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December 29, 2022

To: Filing Center and Service list of PCN 5

Re: Motion for proper notification of all persons who have interests, known or of record, in the land to be physically impacted or traversed by the proposed route OAR 860-025-0030(2)(f) per ALJ Mellgren's December 19, 2022 memorandum in PCN 5

Apologies for getting this in after the 3p filing deadline. This was submitted before the 3p deadline. However it was rejected by the filing center because I did not sign the motion. I have been asked to sign and resubmit.

I have corrected that error and am resubmitting the document as requested. Again apologies for my oversight.

Submitted by



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**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

Docket No. PCN 5

In the Matter of  IDAHO POWER COMPANY CERTIFICATION OF PUBLIC CONVENIENCE AND NECESSITY	STOP B2H Coalition  Motion for proper notification of all persons who have interests, known or of record, in the land to be physically impacted or traversed by the proposed route OAR 860-025-0030(2)(f)
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**The Issue**

Idaho Power Company (IPC) in an effort to comply with [OAR 860-025-0030\(2\)\(f\)](#) sent two letters to landowners with procedural schedules that were never accurate or correct. The timing of both letters to landowners was sent **before** the preconference scheduling conference, where the schedule was to be discussed and set. These actions seemed to be intentionally misleading (at worse) or highly confusing (at best). IPC and its experienced attorneys had to know the schedule they proposed would be adjusted. So why did they do this **twice** before the preconference scheduling conference?

On September 1, 2022 IPC sent this letter Re: [Docket No. PCN-5 – Idaho Power Company’s Notice of Intent to File a Petition for Certificate of Public Convenience and Necessity](#) via post to addressed to all landowners and to this docket via the service list. This letter contained the following proposed schedule.

<b>EVENT</b>	<b>DATE</b>
Idaho Power files Notice of Intent to file Petition and Standard Data Requests	9/1/2022
Idaho Power files Petition for CPCN and Testimony (and Request for Waiver if applicable)	9/30/2022
Commission consideration of Request for Waiver (if applicable)	10/4/2022
Prehearing Conference	10/3/2022 - 10/7/2022
Public Comment Hearing	10/7/2022
Petitions to Intervene	10/14/2022
Staff and Intervenor Opening Testimony	11/23/2022
Company Reply Testimony	1/26/2023
Witness List, Cross-Examination Statements and Exhibits	2/2/2023
Evidentiary Hearing	2/14/2023, 2/15/2023
All Party Opening Briefs	3/7/2023
All Party Reply Briefs	3/21/2023
Final Order	5/5/2023

On September 30, 2022 IPC sent the second letter Re: [Docket No. PCN-5 – Idaho Power Company’s Notice of Petition for Certificate of Public Convenience and Necessity](#). This letter contained the following proposed schedule.

<b>EVENT</b>	<b>DATE</b>
Idaho Power files Notice of Intent to file Petition and Standard Data Requests	9/1/2022
Idaho Power files Petition for CPCN and Testimony	9/30/2022
Deadline for Submitting Proposed Schedule	10/7/2022
Prehearing Conference	10/11/2022
Public Comment Hearing	10/11/2022
Petitions to Intervene	10/18/2022
Staff and Intervenor Opening Testimony	11/23/2022
Company Reply Testimony	1/26/2023
Witness List, Cross-Examination Statements and Exhibits	2/2/2023
Evidentiary Hearing	2/14/2023, 2/15/2023
All Party Opening Briefs	3/7/2023
All Party Reply Briefs	3/21/2023
Final Order	5/5/2023

The preconference scheduling conference was held on October 11, 2022. On October 17, 2022 ALJ Mellgren issued this [Prehearing Conference Memorandum](#). In it there was the following schedule.

<b>Event</b>	<b>Date</b>
Public Comment Hearing – In-Person, Gilbert Event Center, Eastern Oregon University, La Grande, Oregon	November 16, 2022, 6:00-8:00 p.m.
Staff and Intervenors’ Deadline for Topics for Initial IPC-Led Workshop	November 22, 2022
Public Comment Hearing – Remote via Zoom Video Conference	December 5, 2022, 6:00-7:30 p.m.
Initial IPC-led Workshop	December 8, 2022
Scoping Workshop for Parties to Identify Issues of Concern That They Expect to Raise in Testimony	December 15, 2022
Requested deadline to file Petitions to Intervene <sup>3</sup>	December 16, 2022, 3:00 p.m.
Staff and Intervenor Opening Testimony	January 9, 2023, 3:00 p.m.
Idaho Power Reply Testimony	February 13, 2023, 3:00 p.m.
Data Request Responses Due (best efforts)	February 17, 2023
Staff and Intervenors’ Cross-Answering and Rebuttal Testimony	March 3, 2023, 3:00 p.m.
Idaho Power Surrebuttal Testimony	March 21, 2023, 3:00 p.m.
Witness List and Cross-Exam Statements Exhibits	March 27, 2023, 3:00 p.m. March 30, 2023, 3:00 p.m.
Evidentiary Hearing – Hybrid In-Person/Remote; <b>TENTATIVE</b> In-Person Component at OPUC Office, Salem, Oregon <sup>4</sup>	April 5-6, 2023, time TBD
All Party Opening Briefs	April 27, 2023, 3:00 p.m.
All Party Reply Briefs	May 11, 2023
Target Date for Commission Decision	June 16, 2023

The above schedule had to be modified because some of the dates included in this schedule would not work for one or more parties. On 11/28/22 after several attempts to agree on dates ALJ Mellgren issued a [Memorandum](#) that re-set the schedule. Below is that schedule.

<b>Event</b>	<b>Date</b>
Public Comment Hearing – In-Person, Gilbert Event Center, Eastern Oregon University, La Grande, Oregon	November 16, 2022, 6:00-8:00 p.m.
Staff and Intervenor’s Deadline for Topics for Initial IPC-Led Workshop	November 22, 2022
Public Comment Hearing – Remote via Zoom Video Conference	December 5, 2022, 6:00-7:00 p.m. <sup>1</sup>
Initial IPC-led Workshop	December 8, 2022
Scoping Workshop for Parties to Identify Issues of Concern That They Expect to Raise in Testimony	December 15, 2022
Requested deadline to file Petitions to Intervene <sup>2</sup>	December 16, 2022, 3:00 p.m.
Staff and Intervenor Opening Testimony	January 17, 2023, 3:00 p.m.
Idaho Power Reply Testimony <sup>3</sup>	February 21, 2023, 3:00 p.m.
Staff and Intervenor’s 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; <b>TENTATIVE</b> 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

STOP asserts that IPC did not comply with [OAR 860-025-0030\(2\)\(f\)](#) since they made matters more confusing and misinformed the landowners they were to inform. This created frustration and un-necessary anxiety, rather than bringing clarity to the situation. In doing so they took away the landowners rights to a fair and just process.

### **Request for Relief**

STOP would like IPC to write another letter to all persons who have interests, known or of record, in the land to be physically impacted or traversed by the proposed route (aka landowners). The letter should contain but not be limited to:

1. An explanation to landowners why they received 2 letters with incorrect proposed procedural schedules before the scheduling conference and why that was never corrected;
2. A more robust section with information for participating in the proceeding (see non-robust: [Sept 1, 2022 Tim Tatum letter p 5 of 5](#)) and include STOP B2H’s contact information and web site in that section;
3. The letter is reviewed with editorial suggestions from the landowner interveners in PCN 5. If editorial differences cannot be resolved by the intervener parties and IPC the ALJ may name a third party to determine best language.

4. Idaho Power pay a fine for intentionally misleading landowners by publishing proposed schedules knowing that the preconference scheduling conference would not occur until October 11, 2022. The fine should be payable to a special fund administered by STOP or another independent entity to assist landowners in finding legal representation.
5. This docket, PCN 5, be suspended for at least 30 days. Time is needed to compile the letter with editorial comments and be mailed to the landowners with adequate time for them to make decisions and ask for help. Interveners and staff have indicated this expedited docket is moving to quickly towards an artificial deadline created by IPC which is at the expense of involving all those that may like to be involved.

### **Compliance with the PUC's rules on motions<sup>1</sup>**

STOP has not had the opportunity to comply with [OAR 860-001-0420](#)(2). Intentions were to file this motion and several others at the beginning of the New Year. Research was ongoing developing these motions so that a good faith effort to confer with other parties to seek agreement about the subject of the motion could occur. ALJ Mellgren's December 19, 2022 memorandum expedited the filing of this Motion for proper notification of Landowners.

Submitted by



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<sup>1</sup> See [OAR 860-001-0420](#)