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LISA D. NORDSTROM
Lead Counsel
lnordstrom@idahopower.com

May 18, 2022

VIA ELECTRONIC FILING

Jan Noriyuki, Secretary
Idaho Public Utilities Commission
11331 W. Chinden Blvd., Bldg 8,
Suite 201-A (83714)
PO Box 83720
Boise, Idaho 83720-0074

Re: Case No. IPC-E-22-12
*Clean Energy Opportunities for Idaho's Petition for an Order to Modify the
Schedule 84 100kW Cap & to Establish a Transition Guideline for Changes
to Schedule 84 Export Credit Compensation Values*

Dear Ms. Noriyuki:

Enclosed for electronic filing please find Idaho Power Company's Answer and Motion to Dismiss in the above matter.

If you have any questions about the attached documents, please do not hesitate to contact me.

Very truly yours,

Lisa D. Nordstrom

LDN:sg
Enclosures

LISA D. NORDSTROM (ISB No. 5733)
MEGAN GOICOECHEA ALLEN (ISB No. 7623)
1221 West Idaho Street (83702)
P.O. Box 70
Boise, Idaho 83707
Telephone: (208) 388-5825
Facsimile: (208) 388-6936
lnordstrom@idahopower.com
mgoicoecheaallen@idahopower.com

Attorneys for Idaho Power Company

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF CLEAN ENERGY)	
OPPORTUNITIES FOR IDAHO'S)	Case No. IPC-E-22-12
PETITION FOR AN ORDER TO MODIFY)	
THE SCHEDULE 84 100kW CAP & TO)	ANSWER AND MOTION TO
ESTABLISH A TRANSITION GUIDELINE)	DISMISS
FOR CHANGES TO SCHEDULE 84)	
EXPORT CREDIT COMPENSATION)	
VALUES)	
_____)	

Respondent, Idaho Power Company ("Idaho Power" or "Company"), and pursuant to Rule 57 of the Rules of Procedure of the Idaho Public Utilities Commission ("Commission"), hereby submits¹ its Answer to Clean Energy Opportunities for Idaho's ("CEO") Petition ("Petition") in the above-entitled case. In addition to its Answer, Idaho Power seeks dismissal of CEO's Petition in accordance with Rules of Procedure 56 and 256. The Commission has previously considered the project eligibility cap issue brought forth in CEO's Petition and has issued not one, but two recent orders declining to address

¹ Because CEO's Petition was docketed as an Idaho Power case and Idaho Power is the counterparty, the Company has not filed a Petition to Intervene under RP 53. However, the Company will do so if that is the Commission's preference.

it outside of the process already established by the Commission.² The previously issued orders are unequivocal and allowing commercial, industrial, and irrigation (“CI&I”) customers to avail themselves of an expedited process would be premature, inequitable, and undermine the process as a whole. As such, the Company respectfully requests the Commission dismiss CEO’s Petition.

Attempts to modernize Idaho Power’s pricing structure to reflect the value of bi-directional energy flow have resulted in a long series of customer-self generation related dockets, with the Company, the Commission, the public, and other stakeholders all seeking a workable solution. The process has demonstrated the complexity of the issues and the deep convictions engendered by the topic, and against this backdrop, the Commission determined that the ultimate approach should be informed by a comprehensive study of the costs and benefits of on-site generation on Idaho Power’s system with opportunity for public comment and participation. With the scope and design of the study having already been approved by the Commission in Case No. IPC-E-21-21³, Idaho Power is in the final stages of completing the study and anticipates submitting it for Commission review by June 2022.

² See *In the Matter of Idaho Power Company’s Application for Authority to Modify Schedule 84’s Metering Requirement and to Grandfather Existing Customers with Two Meters*, Case No. IPC-E-20-26, Order No. 34854 at 12 (Dec. 1, 2020) (“Finally, we acknowledge the comments submitted regarding the 100 kW cap and meter aggregation rules but decline to address them in this docket. There will be opportunities to address these issues during or after the forthcoming comprehensive study.”) and *In the Matter of Idaho Power Company’s Application to Initiate a Multi-Phase Collaborative Process for the Study of Costs, Benefits, and Compensation of Net Excess Energy Associated with Customer On-Site Generation*, Case No. IPC-E-21-21, Order No. 35284 at 25 (Dec. 30, 2021) (“We find that a separate docket is not necessary to study these items.”).

³ Case No. IPC-E-21-21, Order No. 35284 at 32-33.

I. BACKGROUND

1. Idaho Power supports customer choice and interest in clean energy. Under Idaho Power's on-site generation service offerings, retail customers can choose to install their own electricity-generating equipment (most commonly solar panels) at their home or business to offset some or all of their electric needs. These customers remain connected to Idaho Power's grid and are able to consume energy as needed from Idaho Power's system, and the vast majority also export energy to the grid. Customers that generate their own electricity and who wish to interconnect Exporting Systems are billed under different rate schedules as follows: Schedule 6, Residential Service On-Site Generation ("Schedule 6"), Schedule 8, Small General Service On-Site Generation ("Schedule 8"), and Schedule 84, Customer Energy Production/Net Metering Service ("Schedule 84"), which is the schedule the Company's CI&I customers take net metering service under.

2. In addition, customers that do not want their generation systems to export power to the electrical grid may interconnect their Non-Exporting System so that they consume all the energy generated on-site. These customers continue to take service under the retail rate schedule they qualify for based on the applicability of the Company's retail tariff schedules. Both Exporting and Non-Exporting Systems are subject to Schedule 68, Interconnections to Customer Distributed Energy Resources ("Schedule 68"), which applies to all systems connected in parallel and outlines the requirements and process for interconnection.

3. As of March 31, 2022, Idaho Power had 11,406 active and pending Exporting Systems under Schedules 6, 8, and 84. Collectively, these customer systems represent approximately 109 MW of total nameplate capacity.

4. When customers billed under Schedules 6, 8, and 84 generate more energy than they need and export it to the grid, they earn an energy credit for the excess energy produced. In addition to a fixed monthly service charge, the customer is billed for their net energy use, which is the amount they use minus the amount they generate over the monthly billing period. However, the circumstances that existed at the time the Company's net metering policies and practices were originally established have changed dramatically over the last two decades. As more customers began to avail themselves of on-site generation in recent years, it became clear that the compensation and pricing structure being applied does not account for the nuances of the current environment. It does not, for example, reflect the value of the bi-directional service being provided to on-site generation customers by the grid nor does it accurately reflect the value of the energy being produced. These issues impact all customers and, of paramount concern, result in cost-shifting between customers who choose to install on-site generation and those who do not.

5. In its Petition, CEO requests the Commission issue an order by October 31, 2022 that: "(1) modifies the project eligibility cap for Schedule 84 customers to 100% of a customer's maximum demand; and (2) establishes a Transition Guideline that improves predictability and stability of rates by setting a limit to the pace at which the compensation for excess energy may change for Schedule 84 customers if and when an Export Credit Rate ("ECR") is implemented."⁴ This request essentially seeks to bypass the process directed by the Commission, which is now in the final stages, with respect to CI&I

⁴ *In the Matter of Clean Energy Opportunities for Idaho's Petition for an Order to Modify the Schedule 84 100kW Cap & To Establish a Transition Guideline for Changes to Schedule 84 Export Credit Compensation Values*, Case No. IPC-E-22-12, CEO Petition at 1 (Apr. 27, 2022).

customers. While Idaho Power understands that CEO may be frustrated with the current regulatory timeline, the process is driven by the complexity of the issues and is necessary to ensure that the Commission can make a well-reasoned decision on the Company's net-metering design after receiving public input. Allowing CI&I customers to avail themselves of an expedited process would be premature, inequitable, and undermine the process as a whole. For the reasons set forth herein, the Petition should be dismissed.

II. RELEVANT PROCEDURAL HISTORY

Case No. IPC-E-17-13

6. In Case No. IPC-E-17-13, Idaho Power explained that the rates charged to net metering customers were not designed to reflect the value of the service being provided to them and that the inaccuracies in pricing could result in cost shifting between customers who choose to install on-site generation and those who do not.⁵ Idaho Power asked, inter alia, to first establish new customer classes for residential and small general service ("R&SGS") customers with on-site generation and then to subsequently establish a compensation structure for customer-owned distributed energy resources ("DER") that reflects both the benefits and costs that DER interconnection brings to the electric system.⁶ Idaho Power's ultimate goal is to ensure a service offering for customers with on-site generation that is fair-priced, scalable, and sustainable into the future.

7. In Order No. 34046, the Commission removed residential and small general service customers with Exporting Systems from Schedule 84 and created two new tariff

⁵ *In the Matter of Idaho Power Company's Application for Authority to Establish New Schedule for Residential and Small General Service Customers with On-Site Generation*, Case No. IPC-E-17-13, Application at 1 (Jul. 27, 2017).

⁶ *Id.* at 15-16.

schedules: Schedule 6 and Schedule 8.⁷ Schedule 84 continues to define the terms for CI&I customers with Exporting Systems. In order to more accurately assign the appropriate share of fixed costs and unquantified benefits of on-site generation, the Commission also directed the Company to "initiate a docket to comprehensively study the costs and benefits of on-site generation on Idaho Power's system, as well as proper rates and rate design, transitional rates, and related issues of compensation for net excess energy provided as a resource to the Company."⁸ The Commission encouraged the parties to work through these issues together in compromise.⁹

Case No. IPC-E-18-15

8. Pursuant to the Commission's request, Idaho Power initiated Case No. IPC-E-18-15 to study the costs, benefits, and compensation of net excess energy supplied by customer on-site generation.¹⁰ Subsequently, the Company, Commission Staff ("Staff"), and various stakeholders undertook a thorough, data-driven evaluation of the Company's on-site generation offering and through this collaborative process the parties were able to reach a compromise on a significant number of critical elements to the Company's on-site generation offering ("Settlement Agreement").

9. The proposed Settlement Agreement¹¹ would have changed several fundamental aspects of the Company's net-metering program. Of note, on-site generation

⁷ Case No. IPC-E-17-13, Order No. 34046 at 30-31 (May 9, 2018).

⁸ *Id.* at 31.

⁹ *Id.* at 22.

¹⁰ *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, Petition to Initiate Docket* (Oct. 19, 2018).

¹¹ Case No. IPC-E-18-15, Motion to Approve Settlement Agreement (Oct. 11, 2019).

customers' energy production and consumption would have been netted hourly instead of monthly and customers would be paid for an export credit rate for hourly net energy exported to the grid as opposed to net excess energy being compensated at a 1:1 kilowatt-hour ("kWh") credit. The Settlement Agreement envisioned R&SGS customers would transition from retail rate monthly net metering to net hourly billing at an export credit rate methodology over eight (8) years, at which time net exports would have been compensated at roughly half of the rate to consume energy.

10. In Order No. 34509, the Commission rejected the proposed Settlement Agreement. While the Commission found that the parties had acted in good faith and pursuant to Commission Rules of Procedure, the Commission found the process did not satisfy the requirements it established in Case No. IPC-E-17-13.¹² As a result, the Commission reiterated that no changes to the Company's net-metering program would be considered until Idaho Power has prepared and filed a "credible and fair study" of the costs and benefits of distributed on-site generation meeting the following criteria: (1) the study must use the most current data possible and must be readily available to the public, and in the Commission's decision-making record; (2) the Company must design the study in coordination with the parties and the public, and the Commission will determine the final scope of the study; and (3) the study must be written, so it is understandable to an average customer, but its analysis must be able to withstand expert scrutiny.¹³

11. In its Order, the Commission outlined a "study design" phase and a "study review" phase. During the "study design" phase, Staff and the Company will both "host

¹² Case No. IPC-E-18-15, Order No. 34509 at 6 (Dec. 20, 2019).

¹³ *Id.* at 9.

public workshops to share information and perspectives on net-metering program design with the public and to listen to customer concerns and input."¹⁴ In the "study review" phase, the public will have the opportunity to comment on whether the study sufficiently addressed their concerns and their opinions on what the study shows.¹⁵

12. While the study is intended to inform implementation of changes to on-site generation compensation and billing structures, the Commission's order established criteria¹⁶ to define legacy treatment for existing systems under Schedule 6 and Schedule 8. The legacy systems would be subject to the rules in place as of the service date of Order No. 34509, December 20, 2019. A legacy system is defined as either an on-site generation system interconnected with Idaho Power's system as of the service date of Order No. 34509, or a customer with a binding financial commitment to install an on-site generation system that proceeds to interconnect their system on or before December 20, 2020.¹⁷ While legacy systems operate under the terms of Schedule 6 or Schedule 8 as those Schedules existed on December 20, 2019, rates and rate structure are subject to change for legacy systems until and after legacy status terminates on December 20, 2045.¹⁸ As of March 31, 2022, there are approximately 5,300 legacy R&SGS systems interconnected to Idaho Power's system.

¹⁴ *Id.* at 9-10.

¹⁵ *Id.*

¹⁶ See Case No. IPC-E-18-15, Order No. 34509 at 14-15 and Order No. 34546 at 8-11 (Feb. 5, 2020).

¹⁷ Case No. IPC-E-18-15, Order No. 34509 at 14.

¹⁸ Case No. IPC-E-18-15, Order No. 34546 at 9.

Case No. IPC-E-20-26

13. The Company initiated Case No. IPC-E-20-26 for authorization to change Schedule 84's two-meter requirement to a single-meter requirement for new customer-generators and to establish legacy treatment for existing customer-generators under the current rules as of December 1, 2020. The Commission ultimately established criteria similar to Case No. IPC-E-18-15, to provide legacy treatment to existing Schedule 84 systems under the rules in place as of the service date of Order No. 34854, December 1, 2020.¹⁹

14. The Commission's Order Nos. 34854 and 34892²⁰ delineated between legacy systems and new systems subject to future changes informed by a comprehensive study. A legacy system is defined as either an on-site generation system interconnected with Idaho Power's system as of the service date of Order No. 34854, or a customer with a binding financial commitment to install an on-site generation system that proceeds to interconnect their system on or before December 1, 2021.²¹

15. Similar to Case No. IPC-E-18-15, the Commission determined that Schedule 84 systems that qualify for legacy treatment continue to be subject to changes in consumption rates but not to changes in the 1:1 monthly kWh retail rate compensation structure until legacy status terminates on December 1, 2045.²² As of March 31, 2022, there are approximately 390 legacy Schedule 84 systems interconnected to Idaho Power's system.

¹⁹ Case No. IPC-E-20-26, Order No. 34854 at 11.

²⁰ Case No. IPC-E-20-26, Order No. 34892 (Jan. 14, 2021).

²¹ *Id.* at 9.

²² Case No. IPC-E-20-26, Order No. 34854 at 11.

Case No. IPC-E-21-21

16. On June 28, 2021, Idaho Power applied for the Commission to initiate the multi-phase process for a comprehensive study of the costs and benefits of on-site generation as directed in Order No. 34046.²³ After considering more than 250 written public comments, oral testimony at a public hearing, and written comments filed by eleven parties to the proceeding, the Commission issued Final Order No. 35284 approving a Study Framework detailed therein. The Commission found that the Study Framework “meets our directive for a credible and fair study” and reminded Idaho Power to “use the most current data possible” that is readily available to the public and submitted to the Commission’s decision-making record.²⁴ The Commission ordered that the Company “complete the study in 2022 as soon as feasible” and indicated that “persons and parties will have another opportunity to participate during the study review phase.”²⁵ Finally, the Commission reminded stakeholders in the on-site generation industry to act with transparency when engaging with potential investors and emphasized yet again that “[a] utility’s rate schedules, including net metering program fundamentals, are subject to change . . . [and][a]s such, there is no guaranteed return on investment.”²⁶

III. ANSWER

17. Idaho Power hereby answers CEO’s Petition as follows: Idaho Power denies any allegation not specifically admitted and reserves the right to supplement

²³ Case No. IPC-E-21-21, Application (Jun. 25, 2021).

²⁴ Case No. IPC-E-21-21, Order No. 35284 at 9. See *also* Case No. IPC-E-18-15, Order No. 34509 at 9-10.

²⁵ Case No. IPC-E-21-21, Order No. 35284 at 32 and 10.

²⁶ *Id.* at 10.

and/or amend this Answer if CEO amends its Petition, or if additional defenses are ascertained during the course of discovery or otherwise.

18. Paragraph 1 provides information relating to CEO's legal status and place of business and no response is required.

19. Idaho Power has insufficient knowledge or information regarding the truth of the allegations in paragraph 2 of the Petition relating to CEO's founding and mission.

20. With respect to paragraph 3, Idaho Power admits only that it filed an Application for Authority to Proceed with Resource Procurements in Case No. IPC-E-21-41 on December 3, 2021, and that the document speaks for itself.

21. Idaho Power lacks sufficient knowledge or information regarding the truth of the allegations in paragraph 4 of the Petition and therefore denies the same.

22. With respect to paragraph 5, the Company admits only that the Commission entered Order No. 35284 in Case No. IPC-E-21-21 instructing Idaho Power to complete the study on the costs and benefits of on-site generation pursuant to the Study Framework set forth therein and that the document speaks for itself. Idaho Power denies the allegations to the extent they conflict with a plain reading of Order No. 35284.

23. With respect to paragraph 6, Idaho Power denies that an expedited process with sufficient opportunity for stakeholder review and involvement is achievable by the Fall of 2022, and further denies the remaining allegations and characterizations in paragraph 6.

24. Idaho Power denies paragraphs 7-10 of the Petition.

25. With respect to paragraph 11, the Company admits only that Commission entered Order No. 35284 in Case No. IPC-E-21-21 regarding the Study Framework and

that the document speaks for itself. Idaho Power denies the allegations to the extent they conflict with a plain reading of Order No. 35284.

26. Idaho Power denies paragraph 12, including its implication that CI&I customers do not currently have opportunities to help manage their own electricity costs and/or address the projected capacity deficit.

27. Idaho Power lacks sufficient knowledge or information regarding the truth of the allegations in paragraph 13 of the Petition and therefore denies the same.

28. Idaho Power denies the allegations in paragraphs 14-17 of the Petition. Idaho's system of public utility regulation requires financially sound and stable utility service providers to reliably serve all customers in the utility's service territory on a least cost basis. As evidenced by CEO's Petition, other parties can and do file applications and petitions for consideration by the Commission. Idaho Power does not control "the sequence and schedule in which issues are reviewed" by the Commission and the Company does not work "against the fairness to customers and the public interest."²⁷

29. With respect to paragraph 18, Idaho Power admits only that its Integrated Resource Plan ("IRP") describes the Company's projected need for additional electricity and the resources necessary to meet that need while balancing reliability, environmental responsibility, efficiency, risk and cost; that document speaks for itself. Idaho Power denies the remaining allegations and characterizations in paragraph 18.

30. The allegations of paragraph 19 appear to summarize and quote comments of Staff made in Case No. IPC-E-18-16; Staff's comments speak for themselves. The Company denies the allegations to the extent they conflict with a plain reading of the

²⁷ Case No. IPC-E-22-12, CEO Petition at 7.

comments.

31. Idaho Power denies paragraph 20 to the extent it suggests that CI&I customers do not currently have opportunities to help address the projected capacity deficit.

32. With respect to paragraphs 21-25, Idaho Power lacks sufficient knowledge or information regarding the truth of the allegations and therefore denies the same.

33. Idaho Power denies paragraphs 26-29 of the Petition.

34. With respect to paragraph 30, Idaho Power admits only that it initiated Case No. IPC-E-18-15 to study the costs, benefits, and compensation of net excess energy supplied by customer on-site generation and that the Company, Staff, and various stakeholders reached a Settlement Agreement in that case, which was ultimately rejected by the Commission. The proposed Settlement Agreement speaks for itself. Idaho Power denies the remaining allegations and characterizations in paragraph 30.

35. With respect to paragraph 31, Idaho Power lacks sufficient knowledge or information regarding the truth of the allegations and therefore denies the same.

36. With respect to paragraph 32, Idaho Power admits only that the most recent Idaho Energy Plan was developed in 2012 and speaks for itself. Idaho Power denies the allegations to the extent they conflict with a plain reading of the Plan and further denies that the Plan has the force of law.

37. Idaho Power denies paragraph 33.

38. Idaho Power lacks sufficient knowledge or information regarding the truth of the allegations in paragraph 34 of the Petition and therefore denies the same.

39. The allegations in paragraphs 35-36 are legal conclusions and require no

response. To the extent the allegations in paragraphs 35-36 purport to quote Orders of the Commission, such Orders speak for themselves, and the Commission can determine the proper weight, authority, and application of precedent to its own decisions.

40. With respect to paragraph 37, Idaho Power denies that CI&I customers should be allowed to bypass the regulatory process established in prior Commission orders.

41. The allegations in paragraphs 38-39 contain legal conclusions to which no response is required.

42. Paragraph 40 identifies contact information for CEO and requires no response by Idaho Power.

IV. MOTION TO DISMISS

A. CEO's Petition is an Impermissible Collateral Attack on a Final Order.

43. CEO's Petition represents an attempt to deviate from the process directed by the Commission and constitutes an impermissible collateral attack on Order No. 35284 in violation of Idaho law. Idaho Code § 61-625 provides: "All orders and decisions of the commission which have become final and conclusive shall not be attacked collaterally." Final orders of the Commission should be challenged either by petition to the Commission or appeal to the Idaho Supreme Court as provided by Idaho Code §§ 61-626 and 61-627.²⁸

44. The Commission entered Final Order No. 35284 directing Idaho Power to

²⁸ *Utah-Idaho Sugar Co. v. Intermountain Gas Co.*, 100 Idaho 368, 373-374, 595 P.2d 1058 (1979) ("A different rule would lead to endless consideration of matters previously presented to the Commission and confusion about the effectiveness of Commission orders.").

proceed with the comprehensive study as outlined therein on December 30, 2021.²⁹ The Commission rejected CEO's proposal to evaluate the CI&I project eligibility cap as soon as possible in a separate docket, "find[ing] that a separate docket is not necessary to study these [eligibility cap] items."³⁰ Pursuant to Idaho Code § 61-626, any party or interested person or entity wishing to challenge any matter decided in the order could do so by filing a petition for reconsideration within twenty-one (21) days. No one did so, and as a result, the Order became final and conclusive as of January 21, 2022.

45. Notably, even if one assumes *arguendo* that the information disclosed in Case No. IPC-E-21-41 filed by Idaho Power on December 3, 2021³¹, justifies deviation from the process ordered by the Commission, as CEO indicates in its Petition, CEO could have raised that issue via a petition for reconsideration. Though CEO had ample notice of this issue before the time for challenging the order had expired, it did not seek to have the Commission reconsider the process or timeframe in light of Case No. IPC-E-21-41. Its attempt to do so through a new docket with a requested order by October 31, 2022 – likely before the study review case has been fully processed – is improper and should be dismissed.

B. CEO's Petition is Redundant and Premature.

46. This docket is redundant and improperly seeks to bypass a process that the Commission has repeatedly determined is necessary. As demonstrated by the

²⁹ Case No. IPC-E-21-21, Order No. 35284 at 32-33.

³⁰ *Id.* at 25.

³¹ *In the Matter of Idaho Power Company's Application for Authority to Proceed with Resource Procurements to Meet Identified Capacity Deficiencies in 2023, 2024, and 2025 to Ensure Adequate, Reliable, and Fair-Prices Service to Its Customers*, Case No. IPC-E-21-41, Application for Authority to Proceed with Resource Procurements (Dec. 3, 2021).

Commission's rejection of the proposed Settlement Agreement in Case No. IPC-E-18-15, a truncated, expedited process is insufficient: "This Order sets clear expectations the Company must meet before we will evaluate future proposed changes to the Company's net-metering program."³² The Commission was unequivocal - the comprehensive study is a condition precedent to any consideration of programmatic changes:

[T]he Company shall submit a comprehensive study of the costs and benefits of net metering to the Commission before any further proposals to change the Company's net-metering program. This study shall incorporate public feedback and concerns in the design and review of the study, including public workshops and public comments on the record.³³

47. The Commission's requirement is a testament to the importance and complexity of the matters at issue. Changes such as those sought by CEO cannot be made in a vacuum and ultimately must be carefully evaluated in the context of the other programmatic changes being considered. Project eligibility caps, for example, limit cost-shifting and subsidies, and therefore, any changes should be data driven and with full understanding of the impact that removal could have on customer rates and rate design.

48. Rather than see the process through to its conclusion, CEO has asked the Commission to open a new docket deviating from the process directed by the Commission, the redundancy of which distracts from these issues' ultimate resolution. In Case No. IPC-E-21-21, CEO proposed a separate docket to address changes to the CI&I project eligibility cap and the Commission declined to do so in Order No. 35284.³⁴ Idaho Power is moving forward expeditiously with its data analysis and anticipates filing its study

³² Case No. IPC-E-18-15, Order No. 34509 at 12.

³³ *Id.* at 17.

³⁴ Case No. IPC-E-21-21, Order No. 35284 at 25.

in late June 2022.

49. The Commission should dismiss CEO's attempt to bypass the multi-phase study process it has directed. The relief sought in CEO's Petition will be more properly addressed in the forthcoming study review and implementation phases.

C. CEO's Request is Based on an Uncertain and Faulty Premise.

50. CEO's justification of the need to escalate on-site generation program changes for CI&I customers is that there is an urgent need to add generation resources by Summer of 2023. Relying on comments from Idaho Power irrigation customers, CEO concludes that if certain impediments to on-site generation were removed, more irrigation customers could install solar generation "and thereby assist in reducing the anticipated capacity shortfall. . ." ³⁵ Whether irrigation customers would ultimately avail themselves of Schedule 84 and could secure photovoltaic panels is an uncertain prediction. Current supply chain constraints for renewable energy equipment and components, combined with extended tariffs and the current federal investigation related to non-domestic solar panel components, could impact construction timelines and the commercial operation date for new renewable projects. Moreover, even assuming *arguendo* that CEO's prediction came true, it would not address the capacity shortfall in a meaningful way. Idaho Power conducted an extensive investigation to identify the least-cost, least-risk method of meeting the capacity deficit, including evaluation of several alternative options, and ultimately determined that dispatchable battery storage was the best solution to meet peak summer demand and is currently seeking Commission approval to acquire this

³⁵ Case No. IPC-E-22-12, CEO Petition at 6.

resource.³⁶ Consequently, the possible addition of non-firm, non-dispatchable energy sources, as proposed by CEO, does not represent a “solution to this imminent capacity shortfall”³⁷ that Idaho Power can rely on to address the anticipated capacity deficit.

51. Certainly, Idaho Power appreciates that there may be irrigation customers that wish to help address the projected capacity deficit, and fortunately, opportunities currently exist for them to do so. CI&I customers can continue to offset their own consumption and export net energy to the grid pursuant to Schedule 84, but they may also consider selling their renewable energy as a Qualified Facility to Idaho Power under Schedule 86, Cogeneration and Small Power Production Non-Firm Energy. Additionally, the Irrigation Peak Rewards program is currently open and accepting applications in advance of summer 2022 for those customers interested in a financial incentive for allowing Idaho Power to remotely turn off specific irrigation pumps a minimum of three times during the program season.

V. PUBLIC COMMENTS

52. Idaho Power appreciates the public comments that have been submitted to date in relation to CEO’s Petition. The Company understands the concerns raised in some of the comments over the uncertainty implicit in the status quo. History has demonstrated that an expedited approach to such a broad and complex issue is insufficient; the problem is simply not susceptible to a hasty solution. In Order No. 34854, the Commission clarified to potential CI&I customer-generators that the program fundamentals are undergoing a

³⁶ *In the Matter of Idaho Power Company’s Application for a Certificate of Public Convenience and Necessity to Acquire Resources to be Online by 2023 to Secure Adequate and Reliable Service to its Customers*, Case No. IPC-E-22-13, Application for a Certificate of Public Convenience and Necessity (Apr. 29, 2022).

³⁷ Case No. IPC-E-22-12, CEO Petition at 6.

comprehensive review and are likely to change. The Commission acknowledged that while it may be difficult for potential customer-generators to determine their likely return on investment without knowing the details of the successor program, it reinforced that tariffs are not contracts and as such, there is no guaranteed return on investment.³⁸

53. The piecemeal approach proposed in the Petition will inevitably lead to inequities. Essentially, the Petition is seeking to expand subsidies to a limited number of customer classes by (1) providing an immediate ongoing application of 1:1 kWh crediting that the Commission has already signaled should be changed, and (2) lifting a cap that, in part, mitigates potential cost-shifting to other customers. To make these changes without addressing the broader program structure would be inequitable and will negatively impact the process as a whole.

54. Idaho Power recognizes the desire for certainty and, to that end, will file the study by June 30, 2022, so that the Commission can proceed with processing the study review phase and have an opportunity to make decisions for implementation as soon as December 2022. Idaho Power contends that the study review phase and an implementation phase adopting a solution that is equitable, applicable to all customers classes, and relies on stakeholder and public input to inform the outcomes will provide the desired certainty for all non-legacy customer-generators through the comprehensive study and implementation process previously directed by the Commission.

³⁸ Case No. IPC-E-20-26, Order No. 34854 at 10.

VI. COMMUNICATIONS AND SERVICE OF PLEADINGS

55. Service of pleadings and communications with reference to this case should be sent to the following:

Lisa D. Nordstrom
Megan Goicoechea Allen
IPC Dockets
1221 West Idaho Street (83702)
P.O. Box 70
Boise, ID 83707
lnordstrom@idahopower.com
mgoicoecheaallen@idahopower.com
dockets@idahopower.com

Connie Aschenbrenner
Grant Anderson
1221 West Idaho Street (83702)
P.O. Box 70
Boise, ID 83707
caschenbrenner@idahopower.com
ganderson@idahopower.com

VII. CONCLUSION

56. When parties to Case No. IPC-E-20-26 recommended changes to Schedule 84's 100 kW project eligibility cap, the Commission declined to address them in that docket stating, "There will be opportunities to address these issues during or after the forthcoming comprehensive study."³⁹ Additionally, in responding to Sierra Club's request to clarify whether the project size limits would be subject to change, the Commission reiterated: "The work done in this docket can and should be built upon in the next docket."⁴⁰ Therefore, Idaho Power respectfully requests that the Commission dismiss CEO's Petition and allow the study and implementation process to continue as directed before implementing partial changes for or offering transitional guidance to Schedule 84 participants.

³⁹ Case No. IPC-E-20-26, Order No. 34854 at 12.

⁴⁰ Case No. IPC-E-20-26, Order No. 34892 at 9 (citing Case No. IPC-E-18-15, Order No. 34509 at 7).

Dated at Boise, Idaho, this 18th day of May 2022.

Lisa D. Nordstrom

LISA D. NORDSTROM
Attorney for Idaho Power Company

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 18th day of May 2022 I served a true and correct copy of the within and foregoing ANSWER AND MOTION TO DISMISS upon the following named parties by the method indicated below, and addressed to the following:

Commission Staff

Riley Newton
Idaho Public Utilities Commission
11331 W. Chinden Blvd., Bldg No. 8,
Suite 201-A (83714)
PO Box 83720
Boise, Idaho 83720-0074

Hand Delivered
 U.S. Mail
 Overnight Mail
 FAX
 Email: Riley.Newton@puc.idaho.gov

Clean Energy Opportunities for Idaho

Kelsey Jae
Law for Conscious Leadership
920 N. Clover Dr.
Boise, ID 83703

Hand Delivered
 U.S. Mail
 Overnight Mail
 FAX
 FTP Site
 EMAIL kelsey@kelseyjae.com

Stacy Gust

Stacy Gust, Regulatory Administrative
Assistant