

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

PCN 5

In the Matter of

IDAHO POWER COMPANY,

Petition for Certificate of Public  
Convenience and Necessity.

MEMORANDUM

On January 30, 2023, Greg Larkin filed a motion seeking review of a discovery request from Idaho Power Company. On January 31, 2023, Idaho Power filed a response to the motion.

Under our rules, discovery “must be commensurate with the needs of the case, the resources available to the parties, and the importance of the issues to which the discovery relates.”<sup>1</sup> Discovery requests “must be answered fully and separately in writing or by production of documents, or objected to in writing.”<sup>2</sup> If a party objects to such a request, they must include such an objection in writing in response to the discovery request.<sup>3</sup> When a discovery dispute arises, “[p]arties must make every effort to engage in cooperative informal discovery and to resolve disputes themselves.”<sup>4</sup> If the parties are unable to resolve a discovery request, a party “involved in the dispute may request that the ALJ conduct a conference to facilitate the resolution of” the dispute.<sup>5</sup> If the dispute cannot be resolved, a party may file a motion to compel discovery.<sup>6</sup> A motion to compel discovery “must contain a certification that the parties have conferred and been unable to resolve the dispute.”<sup>7</sup>

Medical records can be considered confidential information and protected by the Protective Order entered in this case as such records are exempt from disclosure under Oregon’s public records laws.<sup>8</sup> If Mr. Larkin has a concern with public access to his medical records, they may be provided in response to a discovery request confidentially, and any questions on how to submit confidential information may be addressed to the Administrative Hearings Division at [puc.hearings@puc.oregon.gov](mailto:puc.hearings@puc.oregon.gov) or for discovery to [puc.datarequests@puc.oregon.gov](mailto:puc.datarequests@puc.oregon.gov).<sup>9</sup>

---

<sup>1</sup> OAR 860-001-0500(1).

<sup>2</sup> OAR 860-001-0540(1).

<sup>3</sup> OAR 860-001-0540(4).

<sup>4</sup> OAR 860-001-0500(5).

<sup>5</sup> OAR 860-001-0500(6).

<sup>6</sup> OAR 860-001-0500(7).

<sup>7</sup> *Id.*

<sup>8</sup> OAR 860-001-0070; *see also* ORS 192.355(2)(a).

<sup>9</sup> OAR 860-001-0070; *see also* <https://www.oregon.gov/puc/filing-center/Documents/COVID-19-Filing-Instructions.pdf>.

Idaho Power requested that I hold a discovery conference.<sup>10</sup> The Administrative Hearings Division will contact the parties to schedule a time for such a conference. In the meantime, the parties are encouraged to attempt to informally resolve the discovery dispute. If the parties can resolve the dispute, they should contact the Administrative Hearings Division at [puc.hearings@puc.oregon.gov](mailto:puc.hearings@puc.oregon.gov) to cancel the discovery conference. If the parties cannot resolve the dispute, I will expect that at the discovery conference, the parties discuss their efforts to informally resolve the dispute.

Dated this 1<sup>st</sup> day of February, 2023, at Salem, Oregon.



---

John Mellgren  
Administrative Law Judge

---

<sup>10</sup> Idaho Power Response to Greg Larkin's Motion for Review of Idaho Power Company's Discovery Request at 5 (Jan. 31, 2023).