

Kelsey Jae, ISB No. 7899
LAW FOR CONSCIOUS LEADERSHIP
920 N. Clover Dr.
Boise, ID 83703
Telephone: (208) 391-2961
kelsey@kelseyjaenunez.com
Attorney for Sierra Club

RECEIVED
2020 DEC 22 PM 2:10
IDAHO PUBLIC
UTILITIES COMMISSION

Lisa Young
Michael Heckler
IDAHO SIERRA CLUB
503 W Franklin St
Boise, ID 83702
Telephone: (208) 384-1023
lisa.young@sierraclub.org
michael.p.heckler@gmail.com

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF IDAHO POWER COMPANY'S)
APPLICATION FOR AUTHORITY TO MODIFY) IPC-E-20-26
SCHEDULE 84's METERING REQUIREMENT)
AND TO GRANDFATHER EXISTING CUSTOMERS)
WITH TWO METERS.)**

**IDAHO SIERRA CLUB's
PETITION FOR RECONSIDERATION AND CLARIFICATION**

COMES NOW the Idaho Chapter of the Sierra Club ("Sierra Club"), pursuant to Idaho Code § 61-626 with the following petition for reconsideration and clarification of Order No. 34854.

In this docket, the Commission has ruled that harm to customers is outweighed by the public interest in clarifying that the existing Schedule 84 tariff will likely change.

"While it may be difficult for potential customer-generators to determine their likely return on investment without knowing the details of the successor program, we find this consideration is outweighed by the public interest in clarity that the tariff is likely to change."¹

Sierra Club does not contest the Commission's assessment of the value of clarifying to C, I & I

¹ Order No 34854, page 10-11

customers that tariffs can, and likely will, change. Rather, we respectfully ask that the Commission consider favorably our requests as a way to reduce unnecessary harm to customers without reducing the benefits provided by the clarification that the tariff can change.

1. For Reconsideration: Extend the Cut-Off Date for Legacy Treatment by 90 Days to February 28, 2021.

1.1 The obligation to provide timely information is unfulfilled.

The Commission has previously established the obligation of a utility to enable customers to make informed decisions regarding customer-generation. For example, in PAC-E-19-08, the Commission noted:

The utility is a trusted entity imbued with a public purpose. It has the opportunity and the obligation to provide its customers with timely, trustworthy, and accurate information regarding the utility's service offerings to allow its customers to make informed decisions about whether to pursue the potential benefits of being a customer-generator while also incurring the associated risks.²

In reply comments within this docket, Idaho Power Company (the "Company") has acknowledged that the Commission consistently tries to align net metering programs across utilities. But with respect to the alignment of related obligations, such as a duty to inform customers, the Company has been less than diligent. Specifically, by delaying the launch of a docket to study the costs and benefits of customer self-generation, the Company has been far less than diligent in providing its customers with timely and necessary information to make informed decisions about the risks and benefits of being a customer-generator.

1.2. If there were urgent harm caused by the current program, the Company has had ample time to address it in the manner ordered by the Commission to study on-site generation.

The Commission ordered the Company to perform a study of on-site generation in 2018. In 2019, the Commission further clarified the process for conducting that study and the subsequent steps needed prior to defining a successor program. The Company could have chosen to expeditiously develop the on-site generation study that will be necessary to defining a successor to the existing net-metering programs. Instead the Company proposes delaying the start of that needed study until after resolution of this and the IPC-E-20-30 dockets are concluded.

Having participated in multiple dockets addressing matters related to customer self-generation and net-metering³, Sierra Club acknowledges that the Company faces

² Order No 34752, page 9.

³ Including IPC-E-17-13, IPC-E-18-15, IPC-E-18-16, IPC-E-19-15, IPC-E-20-30, RMP-E-19-08, as well as this docket.

complexities associated with moving on from the current net-metering program.

However, customers bear the harm of the delay. As a result of the Company's failure to timely launch a docket to study cost and benefits, the Commission was stuck with a choice between pushing out the cut-off date for eligibility for grandfathering to some unknown date when a successor to the current net-metering program is established (as requested by customers, PUC Staff, Sierra Club / ICEA and others), or establish an immediate cut-off date of December 1, 2020 (as requested by the Company). An opportunity to lessen the harm uniquely born by the Company's CI&I customers merits consideration.

1.3 Farmers testified that they are harmed when access to on-site generation is impeded, and that approval of the proposed cut-off date impeded that access.

A representative comment is from Randy Bauscher of B&H Farming (posted 10/16/2020, letter dated 10/12/2020):

I believe we should continue to have the opportunity to make our irrigation systems more efficient through any way possible; pivots, high efficiency pumps, VFD's, solar panels, or whatever is available. Commodity prices often do not check with input costs and in order to survive and keep Idaho's agricultural community thriving, we should be able to use tools such as the Net Metering Program to compete on a national and global scale.

The Commission has acknowledged that this ruling makes it more difficult for customers to evaluate on-site generation investments. Five farmers specifically testified that they were interested in investing in new or additional solar systems but they or their landlords would not do so primarily due to the current ambiguities.

For example, Adam Young demonstrates that his farm was able to make an informed decision prior to IPC-E-20-26, but as a result of IPC-E-20-26 he is not able to make an informed decision: (Adam Young, testimony provided October 13, 2020):

Our farm invested a significant amount of capital to construct two solar sites featuring 12 solar panels on dual-axis trackers. A significant amount of time was spent analyzing the proposed system, its cost, its expected return, and its payback period. We did not move forward with the project until we were very comfortable with the numbers behind our analysis. Idaho Power's proposal would render such financial analysis impossible for projects starting on or after December 1.

Testimony in this docket provided evidence that farmers are unable to make a decision regarding on-site generation in the midst of a process that would result in changes to which they have zero visibility.

Without an extension of the cut-off date, the impact of the Commission's ruling is to remove from many Idaho farmers the ability to take advantage of on-site generation during 2021. Some farmers can access REAP grants or take advantage of Investment Tax Credits in 2020, some in 2021, while others simply have been caught at the end of the harvest discovering the

information available in 2021 is insufficient to make an informed decision. It is unfair, unnecessary, and to no significant benefit on record in this docket that farmers bear the cost of the utility's choice to delay fulfilling obligations ordered by the Commission.

1.4 Differences between IPC-E-18-15 and IPC-E-20-26 justify an extended cut-off date.

The Company acknowledges (Aschenbrenner Direct) that in Order No. 34546 (IPC-E-18-15), the Commission's decision to grandfather existing customers was based on the facts of that case, and that if CI&I customers are to be grandfathered as of a specific date, such a decision must be made based on the facts presented in a separate case. Extending the cut-off date in IPC-E-20-26 when it was not extended in IPC-E-18-15 can be justified by the following distinctions between the two situations:

- The evaluation process for an investment in on-site generation is different for a residential customer relative to a CI & I customer. Many commenters in IPC-E-20-26 described this complexity, and we note the description provided in Gietzen Petition for Reconsideration (12/17/2020):

Six months may be enough time to submit applications for small projects, but for customers planning multi-million dollar projects that span dozens of individual meters and dozens of individual site locations, potentially MW sized projects, six months is not ample time.

- Farmers typically finalize major investment decisions after the harvest season, thus choosing Dec 1 as a cut-off date is unnecessarily harmful to customers unable to complete their evaluation process by that date.
- The time and expertise CI&I customers invest into the evaluating on-site generation is a business expense which goes to waste if the customer is unable to complete the process.
- This docket reflects a different form of reliance on solar that farmers face compared to that presented by residents. In order to compete, CI&I businesses rely on the ability to make informed decisions regarding investment choices in solar relative to other efficiency improving technologies.
- It's been a year since IPC-E-18-15. If the Company needs more time than anticipated to launch their study of on-site generation, it is reasonable to allow Customers more time to complete their applications.

1.5 Farmers are leaning on the PUC to protect their interests.

The record reflects numerous comments noting that the timing of this docket, during harvest, limited the ability of farmers to engage. No remedy was granted. Farmers with on-site generation had a huge financial incentive to engage given exposure to the grandfather period; farmers who would otherwise invest in on-site generation in 2021 were under-represented. Russell Schiermeier, a farmer intervening in the docket, noted (Comments),

“Unfortunately, there has not been an agricultural group that has represented my interest, or other farmers interested in a solar component to farming.”

Testimony and comments provided by farmers have demonstrated that having an assessable option for on-site generation is important to their economic resilience, farmers in the midst of evaluating solar or unable to take advantage of federal funds in 2020 but could in 2021 are particularly harmed, and the utility has demonstrated no urgency in starting the steps necessary to determine a successor program. Reconsideration of the cut-off date provides some small remedy to customers harmed by the Company’s unfulfilled obligation to provide timely information that would allow customers to make informed decisions regarding on-site generation.

The study of the costs and benefits of customer self-generation, and the potential for a general rate case to be required to put any such costs/benefits into effect within a tariff structure, is likely to be multi-year process, not yet even begun. Clarity that the tariff is likely to change is still accomplished if the cut-off date is extended 90 days.

We are asking only for 90 days to remedy harm to customers by extending the cut-off date for eligibility for Schedule 84 customers to receive legacy treatment until Feb 28, 2021.

2. Request for Clarification

With the delay before a study (and rate case) can be completed, there is now and will be for some time, a period of uncertainty that customers face when considering investing in self-generation. As noted above, that uncertainty harms customers. Sierra Club requests that the Commission provide certain clarifications that we believe can narrow the scope of that uncertainty.

We provide below examples of opportunities to lessen the harm that uncertainty imposes upon customers. These clarifications can be provided without conflicting with the public interest of informing customers that tariffs are not contracts and that the terms under which customers self-generate are likely to change during the useful life of their generation assets.

2.1 Clarifications regarding the extent of program review

In conjunction with its application under this docket, the Company noted that a key justification for IPC-E-20-26 was to enable CI&I customers to make more informed decisions.

Based on this growth, the Company believes it is in the best interest of customers, both existing and future, to know to what extent they may be impacted by the outcome of a future docket that results in a change to the measurement interval or compensation structure applied to Schedule 84.⁴

The Commission has informed customers that “program fundamentals are undergoing a comprehensive review and are likely to change.”⁵

⁴ Aschenbrenner Direct, page 13.

⁵ Order No 34854, page 10

Sierra Club sees a substantial difference in scope between the Commission's reference to "fundamentals" and a "comprehensive review" and the more-narrow concern of the Company associated with changes to "measurement interval and compensation structure".

Customers value any visibility of what to expect from the study of on-site generation which still stands between them and the ability to make informed decisions. The ruling on IPC-E-20-26 puts them in the position of relying on advocacy groups, installers, and the utility for predictions, any of which may have different views. Because CI&I customers are bearing the harm caused by the lack of progress in defining the successor program, we encourage the Commission to help customers by clarifying some of the parameters of possible program changes.

We ask that the Commission clarify that certain aspects will or will not be subject to change including:

1. **Self-generation.** While customers are precluded from competing with the monopoly rights of the Company by attempting to sell power to other customers, they are not required to purchase all of their energy requirements from the monopoly supplier. As has been policy at least since 2002, a customer taking service from the Company may offset all or some of their load and energy requirements by self-generating and the upcoming study must not serve to curtail the customer's right to offset some of their consumption by self-generating.
2. **Export.** Customers harnessing solar energy have through custom and under federal legislation a right to export net excess energy to the utility and receive fair value for that energy.
3. **Consumption rates.** We ask that the Commission affirm that consumption rates for CI&I customers (Energy, Demand, and Service) will not change outside of a general rate case.
4. **Size and aggregation rules.** As multiple commenters noted, the economics associated with solar installations cannot be accurately estimated without considering the size of individual installations. We ask that the Commission reconsider its suggestion that size limits can be considered "during or after the forthcoming comprehensive study"⁶ and direct the Company to include a review of size and aggregation rules within the scope of any comprehensive study.
5. **Value categories.** Though the Company has not yet studied the value of net excess generation ordered by the Commission in 2018, the Commission has previously ruled on the value categories to be studied by Rocky Mountain Power. We note that "The Commission has consistently tried to align the net metering programs between Idaho utilities to the extent reasonable."⁷ In that spirit, we ask for affirmation that the scope of the Idaho Power study will include, but not be limited to, the following value categories which the Commission ordered to be included in the "Scope of Rocky Mountain Power's On-Site Generation Study":

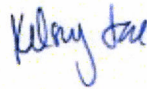
⁶ Order No 34854, page 12.

⁷ Order No 34752, page 7.

- Avoided Energy value
- Avoided Capacity value
- Avoided Risk
- Avoided Transmission & Distribution costs
- Avoided Line losses
- Avoided Environmental Costs and Other Benefits

Dated this 22nd day of December, 2020.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Kelsey Jae".

Kelsey Jae, Attorney for Sierra Club

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of December, 2020, I delivered true and correct copies of the foregoing Request for Production to the following persons via electronic mail delivery:

Idaho Public Utilities Commission

Jan Noriyuki
Commission Secretary
secretary@puc.idaho.gov

Idaho Power Company

Lisa D. Nordstrom
Tim Tatum
Connie Aschenbrenner
lnordstrom@idahopower.com
ttatum@idahopower.com
caschenbrenner@idahopower.com
dockets@idahopower.com

Idaho Conservation League

Benjamin J. Otto
botto@idahoconservation.org

Idaho Irrigation Pumpers Assn

Eric L. Olsen
elo@echohawk.com
Anthony Yankel
tony@yankel.net

Idaho Public Utilities Commission Staff

Edward Jewell
Deputy Attorney General
Idaho Public Utilities Commission
edward.jewell@puc.idaho.gov

Russell Schiermeier
buyhay@gmail.com

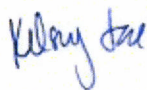
City of Boise City

Abigail R. Germaine
agermaine@cityofboise.org

Micron Technology

Jim Swier
jswier@micron.com

Austin Rueschhoff
Thorvald A. Nelson
darueschhoff@hollandhart.com
tnelson@hollandhart.com
aclee@hollandhart.com
glgarganoamari@hollandhart.com



Kelsey Jae
Attorney for Sierra Club