



ECHO HAWK & OLSEN

MARK A. ECHO HAWK
ERIC L. OLSEN
JOSEPH T. PRESTON
ATTORNEYS

505 PERSHING AVE., STE. 100
PO BOX 6119
POCATELLO, ID 83205-6119
208.478.1624
208.478-1670 FAX
WWW.ECHOHAWK.COM

November 13, 2019

Idaho Public Utilities Commission
Office of the Secretary
RECEIVED

NOV 13 2019

Boise, Idaho

Diane Hanian, Commission Secretary
Idaho Public Utilities Commission
11331 W. Chinden Blvd.
Building 8, Suite 201-A
Boise, ID 83714
diane.holt@puc.idaho.gov

Re: CASE No.: IPC-E-18-15
BRIEF RE: TREATMENT OF EXISTING ON-SITE
GENERATION CUSTOMERS

Dear Ms. Hanian:

Enclosed you will find the original and seven (7) copies of the following:

1. Brief Re: Treatment of Existing On-Site Generation Customers

Electronic copies have been served per the Certificate of Service.

Please file the Brief in the case file. If you have any questions, please don't hesitate to call. Thank you.

Sincerely,

Eric L. Olsen

ELO/tf
Enclosures

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NOV 13 2019

Boise, Idaho

Eric L. Olsen (ISB# 4811)
ECHO HAWK & OLSEN, PLLC
505 Pershing Ave., Ste. 100
P.O. Box 6119
Pocatello, Idaho 83205
Telephone: (208) 478-1624
Facsimile: (208) 478-1670
Email: elo@echohawk.com

Attorney for Intervenor Idaho Irrigation Pumpers Association, Inc.

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF IDAHO POWER
COMPANY'S APPLICATION TO STUDY
THE COSTS, BENEFITS, AND
COMPENSATION OF NET EXCESS
ENERGY SUPPLIED BY CUSTOMER ON-
SITE GENERATION**

CASE NO. IPC-E-18-15

**BRIEF RE: TREATMENT OF
EXISTING ON-SITE GENERATION
CUSTOMERS**

COMES NOW Idaho Irrigation Pumpers Association, Inc. ("IIPA") and pursuant to Commission's Order No. 34460 and provides its brief regarding the treatment of existing on-site generation customers under the Settlement Agreement.

I. THE ISSUE

In Order No. 34046, the Commission found it fair, just and reasonable to separate on-site generating customers under Schedules 1 & 7 and Schedule 84 and place them under new Schedules 6 & 8. Order No. 34046 at 15-16. This finding was based on the overall distinctions between a class of customers that used the grid for standard energy import and a class of customers who use the grid to both import and export energy. *Id.* at 16. The Commission reiterated that the "separate rate classes established here are not meant to be punitive nor discriminatory—nor, as with rates, are they a classification that will not evolve." *Id.* at 19.

In this companion case, the parties did not come to a consensus on how to treat existing on-site generation customers ("Existing Generators") under the new net metering rules ("new rules") proposed in the Settlement Agreement. One school of thought advocates that the applicable legal and regulatory standards would allow Existing Generators to continue under the old and more generous net metering rules ("old rules") indefinitely.¹ The principal basis for such

¹ The right to be under the old rules would apparently run with the Existing Generators' site or property.

treatment is that the Existing Generators relied on the old rules to evaluate the economics of acquiring the on-site generation, i.e., analyze the payback period to recover the investment through offsetting their self-consumption and estimating the amount of the credit received for electricity put back onto the system. As such, it would be unfair to make Existing Generators subject to the less generous, new rules in light of such reasonable reliance.

In contrast, the other school of thought has advocated a transition period whereby the Existing Generators and any on-site generator subject to the new rules (“New Generator”) would gradually transition over an eight (8) year period from the old rules to the new rules, with both Existing Generators and New Generators being on equal footing. This gradual transition is argued to be a way to recognize the reasonable, reliance interest of Old Generators while not creating any class distinction between Old Generators and New Generators. This transition plan is contained in the Settlement Agreement in ¶ IV(G) as the default treatment for Old Generators if the Commission determines that Old Generators should be subject to the new rules.

Thus, the Commission is tasked with determining whether it would be fair, just and reasonable to further segregate Schedules 6 & 8 by creating separate subclasses for Old Generators that would be only be subject to the old rules, as opposed to New Generators who would gradually transition from the old rules to the new rules.

II. IIPA’S POSITION

The Commission cannot allow Idaho Power Company (“IPC”), with respect to its “rates, charges, service, facilities or in any other respect, [to] make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage.” I.C. § 61-315. In other words, IPC cannot make any unreasonable difference as to rates, charges or credits as between classes of service. *E.g., Building Contractors Association of Southwestern Idaho v. Idaho Public Utilities Commission*, 151 Idaho 10, 13 (2011) (holding that I.C. § 61-315 requires that there be no unreasonable difference as to charges between classes of service).

Here, the IIPA believes that the transition period found in ¶ IV(G) of the Settlement Agreement strikes the appropriate balance between recognition of the Old Generators’ reasonable reliance interest in the financial terms of the old rules while at the same time making no unreasonable distinction as to the application of the new rules to Old Generators and New Generators during the transition period and beyond. As such the IIPA urges the Commission to

adopt ¶ IV(G) as the fair, just and reasonable transition period applicable to Old Generators and New Generators in this case.

DATED this 13th day of November, 2019.

ECHO HAWK & OLSEN

A handwritten signature in black ink, appearing to read "Eric L. Olsen", written in a cursive style.

ERIC L. OLSEN

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this ^{13th} 6th day of November, 2019, I served a true, correct and complete copy of the aforementioned document to each of the following, via U.S. Mail or private courier, email or hand delivery, as indicated below:

Diane M. Hanian, Secretary
Idaho Public Utilities Commission
P.O. Box 83720
11331 W. Chinden Blvd.
Building 8, Suite 201-A
Boise, ID 83714
diane.holt@puc.idaho.gov

☐ U.S. Mail
☐ Hand Delivered
☒ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Lisa D. Nordstrom
Regulatory Dockets
Attorney for Idaho Power Company
P.O. Box 70
Boise, ID 83707
lnordstrom@idahopower.com
dockets@idahopower.com

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Tim Tatum
V.P. of Regulatory Affairs
Idaho Power Company
P.O. Box 70
Boise, ID 83707
ttatum@idahopower.com

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Anthony Yankel
Idaho Irrigation Pumpers Association, Inc.
12700 Lake Avenue, Unit 2505
Lakewood, OH 44107
tony@yankel.net

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Abigail R. Germaine
Deputy City Attorney
Boise City Attorney's Office
150 N. Capitol Blvd.
P.O. Box 500
Boise, Idaho 83701 -0500
agermaine@cityofboise.org

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Preston N. Carter
Givens Pursley LLP
601 West Bannock Street
Boise, Idaho 83702
prestoncarter@givenspursley.com
kendrah@givenspursley.com

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Benjamin J. Otto
Idaho Conservation League
710 N. 6th St.
Boise, Idaho 83702
botto@idahoconservation.org

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Russell Schiermeier
29393 Davis Road
Bruneau, Idaho 83604
buyhay@gmail.com

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Zack Waterman and Mike Heckler
Idaho Sierra Club
503 W Franklin St.
Boise, Idaho 83702
zack.waterman@sierraclub.org
michael.p.heckler@gmail.com

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Kelsey Jae Nunez
Kelsey Jae Nunez LLC
920 N Clover Dr.
Boise, Idaho 83703
kelsey@kelseynaunez.com

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

C Tom Arkoosh
Arkoosh Law Offices
Po Box 2900
Boise, ID 83701
tom.arkoosh@arkoosh.com
erin.cecil@arkoosh.com

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Ted Weston
Rocky Mountain Power
1407 WN Temple Ste 330
Salt Lake City, UT 84116
ted.weston@pacificorp.com

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Yvonne R Hogle
Rocky Mountain Power
1407 WN Temple Ste 320
Salt Lake City, UT 84116
Yvonne.hogle@pacificorp.com

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Briana Kobor
Vote Solar
358 S 700 E Ste B206
Salt Lake City, UT 84102
briana@votesolar.org

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

David Bender
Earthjustice
3916 Nakoma Rd
Madison, WI 53711
dbender@earthjustice.org

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

F Diego Rivas
NW Energy Coalition
1101 8th Ave
Helena, MT 59601
diego@nwenenergy.org

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Austin Reschhoff
Thorvald A Nelson
Holland & Hart LLP
555 7th St Ste 3200
Denver, CO 80202
darueschhoff@hollandhart.com
tnelson@hollandhart.com

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Jim Swier
Micron Technology Inc
8000 S Federal Way
Boise, ID 83707
jswier@micron.com

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Dr. Don Reading
6070 Hill Road
Boise, ID 83703
dreading@mindspring.com

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Peter J Richardson
Richardson Adams PLLC
515 N 27th Street
PO Box 7218
Boise, ID 83702
peter@richardsonadams.com

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Electronic Service Only
dockets@idahopower.com

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Electronic Service Only
Al Luna
aluna@earthjustice.org

☐ U.S. Mail
☐ Hand Delivered
☐ Overnight Mail
☐ Telecopy (Fax)
☒ Electronic Mail (Email)

Nick Thorpe
nthorpe@earthjustice.org



Eric L. Olsen
Echo Hawk & Olsen