

Marie Callaway Kellner (ISB No. 8470)
710 N 6th Street
Boise, ID 83701
(208) 537-7993
mkellner@idahoconservation.org

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2022 OCT 12 PM 4: 32
IDAHO PUBLIC
UTILITIES COMMISSION

Attorney for the Idaho Conservation League

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO)	CASE NO. IPC-E-22-22
POWER COMPANY'S)	
APPLICATION TO COMPLETE)	IDAHO CONSERVATION LEAGUE
THE STUDY REVIEW PHASE OF)	
THE COMPREHENSIVE STUDY)	REPLY COMMENT
OF CONSTS AND BENEFITS OF)	
ON-SITE GENERATION & FOR)	
AUTHORITY TO IMPLEMENT)	
CHANGES TO SCHEDULES 6, 8,)	
AND 84)	

Introduction

The Idaho Conservation League (“ICL”) submits to the Idaho Public Utilities Commission (“Commission”) the following reply comments regarding Idaho Power Company’s (“IPC” or “Company”) Value of Distributed Energy Resources Study (“VODER study” or “study”). ICL remains interested in the development of distributed energy resources (“DER”) as components of an evolving energy portfolio in Idaho. ICL appreciates the efforts of the Company, the Commission Staff, and other parties to maintain this open, informative, and collaborative process. All have been helpful while advocating for their respective interests. This reply comment addresses responses to parties’ initial comments, proposals on procedure, and requests for clarity on this, and subsequent, proceedings.

Discussion

1. Response to Comments

Response to Company

ICL looks forward to reviewing the Company's revised study to be submitted following final comments on October 26. A revised study should account for comments and critiques presented by parties. The Company's initial comments state that the study is intended to provide illustrative pricing based on potential methods for evaluation.¹ ICL's initial comments and the attached review study do the same. We believe it is important for a revised study to address critiques offered by parties to present a comprehensive and representative public record. As outstanding recommendations on eventual changes to onsite customer generation service offerings will likely rely heavily on a study submitted by the Company, it is important that a revised study account for the interests and inputs of the intervening parties if this review phase is to be meaningful.

Response to Staff

ICL seeks clarification on Staff's concerns regarding PURPA and Customer Generation overlap. If staff is concerned about overlap between distributed generation and PURPA avoided costs, such issues should be raised in a separate docket.

Staff comments raised concerns about rate manipulation by customer generators applying as Qualifying Facilities ("QF") to receive favorable rates.² The concern seems to arise

¹ Initial Comments of Idaho Power Company, Case No. IPC-E-22-22, at 4.

² Initial Comments of the Commission Staff, Case No. IPC-E-22-22, at 16.

from the possibility of customer generators with low megawatt scale capacity under Schedule 84 registering as QFs to force electricity sales under PURPA's obligatory sale and interconnect provisions.³ First, ICL requests clarity on whether this is Staff's concern. Second, any evaluation of gaming between PURPA and customer-generation conducted in this docket or a revised VODER Study should account for the legal, administrative, and practical barriers to facilities initially regulated as customer generators becoming QFs under PURPA.

Registering as a QF is not simple, and the regulatory and administrative burdens of PURPA likely make small scale generation in line with any raised cap proposed in this docket uneconomical. At present, facilities with capacity greater than 1 MW must meet specific qualifications and file an application to FERC.⁴ Those of capacity less than 1 MW are exempted from an application, but must still meet program criteria.⁵ Even for self-certifying, small generators, a declaration of certification must meet criteria and is subject to protest and intervention.⁶ Current application fees for certification are tens of thousands of dollars before considering preparation time and costs.⁷ Concerns about gaming must factor in actual administrative costs and legal burdens of establishing QF status.

Moreover, the Commission is responsible for establishing avoided cost rates under PURPA, providing more appropriate avenues to address gaming concerns. Although there is possible risk of regulatory gaming between customer generation rates and PURPA avoided cost rates, this docket is not the appropriate venue to resolve such tension. The Commission has no shortage of tools to ensure PURPA avoided cost rates are fair, just and reasonable both to the

³ 18 C.F.R. §§ 292.303 (b); 292.303 (c)(1).

⁴ FERC Order No. 732; 18 C.F.R. § 131.80 (a).

⁵ *Id.*

⁶ 18 C.F.R. §§ 292.207 (a); 292.207 (c).

⁷ 18. C.F.R. § 381.207 (b); Available at <https://www.ferc.gov/filing-fees> (accessed October 11, 2022).

Company and consumers.⁸ Aggregation and disaggregation of facilities to variously qualify as customer generators or QFs is specifically addressed in Order 872's "one-mile rule" and associated provisions, where affiliated sites of similar generation sources are irrebuttably presumed to be the same facility.⁹ The purpose of this docket is to study the costs and benefits of solar generation, not to resolve speculative PURPA pricing issues. While the study may be informative, ICL urges that the scope of this docket remain focused on the costs and benefits of revising the customer generation cap. While gaming is conceivably possible, examination of specific instances is better addressed in PURPA specific dockets or protests.

2. Request for Clarity on the Docket

ICL seeks clarity on anticipated proceedings and the scope of the IPC-E-22-22 docket. The VODER study clearly contemplates significant changes to DER policy and rates in the State, but it is as yet unclear how the study will be used to affect rates and under what procedure. The study and this docket are of considerable public and economic interest across the Company's service territory making clear, informative administrative process necessary to address important equities.

Years of effort preceded IPC's initial application in this docket, over which various parties attempted to build consensus on an equitable net metering program.¹⁰ This docket was opened to direct parties once again in an equitable process for developing DER policies. In its application to open the review phase of the study, IPC requested the Commission issue an order

⁸ See generally FERC Order 872-A; 18 C.F.R § 292.310. FERC delegated to State electric and utility commissions significant flexibility in setting avoided cost rates and capacity requirements under PURPA. Order 872 allows considerable variability among QF rates in a given state or region while allowing shortened contact time periods.

⁹ *Id.*

¹⁰ Application, Case No. IPC-E-22-22, at 5-9.

acknowledging the study adheres to requirements outlined in previous orders.¹¹ The application also requests a Commission order directing modifications to the Company's on-site generation service offerings be implemented.¹² Although an order on the sufficiency of the study can be anticipated at the close of the review phase, it remains unclear what parties and the public may expect regarding implementation or subsequent phases of this docket. In service of intervenors' and the public's interest in clear administrative process ICL raises the following concerns and proposals.

a. Request for clarity on the scope of the implementation phase

ICL asks the Commission for clarity on the scope of proceedings under this docket. The Company's application requests a period of no less than five months to implement any approved programmatic changes following the close of the review phase and the Commission's final order.¹³ Acknowledging that the Commission has the authority to authorize modifications in this docket, ICL asks for clarity on the scope of such changes. To the extent that the Company or other parties should propose changes, or anticipate doing so in this docket, parties and the public should have ample notice of changes that could affect rates or usage of DERs.

b. Request for a proposal from the Company

ICL asks the Company to issue a proposal on any changes to its net metering program contemplated in the VODER study. In its present form, the VODER study assesses an array of programmatic, pricing, and design choices, each with significant impacts on the overall function and market for DERs in the Company's service territory. The effect of these choices is to create a complicated matrix of possible program outcomes for parties and the public to anticipate. Any

¹¹ *Id.* at 2, 19.

¹² *Id.*

¹³ *Id.* at 17; Notice of Application, Case No. IPC-E-22-22, at 2.

single choice may affect other program elements, making individual choices and positions difficult to assess. While the goal of this approach may be to present flexibility, it has the effect of obscuring how the VODER study may be used to construct a program likely to change service offerings.

A proposal from IPC would clarify the expected later proceedings. Parties' initial comments show a variety of positions on individual elements of a net metering program, not all of which are mutually compatible. By allowing the Company to move first on a proposal, parties would be better able analyze and offer input on individual elements and the proposal as a whole. A proposal should serve as a starting point for the Company and parties to move toward mutual agreement in the interest of transparency and collaboration.

c. Request for a collaborative review of any proposal

All party conferences on a net metering proposal following the study review phase of this docket would best serve the interests of cooperation and transparency. ICL is concerned that concurrent written comments on the numerous complicated issues presented in the VODER study is insufficient to meaningfully resolve differences among parties as this docket moves towards the implementation phase. Previous workshops and technical sessions in this docket were well attended by parties and helped explain and resolve key issues. A similar set of meetings may be useful to narrow the range of choices presented in the VODER study for an effective net metering program. ICL proposes that, should IPC offer a proposed program, parties be allowed reasonable time to comment and organize meetings to review the Company's proposal. Sufficient review and collaboration between parties should precede submission of a proposal to the Commission.

Conclusion

ICL encourages the Commission, the Company, and parties to consider the whole record of this study review phase to best inform future decisions on a net metering program. A comprehensive revised VODER study that incorporates feedback and critiques from comments is needed to meaningfully benefit future phases of this docket. The revised study should address parties' critiques and comments. Effective collaboration between parties requires clarity on the proceedings and continued clear communication. Given the procedural history of net-metering before the Commission, and the considerable interests among parties and the public, ICL encourages full consideration of the whole record before the close of the review phase of this docket and clarity on forthcoming proceedings.

DATED: October 12, 2022

s/ Marie Callaway Kellner

Marie Callaway Kellner
Attorney for the Idaho Conservation League

CERTIFICATE OF SERVICE

I hereby certify that on this 12th day of October, 2022, I delivered true and correct copies of the foregoing REPLY COMMENT to the following persons via the method of service noted:

/s/ Marie Callaway Kellner
Marie Callaway Kellner (ISB No. 8470)
Attorney for the Idaho Conservation League

Electronic Mail Only (See Order No. 35058):

Idaho Public Utilities Commission

Jan Noriyuki
Riley Newton
jan.noriyuki@puc.idaho.gov
riley.newton@puc.idaho.gov
secretary@puc.idaho.gov

Commission Staff

Riley Newton
Chris Burdin
riley.newton@puc.idaho.gov
chris.burdin@puc.idaho.gov

Idaho Power Company

Lisa Nordstrom
Megan Goicoechea Allen
Timothy E. Tatum
Connie G. Aschenbrenner
Grant Anderson
lnordstrom@idahopower.com
mgoiciecheaallen@idahopower.com
ttatum@idahopower.com
caschenbrenner@idahopower.com
ganderson@idahopower.com
dockets@idahopower.com

Clean Energy Opportunities

Michael Heckler
Courtney White
Kelsey Jae
mike@cleanenergyopportunities.com
courtney@cleanenergyopportunities.com
kelsey@kelseyjae.com

IdaHydro

Tom Arkoosh
Amber Dresslar
tom.arkoosh@arkoosh.com
amber.dressler@arkoosh.com
erin.cecil@arkoosh.com

Idaho Irrigation Pumpers Association Inc.

Lance Kaufman
Eric L. Olsen
lance@bardwellconsulting.com
elo@echohawk.com

Industrial Customers of Idaho Power

Peter J. Richardson
Don Reading
peter@richardsonadams.com
dreading@mindspring.com

City of Boise

Mary Grant
Wil Gehl
mrgrant@cityofboise.org
wgehl@cityofboise.org
boisecityattorney@cityofboise.org

Richard E. Kluckhohn & Wesley A.

Kluckhohn (Kluckhohn)
Richard E. Kluckhohn
Wesley A. Kluckhohn
kluckhohn@gmail.com
wkluckhohn@mac.com

Micron Technology Inc.

Jim Swier
Austin Rueschhoff
Thorvald A. Nelson
Austin W. Jensen
jswier@micron.com
darueschhoff@hollandhart.com
tnelson@hollandhart.com
aclee@hollandhart.com

Idaho Solar Owners Network

Joshua Hill
solarownersnetwork@gmail.com
tottens@amsidaho.com

ABC power Company, LLC

Ryan Bushland
Ryan.bushland@abcpower.co
sunshine@abcpower.co