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November 30, 2023

VIA ELECTRONIC FILING

puc.FilingCenter@puc.oregon.gov

Re: Oregon Tariff Advice No. 23-09/ADV 1539
Schedule 84 – Customer Energy Production Net Metering

Attention Filing Center:

Pursuant to the Schedule Announcement issued on November 9, 2023, by the Staff of the Public Utility Commission of Oregon (“Commission”), Idaho Power Company (“Idaho Power” or “Company”) hereby offers these written comments related to the tariff advice filed by the Company on September 15, 2023, to update Oregon Schedule 84, Customer Energy Production Net Metering (“Schedule 84”).

Introduction

Idaho Power appreciates the opportunity to provide these comments in order to clarify the scope of this filing and the relief being requested. The Company is not proposing to change its’ Oregon net metering program to mimic its Idaho offering as Staff’s November 9, 2023, ADV 1539 Schedule Announcement suggests; Idaho Power does not have a separate Oregon net metering program. Rather, as more fully explained below, it offers net metering services to its Oregon customers in accordance with its Idaho on-site generation offering, and the tariff advice merely seeks to update the references in Oregon Schedule 84 to point to all applicable rate schedules in Idaho.

Because Idaho Power offers net metering services to its Oregon customers consistent with the rules in place for its Idaho customers pursuant to Oregon’s net metering law, the Company has kept Oregon Commission Staff apprised of net metering-related activity taking place in its Idaho jurisdiction including, most recently, providing notice and updates on the regulatory proceeding currently pending in Idaho in which Idaho Power has proposed changes to its on-site generation customer offering, Case No. IPC-E-23-14.¹ Additionally, to ensure transparency for Oregon customers that may be impacted by the proposed changes, the Company notified Oregon customers of the filing and provided information on opportunities to offer input and participate in the Idaho proceeding through virtual public workshops, customer hearings, and written comments.

¹ *In the Matter of Idaho Power Company’s Application for Authority to Implement Changes to the Compensation Structure Applicable to Customer On-Site Generation Under Schedules 6, 8, and 84 and to Establish an Export Credit Rate*, Case No. IPC-E-23-14, filed May 1, 2023.

While the Company included updates on the Idaho regulatory activities both prior to and in conjunction with its Oregon tariff advice filing, the tariff advice itself is procedural in nature. To the extent Oregon customers wanted to offer feedback on the substance of the changes being proposed to the Company's net metering offering, the Idaho regulatory proceeding was the appropriate forum for doing so. Though the Company's proposed changes to its net metering program are currently under consideration by the Idaho Public Utilities Commission, the record is closed in that matter and it is anticipated that a decision will be issued in the near future.

If the Company's proposed compensation structure is approved by the Idaho Commission as filed, the Company maintains that the resulting successor program will be functionally similar to the current offering insofar as it will continue to allow for behind-the-meter consumption of energy produced and enable customers to offset their usage and reduce or eliminate the volume of energy they consume. As such the Company believes that the current and proposed offerings are interchangeable such that the successor program would assume the place of its predecessor in compliance with Oregon's net metering law as a matter of course. Notably the Company did seek to affirm its understanding in this regard, requesting guidance from Oregon Commission Staff as to whether further process would be necessary to ensure compliance, and proceeded with the instant tariff advice when no such feedback was received. Regardless, if Oregon Commission Staff or other stakeholders have concerns over the application of Oregon's net metering law vis-à-vis Idaho Power's modified program, Idaho Power stands ready to present argument and evidence to support its position.

Legal Authority

Both the Oregon legislature and the Commission have acknowledged that Idaho Power is differently situated than other Oregon utilities given its small customer base in the State of Oregon, which has resulted, under certain circumstances, in the Company being afforded special regulatory treatment. Such is the approach taken by the Oregon legislature when it passed the Oregon net metering law in 1999; recognizing the disparate impact and inefficiencies that would stem from requiring utilities with a small presence in Oregon to have two sets of rules for net metering, the legislature crafted a provision that would facilitate development of renewable energy resources while mitigating unnecessary burdens on such utilities. To this end the last subsection of ORS 757.300 provides:

(9) Notwithstanding subsections (2) to (8) of this section, an electric utility serving fewer than 25,000 customers in Oregon that has its headquarters located in another state and offers net metering services or a substantial equivalent offset against retail sales in that state shall be deemed to be in compliance with this section if the electric utility offers net metering services to its customers in Oregon in accordance with tariffs, schedules and other regulations promulgated by the appropriate authority in the state where the electric utility's headquarters are located.

Regulatory Background

Through a series of successive offerings over the last forty years, Idaho Power has provided retail customers the ability to generate their own electricity to offset all or a portion of their energy usage. Though the original offering² was provided as an option under Idaho Schedule 86, Cogeneration and Small Power Production Non-Firm Energy (“Schedule 86”), a schedule specific to net metering service was created in 2002, Idaho Schedule 84, Customer Energy Production Net Metering (“Idaho Schedule 84”).³

Pursuant to the allowance set forth in Oregon law, ORS 757.300(9), Idaho Power has offered net metering services to its Oregon customers in accordance with the tariffs, schedules, and other regulations in effect in its Idaho service area. Initially, the details of Idaho Power’s net metering offering in Oregon were set forth in a document, kept on file with the Public Utility Commission of Oregon, describing the Company’s net metering provisions approved by the Idaho Public Utilities Commission. In 2005, however, responding to Oregon Staff’s request for the Company to make a formal filing to ensure transparency for Oregon customers, Idaho Power added a tariff schedule, Oregon Schedule 84, Customer Energy Production Net Metering.⁴ The schedule simply stated that the Company offers net metering services to its Oregon customers in accordance with Idaho Schedule 84 and also provided a link to Idaho Power’s website where customers can review net metering rates, terms, and other conditions. Oregon Schedule 84 has remained unchanged since it first went into effect in October 2005.

In the meantime, the Company has continued to monitor and assess its net metering offering and has been taking incremental steps as it gained experience to prepare for updating its on-site generation offering to ensure equity among all customers moving forward. To this end, the Company filed a case with the Idaho Public Utilities Commission in 2017⁵ seeking authorization to undertake certain preliminary measures that would lay the foundation for ultimate changes and provide transparency of the same to customers. The result of that case was the removal of residential and small general service with exporting systems from Idaho Schedule 84 and the creation of two new tariff schedules: Schedule 6, Residential Service On-Site Generation (“Idaho Schedule 6”) and Schedule 8, Small General Service On-Site Generation (“Idaho Schedule 8”).⁶ Idaho Schedule 84 continued to define the terms for the Company’s commercial, industrial, and irrigation customers with exporting systems.

The creation of separate customer classes under Idaho Schedules 6 and 8 in 2017 was a preemptive measure and did not entail any pricing changes at that time. Rather, the new schedules were to mirror the structure and rates for residential and small general customers without on-site generation until proper rate design and compensation structure was determined

² *In the Matter of the Application of Idaho Power Company for Approval of Revised Rates to be Paid for Power and Energy Sold to Idaho Power Pursuant to Section 210 of the Public Utility Regulatory Policies Act of 1978*, Case No. U-1006-200, Order No. 18358 (Oct. 20, 1983).

³ *In the Matter of the Application of Idaho Power Company for Approval of a New Schedule 84—Net Metering Tariff*, Case No. IPC-E-01-39, Order No. 28951 (Feb. 13, 2002).

⁴ See Idaho Power Company Advice No. 05-12 (adding net metering provisions to the Oregon tariff).

⁵ *In the Matter of Idaho Power Company’s Application for Authority to Establish New Schedules for Residential and Small General Service Customers with On-Site Generation*, Case No. IPC-E-17-13.

⁶ *Id.*, Order No. 34046 at 30-31 (May 9, 2018).

in a future proceeding.⁷

In the series of cases that followed⁸ the Company has continued its efforts to modernize its on-site generation offering, including among other things establishing a new interconnection tariff schedule applicable to on-site generating customers, Schedule 68, Interconnections to Customer Distributed Energy Resources (“Idaho Schedule 68”).⁹ Idaho Schedule 68 contains provisions and requirements for incorporating smart inverters and also provides a non-export option for customer-generators who wish to interconnect a non-exporting system and remain on their current rate schedule. In addition, in order to lay the groundwork for changes to the compensation structure the Idaho Commission established criteria to define legacy treatment for existing systems.¹⁰ Following the Idaho Commission’s orders, the Company updated its website and communication materials to indicate pricing and compensation structure can change as a result of regulatory approval. In what is likely the most direct communication with each prospective customer, the Company has required every customer generation applicant to sign an application acknowledging they understand the program fundamentals – including the measurement interval and compensation for excess energy – can change.

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Though the Company’s net metering services are not substantively governed by the Oregon Commission, throughout the case history in Idaho, Idaho Power has endeavored to keep Commission Staff apprised of activities that could ultimately impact customers in the Company’s Oregon service area. Prior to initiating the most recent customer self-generation docket currently pending in Idaho, Case No. IPC-E-23-14, the Company formally notified Oregon Commission Staff on March 13, 2023, that it intended to pursue changes to its on-site generation offering in Idaho that, if approved as filed, would be implemented as soon as January 1, 2024, and would apply to Oregon customers pursuant to ORS 757.300(9). The Company noted:

[R]egardless of changes, the Company’s offering will continue to enable customers to fulfill the avowed purpose for installing on-site generation – to offset their usage and reduce or eliminate the volume of energy they consume. As such, Idaho Power believes that the service will continue to satisfy Or. Rev. Stat. Ann. § 757.300(9) such that the Company will continue to offer service to Oregon customers in accordance with Idaho Schedule 84 as revised. However, if the Commission believes that further process is necessary to determine whether Idaho Power will remain in compliance with § 757.300 once a successor program is put in place and

⁷ *Id.* at 16.

⁸ See Idaho Power Company Advice No. 23-09, Attachment 1, Summary of Relevant Idaho Public Utilities Commission Orders.

⁹ *In the Matter of Idaho Power Company’s Application to Establish Tariff Schedule 68 – Interconnections to Customer Distributed Energy Resources*, Case No. IPC-E-20-30, Order No. 34955 (Mar. 9, 2021).

¹⁰ *In the Matter of the Application of Idaho Power Company to Study the Costs, Benefits, and Compensation of Net Excess Energy Supplied by Customer On-Site Generation*, Case No. IPC-E-18-15, Order No. 34509 at 14-15 (Dec. 20, 2019) and Order No. 34546 at 8-11 (Feb. 5, 2020); *In the Matter of Idaho Power Company’s Application for Authority to Modify Schedule 84’s Metering Requirement and to Grandfather Existing Customers with Two Meters*, Case No. IPC-E-20-26, Order No. 34854 at 12-13 (Dec. 1, 2020) and Order No. 34892 at 9 (Jan. 14, 2021).

is applicable to its Oregon customers, the Company respectfully requests that it provide notice of the same.

Absent such notice from the Commission or instruction to proceed otherwise, upon filing of the case with the IPUC, Idaho Power will notify all its Oregon on-site generation customers of the filing, how it will apply to them, and how they can participate in the proceeding. Idaho Power will also notify all prospective on-site generation customers (i.e., all existing customers on its system) of the case and the impacts to the on-site generation service offering.

Subsequently, in August 2023, the Company notified Oregon Commission Staff via email that it had filed its application with the Idaho Commission on May 1, 2023, seeking to modify the measurement interval applicable to quantifying exports and the compensation for excess net energy. To ensure transparency for customers, the Company noted that it had sent bill inserts to all Oregon customers as well as direct mailed letters to existing on-site generation customers informing them of the filing and how they would be impacted. The Company also indicated at that time that it planned to submit a tariff advice to update Oregon Schedule 84 to point to all applicable rate schedules in Idaho related to the Company's on-site generation offering and requested that Staff advise if it had concerns with that approach or preferred a different procedural path.

Having received no response from Oregon Commission Staff indicating the need for different process or timing, Idaho Power submitted this tariff advice, ADV 1539/Advice No. 23-09, on September 15, 2023, to update Oregon Schedule 84, which currently only references Idaho Schedule 84, to point to the additional Idaho schedules that interact with the Company's on-site generation offering, Idaho Schedules 6, 8, and 68. As noted above those schedules already exist and the need for the update is independent of the outcome of Case No. IPC-E-23-14.

Conclusion

Idaho Power supports customer choice and interest in clean energy and has provided its customers the ability to offset their energy usage with self-generation well before Oregon enacted its net metering statute in 1999. In adopting that statute, the Oregon legislature recognized the need to account for the different circumstances faced by some electric utilities in Oregon; more specifically, for out-of-state utilities such as Idaho Power with a small presence in Oregon that offer net metering-type services in their headquartered states, compliance with the statute is achieved by offering the same services to Oregon customers. This approach reflects a recognition of the administrative burdens, inefficiencies, and confusion that would result if Idaho Power was required to develop and apply a net metering program in Oregon separate from and in addition to similar services being offered in its Idaho service area where it serves far more customers.

As contemplated under Oregon law, the Company offers net metering services consistently between its Oregon and Idaho jurisdictions pursuant to its Idaho tariffs, schedules, and regulations. The Company's net metering offering does not derive from Oregon Schedule 84 but from the Idaho schedules, which are substantively governed by the Idaho Public Utilities Commission, and updating the references to these schedules is a matter of procedure intended to make it easier for Oregon customers to identify the services offered. However, the substance of the Company's proposed changes being contemplated in Idaho Case No. IPC-E-23-14, is not

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within the scope of this tariff advice filing. If the changes under consideration in Idaho are ultimately adopted, the Company believes it will remain in compliance with Oregon's net metering law by continuing to offer such services to Oregon and Idaho customers alike under its successor program. Stated differently, the Company does not agree that modifications being sought would change the nature of the Idaho program such that it would no longer qualify as "net metering services or a substantial equivalent offset against retail sales." Oregon Staff, however, has suggested that it and other stakeholders question whether this description would still apply to the program as changed and has scheduled a Second Workshop for December 6, 2023, to discuss legal interpretations relevant to ORS 757.300(9).

Despite having concerns as to whether a public workshop is the appropriate forum to address such issues, the Company is interested in hearing from stakeholders on this matter and if questions remain as to the interpretation or application of Oregon's net metering law, the Company is prepared to present legal briefing in advance of the Oregon Commission's public meeting on the matter anticipated to take place either December 12, 2023, or December 28, 2023.

Sincerely,



Connie Aschenbrenner

CA:sg

cc: Lisa Rackner
Donovan Walker
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