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IDAHO PUBLIC
UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF IDAHO POWER COMPANY TO STUDY THE COSTS, BENEFITS, AND COMPENSATION OF NET EXCESS ENERGY SUPPLIED BY CUSTOMER ON-SITE GENERATION	**RICHARD KLUCKHOHN'S REQUEST FOR RECONSIDERATION OF ORDER NO. 34509** Case No. IPC-E-18-15

Pursuant to Idaho Code § 61-626 and IDAPA 331.01 *et seq.*, Richard E. Kluckhohn hereby petitions this Commission for reconsideration of its determination in its Order No. 34509, issued December 20, 2019 ("Order").

INTRODUCTION

Idaho Power and several other entities entered into a settlement agreement which required the Idaho Public Utilities Commission's ("Commission") approval, which was requested on October 11, 2019. This request was filed by both Idaho Power and the Commission's Staff. On December 2, 2019 and December 3, 2019, the PUC held public hearings during which more than 50 customers provided comments, and the hearing lasted until 2:15 a.m. on December 3, 2019, after beginning at 7:00 p.m.

The thrust of Idaho Power's and the Commission Staff's settlement agreement was that they would convert current customers' programs from a 1:1 kilowatt hour ("kWh") monthly net metering credit[1] to an hourly net-metering. Under the hourly net-metering proposal, Idaho Power would

[1] The value of the net energy exports is equal to the value of the energy consumed.

purchase any excess power at the rate of approximately 4.4 cents per kWh, while any excess power the customer used during that hour would be purchased at the then market rate.

The Commission correctly found that the public was not placed on adequate notice that the current docket, would result in fundamental changes to the net-metering program, under which the customers had invested in a long-term asset. In addition, the Commission correctly found that Idaho Power, instead of doing as the Commission had ordered, entered into a settlement agreement without conducting any sort of study.

Finally, the Commission grandfathered existing customers into the net-metering program. It is this finding, and the specific order entered by the Commission regarding the grandfathering of customers, that is objectionable.

ARGUMENT

1. Commission's Findings

In its findings, the Commission stated it "is not changing the Company's net-metering program at this time, the Commission finds it prudent and justifiable to distinguish between existing customers and new customers based on the customers' reasonable expectations when making significant personal investments in on-site generation systems." (Order No. 34509, P. 10, emphasis added.). The Commission further stated that that Idaho Power will undertake an effort to comply with the Order, but that the Commission anticipates "programmatic changes" are likely to be requested by Idaho Power from the PUC. (*Id.* at 12.). The Commission states, "We think a reasonable customer would consider the uncertainty of the program design when deciding whether to invest in on-site generation going forward. (*Id.* at 12, emphasis added).

The Commission noted that the Idaho Legislature, in Idaho Code 48-1804, requires a disclosure, however this disclosure was not added or required prior to July 1, 2019. Finally, the

specifics of grandfathering existing customers is clearly defined by the Commission, as being: (1) an existing customer who has an on-site generation system, or who made a binding financial commitment to install an on-site system, (2) existing customers are grandfathered into Schedule 6 or Schedule 8 as the schedules exist on the date of the Order, and (3) the customer at the meter site at the originally installed nameplate capacity of the system. It is item 3 that is objectionable.

2. The System <u>and</u> the Customer should be grandfathered.

The Commission specifically stated: "We are not grandfathering the system." The Commission goes on to explain that if a customer sells the house, the new owners will be net-metering under the then-existing terms. This protects my current purchase of the asset, however it is nothing more than a stealth confiscation of my asset in the event I sell my house, or if I pass away and my heirs decide to move in, etc....

As the Commission recognized, the public was not on adequate notice that this docket, nor previous dockets, might result in fundamental changes to the net-metering program. Many customers had a reasonable expectation that the net-metering program was, as represented by the Commission and by Idaho Power, as being the net-metering program available for the life of the solar generation system. Idaho Power, the PUC, and the installers all knew that the analysis presented to the person was based on a system's life expectancy of 25 years. Generally, the equipment is warrantied for 25 years and thus the consumer had the expectation the net-metering program would match that expectation.

Like all other components of the monthly-net-metering program, there was no indication that the program was directly connected only to the customer who purchased and installed the solar system, as opposed to the residence it was installed on. The public and the customers had a reasonable expectation that the net-metering program would be transferred with the system and not be tied to

the customer. The PUC's Order grandfathering in only the existing customers, and not the system, causes a material change in the program which materially devalues the customer's asset and is a taking[2] of the economic value of the customer's asset.

Any program which is less than 1:1 kWh monthly credit offset is a taking of the customer's asset without compensating the consumer. Since the asset value is based solely on the method of computing the offset credit, any reduction or devaluation in that credit is a taking. The PUC and Idaho Power knew or should have known the Public were using the net metering program as a recovery of the Customer's personal investments in the solar power generation asset. The PUC, in its order and analysis, has admitted that the public invested in solar systems in order to convert from a variable cost utility to a fixed known cost. Any change to that program in which they purchased without compensation constitutes a taking of the value of the cost savings. The PUC's decision of grandfathering only the customers, as opposed to the system, is arbitrary as it relates to the conversion of a home generating solar system to the then current program upon change of name, with no economic compensation given to the owner of that system. The public was not given reasonable notice that Idaho Power and the PUC intended to devalue their systems in this manner. The record of the case does not support this decision.

It is a given economic fact that any reduction of the value of a cashflow will reduce the value of the asset. Likewise, the PUC failed to consider the un-intended consequences on senior citizens. The PUC admits "the public, almost unanimously, opposed the proposed settlement." Specifically,

[2] Several commenters used the word "theft" of their asset in their testimony. The PUC's decision is akin to the government engaging in eminent domain, and refusing to provide fair and reasonable compensation. In another example, Idaho Power issues dividends on its IDACORP's common stock. Customer A purchases IDACORP and receives a 6.3% dividend on Customer A's stock. A governmental entity makes a rule that states if an existing owner of IDACORP's stock sells it, the purchaser is only entitled to receive a 3.1% dividend. The governmental entity has devalued the asset of Customer A's stock in IDACORP without compensating Customer A. Customer A might be incentivized to keep the stock, however if Customer A dies, or needs the funds for health care, or any other reason, the governmental entity has devalued the asset of Customer A with no compensation.

the public nearly unanimously opposed the change in the net-metering program. The PUC notes that "numerous commenters who state they invested their retirement saving in on-site generation." Clearly this materially impacts senior citizen more than any other class of citizen. Further senior citizens are more likely to need the full value of their assets as they deal with medical issues, mental issues, the inability to live in their home, and death. The Commission's action is a taking from senior citizens at their most venerable time of life.

For the foregoing reasons, I would request the Commission reconsider its decision, and amend its order to grandfather the system, for the life of the system or a reasonable time frame of not less than the standard warranty period of the system, as opposed to grandfathering the customer.

METHODS OF RECONSIDERATION REQUESTED

The petitioner requests reconsideration by written briefs.

DATED January 9, 2020.

Respectfully submitted,

Richard E. Kluckhohn

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 9, 20, a true and correct copy of the above and foregoing document was forwarded addressed as follows in the manner stated below:

Idaho Public Utilities Commission	Hand Delivered	☐
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Richard E. Kluckhohn