

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF CLEAN ENERGY ) CASE NO. IPC-E-22-12**  
**OPPORTUNITIES FOR IDAHO’S PETITION )**  
**FOR AN ORDER TO MODIFY THE )**  
**SCHEDULE 84 100kW CAP & TO ) ORDER NO. 35547**  
**ESTABLISH A TRANSITION GUIDELINE )**  
**FOR CHANGES TO SCHEDULE 84 EXPORT )**  
**CREDIT COMPENSATION VALUES )**  
**)**

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On April 28, 2022, Clean Energy Opportunities for Idaho (“CEO”) petitioned (the “Petition”) the Commission for an order modifying the project eligibility cap for Schedule 84 customers and establishing a Transition Guideline for Schedule 84 customers “if and when an Export Credit Rate (“ECR”) is implemented.” Petition at 1. CEO further requested that the order be issued by October 31, 2022.

On May 18, 2022, Idaho Power Company (“Company” or “Idaho Power”) filed an Answer, and Motion to Dismiss CEO’S Petition (“Motion”).

On June 1, 2022, CEO filed a response (“Response”) to the Company’s Motion.

At the June 14, 2022, Decision Meeting, the Commission established a 21-day public comment deadline directing interested parties to address whether to grant the Petition and set a procedural schedule to further process the case or, conversely, whether to grant the Company’s Motion and dismiss the Petition. The Commission established a 28-day deadline for CEO to respond.

On July 19, 2022, the Commission Staff (“Staff”) and the Company submitted comments. Twenty-six public comments were also received.

On July 26, 2022, CEO submitted reply comments. With this Order, as articulated below, we grant the Company’s Motion and dismiss CEO’s Petition.

**BACKGROUND**

The Company’s Schedule 84 governs electric service to commercial, industrial, and irrigation (“CI&I”) customers. In general, a CI&I customer taking service under Schedule 84 can generate electricity to meet its demand and transfer or “export” any excess electricity not needed to meet its demand back to the Company’s system in exchange for an energy credit. However, service under Schedule 84 is not available to a customer who owns and operates a generation

facility with a total nameplate capacity of 100 kilowatts (“kW”) or more. *See* Schedule 84—Customer Energy Production Net Metering Service, Sheet No. 84-1-2. The Company’s Schedule 68 governs interconnections to customer distributed energy resources.

In Order No. 34854, in Case No. IPC-E-20-26, the Commission stated, “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.” Order No. 34854 at 12.

In Case No. IPC-E-21-21 the Commission ordered the Company to complete “a study design for its [c]omprehensive study on the costs and benefits of on-site generation . . . .” Order No. 35284 at 32. While the Commission declined to create a separate docket to analyze the on-site generation cap for CI&I customers under Schedule 84, the Commission found it reasonable for the Company’s study to expand its analysis to include on-site generation up to 125% of a customer’s demand. *Id.* at 25.

On June 30, 2022, in Case No. IPC-E-22-22, the Company filed the Value of Distributed Energy Resources Study (“Study”) which it asserted complied with the Commission’s directive to the Company in Case No. IPC-E-21-21 to complete a comprehensive study. The Company requested the Commission: “(1) establish a formal process for the public and other parties to comment on the Study, and (2) issue an order declaring that the Study complies with previous Commission directives and directing modifications to the Company’s on-site generation service offerings.” Case No. IPC-E-22-22, Application at 2. The intervention period in that case expired on August 4, 2022. CEO intervened in Case No. IPC-E-22-22<sup>1</sup>

### CEO’S PETITION

CEO’s Petition focused on the interests of agribusiness customers who CEO alleged “typically make large investment decisions in the fall, after the harvest, when cash flow and tax exposures are more clear.” Petition at 3. CEO’s Petition requested the Commission increase the project eligibility cap for Schedule 84 Customers from 100 kW to 100% of a customer’s maximum demand. *Id.* at 1, 5-6, and 8. CEO further requested the Commission establish “Transition Guidelines” to set a stable and predictable ECR when such a rate is implemented. *Id.* at 1. CEO stated that implementing a transition guideline would reduce risk to investors, help agribusiness

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<sup>1</sup> The Idaho Conservation League, and the City of Boise City, among others, are intervenors in Case No. IPC-E-22-22. Order Nos. 35472 and 35493.

customers make better informed decisions, and encourage investment in generating resources. *Id.* at 3.

CEO argued it was appropriate to open a new case independent from existing Case No. IPC-E-22-22 which requires Commission acknowledgement of the Study prior to implementing any changes to the Company's net metering program. *See Id.* at 3; Order No. 35284 at 5-6,7, 9, and 32. In support of this conclusion, CEO advocated that lifting the project eligibility cap under Schedule 84 in an expedited process would allow agribusiness customers to make investment decisions in the fall and encourage additional investments in generating assets that would help address the Company's identified 2023 summer capacity deficit—an outcome that would not be possible if changes to the cap were implemented exclusively in the framework of Case No. IPC-E-22-22. *Id.*

CEO further contended that, because the Company announced in its Application in Case No. IPC-E-21-41, filed three days after the comment period closed in Case No. IPC-E-21-21, that the Company would be capacity deficient by the Summer of 2023, the Commission's directive to the Company to complete the Study prior to implementing changes to its net metering program did not consider such deficiency. *Id.* at 3. CEO further argued that Order No. 35284 directed the Company to analyze the 25 kW, 100 kW, and 125% of customers' demand cap, and did not prohibit a separate docket to consider a cap of 100% of customer's demand. *Id.* at 5.

CEO made additional policy arguments that opening a separate docket to increase the project eligibility cap and set a transition deadline would facilitate investment in customer-owned generation, was in the public interest, and balanced the competing interests of the Company and its customers.

### **IDAHO POWER'S ANSWER AND MOTION TO DISMISS**

The Company responded that to allow CEO "to avail themselves of an expedited process would be premature, inequitable, and undermine the process as a whole." Motion at 2. The Company pointed out that the Commission had twice declined to address the issue of lifting the eligibility cap under Schedule 84 outside of the process established by the Commission in Order Nos. 34854 and 35284. *Id.* at 1-2. The Company also asserted that CEO could have petitioned the Commission to reconsider its finding in Order No. 35284 regarding the project eligibility cap based on the Company's new capacity deficiency date disclosed in IPC-E-21-41. *Id.* at 15. The Company reiterated the multi-phase Study process ordered by the Commission was the best process to ensure

that all customers and customer classes were treated equitably and mitigate any potential cost-shifting.

In sum, the Company argued that CEO's Petition was: (1) an impermissible collateral attack on Order No. 35284; (2) redundant and premature based on the Company's stated plan to file its net-generation Study in late June 2022;<sup>2</sup> and (3) based on the uncertain and faulty premise that removing the project eligibility cap under Schedule 84 would encourage customers to add additional generation that would meaningfully address the Company's anticipated capacity shortfall. For these reasons, the Company requested the Commission dismiss CEO's Petition.

### **CEO's RESPONSE**

In response to the Company's Motion, CEO stated that its Petition: (1) did not seek to modify a previous order; (2) was beneficial and outweighed any potential harm; (3) and was necessary so the Commission could act on behalf of the Company's customers and counteract the Company's inaction. Response at 4, 7, and 14.

CEO countered that its Petition did not seek to modify Order No. 35284 because it requested a Commission study in "parallel" with the Study review phase contemplated by that Order and previous orders and was a new request to "implement a change to a system design parameter." *Id.* at 6. CEO argued its Petition proposed "a targeted solution to a targeted issue that CI&I customers have been requesting for far too long." *Id.*

CEO argued that its Petition was beneficial overall because it served the public interest by allowing CI&I customers a fair opportunity to add resources that would reduce fixed cost additions by the Company and overall system demand, and increase grid reliability and allow "Idaho agribusinesses customers to capture time-sensitive 2022 federal tax and incentive program funds." *Id.* at 8. CEO contended that the Company's argument that the addition of resources by CI&I customers would not meaningfully address the 2023 capacity shortfall did "not provide evidence of harm to public interest and [did] not justify dismissing the Petition." *Id.*

CEO further argued that the current 100 kW cap added unnecessary costs and was harmful and discriminatory because it discouraged CI&I customers from installing generating resources, treated CI&I customers different from residential generating customers who are governed by the 25 kW cap, and was inconsistent with utility best practices.

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<sup>2</sup> See Case No. IPC-E-22-22 filed on 6/30/2022.

CEO replied that previous orders did not address the establishment of a transition guideline like CEO proposed, that its proposed Transition Guideline built on previous dockets, and was “additive and informative to customers.” *Id.* at 11.

CEO reiterated that Idaho irrigation customers would benefit from implementing the changes described in its Petition, that the Company had failed to address customer concerns brought up in previous cases regarding the 100 kW cap and that the Company’s Motion’s arguments did not give adequate weight to customer concerns.

## **THE COMMENTS**

### **A. Staff**

Staff recommended the Commission grant the Company’s Motion. Staff noted that CEO’s Petition addressed two issues already included within the framework of Study—the Eligibility Cap and ECR Transition Guidelines.

#### **I. Eligibility Cap**

Staff did not support CEO’s proposed changes to the eligibility cap for Schedule 84 customers outside of the Study process in Case No. IPC-E-22-22. Staff stated that “CEO’s proposal to use an expedited process through this docket is unlikely to result in incremental capacity in time to meet the 2023 summer capacity deficiency” because of the time it would take to evaluate how raising the cap would impact the Company’s system and the current extended equipment order lead-times. Staff Comments at 3. Staff believed that “[c]onducting the [S]tudy and planning for implementation holistically through the . . . Study process will likely result in a better outcome and could prevent unintended consequences that could occur if CEO’s Petition is granted.” *Id.* Staff also believed that “Schedule 84 customers can choose to add generation not subject to the 100-kW cap as Public Utility Regulatory Policies Act of 1978 (“PURPA”) projects or non-exporting projects.” *Id.*

#### **II. ECR Transition Guideline**

Staff did not support establishing a Transition Guideline outside of the Study process. Staff believed that examining a transitional rate outside of the Study violated Commission Order No. 34509. Staff also believed that implementing a transitional rate without a known ECR, which would be developed in the Study, was futile and violative of Order No. 35284. Last, Staff believed the precedent question of whether there is a need for transitional rates should be answered in the Study before a transition plan is implemented.

## **B. The Company**

The Company replied that it was committed to supporting local businesses, including agribusiness, and customers' clean energy choices and that, as an alternative to receiving an Export Credit, CI&I customers could generate their own electricity through a non-exporting system or as a qualifying facility under PURPA. Company Comments at 2.

The Company explained that CEO's concerns were within the scope of the Study. Specifically, the Company noted that Section nine of the Study addressed the project eligibility cap for CI&I customers.

The Company specifically replied that CEO's arguments misstated or mischaracterized facts and previous Commission directives, were based on mistaken premises, or disregarded the Commission's specific directives in its previous orders.

The Company explained that implementing CEO's proposed transition guidelines without considering data informed by the Study was premature and violative of Commission precedent.

The Company replied that the Commission had previously declined CEO's request to address the project eligibility cap outside of the Study process. The Company further replied that, contrary to CEO's suggestion, customer generation did not offer a solution to meet its imminent capacity deficiencies.

The Company generally asserted that the positions put forth in the public comments of Idaho Conservation League ("ICL"), the City of Boise City ("Boise City"), and other organizations and individuals misstate facts, reiterate positions put forth in CEO's Petition, or disregarded previous Commission directives that issues relating to net-generation under Schedule 84 should be evaluated in the context of the Study. *Id.* at 15-18.

## **C. The Public**

Twenty-six public comments were received from individuals commenting as individuals or on behalf of various types of organizations. Of all these commenters only one—the Idaho Irrigation Pumpers Association, Inc.—supported examining the issues raised by CEO's Petition in the context of the Study rather than through a separate case. Generally, the other 25 commenters objected to the 100 kW cap and requested that the Commission allow them to increase the size of systems to 100% of a customer's maximum demand. Further, many wished to mitigate against future energy costs by being able to install larger systems. The Idaho Farm Bureau Federation ("Farm Bureau") asserted that the agriculture industry was "facing power cost increases in addition

to rising input costs” motivating some of them to find ways to reduce those costs with on-site generation. Farm Bureau Comments, dated May 13, 2022. Some argued that farmers could be a solution to address the Company’s 2023 capacity deficiencies and their added generation could benefit Idaho rate payers.

#### **D. CEO Reply**

In its Reply Comments, CEO requested the Commission: (1) grant its request to implement a modified Schedule 84; (2) grant its request for a technical workshop; and (3) dismiss its previous request for a Transition Guideline.

CEO noted the strong public support for its Petition, including from Idaho farmers whose operations depend on electricity supplied by the Company. CEO argued there were deficiencies in the Study and that technical issues related to modifications to Schedules 68 and 84 could timely be addressed by conducting facilitated discussions through technical workshops held this year. CEO Reply Comments at 5. Specifically, CEO requested that the Commission order Staff to: “facilitate technical workshops within [this case] open to interested parties in order to (a) interactively discuss issues and options for modifying the Schedule 84 system size cap, and (b) draft associated revisions to Schedules 84 and 68.” *Id.* CEO further recommended that “[t]he workshops should specifically consider, but not be limited to: a system size cap set according to a customer’s demand . . . [and] a tiered approach of absolute levels, with rules specific to each level, starting at 0 to 1000kW and comparable to Model Interconnection Procedures.” *Id.* CEO asserted that its proposed technical workshops should be held on October 12, 2022, or early enough to inform parties’ recommendations in Case No. IPC-E-22-22. *Id.*

CEO further requested that any revisions to Schedules 84 and 68 resulting from the technical workshops either be implemented via a final order in this case or a final order in Case No. IPC-E-22-22 for which the Company proposes a target date of December 30, 2022. *Id.* at 6.

CEO replied that Idaho state policy supports proceeding expeditiously in modifying the 100 kW cap. *Id.* at 9. CEO responded that granting its Petition would not open the door to other proposals to implement other items within the Study outside of Case No. IPC-E-22-22 because its Petition only dealt with a “technical design parameter” rather than a compensation matter (addressed by Case No. IPC-E-22-22) or a rate matter addressed in a rate case. *Id.* at 9-10. CEO argued that it was fair and equitable to address the 100 kW cap in its Petition in this case and that residential customers that have a 25 kW cap would not be harmed by doing such. *Id.* at 10-11.

CEO contended that the longer the 100 kW cap stayed in place, the more customers would be harmed and be deprived the opportunity to benefit from adding additional generating resources. *Id.* at 11-13. CEO averred that non-export credit options and PURPA did not provide a viable alternative to the 100 kW cap. As to the non-exporting credit option, CEO replied that, outside the growing season, Schedule 84 customers expect to export to the Company's system. *Id.* at 13-14. Regarding the PURPA option, CEO responded that, unlike PURPA projects, a Schedule 84 customer's system, is not designed to sell power and capacity to a utility. *Id.* CEO averred that its Petition did not conflict with previous Commission orders because it only concerned the Study review phase. *Id.* at 14. Finally, CEO replied that deficiencies in the Study prevented the "Study Review" phase from adequately addressing modification of the 100 kW cap. *Id.* at 15.

### **FINDINGS AND DECISION**

The Company is an electric utility subject to the Commission's regulation under the Public Utilities Law. *Idaho Code* §§ 61-119 and -129. The Company's rates, charges, classifications, and contracts for electric service in the State of Idaho are subject to the Commission's jurisdiction. The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-501, -502, and -503. The Commission is empowered to investigate rates, charges, rules, regulations, practices, and contracts of public utilities and to determine whether they are just, reasonable, preferential, discriminatory, or in violation of any provision of law, and to fix the same by order. *Idaho Code* §§ 61-502 and -503.

We have reviewed the record in this case, including CEO's Petition, Response, and Reply Comments, the Company's Motion, Answer, and comments, Staff's comments, and the public comments, including ICL and Boise City.

We appreciate CEO's interest in helping to facilitate Idaho irrigation customers' on-site generation projects. We also appreciate the comments of Idaho agribusiness, individuals, and interested organizations. We understand that net-metering customers, including Schedule 84 customers, and other parties taking service under the Company's various net-metering schedules, are eager for a Commission determination on the issues related to the costs and benefits of net-metering. We also understand and acknowledge the interests of current and aspiring net-generation customers in certainty regarding the rates and parameters of the Company's net-generation program going forward. As the Commission continues to review and evaluate these matters we encourage interested parties to continue to participate in proceedings involving these issues.



In this case we find that granting CEO’s request to implement a modified Schedule 84 would be inconsistent with our previous orders and premature. In 2019, we ordered the Company to file a “credible and fair study” so the Commission could “make a well-reasoned decision on the Company’s net-metering program design.” Order No. 34509 at 9. This directive was in response to the Company’s Petition 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.”<sup>3</sup> In Case No. IPC-E-21-21, we approved a study framework that we found met our directive in Order No. 34509 and ordered the Company to complete the Study in 2022. Order No. 35284 at 9 and 32. In that case, the Commission responded to CEO’s request that the Commission evaluate changes to the CI&I cap in a separate docket:

We find that a separate docket is not necessary to study these items. The Company has the necessary data and expertise to provide a thorough evaluation of the 25 kW and 100 kW predetermined caps through this study. We also find it reasonable to expand the analysis at 125% of customers’ demand. The analysis of the project eligibility cap should also include an evaluation of concerns previously echoed in Order No. 28951 and Order No. 29094, such as safety, service quality, and grid reliability.

Order No. 35284 at 25.<sup>4</sup> CEO did not seek reconsideration of that finding.

The Company has now filed the Study, and Staff and intervenors—including CEO—are participating in the discovery process and filing written comments assessing the Study. On August 22, 2022, the Commission issued a Notice of Schedule, Notice of Workshops and Notice of Comment Deadlines setting dates for public informational workshops and comment deadlines and directing the parties to work together to propose a minimum of two customer hearing times and dates to present to the Commission for its consideration. Order No. 35512. Ultimately, the Commission will determine whether the Study satisfies our directive in Order No. 35284 and then consider the Company’s implementation proposals. To process CEO’s Petition outside of Case No. IPC-E-22-22 would conflict with our previous determination that a fair and credible study must be established before the Commission considers any proposed change to its net-metering programs. A fully developed record in Case No. IPC-E-22-22 containing comments and analysis

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<sup>3</sup> *In the Matter of Idaho Power Company’s Application to Study the Costs, Benefits, and Compensation of Net Excess Energy Supplied by Customer On-Site Generation*, Case No. IPC-E-18-15, Application at 1 (Oct. 19, 2018) (citing Order No. 34046).

<sup>4</sup> *See also* Order No. 34854 at 12.

from Staff, the Company, Intervenors and the public will greatly assist the Commission in reaching well informed decisions about the terms and conditions of the Company's entire net metering program which includes Schedule 84 customers.

We understand that irrigators taking service under Schedule 84 would like an order in time to make planning and financial decisions this fall. On the other hand, exploring changes and implementation recommendations for Schedule 84 and all other net-metering schedules in the context of the Study provides a framework and a process that allows for a comprehensive and final decision on the issues affecting every net-metering customer. We find that the desire of one class of net-metering customers to have a more expeditious decision does not warrant us abandoning the process we put forward in Case No. IPC-E-21-21.<sup>5</sup> Further, the efficient management of the issues in Case No. IPC-E-22-22 dictates minimizing the possible duplication of effort that could occur if this case were to continue.

In addition, we are unconvinced that even if we were to issue an order implementing a modified Schedule 84 as proposed in this case, it is uncertain at best whether Schedule 84 customers would add resources that meaningfully address the Company's 2023 capacity deficiency. We note there are many complexities and various lead times associated with installing additional customer generating assets under Schedule 84 which may not permit CEO's proposed modifications to have the immediate impacts to the Company's capacity deficiency it suggests.

We are also unpersuaded by CEO's argument that granting its Petition would not open the door to implementing other items in the Study outside of Case No. IPC-E-22-22 because of CEO's assertion that its Petition only deals with a "technical design parameter" rather than a compensation matter (addressed by Case No. IPC-E-22-22) or a rate matter addressed in a rate case. CEO Reply Comments at 9. CEO states that, "[i]rrigator-owned generation . . . inherently results in exports outside of the growing season." *Id.* at 13. It follows that, if the 100 kW cap is lifted and Schedule 84 customers increase their system's size, even more energy would be exported "outside of the growing season." *Id.* Invariably, Schedule 84 customers would seek compensation for energy exports in excess of 100 kW. As such, we do not believe that enlarging the 100 kW cap is exclusively a technical design parameter that does not have an impact on customer rates or

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<sup>5</sup> CEO does not cite any statute, regulation, or other legal authority for its assertion that tax incentives associated with solar energy investments will decline in 2023 for Schedule 84 customers. Petition at 3. We note, however, that a facial reading of the recently passed Inflation Reduction Act of 2022 indicates that the eligibility deadline for tax credits for certain qualifying solar projects has been extended. *See* Inflation Reduction Act of 2022, Pub. L. No. 117-169, (2022).

compensation.

We are cognizant of Schedule 84 customers' desire for a stable and predictable export credit rate, and we applaud their stated efforts to offset their energy costs and reduce electricity demand. The Study in Case No. IPC-E-22-22 provides an opportunity for the Company, the parties, and customers to provide input they believe is important to consider. CEO—as an intervenor in Case No. IPC-E-22-22—can address both the Company's assessment of the Schedule 84 eligibility cap and implementation of any changes to the project eligibility cap. Based on the forgoing reasons, we decline CEO's Petition's request to implement a modified Schedule 84 cap in the current case.

CEO's Petition also requests the Commission order "Staff to facilitate technical workshops" to be "complete in time to inform parties submitting recommendations in IPC-E-22-22." *Id.* at 5. While we decline CEO's request to order Staff to facilitate technical workshops because of CEO's Petition, we encourage Staff, CEO, the Company, and interested parties in Case No. IPC-E-22-22 to continue to communicate and, if necessary, meet and discuss specific technical issues and options relating to modifications to the Schedule 84 cap and associated revisions to Schedules 84 and 68 in a meeting between the parties.

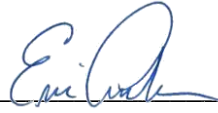
Based on the foregoing, the Commission dismisses CEO's Petition.

### **ORDER**

IT IS HEREBY ORDERED that CEO's Petition is dismissed as discussed above.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order regarding any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 30<sup>th</sup> day of September 2022.



ERIC ANDERSON, PRESIDENT

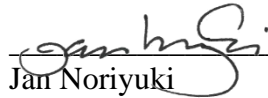


JOHN CHATBURN, COMMISSIONER



JOHN R. HAMMOND JR., COMMISSIONER

ATTEST:



Jan Noriyuki  
Commission Secretary

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