

March 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 – Intervenors' Motion for an extension to and adjustment of the procedural schedule/calendar

Dear ALJ Mellgren,

The undersigned Intervenors are writing to request an immediate deadline extension for Cross-Answering and Rebuttal Testimony that is due Monday March 13, 2023 to Monday, March 27, 2023.

Due to the volume of information (6,467 pages) included in IPC's reply testimony, and multiple expert replies and exhibits to various intervenors testimonies, the arduous task of weeding through dialog and data have left the undersigned intervenors a very short window to research IPC's expert testimony in order to cross answer with adequate references.

Full time jobs, families, and learning to be a paralegal while attempting to absorb this firehose of information, is not enough time to understand and respond with sufficient specificity in order for justice to be served. We are working as hard as we can to process and respond to this information. We need more time to provide us the opportunity to perform due diligence to protect our and the public's land from this rush for condemnation.

We, over our objections at the prehearing conference<sup>1</sup>, were not given additional time. We do not have a law firm working for us and cannot compete with the throughput of McDowell Rackner Gibson PC.

Idaho Power and PacifiCorp have consistently insisted that an expedited process is needed to begin construction by 2023 in order to have the B2H electrified by 2026. They suggest that if the B2H electrification deadline is not met cataclysmic consequences will occur. Other than a few Idaho Power and PacifiCorp executives not getting their performance bonuses Idaho Power and PacifiCorp have offered no evidence that the grid would collapse or there would be rolling blackouts if the B2H isn't "turned on" by 2026.

Until the factual consequences of not energizing the B2H in 2026 are known we have no evidence or proof that a delay in this contested case schedule would be harmful to Idaho Power and PacifiCorp customers. We do know that without a delay the intervenors in this docket will not have adequate time to perform due diligence.

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<sup>1</sup> [STOP B2H's Comments Regarding Setting a Prehearing Conference](#)

What follows is the undersigned intervenors' Rationale for Extension and Adjustment of the Procedural Schedule/Calendar so said intervenors can perform due diligence.

1. We have been flooded with information from expert witnesses and the highly resourced legal staff(s) of Idaho Power and PacifiCorp. Because of our full time jobs, families, and learning to be a paralegals while attempting to absorb this firehose of information there is not enough time for us to understand and respond to everything in order for justice to be served.
2. IPC's original request for an expedited schedule was for 9 months from the first NOI filed on 9/1/22. A second NOI, the initial petition (1204 pages) and Testimony and Exhibits (2716 pages) were filed on 9/30/22. A Supplement to Petition (10,608 pages) was filed on 10/7/22. This in effect took 6 weeks from the docket.

The first prehearing conference was October 11, 2023 and after several iterations of the schedule a final schedule was published on October 28, 2022<sup>2</sup> with June 30, 2023 target date for a commission decision.

Intervenors were given 10 months from the first NOI. The petition wasn't filed until 30 days after the first NOI giving 9 months, and the supplemental was filed 37 days after the first NOI and the final schedule was adapted on October 28, 2022 giving intervenors less than 8 months to wade through over 13,000 pages. Add to that the thousands of pages of discovery, 6,467 plus pages in IPC's reply testimony, and multiple expert replies to various intervenors testimonies and we are above 20,000 pages.

We doubt a fully staffed law firm with a dozen attorneys on the case could keep up with this workload, much less a dozen intervenors.

3. Most contested cases have not dealt with the hugely controversial issue of private land-taking or eminent domain. Additionally this is the first case under the new CPCN rules so we all are new to these rules and therefore should proceed slowly and deliberately.
4. As mentioned earlier, the expedited nature of IPC's request is due to their desire to start construction in mid-2023. This date is self imposed by the company. The perceived rush by the company is due to an inaccurate 2019 IRP analysis that was extended 5 times and took 1 ½ years to correct for errors. This "Second amended 2019 IRP" failed to identify IPC's resource deficiencies that were claimed in the 2021 IRP, changes in modeling techniques for loss of load expectation (LOLE)<sup>3</sup>, a paper increase doubling the planning reserve margin, and incorrect projections of energy and gas purchase costs.

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<sup>2</sup> <https://edocs.puc.state.or.us/efdocs/HDA/pcn5hda15428.pdf>

<sup>3</sup> See [Staff Report for the November 29, 2022 Special Public Meeting \(Item No. 1\)](#) p 34 Staff notes that Idaho PUC Staff share STOP's concern on the higher LOLE standard.<sup>33</sup>

The Company should identify a means to establish an optimal standard and rigorously justify why choosing a higher standard than Staff recommends in UM 2011 as being necessary.<sup>34</sup> The Company's resource adequacy decision would benefit from more transparency and discussion among parties in both states, and Staff will work with Idaho Power in the next IRP to identify an objective basis for choosing an LOLE standard.

IPC has provided no proof that the grid will collapse or they would run out of energy if this start date or in service date is not met.

5. In STOP B2H Coalition's opening brief<sup>4</sup> it gave many reasons why IPC's construction start date is an artificial date. First, we think it is important to point out this pressing need is the result of: 1) an inaccurate 2019 IRP; 2) the companies insistence on not building any of its own resources creating a heavy dependence on growingly expensive market purchases; 3) ignoring market trends to negotiate Power Purchase Agreements (PPA's) with renewable energy developers and transmission/energy resources, 4) a paper exercise doubling the planning reserve margin; and 5) refusing to count the 330 MW held aside as a capacity benefit margin (CBM) in the 2019 IRP.

The company explains it this way in its December 9, 2021 [Application for Waiver of Competitive Bidding Rules in UM 2011](#) on page 6.

However, since the acknowledgement of the most recent IRP [2019 IRP], in April of this year, the Company has rapidly moved from an expected resource-sufficient position, through 2028, to a near-term capacity deficiency starting in 2023. Idaho Power's most current L&R balance analysis as of November 2021 identifies capacity deficits beginning in 2023 and growing each year until 2026 when B2H is expected to be operational. *[insertion added]*

In UM 2011 Idaho Power states it is looking to add 598 MW by 2025 and is now in its second year of adding these resources.

The Bridger units are not going off-line; rather they are being converted from coal to gas (354 MW of energy will therefore not be lost).

Idaho Power is adding 952 MW of energy without the B2H being built.

Therefore, with this additional energy coming on line we do not see the lights going out in Idaho and there is no real need to expedite this process at the expense of landowners and the Idaho and Oregon public.

If this is to be a fair process for the public against the immense resources of Idaho Power and PacifiCorps' vertically integrated electrical monopolies lawyers the least your honor can do is give us the extension requested for the Cross-Answering and Rebuttal Testimony that is due Monday March 13, 2023 to Monday, March 27, 2023 and to revisit the entire calendar.

Signed

/s/ Sam Meyers  
/s/ Wendy King  
/s/ Susan Geer  
/s/ Marie Lyons

/s/ Jim and Kaye Foss  
/s/ Greg Larkin  
/s/ Tim and Miranda Proesch  
/s/ Irene Gilbert

/s/ JoAnn Harris Rode  
/s/ John Williams  
/s/ Jim Kreider for STOP B2H  
Coalition

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<sup>4</sup> See [STOP B2H Coalition AMENDED Opening Testimony](#) Q: What does STOP think about the expedited procedural schedule in this docket? p 3 [StopB2H/100/Kreider/Page 2.]

## KNOLL Ellie \* PUC

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**From:** jim kreider <jkreider@campblackdog.org>  
**Sent:** Monday, March 6, 2023 2:16 PM  
**To:** PUC PUC.FilingCenter \* PUC  
**Subject:** PCN 5 Intervinors Motion for an Extension 3-6-23  
**Attachments:** PCN 5 Intervinors Motion for an Extension 3-6-23.pdf

Hello Filing Center,

On behalf of the interviners that have signed the attached motion we respectfully request an immediate deadline extension for Cross-Answering and Rebuttal Testimony and a discussion for an adjustment of the remaining procedural schedule/calendar.

We have reached out to staff and Idaho Power. Staff takes no position on a motion for an extension.

IPC asked to know more about what we are proposing. That exchange is below in its entirety as of this writing.

If anyone should need additional information please feel free to contact me.

Cheers -- Jim Kreider

----- Forwarded Message ----- read from bottom up

**Subject:**Re: Proposed intervener Motion for an extension to and adjustment of the procedural schedule/calendar

**Date:**Mon, 6 Mar 2023 11:03:48 -0800

**From:**jim kreider <[jkreider@campblackdog.org](mailto:jkreider@campblackdog.org)>

**To:**Jocelyn Pease <[jocelyn@mrg-law.com](mailto:jocelyn@mrg-law.com)>, Lisa Rackner <[lisa@mrg-law.com](mailto:lisa@mrg-law.com)>

**CC:**Fuji Kreider <[fkreider@campblackdog.org](mailto:fkreider@campblackdog.org)>

Thanks for the quick response Jocelyn. The only concrete dates thus far is the request for the 2 week extension for the Cross-Answering and Rebuttal Testimony. One reason would be "due to the volume of information (6,467 pages) included in IPC's reply testimony, and multiple expert replies to various intervenors testimonies, the arduous task of weeding through dialog and data have left the undersigned intervenors a very short window to research IPC's expert testimony in order to cross answer with adequate references. "

We do not have dates in mind for the adjustment of the procedural schedule/calendar but would like to enter into a discussion on that topic. Now that we have thousands of pages of material to go through and better understand our human capabilities to go through it we can begin to articulate an adequate time frame for the interviners to respond to it all.

Hope this is helpful. -- jim

On 3/6/2023 10:48 AM, Jocelyn Pease wrote:

Jim—we won't be able to weigh in until we know a bit more about what you are proposing. Could you please explain the reason for the extension and the proposed modifications to the remainder of the schedule, and then we will connect with Idaho Power?

Thanks,

Jocelyn

Jocelyn C. Pease

McDowell Rackner Gibson PC

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Website: [www.mrg-law.com](http://www.mrg-law.com) | Email: [jocelyn@mrg-law.com](mailto:jocelyn@mrg-law.com)

Pronouns: she/her/hers

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**From:** jim kreider <[jkreider@campblackdog.org](mailto:jkreider@campblackdog.org)>

**Sent:** Monday, March 6, 2023 10:37 AM

**To:** Jocelyn Pease <[jocelyn@mrg-law.com](mailto:jocelyn@mrg-law.com)>; Lisa Rackner <[lisa@mrg-law.com](mailto:lisa@mrg-law.com)>

**Cc:** Fuji Kreider <[fkreider@campblackdog.org](mailto:fkreider@campblackdog.org)>

**Subject:** Proposed intervenor Motion for an extension to and adjustment of the procedural schedule/calendar

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Good Morning Jocelyn and Lisa,

On behalf of the interveners in PCN 5 I'd like to ask if IPC would be willing to discuss a Motion for an extension to and adjustment of the procedural schedule/calendar. We would like to ask for an extension of 2 weeks for the Cross-Answering and Rebuttal Testimony phase from Monday March 13, 2023 to Monday, March 27, 2023. In addition we would like to have a broader discussion for an adjustment to the procedural schedule/calendar.

Per

OAR 860-001-0420 we are asking staff and Idaho Power if they would support such a motion.

Could you please respond by noon today. Apologies for the short notice.

Thanks in advance for your consideration.

Best -- jim