

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

LC 57 & UM 1707

In the Matters of

PACIFICORP, dba PACIFIC POWER,

2013 Integrated Resource Plan (LC 57)

and

SIERRA CLUB,

Regarding violation of Protective Order
No. 13-095. (UM 1707)

RULING

**DISPOSITION: MOTION TO CONSOLIDATE DENIED;
REQUEST FOR ORAL ARGUMENT IN LC 57 DENIED**

On September 24, 2014, Sierra Club filed a motion to consolidate its motion challenging confidential designation in docket LC 57 with docket UM 1707. Sierra Club also requests oral argument in docket LC 57. On September 30, PacifiCorp, dba Pacific Power, filed its response to Sierra Club's motion, and on October 1, Sierra Club filed its reply. On October 3, 2014, the Citizens' Utility Board (CUB) filed a motion supporting Sierra Club's requests.¹ After consulting with the Commissioners, we deny the motion to consolidate, and deny Sierra Club's request for oral argument in docket LC 57.

Sierra Club requests that we consolidate its challenge to PacifiCorp's confidential designation in docket LC 57 with docket UM 1707, arguing that the scope of PacifiCorp's designation of materials is central to the Commission's ability to determine whether Sierra Club violated Protective Order No. 13-095, and, if so, what sanctions should be imposed. Sierra Club notes that intervenors to docket UM 1707 have raised legal and policy issues that implicate both dockets, and states that it could be prejudiced at oral argument if it cannot reference PacifiCorp's overbroad confidentiality designation as leading to PacifiCorp's allegations that the protective order was violated.

CUB supports Sierra Club's consolidation request, arguing that the inquiries in dockets UM 1707 and LC 57 are inextricably linked, and that both address important policy issues in the Commission's discovery process. CUB argues whether the protective order

¹ CUB also filed a motion for leave to file its response out of time. CUB's motion is granted.

was violated cannot be separated from the question of whether the underlying information was appropriately designated as confidential in the first place.

PacifiCorp responds that docket UM 1707 is a Commission-initiated show cause proceeding, and is separate from the issue of whether PacifiCorp inappropriately designated material as confidential in docket LC 57.

Resolution

The Commission opened docket UM 1707 to determine whether Sierra Club violated Protective Order 13-095 by disclosing information designated as confidential in data requests filed in an out-of-state proceeding. Under our rules, signatories to a protective order certify that they will not use or disclose information that has been designated as confidential for purposes other than to participate in the present proceeding without written consent. Even if the material challenged by Sierra Club in docket LC 57 is ultimately determined to have been improperly designated as confidential, that will not change the analysis whether Sierra Club disclosed information that, at the time of its disclosure, was designated by PacifiCorp as confidential material.

In making this decision, we clarify that, at the UM 1707 oral argument, Sierra Club will be given the opportunity to argue (1) that it did not violate the protective order in place in docket LC 57, and (2) to the extent that it did violate the protective order, no harm was caused and no sanctions should be imposed because any information discussed in Sierra Club's out-of-state data requests was either already publicly available or did not constitute confidential material. Sierra Club will not be foreclosed from discussing the public availability and non-prejudicial value of information cited in its data requests. However, discussions of whether PacifiCorp over-designated information from the August 2014 LC 57 workshop will not be within the scope of oral arguments.

We decline Sierra Club's request for oral argument in docket LC 57. We find briefing to be sufficient to resolve Sierra Club's claim that PacifiCorp over-designated confidential information in the August 2014 workshop.

Dated this 6th day of October, 2014 at Salem, Oregon.



Michael Grant
Chief Administrative Law Judge



Shani Pines
Administrative Law Judge