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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE INVESTIGATION)
OF ATLANTA POWER COMPANY'S RATES) CASE NO. ATL-E-03-1
AND CUSTOMER SERVICE.)
)
) **ADDITIONAL COMMENTS OF**
) **THE COMMISSION STAFF**
)**

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Lisa D. Nordstrom, Deputy Attorney General, and in response to the Notice of Extended Comment/Protest Deadline issued in Order No. 29257 on June 4, 2003, submits the following additional comments.

BACKGROUND

On September 11, 2000, the Commission received a petition from residents of Atlanta, Idaho, enumerating their concerns about the electric service being provided by Atlanta Power Company. The petition requested "a formal investigation into the reliability of electrical service for the Atlanta townsite." At the Commission's direction, Staff processed the customer petition on an informal basis and worked with the Company and its customers. This resulted in several improvements and a report detailing Staff's findings. On April 10, 2003, the Commission issued

a Notice of Proposed Order in this docket, to which customers, Staff and the Company responded by filing comments.

In its May 1, 2003 Comments, Staff requested an opportunity to respond directly to customers in writing regarding issues raised in the comments. Staff further asked that the Commission schedule a public workshop in Atlanta so that Staff could discuss its response and/or resolve any remaining customer concerns in person. Because a formal hearing takes testimony but does not allow the Commission or Staff to respond to customer questions, the Commission believed customers and interested parties would likely prefer the “question and answer” workshop format to that of a formal hearing. Order No. 29257 at 1. The Commission also found that many of the issues raised by Atlanta customers could be addressed in detail by the Commission engineering, accounting and consumer assistance Staff familiar with this case. *Id.* As a result, on June 4, 2003 the Commission published a Notice of Public Workshop. On June 18, 2003, Staff sent the letter to Atlanta Power customers and interested parties responding to customer comments and questions. (Attachment A)

JUNE 28, 2003 WORKSHOP

Approximately 40 individuals attended the June 28th workshop held in Atlanta. Lynn Stevenson (owner and President), Dave Gill (part-time employee) and Jerry Jaramillo (bookkeeper) were present on behalf of the Company. State Senator Fred Kennedy was also in attendance.

Staff fielded questions on the various topics for approximately three and a half hours. In particular, participants discussed: 1) the adequacy of the Company’s recordkeeping; 2) the amount of time it takes the Company to diagnose and fix outages; 3) non-compliance with previous Commission Orders; 4) uniformity of voltage; 5) frequency of outages; 6) the need for a backup diesel generator and possible funding; and 7) general maintenance of the system and transmission lines. Atlanta Power personnel offered additional information on several of these issues as well.

Staff observed that those in attendance were divided regarding their support of the petition that initiated this case. Based on the crowd’s applause at one point in the workshop, Staff estimates that two-thirds of the crowd appeared **NOT** to support the positions of those who

signed the original Petition. Several others indicated they supported Atlanta Power and appreciated having electricity given the remoteness of the area.

STAFF RESPONSE TO POST-WORKSHOP COMMENTS

Staff has worked with interested parties and customers to answer their individual questions by telephone, in writing, and at the workshop. Based on the post workshop comments, it is clear that a couple individuals remain unsatisfied with Staff's responses, continue to demand answers to previously answered questions, and/or misstate facts in their comments--even after lengthy workshop discussions on June 28, 2003. To the extent we have already addressed these issues and/or questions in our written response to Atlanta Power customers, Staff wishes to incorporate our June 18, 2003 response into the record as Attachment A rather than attempt to answer each question again in these comments.

Staff notes that comments dated June 28, 2003, which were subsequently revised and re-submitted on June 29, 2003, included a copy of a letter submitted to IPUC Staff before the beginning of the June 28th workshop. It is Staff's belief that most of the issues described in the letter were appropriately discussed and addressed during the three and a half hour workshop. These comments frequently misstate Staff's findings, despite Staff's attempts during both written¹ and verbal² communication to inform these individuals of the facts gathered and documented by Staff. Staff attempts to correct the most egregious examples of these misstatements and offer additional recommendations in the paragraphs that follow.

Annual Reports

In comments dated June 29, 2003, certain commentors stated that "since the company filed the annual report required to secure its rate increase, it has not filed another annual report." This is not accurate because although its last rate increase was in 1993, the Company filed annual reports for the years through 1997 as previously noted in our audit and informal investigation reports. These commentors also stated that IPUC "staff, including the attorney confirmed that the P.U.C. does not require A.P. to file annual reports." Not only did Staff not

¹ Staff's written communications include Staff's audit report, Staff's report on the informal investigation and its June 18, 2003 letter (Attachment A).

² Staff's verbal communications include more than a dozen telephone calls during the last 2 years and a three and a half hour workshop discussing these same issues.

make this assertion, the Commission mandates that all regulated utilities file annual reports. In its Proposed Order of April 10, 2003, the IPUC proposed a date by which Atlanta Power was to submit its delinquent annual reports. Due to the comments received in this case and the extension of the comment-filing deadline, that Order has not been finalized. It remains Staff's recommendation that the Company file its annual reports as required by the *Idaho Code* and as proposed by the Commission.

Company Recordkeeping and Written Documentation

In the same comments dated June 29, 2003, the parties wrote "to use the P.U.C. staff member's terminology, the rates are based on 'trust-me bookkeeping.'" No Staff member made this statement at the workshop or any other time. This appears to be a characterization of the commentors based on a misquote of Commission Order No. 24925 associated with Case No. ATL-E-93-1. The Commission referred to a 1988 Order in which the Commission stated that "trust me" representations of utility management were not an acceptable basis for determining whether expenses occurred. In fact, the Commission Order No. 24925 explicitly rejected "trust me" bookkeeping based solely on oral representations.

Participants also discussed the Company's lack of materials and supplies inventory at the workshop. The parties that filed the June 29, 2003 comments seem to have erroneously interpreted this as proof that their power rates are not fact-based. However, as discussed at the workshop and in Staff's most recent audit report, the \$7,000 in Company materials and supplies inventory was not allowed in Staff's calculation of the Company's revenue requirement. Furthermore, the case on which the Company's most recent rates are based (Case No. ATL-E-93-1) did not allow this \$7,000 for the purposes of ratemaking. Thus, these expenses are **not** recovered by customer rates because they were not adequately documented.

As discussed at the workshop, the Company's recordkeeping has improved since Staff's original audit of the Company's records in 1992. As Staff previously noted in its June 18, 2003 letter, audit report and at the workshop, the audit verified transactions included within the Company's expenses and assets by reviewing: 1) the Company's bank statements, 2) returned checks and invoices for numerous years including the test and subsequent years, and 3) information from organizations with which the Company had a financial relationship. In instances where invoices were not found, Staff evaluated whether such an expense actually

occurred and was reasonable. For example, the Company's 1998 and 1999 bank statements contained two payments to Kinko's Copies that were represented as payments for the copying of FERC license applications. Based upon observation of both a draft and final license application and the number of copies distributed, these costs comprised approximately \$350 of the revenue requirement identified in the most recent audit. As also noted in the audit, these dollar amounts would require written verification (such as invoices) to confirm these costs were they to be recoverable in a rate case. The commentors stated that disallowing this type of expense would result in lower power rates. Yet, because this expense occurred after the Company's most recent rates were established, it did not impact the Company's rates.³

The comments dated June 29, 2003 made many allegations regarding the high rates Atlanta Power customers pay. As stated in the June 4, 1993 Order establishing their rates, the facts underlying customer rates remain as follows:

... the level of rates for Atlanta Power is primarily a function of an extremely small customer base, many of whom are only seasonal customers. The level of investment is not unreasonably high for a small electric company. Nor is the annual revenue requirement. We are obligated by statute to provide the Company an opportunity to recover its operating costs and realize a reasonable return on its investment. We cannot require the Company stockholders to fund utility operations out of pocket or require the Company management and employees to work for free or on the cuff.

Order No. 24925 at 13.

That said, Staff continues to believe that the Company still needs to improve its recordkeeping. It remains Staff's recommendation that the Company maintain adequate supporting documentation of transactions and file them in a manner that allows for subsequent retrieval. Additional recommended improvements include, but are not limited to: 1) preparing and maintaining Board of Directors' meeting minutes; 2) performing a periodic inventory of assets that includes preparation and maintenance of a list of assets (including materials and supplies) on at least an annual basis; 3) issuing checks sequentially; and 4) entering payment information at the time of check issuance and performing bank statement reconciliations each month in a timely manner.

³ See also Staff's letter of June 18, 2003, responses to Question Nos. 8-10.

Delivery Voltage

At the workshop and in comments filed following the workshop, parties to this case have discussed the distance from transformers to customer meters in relation to adequate delivery voltages. At the workshop Staff stated that in its experience, 150 to 200 feet was the maximum distance acceptable to the larger utilities regulated by the Commission. The Atlanta Power system has one or more areas where multiple customers are served from one transformer. Some Atlanta Power customers are more than 200 feet from the transformer. Mr. Stevenson correctly pointed out at the workshop that what matters to customers is the amount of delivery voltage and that his system is designed to deliver 110 volts to customers. He accomplishes this with good quality copper conductors and appropriate transformer voltage settings. At the conclusion of the workshop an outlet at the schoolhouse was tested and found to be just over 110 volts. It was suggested at the workshop that customers could easily test voltage at their service locations. If voltage was found to be significantly below 110, customers were told they should contact the Company who agreed to rectify the problem.

Reliability

With regard to backup generation, the Staff continues to believe that Atlanta Power Company should not be required to purchase a system backup generator largely due to the cost and its impact on customer rates. This recommendation is consistent with, and is largely based on, the results of the customer survey indicating that nearly all respondents were unwilling to pay increased rates in order to purchase the backup generator. However, the community would benefit if either the community or Atlanta Power Company could obtain a grant to finance the generator. The community may want to take the lead in pursuing a grant since it would be the primary beneficiary.

The Staff intends to continue working with Atlanta Power regarding plans for system maintenance, restoration of service after an outage, and the effective use of the system status phone number. Discussions concerning tree trimming this summer are presently ongoing.

Maximum Outage Response Time

Although the comments filed on June 29, 2003 stated that a 75-hour outage is not uncommon, Staff is aware of only one 75-hour outage and considers it to be uncommon. These comments also suggested that a maximum response time be established in an outage situation.

Staff notes that Atlanta Power maintains no full-time employees in an effort to keep rates from being higher than they are. There have been and will be times in the future when Atlanta Power's maintenance people will not be in town when an outage occurs or will be committed to other jobs. For safety reasons, it is not reasonable to expect anyone to travel the roads that lead to Atlanta in the dark. It is also difficult if not impossible to drive the system and check for problems in the dark.

Because of these difficulties, Staff believes that any such outage response plan must have a great deal of flexibility. With this in mind, Staff initially recommended such a plan in its investigative report and the Commission included that plan in its Proposed Order. That plan would allow the Company time to diagnose the problem and approximately a day for the delivery of parts in Boise before a backup generator be brought in. Although a plan that shortens outages would be ideal, Staff has been unable to identify one that is safe, feasible, and can be implemented at little or no cost. If the Commission chooses to establish a maximum response time, the Commission should also address what constitutes an "adequate response." Staff believes that there could be a substantial difference of opinion on this matter.

Tariff Clarification

Customers have raised questions regarding when Atlanta Power may assess connection and reconnection fees. The Commission increased connection and reconnection fees for customers in Case No. ATL-E-93-1. Customers who closed accounts for more than 30 days were assessed reconnection fees of \$200. This rate was established as an incentive for seasonal and permanent customers to stay connected during winter and contribute to the electrical system costs. O. N. 24925 at 9. The connection fee for new customers and customers disconnected for 30 days or less is \$25.

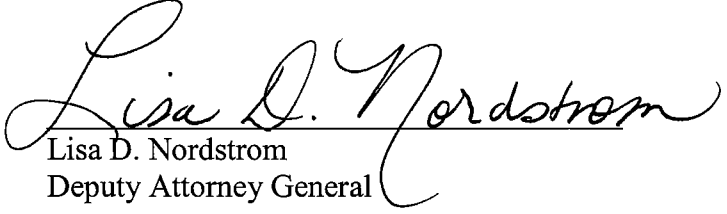
Staff is concerned that a former customer may apply for service under a different name when requesting connection in order to avoid paying the high reconnection fees. Staff intends to

work with the Company to revise and clarify the conditions under which connection and reconnection fees may be applied.

STAFF RECOMMENDATIONS

1. As stated in our prior comments, Staff recommends that Atlanta Power continue to bring in a leased generator for a multi-day outage rather than increase rates to purchase a new one.
2. Staff recommends the community of Atlanta pursue state and/or federal grants to fund the purchase of a backup generator.
3. Staff continues to recommend the Company file its past-due annual reports as required by the *Idaho Code* and as proposed by the Commission.
4. Staff recommends that it work with the Company to revise the Company's tariff. Specifically, Staff recommends clarification of the conditions under which connection and reconnection fees would apply. Any proposed tariff revisions resulting from Staff's discussions with the Company will be submitted to the Commission for its review and approval prior to implementation.

Respectively submitted this ^{22nd} day of July 2003.


Lisa D. Nordstrom
Deputy Attorney General

Technical Staff: Keith Hessing
Patricia Harms
Carol Cooper

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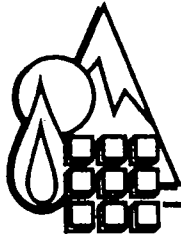
CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 22ND DAY OF JULY 2003, SERVED THE FOREGOING **ADDITIONAL COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. ATL-E-03-1, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

LYNN STEVENSON
ATLANTA POWER COMPANY
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Paul Kjellander, President
Marsha H. Smith, Commissioner
Dennis S. Hansen, Commissioner

June 18, 2003

Atlanta Power Customers
Senator Fred Kennedy
Interested Persons
Atlanta Power Company

To address questions and concerns posed by several Atlanta Power Company customers, the Idaho Public Utilities Commission Staff will hold a workshop at the Atlanta Elementary School on **SATURDAY, JUNE 28, 2003 AT 1:00 P.M.**

Staff has prepared the following response to written customer questions received by the Commission thus far. We hope you will have the opportunity to review this document prior to the workshop so that Staff can answer any follow-up questions you may have in person.

Following the workshop, the Commission will accept additional written comments in this docket until Tuesday, July 22nd. Once this date has passed, the Commission will likely make a final decision on the merits of the case. Individuals who are aggrieved by the Commission's final decision may seek reconsideration by filing a petition with the Commission within 21 days of the final Order. Petitions for reconsideration must set forth the reasons why the decision is erroneous and what argument the petitioner will offer if reconsideration is granted. *Idaho Code* § 61-626.

We hope to see you at the public workshop. Should you need to contact us prior to the public workshop, please call the Commission at (208) 334-0300 or toll free at (800) 432-0369.

Sincerely,

Randy Lobb
Utilities Division Administrator
Idaho Public Utilities Commission Staff

PREFACE

Before we respond to the written questions of customers and interested parties, we thought it might be helpful to provide some background information on the roles of the Commission and its Staff. Following the preface, we organized Staff's responses by topic to address questions regarding procedure, accounting/billing, service quality and non-compliance issues.

Purpose of the Idaho Public Utilities Commission: Under state law, the Idaho Public Utilities Commission (IPUC) regulates Idaho's electric, gas, telecommunications and water investor-owned utilities and makes decisions that are in the public interest. The Commission must assure customers adequate service and set just, reasonable and sufficient rates.

The Commission does not regulate publicly owned, municipal or cooperative utilities. In setting rates, the Commission must consider the needs of both the utility and its customers. Customers must be ensured of paying a reasonable rate, and utilities must be allowed to recover their legitimate costs of serving their customers and earning a fair rate of return. Commission operations are funded by fees assessed on the utilities and railroads it regulates.

Authority vested with the Commission: The IPUC has quasi-legislative, quasi-judicial, and executive powers and duties. In its quasi-legislative capacity, the Commission sets rates and makes rules governing utility operations. In its quasi-judicial mode, the Commission hears and decides complaints, issues written Orders similar to court orders and may have its decisions appealed to the Idaho Supreme Court. In its executive capacity, the Commission enforces state laws affecting the utility and rail industries.

Commission Composition: The governor appoints the three commissioners who are confirmed by the Idaho Senate. No more than two commissioners may be of the same political party. The commissioners serve staggered six-year terms. The governor may remove a commissioner before his/her term has expired for dereliction of duty, corruption or incompetence.

Role of the Commission Staff: To help ensure its decisions are fair and workable, the Commission employs a staff that includes engineers, rate analysts, attorneys, accountants, investigators, and economists. Other than being a possible customer of a regulated utility, these Staff professionals have no stake in the outcome of the cases in which they participate. Like the

Commissioners, Staff members are not allowed to hold any stock, interest or position in utilities regulated by the Commission.

The Staff analyzes each petition, complaint, rate increase request or application received by the Commission. In formal Commission proceedings, the Staff acts as a separate party to the case, presenting its own testimony, evidence and expert witnesses. The Commission considers Staff recommendations along with those of other participants in each case - including utilities, public, agricultural, industrial, business and consumer groups. Although Staff's professional experts make recommendations, the three Commissioners ultimately decide the outcome of each case.

STAFF RESPONSE TO CUSTOMER QUESTIONS

PROCEDURE

Question No. 1: The original petition requested a "formal investigation." Why did the Commission proceed informally and without an explanation?

Staff Response to Question No. 1: Idaho law permits the Commission to use its discretion to determine whether formal or informal procedure is appropriate for a particular case. *See* IDAPA 31.01.01.022. Commission Rule 22 encourages the use of informal proceedings to settle or determine cases. The informal nature of such proceedings do not diminish their importance, but merely offer a different method of obtaining the evidence necessary for the Commission to make an informed decision. Informal proceedings do not generally substitute for formal proceedings, do not exhaust administrative remedies, and do not prejudice the right of interested persons to present the matter formally to the Commission. *See* IDAPA 31.01.01.024.

A significant advantage to using informal procedure is that it allows the Commission Staff to gather information, give advice or assistance, and propose possible resolutions without burdening ratepayers with the additional expense that typically accompanies formal procedure. Because they make rulings much like judges do in court, the Commissioners cannot directly answer customer questions regarding pending cases. Consequently, the Commission scheduled the public workshop in Atlanta to allow customers the opportunity to have their questions answered by Staff.

Question No. 2: Why did it take over 2½ years for Staff to complete its investigation?

Staff Response to Question No. 2: In response to the customers' petition, Staff proposed to audit the Company, identify potential improvements and associated costs, and survey customers. The audit required more time than originally estimated because records had to be located, organized and verified. Most significantly, an unexpected spike in western electric wholesale market prices dramatically increased Staff's overall workload and delayed completion of the investigation. Staff's workload also included cases with statutory deadlines that took precedence over other cases. Although the result of the Atlanta Power investigation was substantially delayed, the Staff continued to work with Atlanta Power Company on three areas of concern and made progress in resolving them as described in Staff's report of March 6, 2003.

Question No. 3: Why were customers only given 30 days to respond to the Proposed Order?

Staff Response to Question No. 3: The Commission determined that 21 days would be sufficient to review and comment on the proposed Order. *See* IDAPA 31.01.01.312. If reviewers needed more time to file comments, they could request additional time in writing as Atlanta Power Company did on May 7, 2003. The Commission has liberally granted such requests in the past. In any event, Commission Order No. 29257 has extended the comment period in this case to July 22, 2003.

Question No. 4a: Why were only six customers of record identified as having signed the original petition?

Staff Response to Question No. 4a: Staff compared names on the petition with Company customer records and matched six names as appearing on both lists.

Question No. 4b: Is there a certain number of people who must complain for the PUC to regulate the utility?

Staff Response to Question No. 4b: All Idaho investor-owned electric utilities are regulated by the Idaho Public Utilities Commission according to statute regardless of the number of complaints filed against the utility.

Question No. 4c: Can a single person file a formal complaint regarding service? What regulation or law prohibits a person from protesting to the regulatory agency about the lack of electricity that has been paid for?

Staff Response to Question No. 4c: Customers do not pay for electricity that they do not receive because electricity that is not used is not recorded on the customer's meter. Any person may file a complaint against regulated utilities regarding service. *Idaho Code* § 61-612 states that *any person* may file a written complaint that sets forth "any act or thing done or omitted to be done by any public utility" including any alleged violation of the law or Commission Order or rule. However, this statute prevents the Commission (except upon its own motion) from entertaining complaints from non-governmental entities as to the "reasonableness of any rate or charges" unless the complaint is signed by at least 25 current or prospective consumers or purchasers.

Question No. 5: Why was it stated in Staff's response to Senator Kennedy that the delay was caused by difficulty reaching the people in Atlanta?

Staff Response to Question No. 5: Staff's letter to Senator Kennedy stated, "The delay in completing the investigation was at least in part due to the difficulty in reaching both customers and the Company to conduct the survey and obtain financial and operational information." Staff's customer survey was designed as a telephone survey initially. An effort to contact a few customers on two different occasions ended with no contacts. Following that a mailing list was obtained from Atlanta Power and a written survey form was prepared. The change in plans required additional time and lengthened the process.

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Case No. ATL-E-03-1
Staff Comments
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ACCOUNTING/BILLING

Question No. 6a: Why has Atlanta Power been allowed to continue its improper accounting practices since June 4, 1993?

Staff Response to Question No. 6a: Commission Staff has worked with Atlanta Power Company for the last decade to improve its accounting practices. The Commission recognizes that regulatory compliance has a financial cost that can be particularly burdensome for utilities that have few ratepayers over whom these costs can be spread. Moreover, Atlanta Power is a small utility with no full-time employees and limited resources. Consequently, Atlanta Power does not possess the same level of accounting proficiencies and resources as do larger, publicly traded utilities that employ a staff dedicated to regulatory compliance. See also Staff response to Question No. 19a regarding compliance with Commission Orders.

Question No. 6b: Why has Atlanta Power not been required to file all annual reports since 1997?

Staff Response to Question No. 6b: With regard to annual reports, *Idaho Code* § 61-405 makes allowances for small-scale utilities that “serve a small community of persons” by allowing the Commission to prescribe “an abbreviated or modified” format. This statute would allow the Commission to modify Atlanta Power’s annual reporting requirement to provide the name of the utility, the address of its office, a list of its officers, the number of customers, the number of kilowatt hours sold, and the Company’s estimated revenue. The Commission Staff already acquired this information for 1998 and 1999 as part of its investigation. No benefit would be gained from having the utility (and customers) expend resources filing pre-2000 reports when those resources that could be better applied to filing annual reports for 2000, 2001 and 2002. In recognizing this fact, the Commission seeks to maximize customer resources (by avoiding unnecessary accountant fees) while maintaining comprehensive regulatory oversight.

Question No. 7a: How can Staff accurately audit the Company when the Company has not complied with previous Orders?

Staff Response to Question No. 7a: Staff is able to audit the Company by reviewing its records including its bank statements, returned checks, and invoices. Because some records were not located at the Company's office, Staff obtained financial information directly from some organizations with which the Company had a financial relationship.

Question No. 7b: Why isn't Staff willing to perform its statutory and regulatory duties?

Staff Response to Question No. 7b: Staff has performed its statutory and regulatory duties by gathering facts in the current investigation by means of a Company audit and customer survey. Staff has made recommendations to both the Company and the Idaho Public Utilities Commission for their consideration. Furthermore, Staff continues to respond to customer questions and concerns by telephone, letter, and in person at the public workshop on June 28, 2003

Question No. 8a: Atlanta Power earned \$3,000 more than it should have in 1999 using improper methods. Why were there over-earnings in 1999? If 1999 was a "test year," how do other years compare?

Staff Response to Question No. 8a: Staff's most recent audit of the Company compared the revenues earned in 1999 using the current rate structure established in 1993 with the Company's expenses and allowed return on investment for 1999. Revenues exceeded expenses and return on investment by approximately \$3,000. However, no provision existed for backup generator rental costs in those expenses. Based upon invoices reviewed for such rentals, generator rental and fuel costs in a year can be more than \$3,000. Additionally, there were no accounting expenses incurred for filing annual reports in the 1999 expenses. Both these expenses are normal operating expenses and if incurred, would significantly reduce and probably eliminate the Company's excess of revenue over expenses.

Attachment A
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Staff's most recent audit tested Company records for the year 1999. The previous audit of test year 1997 calculated a revenue shortfall of approximately \$10,000. A "revenue shortfall" occurs when the amount of revenue collected by the Company falls short of the Company's expenses and allowed return on investment for the year audited. It can also be referred to as an "earnings deficit."

Staff's most recent audit also recommended improvements to the Company's recordkeeping. The improvements include performing a periodic inventory of assets, issuing checks sequentially, performing bank statement reconciliations in a timely manner, and obtaining and retaining documentation supporting each financial transaction.

Question No. 8b: How much has Atlanta Power over-charged its customers from 1999 to 2003? All overpayments made should be refunded to customers so the town could use the money to fund its own new generator.

Staff Response to Question No. 8b: The context of this question appears to imply that the *over-recovery* estimated in the audit of test year 1999 results from *overcharges* to the Company's customers. This is not the case. Over-recovery of normalized costs (average expenses and allowable return on investment) when approved rates are correctly charged does not constitute an overcharge. Over- or under-recoveries are kept or absorbed by the Company as explained in Staff response to Question No. 10. Over- or undercharges result from the improper application of Commission-approved rates or the application of an incorrect rate and can be corrected back in time for a period of up to three years. No overcharges were identified during the audit.

Question No. 9: How and why can the PUC support the high rates charged without proper documentation?

Staff Response to Question No. 9: The most recent Order from the Idaho Public Utilities Commission that established rates for the Atlanta Power Company was Order No. 24925 in Case No. ATL-E-93-1 dated June 4, 1993. The Commission, based upon the evidentiary record at that time, established the Company's rates. Rates are established to provide a regulated utility with sufficient revenue to pay its expenses and earn a return on the cost of investor-supplied property (i.e., investment) used in providing service to the public. The Company's

revenue, expenses and investment in property change over time. Staff's most recent audit compared the revenues earned in 1999 using the current rate structure established in 1993 with the Company's expenses and allowed return on investment for 1999. To confirm transactions included within the Company's expenses and assets, the audit included review of the Company's bank statements, returned checks, invoices for numerous years including the test and subsequent years, and information from organizations with which the Company had a financial relationship. The audit results noted in Staff response to Question No. 8a show that current rates come very close to recovering current costs. Therefore, it is Staff's position that a general rate case to increase or decrease current rates is not presently justified.

Question No. 10: Has the Schedule 5 temporary surcharge of 4.5 cents/kWh been removed from customer rates (O.N. 24925 & 23367)? If not, can any overpayments resulting from its continuation after the loan was paid off be returned to customers?

Staff Response to Question No. 10: Schedule 5 of Atlanta Power's tariff was cancelled June 15, 1993 when the Commission approved new rates in Atlanta Power's general rate case. At that time any remaining Kirby Dam costs were included in the Company's general rates, which will stay in place until the Commission revises them in a future case. Those rates are still in effect today. The theory is that utility costs that expire are generally replaced by new costs that are also recoverable from customers. To verify that this theory is holding true, the Commission Staff audits each regulated utility from time to time as it recently did during the informal review of this complaint. As noted previously, the audit results show that current rates come very close to recovering current costs. Therefore, it is Staff's position that a general rate case to increase or decrease current rates is not presently justified. Although many if not all of the costs to be recovered through the Schedule 5 temporary surcharge have been paid in full, other costs associated with a new hydro generator and Federal Energy Regulatory Commission (FERC) relicensing have taken their place.

Laws governing permanent rates established by the appropriate regulatory authority prohibit customer refunds or surcharges for under- or over-collections of amounts paid or collected through the proper application of approved rates in past time periods. In short, this "retroactive ratemaking" is not legal. In the current context this means that, **hypothetically**

even if the Staff's audit showed that Atlanta Power had over-recovered \$20,000 in the 1999 test year, refunds could not be ordered. Likewise if the Company had under-collected its costs by \$20,000 the under-collection could not be recovered from customers either. If either one of these hypothetical situations occurred, new rates to recover the correct amount would possibly be established and put in place going forward.

Question No. 11a: Has the note to IDWR for \$57,000 for installation of a hydraulic gate on top of the dam been paid off?

Staff Response to Question No. 11a: Yes, it has.

Question No. 11b: There was no footnote in the Order to remind Atlanta Power that rates should be adjusted upon satisfaction of the note to IDWR.

Staff Response to Question No. 11b: Although Staff recommended in O.N. 24925 that rates be adjusted upon satisfaction of the note to Idaho Department of Water Resources, the Commission did not order it. Therefore, there have been no overpayments because the rates were made permanent. This was not an oversight but rather recognition of expected cost replacement as described in Staff's response to Question No. 10.

Question No. 11c: What are the true costs of generating power at Kirby Dam?

Staff Response to Question No. 11c: The Company's costs for providing power to customers include operation, maintenance and general administrative expenses plus depreciation and taxes. Rates are based on these annual costs and an allowable rate of return on the Company's investment in assets to provide service. In Staff's audit of the year 1999, the combination of these annual costs (called a company's "revenue requirement") equaled approximately \$57,000.

Question No. 12: Atlanta Power's rates are very high and seem to be excessive compared to other hydro-powered companies.

Staff Response to Question No. 12: Atlanta Power's rates in terms of average cents/kWh are high relative to all electric utilities with which the Staff is familiar, regardless of whether their main source of power is hydropower. The main reason for the high rates is that there are only 65 customers to share the Company's costs. Thus, few share the fixed costs of providing service and economies of scale cannot be captured. As pointed out in customer comments, Atlanta Power's rates may be the highest in the nation. However, it does not follow that the highest rates in the nation should lead to the best service quality in the nation as some would imply. It simply means that the cost per kilowatt-hour of providing the existing level of service is the highest in the nation. A higher level of service would likely increase customer rates.

Question No. 13a: Atlanta Power did not take care of the backup generator it had and left it out in the weather with no preventive maintenance.

Response to Question No. 13a: The backup generator was used when Atlanta Power acquired it. It was surplus military equipment and designed to withstand weather conditions without a separate enclosure.

Question No. 13b: Why should customers have to pay to buy a new one when Atlanta Power didn't take care of the first one?

Staff Response to Question No.13b: Generators get old and wear out. Once this occurs, they can be rebuilt for a price so that they can continue to supply service. Newer generators are more fuel efficient and can be more economical to operate. It is an economic decision to rebuild, purchase or lease a generator.

Question No. 13c: How many hours did the old generator have on it and how many hours did the PUC expect it to last?

Staff Response to Question No. 13c: The PUC Staff does not know how many hours the old generator operated either before or after it was purchased by Atlanta Power. However,

there was a period during which it was expected to operate. When its costs were first included in rates, it was assigned an estimated remaining life of fifteen years. That estimated economic life ended in 2001 when the generator was fully depreciated. All costs associated with the generator were removed from the 1999 test year in the Staff audit discussed in Staff response to Question No. 8a.

SERVICE QUALITY

Question No. 14a: Why weren't customers personally notified of the phone number for customers to call for information when there is an outage?

Staff Response to Question No. 14a: The telephone number was included in the Commission's proposed Order that was sent to all customers on April 10, 2003. The number is 208-864-2228.

Question No. 14b: What good is a tape-recorded message machine when scheduled maintenance occurs if customers don't know when to call the number?

Staff Response to Question No. 14b: It is a simple matter to call the number. In Idaho Power Company's service territory in Boise, most planned outages are published in the newspaper. Customers must read the newspaper to be aware of scheduled outages. Although it is possible to notify customers individually, there is an associated cost. In general, increased utility costs are paid with increased utility rates. The telephone information system implemented by Atlanta Power also works well for people who do not live in Atlanta and who want to know the status of the power system before they travel to Atlanta. The telephone messaging system is a low cost solution to some customer communication concerns for a utility with no full time employees.

Question No. 15a: Who is the third person that lives in Atlanta who can assist with system problems?

Staff Response to Question No. 15a: It is Staff's understanding that recently a third person, Randy Nye, who lives in Atlanta and has done work for Atlanta Power on a contract

basis, will assist with system problems. Lynn Stevenson, who does not live in Atlanta, and Dave Gill, who does live in Atlanta, do most of Atlanta Power's maintenance and repair.

Question No. 15b: Has this person been adequately trained and do they have authority to really fix problems?

Staff Response to Question No. 15b: To minimize training costs that would be passed on to customers, experience is gained on the job. Whether or not a person is authorized to repair a particular problem depends on the problem because different problems may require different kinds of expertise.

Question No. 16a: The fact that nearly a third of Atlanta Power customers own generators is not an excuse for Atlanta Power to provide poor service to paying customers. Customers need and deserve a backup generator due to the system's extended outages.

Staff Response to Question No. 16a: A cost-effective solution to the problems voiced by Atlanta Power customers in the customer survey, is for individual customers to own their own small generators. This would reduce concerns about food spoiling in the refrigerator due to loss of electricity, pipes freezing due to lack of electric heat, whether Atlanta Power will operate the diesel-powered backup generator all night, or when the system may be fixed. Approximately one-third of Atlanta Power's customers have adopted this solution. Other Atlanta Power customers that use propane for refrigeration and backup lighting and heat essentially gain the same peace of mind without a backup generator.

Atlanta Power's current rates pay for a central power supply system with a single hydro-powered generator that occasionally fails, no full-time employees, a few part-time employees, and a distribution system with some components that are more than 100 years old. All of these factors that contribute to reliability problems can be improved for a price -- a price that the beneficiaries of the improvements, Atlanta Power customers, should and would be required to pay. Atlanta Power's rates are already high and customers, almost without exception, are opposed to higher rates. The Staff is working with the Company to facilitate low-cost improvements that by customer mandate do not include a system backup generator.

Question No. 16b: Customers pay a service fee every month. Is that the case in any other part of the U.S.?

Staff Response to Question No. 16b: It is common in the United States for electric utility customers to pay a monthly fixed charge in addition to an energy-based charge. That monthly fixed charge can be called a “service fee,” a “customer charge,” a “customer minimum charge” or a number of other things. It provides revenue to the utility company to pay a portion of its costs of providing service to customers. Atlanta Power’s monthly fixed charge is very high for small, residential customers as compared to other utilities. The rate is designed this way because the great majority of system operating costs do not vary with energy usage. These costs remain the same whether or not customers use energy. Therefore, customers pay them even when no energy is consumed.

Question No. 17a: Is the PUC going to place a time limit on how long Atlanta Power customers can be without power before a backup generator is required to be in operation?

Staff Response to Question No. 17a: In its report to the Commission, the Staff proposed that Atlanta Power bring in a backup generator for a system problem after the problem has been diagnosed and only when repair parts will take longer than a day to obtain. This recommendation does not limit the time required to diagnose the problem. It also does not limit the number of times a problem can be diagnosed and the parts ordered for next day delivery when the installed parts do not completely solve the problem. It is Staff’s observation that this is the way Atlanta Power currently operates. If ordering parts takes a day and bringing in a generator takes a day, the Company’s time and the ratepayers’ dollar is better spent waiting for parts.

Atlanta Power has incentive to keep its system operating because the Company makes money by selling electricity. Staff made this recommendation to the Commission even though Atlanta Power customers may be without power for a time because forty-nine of fifty Atlanta Power customers who responded to Commission Staff’s survey indicated that they were not willing to pay increased rates to cover the costs of a system backup generator. That is a clear mandate from the people who would have to pay increased rates to cover the costs. Unlike

purchasing a new generator, renting a backup generator when needed will minimize costs and help keep rates lower.

Question No. 17b: Will the PUC enforce this time limit?

Staff Response to Question No. 17b: If the Commission were to establish a time limit for bringing in a backup generator in an outage situation, it would do so because it believed that having the time limit was in the public interest. In this particular case, it would arguably be in the public interest if customers wanted a leased generator brought in within a specified amount of time and if the Company was reimbursed for its costs of so doing. The Commission may enforce such a time limit by levying fines and/or seeking civil or criminal judicial remedies if doing so remained in the public interest. A fine may or may not cause the utility company to bring in a backup generator.

NON-COMPLIANCE WITH ORDERS AND RULES

Question No. 18: Why does Staff continue to allow Mr. Stevenson to say he will do something and then not follow through or allow him to be seriously late in doing so?

Staff Response to Question No. 18: The Commission Staff has no authority to order Atlanta Power Company to do anything. The three Commissioners of the Idaho Public Utilities Commission make the regulatory decisions and issue Orders. See also Staff response to Question No. 19.

Question No. 19a: Why is the PUC so reluctant to enforce its own regulations when Atlanta Power continues to violate Commission Orders?

Staff Response to Question No. 19a: It is true that Atlanta Power Company has not done some of the things that the Commission has ordered it to do. It is also true that the Commission has not tried to enforce its Orders by imposing fines on Atlanta Power Company. However, the Commission is actively supervising the Company by having Staff work with Atlanta Power to resolve identified customer concerns.

The Commission's primary responsibility is to make regulatory decisions that are in the public interest. When Atlanta Power Company chose to not comply with portions of Commission Orders the Commission was forced to make a decision: fine Atlanta Power Company to encourage compliance or not fine the Company. Fining the Company would have two possible outcomes - either the Company pays the fine and comes into compliance with the Commission's Orders or it goes out of business altogether. Staff believes that the Commission has not found it in the public interest to have Atlanta Power Company go out of business for its noncompliance thus far and that there is a real possibility that would be the result. If Atlanta Power ceased to operate, Staff does not believe there are alternative central power providers or any other economically viable power alternatives that can serve Atlanta. Therefore, the Commission has chosen to not impose fines but to allow its Staff to work with Atlanta Power Company to bring about system improvements. This process, which has been going on for much longer than the last two and one-half years, provides incentive to Atlanta Power Company in two ways. First, the costs of complying with Commission Orders may be recovered through rates, and second, if acceptable progress does not occur the Commission can still fine Atlanta Power and let the chips fall where they may.

Question No. 19b: Outages have been unnecessarily lengthy and local Atlanta Power employees are not always available to resolve problems or they have other priorities. What makes Staff believe that Atlanta Power will follow any Order that is issued?

Staff Response to Question No. 19b: Atlanta Power Company is a business with people and money resources that are much more limited than other large electric utilities regulated by the Commission. Staff believes that, subject to the availability of time and money, Atlanta Power will make business decisions that are in its own best interest. Staff believes that the service improvements ordered by the Commission make good business sense and that over time Atlanta Power can be convinced to do them because it is in the Company's best interest to minimize costs, improve reliability at a reasonable cost and operate more efficiently.

Question No. 20: When a company, according to Staff's records, is willing to incur late fees and interest of more than \$35,000, it appears that they could and would pay a \$10,000 fine for noncompliance with your Orders.

Staff Response to Question No. 20: Staff's audit did not identify \$35,000 of late fees or interest related to past due amounts. Staff's audit identified approximately \$26,000 of *unpaid* interest associated with past due amounts for legal costs and services to acquire a FERC license. Like other late fees, these costs are excluded from the Company's revenue requirement (see Staff response to Question No. 11) for the purposes of establishing rates. It is Staff's understanding that the Company reached an agreement with its legal counsel to waive the interest on its past due amounts. Additionally, the imposition of a fine would not guarantee the desired result. See Staff response to Question No. 19.

Question No. 21: How could FERC have issued a 30-year license without first consulting with the PUC regarding the credibility of the current license holder?

Staff Response to Question No. 21: The FERC informs the public at large of its cases and decisions by publishing notification in the Federal Register. All interested parties are expected to learn of the federal government's activities by reading the Federal Register. The IPUC knew of the Kirby Dam relicensing process, but had no reason to oppose the license renewal because it was and still is in the public interest to have a central power supplier in Atlanta.

Question No. 22: Is there a conflict in Atlanta Power Tariff No. 5, page 4 of 4, Schedule 4 with IDAPA 31.21.01 Rule 011?

Staff Response to Question No. 22: There is no conflict with Rule 11 of the Utility Customer Relation Rules (UCRR), which addresses conflict with utility tariffs. This rule provides that customers' rights (e.g. right to file a complaint, receive notification prior to disconnect, etc.) cannot be denied or restricted by utility tariffs.

The definition of a customer in UCRR 005.02 is provided for purposes of interpreting the Utility Customer Relations Rules. This definition does not necessarily apply to any utility tariffs or interpretation thereof. The Commission may approve a utility tariff that provides for a

definition of customer that differs from that contained in the UCRR. Atlanta Power Tariff No. 5, page 4 of 4, Schedule 4 was part of the overall rate design approved by the Commission in Case No. ATL-E-93-1. The Commission intentionally approved the reconnection charge of \$200 as an incentive for seasonal and permanent customers to stay connected to the electrical system during the winter months. Absent the year-round income, rates would have been set even higher than they were. The Commission has not received any complaints in the past three years regarding the reconnection charge in Schedule 4.

Question No. 23: Is it true that customers should not be asked or required by Atlanta Power to fund new transformers?

Staff Response to Question No. 23: When new residential or small business customers are connected to the Atlanta Power system, the Company must provide the transformer. However, the Company's costs to provide the new transformer may be recovered in the Company's general rates.

Question No. 24: Please provide a list of all PUC Orders that have not been complied with.

Staff Response to Question No. 24: The Commission does not maintain a list of Orders that utilities have not complied with. All Commission Orders are available for public review should someone desire to assess overall compliance.

Question No. 25a: Please provide a list of Atlanta Power investors and stockholders.

Staff Response to Question No. 25a: There is no requirement that specific investor or shareholder information be reported to the Idaho Public Utilities Commission. As a result, this information is not available.

Question No. 25b: Is there some kind of conflict of interest that is impeding the PUC from doing its duties as a regulatory agency?

Staff Response to Question No. 25b: The Commissioners are not allowed to have conflicts of interest that would impede or influence the exercise of their regulatory duties. *Idaho Code* § 61-207 requires Commissioners to take and subscribe to an oath that they will have no interest "...directly or indirectly in any public utility embraced within the provisions of this act; or any of its stocks, bonds, mortgages, securities or earnings."

Question No. 26: When will the next review of the Company occur and what is the follow-up procedure to ensure that Atlanta Power accomplishes everything the Commission requires?

Staff Response to Question No. 26: Based upon the nature of this investigation, Staff will continue to monitor and review Company activities and will report back to the Commission as circumstances warrant.

Question No. 27: What is the timeline for Atlanta Power to do a preventive maintenance plan, and will the PUC enforce it?

Staff Response to Question No. 27: No current timeline exists. Preventative maintenance is one of the areas that the Staff will continue to work with the Company to accomplish. Preventive maintenance, as well as other improvements, is subject to Atlanta Power resource availability. If the Commission required and obtained a preventive maintenance plan from Atlanta Power Company, it would attempt to enforce the plan if and when it found such actions to be in the public interest.

Question No. 28: With regard to Atlanta Power Tariff No. 1, Sheet No. 12 Master Metering Standards, Atlanta Power appears to discriminate in favor of some customers and against others on a regular basis.

Staff Response to Question No. 28: Staff believes that this question concerns rooms that are available for rent in Atlanta Power's service territory. The question is whether or not such rooms should be metered through a single meter (master metered) or whether each room or

dwelling unit should be individually metered. The difference is that if the rooms are individually metered, each room will pay a service fee that would bring more revenue to Atlanta Power Company. The Commission's master metering rules draw a distinction between dwelling units available for rent on monthly (or longer basis) and dwelling units available to rent for a shorter period of time. It is Staff's understanding that the units in question are available for rent by the day and week, as well as by the month. Atlanta Power has not required that the units be individually metered, which is consistent with the treatment of motels in Boise that rent by the day, week or month. The Company's interpretation and practice is not discriminatory as long as it does not require individual metering of other similarly situated customers.

ALTERNATE SOLUTION

Question No. 29: For the \$60,000 that townspeople pay for electricity per year, the town can do better. If we had access to the lines in town, we could use a modern diesel generator that received proper maintenance and generate our own power. Such a generator could provide 24-hour power, seven days a week, for less than it currently costs to generate hydropower through Atlanta Power.

A new generator would cost between \$30,000-\$35,000. Fuel would cost about \$2 per gallon, and the generator would use about 1½ gallons per hour. At a cost of about \$17,000-\$20,000, \$10,000 would remain for miscellaneous expenses as well as labor to service and operate the equipment.

Staff Response to Question No. 29: The 150 kW Cummins generator that Atlanta Power leases and brings in from time to time consumes 7 to 9 gallons per hour of diesel fuel depending upon the actual load placed on the generator. The annual cost of fuel for such a generator operated year-round is $(7 \text{ gal/hr}) * (8760 \text{ hr}) * (2 \text{ \$/gal}) = \$122,640/\text{year}$. This cost is twice the annual revenue that Atlanta Power collects from its customers. Rates would have to increase to twice what they currently are to pay just the cost of fuel. This would not include the many other non-fuel costs that must also be paid each year.