

**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 April 3, 2023, Idaho Power filed a letter asking for clarification on the role of discovery materials in this proceeding. Idaho Power expressed concern that a party had submitted extensive materials in data requests that were not included in testimony and seeks clarification that such materials are not considered by the Commission nor appropriate to reference in post-hearing briefing unless offered and admitted through cross examination. On April 4, 2023, Greg Larkin filed a letter response to Idaho Power's filing. Mr. Larkin sought additional clarification regarding the upcoming hearing and associated deadlines. Although a ruling is not necessary at this stage, I will attempt to address the questions raised in the parties' filings.

Generally, parties must limit their cross-examination of witnesses at a hearing to those witnesses that previously submitted testimony unless a new witness is brought forward through a subpoena.¹ As such, an individual that authored a document relied on by a party's witness may not be an appropriate party for cross-examination. Parties must limit their briefing to evidence that is admitted into the record.

Parties need not file copies of regulations, statutes, or court decisions as exhibits to reference them in their briefing. To the extent parties intend to reference regulations, statutes, or court decisions in their cross-examination of a witness, it may be helpful to include their text in a cross-examination exhibit. An April 12, 2023, deadline exists for parties to file witness lists, cross-exam statements, and exhibits. As part of this filing, parties need not file the specific questions they intend to ask of witnesses but instead should list the subject matter of the anticipated questioning. Be aware that aside from Idaho Power's upcoming sur-rebuttal testimony deadlines, there is no additional opportunity to file testimony in the current schedule. While our rules do contemplate the filing of new exhibits presented at or before the hearing, such exhibits should not be treated as a means by which to present new testimony or otherwise bring in evidence that could have been presented during the opportunities for testimony established in the procedural schedule.


An April 25, 2023, deadline exists for parties to file motions seeking to admit testimony and exhibits into the evidentiary record. As part of this filing, parties may seek the admission of

¹ See OAR 860-001-0510.

already-filed written testimony and exhibits as well as any testimony or exhibits received at the hearing under OAR 860-001-0480(7). Parties may also request that the Commission take official notice of items listed under OAR 860-001-0460 as part of the April 25 filing. Additionally, there is an existing deadline on May 2, 2023, for objections to motions to admit testimony and exhibits. After considering the motions seeking to admit testimony and exhibits as well as any objections to them, I will issue a ruling resolving any objections, admitting evidence, and closing the evidentiary record. The parties' briefs should be limited to discussing only evidence admitted through that ruling. Should a party seek to rely on evidence in its briefing that has not been admitted into the record, a motion to strike at that point would be appropriate.

While we wish to gather a robust and complete record for the Commission's consideration of Idaho Power's petition, parties must also comply with our rules in doing so. The parties should refer to the March 22, 2023, pre-hearing memorandum describing the upcoming procedural steps, Chief Administrative Law Judge (ALJ) Moser's March 27, 2023, memorandum, and the recording of the workshop Chief ALJ Moser held with the parties to discuss the remaining procedural steps in this proceeding.² The parties should continue to direct questions on Commission rules and procedures to Chief ALJ Moser.

Dated this 6th day of April, 2023, at Salem, Oregon.



John Mellgren
Administrative Law Judge

² The workshop recording may be accessed at:
https://oregonpuc.granicus.com/player/clip/1134?view_id=2&redirect=true&h=6c9a9e8b83804ba204c8bcc6ad5f9872.