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IDAHO PUBLIC
UTILITIES COMMISSION

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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE INVESTIGATION)
OF ATLANTA POWER COMPANY SERVICE) **CASE NO. ATL-E-22-01**
AND CUSTOMER RELATIONS)
)
) **STAFF’S MOTION TO COMPEL**
) **RESPONSES TO PRODUCTION**
) **REQUESTS**
)
)

Staff of the Idaho Public Utilities Commission (“Staff”), by and through its attorney of record, Chris Burdin, Deputy Attorney General, and pursuant to Commission Rules of Procedure 056, 222, 228 and 256, IDAPA 31.01.01 *et seq.*, does hereby submit Staff’s Motion to Compel Responses to Production Requests.

BACKGROUND

On July 15, 2022, the Idaho Public Utilities Commission (“Commission”) issued Final Order No. 35465, which provides:

IT IS HEREBY ORDERED that the Company must pay its total accrued penalties for violations of Idaho Code in the amount of \$226,000.

IT IS FURTHER ORDERED that the accruing penalties for failing to produce a copy of the Appraisal will continue to accrue at \$2,000 per day until the Company submits the Appraisal or complies with the conditions set forth in this Order. This \$2,000 penalty per day accrues in addition to the \$226,000 total.

IT IS FURTHER ORDERED that the accruing penalties for failing to file the Company's Annual Report for the year 2021 will continue to accrue at \$2,000 per day until the Company complies with *Idaho Code* § 61-405 or complies with the conditions set forth in this Order. This \$2,000 penalty per day accrues in addition to the \$226,000 total.

IT IS FURTHER ORDERED that the entirety of the Company's penalties, both accrued and accruing, shall be suspended so long as the Company strictly complies with the conditions set forth in this Order. The Company and its new purchasers must:

- a. Select an attorney to draft a contract and bill of sale of the Company's assets and CPCN.
- b. Submit to the Commission a first draft of the written PSA and any associated documents governing or pertaining to the terms of the sale of the Company's assets and CPCN by 5:00 p.m. local time on August 5, 2022. The PSA must specify binding and essential terms of the sale that cannot be re-negotiated by either party once entered and that describe a list of the assets owned by the Company or Mr. Ray that are included in the sale. The PSA must contain a contingency plan in the event of default or breach that protects the customers of the Company to ensure that, regardless of ownership, the Company continues to provide safe and reliable power and customer service to its customers. The PSA must also include terms of the lease of Mr. Israel Ray's land whereupon the Company's generators are stored. The lease must be at least as long as the term of the loan used to purchase the assets of the Company.
- c. Submit the fully executed PSA and any associated documents governing or pertaining to the sale of the Company's assets and CPCN by 5:00 p.m. local time on August 26, 2022. The PSA must be fully executed by all necessary parties, including the buyers.

IT IS FURTHER ORDERED the buyers will work with Commission Staff to file a case seeking Commission approval to transfer of the Company's CPCN by 5:00 p.m. local time on September 2, 2022.

Order No. 35465 at 15-16. 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, Staff submitted three sets of Production Requests to the Company with a total of twenty-two (22) specific discovery requests.

Pursuit 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. At

this time the Company has only submitted a meaningful response to Request No. 3 of Staff's August 8, 2022, First Production Request, leaving twenty-one (21) requests unanswered.

MOTION TO COMPEL RESPONSES TO PRODUCTION REQUESTS

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.


In this case, the deadlines to respond to Staff's Production Requests have long since passed. Accordingly, Staff moves the Commission to compel the Company to submit full and complete responses to Staff's remaining production requests by November 18, 2022. Staff's request for the needed information is based upon both this case and its companion case ATL-E-22-02, in which the needed information will 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.

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

CONCLUSION

Staff respectfully requests that the Commission issue an Order compelling the Company to submit full and complete responses to Staff's production requests by November 18, 2022.

DATED at Boise, Idaho, this 4th day of November 2022.




Chris Burdin
Deputy Attorney General

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE ON THIS 4TH DAY OF NOVEMBER 2022, SERVED THE FOREGOING **MOTION TO COMPEL RESPONSES TO PRODUCTION REQUESTS**, IN CASE NO. ATL-E-22-01, IN THE MANNER INDICATED BELOW:

<p><i>Via U.S. Certified Mail and Email:</i></p> <p>Brad M. Purdy, Attorney at Law 2019 North 17th Street Boise, Idaho 83702 bmpurdy@hotmail.com</p>	<p><i>Via Email:</i></p> <p>Israel Ray Atlanta Power Company israelray1958@gmail.com</p>
<p><i>Via Email:</i></p> <p>Christopher R. Nunez Taylor McAnaney McAnaney & Associates crn@mcananey.us tem@mcananey.us</p>	<p><i>Via Email:</i></p> <p>Gene Haught pgfd247@yahoo.com</p>
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Keri J. Hawker
Assistant to Chris Burdin

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