



ALISHA TILL
Main (503) 595-3922
alisha@mrg-law.com

February 6, 2023

VIA ELECTRONIC FILING

Public Utility Commission of Oregon
Filing Center
P.O. Box 1088
201 High Street S.E., Suite 100
Salem, OR 97308-1088

Re: Docket No. PCN 5 – In the Matter of Idaho Power Company’s Petition for Certificate of Public Convenience and Necessity.

Attention Filing Center:

Attached for filing in the above-referenced docket is Idaho Power Company’s Response to Wendy King’s Petition to Intervene and Motion for an Extension of Time.

Please contact this office with any questions.

Thank you,

Alisha Till
Paralegal

Attachment

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

PCN 5

In the Matter of
IDAHO POWER COMPANY
PETITION FOR CERTIFICATE OF PUBLIC
CONVENIENCE AND NECESSITY.

**IDAHO POWER COMPANY'S RESPONSE
TO WENDY KING'S PETITION TO
INTERVENE AND MOTION FOR AN
EXTENSION OF TIME**

I. INTRODUCTION

1
2 Pursuant to OAR 860-001-0300(5) and OAR 860-001-0420(4), Idaho Power Company
3 ("Idaho Power" or "Company") respectfully submits this Response to Wendy King's Petition to
4 Intervene, filed on January 31, 2023, and Ms. King's Motion for an Extension of Time to amend
5 her Opening Testimony, filed on February 3, 2023. Although Ms. King's Petition to Intervene was
6 untimely, Idaho Power does not object to Ms. King's intervention in this case so long as Ms. King's
7 participation does not unreasonably broaden the issues, burden the record, or delay the
8 proceedings. However, because Ms. King's Motion for an Extension of Time would necessarily
9 prejudice Idaho Power's ability to respond to her Opening Testimony or delay the proceedings in
10 this case, Idaho Power requests that Administrative Law Judge ("ALJ") Mellgren deny the motion.

11 When adopting the procedural schedule for this case, ALJ Mellgren requested that
12 interested persons file their petitions to intervene by December 16, 2022, and required intervenors
13 to file opening testimony by January 17, 2023.¹ In their opening testimony, several intervenors
14 indicated that they intended to file additional testimony from other witnesses later in this
15 proceeding.² In response to a Motion for Clarification from Idaho Power, ALJ Mellgren explained

¹ Memorandum at 2 (Oct. 28, 2022).

² See, e.g., Opening Testimony for Intervenor Susan Geer, Representing Whitetail Forest LLC and Glass Hill State Natural Area at 16-17 (Jan. 17, 2023) (explaining that Ms. Geer did not have a "firm

1 that intervenors must raise issues in their opening testimony and extended the deadline for
2 intervenors to file their opening testimony until February 1, 2023, to allow them to do so.³

3 Ms. King filed her untimely Petition to Intervene and accompanying comments on
4 January 31, 2023.⁴ Ms. King did not identify in her Petition any explanation as to why her Petition
5 was not timely filed. Ms. King then filed Opening Testimony the following day, February 1, 2023.⁵
6 After filing her Opening Testimony, Ms. King filed a Motion for an Extension of Time to “amend”
7 her testimony on February 3, 2023.

8 II. LEGAL STANDARD

9 A petition to intervene will be granted if the ALJ finds that the petitioner “has sufficient
10 interest in the proceedings” and that their participation “will not unreasonably broaden the issues,
11 burden the record, or delay the proceedings.”⁶ The ALJ may impose appropriate conditions on an
12 intervenor’s participation.⁷ No specific Commission rule identifies the process for motions for
13 extensions of time, but parties may file such motions pursuant to the Commission’s general
14 motions rule—OAR 860-001-0420.

15 III. ARGUMENT

16 As mentioned above, Idaho Power does not object to Ms. King’s Petition to Intervene,
17 even though it was not timely filed. Further, because Ms. King filed her Opening Testimony on
18 February 1, 2023, Idaho Power does not object to the timing of that filing—even though it is well

commitment” from her expert witness who would speak to her allegations of wrongdoing, but reserved the
“right to submit this witness’s testimony prior to the Evidentiary Hearing [apparently referring to her Cross-
Answering and Rebuttal Testimony, which is due on March 13, 2023]”).

³ Ruling at 2 (Jan. 27, 2023) [hereinafter “January 27 Ruling”].

⁴ Wendy King’s Petition to Intervene (Jan. 31, 2023).

⁵ It is not clear from the proceedings in this case whether ALJ Mellgren intended to extend the
deadline for opening testimony for all intervenors or only those who filed Opening Testimony on January
17, 2023, but indicated an intent to file additional testimony. To the extent that Ms. King’s Opening
Testimony may have been due by January 17, 2023, Idaho Power does not object to admitting her initial
testimony—filed February 1, 2023—into the record.

⁶ OAR 860-001-0300(6).

⁷ *Id.*

1 beyond the date originally set for Opening Testimony. However, the Company opposes
2 Ms. King’s Motion for an Extension of Time because the time left for Idaho Power to prepare its
3 Reply Testimony is already very limited—now just 18 days—and Ms. King’s participation in this
4 contested case must not be allowed to delay the proceedings. The Company requests that
5 ALJ Mellgren deny Ms. King requests for additional time to “amend” her testimony for the following
6 reasons.

7 *First*, Ms. King has not identified any good cause for her requested extension. In her
8 motion, Ms. King asserts that she lost her internet connection for over seven hours on
9 February 2, 2023. However, even if Ms. King’s assertion is true, this assertion would not provide
10 good cause for leave to file additional Opening Testimony because the deadline for Opening
11 Testimony had already passed—first on January 17, 2023, and then as amended to February 1,
12 2023. Ms. King also requests additional time “due to the timing of [her Petition to Intervene] and
13 filing opening testimony.”⁸ However, to the extent Ms. King asserts that she could not adequately
14 prepare her Opening Testimony because of the short time between her untimely Petition to
15 Intervene and the deadline for opening testimony, Ms. King has not identified any good cause for
16 her untimely Petition. For that reason, Ms. King’s untimely petition does not provide good cause
17 to delay subsequent deadlines.

18 *Second*, as stated above, an intervenor’s participation in a contested case cannot be
19 allowed to “delay the proceedings.”⁹ This is particularly true in this case, because Idaho Power
20 has already proposed—and the ALJ has adopted—an extension to give certain intervenors an
21 opportunity to file additional Opening Testimony from expert witnesses. As a result of that
22 extension, Idaho Power’s Reply Testimony is due only 20 calendar days after the amended

⁸ Wendy King’s Motion for an Extension at 1 (Feb. 3, 2023).
⁹ OAR 860-001-0300(6).

1 deadline for intervenors' opening testimony.¹⁰ Given that short timeline, the Company requests
2 that ALJ Mellgren deny Ms. King's Motion for an Extension of Time and instead require Ms. King
3 to comply with the procedural schedule adopted for this case.

4 **IV. CONCLUSION**

5 For all of the above reasons, Idaho Power does not oppose Ms. King's Petition to
6 Intervene or the timing of her initially filed Opening Testimony. However, the Company requests
7 that ALJ Mellgren deny Ms. King's Motion for an Extension of Time because granting an extension
8 would prejudice Idaho Power Company, burden the record, and delay the proceedings in this
9 contested case.

DATED: February 6, 2023

McDOWELL RACKNER GIBSON PC



Lisa Rackner
Jocelyn Pease
McDowell Rackner Gibson PC
419 SW 11th Avenue, Suite 400
Portland, OR 97205
dockets@mrq-law.com

IDAHO POWER COMPANY
Donovan Walker
Lead Counsel
P.O. Box 70
Boise, Idaho 83707
dwalker@idahopower.com

Attorneys for Idaho Power Company

¹⁰ January 27 Ruling at 2.

DOCKET PCN 5 - CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2023 Idaho Power Company's Response to Wendy King's Petition to Intervene and Motion for an Extension of Time was served by USPS First Class Mail and Copy Center to said person(s) at his or her last-known address(es) as indicated below:

By: USPS First Class Mail and Copy Center:

John C. Williams
PO Box 1384
La Grande, OR 97850

Copies Plus
1904 Adams Ave,
La Grande, OR 97850
(541) 663-0725
copiespluslg@yahoo.com

DATED: February 6, 2023

/s/ Alisha Till

Alisha Till
Paralegal