

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

LC 68

In the Matter of  
  
IDAHO POWER COMPANY,  
  
2017 Integrated Resource Plan.

MEMORANDUM AND RULING

**DISPOSITION: BACKGROUND INFORMATION PROVIDED AND  
DATA REQUEST REQUESTED**

On Thursday, December 28, 2017, at 10:00 am, we have a telephone conference scheduled to discuss a challenge to designation of information as protected under Protective Order No. 17-292. This memo explains the Commission’s standards and framework for this process, and requests Idaho Power to provide certain information in advance of the conference.

As the Commission’s Internal Operating Guidelines<sup>1</sup> make clear, the Integrated Resource Plan (IRP) process does not use contested case procedures. The IRP process does require utilities to provide information to the Commission and parties, and allows the utilities to use the General Protective Order to designate certain information as protected and limit parties’ access to such protected information.

The Stop B2H Coalition has informally challenged Idaho Power’s designation of certain information as protected. Such a challenge is permitted under Paragraph 7 of the protective order.

Idaho Power has filed a written response to Stop B2H’s challenge, and next Thursday we will discuss whether Idaho Power has met its burden of showing that the challenged information is covered by ORCP 36(C)(7). ORCP 36(C)(7) states “that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way.”

In resolving this dispute, the Commission will hope to balance the need for parties to have access to information relevant to the proceeding, and the need for utilities to protect commercially valuable or competitively sensitive information. For the parties’ reference, the Commission previously discussed use of confidential information in an IRP proceeding:

<sup>1</sup> Available under “Popular Picks” on the OPUC home page.

A signatory to a protective order does not have discretion to make its own determination regarding what should or should not have been designated as confidential under a protective order. Signatories to a protective order must either seek permission from the designator or challenge a confidential designation before using or disclosing designated information. We agree that if information designated as confidential also exists in the public realm, parties may use or rely on the publicly available source of the information without violating the protective order. We encourage parties to challenge the confidential designation of any publically available information to help ensure that designations are limited and made in good faith.<sup>2</sup>

Finally, two housekeeping matters. First, if the parties informally agree to a resolution to this dispute before next Thursday, the conference may be canceled by contacting the Administrative Hearings Division. Second, Idaho Power is directed to provide the data request that is at issue one day before the conference to inform the ALJs so that we are prepared to assist the parties.

Dated this 20<sup>th</sup> day of December, 2017 at Salem, Oregon.



---

Sarah Rowe  
Administrative Law Judge

---

<sup>2</sup> *In the Matter of Sierra Club, Regarding Violation of Protective Order No. 13-095*, Docket No. UM 1707, Order No. 14-392 at 16, (Nov 6, 2014).