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Paper 67
Date: February 6, 2026

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE PATENT TRIAL AND APPEAL BOARD

BERKSHIRE HATHAWAY ENERGY COMPANY
and PACIFICORP,
Petitioner,

v.

BIRCHTECH CORP.,
Patent Owner.

IPR2025-00274 (Patent 10,343,114 B2)
IPR2025-00278 (Patent 10,343,114 B2)
IPR2025-00280 (Patent 10,596,517 B2)
IPR2025-00281 (Patent 10,596,517 B2)[1]

Before KRISTINA M. KALAN, CHRISTOPHER M. KAISER and DAVID COTTA, *Administrative Patent Judges*.

COTTA, *Administrative Patent Judge*.

ORDER
Conduct of Proceeding
37 C.F.R. § 42.5 and 42.51(b)(2)

[1] We use this caption for efficiency. These cases are not joined. The parties may not use such a caption without prior authorization from the Board.

INTRODUCTION

On January 16, 2026, we entered an Order addressing outstanding discovery issues relating to real party in interest ("RPI") and privity issues. Paper 64. It required that parties provide to the Board, by email, "a proposed schedule for depositions, provision of testimonial evidence, and briefing of RPI and privity issues." *Id.* On January 26, 2026, the parties responded by requesting additional guidance on certain additional discovery issues. Ex. 3109. The parties' email did not include a proposed schedule. *Id.* We provided the requested guidance, reminded the parties of the Director's instruction that "RPI and privity issues should be resolved as early as possible," and instructed the parties to propose a schedule consistent with the Director's instruction, within 48 hours. *Id.* The parties responded with a proposed schedule. *Id*. The parties' proposed schedule appears reasonable and consistent with the Director's instruction. Accordingly, based on the parties' proposed schedule, we Order that discovery and briefing on RPI and privity issues occur in the manner set forth below.

ORDER

In view of the foregoing, it is

ORDERED that parties shall complete RPI and/or privity related depositions on or before **March 9, 2026**, with any declarations served at least one week ahead of any declarant's deposition.

ORDERED that Patent Owner may file a Supplemental Patent Owner Response on or before **March 16, 2026.** Patent Owner's Supplemental Response shall be limited to addressing issues related to RPI and/or privity and shall not exceed 10 pages.

ORDERED that Petitioner may file a Supplemental Reply on or before **March 30, 2026.** Petitioner's Supplemental Reply shall be limited to addressing RPI and/or privity issues and shall not exceed 10 pages.

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