

**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

The Commission will conduct an evidentiary hearing in this proceeding on April 19, 2023, and April 20, 2023. The hearing will begin at 9:30 a.m. each day. In general, we will take breaks at approximately the mid-point of each morning and afternoon session. Additionally, we will take a mid-day break for lunch. We anticipate concluding each day by 4:30 p.m.

The witness schedule for the evidentiary hearings is set forth below. Please note that this schedule is approximate and may shift based on the time needed for Commissioner and ALJ questions, potential follow-up cross-examination from other parties, and any redirect. The schedule may be amended in advance of or during the hearing. Witnesses should be prepared to be called earlier than the time schedule indicates in the event we are ahead of schedule. The estimated time listed includes time for Commissioner and ALJ questions, as well as any follow-up cross-examination from other parties and any redirect. The topic listed in the schedules below refers to the topics identified by the parties; however, witnesses should be prepared to answer questions regarding any topic in their testimony from Commissioners and the ALJ.

Greg Larkin was the only party to identify a need for a confidential session and therefore only the cross-examination of Dr. Jeffrey Ellenbogen will be scheduled as such. In the event a party's witness is asked to discuss information or exhibits designated as confidential, I ask that those questions be held for a separate confidential session at the end of the day. If a response requires discussion of confidential material during the hearing, I ask that the witness or their counsel indicate that before responding.

Although we have identified witnesses by day, please note that we may call witnesses scheduled for Thursday, April 20, 2023, to appear on Wednesday, April 19, 2023, in the event we are running ahead of schedule. Additionally, please note that the Commission may identify witnesses it wishes to question on Thursday, April 20, 2023, if any, as late as the end of the day on Wednesday, April 19, 2023. This may include witnesses not identified by any party in a cross-examination statement. **Accordingly, all witnesses should remain available for the hearing on Thursday, April 20, 2023.**

PUC Staff witnesses are advised that they may be called for Commissioner questions at the end of the day on Wednesday, April 19, 2023, or during the Commissioner question period on Thursday, April 20, 2023, depending on the status of the hearing schedule.

<b>April 19, 2023 (Wednesday)</b>				
<b>Witness</b>	<b>Witness Counsel</b>	<b>Crossing Counsel/Individual</b>	<b>Topic</b>	<b>Estimated time</b>
Lindsay Barretto	Jocelyn Pease	Jim Kreider, STOP B2H	B2H budget	60 minutes
Jared Ellsworth	Jocelyn Pease	Jim Kreider, STOP B2H Greg Larkin (Irene Gilbert)	B2H budget; testimony data	90 minutes
Mitch Colburn	Jocelyn Pease	Wendy King Greg Larkin (Irene Gilbert)	B2H route and alternatives	150 minutes

<b>April 20, 2023 (Thursday)</b>				
<b>Witness</b>	<b>Witness Counsel</b>	<b>Crossing Counsel/Individual</b>	<b>Topic</b>	<b>Estimated time</b>
Mark Bastasch	Jocelyn Pease	Greg Larkin (Irene Gilbert)	Noise impacts	60 minutes
Rick Link	Carla Scarsella	Jim Kreider, STOP B2H	PacifiCorp IRP	30 minutes
Dr. Jeffrey Ellenbogen (Highly Confidential Session)	Jocelyn Pease	Greg Larkin (Irene Gilbert)	Noise impacts as it relates to Mr. Larkin	60 minutes
Witnesses to be identified for Commissioner/ALJ Questions	TBD	Commissioners/ALJ	TBD	90 minutes

On April 20, 2023, the Commission may call witnesses who they would like to question and who did not appear on the first day of the hearing. The Commission will identify those witnesses at a later point in time, including up to and after the evidentiary hearing on April 19, 2023.

Greg Larkin requested the opportunity to cross-examine Idaho Power’s counsel, Jocelyn Pease. As counsel for a party, Ms. Pease will not be subjected to cross-examination at the evidentiary hearing. Mr. Larkin also asked for the opportunity to cross-examine three individuals, Erika Shakespeare, Dr. Tracy Epperson, and Rodney Clark. That request is denied. It does not appear that those individuals submitted testimony, and if they had, it would not be appropriate for Mr. Larkin to cross-examine his own witnesses. Should the Commissioners wish to hear

from those individuals, they may be called for Commissioner questions during the April 20, 2023, hearing.

Several individuals included motions or statements to admit testimony in their cross-examination statements. We will accept those documents as motions to admit testimony even if not labeled as such. Parties are free to file new or amended motions to admit testimony by the April 25, 2023, deadline, but do not need to refile what has already been docketed as part of the parties' cross-examination statements. The deadline for motions to admit testimony on April 25, 2023, however, is the time for parties to identify what items they want in the record based on what has been filed. Unless a document is listed in such a motion to admit testimony (or a motion included in the cross-examination statement), it will not be included in the final evidentiary record even if it has already been filed in this matter. The documents themselves need not be refiled, only a list of testimony and exhibits that the parties would like to be part of the final record. If parties have already filed declarations along with their filed testimony, they need not file new declarations by the April 25, 2023, deadline.

To the extent a party identified material not previously filed in their cross-examination statement as evidence to be admitted into the evidentiary record, I will consider its admissibility after reviewing objections to it as indicated in the existing procedural schedule. As part of my review, I will determine whether the probative value of such potential evidence is outweighed by the danger of unfair prejudice, confusion of the issues, or undue delay.<sup>1</sup> The parties should be aware, however, that the Administrative Hearings Division and the Commissioners do not have access to Huddle or any discovery responses that have not been otherwise filed in this matter's docket. Those materials should be submitted in full to the Filing Center in advance of the evidentiary hearing or they will not be considered for admission to the evidentiary record.

Finally, on April 13, 2023, Idaho Power filed a letter seeking clarification on several topics. STOP B2H Coalition, Wendy King, and Susan Geer responded on April 14, 2023. This memorandum addresses several, but not all, of those issues. To the extent Idaho Power is objecting to the introduction of evidence, it should do so in its objections to motions to admit testimony due on May 2, 2023. I am unlikely to rule on any objections to evidence before or at the hearings. Unless I issue another memorandum or ruling to the contrary, no party is compelled to file any clarifying materials in advance of the evidentiary hearing in this matter. Should parties believe it would be helpful to file clarifying materials, including by using the chart provided by Idaho Power, they may do so.

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<sup>1</sup> See OAR 860-001-0450.

The Commission intends to create a robust and expansive record in this proceeding. Because of the time constraints related to its review and ultimate decision on Idaho Power's petition, conducting a broad hearing will help it meet its goal of resolving this matter by the target date for a Commission decision on the petition.

Dated this 14<sup>th</sup> day of April, 2023, at Salem, Oregon.



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John Mellgren  
Administrative Law Judge