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March 24, 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.

Dear ALJ Mellgren:

In response to Your Honor’s March 22, 2023 Memorandum (“Memorandum”) regarding Idaho Power Company’s (“Idaho Power”) Motion to Compel (“Motion”), Idaho Power hereby submits this update to the docket.

At the March 21, 2023 conference on Idaho Power’s Motion, parties discussed Sam Myers’ failure to provide timely responses to Idaho Power’s reasonable and relevant discovery requests (“DR”). At said conference, Your Honor requested that Mr. Myers provide any information already in his possession to Idaho Power and to quickly gather and provide the additional information requested. In your Memorandum, you gave Mr. Myers a deadline of March 23, 2023 at 3:00 p.m. to provide an update via email to the PUC Filing Center describing the progress that had been made on preparing a response to Idaho Power’s DRs and to note whether he would be able to fully respond to any outstanding DRs by the end of the week on March 24, 2023.

On March 22, 2023, Mr. Myers sent an email with an attachment to the PUC filing center and Idaho Power’s counsel. However, this attachment was corrupted and could not be accessed. Idaho Power’s counsel promptly responded to said email soon after noting this technical issue, but still has not received any further response from Mr. Myers. As of the filing of this letter, Idaho Power has yet to receive any further communication from Mr. Myers regarding his progress or in response to the DRs.

Without the responses from Mr. Myers, Idaho Power is unable to fully analyze Mr. Myers’ arguments regarding Fire Chief Steven Rhea’s testimony about previous fires caused by transmission lines. At this stage of the proceeding, the deadline for intervenors to provide rebuttal testimony and exhibits has passed, and in fact, Mr. Myers did not provide any further discussion of these fires in his recently filed rebuttal testimony. Finally, given Mr. Myers’ failure to provide the responses to the DRs or to timely update the docket regarding the

preparation of his responses, Idaho Power is prejudiced in its ongoing preparation of its surrebuttal testimony.

As a point of clarification, Your Honor's Memorandum suggested that Mr. Myers may provide the responses to the DRs as a supplement to his rebuttal testimony—which may be confusing the timelines and procedures for responding to discovery and formally filing testimony. Idaho Power seeks to clarify that the responses to the Company's DRs should instead be submitted as DR responses (either via Huddle or by email to Idaho Power and copying Kay Barnes), and not as additional supplemental testimony filed in the docket.

As the deadline for Idaho Power's surrebuttal testimony of April 7, 2023 is quickly approaching, time is of the essence, and Mr. Myers must timely provide the information to allow Idaho Power sufficient opportunity to evaluate Mr. Myers' responses and any supporting documents provided by Mr. Myers. As such, Idaho Power requests an expedited decision regarding Mr. Myers' failure to comply with the Memorandum and failure to provide timely response to the DRs, and in accordance with OAR 860-001-0500(9), further requests that the ALJ strike the portions of Chief Rhea's Testimony at issue in the DRs, or alternatively accord that testimony no weight.

Respectfully submitted,



Jocelyn C. Pease

DOCKET PCN 5 - CERTIFICATE OF SERVICE

I hereby certify that on March 24, 2023 Idaho Power Company's Letter to ALJ Mellgren re Motion to Compel Sam Myers 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:

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DATED: March 24, 2023

/s/ Alisha Till

Alisha Till
Paralegal