

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER RAPER
COMMISSIONER ANDERSON
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: EDWARD JEWELL
DEPUTY ATTORNEY GENERAL

DATE: JUNE 21, 2019

SUBJECT: IN THE MATTER OF THE INVESTIGATION OF ATLANTA POWER
COMPANY SERVICE AND CUSTOMER RELATIONS;
CASE NO. ATL-E-18-01.

On April 2, 2019, the Commission issued Order No. 34296, which mandated Atlanta Power Company (“Atlanta Power” or “Company”) to file past due statements of operating revenues, pay past due fees and interest, and fined the Company \$12,000 for six violations of the Idaho Public Utilities Law, specifically violations of *Idaho Code* §§ 61-401, -610, -1001, and -1003.

On May 10, 2019, the Commission issued Order No. 34334, which granted reconsideration of Order No. 34296, and suspended imposition of the \$12,000 penalty as of the date the petition for reconsideration was filed by Atlanta Power. The Commission granted reconsideration and ordered the Company to participate in a settlement conference with interested parties to attempt to reach an agreement for the sale of the Company’s assets. The Commission also ordered Commission Staff to file a report within 14 days of the settlement conference apprising the Commission on progress.

In Order No. 34334, the Commission also ordered the Company to file its statements of gross intrastate operating revenue with the Commission, pay its past due regulatory assessments, and provide current telephone numbers for an onsite operator and Company management. The Company filed its statements of gross intrastate operating revenue for years 2016, 2017, and 2018 and paid its past due regulatory assessments within the timeline ordered by

the Commission. The Company stated its customers all know the onsite operator and how to contact him.

On May 29, 2019, Atlanta Power, Staff, and the Atlanta Electrical Consumers Cooperative (“Co-Op”) participated in a settlement conference. On June 12, 2019, Staff filed a Staff Report with the Commission. Staff noted that the Company and the Co-Op had both made good faith efforts toward reaching an agreement.

Staff understands that the Co-Op plans to hold a board meeting over the Fourth of July weekend at which it intends to discuss the recently completed appraisal of the Company’s system and other matters related to the potential transaction such as whether to make an offer for the system and whether to continue efforts to seek funding. Staff and the parties have agreed to arrange another settlement conference during the middle of July.

The Commission’s Reconsideration Order stated, “Upon receiving Staff’s report . . . the Commission will issue an Order outlining next steps in the reconsideration process, imposing fines, or taking any other action the Commission finds reasonable based on the record before it at that time.” Order No. 34334 at 5. *Idaho Code* § 61-626 governs procedure on reconsideration of Commission orders and requires, “The matter must be reheard, or written briefs, comments or interrogatories must be filed, within thirteen (13) weeks after the date for filing petitions for reconsideration.” The date for filing petitions for reconsideration was April 25, 2019. Thirteen weeks from that date is July 25, 2019.

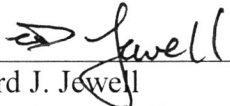
STAFF RECOMMENDATION

Staff recommends the Commission continue the reconsideration period and allow the parties to continue to work toward an agreement. Staff also recommends the Commission set a comment period ending on July 18, 2019, and a reply comment period ending July 25, 2019, for the parties to file comments regarding the \$12,000 fine imposed on the Company. Specifically, Staff recommends the Commission seek 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 amount of the fine payable to the state treasury to the credit of the general fund pursuant to *Idaho Code* § 61-712 or should the Commission seek to compromise the penalty pursuant to *Idaho Code* § 61-712B?

COMMISSION DECISION

Does the Commission wish to continue the reconsideration period based on a finding that the parties are working in good faith toward reaching an agreement for the sale and purchase of the Company's assets?

Does the Commission wish to set a comment period ending July 18, 2019, and a reply comment period ending July 25, 2019 on the \$12,000 fine imposed by Commission Order No. 34296, as described above?



Edward J. Jewell
Deputy Attorney General

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