

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

PCN 5

In the Matter of

IDAHO POWER COMPANY

Petition for Certificate of Public
Convenience and Necessity.

NOTICE OF *EX PARTE*
COMMUNICATION

On February 13, 2023, the Administrative Law Judge assigned to this case, John Mellgren, notified me of a potential *ex parte* communication under OAR 860-001-0340(2).

The communication is made up of two emails sent to ALJ Mellgren by Greg Larkin, an intervenor in this case. The emails concern a pending discovery dispute or agreement between Mr. Larkin and Idaho Power Company.

OAR 860-001-0340(2)(a)(b) and (c), defines *ex parte* communications as those “made by a person directly to a Commissioner or presiding ALJ outside the presence of any or all parties of record in pending contested case or declaratory ruling proceedings; is made without notice to or an opportunity for rebuttal by all parties; and relates to the merits of an issue in the proceedings.” In this instance, the communication relates to a potential or anticipated discovery dispute that the ALJ must or may need to resolve, and therefore relates to the merits of an issue in the proceeding.

The communication contains some confidential information, which has been redacted. Consistent with my ruling of February 8, 2023, only Idaho Power will be provided a non-redacted version of the communications at this time.

Accordingly, parties are hereby noticed and the redacted communication is attached.

Parties have the right to address this communication within 10 days of this notice, with service to all parties of record.

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



Nolan Moser
Chief Administrative Law Judge

From: [MOSER Nolan * PUC](#)
To: [MENZA Candice * PUC](#)
Subject: RE: Language to provide to judge re medical records
Date: Monday, February 13, 2023 10:00:20 AM

Redacted

From: MELLGREN John * PUC <John.MELLGREN@puc.oregon.gov>
Sent: Monday, February 13, 2023 9:38 AM
To: Greg Larkin <larkingreg34@gmail.com>; lisa@mrg.law.com
Cc: MOSER Nolan * PUC <Nolan.MOSER@puc.oregon.gov>
Subject: RE: Language to provide to judge re medical records

Mr. Larkin:

Your two emails to me this weekend constitute ex-parte communications under the PUC's rules ([OAR 860-001-0340](#)). To comply with these rules, we will shortly be notifying the parties of the ex-parte communications. Going forward, please do not send direct emails to me, as communications with me about an issue in the proceedings must be made in the open and before all the parties to ensure an impartial decision-making process.

If you have questions about this, or other issues in the case, please contact the Chief Administrative Law Judge, Nolan Moser, at nolan.moser@puc.oregon.gov.

Thank you.

John Mellgren (he/him)
Administrative Law Judge
Oregon Public Utility Commission | 201 High St. SE, Suite 100 | Salem, OR 97301
(971) 208-0852 | john.mellgren@puc.oregon.gov

From: Greg Larkin <larkingreg34@gmail.com>
Sent: Friday, February 10, 2023 10:11 PM
To: MELLGREN John * PUC <John.MELLGREN@puc.oregon.gov>; lisa@mrg.law.com
Subject: Fwd: Language to provide to judge re medical records

----- Forwarded message -----

From: **Greg Larkin** <larkingreg34@gmail.com>
Date: Fri, Feb 10, 2023 at 10:07 PM
Subject: Re: Language to provide to judge re medical records
To: Lisa Rackner <lisa@mrg-law.com>, <John.MELLGREN@puc.orego>

As I have indicated multiple times, these records are limited to documenting the existence [REDACTED] [REDACTED] which along with all citizens exposed to [REDACTED] should have been evaluated prior to filing for a Certificate of Public Convenience and Necessity.

I am now being placed in a position of defending myself from allegations related to my "[REDACTED] [REDACTED]". When Idaho Power obtained information regarding all those residing in [REDACTED] [REDACTED], did they have them complete assessments including their "[REDACTED]"?

I will briefly respond in order to avoid inconveniencing Judge Melgren with having to evaluate what is relevant to the PUC decision regarding the CPCN related to whether Idaho Power completed an assessment of [REDACTED] and determined a method of mitigating the risks or if they purchased a [REDACTED] easement to address the impacts. Regarding concerns regarding the [REDACTED]. I live off grid and cannot afford the gas, nor would I choose to create the amount of [REDACTED] and pollution that would occur should I run a generator every night. year after year. In addition, I would be unable to [REDACTED].

As noted, I get very [REDACTED] due to the B2H and these kinds of invasive and irrelevant requests. As to your other concerns: The items noted had [REDACTED] [REDACTED]. Since Idaho Power took me to court about surveys, the [REDACTED] [REDACTED] [REDACTED]. I was asked to [REDACTED]

You suggested wording to the ALJ should not include a reference to my "[REDACTED] [REDACTED]

Greg Larkin

On Fri, Feb 10, 2023 at 4:22 PM Lisa Rackner <lisa@mrg-law.com> wrote:

Mr. Larkin—I am happy that you got to get out with the [REDACTED] (which I realize now is not self-explanatory) would refer to things like [REDACTED] [REDACTED] These things have been were referred to in your [REDACTED] [REDACTED] instead of being more specific because I did not want to reveal anything from your [REDACTED] in a letter that had to go out to the full service list.

Is that explanation helpful? Also, if you have a better term, I would be happy to use it. The important thing is that we have a clear understanding of what we both mean.

I had my office call the ALJ to tell him that we have a general agreement in principal, but are still working out the exact wording. Hopefully we can resolve the wording and get the ALJ a letter on Monday.

Enjoy the rest of your day.

Lisa Rackner
McDowell Rackner Gibson PC
419 SW 11th Ave, Suite 400 Portland, OR 97205

Direct: 503-595-3925 | Mobile: 503-724-9547

Website: www.mrg-law.com | Email: lisa@mrg-law.com

Pronouns: she/her/hers

PRIVILEGE AND CONFIDENTIALITY NOTICE: THE INFORMATION CONTAINED IN THIS MESSAGE MAY BE ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUALS OR ENTITIES NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERY OF IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY ME BY TELEPHONE OR E-MAIL, AND DESTROY THIS MESSAGE. THANK YOU.

From: Greg Larkin <larkingreg34@gmail.com>

Sent: Friday, February 10, 2023 3:43 PM

To: Lisa Rackner <lisa@mrg-law.com>

Subject: Re: Language to provide to judge re medical records

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Ms Rackner

Apologies for just now getting to your recent email. We were out with the [REDACTED] [REDACTED] Hence, the delay in prompt response. I am a bit confused by the verbiage that you added regarding: The words "[REDACTED] [REDACTED]".

Could you please explain exactly what [REDACTED] you are referring to so that I can respond? I would really appreciate that..

Be informed I will be away from my computer for a couple hours, again.

Thank you,
Greg Larkin

On Fri, Feb 10, 2023 at 12:27 PM Lisa Rackner <lisa@mrg-law.com> wrote:

Mr. Larkin-

As I was putting my letter together to send to the judge, explaining our agreement, I realized that I needed to run by you the precise wording. Please let me know if the following accurately reflects your thoughts. This is the language I proposed in my letter to the judge yesterday:

Mr. Larkin agrees that the in lieu of responding to the Second Set of Data Requests, Mr. Larkin affirms that the latest set of [REDACTED] accurately reflects his current condition and treatment without significant changes.

As soon as I hear from you, I can let the judge know that he does not need to issue a ruling today.

Lisa Rackner

McDowell Rackner Gibson PC

419 SW 11th Ave, Suite 400 Portland, OR 97205

Direct: 503-595-3925 | Mobile: 503-724-9547

Website: www.mrg-law.com | Email: lisa@mrg-law.com

Pronouns: she/her/hers

PRIVILEGE AND CONFIDENTIALITY NOTICE: THE INFORMATION CONTAINED IN THIS MESSAGE MAY BE ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY FOR THE USE OF THE INDIVIDUALS OR ENTITIES NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE FOR DELIVERY OF IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU RECEIVED THIS COMMUNICATION IN ERROR, PLEASE IMMEDIATELY NOTIFY ME BY TELEPHONE OR E-MAIL, AND DESTROY THIS MESSAGE. THANK YOU.