

## DECISION MEMORANDUM

**TO:** COMMISSIONER ANDERSON  
COMMISSIONER CHATBURN  
COMMISSIONER HAMMOND  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL

**FROM:** RILEY NEWTON  
DEPUTY ATTORNEY GENERAL

**DATE:** JUNE 14, 2022

**SUBJECT:** 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.

On April 28, 2022, Clean Energy Opportunities for Idaho (“CEO”) petitioned the Commission for an order that: “(1) modifies the project eligibility cap for Schedule 84 customers to 100 percent 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 is implemented.” Petition at 1. CEO further requested the order to be issued by October 31, 2022. Twelve public comments were filed in support of the Petition.

On May 18, 2022, Idaho Power Company (“Company”) 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.

### 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.

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, in Order No. 35284, 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 percent of a customer’s demand. *Id.*

### **CEO’S PETITION**

CEO’s Petition focuses on the interests of agribusiness customers (irrigation customers) who “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 requests the Commission increase the project eligibility cap for Schedule 84 Customers from 100 kW to 100 percent of a customer’s maximum demand. *Id.* at 1, 5-6, and 8. CEO further requests the Commission establish “Transition Guidelines” to set a stable and predictable Export Credit Rate when such a rate is implemented. CEO states that implementing a transition guideline will reduce risk to investors, help agribusiness customers make better informed decisions, and encourage investment in generating resources. The transition guideline CEO proposes is as follows:

For 2023 and 2024, the credit received by Schedule 84 customers for net excess generation (exports) will be not less than the current 1:1 kWh credit or a Blended Base Energy Rate. The Blended Base Energy Rate, which represents an average retail rate, is equal to the total revenue to be collected through the base energy charges for each respective class divided by the total forecasted annual energy for each respective class (as defined in IPC-E-18-15 Settlement Agreement at 4).

Starting in 2025, if an Order has been issued to implement a change in the value at which exports are credited for Schedule 84 customers to be different than the current 1:1 kWh credit, and if that value is lower than a 1:1 kWh credit or the Blended Base Energy Rate, then the value at which exports are credited would decline by no more than 15% in 2025 and by no more than 15% over each

subsequent two-year period until the value is at the level of the export credit value determined to be most current at that time.

*Id.* at 9-10. CEO argues it is appropriate to open a new docket independent from the docket under which the Company plans to complete a study on the cost and benefits of net-generation, provide that study for the public to review, then wait for the Commission acknowledgement of its study prior to implementing any changes to components of its net metering program. *See Id.* at 3; Order No. 35284 at 5-6,7, 9, and 32. In support of this conclusion, CEO advocates that lifting the project eligibility cap under Schedule 84 in an expedited process that will allow agribusiness customers to make investment decisions in the fall will encourage additional investments in generating assets that will help address the Company's capacity deficit beginning Summer 2023.

CEO avers that a Commission order on CEO's Petition in this case will come earlier than any order issued after the Company completes its net-generation study and implements changes to its net-metering schedules based on the results of that study. CEO claims that, under the current timeline discussed in Case No. IPC-E-21-21, it will be too late for CI&I customers (i.e., agribusinesses) to decide to install generating resources if such a decision depends on a Commission order that follows the Company's submission of its filed study, a public review of that study, and an application to implement changes to the Company's net generation program based on that study.

The Company's deficiency case indicating a capacity deficit by summer of 2023 was filed three days after the comment period closed in Case No. IPC-E-21-21; therefore, CEO contends that the Commission's directive to the Company to complete a study prior to implementing changes to its net metering program did not consider that the Company would be capacity deficient by 2023. Further, CEO argues that Order No. 35284 directed the Company to analyze the 25 kW, 100 kW, and 125 percent of customers' demand cap, but that it did not prohibit the creation of a separate docket to consider and implement a cap at 100 percent of customers' demand. Petition at 5.

In addition, CEO makes the policy arguments that opening a separate docket to increase the project eligibility cap and set a transition deadline will facilitate investment in customer-owned generation, is in the public interest, and balances 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 “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 has 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 at 12, and 35284 at 25. To CEO’s general argument that the parties and the Commission lacked sufficient information in Case No. IPC-E-21-21 because the Company’s new capacity deficiency date was not revealed until after the comment period closed, the Company pointed out that CEO could have petitioned the Commission to reconsider its finding in Order No. 35284 regarding the project eligibility cap based on the new information but did not. Motion at 15. The Company reiterated that the study review and implementation phase previously ordered by the Commission was the best process for ensuring that all customers and customer classes were treated equitably, and cost-shifting would be mitigated.

In sum, the Company argued that CEO’s Petition was: (1) an impermissible collateral attack on Order No. 35284 in Case No. IPC-E-21-21; (2) redundant and premature based on the Company’s stated plan to file its net-generation study in late June 2022; and (3) based on the uncertain and faulty premise that removing the project eligibility cap under Schedule 84 would encourage customers to add additional solar 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) does not seek to modify previous order; (2) is beneficial and granting its requests outweighed any harms; (3) and is necessary so the Commission can act on behalf of the Company’s customers and counteract the Company’s inaction. Response at 4, 7, and 14.

CEO argued that its Petition does not modify Order No. 35284 because it requests a Commission study in “parallel” with the study review phase contemplated by that Order and previous orders and is a new request to “implement a change to a system design parameter.” *Id.* at 6. CEO argued its Petition proposes “a targeted solution to a targeted issue that CI&I customers have been requesting for far too long.” *Id.*

CEO further argues that its Petition is beneficial overall and outweighs any harms because it serves the public interest by allowing CI&I customers a fair opportunity to add resources which, as it alleges, will reduce fixed cost additions by the Company, reduce overall system demand, increase grid reliability and allow “Idaho agribusinesses customers to capture time-sensitive 2022 federal tax and incentive program funds.” *Id.* at 8. CEO contends that the Company’s argument that the addition of resources by CI&I customers would not meaningfully address the 2023 capacity shortfall does “not provide evidence of harm to public interest and do[es] not justify dismissing the Petition.” *Id.*

In addition, CEO argues that the current 100 kW cap adds unnecessary costs and is harmful and discriminatory because, among other things, it discourages CI&I customers from installing generating resources, treats CI&I customers different from residential generating customers who are governed by the 25kW cap, and is inconsistent with best practices.

To the Company’s argument that the Petition’s proposed Transition Guideline attempts to bypass the regulatory process established in prior Commission orders, CEO replied that previous orders do not concern establishment of a transition guideline like CEO proposes, that its Transition Guideline builds on previous dockets, and is “additive and informative to customers.” *Id.* at 11. CEO replied that forthcoming changes to export compensation and a general rate-case will mitigate the Company’s concern that raising the cap and implementing the Transition Guideline will lead to potential cost-shifting.

CEO argues the Commission should act on its Petition to counteract the Company’s inactions, denial of customer concerns, and “utility-centric agenda.” *Id.* at 14. CEO points out that Idaho leads the nation in the percentage of electricity used in the irrigation process, “yet imposes one of the lowest caps on Irrigator self-generation.” *Id.* CEO reiterates that Idaho irrigation customers would benefit from implementing the changes suggested in the Petition, and that the Company has failed to address customer concerns brought up in previous cases regarding the 100 kW cap. CEO further argues that the Company’s arguments to dismiss the Petition do not give adequate weight to customer concerns.

### **STAFF RECOMMENDATION**

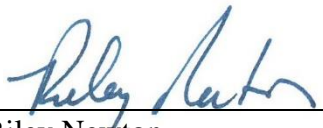
Staff recommends the Commission grant, deny, or withhold ruling on CEO’s Petition. If the Commission grants CEO’s Petition, Staff recommends the Commission issue a Notice of Petition and a Notice of Intervention Deadline establishing a 21-day Intervention deadline.

Alternatively, if the Commission chooses to withhold ruling on CEO's Petition, Staff recommends the Commission set a 21-day intervention deadline and direct interested parties to comment on CEO's Petition and the Company's Motion within 21 days from the file stamp date of the Commission order establishing the 21-day intervention deadline.

### COMMISSION DECISION

Does the Commission wish to:

1. Grant CEO's Petition? If so, does the Commission wish to issue a Notice of Petition, and a Notice of Intervention Deadline establishing a 21-day Intervention deadline?
2. Withhold from ruling on CEO's Petition, set a 21-day intervention deadline, and direct interested parties to comment on CEO's Petition and the Company's Motion within 21 days from the file stamp date of the Commission order establishing the 14-day intervention deadline?
3. Grant the Company's Motion to Dismiss?
4. Anything else?

  
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Riley Newton  
Deputy Attorney General

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