) 464-8926 phone  
(503) 464-2200 fax  
doug.tingey@pgn.com

ORDER NO.

ENTERED

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

**UM 1276**

In the Matter of the

PUBLIC UTILITY COMMISSION OF  
OREGON

Staff's request to open an investigation  
Regarding performance-based ratemaking  
Mechanisms to address the potential build-vs-buy  
bias.

**ORDER**

DISPOSITION: MOTION FOR PROTECTIVE ORDER GRANTED

On November 19, 2007, Portland General Electric Company ("PGE") filed a Motion for a Protective Order with the Public Utility Commission of Oregon ("Commission"). PGE states that it has received data requests in this docket requesting confidential, proprietary information. Specifically the requests seek information regarding PGE's electric market activities and power supply contracts and practices. PGE asserts that it has contractual obligations to keep the information confidential, and further that if the information is made public it could disclose PGE's purchasing strategies. PGE states that good cause exists for the issuance of a protective order to protect confidential business information, plans and strategies. PGE adds that the public release of such information could prejudice PGE and its customers.

Pursuant to OAR 860-012-0035(1)(k), I find that good cause exists to issue a Protective Order, attached as Appendix A. Under the terms of the order, a party may designate as confidential any information that falls within the scope of ORCP 36(C)(7).

Confidential Information shall be disclosed only to a "qualified person" as defined in paragraph 3 of the 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. Other persons desiring confidential information must become qualified pursuant to 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

ORDER NO.

includes the party seeking the issuance of the protective order, because any party may designate information as confidential under this order.

The confidentiality of confidential information shall be preserved 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 desiring confidentiality.

All persons who are given access to confidential information have the duty to monitor their own conduct to ensure their compliance with the Protective Order. Such persons shall not use or disclose the information for any purpose other than the preparation for and conduct of this proceeding, and shall take all reasonable precautions to keep the confidential information secure. If any questions exist as to 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 Protective Order, attached as Appendix A, shall govern the disclosure of confidential information in this case.

Made, entered, and effective on \_\_\_\_\_.

\_\_\_\_\_  
[Judge]  
Administrative Law Judge

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

**PROTECTIVE ORDER**

DOCKET NO. UM 1276

**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(s), addressee(s), or originator(s) 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 pursuant to paragraph 10. This includes parties and their employees.

**Designation of Confidential Information-**

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

CONFIDENTIAL  
SUBJECT TO PROTECTIVE ORDER

To the extent practicable, the party shall 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 shall, when feasible, ensure that all copies of the information bear the above legend 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, shall 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 shall be provided to the Commission. **Only the portions of a document that fall within ORCP 36(C)(7) shall be placed in the envelope/container.** The envelope/container shall bear the legend:

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

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

**Disclosure of Confidential Information-**

8. Parties desiring receipt of Confidential Information shall sign the Consent to be Bound Form attached as Appendix B. This requirement does not apply to the Commission staff. Confidential Information shall not be disclosed to any person other than a "qualified person," as defined in paragraph 3. When feasible, Confidential Information shall be delivered to counsel. 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. Qualified persons may disclose confidential information to any other qualified person, unless the party desiring confidentiality 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 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 his/her current, past, and expected clients.

Counsel shall deliver a copy of the signed statement including the information in (d) and (e) above to the party desiring confidentiality and to all parties of record. Such notification may be made via e-mail or facsimile. A person qualified under paragraph 3(e) shall not have access to Confidential Information sooner than five (5) business days after receipt of a copy of the signed statement including the information in (d) and (e) above by the party desiring confidentiality.

11. All qualified persons shall have access to Confidential Information, unless the party desiring confidentiality protests as provided in this paragraph. The party desiring to restrict the qualified person(s) from accessing specific Confidential Information must provide written notice to the qualified person(s) and counsel for the party associated with the qualified person(s) 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 for resolution. 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 such measures do not resolve the dispute. After receipt of the written notice as required in this paragraph, the specific Confidential Information shall not be disclosed to the qualified person(s) until the issue is resolved.

**Preservation of Confidentiality-**

12. All persons who are given access to any Confidential Information by reason of this order shall not use or disclose the Confidential Information for any purpose other than the purposes of preparation for and conduct of this proceeding, and shall 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 for the preparation and conduct of this proceeding. Qualified persons may disclose Confidential Information only to other qualified persons associated with the same party.

**Duration of Protection-**

13. The Commission shall 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 desiring confidentiality. The Commission shall notify the party desiring confidentiality at least two weeks prior to the release of confidential information.

**Destruction After Proceeding-**

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 proceeding 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 or documents containing such Confidential Information must destroy or return it to the party desiring confidentiality within 90 days after final resolution of this proceeding unless the party desiring confidentiality consents, in writing, to retention of the Confidential Information or documents containing such Confidential Information. This paragraph does not apply to the Commission or its Staff.

**Appeal to the Presiding Officer-**

15. If a party disagrees with the designation of information as confidential, the party shall contact the designating party and attempt to resolve the dispute on an informal basis. If the parties are unable to resolve the dispute, the party desiring to use the information may move for exclusion of the information from the protection conferred by this order. The motion shall:

- a. Specifically identify the contested information, and
- b. Assert that the information does not fall within ORCP 36(C)(7) and state the reasons therefore.

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 ten (10) calendar days, the challenged information shall be removed from the protection of this order.

The information shall not be disclosed pending a ruling by the Administrative Law Judge on the motion.

**Additional Protection-**

16. The party desiring additional protection may move for any of the remedies set forth in ORCP 36(C). The motion shall state:

ORDER NO.

- 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, shall not be disclosed pending the Commission's ruling on the motion.

**SIGNATORY PAGE**

DOCKET NO. UM 1276

**I. Consent to be Bound-**

This Protective Order governs the use of “Confidential Information” in this proceeding.

\_\_\_\_\_PGE agrees to be bound by its terms of this Protective Order.

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

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

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

_____	_____
Printed	Date
_____	_____
Printed	Date
_____	_____
Printed	Date
_____	_____
Printed	Date
_____	_____
Printed	Date
_____	_____
Printed	Date

**III. Persons Qualified pursuant to Paragraph 3(e) and Paragraph 10.**

I have read the 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

BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

**UM 1276**

In the Matter of the )  
 )  
PUBLIC UTILITY COMMISSION OF )  
OREGON )  
 )  
Staff’s request to open an investigation )  
Regarding performance-based ratemaking )  
Mechanisms to address the potential build-vs-buy bias. )

**REQUEST FOR CHANGE  
TO SERVICE LIST**

Portland General Electric Company (“PGE”) requests that the Oregon Public Utility Commission (“OPUC”) change its parties on the official service list in this proceeding as follows:

**Add:**

Douglas C. Tingey  
Assistant General Counsel  
PORTLAND GENERAL ELECTRIC COMPANY  
121 SW Salmon Street, 1WTC1301  
Portland, Oregon 97204  
(503) 464-8926 (telephone)  
(503) 464-2200 (telecopier)  
doug.tingey@pgn.com

**Remove:**

J. Richard George  
Assistant General Counsel  
PORTLAND GENERAL ELECTRIC COMPANY  
121 SW Salmon Street, 1WTC1301  
Portland, Oregon 97204  
(503) 464-7611 (telephone)  
(503) 464-2200 (telecopier)  
richard.george@pgn.com

DATED this 19th day of November 2007.

Respectfully submitted,

/s/ Douglas C. Tingey

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Douglas C. Tingey, OSB # 04436  
Assistant General Counsel  
PORTLAND GENERAL ELECTRIC COMPANY  
121 SW Salmon Street, 1WTC1301  
Portland, Oregon 97204  
(503) 464-8926 (telephone)  
(503) 464-2200 (telecopier)  
doug.tingey@pgn.com

