

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE)	
APPLICATION OF PACIFICORP dba)	CASE NO. PAC-E-10-09
ROCKY MOUNTAIN POWER)	
REQUESTING APPROVAL OF)	PROTECTIVE AGREEMENT
AMENDMENTS TO THE REVISED)	
PROTOCOL ALLOCATION)	
METHODOLOGY)	

1. (A) Confidential Information. All documents, data, information, studies and other materials furnished, or made available pursuant to any interrogatories, or requests for information, subpoenas, depositions, or other modes of discovery that are claimed by the parties to be of a trade secret or confidential nature shall be furnished pursuant to the terms of this Agreement, and shall be treated by all persons accorded access thereto pursuant to this Agreement as constituting trade secret, confidential commercial, or otherwise protected information (hereinafter referred to as "Confidential Information"), and shall neither be used nor disclosed except for the purpose of this proceeding, and solely in accordance with this Agreement. All material claimed to be Confidential Information shall be so marked by the party or its affiliates by stamping the same with the designation, **“CONFIDENTIAL - - SUBJECT TO PROTECTIVE AGREEMENT”** or **“CONFIDENTIAL - - SUBJECT TO PROTECTIVE AGREEMENT IN CASE NO. PAC-E-10-09.”** All copies of documents so marked

will be made on yellow paper. Parties filing electronically should file both a confidential and non-confidential version clearly marked as such. For purposes hereof, any notes made pertaining to or as the result of a review of Confidential Information shall also be considered Confidential Information and subject to the terms of this Order.

(B) Use of Confidential Information and Persons Entitled to Review.

All Confidential Information made available pursuant to this Agreement shall be given solely to counsel for the parties (including counsels' paralegals, administrative assistants and clerical staff to the extent necessary for performance of work on this matter), and shall not be used nor disclosed except for the purpose of this proceeding; provided, however, that access to any specific Confidential Information may be authorized by counsel, solely for the purpose of this proceeding, to those persons indicated by the parties as being their experts in this matter (including such experts' administrative assistants and clerical staff, and persons employed by the parties, to the extent necessary for performance of work on this matter).

However, persons designated as experts shall not include persons employed by the parties who could use the information in their normal job functions to the competitive disadvantage of the party providing the Confidential Information.

Further, nothing herein shall prevent disclosure as required by law pursuant to interrogatories, administrative requests for information or documents, subpoena,

civil investigative demand or similar process, provided, however, that the party being required to disclose Confidential Information shall promptly give prior notice by telephone and written notice of such requirement of disclosure by facsimile and overnight mail to the party that provided such Confidential Information, addressed to the attorneys of record for such party, so that the party that provided the Confidential Information may seek an appropriate protective order. The disclosing party will not oppose action by, and will cooperate with the party that provided the Confidential Information to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded that Confidential Information.

(C) Nondisclosure Agreement. Prior to giving access to Confidential Information, as contemplated in paragraph 1(B) above, to counsel or any expert designated to testify in this proceeding, counsel for the party seeking review of the Confidential Information shall deliver a copy of this Agreement to such person and, prior to disclosure such person shall agree in writing to comply with and be bound by this Agreement. Confidential Information shall not be disclosed to any person who has not signed a Nondisclosure Agreement in the form which is attached hereto and incorporated herein as Appendix A. The Nondisclosure Agreement (Appendix A) shall require the person to whom disclosure is to be made to read a copy of this Protective Agreement and to certify in writing that he or she has reviewed the same

and has consented to be bound by its terms. The agreement shall contain the signatory's full name, permanent address and employer, and the name of the party with whom the signatory is associated. Such agreement shall be delivered to counsel for the providing party prior to the expert gaining access to the Confidential Information.

(D) Additional protective measures. A provider of documents and information may claim that additional protective measures, beyond those required under this Protective Agreement, are warranted for certain confidential material, referred to as highly sensitive documents and information. In such case, the provider shall identify such documents and information and shall inform the requester of such documents and information of their claimed highly sensitive nature as soon as possible. The provider of the requested information shall also petition the Commission for an order granting additional protective measures, which the petitioner believes are warranted for the claimed highly sensitive documents and information that is to be produced in response to an information request. The provider shall set forth the particular basis for: the claim, the need for the specific, additional protective measures, and the reasonableness of the requested, additional protection. A party who would otherwise receive the documents and information under the terms of this Protective Agreement may respond to the petition and oppose or propose alternative protective measures to

those requested by the provider of the claimed highly sensitive documents and information. Disputes between the parties shall be resolved pursuant to Commission Order pursuant to Paragraph 2 of this Protective Agreement.

2. (A) Challenge to Confidentiality or Proposed Additional Protective Measures. This Agreement establishes a procedure for the expeditious handling of Confidential Information; it shall not be construed as an agreement, or ruling on the confidentiality of any document.

(B) In the event that the parties hereto are unable to agree that certain documents, data, information, studies, or other matters constitute Confidential Information, are highly sensitive documents and information referred to in paragraph 1(D) above, or agree on the appropriate treatment of highly sensitive documents and information, the party objecting to the classification as Confidential Information or the party claiming highly sensitive documents and information and the need for additional protective measures shall forthwith submit the said matters to the Commission for its review pursuant to this Agreement. When the Commission rules on the question of whether any documents, data, information, studies, or other matters submitted to them for review and determination are Confidential Information, are highly sensitive documents and information, or the appropriate additional protection to be afforded for specific highly sensitive

documents and information, the Commission may enter an order resolving the issue.

(C) Any party at any time upon ten (10) days prior notice may seek by appropriate pleading, to have documents that have been designated as Confidential Information, or which were accepted into the sealed record in accordance with this Agreement, removed from the protective requirements of this Agreement, or from the sealed record and placed in the public record. If the confidential or proprietary nature of this information is challenged, resolution of the issue shall be made by the Commission after proceedings *in camera*, which shall be conducted under circumstances such that only those persons duly authorized hereunder to have access to such confidential matter shall be present. The record of such *in camera* hearings shall be marked “**CONFIDENTIAL - - SUBJECT TO PROTECTIVE AGREEMENT IN CASE NO. PAC-E-10-09.**” It shall be transcribed only upon agreement by the parties, or Order of the Commission, and in that event shall be separately bound, segregated, sealed, and withheld from inspection by any person not bound by the terms of this Agreement, unless and until released from the restrictions of this Agreement, either through agreement of the parties, or after notice to the parties and hearing, pursuant to an Order of the Commission.

3. Use in Pleadings. Where reference to Confidential Information in the sealed record is required in pleadings, cross-examinations, briefs, arguments, or

motions, it shall be by citation of title, or exhibit number, or by some other nonconfidential description. Any further use of, or substantive references to Confidential Information shall be placed in a separate section of the pleading, or brief and submitted to the Commission under seal. This sealed section shall be served only on counsel of record (one copy each), who have signed a Nondisclosure Agreement. All the protections afforded in this order apply to materials prepared and distributed under this paragraph.

7. Preservation of Confidentiality. All persons who may be entitled to receive, or who are afforded access to any Confidential Information by reason of this Agreement shall neither use, nor disclose the Confidential Information for purposes of business or competition, or any other purpose other than the purposes of preparation for and conduct of this proceeding, and then solely as contemplated herein, and shall take reasonable precautions to keep the Confidential Information secure in accordance with the purposes and intent of this Order.

8. Reservation of Rights. The parties hereto affected by the terms of this Protective Agreement further retain the right to question, challenge, and object to the admissibility of any and all data, information, studies and other matters furnished under the terms of this Protective Agreement in response to interrogatories, requests for information, other modes of discovery, or cross-examination on the grounds of relevancy or materiality. This Agreement shall in no

way constitute any waiver of the rights of any party to contest any assertion by a party, or finding by the Commission that any information is a trade secret, confidential, or privileged, and to appeal any assertion or finding.

9. The provisions of this Agreement are specifically intended to apply to data, or information supplied by or from any party to this proceeding, and any non-party that supplies documents pursuant to process issued by this Commission.

DATED at Boise, Idaho this ____ day of _____, 2010.

APPENDIX A
-- PROTECTIVE ORDER--
CASE NO. PAC-E-10-09

I have reviewed the Protective Agreement in Case No. PAC-E-10-09 with respect to the review and use of confidential information and agree to comply with the terms and conditions of the protective order.

Signature

Name (type or print)

Residence Address

Employer or Firm

Business Address

Party Represented

Date Signed