

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

PCN 5

In the Matter of

IDAHO POWER COMPANY

Petition for Certificate of Public  
Convenience and Necessity.

RULING

**DISPOSITION: MOTION TO COMPEL DENIED AS MOOT; REQUEST FOR RELIEF DENIED; FILING DESIGNATED AS TESTIMONY; DEADLINE EXTENDED**

On March 15, 2023, Idaho Power Company filed a motion to compel seeking “an order compelling intervenor Sam Myers to produce a complete response to Idaho Power’s First Set of Data Requests (“DR”) to Sam Myers.”<sup>1</sup> I held a procedural conference on March 21, 2023, to discuss the pending motion. On March 22, 2023, I issued a memorandum describing the March 21, 2023 procedural conference and requiring Mr. Myers to file an update describing his progress in responding to the outstanding data requests by 3:00 p.m. on March 23, 2023. The memorandum also set a deadline of 3:00 p.m. on March 24, 2023, for Idaho Power to file any response to Mr. Myers’ update.

On March 23, 2023, Mr. Myers submitted a document to the Filing Center, however, the Filing Center was unable to open the document. The Filing Center attempted to contact Mr. Myers on March 23, 2023, but was unable to speak with him until March 24, 2023. At that time, Mr. Myers stated he would resubmit the document later that day. Idaho Power filed a response on March 24, 2023, and Mr. Myers’ resubmitted document was docketed shortly thereafter.

Mr. Myers’ response includes several exhibits related to fire incidents in eastern Oregon and states he was “divulging all the information [he] ha[d] at the current time.”<sup>2</sup> Mr. Myers’ response, however, does not provide a specific update on his progress in responding to the outstanding data requests that were the subject of Idaho Power’s motion to compel.

Idaho Power’s March 24, 2023, filing was submitted before seeing Mr. Myers’ response. Idaho Power’s filing stated it continued to be prejudiced by Mr. Myers’ failure to respond to the data requests, asked that I clarify my memorandum’s statements regarding extending testimony deadlines, and sought relief under OAR 860-001-0500(9).

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<sup>1</sup> Idaho Power Company Motion to Compel (March 15, 2023).

<sup>2</sup> Sam Myers Response to Motion to Compel (March 24, 2023).

I find that Mr. Myers has not fully responded to Idaho Power's data requests. While Mr. Myers' did provide certain information in response to the data requests and asserts that is the extent of the information he has at this time, he did not supply responses to questions Idaho Power asked of Mr. Myers' witness, Fire Chief Steven Rhea. Mr. Myers provided no explanation as to why he did not provide responses to all of the data requests. Mr. Myers has had a reasonable opportunity to respond to the data requests and will not be afforded any additional time to do so. Because Mr. Myers states he has no additional information to provide, there is nothing to compel, and Idaho Power's motion is denied as moot.

At the March 21, 2023 procedural conference, Mr. Myers indicated a desire to have the information he ultimately filed be a part of the record in this proceeding. As such, I will consider Mr. Myers' March 24, 2023, filing to be a supplement to Mr. Myers' rebuttal testimony.

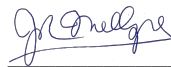
Idaho Power's deadline for surrebuttal testimony related only to Mr. Myers' supplemental rebuttal testimony will be extended to April 11, 2023, at 3:00 p.m. to allow Idaho Power a fair opportunity to file surrebuttal testimony regarding these materials and to ultimately subject Fire Chief Rhea's testimony to cross-examination at the evidentiary hearing.

I decline to grant Idaho Power's request for additional relief at this time. Idaho Power may seek relief in its objections to testimony and exhibits due on May 2, 2023. The Commission will afford any admitted evidence with the appropriate weight as it reviews Idaho Power's petition.

To summarize:

- Idaho Power's motion to compel is denied as moot;
- Idaho Power's request for relief under OAR 860-001-0500(9) is denied;
- Mr. Myers' March 24, 2023, filing including multiple exhibits is considered a supplement to Mr. Myers' surrebuttal testimony;
- Idaho Power's surrebuttal deadline as it relates to Mr. Myers' March 24, 2023 filing only is extended to April 11, 2023, at 3:00 p.m.<sup>3</sup>

Dated this 27<sup>th</sup> day of March, 2023 at Salem, Oregon.



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John Mellgren  
Administrative Law Judge

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<sup>3</sup> Idaho Power's surrebuttal testimony not related to Mr. Myers' March 24, 2023, filing is due April 7, 2023.