

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF IDAHO POWER)
COMPANY'S APPLICATION FOR) CASE NO. IPC-E-12-27
AUTHORITY TO MODIFY ITS NET)
METERING SERVICE AND TO INCREASE)
THE GENERATION CAPACITY LIMIT) ORDER NO. 32880
)**

On July 3, 2013, the Commission issued final Order No. 32846. After the final Order issued, the Commission received Petitions for Clarification and/or Reconsideration from Gary Iverson, Sr.; Everett and Eileen Vanderpool; Stan Standal; Keith Woodworth; Scott Moore; the Idaho Conservation League (“ICL”); and Idaho Power Company. On August 8, 2013, the Commission issued an Order that granted Idaho Power’s Petition by adjusting the effective date of the Excess Net Energy billing changes from October 2013 to January 2014. The Order also granted reconsideration to Mr. Iverson on the Excess Net Energy issue, and expressed the Commission’s intent to issue a final Order on Mr. Iverson’s and the other remaining petitions by August 14, 2013. *See* Order No. 32872.

With this Order, the Commission grants or denies reconsideration and/or clarification to Petitioners ICL, Iverson, Vanderpool, Sandal, Woodworth, and Moore as discussed below. The Commission also solicits comments from interested persons on another issue. Specifically, if a net metering customer takes service through multiple meters at one or more premises, should the customer be allowed to apply net metering credits to offset usage on the other meters? If so, what conditions should apply?

STANDARD OF REVIEW

A person may petition the Commission to clarify any Order, and may combine the petition with a petition for reconsideration. Rule 325. Reconsideration allows a party to bring to the Commission’s attention any question previously determined and thereby affords the Commission an opportunity to rectify any mistake or omission. *Washington Water Power Co. v. Kootenai Environmental Alliance*, 99 Idaho 875, 879, 591 P.2d 122, 126 (1979); IDAPA 31.01.01.325. The party seeking reconsideration has 21 days from the date of the final Order in which to ask for reconsideration. The party’s petition must specify why it “contends that the order or any issue decided in the Order is unreasonable, unlawful, erroneous or not in conformity with the law.” Rule 331.01. Further, the petition “must state whether the petitioner . . . requests

reconsideration by evidentiary hearing, written briefs, comments, or interrogatories.” Rule 331.03.

Once a petition is filed, the Commission has 28 days to issue an Order saying whether or not it will reconsider the parts of the Order at issue. If reconsideration is granted, the Order must specify how the matter will be reconsidered. *Idaho Code* § 61-626(2). The Commission may grant reconsideration by reviewing the existing record, by written briefs, or by evidentiary hearing. *Id.*, Rule 332. If reconsideration is granted, the Commission must complete its reconsideration within 13 weeks after the deadline for filing petitions for reconsideration. *Idaho Code* § 61-626(2). Finally, the Commission must issue its final Order on reconsideration within 28 days after the matter is finally submitted for reconsideration. *Id*

THE PETITIONS

A. Idaho Conservation League

ICL asks the Commission to reconsider the amount of ICL’s intervenor funding award. We deny ICL’s request.

ICL had asked for \$17,000 in intervenor funding, \$9,812.45 of which was attributable to expert fees and costs charged at a \$300/hour billable rate. *See* ICL’s Application for Intervenor Funding at 2 and Exh. A. We decided that ICL’s request was unreasonably high in amount due to the \$300/hour rate charged by ICL’s expert. We declined to require the Company—and ultimately its customers—to pay that high rate, and we approved a reduced award of \$11,634.96 based on discounted but reasonable rates of \$125/hour. *See* Order No. 32846 at 17-18 (citing *Idaho Code* § 61-617A).

ICL argues that we abused our discretion in reducing this award. We disagree. ICL participated in the public workshop and settlement negotiations, prepared and evaluated discovery, and testified and examined witnesses at the technical hearing. We thus found that ICL’s overall participation materially contributed to our decision. That said, ICL only addressed one issue in the case—the valuation of net metering costs/benefits. And although we do not believe the expert’s energy valuation analysis was wholly irrelevant, we note that no one cross-examined the expert and his testimony ultimately had little impact on our decision. Further, the expert’s \$300/hour rate appears shockingly high when compared to even the highest rates charged by experts in other cases in which we have awarded funding. *See, e.g.,* Case Nos. IPC-E-11-08 (Yankel, \$125/hour) and PAC-E-10-07 (Reading, \$175/hour). It certainly exceeded the

approximately \$23/hour paid to Staff's expert in this case. In light of this, we affirm our decision to reduce ICL's funding award to a reasonable amount—\$11,634.96—on a discounted but still reasonable rate of \$125/hour.

B. Remaining Petitions

The remaining Petitions were filed by Gary Iverson, Sr.; Everett and Eileen Vanderpool; Stan Standal; Keith Woodworth; and Scott Moore. These Petitions raise a variety of issues, some intertwined, some duplicative and some separate. We address these issues as follows.

1. Excess Net Energy Credit. The Petitioners ask the Commission to reconsider its decision to allow the Company to credit excess net energy on a kWh basis, and to require customers seeking financial payment to sell excess net energy to the Company under Schedule 86. We deny the Petitioners' request.

As we explained in the Order, we find it reasonable for the Company to compensate net metering customers for Excess Net Energy using a kWh credit instead of a financial credit or payment. Order No. 32846 at 15. Our Order is consistent with our prior decisions that emphasize that the primary thrust of net metering is to provide customers the opportunity *to offset their own load and energy requirements*. See Order No. 28951 at 11 (Case No. IPC-E-01-39). We find that allowing a bankable, kWh credit furthers the intent of net metering by encouraging potential net metering customers to install only the distributed generation that they need to offset their load. Conversely, we find that allowing a financial payment for excess net energy would encourage customers to install more distributed generation than they need so they can sell the excess power at wholesale to the Company without entering into a power purchase contract under Schedule 86. We find that replacing the cash payment with a bankable kWh credit encourages net metering by allowing customers to benefit from correctly sized systems.

The Petitioners argue that it is impractical and prohibitively expensive for small generators to proceed through power purchase agreements and Schedule 86. See Petitions filed by Iverson, Vanderpool, Standal, Woodworth, and Moore. Assuming this is true, these persons should not set up or run their systems intending to generate excess energy for which they expect payment. Again, the purpose of net metering is to allow a customer to *offset usage*, not to sell power to the Company. If a customer wishes to become a power seller, then the customer must proceed with a contract under Schedule 86.

Certain persons have expressed sympathy for customers who sought a faster payback on their investment by over-sizing their net metering systems in order to sell excess power to the Company. *See* July 15, 2013 Steinbach Comment. Another Petitioner suggested that net metered customers should be grandfathered to the conditions of the current net meter tariff to allow them to recover their investments in their renewable energy projects. *See* Standal Petition. These remarks ignore that tariffs can change while power purchase agreements provide more certainty, and that persons who oversized their systems to obtain a faster payback ignored or misunderstood this difference and took the risk of taking service on a changeable tariff instead of a contract under schedule 86. Consistent with our view in Order No. 30227 (IPC-E-06-07), the Commission reminds customers that net metering is a tariff rate. There is no contract associated with the service and rates are subject to change depending on future Commission decisions.

Contrary to at least one customer's comment that the issues addressed in our net metering Order should remain "stable and not revisited," we stress that the Order specifies that certain issues will be re-examined in the Company's next rate case. For example, the next rate case likely will examine whether the Company should increase the monthly customer charge or implement a basic load charge for the residential and small general service customer classes. *See* Order at 19. Similarly, the Company currently has Schedule 5, an optional Time-of-Day Pilot Plan available to its residential customers. The Time-of-Day plan uses peak and off-peak pricing in the summer and non-summer months, and is designed to send price signals to customers that more closely reflect the cost of service. If in the future, Time-of-Day rates become mandatory because it is determined they more accurately assign the costs to serve customers, the Commission may reconsider the way net metering customers receive credit for excess energy. The point is that resources and circumstances can change, and the Commission must determine whether rates are fair, just, and reasonable in light of the circumstances that exist. The Commission cannot cede its regulatory responsibility under Idaho law for any customer's convenience.

2. Previously Accumulated Credits. Certain Petitioners asked the Commission to clarify what happens to a customer's previously accumulated credits when the Company's Excess Net Generation billing changes take effect. *See* Woodworth Petition; *see also* July 21, 2013 Comment by John Weber. We grant this request. As noted above, we have ordered that the changes to how the Company pays for excess net energy will take effect in January 2014.

Our Order does not change how the Company pays for excess net energy before that date. Accordingly, if a customer wishes to be paid under the existing system for any excess net energy generated before January 2014, the Company and the customer should process such payment requests by December 31, 2013. When the January 2014 billing cycle begins, the changes to how excess net energy is billed will take effect, and customers will thereafter obtain a bankable, kWh credit as expressed in the Order.

3. Applying Net Metering Credits to Offset Usage at Multiple Sites. Certain Petitioners asked us to reconsider and/or clarify whether a customer only can apply excess net energy credits to offset usage at the customer's net metering site, or whether the customer can apply the credits to offset usage at all sites. *See* Standal Petition; *see also* July 19, 2013 Comment by Don Campbell. We grant this request. But before we finally decide the issue, we would like to receive input from interested persons. Accordingly, **interested persons shall have until September 30, 2013, to submit written comments** addressing the following issue: If a net metering customer takes service through multiple meters at one or more premises, should the customer be allowed to apply net metering credits to offset usage on the other meters? If so, what conditions should apply?

ORDER

IT IS HEREBY ORDERED that the Petitions for Clarification and/or Reconsideration from Gary Iverson, Sr.; Everett and Eileen Vanderpool; Stan Standal; Keith Woodworth; Scott Moore; and the ICL are granted and/or denied as set forth above. We deny reconsideration as to the Excess Net Energy portion of our decision; we grant clarification about the treatment of accumulated credits as of the time the excess net energy billing changes occur; and we grant reconsideration and/or clarification on the issue of applying net metering credits to offset usage at multiple sites.

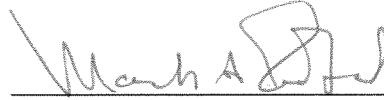
IT IS FURTHER ORDERED that persons interested in submitting comments on the issue discussed in section 3 above, shall do so no later than September 30, 2013.

THIS IS AN INTERLOCUTORY ORDER granting reconsideration as to the issue raised in section 3 above and a FINAL ORDER ON RECONSIDERATION/CLARIFICATION as to all remaining issues and Petitions.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 14th
day of August 2013.



PAUL KJELLANDER, PRESIDENT

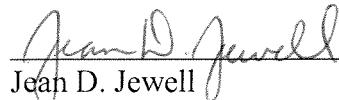


MACK A. REDFORD, COMMISSIONER



MARSHA H. SMITH, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

O:IPC-E-12-27_kk7_Reconsideration