

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION)	CASE NOS. ATL-E-22-02
OF GREYLOCK ENERGY HOLDINGS, LLC)	ATL-E-22-01
FOR APPROVAL OF ITS STOCK AND)	
OWNERSHIP INTERESTS PURCHASE)	ORDER NO. 35649
AGREEMENT WITH ISRAEL RAY FOR)	
THE ACQUISITION OF THE ATLANTA)	
POWER COMPANY)	
)	
IN THE MATTER OF THE INVESTIGATION)	
OF ATLANTA POWER COMPANY)	
SERVICE AND CUSTOMER RELATION)	
)	
)	

On October 14, 2022, Greylock Energy Holdings, LLC (“Greylock”), filed an application with the Idaho Public Utilities Commission (“Commission”) for approval of a Stock and Ownership Interests Purchase Agreement (“Agreement”) between Greylock and Israel Ray as the majority, and only known, shareowner in the Atlanta Power Company (“Company”). The Agreement provides for Greylock to purchase all of the assets of the Company including its Certificate of Public Convenience and Necessity No. 300 (“CPCN”) for the provision of electric service to the approximately seventy-five (75) individual customers in and around the community of Atlanta, Idaho.

Greylock represents that it is an Idaho limited liability company formed for the purpose of acquiring, owning, and operating the Company. Greylock has two owners each with a fifty percent ownership interest who are comanagers. Both owners of Greylock represent they have significant, relevant, and extensive experience running and operating electric utilities.

Greylock has filed for approval for the sale and purchase of Atlanta Power. The Agreement provides for a purchase price of three hundred and sixty-five thousand (\$365,000) dollars as well as other terms and conditions. Greylock asserts that the proposed transaction is consistent with the public interest and that Greylock has both the financial and technical ability as well as the *bona fide* intent to operate and maintain the subject property in the public interest. Greylock represents that upon acquisition of the Utility, Greylock will have, and will be able to maintain, the financial ability to operate the Company consistent with good utility practices and Commission orders. Further, Greylock does not propose any rate increase by reason of this transaction as its owners

have personally assumed financial responsibility for all transaction costs associated with Greylock's acquisition of the Atlanta Power Company.

COMMISSION STAFF COMMENTS

Commission Staff ("Staff") reviewed the Company's PSA and accompanying documents, Commission orders, customer complaints, responses to production requests, and the CPCN transfer filing to determine if the sale of the Company and transfer of the CPCN complies with statutory requirements. Additionally, Staff conducted an onsite assessment to determine the status of the system and gauge any progress made in resolving system deficiencies identified earlier from the 2018 Staff Report. Staff assessed and quantified the value of the assets contained within the PSA.

Based upon its review, Staff recommended the Commission: (1) approve the sale of the Company under the PSA with recommended modifications, and (2) approve the transfer of the CPCN to the Company's new owners. Staff believed the sale of the Company was supported by the intent of *Idaho Code* § 61-328, and it was consistent with prior Commission orders.

A. Sale of the Company

1. Compliance with Commission Order No. 35465

In Order No. 35465, the Commission ordered the Company to:

- select an attorney to draft a contract and bill of sale.
- submit a first draft of the written PSA by August 5, 2022.
- submit a fully executed PSA by August 26, 2022.
- work with Staff to file a case with the Commission seeking approval of the transfer of the Company's CPCN by September 2, 2022.

Staff believed the Company complied with the first three items in the Order. However, the Company did not file for the transfer of the CPCN until October 14, 2022.

2. Review of the PSA

Order No. 35465 required the PSA to contain a contingency plan in the event of default or breach to protect the Company's customers. However, Staff noted the PSA did not address or contain the required contingency plan.

Order No. 35465 required the PSA to contain terms for the lease of Mr. Israel Ray's land where the diesel backup generator was located. However, Staff noted that the PSA did not contain any such terms. A real estate property exchange or "land swap" was defined within Section 6.4 of the PSA, which Staff believed might negate the need for a lease.

Staff performed an analysis to quantify the system impact of the *Payment Via Power Bill Credit* defined within Section 6.3 of the PSA. Staff explained that the credit provided up to a maximum of 6,000 kilowatt hours (“kWhs”) per month for the Seller not to be billed for any future use during his lifetime. Staff believed that if the 6,000 kWhs per month were fully used by the current owner, it might constrain system capacity for remaining customers in the short term and the Buyers might be required to add capacity to the system.

Staff reviewed the provided 2021 system billing data. Staff noted that the highest residential monthly peak consumption across all residential customers was 4,015 kWhs, which occurred in February of 2021. Staff believed that this amount provided a basis for an amount that the Seller was not likely to exceed given the lack of metered data from his residence, and to ensure the Seller was not billed for reasonable future use during his lifetime considering he maintained normal residential consumption patterns.

3. Idaho Code § 61-328

The Application for the sale and purchase of assets must follow *Idaho Code* § 61-328 for the sale of property by electric utilities. The statute requires that:

- the transaction is consistent with the public interest.
- the cost of and rates for supplying service will not be increased by reason of such transaction.
- the applicant for such acquisition or transfer has the bona fide intent and financial ability to operate and maintain said property in the public service.

i. Transaction Consistent with Public Interest

Staff believed that the sale of Atlanta Power to prospective owners, Nick Jones, and Gene Haught,¹ was consistent with the public interest. Staff’s conclusion was based on:

- the absence of system and operational improvements under the current owner.
- the System and Operational improvements likely to happen under new ownership.

a. Absence of System and Operation Improvements under Current Owner

Staff determined that there have been minimal investments or improvements to the system over the last four years to address system deficiencies under the current ownership. Staff performed an assessment of the Company’s system and operations through an onsite visit in August of 2022 to identify any changes or improvements to address deficiencies identified in the 2018 on-site

¹ Staff’s Comments in places identify Nick Jones and Gene Haught as the prospective owners of the Company. Rather, Greylock is the prospective owner of the Company. Nick Jones and Gene Haught are equal members of Greylock.

assessment. As a result of the 2022 assessment, Staff found little evidence of any physical or operational changes to improve system reliability and safety under the current owner since 2018. Because of the failure of the existing owner to make any significant improvements to the system over time and address the concerns identified in the 2018 Staff Report, Staff believed that new and capable ownership was needed.

b. System and Operational Improvements likely to happen under New Owners

Staff believed that the Public Interest would be best served by authorizing the sale of the Company to buyers Mr. Jones and Mr. Haught. Staff believed that since their involvement, the Company had experienced a reduction in the number of customer complaints filed with the Commission since 2017 and both buyers had already made contributions to maintain the Company’s operations, demonstrating their technical capabilities and motivation while acting on their own initiative over the past several years. Staff believed those qualities would be necessary to improve the system and the Company’s operations in the future.

In 2017, Staff received 13 informal complaints filed against Atlanta Power. Over the past four years (2018 through 2021), Staff received a total of seven informal complaints, a significant reduction when compared to 2017. Year-to-date (“YTD”) 2022, Staff has received only one informal complaint. Staff noted that customers were being served significantly better since local assistance was put in place. Table No. 1 shows the types of informal complaints received from 2017 to 2022 YTD.

Table No. 1: Informal Customer Complaints by Year

Year	Complaints Filed Against Atlanta Power
2022	Power off in evening, back-up generator not working
2021	Leaning pole
	Nothing has progressed with sale
	Sale still not complete
2020	Leaning pole
2019	<i>Note: no complaints filed against Atlanta Power</i>
2018	Failing to provide adequate service
2017	Wants deposit returned
	Generator out of fuel (3 complaints)
	Fluctuation in service
	Placed on another rate without notice
	Power outage
	Issue with service line to dwelling
	Claims generator should be supplying more power

	Claims generator needs tune up
	Turbine is down, and generator is running constantly
	Power outages
	Failure to purchase fuel for generator

ii. Costs and Rates

Staff believed that Customer rates would not increase because of the sale and CPCN transfer. Greylock did not propose any changes or increases to rates due to this transaction. Greylock stated that it “does not propose any rate increase by reason of this transaction as its owners have personally assumed financial responsibility for all transaction costs associated with Greylock's acquisition of the Atlanta Power Company.” Application at 2.

iii. Bona Fide Intent and Financial Ability

Staff believed new ownership of the Company through this sale would result in ongoing and meaningful improvement to the system’s reliability and its operation. Staff believed that the new potential owners had shown their technical capabilities to operate, maintain, and repair the system and had demonstrated their intention and motivation to make the necessary changes to upgrade the system and improve its reliability, and had demonstrated financial ability to operate the Company’s system by obtaining the necessary capital to purchase it and demonstrated willingness to invest in it.

a. Technical Capabilities and Motivation of the New Owners

Staff believed that improvements to the system and the Company’s operation were likely to improve under the new owners because of the buyer’s technical expertise and motivation to improve the system. Staff noted that Mr. Haught has operated the system over the past three years to reasonably ensure continued generation from the system, while also serving in a customer service role. Since 2018, Company availability, responsiveness, system reliability, and dispute resolution have greatly improved due to his involvement. Mr. Jones has also worked to improve customer relations for the Company. Mr. Jones has demonstrated his technical skills and capabilities and his understanding of power delivery necessary to repair the distribution system. Mr. Jones has prior experience as a lineman and is technically credentialed as an instructor at a lineman school. Staff believed those skills will be necessary for future improvement to the Company’s system.

b. Financial Ability

Staff noted that in its Application, Greylock asserted it “will have, and will be able to maintain, the financial ability to operate the Utility consistent with good utility practices and this

Commission’s orders.” *Id.* Additionally, Greylock stated in its Application that its owners personally assumed financial responsibility for all transaction costs associated with Greylock’s acquisition of the Atlanta Power Company.

4. Value of the Company’s Assets

Staff explained that due to the Company’s inability to provide adequate records of its Plant-in-Service, Staff developed the basis for valuing it. Staff estimated Atlanta Power’s Plant-in-Service and inventory valuation to be \$292,580. The value of the Company’s assets in service were derived from current benchmark prices for both material and installation costs sourced from other electric utilities regulated by the Commission. Those values were adjusted to account for the year of installation, escalation, and depreciation from the assets expected life. Any assets placed into service prior to the last General Rate Case in 2008, Case No. ATL-E-08-02, were considered fully depreciated consistent with the approved depreciation rates established in Case No. ATL-E-08-01. Table No. 2 below provides the summary of Staff’s estimated net value of the Company’s assets.

Table No. 2: Net Asset Valuation

<u>Description</u>	<u>Amount</u>
Utility Poles	\$116,886
Power Transformers	\$ 14,825
Wire Conductor	\$112,348
Air Compressor	\$ 4,957
Frequency Controller	\$ 8,750
<u>Net Plant-in-Service</u>	\$257,766
Materials & Supplies/Inventory	\$ 34,814
Total Assets	\$292,580

The total Plant-in-Service for the Company was \$257,766. Most of the Company’s valuation was attributed to the distribution plant, which included utility poles valued at \$116,886, power transformers valued at \$14,825, and wire conductor valued at \$112,348. Other equipment used to operate and maintain the hydro plant was valued at \$13,707. The Company also owns 5 utility poles, 3 power transformers, and 1 roll of wire conductor valued at \$34,814, which are held in inventory but not included in Plant-in-Service.

Because Atlanta Power had no documentation on plant material or installation costs, Staff considered plant asset valuation based on a like-kind approach. That is, if an asset was installed in Atlanta Power’s system and pricing was available to a comparable asset from one of the other regulated electric utilities, then this cost was used to estimate the Company’s installed cost.

Under the PSA, the buyers would purchase the Company and its assets from the current owner to serve existing customers. There were additional assets that the buyers would be purchasing. The Company had fuel in the tank for the generator, accounts receivable, and funds in a current bank account. All of those were included in the total assets of the Company. The accounts receivable had been confirmed from documentation provided by Atlanta Power’s billing clerk. The quality of the accounts receivable might be compromised as some of the accounts were significantly delinquent. Staff stated that the amount in the bank account included in the PSA could not be determined. Staff requested copies of the bank statements in Production Request No. 21 (Case No. ATL-E-22-01) on September 2, 2022. The Company replied on November 18, 2022, stating that “[t]he undersigned did not draft the Purchase Sale Agreement but, nonetheless, will respond to this Request as quickly as possible.”

Table No. 3: Company Assets

Components	Totals
Net Plant in Service	\$257,766
Materials & Supplies/Inventory	\$ 34,814
Fuel	\$ 1,821
Accounts Receivable	\$ 67,323
Cash (Bank Account Balance)	\$???
Total Company Assets	\$361,724

B. CPCN Transfer

Staff recommends the Commission transfer CPCN Certificate No. 300 to the new owners of the Company upon approval of the sale of Atlanta Power to Greylock Energy Holdings, LLC. Through Commission Order No. 21261, the Company currently holds CPCN Certificate No. 300 which identifies the boundaries of the Company’s service area. The Commission order specifically delimits the certificated area in the following manner:

Begin at NW Corner Section 19, Township 6 North, Range 11
E.B.M. thence eastward to NE corner of Section 22; thence

southward to NE corner Section 34; thence eastward to NE corner Section 31, Township 6 N, Range 12 E.B.M.; thence southward to SE corner Section 19, Township 5 N, Range 12 E.B.M.; thence westward to SW corner Section 24, Township 5 N, Range 10 E.B.M.; thence northward to NW corner Section 1; thence eastward to SW corner Section 31, Township 6 N, Range 11 E.B.M.; thence northward to NW corner Section 19, Township 6 N, Range 11 E.B.M., the POINT OF BEGINNING

Staff reviewed the stated service area based on the description and attached map within Order No. 21261. Staff believed that the certificated area as described within the order was consistent with the area in and around Atlanta, Idaho. Staff believed it was consistent with the current service area provided by Atlanta Power. Given the remote location of Atlanta, Idaho, and it being surrounded by Federal land, Staff believed it was unlikely the service territory would expand to overlap with any other electric utility.

C. Customer Comments, Notice, Press Release, And Public Workshop

1. Customer Comments

Staff noted that the Commission received five customer comments in Case No. ATL-E-22-01, Order No. 35302. One comment was submitted by Ms. Drake. Ms. Drake indicated that several of the issues in her initial formal complaint had been resolved. She stated that Mr. Ray enlisted the services of Mr. Haught, who was a fulltime resident of Atlanta, and that Mr. Haught assisted with power outages, provided excellent customer service, and recruited assistants, which included Mr. Jones, who was a training specialist at Northwestern Lineman College in Meridian, Idaho.

Other comments included one customer stating steady improvement in the electrical system since Mr. Haught and Mr. Jones started working together and supported them purchasing Atlanta Power. Another customer stated that Mr. Haught had been making improvement where he could, and that Mr. Jones had the experience to improve the system. A fourth customer said that they are now receiving the “best and most reliable power” they have experienced in forty-seven years.

Recently, Staff learned that the Company was unaware of several rules within Utility Customer Relations Rules, IDAPA 31.21.01. Specifically, the Company was unaware of the required customer notification process prior to disconnection of service. Staff recommended that the Consumer Staff informally work with the Company, ensuring it gained an understanding of Utility Customer Relations Rules, IDAPA 31.21.01. In addition to reviewing these rules, Staff recommended that Consumer Staff work informally with the Company to review its notices and other documents to ensure compliance.

2. Customer Notice and Press Release

Staff noted that the Company did not issue a press release and customer notice. Customer notification was done verbally. In February 2022, Mr. Haught began informing customers of the proposed sale in person. When Mr. Haught saw a customer, he informed the customer of his and Mr. Jones intent to purchase Atlanta Power. Mr. Haught indicated that all customers were aware of the proposed sale and often contact him for updates.

3. Public Workshop

On Tuesday, November 29, 2022, the Commission hosted a virtual public workshop to share information on the Application and answer questions. The workshop was held from 6:00 p.m. to 9:00 p.m. (MST). The public had multiple options to participate either in person, online using Webex, or over the phone. One individual called in, two individuals used Webex, four individuals participated in person, and four members of Commission Staff participated in person. Staff's presentation was approximately thirty minutes in duration followed by a brief question and answer period. Staff continued to monitor both the call-in phone number and Webex for the duration of the workshop.

D. Staff Recommendation

Staff recommended that the Commission approve the Purchase Sales Agreement and authorize the transfer of CPCN Certificate Number 300 to the new owners and require the following:

1. Order the seller to amend the PSA to include the contingency plan described in Order No. 35465.
2. Order the seller to amend the PSA to provide complete legal descriptions of the land swap described in Section 6.4 of the PSA, indicating clear ownership of the seller and buyers.
3. Order the seller to amend the PSA to limit the monthly maximum consumption to 4,015 kWh at the seller's residence.
4. Order the buyers to meet with Commission Staff to learn the requirements associated with being a regulated utility including but not limited to filing requirements, regulatory accounting, reporting, customer relations rules, and the Utility Customer Relations Rules IDAPA 31.21.01. within 30 days of a Final Order.
5. Order the buyers to develop a backup process for meter reading, billing, and accounting functions.
6. Order the buyers to provide updates on the 5-year Improvement Plan as a supplement to the Commission required Annual Report.

COMPANY COMMENTS

With respect to the contingency plan required by Order No. 36465, the Company stated that it was unclear as to the precise expectations the Commission had in this regard and would greatly appreciate clarification of what the Contingency Plan should entail, whose responsibility it was to implement the plan, especially if the proposed sale was approved, and any other guidance that the Commission was willing to provide.

With respect to obtaining a legal description of the land swap, the Company indicated it was awaiting a further response from Elmore County regarding those possibilities. It was the Company's desire to ensure that buyers have access to the land they need to continue running the electric system as soon as approval of the sale was received.

With respect to any reduction in the 6,000 kWhs usage, the Company stated it would appreciate the opportunity to communicate with Staff regarding an analysis to better determine what Mr. Ray's likely consumption would be per month.

GREYLOCK COMMENTS

Greylock appreciated Staff's comments. Greylock was uncertain of Staff's recommendation relative to a "contingency plan" as required by prior order. Greylock believed that while a failsafe backup plan may be possible in a perfect world, it would have to be further defined and quantified before Greylock could opine either as to its reasonableness or, equally importantly, as to its possible impact on Greylock's ability to consummate the transaction contemplated under the current PSA.

COMMISSION DISCUSSION AND FINDINGS

The Commission has jurisdiction over this matter under *Idaho Codes* §§ 61-119, -129, -101, -302, -406, -501, -515, and -701. The Company 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 authority to supervise and regulate every public utility within the State of Idaho and do all things necessary to carry out the spirit and intent of the Public Utility Law. *Idaho Code* § 61-501. The Commission has the authority to enforce Public Utility Laws and impose penalties upon utilities for failing to act in accordance with those laws. *Idaho Code* §§ 61-406 and -701. As a public utility furnishing electric power to customers within the State of Idaho, the Company must furnish, provide, and maintain such service, instrumentalities, equipment, and facilities that are adequate, efficient, just, and reasonable and promote the safety, health, comfort, and convenience of its patrons, employees, and the public. *Idaho Code* § 61-302.

Pursuant to *Idaho Code* § 61-328, before authorizing the transaction, the Commission shall find: (1) that the transaction is consistent with the public interest; (2) that the cost of and rates for supplying service will not be increased by reason of such transaction; and, (3) that the applicant for such acquisition or transfer has the bona fide intent and financial ability to operate and maintain said property in the public service. *Idaho Code* § 61-328. Having reviewed the record, all submitted materials, and the comments of the parties, the Commission finds that the requirements of *Idaho Code* § 61-328 have been met.

The Commission finds that the sale of the Company to Greylock is consistent with the public interest. The record shows that the Company has experienced a reduction in the number of customer complaints filed with the Commission since 2017. This reduction may be attributed to the involvement of Greylock's members, Mr. Haught and Mr. Jones in the operation of the Company. Similarly, the record shows that Mr. Haught and Mr. Jones have made contributions to maintain the Company's operations, and the Commission believes that transfer of ownership in this case will facilitate even further improvement to the Company's system and operations in the future.

The Commission finds that the cost of and rates for supplying service will not be increased by this transaction. The record shows that Greylock has not proposed nor requested any changes or increases to rates due to this transaction.

The Commission finds that the applicant in this case has the bona fide intent and financial ability to operate and maintain said property in the public service. The record shows that Greylock through its members Mr. Haught and Mr. Jones, has the technical capabilities to operate, maintain, and repair the system, and have demonstrated its intention and motivation to make the necessary changes to upgrade the system and improve its reliability. Further, Mr. Haught and Mr. Jones have demonstrated the financial ability to operate the Company's system by obtaining the necessary capital to purchase the Company and have demonstrated willingness to invest in the Company to provide safe and reliable service to Atlanta Power customers.

Having found that *Idaho Code* § 61-328 has been satisfied, the Commission approves Greylock's Application with the following conditions. The primary goal of the Commission is to ensure that Atlanta customers receive safe and reliable service; to that end, in the event of any alleged breach of the PSA by either party, such that the provision of the PSA and ownership of Atlanta Power comes into question, the parties shall file an application and present the Commission with a plan for the continued operation of Atlanta Power during the pendency of any litigation.

Further, no later than August 1, 2023, the parties shall submit updated and complete legal descriptions of the land swap described in Section 6.4 of the PSA, indicating clear ownership of the land in question, and clearly delineating Greylock's access to all equipment and land necessary for the continued operation of Atlanta Power.

Finally, Greylock shall meet with Commission Staff within thirty (30) days of this Final Order to learn the requirements associated with being a regulated utility including but not limited to filing requirements, regulatory accounting, reporting, customer relations rules, and the Utility Customer Relations Rules IDAPA 31.21.01. Greylock shall also work with Staff to develop a backup process for meter reading, billing, and accounting functions; and Greylock shall provide updates on its 5-year Improvement Plan as supplements to its required Annual Reports.

As an additional matter, in companion case ATL-E-22-01, Order No. 35465, the Company was assessed present and ongoing civil monetary penalties pursuant to *Idaho Code* §§ 61-706 and 61-707. The Commission suspended those penalties subject to certain conditions concerning the potential sale of the Company. The Commission finds that under the specific facts and circumstances in this case, the Company has substantially complied with the requirements of Order No. 35465.

ORDER

IT IS HEREBY ORDERED that Greylock's Application for the purchase of Atlanta Power and the transfer of Certificate of Public Convenience and Necessity No. 300 is approved.

IT IS FURTHER ORDERED that in the event of any alleged breach of the PSA by either party, such that the provision of the PSA and ownership of Atlanta Power comes into question, the parties shall file an application and present the Commission with a plan for the continued operation of Atlanta Power during the pendency of any litigation, so that Atlanta Power customers continue to receive safe and reliable service.

IT IS FURTHER ORDERED that no later than August 1, 2023, the parties shall submit updated and complete legal descriptions of the land swap described in Section 6.4 of the PSA, indicating clear ownership of the land in question, and clearly delineating Greylock's access to all equipment and land necessary for the continued operation of Atlanta Power.

IT IS FURTHER ORDERED that Greylock shall meet with Commission Staff within thirty (30) days of this Final Order to learn the requirements associated with being a regulated utility including but not limited to filing requirements, regulatory accounting, reporting, customer relations rules, and the Utility Customer Relations Rules IDAPA 31.21.01.

IT IS FURTHER ORDERED that Greylock shall work with Staff to develop a backup process for meter reading, billing, and accounting functions.

IT IS FURTHER ORDERED that Greylock shall provide updates on its 5-year Improvement Plan as supplements to its required Annual Reports.

IT IS FURTHER ORDERED that the penalties outlined in Case No. ATL-E-22-01, Order No. 35465, are vacated.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 30th day of December 2022.



ERIC ANDERSON, PRESIDENT

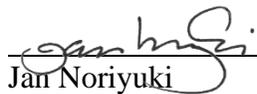


JOHN CHATBURN, COMMISSIONER



JOHN R. HAMMOND JR., COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

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