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IDAHO PUBLIC
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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF IDAHO POWER COMPANY TO STUDY THE COSTS, BENEFITS, AND COMPENSATION OF NET EXCESS ENERGY SUPPLIED BY CUSTOMER ON-SITE GENERATION	)))))))	**CASE NO. IPC-E-18-15**

REPLY BRIEF OF THE IDAHO CONSERVATION LEAGUE AND VOTE SOLAR ON TREATMENT OF EXISTING CUSTOMERS

NOVEMBER 27, 2019

1 **I. Introduction**

2 Idaho Conservation League ("ICL") and Vote Solar respectfully submit this Reply
3 regarding treatment of existing customers with on-site generation pursuant to Order No. 34460.
4 For the reasons set forth in their Opening Brief and further supported below, ICL and Vote Solar
5 request that if the Commission approves the new Net Hourly Billing Program established
6 through the Settlement Agreement for future customers with on-site generation, it allow existing
7 customers with on-site generation to remain on the current Net Monthly Metering Program. In
8 light of the fact that such treatment does not result in any proven, unjust cost shifting or unfair
9 rates, it is a proper exercise of the Commission discretion and will ensure that "any service
10 rendered . . . shall be just and reasonable" to respect customer's personal investments made in
11 response to and in order to conform with all requirements of Idaho Power Company's ("Idaho
12 Power") net metering tariff. Idaho Code 61-301.

13 **II. Idaho Power Cannot Show That Respecting the Investments of Existing Onsite-**
14 **Generators Contributes to a Proven Cost-Shift**

15 Allowing existing customers with on-site generation to remain on the net metering
16 program does not cause or exacerbate any proven, unreasonable "cost shift" to other customers.
17 Idaho Power's Opening Brief makes a series of unproven assertions about alleged "cost shifts"
18 by customers with on-site generation. Those arguments rehash allegations that Idaho Power has
19 repeatedly made, repeatedly failed to support with direct evidence, and which this Commission
20 has repeatedly refused to accept without such evidence. Specifically, Idaho Power claims that
21 "[s]ince net metering's inception in 1983, the standard rate paid has failed to properly recover the
22 costs incurred to serve customers with on-site generation." *Idaho Power Br. at 1*. However, 35
23 years after establishing net metering in Idaho, and more than a decade since asking Idaho Power

1 to document its cost-shift claim, this Commission noted that as of 2018, the analysis to support
2 cost shifting arguments is "incomplete." *Order No 34046* at 18. That remains true today.
3 The history of this Commission's decisions regarding net metering is replete with
4 examples of the Commission requesting evidence supporting Idaho Power's cost-shift claims and
5 Idaho Power failing to provide it. In 2001, Idaho Power proposed the modern Schedule 84 Net
6 Monthly Metering Program while alleging potential cost-shifting to support a system-wide cap of
7 2.9 MW. *Order No 28951*. At that time, Idaho Power had three total net metering customers, so
8 could not quantify any noticeable cost-shifting. The Commission acknowledged the Company's
9 cost-shift allegation, but did not find any actual cost shift. Instead, it declared that when the 2.9
10 MW cap was reached, the Commission "expect[ed] a report regarding the required level of
11 subsidization by non-participants." *Id.*
12 Idaho Power returned to the Commission in 2012 as it approached the 2.9 MW capacity
13 cap. While Idaho Power again alleged cost-shifting, the Commission rejected that argument,
14 raised the cap, and instructed that "more work needs to be done" and "if the Company wishes to
15 raise these issues again, then it should do so in the context of a general rate case." *Order No*
16 *32846 at 12 – 13.*
17 For five years following Order 32846, Idaho Power filed reports alleging cost shifts but
18 those reports were not scrutinized by the Commission or the public. Those claims did not stand
19 up once subjected to scrutiny. Idaho Power filed a stand-alone docket in 2017, again citing the
20 boogeyman of cost shifting and proposing program changes. Vote Solar identified several flaws
21 in the Company's basis for claiming cost shifts and demonstrated that the available evidence
22 suggests that customers with on-site generation have significant load reductions at the time of
23 system peak while still paying sizeable electricity bills, resulting in customers with on-site

1 generation paying *more than their costs* and possibly subsidizing other residential customers.[1]
2 The Commission's Order 34046 acknowledged that "the Company has found, and the parties
3 vigorously asserted, the cost to serve on-site generation customers may be lower than the cost to
4 serve their current class members. The benefits that on-site generation provide to the Company's
5 infrastructure and resource allocation, once quantified, may well prove to outpace any alleged
6 costs, increases in fixed-cost responsibility or decreases in net excess energy compensation
7 credit". Order No. 34046 at 18. The Commission then explained that "cost of service issues will
8 be fully vetted if and when the Company applies to change the rates of customers that take and
9 provide service under Schedules 6 and 8." *Id.* at 16. And still, no fully-vetted cost of service
10 analysis has been conducted in this docket.

11 A "cost-shift" occurs when the costs to serve one customer are paid by another customer.
12 Identifying and quantifying a cost-shift, therefore, first requires a determination of the costs to
13 serve the customer, the revenues received from the customer, and the value of other services
14 provided by the customer to the utility. Additionally, because there is an inevitable range of
15 individual customer cost recovery, isolating a cost-shift from the range of cost recovery inherent
16 in any heterogeneous group of customers requires identifying the range of costs and revenues
17 across the utility utilizing a consistent methodology. Idaho Power has not undertaken any of that
18 analysis on a system wide basis so cannot support a cost-shift claim.

19 Moreover, it is important to note that reduced revenues from a customer or group of
20 customers is not the same as a "cost shift." Revenues from customers change with use. But that
21 corresponds with a "cost-shift" only if changes in cost to serve, relative to other customers, does
22 not also change. Thus, while customers who install generation reduce the revenues collected

[1] Kobor direct in 17-13 at page 73, lines 11-16.

1 from them, that decrease in revenue is not the same thing as a "cost shift" because their reduced
2 consumption of grid-supplied electricity also reduces costs to serve. That is true of not only
3 customers with on-site generation, but all customers who reduce their electricity consumption for
4 any other reason, such as buying more efficient appliances, changing their daily routines,
5 changes to the number of members of the household, and leaving for warmer environs during the
6 winter.

7 The bill impact of offering legacy access to the Net Monthly Metering Program for
8 Existing Customers is not a cost-shift and should not be interpreted as such. ICL and Vote
9 Solar's Opening Brief quantified the possible impact allowing this equitable treatment would
10 have on non-participating Idaho Power customers at $0.18 per month for a typical residential
11 customer, an amount that is only 0.2% of a typical residential customer's monthly bill. That
12 value is not a cost-shift and should not be confused with a cost-shift. The $0.18 figure is not
13 connected to a cost of service and does not reflect underpayment of costs by customers with on-
14 site generation under net metering. Instead, it simply reflects the difference in the magnitude of
15 compensation to Existing Customers for their exports under the Net Monthly Metering Program
16 and under the Net Hourly Billing Program.[2] The calculation quantifies the total difference
17 between the customer bills under the two programs relative to total customer bills to compare the
18 minimal rate impact for non-participants to the burdensome bill increases that would be

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[2] ICL and Vote Solar do not agree that the Export Credit Rate and underlying methodology as described in the proposed Settlement Agreement provide a fair valuation of the avoided costs associated with distributed energy exports. At most this value represents a number that a portion of parties could agree to in order to reach settlement and it should not be interpreted by the Commission as establishing anything other than a compromise amenable to signing parties.

1 experienced by Existing Customers were they to be enrolled in the Net Hourly Billing Program

2 outlined in the Settlement Agreement.

3 Therefore, because Idaho Power has never proven any cost-shift from existing solar-

4 owners on the Net Monthly Metering Program the Commission should refrain from making any

5 such finding in the present case and again make clear that such a finding can only be reached

6 after a full vetting of cost of service issues in a general rate case.

7 8 9 **III. Idaho Law Allows The Commission To Distinguish Between Characteristics of Customers As Well As To Make A Legislative Decision To Apply A New Program Prospectively.**

10 Idaho Power's Brief also contends that the Company "does not believe Idaho law

11 supports developing separate rates for new and existing on-site generation customers under these

12 circumstances." *Idaho Power Br.* at 1-2. Specifically, Idaho Power contends that "[d]istinctions

13 between customers based solely on the date the individual became a utility customer have not

14 been upheld by the Idaho Supreme Court on appeal and subsequently have been disfavored by

15 the Commission. *Idaho Power Br.* at 2. That argument rests on an incorrect reading of Idaho

16 caselaw for three reasons.

17 First, the Idaho Supreme Court cases that Idaho Power relies on involved rates paid by

18 customers for utility service provided by the utility. It is not clear that Idaho Code 61-315[3] and

19 Idaho Supreme Court decisions interpreting it even apply to the separate issue of compensation

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[3] Idaho Code 61-315 provides:

> No public utility shall, as to rates, charges, service, facilities or in any other respect, make or grant any preference or advantage to any corporation or person or subject any corporation or person to any prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates, charges, service, facilities or in any other respect, either as between localities or as between classes of service. The commission shall have the power to determine any question of fact arising under this section.

1 *to* customers for electricity they provide to the utility. It is important to note in this case that the
2 "rate" at issue before the Commission is the Settlement Agreement's compensation to the
3 customer for exported electricity. There is no proposed change to the rates that customers pay for
4 the electricity received *from the utility*. Under the Settlement Agreement, those rates would be
5 *the same* for new and existing customers.
6 It does not appear that the Commission or supreme court apply Idaho Code 61-315 to
7 setting rates for compensation *for services provided to the utility*. Indeed, this Commission
8 regularly applies different rates for purchase from non-utility generators, including different
9 vintages of generators, without ever mentioning Idaho Code 61-315 or related supreme court
10 decisions. See e.g., *Order No. 32697* at 21 (allowing existing generators to obtain immediate
11 capacity value upon contract renewal, even if the utility is not capacity deficient, while requiring
12 new generators to wait for a capacity deficiency year before receiving capacity value); Order
13 32131 at 5-6, 9; *Order No. 32262* at 2, 8 (applying the "IRP Methodology" rather than published
14 avoided cost rates for new generators after December 14, 2010). Applying Idaho Code 61-315 to
15 different compensation rates for new and existing customers for their generation under the
16 Settlement Agreement would call into question the Commission's prior and future
17 determinations of compensation to non-utility generators. There is no need to open that door in
18 this case. Idaho Code 61-315 simply does not apply to compensation paid by a utility for
19 services provided to the utility.
20 Second, even if Idaho Code 61-315 does apply to rates for sales *to the utility*, the law
21 merely prohibits unreasonable differences between the customers. *Idaho State Homebuilders v.*
22 *Wash. Water Power*, 107 Idaho 415, 420 (1984) ("*Homebuilders*"). The cases Idaho Power cites
23 rejected different rates for new and existing customers because the Commission failed to identify

1 a difference between those groups relevant to the charges at issue. E.g., *Homebuilders*, 107 Idaho
2 at 421 (finding the proffered basis to justify charges for new electric heat customers lacking
3 where the pattern, nature and time of use leading to the need for new infrastructure was
4 indistinguishable from existing customers); *Building Contractors Assoc. v. Idaho Pub. Util.*
5 *Comm'n*, 128 Idaho 534, 538 (1996) (different charge for new customers rejected where charge
6 was to allocate cost of new infrastructure that was caused equally by new and existing
7 customers). Thus, the cases stand only for the proposition that the Commission cannot justify
8 different charges "based merely on whether those customers are old or new." *Idaho Power Br.* at
9 9.

10 Nothing in Idaho law precludes different rates for new and existing customers that are
11 based on differences that allow for reasonable distinction, rather than "merely on" whether they
12 are old or new. Those differences can be cost, quantity, or conditions of service, the time, nature
13 or pattern of use, the increase or depreciation in property value or service rendered, policies to
14 encourage conservation and optimum use and resource allocation, or other factors. *FMC Corp. v.*
15 *Idaho Pub. Util. Comm'n*, 104 Idaho 265, 277 (1983); *Grindstone Butte Mutual Canal Co. v.*
16 *IPUC*, 102 Idaho 175, 180 (1981); *Utah-Idaho Sugar Co. v. Intermountain Gas Co.*, 100 Idaho
17 368, 377 (1979); *Application of Boise Water Corp.*, 82 Idaho 81, 88-89 (1960) (citing *Durant v.*
18 *City of Beverly Hills*, 39 Cal.App.2d 133, 102 P2d 759, 762). As the supreme court stated
19 clearly, "We do not find one criterion to be necessarily more essential than another. Nor do we
20 find the criteria as listed above as being exclusive." *Grindstone Butte*, 102 Idaho at 180.

21 Third, the limitations in Idaho Code 61-315 apply when the Commission is acting in its
22 quasi-judicial or regulatory role of fact finding and equitably allocating costs between customers,
23 not to the Commission's quasi-legislative decisions to change program structures going forward.

1 *Building Contractor Association of Southwestern Idaho v. IPUC*, 151 Idaho 10, 15 (2011). Those
2 prospective program changes—even if "substantially different" from prior policies—are subject
3 only to the requirement that the Commission explain the change and the decision not be arbitrary
4 and capricious. *Id.* at 15. Thus, in *Building Contractor Association*, the Commission could apply
5 a new line extension charge to new customers prospectively, even though different than the
6 charges previously applied to other customers for the same service of connecting to the utility's
7 system. *Id.* at 15-16.

8 The law, as applied to the facts in the record here, allows the Commission to apply the
9 new Net Hourly Billing Program to new customers, while allowing existing customers to remain
10 on the current Net Monthly Metering Program.[4]

11 First, the Commission here is asked to rule on the compensation for electricity generation
12 the customer is providing to the utility, not rates for utility-provided service to which Idaho Code
13 61-315 applies. Regardless of how the Commission treats existing and new customers with on-
14 site generation, all customers will be subject to the same rates and rules for consuming utility
15 services. Accordingly, Idaho Code 61-315 provides no barrier to distinguish between new and
16 existing customers in setting different programs for customer generated electricity provided to
17 the utility.

18 Second, the Commission is asked to distinguish among customers in this case based on
19 the fact that different generating systems will be designed for the Net Hourly Billing Program
20 than were designed for Net Monthly Metering Program. Idaho Power is wrong on the facts that
21 existing customers with systems designed around traditional net metering and new customers

[4] Administratively the Commission can accomplish this by requesting updated schedules for 6(a), existing customers under the now-in-effect Schedule 6, and 6(b), new customers with the negotiated export rates and undertaking a similar approach for Schedule 8.

1 who will install systems designed around the different economic signals sent through net hourly
2 billing and smart inverters, "share key load and usage characteristics" including "increased
3 volatility in demand and load factors, excess net-energy exportation in the spring and summer,
4 and more volatility in contributions to the Company's peak(s)." *Idaho Power Br.* at 11. As
5 shown by the Idaho Clean Energy Association Brief and Affidavit of Kevin King, there are
6 performance differences between existing customers who have a generating system designed
7 specifically to the Net Monthly Metering Program and customers who will design a generating
8 system to maximize benefits under the very different economics of a Net Hourly Billing
9 Program. Those differences in the nature, pattern, and type of use—not "merely because" a
10 customer is old or new—justify different rate treatment.

11 Third, the Commission is able to make a quasi-legislative change to the Net Hourly
12 Billing Program prospectively, to new customers, even though the Net Monthly Metering
13 Program applies to existing customers. In 2013, the Commission approved a settlement that
14 prohibited Idaho Power from actively seeking new participants in the demand response programs
15 while allowing them to continue to make incentive payments to existing customers. *Order No*
16 *32923*. Like the present case, making a quasi-legislative change to a program prospectively,
17 while continuing to apply the previous program to then-participating customers, is not precluded
18 by Idaho law. Continuing to offer a program to then-participating customers while making a
19 change as to future customers is a normal approach to balance the equities of just and reasonable
20 utility programs while respecting individual investments to meet individual needs.

1 **IV. Idaho Power's Argument That Customers with On-site Generation Are Public**
2 **Utilities Is Clearly Wrong**

3 Idaho Power makes a strange and demonstrably wrong argument that existing residential
4 and small general service customers with on-site generation have "undertaken to serve the public
5 for private gain". *Idaho Power* Br. at 12-17, quoting *City of Pocatello v. Murray*, 21 Idaho 180,
6 199-200 (1912). The Commission should clearly and firmly reject this position that misapplies
7 Idaho law, mischaracterizes net metering, and is poor public policy. To hold that property is
8 dedicated to public use-- the test of a public utility-- is "not a trivial thing" and requires a finding
9 of unequivocal intention. *Stoeher V. Natatorium Co.,* 36, Idaho 287 (1922). Customer owned
10 distributed generation fall well short of that standard.

11 Customers with generation seek to fulfill their own energy needs, not the public's. When
12 the Commission approved the current Net Monthly Metering Program it specifically stated,
13 "While we acknowledge that [renewable generators can obtain firm and non-firm PURPA
14 contracts] we believe the primary thrust of net metering is to provide customers the opportunity
15 to offset their own load and energy requirements." *Order No 28951*. For the entire 36-year
16 history of net metering, stakeholders have understood net metering to be intended to allow
17 customers to offset their own needs. Idaho Power's unfounded, last-minute allegation that solar
18 owners are actually public utilities by dedicating their investment to public use is contrary to that
19 historical understanding of net metering as well as lacking the unequivocal dedication required
20 by Idaho law to become a public utility.

21 Further, unlike the water utility owner in the century-old case that Idaho Power cites,
22 existing customers with on-site generation do not claim to have a due process right to enforce a
23 prior contract rate free of state interference. *Pocatello*, 21 Idaho at 814. Moreover, no net
24 metering customer has made the unequivocal dedication of property to public use requisite to

1 invoke the state's authority to regulate public utilities, which was the premise of the holding in
2 the *City of Pocatello* case Idaho Power relies on. 21 Idaho at 819. To the extent onsite-
3 generators are doing anything beyond self-supplying their own electricity, they are simply
4 providing their excess generation to Idaho Power for Idaho Power to use as an input to its utility
5 operation. That does not make the customers with on-site generation a utility any more than the
6 hardware store selling Idaho Power bolts and floor wax becomes a utility. And, if it did,
7 customers with on-site generation would be entitled to a minimum return on their investment
8 from this Commission. See *Pocatello*, 21 Idaho at 818 (noting that the utility was entitled to the
9 "reasonable maximum rate" as a public utility). Accepting Idaho Power's position that every
10 customer with on-site generation is a public utility would require the Commission to directly
11 regulate more than 5,000 individuals today and more in the future. This outcome is counter to the
12 law, ignores the purpose of net metering as described by the Commission and, even if legal,
13 would be poor public policy.

14 **V. The Commission Should Require Effective Notice, Not Notice Generally**

15 Idaho Power's Brief includes arguments and attachments that purport to notify customers
16 of the entire scope, timing, and impact of potential changes. *Idaho Power Br.* at 12-13. ICL and
17 Vote Solar acknowledge the Commission has stated that rates are not contracts and are subject to
18 change. But the key question is not whether that notice happened, but what was actually
19 conveyed and understood by that notice. That is, did the public have notice of a completely
20 different compensation structure when told that rates, generally, change?

21 For example: Telling customers that utility rates are subject to change is like telling
22 drivers that traffic lights change. Based on experience, drivers will interpret the warning to mean
23 that green will change to yellow, yellow to red, and red back again to green. Giving notice to the

1 driver to be aware that the light will change will not prevent her from being rightly surprised if it

2 the light changes into an elephant. The public comments in the case indicate that notice of

3 generic changes to rates did not provide effective notice of the change to the fundamental nature

4 of the on-site generation program.

5 There is a critical difference between changes in consumption rates and changes to an

6 entire program structure as the Proposed Settlement here does. There is no dispute that

7 customers are aware that consumption rates change over time. *Idaho Power Br.* at 16. Under

8 traditional net metering, the tariffed rates fluctuate for customers with on-site generation as they

9 do for all other customers. Customers considered the possibility of those changes, as the

10 Commission instructed in Docket IPC-E-06-17 and IPC-E-12-27. *Idaho Power Br.* at 14-15.

11 Regardless of whether the Commission imposes the Net Hourly Billing Program on existing

12 customers, or allows them to remain on Net Monthly Metering Program, they will continue to

13 experience the same changes in the consumption rates that customers are familiar with.

14 However, periodic changes to rates—a few pennies per kilowatt hour up or down from time to

15 time or a few dollars per month difference in the fixed charge from time to time– is

16 fundamentally different from changing an entire program structure. It not reasonable to expect

17 existing customers who invested years ago to have foreseen the change from netting monthly to

18 measuring every hour, or having separate rates for imports and exports with exports valued by a

19 wholly new and unprecedented methodology, or mandating smart inverters, or offering a non-

20 export option. The entire Net Hourly Billing Program did not exist until the parties created it

21 through negotiations in this case. Expecting customers to be on notice that everything could

22 change, at any time, to structures they have never heard of before, is poor public policy because

23 it creates a level of uncertainty that will inhibit private investments.

1 Whether or not existing customers received generic notice that rates change, the fact
2 remains that they made long term investments based on the structure of the program that existed
3 at the time. As detailed above, Idaho law empowers the Commission in this docket to reasonably
4 distinguish between existing and new customers with on-site generation because the design of
5 the two programs will result in a fundamentally different nature of use. To ensure fair, just, and
6 reasonable utility services, the Commission should not let notice in form only prevent allowing
7 existing customers with on-site generation time to recoup their investments before significant
8 structural changes are made to the program.

9 **VI. There is No Need To Further Adjust Rates For Customer with On-Site Generation**

10 In Order No 34460 the Commission established a clear and separate briefing schedule to
11 address the Settlement and the separate question of how to treat existing customers. Yet, Idaho
12 Power's brief raises an unrelated argument that undercuts the finality and reasonableness of the
13 Settlement. While not related to the treatment of existing customers, Idaho Power's assertion
14 here, if left unanswered, could cause further controversy as stakeholders seek to instead turn the
15 page after a long effort toward collaboration and compromise.

16 Idaho Power's Opening Brief raises the possibility that it will seek to undo the finality
17 and balance struck by the Settlement Agreement by coming back to the Commission and seeking
18 to alter rates for the consumption of customers with on-site generation. *Idaho Power Br*. p. 1.
19 Specifically, Idaho Power states that the "Settlement Agreement filed in this case constitutes a
20 significant step in establishing a proper compensation structure for Schedule 6, Residential
21 Service On-Site Generation ("Schedule 6"), and Schedule 8, Small General Service On-Site
22 Generation ("Schedule 8"), customers until the Company and stakeholders can address rate
23 design in a subsequent proceeding." *Id.*

1 The Commission should not countenance such counter-productive sabre rattling by Idaho
2 Power before the ink is even dry on this Settlement. As the Commission stated when rejecting
3 Idaho Power's attempts to change consumption rates for net metering in 2012 "if the Company
4 wishes to raise these issues again, then it should do so in the context of a general rate case."
5 *Order No 32846 at 12 – 13*. And again in 2018: "cost of service issues will be fully vetted if and
6 when the Company applies to change the rates of customers that take and provide service under
7 Schedules 6 and 8." *Order No 34046 at 16*. To encourage effective collaboration among
8 stakeholders going forward, ICL and Vote Solar recommend the Commission reiterate what they
9 have said many times: any effort to adjust rates for consumption requires a cost of service study
10 that covers all utility costs and customer classes and is conducted in the context of a general rate
11 case.

12 **VII. The Commission Should Allow Existing Customers Twenty Years Before**
13 **Transitioning To Net Hourly Billing.**

14 As ICL and Vote Solar noted in their Opening Brief, customers should be allowed some
15 stability in the program that dictated their investment based on the expected life of the
16 equipment. *ICL-VS Br.* at 9. That is a minimum of twenty years for small solar equipment,
17 which is consistent with the period provided by other states. *ICL-VS Br.* at 6-7. Staff and Idaho
18 Power suggest shorter periods. Idaho Power suggests that, if the Commission allows existing
19 customers to continue to receive credit for exported generation under a traditional net metering
20 program, it impose an "end date" for that treatment of ten years. *Idaho Power Br.* at 22. Staff
21 proposes to end the legacy program treatment for existing customers after eight years. *Staff Br.* at
22 9.

23 ICL and Vote Solar commend Staff and Idaho Power for recognizing a need to provide a
24 period for customers to realize the benefit of their investments in generation before transitioning

1 to a new rate structure. However, the eight and ten year periods suggested are not supported by
2 the evidence and still impose a significant cost to existing customers with on-site generation
3 while providing no perceptible benefit to other customers.

4 Staff suggests that eight years is reasonable as it "allows Existing Customers to budget
5 and prepare for the significant changes to their utility bills." *Staff Br.* at 9. Staff attempts to
6 contrast their proposal for an eight-year grace period with the transition period for new
7 customers outlined in the Settlement Agreement on the grounds that the latter would represent "a
8 distinctly different value proposition than what they planned for." *Staff Br.* at 9. Staff is correct
9 that the Settlement Agreement contains a vastly different proposition than what existing
10 customers planned for when they made significant personal investments in generation. However,
11 Staff does not provide any evidence to support its position that customers can adapt in any
12 reasonable way by year eight, or that the impact on customer investments diminishes at year
13 eight. In fact, the simple payback analysis conducted by ICL and Vote Solar reveals that an
14 eight-year grace period would still represent a distinctly different value proposition than what
15 customers planned for, which is the exact outcome Staff seeks to avoid with their proposal.

16 Staff's eight-year grace period proposal would result in almost 400 existing customer
17 investments being rendered uneconomic, rather than the 1,300 customers who would experience
18 this problem if they were forced onto the transition period as outlined in the Settlement
19 Agreement. In addition, under Staff's proposal existing customers with on-site generation would
20 still see an average bill increase of 25% after the eight-year grace period while over 1,300
21 families and small businesses would see their monthly bills increase over 100%. Over the 20-
22 year typical life of generating equipment, that translates into thousands of dollars in higher utility
23 bills than originally anticipated. Whether or not Idaho families and small businesses could

1 "budget and prepare" for such a result, as Staff indicates, the fact is that they still have to endure
2 it. And for no good reason. Existing customers responded to program parameters put in place
3 by this Commission to undertake large investments in local clean energy. As established in ICL
4 and Vote Solar's Opening Brief, undercutting those customers' investments comes with no
5 appreciable benefit on the other side. The impact to non-participating customers associated with
6 protection of existing customers is so small that it cannot outweigh the impact on existing
7 customers. For its part, Idaho Power requests that, if the Commission offers legacy access to the
8 Net Monthly Metering Program that it implement an end date for the program. *Idaho Power Br.*
9 at 22. Idaho Power states that "it may become administratively burdensome for the Company to
10 continue to track and manage a set of uniquely situated customers" and suggests a ten-year
11 legacy period. *Idaho Power Br.* at 22. While there may be some level of administrative cost to
12 provide legacy access to the Net Monthly Metering Program, there is no evidence of meaningful
13 expense after the initial billing system is setup or that the length of the legacy period impacts the
14 expense. That is, there is no evidence that a ten-year legacy period costs demonstrably less than
15 any other period. If an end date is necessary, ICL and Vote Solar urge the Commission to use
16 twenty years as a reasonable alternative that allows customers to see the benefits of their
17 investments while allowing for an end date as Idaho Power requests.

18 **VIII. Defining Existing Customers Based on Any Date Before the Commission's Order in**
19 **This Case Is Unreasonable, Unfair, and Unjust.**

20 Staff and Idaho Power both propose that qualification to remain in the Net Monthly
21 Metering Program be linked to dates which families and small businesses would have no way of
22 anticipating or reasonably understanding. Most troublingly, Staff proposes to define existing
23 customers as those that submitted applications before October 11, 2019, prior to any public
24 Notice of the Settlement Agreement. *Staff Br.* at 2. Staff states: "This date is reasonable because

1 it is the first date that the public was notified of the proposed program structure in the Settlement
2 Agreement." *Staff Br.* at 10. This statement is factually incorrect. While the October 11, 2019
3 decision memo says the parties filed a signed settlement, negotiated under strict confidentiality,
4 the Commission did not issue a formal notice until October 17, 2019. Staff's proposed date
5 would bind the public based on knowledge they did not possess.

6 However, even applying the October 17, 2019, date of the Notice of Settlement, as Idaho
7 Power proposes, would be problematic for practical reasons. *Idaho Power* at 22. Using that date
8 implicitly assumes that customers monitor the Commission's website daily for notice of
9 fundamental program changes, and are able to read, digest, and understand the implications of
10 the Settlement Agreement on that date. That is simply not realistic. Idaho utilities routinely ask
11 for effective dates for other types of changes to give the utilities sufficient time to interpret the
12 ruling and prepare to implement the decision. Customers should be given the same basic respect.
13 Further, an effective date that precedes the Commission determination on the Settlement
14 communicates to the public that the Commission's decision-making is pro forma and that the
15 public should presuppose approval and act upon mere filings with the Commission, rather than
16 the results of the Commission's official actions. Absent system reliability emergencies or a
17 significant, unavoidable negative cost impact to customers, the Commission should reject, as a
18 matter of overall policy, any attempt to impose effective dates that precede the Commission's
19 decision.

20 As stated in ICL and Vote Solar's Opening Brief, the Commission should allow
21 customers adopting distributed generation to know the basic terms of the program to which they
22 would be enrolled when they submit their application. While Staff and Idaho Power allege some
23 kind of "run-on-the-bank" scenario, they provide no evidence this will actually occur. Moreover,

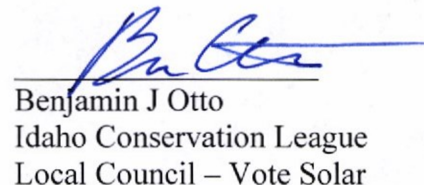
1 any concerns regarding negative impacts due to an uptick in applications during the 60-day
2 period are contradicted by the evidence, which clearly shows nominal impacts to other customers
3 by respecting the personal investments made by existing customers with on-site generation to
4 offset their own energy burdens.[5]

5 The Commission should recognize that these designs and decisions take time and set a
6 Program Enrollment Deadline 60 days following the Commission's order in this case. All
7 applications postmarked prior to that date should be considered eligible for the existing Net
8 Monthly Metering Program.

9 **IX. Recommendations**

10 The evidence in the record, Idaho law, and the public policy at issue in this case supports
11 an order allowing Existing Customers, who apply for interconnection within 60 days of the order
12 date, to remain on Net Monthly Metering for a period of at least 20 years.

Respectfully submitted this 27th day of November 2019,

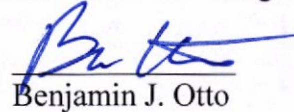


Benjamin J Otto
Idaho Conservation League
Local Council – Vote Solar

[5] ICL and Vote Solar's calculations of customer impact at 0.2% of the typical customer's monthly bill would roughly scale with additional enrollment. For example, if Net Monthly Metering Program enrollment were to double in the 60 days following the decision (an outcome that we do not believe is reasonable within any stretch of the imagination) that impact would remain extremely small at 0.4%.

CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of November 2019 I delivered true and correct copies of the foregoing REPLY BRIEF ON EXISTING CUSTOMERS to the following via the method of service noted:



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