

JAN 09 2020

This is in response to the IPUC decision IPC-E-18-15 Order 34509.

Boise, Idaho

There is a kind of fear for some in submitting any criticism of this IPUC decision. Nevertheless, a need remains to comment so that the IPUC knows disagreement exists with part of its decision concerning the details of grandfathering.

It is alarming that the IPUC has chosen to redefine a solar system from real property to personal property. This IPUC decision has the effect of removing any grandfathering discussion from future settlement agreements. There seems to be nothing to stop the IPUC from going even further in redefining things.

From IPC-E-18-15 Order 34509

“Third, we are grandfathering the customer at the meter site at the originally installed nameplate capacity of the system. We are not grandfathering the system.”

The purchase of the solar system is a capital investment and it is difficult to argue the obvious. There were several different perspectives mentioned in comments to Settlement Agreement IPC-E-18-15, but only one was caught. The Settlement Agreement comments concerning policy changes were simply talking about the monthly out of pocket as their Return on Investment (ROI) but were not talking about property values. Property values are a separate issue and should not disappear after the investor's lifetime. There are two separate issues here: (1) Money saved by generating electricity that would offset the cost of financing, (2) Capital investment in the property. Although comments to Settlement Agreement IPC-E-18-15 were concerned with Issue (1), the second issue, that of capital investment in the property is equally important.

From IPC-E-18-15 Order 34509:

“Grindstone Butte II, 627 P.2d at 808-09.

First, we recognize this is an illustrative statement of factors and is not an exhaustive list. Additionally, the Court went on to say, Each case must depend very largely upon its own special facts and every element and every circumstance which increases or depreciates the value of the property, or of the service rendered, should be given due consideration, and allowed that weight to which it is entitled. It is, after all, very much a question of sound and well-instructed judgment.”

Where was the “due consideration” given in this decision?

According to the New York Bar Legal Services (<https://www.nycbar.org/get-legal-help/article/real-property-law/ownership-rights-in-real-property/>):

When you own real property, you have certain rights that go along with that ownership, including:

- Right to possession
- Right to control
- Right to use and quiet enjoyment
- Right to allow others a right to use (licenses and leases) and generate income
- Right to privacy and to exclude others
- Right to disposition or to transfer the property to someone else by selling, gifting or inheritance

- Right to use property as collateral through a mortgage

My original signed solar agreement with Idaho Power had nothing to do with my property or any rights thereof. Settlement Agreement IPC-E-18-15 had no reference to any property or any rights thereof. IPUC's IPC-E-18-15 Order 34509 states that the grandfathering of the net metering policy would be attached to me personally and not to the property. This decision denies me the property right to transfer, sell, or gift or give through inheritance my property to others at its legitimate value. This is just like adding a garage to my property and not being able to take advantage of the investment in terms of the property's value. A modular solar system is designed to facilitate component maintenance or replacement. When a component loses acceptable levels of capability or is technologically obsolete, that component can be replaced accommodating technology change. This adds significantly to the economic life of the system.

Life expectancy in Idaho is 79 years and I am nearly 76 years old. According to your decision to grandfather the net metering policy to me personally and not to grandfather the system, I would have three years in which to get a return before I die. Is it reasonable to believe that I would make such a large investment based on my expected lifetime?

IPUC's IPC-E-18-15 Order 34509 not only tramples on my property rights but is also heavily prejudicial against older folks.

This is presented with all due respect.

*Sincerely,  
Tom Wilbur*