

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1129

In the Matter of)	
)	
PUBLIC UTILITY COMMISSION OF)	RULING
OREGON)	
)	
Staff's Investigation Relating to Electric)	
Utility Purchases From Qualifying)	
Facilities.)	

DISPOSITION: MOTIONS TO ACCEPT LATE FILED BRIEFS GRANTED

Neither hard nor facsimile copies of the opening briefs filed by Idaho Power Company (Idaho Power) and jointly by Sherman County and J. R. Simplot were timely received. Pursuant to ruling, dated December 16, 2004, the "in hand" due date for opening briefs was December 23, 2004. Hard copies of each brief were received on December 27, 2004.

On December 30, 2004, and January 3, 2005, respectively, Sherman County and J. R. Simplot and Idaho Power filed motions to accept the late-filed briefs. Counsel for Sherman County and J. R. Simplot represents that the joint brief was filed with a mistaken belief that electronic filing, followed by a hard copy being placed in the U. S. Mail was sufficient. Counsel for Idaho Power represents that copies of Idaho Power's brief were deposited with Federal Express (FedEx) on December 22, 2004, in time for overnight delivery to the Public Utility Commission of Oregon (Commission) on December 23, 2004, which did not occur due to some fault on behalf of FedEx.

Pursuant to OAR 860-011-0025(1), in effect on the due date for filing of opening briefs, all documents are filed with the Commission "by mail, personal delivery, or any other reasonable means of delivery." OAR 860-011-0025(4), also in effect on the due date, alternatively provides that a telephonic facsimile copy of a document will be accepted for filing if the original signed document is deposited in the mail, with proof of service, on the date the facsimile copy is received. Pursuant to this provision, the complete facsimile copy must be received by the Commission by 5:00 p.m. Pacific Time, on the filing deadline. Responsibility for timely filing falls on the persons filing documents by facsimile.

Based on the representations by Idaho Power and Sherman County and J. R. Simplot that no party is inconvenienced by the delays in filing of the opening briefs and that all parties were electronically served, I conditionally grant the motions of Idaho Power and Sherman County and J. R. Simplot. A party may object, however, to the Commission's acceptance of the

late filed briefs by 5:00 p.m. on January 13, 2005. If no party files an objection by such time, the motions of Idaho Power and Sherman County and J. R. Simplot shall be considered finally granted.

Dated this 6th day of January, 2005, at Salem, Oregon.

Traci A. G. Kirkpatrick
Administrative Law Judge