

**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 DENIED

On December 29, 2022, STOP B2H Coalition filed a motion to seek “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).” I expedited the briefing schedule in a Memorandum on December 30, 2022, to facilitate a decision on the motion before Staff and Intervenor’s Opening testimony deadline on January 17, 2023. Idaho Power and Staff filed responses to the motion on January 6, 2023, and STOP B2H filed a reply on January 11, 2023.

STOP B2H asserts Idaho Power Company violated OAR 860-025-0030(2)(f). STOP B2H contends Idaho Power “sent two letters to landowners with procedural schedules that were never accurate or correct” to comply with the PUC’s rules governing petitions for Certificate of Public Convenience and Necessity for Construction of Overhead Transmission Lines (CPCN).¹ STOP B2H states that because these letters were sent before the prehearing conference in this matter, and before a procedural schedule was set, they are deficient and do not comply with OAR 860-025-0030(2)(f).² STOP B2H asks that I require Idaho Power to send a new notice letter “to all persons who have interests, known or of record, in the land to be physically impacted or traversed by the proposed route” and that Idaho Power pay a fine.³ Further, STOP B2H asks that this docket be suspended for at least 30 days.⁴

Idaho Power opposes the motion and asserts it complied with OAR 860-025-0030(2)(f) “by providing descriptions of impacted parcels in the Petition and Certificate of Service demonstrating that the [c]ompany mailed notice of the Petition to all potentially affected landowners.”⁵ Staff asks that the motion be denied and states “Idaho Power met the

¹ STOP B2H Motion at 2 (December 29, 2022).

² *Id.* at 4.

³ *Id.* at 4-5.

⁴ *Id.* at 5.

⁵ Idaho Power Company Response to Motion at 4 (January 6, 2023).

notice requirement of [the rule] and was not required to serve notice of its proposed schedule.”⁶

OAR 860-025-0030(2)(f) requires that a Petition for CPCN include:

the names and addresses of all persons who have interests, known or of record, in the land to be physically impacted or traversed by the proposed route from whom petitioners has not yet acquired the interest, rights of way or option therefore. Petitioner must include with the petition certification verifying that notice of the petition has been mailed to said persons[.]

I find that Idaho Power’s filing includes the names and addresses of potentially impacted landowners and that the Petition includes certification verifying that notice of the petition has been mailed to said persons. STOP B2H does not assert that these requirements have not been met, nor does it identify any potentially affected landowner that has not received the initial notice required by our rules.

STOP B2H asserts that including a proposed schedule in Idaho Power’s two letters to potentially affected landowners was confusing because the schedule ultimately changed after the prehearing conference. I find that Idaho Power’s letters to potentially affected landowners did not create undue confusion that renders the notice defective under our rules. Both letters clearly state that the included schedules are proposed schedules, and the September 30, 2022 letter clearly states the proposed schedule is subject to Commission approval.⁷ Further, I decline to require Idaho Power to send an additional notice letter to potentially affected landowners. STOP B2H does not identify any PUC rule that requires the procedural schedule in this docket, to be provided to potentially affected landowners, either in the initial notice or on a continuing basis. While nothing in our rules prohibits Idaho Power from continuing to communicate with potentially affected landowners about the schedule in this docket, nothing in our rules requires Idaho Power to do so.

Accordingly, STOP B2H’s motion is denied.

⁶ Staff Response to Motion at 2 (January 6, 2023).

⁷ See Idaho Power Company Notice of Intent to File a Petition for Certificate of Public Convenience and Necessity at 3 (September 1, 2022); Idaho Power Company’s Notice of Petition for Certificate of Public Convenience and Necessity at 2 (September 30, 2022).

ISSUED: January 13, 2023

The denial of this motion does not preclude STOP B2H from raising this issue at later stages of this proceeding. A party may request that I certify this ruling for the Commission's consideration within 15 days under OAR 860-001-0110.

Dated this 13th day of January, 2023 at Salem, Oregon.

A handwritten signature in blue ink that reads "John Mellgren". The signature is written in a cursive style with a horizontal line underneath the name.

John Mellgren
Administrative Law Judge