

STOP B2H Coalition
60366 Marvin Rd
La Grande, OR 97850

January 23, 2023

VIA ELECTRONIC FILING
Public Utility Commission of Oregon
Attn: Filing Center
201 High Street SE, Suite 100
Salem, OR 97301-3398

Dear ALJ Mellgren:

RE: Response and Additional Motion for Clarification

We very much appreciate your request for a status conference for Wednesday. The 10 a.m. time works best for STOP. We would also like to note that Susan Geer is out of town and not in cell phone range most days as is on an out back ski trip in the Stanley, Idaho area. We are trying to reach her.

We had drafted a "Motion for Clarification" on behalf of Stop B2H Coalition, with questions (on Friday) before IPC filed their motion. Today, as editing our motion to update/respond to the IPC motion, I see your email for the status conference. That is appreciated! Hence, we would still like to share our questions in the hopes that you can answer some of these questions at the status conference or in a response soon thereafter. The following are our questions:

1. Discovery is on-going, correct? Will there be a final deadline? And, will you remind us as to when the response deadlines change to the one week (5 business days) turn-around time?
2. If we referenced a citation, via footnote or links, must we make it into an actual exhibit to be entered into the record--and must it be embedded into one of our filings or can it be an attachment? If so, would that be by 4/10?
3. If citations are pages or exhibits from the EFSC case, must we cite using the EFSC bates stamping, or can we cite anew with clear labeling for this docket?

4. On 4/10: are the Witness List, Cross-Exam Statements and Exhibits, simply “lists” or are they the actual statements and exhibits *from* the witnesses? That was our thinking based on our EFSC experience.
5. At some point in time, will you be developing and presenting all intervenors with a list of evidence that has been admitted? If a petitioner believes that they submitted evidence and it is not on the list, would they enter it immediately to the docket or will you give specific instruction?
6. What is Cross-Answering (3/13) vs. Cross-Exam Statements (4/10)?
7. If petitioners Idaho Power, PAC, staff, or another intervener introduces evidence, can petitioners rebut that evidence and introduce our own evidence or witness testimony within X days, or during rebuttal or reply briefs?
8. Are all the witnesses listed on 4/10 required to appear during the Evidentiary Hearing on 4/19-20? Will that be like a cross-examination too? Do we need to request a hybrid hearing rather than all in-person, in Salem?
9. Finally, even though there are not particular steps listed in the schedule below, are petitioners or the applicant permitted to file motions for things like: Subpoenas (Rule 860-001-0510) or Depositions (Rule 860-001-0520), and if so when will those occur in the schedule?

Since most intervenors have some experience with the contested case processes from the EFSC case, we would like to request some clarity about each step because they are slightly different (e.g.: the witness lists came before opening testimony, there were deadlines for asking discovery, subpoenas, depositions, cross-exam lists; and the only ‘hearings’ were cross-exam hearings, etc.). If this experience with opening testimony has taught us anything, it’s that we need more clarity. It also appears that we will not have all of the same steps in this case as the EFSC case due to the expedited nature?

For a framing of our contested case procedural reference, pasted below is one of the several EFSC procedural schedules to show the differences and thus our confusion. Therefore, we respectfully request your guidance about what is required at each of the following steps per the

PCN 5 calendar.

Requested deadline to file Petitions to Intervene ²	December 16, 2022, 3:00 p.m.
Staff and Intervenor Opening Testimony	January 17, 2023, 3:00 p.m.
Idaho Power Reply Testimony ³	February 21, 2023, 3:00 p.m.
Staff and Intervenors' Cross-Answering and Rebuttal Testimony	March 13, 2023, 3:00 p.m.
Idaho Power Surrebuttal Testimony	March 31, 2023, 3:00 p.m.
Witness List, Cross-Exam Statements, and Exhibits	April 10, 2023, 3:00 p.m.
Evidentiary Hearing – Hybrid In-Person/Remote; TENTATIVE In-Person Component at OPUC Office, Salem, Oregon	April 19-20, 2023, 9:30 a.m.-4:30 p.m.
All Party Opening Briefs	May 11, 2023, 3:00 p.m.
All Party Reply Briefs	May 25, 2023, 3:00 p.m.
Target Date for Commission Decision	June 30, 2023

Thank you for your time and consideration in this important process. -Jim Kreider

Submitted by



Jim Kreider

Co-Chair, STOP B2H Coalition | <http://stopb2h.org/>

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CONTESTED CASE SCHEDULE (EFSC B2H Contested Case)

DISCOVERY PHASE		
Parties	Discovery through informal information exchange, OAR 137-003-0025(1)	Begins 1/8/21
Parties	Deadline for requesting informal discovery	Fri 1/22/21
Parties	Deadline for responding through informal exchange	Fri 2/5/21
Parties	Deadline for requesting discovery order under OAR 137-003-0025(3)	Fri 2/19/21
Parties	Deadline for objections to discovery requests	Fri 3/5/21
ALJ	Discovery orders issued	Fri 3/26/21
Parties	Deadline for responses to discovery per discovery order	Fri 4/16/21
MOTIONS FOR SUMMARY DETERMINATION		
Parties	Deadline for filing motions for summary determination OAR 137-003-0580	Fri 5/28/21
Parties	Deadline for responses to motions for summary determination	Fri 6/25/21
Parties	Deadline for replies to responses to motions for summary determination	Fri 7/9/21
ALJ	Rulings on motions for summary determination	Fri 8/13/21
TESTIMONY, CROSS-EXAM HEARING, BRIEFS		
Parties	Submit direct testimony and evidence OAR 345-015-0043 and submit proposed site certificate conditions OAR 345-015-0085	Fri 9/17/21
Parties	Submit rebuttal testimony and evidence, and responses to proposed site certificate conditions	Fri 11/12/21
Parties	Submit sur-rebuttal testimony and evidence	Wed 11/24/21
Parties	Submit requests for cross-examination of witnesses	Wed 11/24/21

Parties	Submit responses to cross-examination requests	Thurs 12/2/21
All	Status Conference re: Cross Examination Hearing schedule	Fri 12/3/21 at 1:00 PM
ALJ	Issues Notice of Cross-Examination Hearing and Schedule for Hearing	Fri 12/10/21
Parties	Cross-examination Hearing– (grouped by siting standard/issue – location, precise dates, and times to be determined)	1/10/22 to 1/28/22
Parties	Submit written closing arguments	30 days after close of hearing record
Parties	Submit written response briefs	30 days later
CONTESTED CASE ORDER		
ALJ	Issue Proposed Contested Case Order	60 days after response briefs filed
Parties	Deadline for exceptions to Proposed Contested Case Order	30 days after PO issued
Parties	Deadline for response to exceptions	15 days later

TESTIMONY, CROSS-EXAMINATION HEARING, AND CLOSING BRIEFS		
Parties	Submit witness and exhibit lists for direct testimony	Fri 9/3/21
Parties	Submit direct testimony and evidence OAR 345-015-0043 and proposed site certificate conditions pursuant to OAR 345-015-0085(1)	Fri 9/17/21
Parties	<u>Deadline for filing objections to direct testimony</u>	<u>Fri 10/1/21</u>
Parties	<u>Deadline for filing response to objections to direct testimony</u>	<u>Fri 10/8/21</u>
ALJ	<u>Issue rulings on objections to direct testimony</u>	<u>Fri 10/15/21</u>
All	<u>Status Conference re: logistics for Cross-Examination Hearing</u>	<u>Thu 11/4/21 at 1:00 pm</u>
Parties	Submit rebuttal testimony and evidence, and responses to proposed site certificate conditions	Fri 11/12/21
Parties	<u>Deadline for filing objections to rebuttal testimony</u>	<u>Mon 11/22/21</u>
Parties	<u>Deadline for filing response to objections to rebuttal testimony</u>	<u>Fri 11/29/21</u>
ALJ	<u>Issue rulings on objections to rebuttal testimony</u>	<u>Wed 12/1/21</u>
Parties	Submit sur-rebuttal testimony and evidence	<u>Fri 12/3/21</u>
Parties	Submit requests for cross-examination of witnesses	<u>Fri 12/3/21</u>
Parties	Submit responses to cross-examination requests	<u>Fri 12/10/21</u>
All	Status Conference re: Cross Examination Hearing schedule	<u>Fri 12/15/21 at 1:00 pm</u>
ALJ	Issues Notice of Cross-Examination Hearing and Schedule for Hearing	<u>Fri 12/17/21</u>
Parties	Cross-examination Hearing-- (grouped by siting standard/issue – location/format, precise dates, and times to be determined)	1/10/22 to 1/28/22
Parties	Submit written closing arguments	30 days after close of hearing record

Parties	Submit written response briefs	30 days later
CONTESTED CASE ORDER		
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