

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE INVESTIGATION ) CASE NOS. ATL-E-22-01**  
**OF ATLANTA POWER COMPANY )**  
**SERVICE AND CUSTOMER RELATIONS )**  
**) ORDER NO. 35594**  
**)**

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On January 24, 2022, the Idaho Public Utilities Commission (“Commission”) issued a Notice of Hearing and Order to Show Cause requiring Atlanta Power Company, Inc. (“Atlanta Power” or “Company”) to appear before the Commission on February 23, 2022, to show cause why the Commission should not impose penalties on the Company for violations of Idaho Code and/or open a new investigation into whether the Company was providing safe and adequate service to its customers. The Commission further directed the Company to appear and show cause why a receiver or other similar relief should not be employed to operate the Company due to its continued failure to comply with Idaho statutes and the Commission’s regulatory authority to ensure the provision of safe and reliable service.

On July 15, 2022, the Commission issued Final Order No. 35465, which provided for civil monetary penalties and the suspension of said penalties upon completion of specific requirements including the filing of an application for the sale and transfer of the Company’s Certificate of Public Convenience and Necessity (“CPCN”). As part of the proceedings, and in preparation for the anticipated filing of companion case ATL-E-22-02 seeking to transfer the Company’s CPCN, on August 8, 15, and September 2, 2022, Commission Staff (“Staff”) submitted three sets of Production Requests to the Company with a total of twenty-two (22) specific discovery requests.

**MOTION TO COMPEL**

On November 4, 2022, Staff filed a Motion to Compel Responses to Production Requests (“Motion”). Staff stated that the deadlines to respond to Staff’s Production Requests had long since passed, and that Staff’s request for the needed information was based upon both this case and its companion case ATL-E-22-02, in which the needed information would impact the scheduling of further proceedings, facilitate Staff’s review of the application, and inform Staff’s comments concerning the proposed sale of the Company and transfer of the CPCN. Specifically, Staff represented that pursuant to Commission Rule of Procedure 225.03, the deadlines for responses to each set of Production Requests was August 23, September 6, and September 27, 2022,

respectively, and that at the time of filing the Motion, the Company had only submitted a meaningful response to Request No. 3 of Staff's August 8, 2022, First Production Request, leaving twenty-one (21) requests unanswered.

Staff represented that it had attempted to provide actual notice of the substance of this Motion to the Company by telephone on November 4, 2022. Staff also represented that it had emailed a copy of the Motion to the Company's representative and sent a copy by certified mail. Staff represented that, pursuant to Rule 256.02, the factual circumstances, along with the actual notice provided to the Company, warranted immediate review of its Motion following the two (2) day allowance for response, and enabled the Commission to consider this Motion and offer the relief requested on fewer than fourteen (14) days' notice.

### **COMMISSION DISCUSSION AND FINDINGS**

The Commission has the inherent authority to manage cases coming before it. Pursuant to Commission Rules of Procedure 222 and 223, all parties to a proceeding have a right of discovery of all other parties. Any objection to a discovery request must be made within fourteen (14) days and must explain why an answer cannot be provided. Rule 255.03. The Commission may compel a party to answer and impose sanctions for failure to comply with an Order compelling discovery. Rule 232.

Having reviewed the record, the Motion, and all submitted materials, the Commission finds it fair just and reasonable to grant the Motion. The record shows that Staff properly filed three sets of Production Request. The record also shows that the Company has failed to provide responses to those Production Requests. The Commission finds that Staff has submitted sufficient facts to support a request for the Commission to act on shorter than fourteen (14) days notice, and the Commission finds that Staff has also submitted sufficient statements as to its efforts to reach representatives of the Company concerning the Motion. Thus, the Commission finds that the requirements of Commission Rule of Procedure 256 have been met. Staff's Motion to Compel Responses to Production Requests is granted. The Company is cautioned that failure to comply with this Order may result in the imposition of civil penalties and the initiation of court proceedings. *See Idaho Code* §§ 61-701, et seq; *see also* Commission Rule of Procedure 232, IDAPA 31.01.01.232.

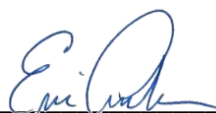
**ORDER**

IT IS HEREBY ORDERED Staff's Motion to Compel Responses to Production Requests is granted.

IT IS FURTHER ORDERED that the Company must file responses to Staff's First, Second, and Third Production Request by November 18, 2022.

IT IS FURTHER ORDERED that parties comply with Order No. 35375, issued April 21, 2022. Generally, all pleadings should be filed with the Commission electronically and will be deemed timely filed when received by the Commission Secretary. *See* Rule 14.02. Service between parties should continue to be accomplished electronically when possible. However, voluminous discovery-related documents may be filed and served on CD-ROM or a USB flash drive.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 14<sup>th</sup> day of November 2022.



ERIC ANDERSON, PRESIDENT

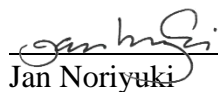


JOHN CHATBURN, COMMISSIONER

*//Abstain to Avoid Conflict//*

JOHN R. HAMMOND, JR., COMMISSIONER

ATTEST:



Jan Noriyuki  
Commission Secretary

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