

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

FORMAL COMPLAINT OF JEFF COMER) CASE NO. IPC-E-19-28
AGAINST IDAHO POWER COMPANY)
)
)
) ORDER NO. 34520

On August 6, 2019, Jeff Comer, a customer of Idaho Power Company (“Idaho Power” or “Company”), formally complained that the Company denied his request to transfer excess net energy credits between meters.

On September 10, 2019, the Commission issued a Summons to the Company to respond to Mr. Comer’s Complaint.

On October 1, 2019, the Company filed its Answer to Mr. Comer’s Complaint.

On October 2, 2019, Mr. Comer filed a Response.

On October 15, 2019, Commission Staff filed Comments.

On November 19, 2019, the Commission issued a Final Order denying Mr. Comer’s Complaint. Order No. 34492.

On December 2, 2019, Mr. Comer timely filed a Petition for Reconsideration.

On December 11, 2019, the Company filed a letter with the Commission stating it had not been served with the Petition for Reconsideration and requested a reasonable opportunity to respond to the substantive merits of the petition.

Having reviewed the record, the Commission grants Mr. Comer’s Petition for Reconsideration and provides deadlines for the Company to file an Answer and for the parties to file any Responses.

BACKGROUND

Mr. Comer, with his neighbor Mr. Goodman, interconnected a 22 kW hydroelectric facility to the Company’s grid in 2006. Mr. Comer and Mr. Goodman shared the excess net energy credits produced by the system for several years. The Company denied Mr. Comer’s 2019 request to transfer excess net energy credits between meters. One meter is on Mr. Comer’s property and is in Mr. Comer’s name. Another meter is on Mr. Goodman’s property, but is in Mr. Comer’s name.

There are five criteria in the Company's Schedule 6 and Schedule 8 to determine whether meters are eligible to be aggregated, and thus credits are eligible to be transferred between meters. One criteria is, "The meter is located on, or contiguous to, the property on which the Designated Meter is located. For the purposes of this tariff, contiguous property includes property that is separated from the Premises of the Designated Meter by public or railroad rights of way[.]" The "Designated Meter" is defined as "the retail meter physically connected to the Small On-Site Generation System." The Company applied a definition of "property" that limited that definition to a "parcel." See Idaho Power Company's Answer at 1. The Company argued it was correct to interpret the term "property" in this manner because it views "property" and "parcel" as synonyms, the more restrictive interpretation complies with the Commission's intent in establishing net metering, and applying the broader term "property" poses administrative challenges. *Id.* at 7-10. Mr. Comer argued that limiting the definition of "property" to "parcel" is not supported by the language of the tariff. See Formal Complaint of Jeff Comer at 2.

Another criteria for meter aggregation is, "The electricity recorded by the meter is for the Customer's requirements[.]" The Commission based its determination in Order No. 34492 on the fact that Mr. Comer did not meet the requirements of this criteria because the meter on Mr. Goodman's property was not for Mr. Comer's requirements. Because the Commission decided the case on this issue, the Commission did not reach the question of whether the Company correctly interpreted "property" to mean "parcel."

PETITION FOR RECONSIDERATION

In his Petition for Reconsideration, Mr. Comer states that the Commission's decision was based on a detail that was not at issue in the underlying complaint, and was not addressed by either Mr. Comer or the Company. Mr. Comer also alleges more facts detailing the nature of his partnership with Mr. Goodman stating,

From its very inception Mr. Comer and Mr. Goodman have been equal partners in the Goodco [P]ower project which did then, and does still today, qualify for net metering status. Acting as Goodco Power Company Mr. Goodman and Mr. Comer developed this net metering project in 2006. There are many facts that demonstrate the existence of this partnership. The [Federal Energy Regulatory Commission] permit was issued to Goodco [P]ower. The Idaho Department of Water Resources issued the Water Right License to the partnership in the name of Jack Goodman. Idaho Power sends a power usage statement to Goodco Power once a month at the address

where Mr. Goodman lives. The project lies on property owned by Mr. Goodman at the intake structure and by Mr. Comer at the generation site. Each of the partners contributed an equal financial investment in the project.

Petition for Reconsideration at 1. Mr. Comer also alleges that he and Mr. Goodman worked cooperatively with Idaho Power in developing the project and the Company helped ensure that it complied with Commission Rules. *Id.* Mr. Comer also alleges that Mr. Goodman's account was placed in Mr. Comer's name at the Company's direction in order to comply with the Company's meter aggregation rules. *Id.* at 2.

LETTER FROM IDAHO POWER

Idaho Power states it was not served with the Petition for Reconsideration, as required by Commission Rule of Procedure 44, and requests a reasonable opportunity to respond to the substantive merits of the claim. The Company also asks for the identity of the petitioner to be established.

COMMISSION FINDINGS AND DECISION

The Commission has the authority to grant or deny reconsideration under *Idaho Code* § 61-626(2). Reconsideration provides an opportunity for any interested person to bring to the Commission's attention any question previously determined, and thereby affords the Commission an opportunity to rectify any mistake or omission. *Washington Water Power Co. v. Kootenai Environmental Alliance*, 99 Idaho 875, 879, 591 P.2d 122, 126 (1979); *see also Eagle Water Company v. Idaho PUC*, 130 Idaho 314, 317, 940 P.2d 1133, 1136 (1997). "If reconsideration be granted, said order shall specify how the matter will be reconsidered and whether any cross-petitions for reconsideration will be granted." *Idaho Code* § 61-626(2). Consistent with the purpose for reconsideration, Commission Rules require a Petition for Reconsideration to "set forth specifically the ground or grounds why the petitioner contends that the order or any issue decided in the order is unreasonable, unlawful, erroneous or not in conformity with the law." IDAPA 31.01.01.331.01. We find that Mr. Comer's Petition for Reconsideration more specifically alleges facts that were not fully considered in the underlying order, which justifies granting reconsideration.

We will allow the Company 21 days from the service date of this Order to submit an Answer to Mr. Comer's Petition for Reconsideration. We will allow parties to the case 28 days from the date the Company's Answer is due (i.e., 49 days from the service date of this Order) to

respond to the Company's Answer. This amount of time should remedy any concerns related to Mr. Comer's failure to serve the Company with the Petition for Reconsideration, and will allow the parties to further develop the factual record and provide supporting evidence for or against claims alleged. We find the petitioner's identity is sufficiently established on page three of the Petition for Reconsideration.

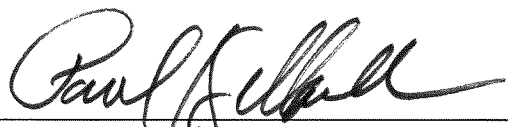
ORDER

IT IS HEREBY ORDERED that Mr. Comer's Petition for Reconsideration is granted.

IT IS FURTHER ORDERED that the Company file an Answer to Mr. Comer's Petition for Reconsideration within 21 days of the service date of this Order.

IT IS FURTHER ORDERED that the parties to the case file any Responses within 49 days of the service date of this Order.

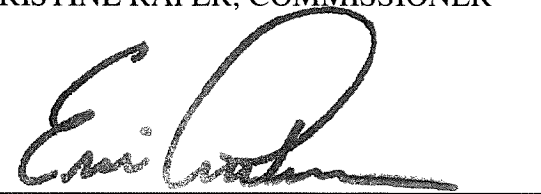
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 26th day of December 2019.



PAUL KJELLANDER, PRESIDENT



KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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