

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF SARA STATZ) **CASE NO. IPC-E-22-25**
HARTZHEIM’S FORMAL COMPLAINT)
AGAINST IDAHO POWER COMPANY) **ORDER NO. 35651**
_____)

On September 20, 2022, Sara Statz Hartzheim and Matthew Hartzheim (“Complainants”), a customer of Idaho Power Company (“Company”), filed a formal complaint (“Complaint”) with the Idaho Public Utilities Commission (“Commission”).

On October 12, 2022, the Commission issued a Summons to the Company giving it 21 days to answer or otherwise respond to the Complaint.

On November 2, 2022, the Company filed an answer (“Answer”) to the Complaint. With this Order, we grant the Complainants’ request, as set forth more fully below.

FORMAL COMPLAINT

Complainants had a residential solar generation system (“System”) grandfathered to legacy status under Commission Order No. 34509 (reconsidered by Order No. 34546). Complaint at 1; Answer at 6. Complainants stated that an electrical fire destroyed Complainants’ house at 356 West Hidden Meadow Way, Middleton, Idaho, 83644—including the System—on May 17, 2022. Complaint at 1 and attached photos. Complainants stated that they notified the Company of the destruction of the System “in the immediate aftermath of the fire” *Id.* At the time the Complaint was lodged, Complainants stated that they were in the process of rebuilding their house and System at the same location where it previously stood.

Complainants stated that Company informed them, on June 9, 2022, that, if the System was offline for more than six months, legacy status for the System would be lost. *Id.* Complainants stated that “getting our [S]ystem back up within six months seemed impossible.” *Id.* Complainants noted that the Company denied their request “for an extension of time to get our . . . [System] . . . back online” because it could not make an exception to the Commission rule, put forth in Order No. 34546, that a legacy on-site generation system loses grandfather status if it is offline for more than six months. *See id.*

Complainants outlined the four criteria for grandfathering set forth in Order No. 34546:

- (1) A customer who moves into a property with a grandfathered net-metering system gets to “inherit” the grandfathered status of the system. Likewise, when a

customer moves from a property with a grandfathered system, that customer does not get to take the grandfathered status of the system with them to their next property; (2) If a system is offline for more than six months, or is moved to another site, the grandfathered status of the system is forfeited; (3) To allow for the replacement of degraded or broken panels, the customer may increase the capacity of the grandfathered system by no more than 10% of the originally installed nameplate capacity or 1 [kilowatt] kW, whichever is greater; and (4) Grandfathered status terminates December 20, 2045.

Id. at 1-2 (citing Order No. 34546 at 9). Complainants noted that they were contesting the second criterion of Order No. 34546. *Id.* at 2. Complainants understood the intention of Order 34546 but to lose legacy through no fault of their own because of the fire which destroyed their home and panels would be harsh. *Id.* Complainants stated that they filed an online complaint on the Commission’s website on September 14, 2022. Complainants stated that it was “likely we will be unable to generate power from 5/17/22 to approximately 8/1/23 while we have been displaced by the fire and our home is being rebuilt.” *Id.* Complainants stated they disagreed with the application of Order No. 34546 to their case and asked the Commission and the Company “to fully consider each of these arguments in our case as it does not appear anyone considered catastrophic damages and losses such as these when developing the grandfathering order.” *Id.*

COMPANY’S ANSWER

The Company corroborated the factual representations in the Complaint. Answer at 5-7, 17 (noting that the “key facts” are not in dispute). The Company noted the second criterion in Order No. 34546 did not allow for an extension of grandfather status if a system was offline for more than six months. *Id.* at 9. The Company stated that its electric service Schedule 6 did not provide any hardship exceptions to Order No. 34546’s criteria. *Id.* at 11. The Company cited *Idaho Code* §§ 61-313 and -315 for the proposition that it cannot contravene the Commission’s prior orders and the Company’s filed utility tariffs and that granting the Complainants an exception in this case could discriminatorily result in “similarly situated customers” being allowed “to pay different rates for the same services.” *Id.*

The Company noted that granting an exception to the Complainants implicated public policy considerations. The Company explained that the Commission previously declined to make exceptions to its grandfathering rules outlined in Order No. 34546, and that customers interested in on-site generation must consider that they are not guaranteed an outcome when making the investment in a solar system. *Id.* at 14-15. The Company stated that “[n]one of the other 5,147

existing on-site generation customers without legacy status taking Schedule 6 service had a similar guarantee or certainty available when making their investment decisions.” *Id.* at 15. The Company explained that, since it did not know how many previous Schedule 6 customers had lost their legacy status, it would have no way to retroactively administer an exception to the Commission rules which would further undermine “the concept of non-discriminatory service.” *Id.*

The Company requested that the Commission deny Complainants’ requested extension of the six-month grandfathering period or, in the alternative, if the Commission adopted a rule change for these unexpected circumstances, that the Commission establish objective criteria to minimize claims of preference and discrimination under *Idaho Code* § 61-315 and administer the process of evaluating the hardship requests that might come from this rule change. *Id.* at 17.

COMMISSION FINDINGS AND DECISION

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-501, -502, and -503. The Commission is vested with the power to “supervise and regulate every public utility in the state and to do all things necessary to carry out the spirit and intent of the [Public Utilities Law].” *Idaho Code* § 61-501. 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 -503.¹ In determining just and reasonable rates, “[e]ach case must depend very largely upon its own special facts, and every element and every circumstance which increases or depreciates the value of the property . . . should be given due consideration . . .” *Kiefer v. City of Idaho Falls*, 49 Idaho 458, 289 P. 81, 84 (1930) (citation omitted). “[T]he Commission operates in the public interest to insure that every public utility operates as shall promote the safety, health, comfort of the public and as shall be in all respects adequate, efficient, just and reasonable.” *Grindstone Butte Mut. Canal Co. v. Idaho Pub. Utilities Comm’n*, 102 Idaho 175, 181, 627 P.2d 804, 810 (1981).

The unique and catastrophic circumstances in this case justify granting the relief the Complainants request. In Order No. 34509 we determined that existing net metering customers

¹ *Idaho Code* § 61-507 states “[t]he commission shall prescribe rules and regulations for the performance of any service or the furnishings of any commodity of the character furnished or supplied by any public utility, and, on proper demand and tender of rates, such public utility shall furnish such commodity or render such service within the time and upon the conditions provided in such rules.” In Order No. 34546 we described the criteria for grandfathering a system.

should be allowed grandfathered status and continue to receive service under Schedule 6. We further clarified the parameters of grandfathering in Order No. 34546. We now find that granting an exception to Order No. 34546's rule that forbids a system from maintaining grandfather status if it is offline for more than six months, for these Complainants, is fair, just, and reasonable. Based on the unique and undisputed facts in this case which we could not anticipate when we issued Order No. 34546, Complainants' residence and the System were destroyed by fire due to no fault of Complainants. Complainants state they were unable to rebuild the house—a condition precedent to supporting and interconnecting the System—within six months from the time the System was destroyed by fire. Complainants informed the Company immediately after the destruction of their System, requested an exception to the grandfathering rules from the Company within one month from the fire, and filed a formal complaint requesting an exception within five months from the date of the fire.² Based on the forgoing, we direct the Company to allow electric service to resume under Schedule 6 at 356 West Hidden Meadow Way, Middleton, Idaho, 83644, and maintain legacy status as outlined in Order No. 34546, when the new System is interconnected. The relief requested and granted in this case is limited solely to the facts in this case. The decision to grant the Complainants relief shall not be construed as precedential in any future cases before this Commission.

Criteria one, three, and four of Order No. 34546 remain in effect and will continue to govern the administration of Complainants' System under Schedule 6. Once the new System is operational criteria two of Order No. 34546 will also apply to Complainants' rebuilt System. We note that Complainants are not seeking to merely replace "degraded or broken panels." Rather, Complainants plan to replace the entire System, including every solar panel. Accordingly, we note it would be inconsistent with Order No. 34546 to allow Complainants to increase the capacity of the System by the greater of 10% or 1 kW. Thus, should Complainants rebuild the System, the System shall not qualify for grandfathered status under Schedule 6 if its new capacity is greater than the capacity of the System as it was on May 16, 2022, before the fire.

² The Company's Schedule 6 requires that at customer must "notify the Company immediately if an Exporting System is permanently removed or disabled." Schedule 6 at Sheet No. 6-6, § 9 (Conditions of Purchase). A customer's failure to comply with this provision would weigh strongly against the Commission granting any exception to the grandfathering requirements set forth in Order No 34546 even where a catastrophic loss occurs like that suffered by the Complainants.

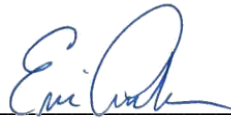
ORDER

IT IS HEREBY ORDERED that the relief requested by the Complaint is granted.

IT IS FURTHER ORDERED that the System at 356 West Hidden Meadow Way, Middleton, Idaho, 83644, shall maintain legacy status pursuant to Order Nos. 34509 and 34546, and continue to take service under Schedule 6 when it is interconnected if the new System does not exceed 10% or 1 kW of the capacity of the destroyed System’s capacity.

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. *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 30th day of December 2022.



ERIC ANDERSON, PRESIDENT

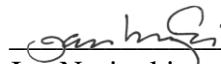


JOHN CHATBURN, COMMISSIONER



JOHN R. HAMMOND JR., COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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