

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION) CASE NO. PAC-E-19-08
OF ROCKY MOUNTAIN POWER TO)
CLOSE THE NET METERING PROGRAM) PROPOSED ORDER ON
TO NEW SERVICE & IMPLEMENT A NET) GRANDFATHERING EXISTING
BILLING PROGRAM TO COMPENSATE) CUSTOMER-GENERATORS
CUSTOMER-GENERATORS FOR)
EXPORTED GENERATION) ORDER NO. 34752

On June 14, 2019, Rocky Mountain Power, a division of PacifiCorp (“Rocky Mountain Power” or “Company”) applied to the Commission for an order closing Electric Service Schedule 135 – Net Metering Service (“Schedule 135” or “Net Metering Service”) to new customer’s after December 31, 2019, and grandfathering, for ten years, customers who are on Schedule 135 as of December 31, 2019. The Company also proposed opening Electric Service Schedule 136 – Net Billing Service (“Schedule 136” or “Net Billing Service”) to new customer’s as of February 1, 2020 (“Original Application”). Original Application at 1.

On July 18, 2019, the Commission issued a Notice of Application and Notice of Intervention Deadline. Order No. 34379.

On December 20, 2019, the Commission issued a final order in IPC-E-18-15 rejecting a proposed Settlement Agreement for Idaho Power’s net metering program. Order No. 34509. On February 5, 2020, the Commission issued a final order on reconsideration in IPC-E-18-15 upholding its decision to reject the proposed Settlement Agreement. Order No. 34546.

On March 10, 2020, the parties met to discuss how to proceed with Rocky Mountain Power’s Original Application given the Commission’s directives in Order Nos. 34509 and 34546 issued in IPC-E-18-15.

On April 23, 2020, Rocky Mountain Power submitted a supplemental application (“Supplemental Application”). The Supplemental Application proposed to close Schedule 135 to new customer’s as of July 31, 2020, and open Schedule 136 as of September 1, 2020. The Supplemental Application also updated inputs to the Company’s proposed export credit rate (“Export Credit Rate”).

On May 6, 2020, the Commission issued a Notice of Supplemental Application, Notice of Public Hearing, and Notice of Comment Deadlines. Order No. 34661. The Commission

established a procedure similar to that prescribed for Idaho Power in IPC-E-18-15 to design, conduct, and review a study with multiple opportunities for public input before fundamental program changes are implemented. *See* Order No. 34509 at 9. The Commission set a deadline of May 26, 2020 for initial comments, July 3, 2020 for revised comments, and a deadline of July 16, 2020 for party reply comments and public comments on the study design phase. The Company hosted a live-streamed public workshop on June 16, 2020. Commission Staff hosted a live-streamed public workshop on June 18, 2020. The Commission held a telephonic public hearing on June 22, 2020.

On July 31, 2020, the Commission suspended the Company's proposed effective date. Order No. 34745.

Idaho Irrigation Pumpers Association, Inc., Idaho Conservation League ("ICL"), Idaho Clean Energy Association, Inc. ("ICEA"), and Monsanto Company have intervened as parties.

Now, the Commission issues a proposed order on grandfathering existing customer-generators pursuant to Commission Rule of Procedure 312. Concurrently and separately, the Commission issues Order No. 34753 outlining the scope of the study the Company is to conduct.

THE SUPPLEMENTAL APPLICATION

In its Supplemental Application, the Company makes the following specific requests for immediate implementation:

that the Commission issue an order authorizing the Company to: (i) close Electric Service Schedule 135 to new customer participation and cap it at the levels in place, effective at midnight local time, July 31, 2020 . . . ;(ii) allow existing net metering customers and those that apply for or complete interconnection before July 31, 2020 to continue to stay on the program at the site until July 31, 2030; (iii) offer a Net Billing program to new customer generators through Schedule 136 for those who apply for interconnection starting September 1, 2020; (iv) implement an \$85 application fee for customers that apply to interconnect a customer generation system under the Net Billing program (v) require projects that apply for interconnection before August 1, 2020 to complete interconnection within a one year period of application to be eligible to stay in the Net Metering program and (vi) recover the exported energy credits from the Net Metering and Net Billing program through the Company's annual ECAM.

Supplemental Application at § IX.

The Original Application and the Supplemental Application propose an Export Credit Rate calculated by three components: an avoided energy value, avoided line losses, and integration costs. The Company details its proposed methods of calculating the Export Credit Rate and defends its proposals in its reply comments. However, the Company also states,

Schedule 136 is the same as Schedule 135 with one difference – any energy exported to the GRID will be compensated at the Export Credit Rate. Initially that Export Credit Rate would be the same as retail energy charges until the Commission issues a final ruling on the value of the Export Credit.

Supplemental Application at ¶ 22.

In its Supplemental Application, the Company asserts that *Idaho Code* § 61-622(4) dictated a July 31, 2020 effective date based on the Company's proposal in its Original Application to close Schedule 135 as of December 31, 2020. Supplemental Application at ¶ 20-21. The Commission does not agree with the Company's analysis that the proposed effective date in the Original Application and operation of *Idaho Code* § 61-622(4) dictate a July 31, 2020 effective date and suspended the Company's proposed effective dates to close Schedule 135 and open Schedule 136. Order No. 34745.

GRANDFATHERING EXISTING CUSTOMER-GENERATORS

A. Commission Staff.

When Staff submitted its initial comments, roughly one month after the Company submitted its Supplemental Application, only one customer comment had been received regarding the Company's Supplemental Application, reflecting that the Company had not yet advised its customers it had filed the Supplemental Application. Staff Initial Comments at 14-15. Most comments received related to the Company's Original Application. *Id.* at 15. Staff also expressed concern that the Company's June 2019 letter to customers inaccurately described the Company's proposed changes. *Id.* at 14-15. Staff stated,

Staff expects that more customers will comment on the Company's Supplemental Application when it is noticed by the Company and customer letters are distributed. Staff strongly recommends that the Company carefully examine the content and timing of those communications to ensure that they fully and accurately represent the Company's filing. Staff further recommends the Company ensure those communications are received with sufficient time and instructions for customers to participate in the Commission-ordered

public workshops. Lastly, Staff recommends that the Company distribute notice of its Supplemental Application and public workshops broadly to all customers so that all interested customers – not just net metering customers—have the opportunity to be heard on this issue.

Id. at 15.

Staff’s revised comments relay customer comments received during the public workshop held by Staff on June 18, 2020 and incorporate public comments submitted to the record. Staff states, “Customers who attended the Staff workshop and filed comments are strongly opposed to the 10-year grandfathering period proposed by the Company. Several customers believe Staff’s 25-year proposed grandfathering period is reasonable, in part because they state that 25 years is the basic warranty period for most rooftop solar systems.” Staff Revised Comments at 4-5. Staff’s revised comments do not further address any additional efforts at customer communications undertaken by the Company.

Staff states its belief that the same factors that led the Commission to grandfather existing customer-generators in Idaho Power’s service territory in IPC-E-18-15 apply to the customer-generators in Rocky Mountain Power’s service territory.

Staff believes that the logic and conclusions reached by the Commission in Order Nos. 34509 and 34546 apply as much to Rocky Mountain Power customers as they did to Idaho Power net metering customers and should therefore be adopted in this case. Rocky Mountain customers likely had an expectation that the essential program structure under which they were installing net metering equipment would remain intact, though rates for consumption and bill credit could change.

Staff Initial Comments at 4. Staff’s revised comments recommend the Commission order the Company to study the impacts of different grandfathering periods and apply different assumptions regarding the future Export Credit Rate to be implemented. Staff Revised Comments at 6-7.

B. ICEA and ICL.

ICEA joined in and concurred with ICL’s initial and revised comments. ICEA Comments on Study Design at 2, ICEA Revised Comments on Study Design at 1. ICEA states that Rocky Mountain Power customers with on-site generation share the same characteristics that the Commission determined justified grandfathering Idaho Power customer-generators in IPC-E-18-15, and therefore submits that Rocky Mountain Power customers should be grandfathered

under the terms established in Order Nos. 34509 and 34546 for Idaho Power customer-generators. ICL also recommends the Commission apply the legacy rate treatment established in IPC-E-18-15 for Idaho Power customer-generators but wait until a successor program is in place. ICL Initial Comments at 9.

C. Public Comments.

Public comments largely reflect the viewpoint of current customer-generators and oppose the Company's proposal to grandfather existing customer-generators for ten years. Customer comments reflected an understanding that program fundamentals would not change over the expected life of the resources. *E.g.*, Public Comment Received July 8, 2020 (stating, "The problem I have with this proposal is that people built these systems with the understanding that they would be credited at the consumer rate for the life of the system. To change the terms seems unethical considering the capital investment has already been made.") Public comments predominantly came in two time periods. The first in July 2019 following the Company's Original Application in June 2019, and the second in June and July 2020 following the Company's Supplemental Application in April 2020.

D. Rocky Mountain Power's Revised Comments.

In its Original and Supplemental Application, the Company proposed a ten-year grandfather period for existing customer-generators. *See* Original Application at ¶ 8-13, Supplemental Application at ¶ 19-23. In its revised comments, the Company responded to Commission Staff's initial comments by calculating the present value revenue requirement associated with grandfathering existing customer-generators under 10, 15, 20, and 25-year scenarios. Rocky Mountain Power Revised Comments at ¶ 9, 10. The Company calculates the present value of the revenue requirement to grandfather existing customer-generators based on then-current participation levels to be \$4.2 million over 10 years, \$5.4 million over 15 years, \$6.2 million over 20 years, and \$6.8 million over 25 years. *Id.* at ¶ 10, Table 1. The Company also calculated the potential payback periods for customers over a range of assumptions, arriving at 6.6 years for what the Company defined as low-cost/higher-usage systems and 17.8 years for what the Company defined as high-cost/lower-usage systems. *Id.* at ¶ 11, Table 2. In its revised comments, the Company modified its grandfathering proposal from 10 years to 15 years based on its analyses and customer comments. *Id.* at ¶ 12, 13.

Following its Original Application, Rocky Mountain Power issued a news release stating the Company proposed to close Schedule 135 and open Schedule 136. The Company stated, “Further, the company proposes that the commission approve a 10-year transition period for existing customers on Schedule 135, Net Metering Service, to move to the new tariff, Schedule 136, Net Billing Service.” Rocky Mountain Power News Release dated June 14, 2019. The Company also issued two letters to then-current customer-generators. The first stated, “Rocky Mountain Power is proposing that existing customer-generators such as you would be able to stay on the existing net metering program for a roughly ten-year period until June 1, 2029.” On June 25, 2019, the Company mailed a second customer notice to existing customer-generators reiterating the same statement.

In its Supplemental Application the Company states it was waiting to determine additional details about its workshops before notifying customers of its Supplemental Application. Supplemental Application at ¶ 24-26. In its reply comments, the Company states,

On April 23, 2020, when the Company submitted its updated Export Credit rate to the Commission once again it issued a press release and included bill inserts informing all customers of the Company’s proposed changes to the Net Metering program and of the public workshop the Company would be hosting on June 16, 2020 to explain its proposal and seek public input and comments.

Supplemental Application at ¶ 38. No copy of the bill inserts was provided. The Company does not respond to Staff’s assertion that the Company’s prior customer notifications were misleading.

COMMISSION FINDINGS

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-501, 61-502, and 61-503. 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 61-503. Commission Rule of Procedure 312 authorizes the Commission to issue a proposed order.

The Commission may issue a proposed order in any proceeding.
Any party may file exceptions and briefs to a proposed order within

twenty-one (21) days from its date of service, unless a different time is designated by the Commission. Any party may file and serve answers and accompanying briefs to the exceptions within seven (7) days after service of the exceptions. The Commission may adopt or revise the proposed order in response and issue a final order accordingly. The proposed order is not an order of the Commission unless it is adopted by order. In that case, the order of adoption is the final order for all purposes.

IDAPA 31.01.01.312.

Based on the record, the Commission finds it is fair, just, reasonable, non-discriminatory, and in the public interest to grandfather existing Rocky Mountain Power customer-generators on the same terms the Commission granted existing Idaho Power customer-generators in IPC-E-18-15. There has been no showing of how Rocky Mountain Power customer-generators are differently situated than Idaho Power customers in their reasonable expectations of fundamental program stability. The Commission has consistently tried to align the net metering programs between Idaho utilities to the extent reasonable. *See* Order No. 29260 at 6.

Further, we lack confidence in the Company's calculations of the costs to grandfather existing customer-generators or in potential payback periods. We are concerned the calculation of costs to non-participants to grandfather existing customer-generators do not fully convey the range of potential costs to non-participants because they do not examine potential Export Credit Rates higher than that proposed by the Company. Additionally, the costs embedded in the Company's payback analysis do not align with the Company's own testimony regarding costs of on-site generations. *Compare* Steward, Di at 6 with Supplemental Application at ¶ 11. The range of prices to install an on-site generation system over the time in which the Company has offered Schedule 135 is much wider than those calculated by the Company.

The Company's Original Application, Supplemental Application, and reply comments propose, reiterate, and defend a detailed method to calculate an Export Credit Rate. Yet the Company does not request immediate implementation of the Export Credit Rate in its Requests for Relief. *See* Supplemental Application at § IX. We agree that implementing the Export Credit Rate as proposed by the Company would be premature. The Company's proposals, including its Export Credit Rate components, its inputs, and its proposed move to instantaneous netting from monthly netting, need more scrutiny before implementation. In Order No. 34753, issued concurrently with this order, the Commission delineates a scope of study for the Company to undertake. Upon completion of the study, the Commission will initiate a public process to review the study and

determine whether it was conducted in a credible and fair manner. Upon finding that the study is credible and fair, the study can be a supporting piece of evidence for proposed program changes. The Commission finds it fair and just to grandfather existing customer-generators as of the service date of the adopting order, rather than wait until completion of the Company's study and approval of program changes. This approach will limit any possible cost shift from customer-generators to non-participants and is consistent with prior net metering determinations. The Commission is interested in recognizing the significant financial investment incurred by customer-generators on a reasonable expectation of long-term program stability¹, limiting the magnitude of the likely cost shift, and also providing adequate opportunity to fully study the issues before determining fundamental program changes. To appropriately balance these interests, the Commission determines it is reasonable to grandfather existing customer-generators before the final determination of program changes.

The Commission has long identified a potential cost shift from customer-generators to non-participants under the program structure of Schedule 135. *See* Order Nos. 29260 at 7 (requiring an annual report regarding the subsidization of on-site customer-generators by non-participants and stating, "The Commission recognizes that the full cost of the program we approve today may not be borne only by participants."); Order No. 33511 at 7 (removing the overall participation cap but noting that the "subsidization level is currently small but growing[.]") *See also* PAC-E-16-09 Compliance Filings. The Commission recognizes recent rapid growth in the on-site generation industry that might exacerbate cost shifts if the program structure is not modernized. The Company reports that, as of June 2019, there were about 820 customer-generators under Schedule 135 with a total installed nameplate capacity of 5.8 MW. By the end of March 2020, there were 1,262 customer-generators with 9.3 MW of installed nameplate capacity, a 60% increase in nine months. Supplemental Application at ¶ 5.

The Commission now issues a proposed order rather than making a final determination because the Commission is concerned with the breadth and clarity of the Company's customer communications regarding its proposal. The record does not reflect the actual timing or language

¹ This Commission has repeatedly asserted, and affirms here, that tariffs are not contracts and are subject to change whenever this Commission finds the proposed change is fair, just, reasonable, non-discriminatory, and in the public interest. The significant investment of net metering customers and general issues of fairness and reliance warrant modified application of this standard principle under the present circumstances.

used by the Company to notify customers of its Supplemental Application, and the language used to notify customers of its Original Application is more vague than necessary.

We would like the Company to be more clear, direct, and timely in its communications with customers regarding its on-site generation service offering. On-site generation provides customers a unique opportunity to be active participants in their relationship with their electric utility. The benefits and risks associated with being a customer-generator differ from the benefits and risks of being a passive consumer of electricity. The utility is a trusted entity imbued with a public purpose. It has the opportunity and the obligation to provide its customers with timely, trustworthy, and accurate information regarding the utility's service offerings to allow its customers to make informed decisions about whether to pursue the potential benefits of being a customer-generator while also incurring the associated risks.

The Company points to its notice to customers in its Interconnection and Net Metering Service Agreement, titled "Governing Law" to support its assertion that customer-generators were adequately notified that the program could change when they signed up for it.

As amended from time to time, the Idaho Statutes, Idaho Administrative Rules ("IDAPA") and Rocky Mountain Power's Idaho tariffs approved by and on file with the Idaho Public Utilities Commission ("Tariffs") are incorporated by reference and regulate this Agreement. In the event of any conflict between this Agreement and the Idaho Statutes, IDAPA and Rocky Mountain Power Tariffs (collectively, "Governing Law") the Governing Law shall control. Rocky Mountain Power shall furnish applicable provisions of the Idaho Statutes, IDAPA and its Tariffs upon request from the Customer-Generator.

Rocky Mountain Power Revised Comments at ¶ 6. Similar to our findings in IPC-E-18-15, we would like the Company to put a finer point on its customer communications regarding the potential risk of program change when a customer is making a substantial financial investment with a long payback period. This information should help the customer make a fully informed decision. We reiterate that *tariffs are not contracts and are subject to change whenever this Commission finds the proposed change is fair, just, reasonable, non-discriminatory, and in the public interest.*

The Commission proposes to approve the Company's request to close Schedule 135, but to do so as of the service date of the adopting order. The Commission proposes to allow customers who have applied to be on Schedule 135 as of the service date of the adopting order,

but who have not yet interconnected their system, one year from the order's service date to interconnect their system under Schedule 135. The Commission proposes to approve the Company's request to open Schedule 136, but to do so as of October 1, 2020. Schedule 136 will have no immediate changes from Schedule 135 other than an \$85 application fee, but Schedule 136 customers will be subject to future program changes, whereas Schedule 135 customers will take service consistent with the present terms of Schedule 135 as detailed below.

The Commission proposes to grant grandfathered status to existing customers with on-site generation systems according to these terms:

1. The grandfathered status runs with the meter site, not the customer.
2. If a system is offline for over six months, or is moved to another site, the grandfathered status of the system is forfeited.
3. The customer may increase the capacity of the grandfathered system by no more than 10% of the originally installed nameplate capacity, or 1 kW, whichever is greater.
4. The term of the grandfathering period is 25 years.

Further, the Commission proposes that an existing customer be defined as a customer who has:

1. Successfully interconnected an on-site generation system as of the service date of the order of adoption in this case; or
2. Applied to the Company for interconnection of an on-site generation system as of the service date of the adopting order of adoption and who successfully interconnects their system within one year of the date of their application.

These criteria generally align with the criteria established for Idaho Power customer-generators in IPC-E-18-15. Where they do not align, the terms outlined above apply to Rocky Mountain Power customers and the terms outlined in the IPC-E-18-15 orders apply to Idaho Power customers. The Commission also finds it in the public interest to extend the comment deadline for persons not parties to the case as well. *See* IDAPA 31.01.01.013.

ORDER

YOU ARE HEREBY NOTIFIED that any party may file exceptions and briefs to the proposed order within twenty-one (21) days from the date of service. Any party may file and serve answers and accompanying briefs to the exceptions within seven (7) days after service of the exceptions. The Commission may adopt or revise the proposed order in response and issue a final

order accordingly. The proposed order is not an order of the Commission unless and until it is adopted by order. In that case, the order of adoption is the final order for all purposes. See IDAPA 31.01.01.312.

YOU ARE FURTHER NOTIFIED that any person may file comments on the Commission's proposed order until 28 days from date of service.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 26th day of August 2020.



PAUL KJELLANDER, PRESIDENT

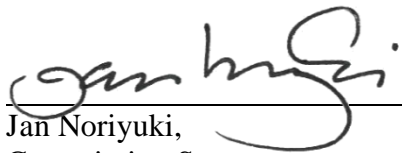


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jan Noriyuki,
Commission Secretary

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