

**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. 34420**

This matter comes before the Commission on the Petition for Reconsideration submitted by the Atlanta Power Company (“Atlanta Power” or “Company”) on Commission Order No. 34296. Having reviewed the record, the Commission vacates the portion of Order No. 34296 that levied a \$12,000 fine against the Company for six separate violations of Idaho Public Utilities Law, for reasons explained below.

**BACKGROUND**

On January 2, 2018, a customer of Atlanta Power filed a formal Complaint against the Company for failure to provide safe and adequate service. The Commission issued a Notice of Investigation. Order No. 33988. In April 2018, the Commission issued an Order requiring the Company to immediately repair a downed power line and required Commission Staff to file a report regarding health and safety issues with the Company’s electrical system. Order No. 34017. In January 2019, the Commission issued a Notice of Hearing & Order to Show Cause requiring the Company to demonstrate why the Commission should not order the Company to file verified gross operating revenues for calendar years 2016 and 2017, pay past due regulatory fees and interest, and pay \$12,000 in civil penalties for violations of the Idaho Public Utilities Law. Order No. 34209. The Company did not appear at the Hearing and did not otherwise respond to the Notice. The Commission found the Company to be in violation of *Idaho Code* §§ 61-401, 61-406, 61-602, 61-603, 61-610, 61-1001, and 61-1003, and fined the Company for its violations. Order No. 34296.

On April 24, 2019, the Company filed a Petition for Reconsideration.

On May 10, 2019, the Commission granted the Petition for Reconsideration. Order No. 34334. In granting reconsideration, the Commission found it was “appropriate to reconsider our findings based on the Company’s and Intervenors’ stated desire to facilitate a sale of the Company’s system. We find the public interest may be served by such a sale.” *Id.* at 4. Among other requirements, the Commission ordered Atlanta Power to engage in good faith negotiations to reach an agreement to sell its assets.

On May 29, 2019, the Company, the Atlanta Electrical Consumer Co-op, Inc. (“Co-Op”), and Commission Staff engaged in a settlement conference.

On June 12, 2019, Commission Staff filed a report with the Commission updating the Commission on the status of negotiations and other compliance actions taken by the Company.

On July 1, 2019, the Commission issued a Notice of Comment Period on Reconsideration. Order No. 34365. Comments were filed by Commission Staff and the Co-Op.

### **COMMENTS ON RECONSIDERATION**

Commission Staff recommended the Commission vacate the \$12,000 penalty because Staff perceived an agreement between the Company and the Co-Op to be likely but not certain, and Staff did not want to jeopardize the potential agreement. Staff further stated its belief that a sale of the Company would be an effective means of addressing the underlying concerns that led to the Complaint.

The Co-Op updated the Commission on the physical status of the Atlanta Power electrical system and indicated a number of investments that could be made immediately that are necessary for safe and reliable service.

### **COMMISSION FINDINGS AND DECISION**

The Commission has jurisdiction over this matter under Title 61 of the Idaho Code, including *Idaho Code* §§ 61-501, 61-508, 61-515, 61-520, 61-528, 61-533, and 61-612. Under *Idaho Code* § 61-501, the Commission is “vested with 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 provisions of this act.”

In our Notice of Comment Period on Reconsideration, we requested comment on:

1) whether the fine was correctly imposed based on the findings of fact and conclusions of law in Order No. 34296; 2) whether new facts have arisen since the Commission issued Order No. 34296 that would make the fine no longer just and reasonable; and 3) if the fine was properly assessed and continues to be just and reasonable, should the Commission make the full fine payable to the state treasury to the credit of the general fund under *Idaho Code* § 61-712 or should the Commission seek to compromise the penalty under *Idaho Code* § 61-712B? Order No. 34365.

Having reviewed the comments, we find it reasonable to vacate the \$12,000 penalty to avoid disrupting what appears to be a likely positive outcome; a mutually agreed upon sale between the Company and the Co-Op for the Company's assets.

The findings of fact and conclusions of law in Order No. 34296 continue to be valid. However, intervening circumstances—specifically the good faith negotiations and demonstrated progress toward a sale of the Company's assets—lead us to vacate the penalty. We find that a willing sale of the Company's assets to an entity that will be responsive to customers, personnel, and the public is the top priority. Such a sale would address the problems that gave rise to the Complaint, and would provide a durable solution to the problems that have long beset Atlanta Power.

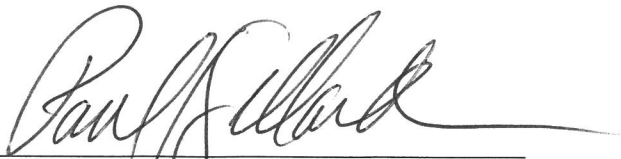
If the sale does not go through, we have numerous tools at our disposal to ensure that Atlanta Power fulfills all of its duties as a regulated public utility. Those duties include but are not limited to: providing safe and reliable service, complying with the National Electric Safety Code, responding to customer complaints in an adequate and timely manner, filing annual reports (both past due and on an ongoing basis), providing non-discriminatory service throughout its service area, and complying with audit and production requests from Commission Staff. We intend to closely monitor Atlanta Power, as long as it remains a regulated public utility, to guarantee that the Company meets its obligations to its customers.

### **ORDER**

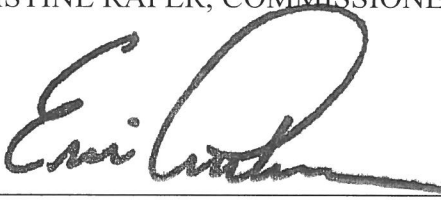
IT IS HEREBY ORDERED that the portion of Order No. 34296 that imposed a fine of \$12,000 for violations of *Idaho Code* §§ 61-401, -610, -1003, and -1001, is vacated.

THIS IS A FINAL ORDER ON RECONSIDERATION. Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this case may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. See *Idaho Code* § 61-627.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 16<sup>th</sup> day of August 2019.

  
PAUL KJELLANDER, PRESIDENT

  
KRISTINE RAPER, COMMISSIONER

  
ERIC ANDERSON, COMMISSIONER

ATTEST:

  
Diane M. Hanian  
Commission Secretary

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