

CLAIRE SHARP
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0357
IDAHO BAR NO. 8026

Street Address for Express Mail:
11331 W CHINDEN BLVD, BLDG 8, SUITE 201-A
BOISE, ID 83714

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF ATOMIC WATER)
WORKS APPLICATION FOR A) **CASE NO. ATW-W-23-01**
CERTIFICATE OF PUBLIC CONVENIENCE)
AND NECESSITY)
)
) **COMMENTS OF THE**
) **COMMISSION STAFF**
)

COMMISSION STAFF (“STAFF”) OF the Idaho Public Utilities Commission (“Commission”), by and through its Attorney of record, Claire Sharp, Deputy Attorney General, submits the following comments.

BACKGROUND

On January 31, 2023, Vickie O’Haro through her “company, BVL Farms LLC¹ doing business as Atomic Water Works” (“Company”) applied to the Commission for a Certificate of Public Convenience and Necessity (“CPCN”), to provide water service in disincorporated city of Atomic City, Idaho. Application at 1.

¹ LLC is defined as a limited liability company.

BVL Farms LLC is a wholly owned limited liability company, with one owner Vickie O’Haro. It currently operates in the disincorporated city of Atomic City, Idaho. BVL Farms LLC was established in September 2022, and assumed the business name of the Company to provide corporate protection for the water system assets and its owners. IDAPA 31.01.01 Rule 043.02 states, “a corporation must be represented by a licensed attorney.” The Company is not represented by an attorney. For a small water utility² hiring an attorney is cost prohibitive and those expenses are passed to the customers. At the time the Commission issued its Notice of Application, Order No. 35698, it was unclear who owned the water system. Now, Staff believes it is owned by a single-entity LLC and may require legal representation to move forward with the CPCN.

On March 9, 2023, the Commission issued a Notice of Application and established a 21-day intervention period. Order No. 35698. No party intervened in this case.

At the Commission’s April 25, 2023, Decision Meeting, Staff represented it had informally conferred with the Company regarding public comment and Company reply deadlines.

The Company represents that it recently purchased the water system providing service in Atomic City, Idaho. *Id.*

The Company’s proposed rate schedule for residential customers is a flat rate of \$55.00 monthly per residential connection, with a non-flowing rate of \$27.50 monthly per residential connection. *Id.* at Attachment 22. The Company’s proposed rate schedule for commercial customers is a flat rate of \$111.00 per month. *Id.* at Attachment 19.

The Company provided notice of its purchase and the Application for a CPCN to customers on October 25, 2022. *Id.* at Attachment 22.

STAFF ANALYSIS

Overview

After reviewing the Application, responses to production requests, and additional information from the Idaho Department of Environmental Quality (“IDEQ”), Staff recommends the Commission approve the Company’s Application for a CPCN. Staff also recommends the Commission establish an annual revenue requirement of \$17,096, representing an increase in the Company’s annual revenues of \$920 or 5.7 percent, as discussed in greater detail below.

² IDAPA 31.36.01.005.101 Section 36.01.005.101 – Small Water Companies Defined; Gross Revenue is less than \$50,000 annually; Customer Base is less than 300 customers.

System Description

The Company provides water service to approximately thirty-one customers within the unincorporated town of Atomic City, Idaho. Water for the system is sourced by two groundwater wells, but currently only one well is operational.³ The well produces at a flowrate of approximately 100 gallons-per-minute (“GPM”) and is used to fill a 75,000-gallon potable water storage tank. A booster station draws water from the tank and pressurizes the distribution system for customer use. In March of 2023, IDEQ completed a sanitary survey of the system and noted “Deficiencies” along with improvement recommendations that should be made to the system. In 2022, Bingham County completed a Water Study⁴ to assess the existing system and to determine any current or future requirements needed. This study provides the new owner(s) with a roadmap to any currently needed improvements and any future capital plans.

Water Rights

Staff believes the current water rights included within the purchase of the water system provide an adequate supply of potable water to meet the Company’s current need and any near-term potential growth. The two water rights in combination provide a total diversion amount of 237 GPM.

Company Service Area

Staff recommends the Commission designate the Company’s service area within the CPCN as: (1) the W½ of Section 3 Township 1 North, Range 31 East Boise Principal Meridian Idaho; and (2) by including the map provided as Attachment A to Staff Comments. Staff identified and confirmed the limits to the Company’s service area through its review of water right 35-4209 provided in the Water Study. The water right authorizes the use of water in a prescribed manner which in this case limits the Company’s service to the municipal place of use described above. It also limits the Company from providing water service beyond the water right boundary.

³ Well #02 is not in operation because it does not currently have a pump in place.

⁴ The Bingham County - Atomic City Water System Facility Planning Study was provided in response to Production Requests No(s) 11-15.

Revenue Requirement

The Company charges a flat monthly rate for water service, with separate rates for residential, non-flowing residential, and commercial customers. The Company requested an increase in rates to generate \$19,848 in annual revenue. However, the Company's Application only supports a revenue requirement of \$16,051. Staff calculated a revenue requirement of \$17,096, as shown on Attachment B.

O&M Expense

The Company has been operating the water business since November 2022. The expenses included in the Application only include three to four months of expenses. Staff annualized the expenses and recommends an O&M expense of \$15,601. Attachment C, Column C, Line 6.

Purchased Power Costs

A large expense for the Company is purchased power costs. The expense was calculated using four months of invoices provided by the Company and an additional eight invoices from Bingham County. Staff recommends the Company be permitted to recover annual power costs of \$4,260.

Water Operator

The Company contracts with a certified water operator located in Aberdeen, Idaho. The water operator charges a monthly fee of \$700.00. Staff believes the fee is reasonable and should be included as an O&M expense. However, any additional fees and expenses above the monthly base fee of \$700 should be evaluated for proper accounting treatment. Additional charges outside the water operator's monthly fee may qualify as a capital investment in the system. For example, if the water operator performs repairs to extend the life of the water system, the costs of the repairs may be capitalized and booked to plant-in-service and depreciated accordingly.⁵

Street Lighting

Prior to being acquired by the Company, the water system was operated by Bingham County. When billing for the electricity used by the water system, Idaho Power included the billing costs for street lighting within the same account as the water system. The cost for street lighting

⁵ If system repairs are not recorded correctly, it prevents the company from fully recovering a return on its investment for the repair over the life of the asset.

is no longer the responsibility of the Company and it should be separated from the billing. Staff believes that it is no longer the obligation or responsibility of the water company to provide street lighting to the disincorporated town. Staff recommends the Company remove the billing for street lighting from the metered billing account and separately pay for street lighting outside of the water company. If residents and/or businesses want to maintain street lighting in place for the area, then they should work separately with Idaho Power to find another means to pay to keep them in place.

Fees and Taxes

The Company did not include Commission assessment fees, property taxes, IDEQ fees, federal and state taxes, and other fees in its Application. Staff calculated an additional \$595 to be recoverable and included in rates. Attachment C, Column B, line 13.

Rate Base

Rate base is the summation of the net plant in service and working capital. Staff recommends a total rate base of \$1,950, which was not included in the Company's Application. Attachment B, Column B, Line 1. Pursuant to Idaho Administrative ("IDAPA") Code Rule 31.36.01.102. Section 31.36.01 .102 - PRESUMPTION OF CONTRIBUTED CAPITAL "[i]n issuing certificates for a small water company or in setting rates for a small water company, it will be presumed that the capital investment in plant associated with the system is contributed capital, i.e., that this capital investment will be excluded from rate base. (7-1-93)". Because the system is funded with contributed capital, the Company does not have plant-in-service that qualifies for rate base treatment. The Company did not request recovery of any plant items or the purchase price of the water system.

When repairs or maintenance is performed on the water system that extends the life of the system, the Company may capitalize the costs. In a future rate case proceeding, the Company may then seek recovery and earn a fair return on all undepreciated capitalized costs. Staff encourages

the owners to discuss this with Staff and seek proper accounting treatment of capitalized costs when they start to occur.

Staff recommends a working capital allowance of \$1,950, which is a component of rate base. Working capital is needed to fund the day-to-day operations of the Company. Staff used the one-eighth method to calculate the value of working capital to be included in rate base.

Rate of Return

Staff recommends a return on equity of 11.0 percent. In Order No. 33658 and Order No. 33910, similar water utilities were authorized an 11.0 percent return on equity. This return on equity is the same as the overall rate of return since there is no authorized Company debt.

Rate Design

The Company proposes to charge a monthly flat rate for thirty-one customers. Staff believes that maintaining a flat rate design is reasonable at this time. However, the water system has meters in place, but the Company is not currently reading meters to determine consumption data of its customers. Staff recommends the Company begin reading meters and obtaining and retaining consumption data to inform other rate design options in its next general rate case.

The current rate structure includes three charges: (1) residential, (2) residential non-flowing, and (3) commercial. There are seventeen residential, ten residential non-flowing, and four commercial customers. Staff recommends that two classes stay in place and one rate class be removed entirely.

The residential non-flowing customer class was put in place when the water system was operated by a municipality. At the time, the municipality installed meters and recovered the costs of the meters from all landowners, including those that did not receive water from the system. When the town of Atomic City was disincorporated in 2020, Bingham County took over the assets and the billing. Bingham County continued to charge the non-flowing rate. When the Company acquired the water system, it continued to use the billing structure that was currently in place. Staff believes the operations of the water system should be paid for by those that use the services. Those who do not use water from the system should not be charged for water not used. Thus, Staff recommends removing the residential non-flowing class.

The proposed rates recover a base rate revenue of \$19,848. Applying Staff's adjustments to rate base, O&M expenses, fees, taxes, and capital structure, the rates need to recover a base revenue of \$17,096. Staff recommends that the rates for residential customers be as filed, or \$55.00, for an increase of 48.6 percent. Staff also recommends the commercial customer rates be set at \$123.00 per month, for an increase of 10.8 percent. The commercial customers' usage is more seasonal, which puts a larger demand on the system during the spring and summer months. Staff's recommended rates are outlined in Attachment D, Column D.

Tariffs and Other Documents

The Company submitted a draft tariff with a schedule and non-recurring charges that are based on the Commission's Model Tariff. Staff will collaborate with the Company to update its tariff upon the issuance of a Final Order.

The Company also included copies of other required documents such as late notices, disconnection notices, the annual explanation of rate, and the annual rules summary. Staff will work with the Company to ensure they are provided to customers when necessary.

Non-Recurring Charges

Non-recurring charges are fees that the Company can enforce if the Commission deems them appropriate. The Company has requested non-recurring charges as part of their tariff. Staff has reviewed the non-recurring charges and recommend adjusting the return check charge, see below, and approve the rest as filed.

Return Check Charge

The Company requested a \$37.00 returned check fee. Idaho Code § 28-22-105 allows a company to collect additional charges when a check has not been honored, but the amount is not to exceed twenty dollars (\$20.00) or the face amount of the check, whichever is less. Consistent with the statute, Staff recommends setting a return check charge fee when a payment has been returned for insufficient funds at \$20.00.

Reconnection Charge

The Company asked for a reconnection fee when the account has been involuntarily disconnected. The Company requests a \$75.00 fee when reconnected during normal business hours, and \$150.00 when the request for reconnection is after normal business hours. A

reconnection charge is appropriate following an involuntary disconnection of service. Staff believes the amount requested is reasonable due to the unique area where the water system is located and the travel time a water operator needs to get to the service territory to perform the action(s).

Voluntary Shut-Off Charge

The Company also requests a \$20 shut-off charge for customers that voluntarily disconnect during normal business hours and a \$40.00 shut-off charge after business hours. Staff supports the Company's proposed shut-off charge.

Late Payment Charge

In the Company's proposed tariff, it lists a late payment charge of one percent monthly on unpaid balances at the time of the next billing date. Staff supports a late payment charge to encourage prompt payment of bills and a one percent charge has previously been allowed to utilities that have requested one.

Hookup Fee

Staff believes a hookup fee is required for new customers. The Company will incur additional costs when a new customer installs their service line into the Company's distribution system. The hookup fee allows the Company to recover costs to connect with new customers. The Company requested a \$200.00 hookup fee and Staff recommends setting the hookup fee as filed.

Reporting

Per *Idaho Code* § 61-405, "every public utility shall file an annual report with the Commission, verified by the oath of an officer thereof. [S]hall be filed on or before the fifteenth day of April in each year." Annual reports contain company information, revenues, expenses, income statement, balance sheet, plant in service, accumulated depreciation, a statement of retained earnings, capital stock detail, long-term debt detail, system engineering data, and customer statistics. The Commission will supply the Company with a template and the Company may request the template in Excel format.

Per *Idaho Code* § 61-1003, the Company is required to submit their gross intrastate operating revenues ("GIOR") on or before April first of each year. The GIOR is the total revenues

from its utility business in Idaho for the previous fiscal year, which the fiscal year is defined as being January to December.

CUSTOMER NOTIFICATION AND COMMENTS


The Commission’s Rules of Procedure, Rule 125, requires customer notification when a Company requests a rate change (from previously approved rates). The system was purchased in 2022 by the Company from Bingham County and is requesting a CPCN.


The Company sent all customers a notice of the Company’s Application to the Commission. To date, no public comments have been received.

STAFF RECOMMENDATION

Staff recommends the Commission:

1. Approve a CPCN;
2. Approve a revenue requirement of \$17,096 as calculated on the attached exhibits;
3. Order the Company to discontinue street lighting under the Company name;
4. Approve rates as outline in Attachment D, Column D;
5. Approve a \$20 returned transaction fee and the other non-recurring charges as filed; and
6. Direct the Company to submit a signed updated tariff within 30 days of the effective date of an Order.

Respectfully submitted this  day of June 2023.



Claire Sharp
Deputy Attorney General

Technical Staff: Travis Culbertson
Leena Gilman
Chris Hecht
Jon Kruck
Rick Keller

i.umisc/comments/atww23.1cstnclgchjkmsrk comments

CERTIFICATE OF SERVICE

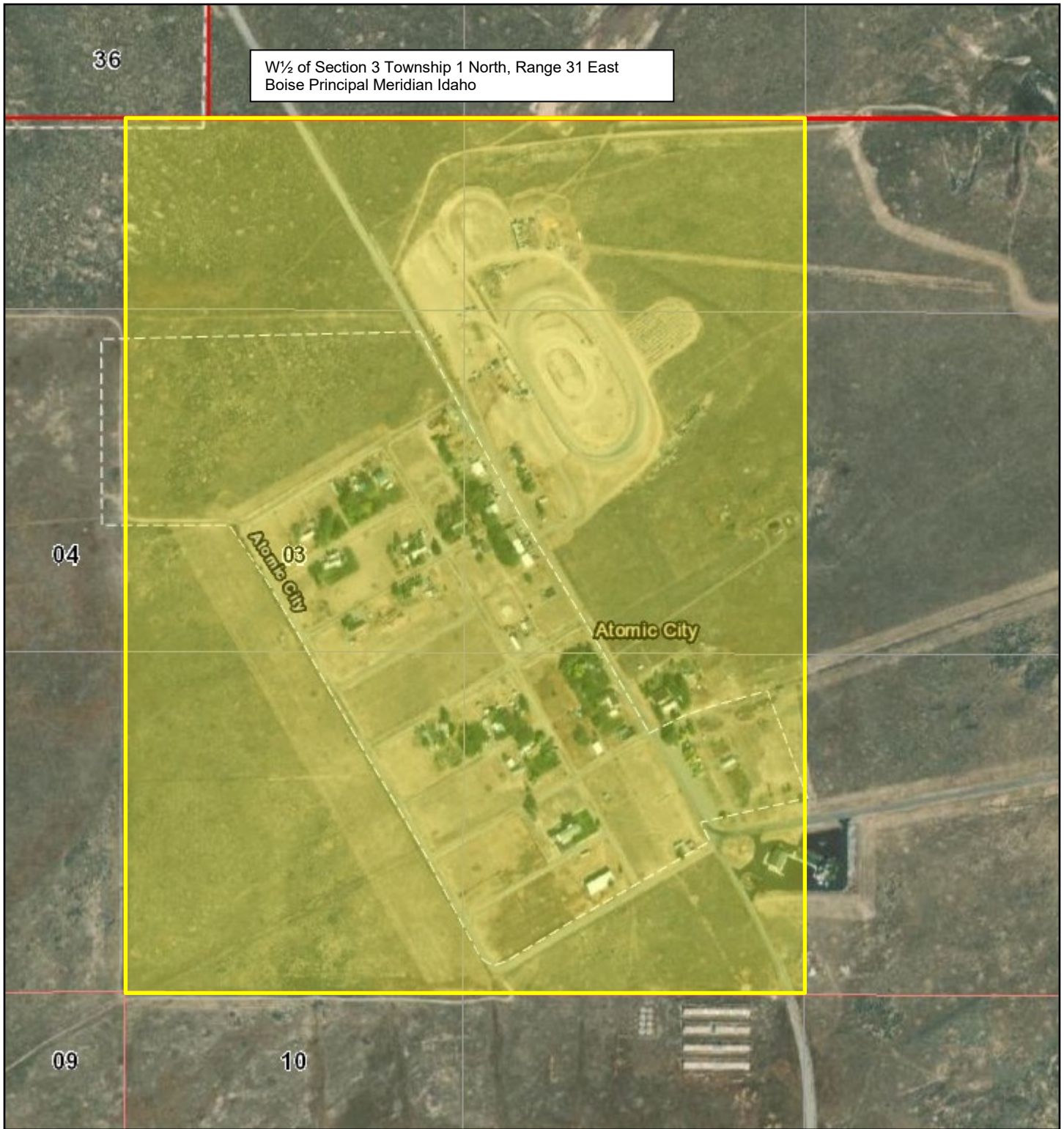
I HEREBY CERTIFY THAT I HAVE THIS 8th DAY OF JUNE 2023, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. ATW-W-23-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

VICKIE O'HARO
OWNER/MANAGER
ATOMIC WATER WORKS
1772 N 2650 W
ATOMIC CITY ID 83215
E-MAIL: vickieok72@yahoo.com

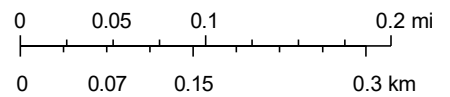

SECRETARY

**ATTACHMENT A
TO STAFF
COMMENTS IN
CASE NO.
ATW-W-23-01**

ATOMIC CITY, IDAHO (Atomic Water Works)



May 17, 2023



Compiled by the Bureau of Land Management (BLM), National Operations Center (NOC), OC-530., Esri, HERE, Garmin, IPC, Maxar

ATTACHMENT A

**ATTACHMENT B
TO STAFF
COMMENTS IN
CASE NO.
ATW-W-23-01**

ATOMIC WATER WORKS
ATW-W-23-01
Staff Proposed Revenue Deficiency Calculation

<u>Line</u>	Column A Test Year Actual	Column B Staff Adjustment	Column C Staff Proposed
1 Rate Base	\$ -	\$ 1,950	\$ 1,950
2 Required Rate of Return	0.0%		11.0%
3 Income Required	\$ -		\$ 215
4 Income Realized	\$ 125	\$ (595)	\$ (470)
5 Income Deficiency (Line 3 less Line 4)	\$ (125)		\$ 685
6 Net Operating Income Deficiency	\$ (125)		\$ 685
7 Gross Up Factor	1.000000		1.343761
8 Total Incremental Revenue Requirement	<u>\$ (125)</u>		<u>\$ 920</u>
9 Revenues at Existing Rates	<u>\$ 16,176</u>		<u>\$ 16,176</u>
10 Total Revenue Requirement	<u>\$ 16,051</u>		<u>\$ 17,096</u>
11 Percent Increase Required	-0.8%		5.7%
12 Total Gross Revenues	1.000000		1.000000
13 Net Revenue	1.000000		1.000000
14 State Income Tax Rate	0.06	-	0.058000
15 Federal Income Tax Base	1.000000		0.942000
16 Federal Income Tax Rate	0.21	-	0.197820
17 Net Operating Revenue	1.000000		0.744180
18 Net Income to Gross Revenue Multiplier	1.000000		1.343761
19 Composite Fed and State Tax Rate	0.00%		25.58%

**ATTACHMENT C
TO STAFF
COMMENTS IN
CASE NO.
ATW-W-23-01**

ATOMIC WATER WORKS
ATW-W-23-01
Staff Proposed Total Expense

<u>Line</u>	Column A Test Year Estimate	Column B Staff Adjustments	Column C Staff Proposed
1 Purchased Power & Fuel for Power	\$ 4,260		\$ 4,260
2 Materials & Supplies-Admin & General	\$ 229		\$ 229
3 Contract Services-Professional	\$ 10,200		\$ 10,200
4 Contract Services-Water Testing	\$ 300		\$ 300
5 Miscellaneous Expenses	\$ 612		\$ 612
6 Total Operation&Maintenance Expenses	\$ 15,601	\$ -	\$ 15,601
7 Regulatory Fees (PUC)		\$ 50	\$ 50
8 Property Taxes		\$ 200	\$ 200
9 Other Taxes/Fees DEQ Fees		\$ 205	\$ 205
10 Bingham Ground Water Fee	\$ 450		\$ 450
11 Federal Income Taxes		\$ 108	\$ 108
12 State Income Taxes		\$ 32	\$ 32
13 Total Taxes and Fees	\$ 450	\$ 595	\$ 1,045
14 Total Expenses	<u>\$ 16,051</u>	<u>\$ 595</u>	<u>\$ 16,646</u>

**ATTACHMENT D
TO STAFF
COMMENTS IN
CASE NO.
ATW-W-23-01**

ATOMIC WATER WORKS

ATW-W-23-01

Staff Proposed Rates Compared to Company Proposed Rates

Line	Customer-Monthly Rate	Column A Current Rates	Column B Company Proposed	Column C % Increase	Column D Staff Proposed	Column E % Increase
1	Residential Non-Flowing	\$ 27.50	\$ 27.50	0.0%		
2	Residential	\$ 37.00	\$ 55.00	48.6%	\$ 55.00	48.6%
3	Commercial	\$ 111.00	\$ 111.00	0.0%	\$ 123.00	10.8%