

## DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER  
COMMISSIONER RAPER  
COMMISSIONER ANDERSON  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL**

**FROM: EDWARD JEWELL  
DEPUTY ATTORNEY GENERAL**

**DATE: DECEMBER 13, 2019**

**SUBJECT: FORMAL COMPLAINT OF JEFF COMER AGAINST IDAHO POWER  
COMPANY; CASE NO. IPC-E-19-28.**

On August 6, 2019, Jeff Comer, a customer of Idaho Power Company (“Idaho Power” or “Company”) filed a formal complaint against the Company because the Company denied Mr. Comer’s 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 formal Complaint. Order No. 34492.

On December 1, 2019, Mr. Comer filed a petition for reconsideration.

On December 11, 2019, the Company submitted a letter to the Commission Secretary stating that the Company was not served with the petition for reconsideration, as required by Commission Rule 44, and requesting the Company be allowed additional time to respond.

### **PETITION FOR RECONSIDERATION**

In Order No. 34492, the Commission denied the formal complaint of Mr. Comer. The Commission found the Company was correct to deny Mr. Comer’s application to transfer net excess energy credits from the generation meter to a meter on Mr. Goodman’s property that is in Mr. Comer’s name. The Commission made its determination based on criteria 4 of the

Company's meter aggregation rules, which requires, "The electricity recorded by the meter is for the Customer's requirements[.]"

Mr. Comer states that he and Mr. Goodman have been partners in the Goodco power project, a 22 kW small hydroelectric facility, since the project was developed in 2006. In his petition for reconsideration, Mr. Comer states the FERC permit was issued to Goodco power, and the project lies on property owned by Mr. Goodman at the intake structure and by Mr. Comer at the generation site, and that each partner contributed an equal financial investment in the project. Petition for Reconsideration at 1. Mr. Comer states that he and Mr. Goodman worked cooperatively with Idaho Power to develop the project, which was the Company's first hydro net-metering project. *Id.* Mr. Comer asserts it was an error to deny his formal complaint because he and Mr. Goodman are bona-fide partners in the project, and the project was developed in coordination with Idaho Power to ensure the project met the standards for meter aggregation. *See id.* at 2.

#### **LETTER FROM IDAHO POWER**

Idaho Power states it was not served with a copy of the petition for reconsideration, as required by Commission Rule of Procedure 44. The Company requests a "reasonable opportunity to respond to the Petition's substantive merits in excess of the seven days set forth in RP 331." Idaho Power Letter at 1. In subsequent conversation with counsel for Idaho Power, the Company clarified that it does not wish to file a cross-petition for reconsideration, but if the Commission grants reconsideration, the Company would like the opportunity to file an Answer.

#### **STAFF RECOMMENDATION**

The Commission has the authority to determine whether to grant reconsideration, and what the procedure on reconsideration will be, if granted. *See* IDAPA 31.01.01.332. "Petitions for reconsideration must set forth specifically the ground or grounds why the cross-petitioner contends that the order or any issue decided in the order is unreasonable, unlawful, erroneous or not in conformity with the law, and a statement of the nature and quantity of evidence or argument that the cross-petitioner will offer if reconsideration is granted." IDAPA 331.02.

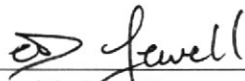
Mr. Comer bases his petition for reconsideration on the fact that he and Mr. Goodman are bona-fide partners in Goodco, "not just some random neighbor who would benefit from free power." Cross Petition for Reconsideration at 2. The formality of the partnership was not clear from the underlying complaint. Additionally, Mr. Comer alleges more facts regarding

representations from Idaho Power when developing the project. Staff recommends the Commission grant reconsideration, allow the Company 14 days to file an Answer, and allow an additional 14 days for parties to respond to the Company's Answer.

**COMMISSION DECISION**

Does the Commission wish to grant the petition for reconsideration?

If the Commission grants the petition for reconsideration, does the Commission wish to allow the Company 14 days to file an Answer to the petition for reconsideration, and allow the parties an additional 14 days to respond to the Company's Answer?

  
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Edward J. Jewell  
Deputy Attorney General

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