

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF OREGON
for the
OREGON DEPARTMENT OF ENERGY**

IN THE MATTER OF:)	CONTESTED CASE STATUS
)	UPDATE TO COUNCIL
THE APPLICATION FOR SITE)	PURSUANT TO OAR 345-015-0023(4)
CERTIFICATE FOR THE)	AS OF OCTOBER 15, 2021
BOARDMAN TO HEMINGWAY)	
TRANSMISSION LINE)	OAH Case No. 2019-ABC-02833

 OAR 345-015-0023(4) requires that the Administrative Law Judge (ALJ) “keep the Council informed regularly on the status of the contested case.” In accordance with this requirement, the ALJ offers the following status update. The ALJ anticipates providing written updates to Council in this matter on a bi-monthly basis, on or before the 15th of the month, through the course of the contested case. Additional updates will be issued as needed if significant developments arise in the contested case in between scheduled updates.

Status of the Boardman to Hemingway Transmission Line Application for Site Certificate Contested Case as of October 15, 2021:

 The contested case is now in the Hearing phase (direct testimony, rebuttal and cross-examination).

1. Direct Testimony and Exhibits:

 As noted in prior updates, the hearing testimony phase began on September 17, 2021, the date that the parties and limited parties were required to file their direct testimony and evidence pursuant to OAR 345-015-0043, and proposed site certificate conditions pursuant to OAR 345-015-0085.

 The ALJ received written direct testimony and/or exhibits for the following 33 issues: M-6, FW-3, FW-6, FW-7, HCA-3, HCA-4, HCA-7, LU-9, LU-11, NC-1, NC-2, NC-3, NC-4, NC-6, PS-2, PS-3, PS-4, PS-6, PS-8, PS-9, PS-10, R-1, R-2, R-3, R-4, RFA-1, RFA-2, SR-1, SR-3, SR-7, SP-1, SS-3, and SS-5.

 The ALJ did not receive written direct testimony or exhibits for the following nine issues: FW-5, HCA-6, LU-4, LU-7, LU-8, PS-1, PS-5, SS-1, and SS-2.

2. ALJ Ruling on Idaho Power's Motion to Dismiss Issues:

On September 29, 2021, Idaho Power filed a Motion to Dismiss Contested Case Issues FW-5, HCA-6, LU-4, LU-7, LU-8, PS-1, PS-5, SS-1, and SS-2, requesting dismissal of those issues for which the limited parties did not file testimony or evidence. The Department filed a Response to the Motion. Limited parties Matthew Cooper, Irene Gilbert, and Stacia Webster filed objections to the Motion.

On October 8, 2021, the ALJ issued a *Ruling on Idaho Power Company's Motion to Dismiss Issues FW-5, HCA-6, LU-4, LU-7, LU-8, PS-1, PS-5, SS-1, and SS-2*, granting the motion. The ALJ dismissed Issues FW-5, HCA-6, LU-4, LU-7, LU-8, PS-1, PS-5, SS-1, and SS-2 from the contested case based on waiver, lack of evidence, and failure of proof.

The ALJ also dismissed Jim and Kay Foss as limited parties to the contested case based on the dismissal of Issue LU-4 (the only issue on which the Fosses had standing), and dismissed Susan Badger-Jones as a limited party to the contested case based on the dismissal of Issue PS-1 (the only issue on which Ms. Badger-Jones had standing).

As of the writing of this update, the ALJ is unaware of any interlocutory appeal of the ruling based on the termination of the Fosses' and Ms. Badger-Jones' right to participate in the contested case.

3. Rulings on Objections to Direct Testimony and Exhibits

On October 1, 2021, both Idaho Power and the Department filed Objections to the Limited Parties' Direct Testimony and Exhibits. The following limited parties filed responses to the Department's and Idaho Power's objections: Stop B2H Coalition, Matt Cooper, Whit Deschner, Susan Geer, Irene Gilbert, Charles Lyons, Dale and Virginia Mammen, Anne and Kevin March, Sam Myers, and Stacia Webster.

On October 15, 2021, the ALJ issued *Rulings on Objections to Direct Testimony and Exhibits*, determining the admissibility of evidence to which the Department and/or Idaho Power objected.

4. Next Steps

The ALJ intends to issue a list of admitted new evidence (direct written testimony and exhibits), identified by issue, on or before October 21, 2021.

The ALJ intends to issue a notice to the parties/limited parties canceling the status conference originally set for November 4, 2021, in which the ALJ and parties/limited parties anticipated discussing logistics for the cross-examination hearing. Instead, the ALJ plans to address the format for the cross-examination hearing (video vs. in-person)

and other logistical matters as part of the status conference scheduled for December 15, 2021.

The deadline for submitting rebuttal testimony and evidence, and responses to proposed site certificate conditions, is November 12, 2021. The deadline for submitting sur-rebuttal testimony and evidence is December 3, 2021.

On Wednesday, December 15, 2021 at 1:00 PM, the ALJ will convene a status conference, by telephone, with the parties and limited parties to address the schedule and logistics for the cross-examination hearing (currently scheduled to begin on January 10, 2022).

The ALJ will issue the next status update on or about December 15, 2021, absent significant developments requiring another update in the interim.

Alison Greene Webster

Senior Administrative Law Judge
Office of Administrative Hearings

CERTIFICATE OF MAILING

On October 15, 2021, I mailed the foregoing CONTESTED CASE STATUS UPDATE TO COUNCIL PURSUANT TO OAR 345-015-0023(4) AS OF OCTOBER 15, 2021 issued on this date in OAH Case No. 2019-ABC-02833.

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