

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THAIN CASHMORE’S) CASE NO. IPC-E-23-06
FORMAL COMPLAINT AGAINST GINO)
ENDO COUNTY ELECTRICAL INSPECTOR) ORDER NO. 35752
AND IDAHO POWER COMPANY)
)

On February 9, 2023, Thain Cashmore (“Mr. Cashmore”)¹, a residential Idaho Power Company (“Company”) customer lodged a formal complaint (“Complaint”) with the Commission. Mr. Cashmore connected an on-site generation system (“solar array” or “system”) to the Company’s system but did not receive grandfather/legacy status of the system due to a failure to have it inspected prior to the December 20, 2020, deadline established in Order No. 34509. The crux of Mr. Cashmore’s position was a request to be granted an exception to the grandfathering rules under the Company’s net metering tariff.

Before filing the Complaint, Mr. Cashmore informally sought resolution of his disagreement with the Company’s position with the Idaho Public Utilities Commission’s consumer assistance staff (“Staff”). Staff could not informally resolve the dispute between Mr. Cashmore and the Company.

On March 8, 2023, the Commission issued a Summons to the Company directing it to respond to the Complaint.

On March 29, 2023, the Company filed an answer (“Answer”) to the Commission’s Summons concerning Mr. Cashmore’s formal complaint.

Having reviewed the record, we now deny Mr. Cashmore’s request for grandfather status for his solar array.

BACKGROUND

The Commission delineated the requirements to perfect “legacy” (grandfather) status for a residential on-site generation system under Schedules 6 and Schedule 8 in Case No. IPC-E-18-15. An “existing system” eligible for legacy status under Schedule 6 and Schedule 8 is defined as a

¹ Mr. Cashmore begins his Complaint stating, “My complaint” and signs the Complaint: “Respectfully submitted Thain Cashmore.” However, Mr. Cashmore uses the plural nouns “we” and “our” throughout the Complaint without naming another person. The Company’s Answer indicates that the plural refers to Thain Cashmore and Cathy Cashmore and refers to the entities bringing the formal complaint as the “Complainants.” Answer at 1. However, because the only named Complainant in the Formal Complaint is Thain Cashmore, the Commission will refer to the moving party as one Complainant, Mr. Cashmore, unless citing or discussing the Company’s Answer, where the Commission, consistently with the Company will use the term “the Complainants.”

customer who: (1) had an on-site generation system interconnected with the Company's system on December 20, 2019, or (2) who had made binding financial commitments to install an on-site generation system as of December 20, 2019, and who proceeded to install and interconnect the system by December 20, 2020. Order No. 34509 at 14 (emphasis added).

The Commission clarified its decision in Case No. IPC-E-18-15, that “if a customer with grandfathered status adds generating capacity to their on-site generation system, the customer can do so without losing the original system's grandfathered status if the Company can separately measure the energy flows from the different systems.” Order No. 34546 at 11.

The Company's Schedule 68—Interconnections to Customer Distributed Energy Resources, (“Schedule 68”), outlines the interconnection process a customer taking residential electric service under Schedule 6 must follow to interconnect their on-site generation system.

A residential customer seeking to interconnect an on-site generation system must first apply and pay a fee to the Company. Schedule 68, Sheet No. 68-10. The Company then performs a Feasibility Review within seven business days, unless it determines that additional studies are necessary. *Id.* If the results of the Feasibility Review indicate satisfactory system capability, the Company provides the customer an official “Approval to Proceed” notification. *Id.* That customer and/or their installer then must complete the necessary permitting and inspection requirements for the system and submit a completed System Verification Form to the Company. *Id.* at Sheet No. 68-11.

After the required documents—including the System Verification Form—have been submitted and the Company verifies all jurisdictional and technical requirements have been met, the Company will, barring conditions beyond its control, complete an on-site, final inspection of the customer's system within ten business days, for systems under 100 kilovolt-amperes. *Id.* at Sheet No. 68-12. Successful completion of the Company's final inspection constitutes conclusion of the application process, i.e., the customer has interconnected their system with the Company's system. *Id.*

THE COMPLAINT

Mr. Cashmore's Complaint concerned the Company's denial of grandfather status to a “solar array addition” allegedly installed in June 2019. Complaint at 1. The Complaint alluded to the rule that the final inspection of his solar array and the ensuing documentation needed to be provided to the Company by December 20, 2020, for his solar array to qualify for grandfather

status.² Mr. Cashmore then acknowledged that the inspection and subsequent submission of the paperwork was not timely submitted.³ Mr. Cashmore concluded that the untimeliness of the inspection and submission precluded the system from receiving grandfather status (under the Company’s interpretation of the Commission’s Order Nos. 34509 and 34546).⁴

Nonetheless, Mr. Cashmore claimed he should be granted an exception to the grandfathering rules because it was not his fault that the inspection and paperwork were untimely.⁵ In further support of his argument, Mr. Cashmore stated that the tax commission granted an exception to certain requirements in 2020.⁶ Mr. Cashmore stated that he acted in “good faith” and that everyone “did their best at the time” Complaint at 1. Mr. Cashmore concluded that, due to situations beyond everyone’s control, he should be able to have his system grandfathered.⁷

THE COMPANY’S ANSWER

The Company articulated the rules and regulations governing grandfathering set forth by Commission order and the Company’s Tariff; it then provided a factual background detailing Mr. Cashmore and Cathy Cashmore’s (“the Complainants”) interactions with the Company, and finally, a denial of the claims put forth in the Complaint.

The Company explained that the Complainants had been taking net-metering service from a 28-panel, 7.98 Kilowatt (“kW”) solar photovoltaic (“PV”) system since June 2016. Answer at 6. The Company further explained that it received an Application from the Complainants on May 6, 2019, seeking approval to expand their system with ten additional solar panels rated at 3 kW. *Id.* CR Solar Installations (“Installer”) was named by the Complainants as the project contact and authorized representative. *Id.* The day after the Complainants applied—May 7, 2019—the

² Mr. Cashmore stated, “[f]inal inspection was to be done and paperwork turned into [sic] Idaho Power by 12/20/2020.” Complaint at 1.

³ Mr. Cashmore further stated, “[f]inal inspections was [sic] accomplished on 12/29/20 by the County inspector for the state and all paperwork was submitted to Idaho Power on 12/30/20.” *Id.*

⁴ As Mr. Cashmore stated, “[t]his made our paperwork late, excluding it [the solar array] for grandfathered status.” *Id.*

⁵ As Mr. Cashmore explained:

The request for an inspection was initially made in April/May of 2020. The inspector requested to move the inspection date to October/November due to the abnormally large work load at that time. We agreed, since we had until 12/20/20. When the October/November time came, the inspector wasn’t feeling well and postponed our inspection until December. He wasn’t able to make it to our site until December 29th, 2020.

Id.

⁶ Mr. Cashmore argued that “Idaho codes allow for extensions in events of such as those that were observed in 2020-21 (see SECTION 63-113, IDAHO CODE).” *Id.* “Even though this section is for tax purposes,” as Mr. Cashmore acknowledged, “it addresses the fact that extensions can be given under strenuous times.” *Id.*

⁷ As Mr. Cashmore concluded, “[w]e lost our grandfather status because of situations that are beyond our control, the state inspector was overworked at the time and hampered by covid restrictions and sickness.” *Id.*

Company stated that it responded to the Complainant's request, authorizing them (and Installer) to proceed with the installation of the expansion and advising them on the steps needed to officially interconnect with the Company's system. *Id.* at 7.

The Company noted that, after the Complainants applied, the Commission issued Order No. 34509 on December 20, 2019, delineating the requirements for grandfathering, and particularly, the requirement that customers who made a binding financial commitment to install an on-site generation system as of December 20, 2019, needed to interconnect that system by December 20, 2020, to obtain legacy status for the system. *Id.*

The Company explained that it sent multiple emails and made multiple phone calls to the Complainants and Installer from January 2020 to November 30, 2020, advising them of the steps needed to be completed, requesting a status update of the project, and warning them of the consequences for failing to interconnect the ten-panel expansion by the December 20, 2020, deadline. *Id.* at 8-10; Figure 1 at 11. The Company indicated the Installer was less than responsive to the Company's repeated communications.

The Company explained that it emailed Installer and the Complainants on December 22, 2020, informing them that their May 6, 2019, Application to expand their system had expired due to the failure to timely complete the interconnection process. *Id.* at 11; Attachments 12 and 13. Nonetheless, the Company stated it received a System Verification Form from Installer on December 30, 2020, indicating that inspection of the system had been completed on December 29, 2020. The Company responded by resending the same email it had sent on December 22, 2020, and informing Installer that the project Application had expired. *Id.* at 12.

The Company then had multiple telephone conversations with Installer and Complainants in January 2021 explaining the legacy requirements, and the options for the Complainants going forward—that is, to retain grandfather status for the 28-panel system by having the ten-panel, 3 kW system metered separately, which would require a new application and fee, or to combine both systems which would result in a forfeiture of legacy status for the 28-panel system. *Id.*

The Company stated that the Complainants made an informal complaint to the Commission on January 21, 2021, concerning the treatment of their legacy system and, on the next day, a new application to separately meter the additional ten-panel system and retain legacy status for the 28-panel system. *Id.* at 12-13. However, the Company stated that the Complainants then sent an email to the Company “advising that the 10 additional solar panels installed had ‘been isolated’ to power

the backup battery system exclusively . . . [and that] . . . “[t]his should resolve our appeal filed with the PUC and eliminate the need for a net meter on the 2019 addition.” *Id.* at 13 (citing Attachment 16). The Company requested the “Complainants to verify that they wished to withdraw their January 2021 application to separately meter the panels, which they confirmed (Attachment 16).” *Id.*

However, in January 2023, the Company discovered, after conducting a “reverse rotation report”, that exports from the Complainant’s system revealed that the “solar PV system exceeded the approved size of that system (7.98 kW) for the months of April, May, and June of 2022, which indicated an unauthorized expansion of the system.” *Id.* The Company called the Complainants who then “verbally confirmed” they had expanded their system to exceed the approved amount. *Id.*

Concerning the Complaint’s allegations, the Company answered that it lacked the authority to deviate from the Commission’s orders concerning grandfathering and the rules of its own Tariff; that it correctly applied the rules of Commission Order Nos. 34509 and 34546 and its Tariff in working with the Complainants and that making an exception in this case would be “inexpedient and inequitable.” *Id.* at 14, 15, 17.

The Company’s investigation into publicly available data on the Idaho Division of Building Safety (“DBS”) website indicated that, contrary to Mr. Cashmore’s assertions, an initial permit plan for expansion of the solar array expansion was not submitted until October 29, 2020, and that, due to repeated failure to submit sufficient electrical permit plans, it was not until December 23, 2020, that plans were approved by DBS. *Id.* at 19. Additionally, the Company noted that the DBS Permit records indicate that the final electrical inspection of the system did not occur until January 22, 2021. *Id.*

In conclusion, the Company requested the Commission issue an order denying the relief sought by the Complainants. The Company further noted, however, that a Commission determination in this regard “did not preclude Complainants from enforcing legal rights, if any, they may have against their installer or others.” *Id.* at 21.

COMMISSION FINDINGS AND DECISION

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-502, 61-503, and 61-612. 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 61-503. The Commission has the authority to determine the merits of any complaint “setting forth any act or thing done or omitted to be done by any public utility including any rule, regulation or charge heretofore established or fixed by or for any public utility, in violation, or claimed to be in violation of any provision of law or of any order or rule of the commission[.]” *Idaho Code* § 61-612. Rule 54, IDAPA 31.01.01.054.03, provides that “[f]ormal complaints must . . . [r]efer to the specific provision of statute, rule, order, notice, tariff or other controlling law that the utility or person has violated.” Rule 65, IDAPA 31.01.01.065, provides that insufficient or defective filings may be dismissed.

Granting an exception to the grandfathering requirements in this case, based on the circumstances presented here, would be inequitable to all other customers on the Company’s system who lawfully complied, and continue to comply, with the Company’s Tariff and the Commission orders. We are troubled by what appears to be Mr. Cashmore’s disregard for the Commission’s orders and the Company’s directive to separately meter the two systems to maintain grandfather status. Had the Company not discovered Mr. Cashmore’s unauthorized expansion of the system, it appears he would have continued to operate the system under one meter and be unduly compensated at the expense of other customers. This type of conduct is unacceptable.

Mr. Cashmore also has not provided any reasonable basis for this Commission to deviate from the requirements of Order Nos. 34509 and 34546. The Complaint does not mention any authority that the Company violated in processing Mr. Cashmore’s Application or refusing to grant him additional time to attain legacy status for his on-site solar array expansion. Having reviewed the record in this case, we find the Company appropriately enforced the requirements for grandfathering articulated by this Commission in Order Nos. 34509 and 34546 and complied with its Tariff.

To qualify for legacy status, a customer, in addition to having made a binding financial commitment to install an on-site generation system as of December 20, 2019, must have also installed and interconnected the on-site generation system by December 20, 2020. Mr. Cashmore admitted that he did not timely provide the documentation required by the Company to allow it to perform the final inspection of the system—the last step before the system can be interconnected. Based on the record, Mr. Cashmore failed to meet the requirements for legacy status of the ten-

panel expansion despite repeated attempts by the Company to assist him and his Installer with compliance.

Consequently, Mr. Cashmore's formal Complaint against the Company regarding legacy status for the ten-panel solar array expansion is dismissed.

If it has not happened already, we direct Mr. Cashmore to disconnect his ten panel, 3-kW solar expansion from the Company's system (including his 7.98 kW legacy system) immediately. To maintain grandfather status for the original 7.98 kW system, Mr. Cashmore must either: (1) isolate his 3-kW system expansion from the Company's system or (2) meter it separately from the 7.98 kW system.

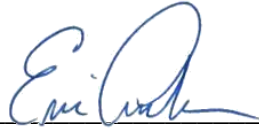
ORDER

IT IS HEREBY ORDERED that Mr. Cashmore's formal Complaint is dismissed with prejudice. Mr. Cashmore shall disconnect his solar array expansion from the Company's system immediately. To maintain grandfather status for his 7.98 kW system, Mr. Cashmore must: (1) isolate his 3-kW expansion, or (2) meter it separately from the 7.98 kW system.

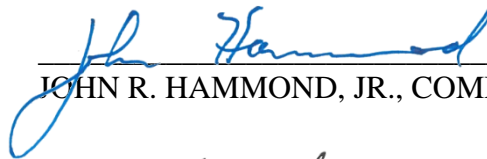
THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order regarding any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition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

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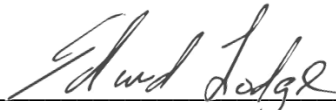
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 24th day of April 2023.



ERIC ANDERSON, PRESIDENT

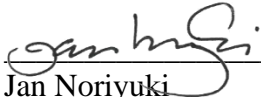


JOHN R. HAMMOND, JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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