

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION) CASE NO. ATL-E-18-01
OF ATLANTA POWER COMPANY)
SERVICE AND CUSTOMER RELATIONS) ORDER NO. 34209
)
) NOTICE OF HEARING &
) ORDER TO SHOW CAUSE

This matter comes before the Commission on the Commission Staff’s request for an order directing Atlanta Power Company (“Atlanta Power” or “Company”) to appear and show cause why the Commission should not require the Company to immediately:

1. File verified returns of its gross operating revenues in 2017 and 2018 for calendar years 2016 and 2017;
2. Pay \$103 in past due regulatory fees and interest (i.e., the statutory minimum of \$50 per year for calendar years 2016 and 2017, with \$3 in interest); and
3. Pay \$12,000 in civil penalties for having violated the Idaho Public Utilities Law, Idaho Code §§ 61-101 *et seq.*

Having reviewed the record, we order the Company to appear before the Commission on February 19, 2019, to show cause as discussed below.

JURISDICTION

Atlanta Power is an “electrical corporation” as defined in Idaho Code § 61-119, and a “public utility” as defined in Idaho Code § 61-129. The Commission has jurisdiction over Atlanta Power and the issues in this case under the Public Utilities Law, Idaho Code §§ 61-101 *et seq.*, including Idaho Code § 61-501 (vesting the Commission with the “power and jurisdiction 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), and Idaho Code § 61-701 *et seq.* (directing the Commission as to enforcement, penalties, and interpretation of Public Utilities Law).

BACKGROUND

1. Customers Complain of Inadequate Service.

In the spring of 2017, Atlanta Power customers informally complained to Commission Staff that the Company was providing inadequate electric service. The customers relayed that the Company's hydroelectric turbine was not working. Instead, the Company was using its diesel

generator to provide electric service, and the generator was regularly running out of fuel causing significant service outages. Customers also complained that the Company does not have a representative for them to contact when service issues arise.

Subsequently, on January 2, 2018, Atlanta Power customer Mary Drake filed a formal Complaint alleging the Company was violating Commission Order No. 31086 and Idaho Code § 61-302 by not maintaining adequate service.

2. Commission Issues Summons and Orders an Investigation.

When a customer files a formal Complaint, the Commission must decide how to process it. *See* Rule 54 (Formal Complaints – Defined – Contents and Process). As to Ms. Drake’s formal Complaint, the Commission’s Staff recommended that the Commission: (1) issue a summons requiring Atlanta Power to respond to Ms. Drake’s formal Complaint; and (2) direct Staff to investigate the Company, with a focus on service reliability, maintenance and operation of the Company's facilities, and customer service. As part of its investigation, Staff would review the Company's compliance with past orders, inspect the Company’s generation and distribution facilities, confer with customers, and issue discovery requests to the Company. *See* January 22, 2018 Staff Decision Memorandum.

On February 20, 2018, the Commission approved Staff’s recommendation. The Commission ordered its Staff to investigate the informal complaints of Company customers, and the Company’s service reliability, maintenance and operations, and customer relations. Staff was to work with the Company and its customers to investigate these issues, identify possible solutions and provide a report detailing Staff’s findings within six months. The Commission directed the Company to “respond to the Formal Complaint of Mary Drake” and “respond to any inquiries” from Commission Staff.” *See* Order No. 33988.

The Commission issued the Company additional summonses on March 8, 2018, again directing it to respond in writing to Ms. Drake’s formal Complaint, and respond to inquiries from Commission Staff. On March 16, 2018, Staff asked 14 questions through production requests made to the Company as part of Staff’s investigation.

3. Company Fails to Respond.

The Company was required to respond to the requests by April 6, 2018. No responses were received by the April 6 deadline. On May 15, 2018, the Company’s bookkeeper, Linda Churches responded to production requests 1 – 3 stating that she does not have access to the requested

information. On August 7, 2018, Staff mailed the Company notice that failing to respond may result in further Commission action, including the imposition of civil penalties. *See* Affidavit of Johnathan Farley at 2, attached as Exhibit 1.

According to Staff, throughout its investigation, Staff has been unable to contact the Company’s owner and sole representative, Israel Ray. Mr. Ray’s brother, Ronald “Gene” Ray, has represented to Staff by telephone that he is caring for Israel, who is experiencing medical issues, and is managing his affairs, including issues related to the Company. *See* December 28, 2018, Staff Report at 8, attached as Exhibit 3. Gene has expressed that he is not an employee or agent of the Company, and he has refused to provide any written response to Staff or the Commission. *Id.* To date, no written response or communication has been produced by the Company, except for the limited response to Staff production requests 1 – 3 by the Company’s bookkeeper, as noted above. Additionally, no power of attorney documents have been provided to substantiate Gene Ray’s role in Israel Ray’s affairs.

Staff has attempted to obtain the Company’s written response to Ms. Drake’s formal Complaint and to inquiries as part of the Commission-ordered investigation. Farley Affidavit at 1-2. Staff provided requests via certified mail with a return receipt evidencing the requests. *Id.* Nevertheless, the Company has failed to respond to the formal Complaint, or respond to Staff informational requests, except as noted above. *Id.*

The Company’s failure to: 1) comply with Commission Order; 2) provide a written response to the formal Complaint; and 3) respond to Staff informational requests are unique violations of Idaho Code. *See* Idaho Code §§ 61-706 and 61-707.

4. Non Payment of Annual Regulatory Fees.

The Commission is funded through regulatory fees assessed each year on utilities under the Commission’s jurisdiction. Idaho Code § 61-1003 requires that, “[o]n or before April 1st of each year, each public utility and railroad corporation subject to the jurisdiction of the commission, shall file with the commission a return verified by an officer or agent of the public utility or railroad corporation involved, showing its gross operating revenues from its intrastate utility or railroad business in Idaho for the preceding calendar year during which it carried on such intrastate utility or railroad business.”

Based on reporting and review of a utility’s (or railroad’s) gross operating revenues, Idaho Code § 61-1001 authorizes the Commission to assess “a special regulatory fee in such amount as

the commission shall find and determine to be necessary, together with the amount of all other fees paid or payable to the commission by each such public utility and railroad corporation” The Commission notifies the utility of its regulatory fee by May 1 of each year. The regulatory fee may be paid to the Commission in equal semi-annual installments due May 15 and November 15. *Id.* Any utility may object to its regulatory fee “on or before the time specified for payment of the first installment of the assessment made against it.” *Id.* “Upon failure, refusal or neglect of any public utility or railroad corporation to pay such a fee the attorney general shall commence an action in the name of the state to collect the same.” Idaho Code § 61-1005.

Atlanta Power has failed or refused to file its annual verified return showing its gross operating revenues from its intrastate utility business in Idaho in 2017 and 2018 for calendar years 2016 and 2017. The Company has further failed or refused to pay its assessed fees in 2017 and 2018 for calendar years 2016 and 2017. *See* Affidavit of Nancy Ashcraft [in] Support of Order to Show Cause (Exhibit No. 2). On multiple occasions, the Commission has attempted to obtain the Company’s verified returns and collect its annual fee through sending invoices, demand letters, and notification that failure to comply would result in legal action. *Id.* Nevertheless, the Company has failed to meet the Commission’s directives that it file annual returns and pay outstanding fees. *Id.*

FINDINGS AND CONCLUSIONS

1. Idaho Code §§ 61-401 and 406

Idaho Code § 61-401 states, “[e]very public utility shall furnish to the commission, in such form and such detail as the commission shall prescribe, all tabulations, computations and all other information required by it to carry into effect any of the provisions of this act and shall make answers to the best of their knowledge, to all questions submitted by the commission.” Further, Idaho Code § 61-406 states, “[e]very public utility shall obey and comply with each and every requirement of every order, decision, rule or regulation made or prescribed by the commission in the matters herein specified, and shall do everything necessary or proper in order to secure compliance with and observance of every such order, decision, direction, rule or regulation by all of its officers, agents and employees.”

Since February 2018, the Company has repeatedly failed to comply with the Commission’s requests, directives, order, and summons to “respond to the formal Complaint,” and “respond to

any inquiries” from Commission Staff. Order No. 33988. The Company can remedy this deficiency by responding to the formal Complaint and all related inquiries in writing.

2. Idaho Code §§ 61-602, 603 and 610

Idaho Code § 61-610(1) provides that “[t]he commission, each commissioner and [Commission Staff] shall have the right at any and all reasonable times to inspect the accounts, books, papers and documents of any public utility....” Together, with Idaho Code §§ 61-602 and 603, the Commission and Commission Staff have the power to compel the production of papers, books, accounts and documents of public utilities. Under these statutes, and the Commission’s broad regulatory powers, a utility is required to provide all utility documents, and respond to all inquiries related to the utility. *See Application of Lewiston Grain Growers*, 69 Idaho 374, 378 (1949).

Staff has attempted to exercise its statutory right to examine and audit the Company’s documents. Staff also served discovery requests on the Company in this case. Despite repeated requests, the Company has failed to provide Commission Staff with any information related to the Company, including account information, ownership status, and documents related to customer identities, outages, hydroelectric turbine information, diesel generation information, fuel capacity and purchases, utility equipment information, and company planning. Discovery was first attempted by Staff on March 16, 2018. Information provided by the Company’s bookkeeper was not responsive to Staff’s request. Thus, the Company remains obligated to respond to these requests.

3. Idaho Code §§ 61-1001 and 1003

Idaho Code § 61-1003 requires the Company to file annual verified returns showing gross operating revenues from its utility business in Idaho for the preceding calendar year. Idaho Code § 61-1001 requires the Company to pay the Commission an annual regulatory fee based on the Company’s annual verified return.

The Company failed to file annual verified returns in 2017 and 2018 showing its gross operating revenues for 2016 and 2017. Each failure to file creates a distinct and unique cause of action. Also, in 2017 and 2018, the Company failed to pay its annual regulatory fee for calendar years 2016 and 2017, respectively. The Commission assessed \$50 per year because Commission Staff was unable to calculate an accurate assessment amount due to the Company’s failure to

submit annual verified returns. The Company remains obligated to file its verified returns and pay its outstanding regulatory fees, plus interest, for calendar years 2016 and 2017.

4. Idaho Code § 61-701, et seq.

The Company is obligated to pay civil penalties for violations of the above-referenced statutes. Specifically, Idaho Code § 61-706 states:

Any public utility which violates or fails to comply with any provisions of the constitution of this state or of this act, or which fails, omits or neglects to obey, observe or comply with any order, decision, decree, rule, direction, demand or requirement or any part or provision thereof, of the commission, under the provisions of this act, in a case in which a penalty has not hereinbefore been provided for, such public utility is subject to a penalty of not more than \$2,000 for each and every offense.

We find that the Company has violated the Public Utilities Law no less than six times:

- 1) Violation of Idaho Code § 61-401 – \$2,000
- 2) Violation of Idaho Code § 61-610 – \$2,000
- 3) Violation of Idaho Code § 61-1003 – 2 years of failing to report - $\$2,000 \times 2 = \$4,000$
- 4) Violation of Idaho Code § 61-1001 - 2 years of failing to pay assessment - $\$2,000 \times 2 = \$4,000$.

Atlanta Power is also subject to \$100 in unpaid regulatory fees, plus \$3 in interest, consequently the Company is subject to a total of \$12,103 in penalties and fees. We find it reasonable to direct the Company to appear and show cause why the Commission should not order these amounts immediately due.

Furthermore, Idaho Code § 61-707 states:

Every violation of the provisions of this act or of any order, decision, decree, rule, direction, demand or requirement of the commission, under the provisions of this act, or any part or portion thereof, by any public utility, corporation or person is a separate and distinct offense, and in case of a continuing violation each day's continuance thereof shall be and be deemed to be a separate and distinct offense.

Failure to comply with this order to show cause will result in a continuing violation of § 61-706 subjects the Company to a penalty of \$2,000 per day until the Company satisfies its obligations. If the Company fails to comply with this order, the Commission may direct the Commission's attorneys to sue in District Court to enforce these penalties consistent with Idaho Code §§ 61-701, 705 and § 61-1005.

NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED that the Commission will hold a hearing in this matter on **TUESDAY, FEBRUARY 19, 2019, COMMENCING AT 10:00 A.M. IN THE COMMISSION HEARING ROOM, 472 W. WASHINGTON STREET, BOISE, IDAHO.**

The purpose of this hearing is to allow the Company to explain why the Commission should not declare all fees and interest immediately due and impose penalties.

YOU ARE FURTHER NOTIFIED that all hearings and prehearing conferences in this matter will be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). Persons needing the help of a sign language interpreter or other assistance in order to participate in or to understand testimony and argument at a public hearing may ask the Commission to provide a sign language interpreter or other assistance at the hearing. The request for assistance must be received at least five (5) working days before the hearing by contacting the Commission Secretary at:

IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0338 (Telephone)
(208) 334-3762 (FAX)
E-Mail: secretary@puc.idaho.gov

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.* A copy of the rules is available for review at the Commission's offices during regular business hours, and on the Commission's website at www.puc.idaho.gov.

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ORDER

Based on the evidence before the Commission, and good cause appearing,
IT IS HEREBY ORDERED that Atlanta Power shall appear before the Commission on
February 19, 2019, to show cause why the Commission should not summarily order Atlanta Power
to immediately:

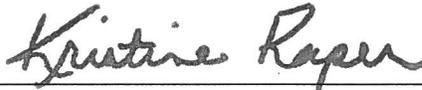
1. Pay the entire outstanding annual fee amount of \$100, and \$3 in interest;
2. File its statutorily required annual verified returns for calendar years 2016 and
2017; and
3. Pay civil penalties under Idaho Code § 61-706 of \$2,000 for each and every
offense, totaling \$12,000.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this
day of January 2019.

25th



PAUL KJELLANDER, PRESIDENT



KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Diane M. Hanian
Commission Secretary

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Attorney for the Staff of the Public Utilities Commission

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION) CASE NO. ATL-E-18-01
OF ATLANTA POWER COMPANY)
SERVICE AND CUSTOMER RELATIONS) AFFIDAVIT OF JOHNATHAN
) FARLEY SUPPORT OF ORDER
) TO SHOW CAUSE
)

JOHNATHAN FARLEY, being duly sworn, stated:

1. My name is Johnathan Farley. I am over 21 years of age, of sound mind, and I have personal knowledge of the facts stated herein.

2. I am a Utilities Compliance Investigator at Idaho Public Utilities Commission. I started working in this position in June 2015. I am responsible for leading the investigation into the service reliability, maintenance and operations, and customer relations of Atlanta Power Company.

3. On February 21, 2018, the Commission issues, by certified mail, a summons to Atlanta Power Company notifying it that a Complaint had been filed against the Company, that the Commission had order a Staff investigation into service reliability, maintenance and operations, and customer relations of the Company. The Summons directed the Company to file a written answer or written motion in defense of the Complaint within twenty-one days. To date, the Company has not filed a written answer or motion in response to the summons.

4. On March 8, 2018, the Commission issued, by certified mail, a second copy of the summons to Atlanta Power Company directing the Company to file a written answer or written motion in defense of the Complaint. Simultaneously, a summons was mailed to the Company's only employee. To date, the Company has not filed a written answer or motion in response to the summons.

5. On March 16, 2018, Staff propounded 14 production requests on the Company by certified mail. To date, the Company has not filed any answers or responses to the production requests.

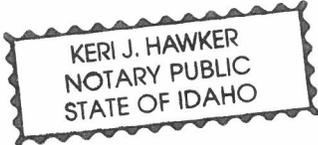
6. On April 6, 2018, the Atlanta Water Association, and the Atlanta Landowner's Association (jointly, "AWA/ALA") intervened as parties in this case, which was granted on April 19, 2018. Order No. 34036. On May 7, 2018, AWA/ALA propounded 3 production requests on the Company. An Atlanta Power Company employee responded to the request reporting that the Company's owner, Israel Ray, was the only person with access to the requested information, and otherwise denied access to the requested information. Accordingly, to date, the Company has not filed any answers to the production requests.

7. On August 7, 2018, Staff mailed a Mr. Ray a letter notifying him that failing to respond to the Commission's summons, and the production requests may cause the Company to incur fines for failing to comply with a Commission order, and Idaho Public Utilities Law. Staff attached a copy of the Commission summons, and the production requests to the letter. To date, the Company has not filed a written answer or motion in response to the summons, or provided Staff with any answer to its production requests.

Dated this 16 day of November, 2018.

By: Johnathan Farley
Utilities Compliance Investigator
Idaho Public Utilities Commission

SUBSCRIBED AND SWORN to before me this 16th day of November, 2018.



Keri J. Hawker
Notary Public for Idaho
My commission expires on 12/21/2018

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Attorney for the Staff of the Public Utilities Commission

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION) CASE NO. ATL-E-18-01
OF ATLANTA POWER COMPANY)
SERVICE AND CUSTOMER RELATIONS) AFFIDAVIT OF NANCY
) ASHCRAFT IN SUPPORT OF
) ORDER TO SHOW CAUSE
)

NANCY ASHCRAFT, being duly sworn, stated:

1. My name is Nancy Ashcraft. I am over 21 years of age, of sound mind, and I have personal knowledge of the facts stated herein.

2. I am a Senior Financial Specialist at Idaho Public Utilities Commission. I started working in this position in January 2016. I am responsible for the billing and collection of annual fees as described in *Idaho Code* §§ 61-1001 through 61-1005.

3. Atlanta Power Company failed to file an annual verified return reporting its annual intrastate gross operating revenue for calendar years 2017 and 2018, as described by *Idaho Code* § 61-1003.

4. In May and November 2017, Atlanta Power Company failed or refused to pay an assumed regulatory fee of \$50. The amount is assumed because pursuant to *Idaho Code* § 61-1004, \$50 is the minimum assessment that may be charged to a utility. This amount was billed because Commission staff was unable to calculate an accurate regulatory assessment amount due the Company's failure to submit an annual verified return.

5. In May and November 2018, Atlanta Power Company failed or refused to pay an assumed annual regulatory fee of \$50.00. Again, the amount is assumed because pursuant to *Idaho Code* § 61-1004, \$50 is the minimum assessment that may be charged to a utility. This amount was billed because Commission staff was unable to calculate an accurate regulatory assessment amount due the Company's failure to submit an annual verified return.

6. In February 2018, Atlanta Power was assessed \$3.00 in interest on its outstanding balance of \$50 (6%).

7. Currently, Atlanta Power Company owes the Commission \$103 in fees and interest charges.

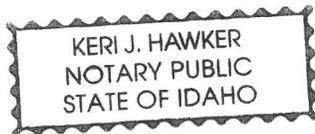
8. On multiple occasions, Staff has attempted to obtain the Company's verified returns and collect its past due annual fees by sending invoices, demand letters, and notification that failure to comply would result in legal action.

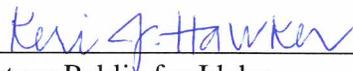
Dated this 16 day of November, 2018.



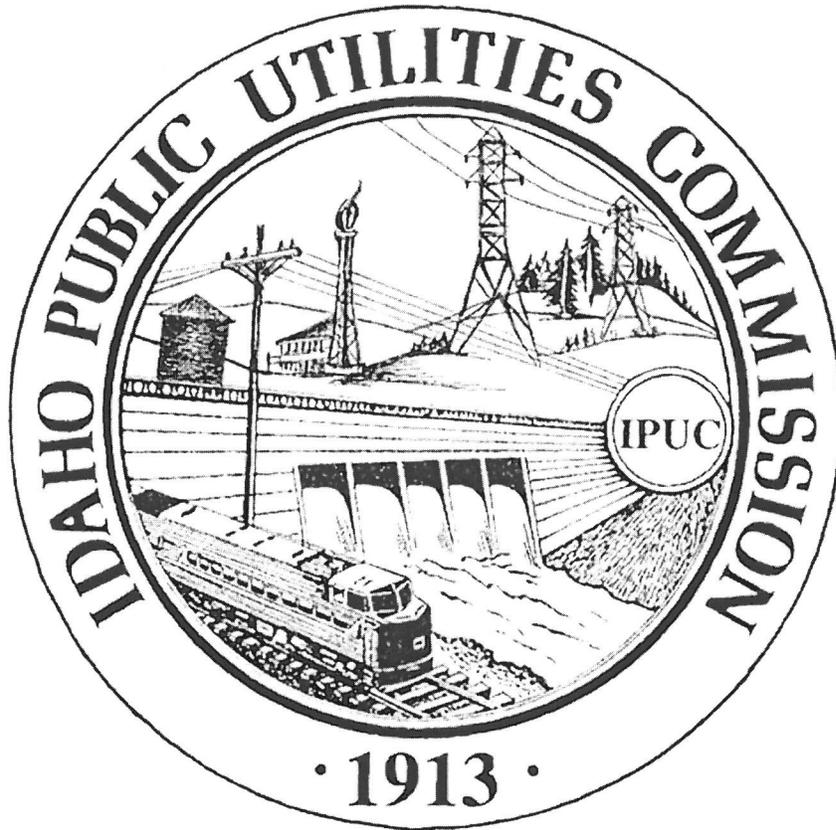
By: Nancy Ashcraft
Senior Financial Specialist
Idaho Public Utilities Commission

SUBSCRIBED AND SWORN to before me this 16th day of November, 2018.





Notary Public for Idaho
My commission expires on 12/21/2018



STAFF REPORT

Case No. ATL-E-18-01

December 28, 2018

Michael Eldred
Johnathan Farley
Brad Iverson-Long
Richard Keller
Kevin Keyt



BACKGROUND

On September 11, 2000, the Commission received a petition from residents of Atlanta, Idaho. The petition explained that Atlanta Power customers were concerned about issues including: 1) inconsistent service and power quality; 2) extended outages and untimely response times to system issues; 3) poor communication between the Company and its customers; 4) the lack of qualified personnel to troubleshoot problems and make repairs; and 5) the lack of an operational back-up generator.

In October of 2000, Staff felt it premature for the Commission to formally investigate Atlanta Power. Staff thus recommended an informal investigation. Staff proposed to perform a financial audit, compile outage information, identify potential system improvements, and survey customers to gauge their willingness to pay the higher rates associated with upgrading the system. Staff's informal investigation lasted about two years.

On March 6, 2003, Staff presented its findings to the Commission in a Decision Memorandum. Staff reported it had worked with the Company and customers to identify and address three problems areas: 1) the lack of an onsite back-up generator; 2) the lack of back-up personnel; and 3) poor communications between the Company and its customers about outages. Because of Staff's investigation, the Company hired Randy Nye, another Atlanta resident, to back up the system operator, Dave Gill, and procured a telephone messaging system to notify customers of planned outages and provide progress reports on system repairs. As a result of the customer survey performed by Staff, purchasing and installing a back-up generator was not recommended. Customers surveyed did not want to pay for the additional expense through rates.

On April 10, 2003, the Commission opened Case No. ATL-E-03-01 and issued a Notice of Proposed Order on April 10, 2003. Summaries of Staff's report and copies of the Notice of Proposed Order were sent to all customers.

On June 28, 2003, Commission Staff conducted a public workshop in Atlanta, Idaho. The Company's overdue annual reports were a major concern at the workshop. Without the annual reports, customers were concerned that the Commission would not have the requisite information to properly regulate and set rates for the Company. The Company agreed to prepare and file all overdue annual reports.

On September 3, 2003, Atlanta Power's president, Lynn Stevenson, was murdered. Israel Ray was elected president by the principal shareholders.

In 2005, the Commission issued its final order and closed Case No. ATL-E-03-01. By then, Mr. Ray had become the majority shareholder and president of Atlanta Power and had improved the Company's operating procedures and physical plant in service. In the Commission's final order, Order No. 29706, the Commission found that the Company had made several physical system improvements including:

1. A hole in the bladder that operates the spillway gates that control water flow to the turbine has been repaired.
2. Four of the wicket gates that control water flow through the turbine have been repaired.
3. Broken or badly warped cross arms have been replaced.
4. A transformer support structure has been replaced.
5. One or more new transformers have been installed to better regulate system voltage.
6. The engine in the Company's old line truck has been replaced.
7. A new line truck has been purchased that can be operated by a single person from the bucket.
8. The Company's inventory of poles and other supplies has been increased.

The Commission concluded Atlanta Power had improved the physical plant, system reliability, regulatory accounting practices, and customer relations. The Commission attributed the improvements to the change in ownership and Company management. In its closing remarks, the Commission directed Staff to continue working informally with the Company and its customers to address customer concerns and work toward the continued betterment of electric service in Atlanta.

In April of 2009, Allen Lake filed a complaint against Atlanta Power Company. Mr. Lake asserted that he was receiving an inadequate power supply to run a dishwasher he had installed as part of a home remodeling project.

On August 28, 2009, two Idaho Power Company engineers analyzed power quality in Atlanta. The engineers found that the system frequency varied +/- 10 cycles per second (CPS) from an ideal 60 CPS. As a solution, a tensioner was built to tighten the chain on the governor that controlled the wicket gates in the turbine. By tightening the chain on the governor, Atlanta Power planned to reduce the governor's response time to frequency changes and stabilize the system frequency. Atlanta Power designed and installed the tensioner but the system frequency problems persisted. Atlanta Power suggested conditioning the powerhouse in order to avoid

lubricants thickening in colder weather and offsetting the gains in response time that the tensioner provided.

In November 2009, Mr. Lake filed a formal complaint against Atlanta Power, and the Commission opened Case No. ATL-E-09-01. In that case, Commission Staff identified two solutions to address the system frequency issues Mr. Lake was experiencing. The first solution was for Atlanta Power to buy and install a double conversion uninterruptible power supply (UPC) in Mr. Lake's home. The UPC would convert Atlanta Power's AC power to DC and store it in batteries, then convert the DC power back into AC at 60 cps using an inverter. Staff believed that installing a UPC would eliminate Mr. Lake's problem for about \$2,000 but would only address the problem on a single circuit in Mr. Lake's home. Staff knew that other customers served by Atlanta Power were experiencing the same frequency issues as Mr. Lake, and identified a second solution that would address the whole system.

Staff's second solution was to replace Atlanta Power's turbine-generator control systems. Staff asserted that a more accurate control system would stabilize the power line frequency by detecting when the system frequency began to change and then quickly adjusting the wicket gates. Staff concluded that upgrading the turbine-generator control system was the most cost-effective solution to the power line frequency problem. However, Staff was concerned that the \$15,000 to \$25,000 investment would increase rates, cause customers to leave the system, and ultimately jeopardize Atlanta Power's financial viability. Staff thus recommended the Company continue to pursue low-cost system improvements, and that Staff evaluate the Company's financial position after November 2011, when the Company had satisfied a \$1,460-a-month loan.

On May 13, 2010, the Commission issued Order No. 31086 in Case No. ATL-E-09-01. The Commission accepted Staff's recommendations for pursuing low-cost system improvements and evaluating the Company's financial position after the Company satisfied its loan in November 2011. The Commission ordered Commission Staff and Atlanta Power to "continue to monitor the power quality concerns. If the power quality issues are not satisfactorily mitigated by November 1, 2011, then Staff and the Company will advise the Commission on an appropriate course of action."

In November 2011, Staff evaluated the Company's financial position using the financial records available at the end of the Company's loan term. Staff determined that rates did not need

to be reduced based on investments made by the Company. Staff continued to work with Atlanta Power on an informal basis to address ongoing systems issues.

On January 2, 2018, Mary Drake formally complained that the Company was violating Commission Order No. 31086 and Idaho Code § 61-302 by not maintaining adequate service. *See Attachment B.* Ms. Drake addressed frequent power outages, public safety, lack of qualified personnel to operate and maintain Company facilities, and the Company's inaccessibility and failure to respond to customer complaints.

On February 20, 2018, the Commission opened Case No. ATL-E-18-01. The Commission ordered the Company to respond to Mary Drake's formal complaint, and Staff to conduct a formal investigation. Staff's investigation focused on service reliability, maintenance and operations, and customer service. *See Order No. 33988.*

SERVICE RELIABILITY

The Distribution System

On March 14, 2018, Atlanta Power customers reported a service line had detached from a support and was on the ground. The customers were concerned the downed service line could endanger people and animals that contacted it.

On March 29, 2018, Commission Staff travelled to Atlanta to investigate the situation. Staff saw the service line had fallen and was partially buried in snow, but the wire connections were still intact. Staff surmised the low-hanging service line detached from a support pole when a large amount of snow slid off a nearby roof and snagged the line. Due to weather and road conditions, Staff could not investigate the entire distribution system.

On May 15, 2018, Staff returned to Atlanta to continue its investigation. Staff found the overhead distribution system consisted of poles, attachments, and transformers that exhibited a range of conditions. Some equipment appeared to have been recently upgraded while some equipment was derelict or broken. Staff noted several low-hanging lines and many poles that were rotted at the base or leaning. Instead of replacing these poles, the Company used thru-bolts or straps to join the old pole to a shorter anchor pole.

Staff also found transformers ranging in age and condition from near new to antiquated. Some transformers showed signs of damage and possible leakage. Staff also identified

questionable Company practices, such as using pine trees as utility poles and service drops to meters supported by a piece of wood above the customers' rooflines.

Power Generation

The Company has two sources of power generation, a run of river hydroelectric turbine and a diesel electric back-up generator. The hydro plant has failed several times in recent years and most recently in the spring of 2017. Issues with the electronic load governor put the turbine out of service for approximately three months.

On March 29, 2018, when Staff inspected the dam site and powerhouse Staff was informed that concerns remained about the electronic load governor. Several spillway gates that control the flow of water into the reservoir were inoperable. The Atlanta Fire Chief, Gene Haught, was concerned that the reservoir's water level would damage the electronic load governor. He was also concerned that the reservoir water level could get too high and potentially damage the dam.

During Staff's May 15 site inspection, Staff saw the fuel storage tank for the diesel electric generator in the Company's equipment yard was on wooden blocks without secondary containment. Staff noted that secondary containment would help mitigate fire hazards from leaks and spills and prevent environmental contamination. Staff was also concerned with the generator's exposure to the elements. Though the generator is enclosed, both doorways at opposite ends of the building are open to the elements.

Service Outages

In December 2016, an outage occurred when equipment malfunctioned in the powerhouse. The Company lacked adequate insulation for the equipment in the system control room, and the equipment failed because of excessive cold. When the Company switched to auxiliary power (a diesel generator), the generator ran out of fuel due to the reserve not being filled completely. The Company has a reserve capacity of 1,500 gallons of diesel but the Company's fuel supplier has a minimum delivery requirement of 3,000 gallons.

On March 12, 2017, the hydroelectric turbine went down and the Company had to use the diesel electric back-up generator to serve customers. The Company had attempted to service the turbine but could not restart the system after completing the repairs. On March 27, 2017, the

diesel electric generator ran out of fuel and service was out for all customers. The Company had to borrow fuel from the local highway district and the local mine to operate the generator.

The generator ran out of fuel again on April 26, and the Company could not have fuel delivered until May 2. Outages continued to plague the system throughout the year, culminating in a 13-hour long outage on January 1, 2018.

Safety Concerns

On March 29, 2018, Staff identified a potential safety hazard posed by exposed drive pulleys and belts on the turbine-generator. Although a makeshift railing separated building access from the turbine-generator drive, Staff believes the barrier inadequately protects personnel who enter the powerhouse.

Though the Company had repaired the downed service line reported to the Commission in March 2018, Staff identified several other issues during its May 2018 inspection. Staff found damaged transformers, leaning or rotted poles, low hanging lines, and questionable methods used for routing and securing lines. In its May 2018 report to the Commission, Staff expressed concern that the system may not satisfy the National Electric Safety Code, and that further investigation may be warranted.

OPERATIONS & MAINTENANCE

Personnel

Currently, the Company has three employees, a bookkeeper (Linda Churches), a maintenance person (Gene Haught), and a meter reader. The bookkeeper does not live in Atlanta and works remotely. The maintenance person and meter reader live in Atlanta, Idaho.

Linda Churches produces and mails billings/notices, collects and deposits payments, and reconciles customer usage with billing. Though she makes monthly cash deposits, she cannot access the Company's financial records and she lacks check-writing authority.

The Company hired the Atlanta Fire Chief, Gene Haught, as the maintenance person in May 2018. He performs general maintenance like greasing the turbine fittings, cleaning debris from the spillway and syphon tube gates, etc. He can stop and reboot the turbine-generator and program the electric governor, but he is not responsible for troubleshooting the generation or distribution systems, making repairs, or performing any duties comparable to those of a lineman

or electrician. Much like the bookkeeper, Mr. Haught lacks check-writing authority and account access. He relies on the owner to provide the materials he needs to complete his daily functions.

The Company employs a meter reader whose sole function is to report each customer's use to the bookkeeper on a monthly basis. The Company has employed several people as the meter reader in 2018. No matter who serves as the meter reader, the Company has required the person filling that position live in Atlanta.

System Operator

The Company has not employed a system operator since December 2016. The system operator troubleshoots the distribution and generation facilities, repairs and services equipment, connects and disconnects services, and restores service outages. The previous system operator, Dave Gill, was a longtime Atlanta resident who served in that position for over ten years. In 2016, Dave Gill moved to Panama. The Company has struggled to hire a capable replacement. Throughout 2017, the Company had several prolonged outages and technical mishaps that may have impacted customers less if the Company had a system operator.

In January 2018, customers reported to the Commission that Atlanta Power no longer had a presence in Atlanta and customers were maintaining the generation and distribution systems.

Accounting and Financial Records

The Company has several known financial accounting and financial issues, and its lack of regulatory compliance prevents Staff from knowing if it has further issues. The Company has not filed an Annual Report with the Commission since 2007, and has not filed other necessary documents, including an Inventory of Physical Properties and copies of maps and records in compliance with Idaho Code §§ 61-402, 61-404, and 61-605. Additionally, the Company has not responded to all of the Production Requests issued by Commission Staff in ATL-E-18-01, has not complied with past Commission orders, nor has it paid its annual Commission fees.

Staff has had only minimal access to any current financial information for the Company, making it difficult to tell if the Company is financially viable. In response to a request from Staff, the Company did report that it had 65 customers (57 residential, 8 commercial) as of April 2018.

Previously, employees, contractors and other persons, including customers, were performing work for Atlanta Power but not getting paid for that work. Some customers who performed work for the Company received credit on their electric bills in lieu of payment. Recently, Staff was informed that all employees and contractors are getting paid for their work.

CUSTOMER SERVICE

Availability

In January 2018, Staff received reports that the Company was becoming increasingly hard to contact. Previously, all calls for service were routed to the owner, Israel Ray. If customers questioned billings and notices, they would contact the bookkeeper. Customers could call the owner and bookkeeper directly or they could call a 1-800 number that would route calls to the owner.

Staff found the Company's 1-800 number was disconnected, and the owner was no longer answering calls or returning messages from Staff or customers.

In March 2018, Israel Ray's brother, Ronald Ray, explained to Staff that his brother had a medical condition that made it difficult for Israel to make rational decisions. Ronald Ray claimed Israel needed continuous care, and that he would be travelling with Ronald to Alaska. Staff has had no direct contact with Israel Ray since June 2017, and believes he still resides in Alaska.

Responsiveness and Dispute Resolution

On February 20, 2018, the Commission ordered the Company to respond to Mary Drake's formal complaint. *See* Order No. 33988, Case No. ATL-E-18-01. The Company has not responded to the complaint as of December 18, 2018. Additionally, the Commission has issued four summons, and Staff has served two production requests since the case was opened. All have gone unanswered.

Staff has tried to contact Israel Ray but has only reached his brother, Ronald Ray. As noted above, on several occasions, Ronald has stated that Israel cannot make rational decisions, and Ronald is uncertain if or when Israel will be able to do so. Staff has asked Ronald if he would pursue a power of attorney for Israel. Ronald unequivocally replied that he would not and is unwilling to take control of Atlanta Power.

SUMMARY

The lack of response to Staff's requests for information (both formal and informal) has impeded Staff's investigation in this case. Another major impediment to investigating and attempting to resolve this case is that Israel Ray, the only person authorized to do business on behalf of Atlanta Power, has been unavailable, and is apparently unable to perform his duties.

While it appears that some issues, such as hiring or contracting with people to maintain, operate, and, if necessary, repair the system have been addressed, Staff remains concerned about a number of issues, including how the system is being maintained, the condition of lines, poles and other equipment, maintaining an adequate supply of diesel fuel for the back-up generator as well as unresolved safety issues. With the arrival of winter, Staff is concerned that service reliability will continue to be an issue.

STAFF RECOMMENDATION

Due to the Company's failure to respond to Staff's Production Requests and the uncertain status of Israel Ray, Staff recommends that, as a next step, an Order to Show Cause be issued to compel compliance with the Commission's Orders as well as statutory and regulatory requirements.

JAN 02 2018

Boise, Idaho

From: flute.md@gmail.com [<mailto:flute.md@gmail.com>]
Sent: Tuesday, January 2, 2018 1:47 PM
To: Front <front@puc.idaho.gov>; Beverly Barker <Beverly.Barker@puc.idaho.gov>
Subject: Consumer Assistance Form: Mary Drake

Name: Mary Drake
Email: flute.md@gmail.com
Telephone: 2088642171
Address: 72 E PINE ST
ATLANTA ID, 83716

Name of Utility Company: Atlanta Power Company Contacted Utility: Yes

Complaint: Mary E. Drake
72 E. Pine
Atlanta, Idaho 83716

Idaho Public Utilities Commission
472 W. Washington
Boise, Idaho 83702

Dear Commissioners:

Please consider this a formal complaint against Atlanta Power Company for failing to fulfill their lawful duty of providing and maintaining adequate services of electricity to the town of Atlanta, Idaho, per Idaho Statute 61-301. The Statute reads: "DUTIES OF PUBLIC UTILITIES 61-302. MAINTENANCE OF ADEQUATE SERVICE. Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable."

I have been a resident of Atlanta, Idaho for 20 years. I have experienced the change of ownership of the Atlanta Power Company. I am also aware of previous complaints about the services provided by the company, and the ensuing Final Order of May 13, 2010. There is plenty of historical evidence that shows there has been a problem with Atlanta Power Company outages for many years.

This complaint, today, is to inform you that Atlanta Power Company is NOT DOING WHAT they agreed to do per the Final Order dated May 13, 2010 (Order # 31086) in which it states: "It is further ordered that Atlanta Power Company continue to monitor the power concerns. If the power concerns are not mitigated, then the staff and company will advise the commission on appropriate course of action." It has been 7 years since this order, and the power outages still occur. Many people have complained to the PUC, yet no action is taken. This complaint poses the question: Why is the Atlanta Power Company not being held accountable to uphold its duties as a utility provider by the PUC? Please, we need help!

Also, after an investigation into Atlanta Power Company by PUC in February, 2005, Order #29706, it states that "It appears Dave Gill's availability has changed. He is available in Atlanta for immediate system repairs most of the time." This is NO LONGER TRUE. Dave Gill no longer lives in Atlanta, Idaho. Hence, this formal complaint, filed here, now is:

ATTACHMENT B

1. There continues to be frequent power outages in Atlanta, Idaho.
2. Power outages HARM the safety of Atlanta residents, due to needing access to electronics for emergencies, drinking water (for those with electronic water pumps), and access to healthy food (refrigerators go out and food spoils during outages).
3. There is no one in town who knows how to fix the system when the owner of Atlanta Power Company (Israel Ray) is out of town.
4. Israel Ray does not hire anybody to be available to diagnose problems and fix problems during outages.
5. Although there is a generator up here, in Atlanta, it does not function in cold weather, due to diesel fuel.
6. Israel Ray, as owner of Atlanta Power Company is not fulfilling his lawful duty as a utility company per statute 61-302 which states: DUTIES OF PUBLIC UTILITIES: 61-302. MAINTENANCE OF ADEQUATE SERVICE. Every public utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall promote the safety, health, comfort and convenience of its patrons, employees and the public, and as shall be in all respects adequate, efficient, just and reasonable." Evidence that demonstrates Failure to comply with this statute includes, but not limited to:
 - a. There is no telephone number to call for assistance when the power goes out in Atlanta, Idaho. The number to call is Israel's, and the message inbox is ALWAYS FULL. No other number to call, or way to contact him or anybody who knows how to help during a power outage. This is blatant disregard for us, consumers, customers, residents of Atlanta, who pay our bills to Atlanta Power Company every month for services we EXPECT to receive in exchange!
 - b. Israel Ray leaves town and nobody has any way to contact him. He leaves town and is nowhere to be found during a power outage, nor has he trained anybody to help during his absence. This is simply irresponsible, and a blatant disregard for Statute 61-302.
7. After many, many years of problems with the power in Atlanta, Idaho, there seems to be no resolution. If something gets fixed, it's momentary. Granted, there is a generator up here now, but it doesn't start in the winter, and in the summer, it runs out of gas and we need to wait days before we get diesel gas up here. Therefore, the Time is NOW to fix the problem!! When will this be resolved??

Please, please give attention to this formal complaint. The situation in Atlanta needs ATTENTION now! Israel Ray and The Atlanta Power Company need to be held accountable for their LACK of ACTIONS in adhering to the law for public utilities. For, I, myself am a paying customer, as are many others in this town and we simply WANT TO NOT HAVE TO DEAL WITH THE CONSTANT POWER OUTAGES and TOTAL LACK OF CUSTOMER CONSIDERATION, and the lack of ACCOUNTABILITY demonstrated by Israel Ray and the Atlanta Power Company.

Thank you for your action in this matter.

Sincerely,
s/ Mary E. Drake

Mary E. Drake

Unique Identifier: 216.182.111.139

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 28TH DAY OF DECEMBER 2018, SERVED THE FOREGOING **STAFF REPORT OF THE COMMISSION STAFF**, IN CASE NO. ATL-E-18-01, BY E-MAILING AND MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

ISRAEL RAY
ATLANTA POWER COMPANY
11140 CHICKEN DINNER RD
CALDWELL ID 83607

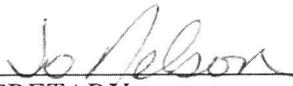
STEVEN J MEADE
ATLANTA WATER ASSOC INC
PO BOX 1097
BOISE ID 83701
E-MAIL: smeade@idalaw.com

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ATLANTA WATER ASSOC INC
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rickandevyjenkins@gmail.com
jpdeb@rtci.net

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steve@pumpkincreekbranch.com



SECRETARY