

LISA D. NORDSTROM
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0314
IDAHO BAR NO. 5733

RECEIVED
FILED
2003 JUL 22 PM 4:18
IDAHO PUBLIC
UTILITIES COMMISSION

Street Address for Express Mail:
472 W. WASHINGTON
BOISE, IDAHO 83702-5983

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE INVESTIGATION)
OF ATLANTA POWER COMPANY'S RATES) CASE NO. ATL-E-03-1
AND CUSTOMER SERVICE.)
)
) **ADDITIONAL COMMENTS OF**
) **THE COMMISSION STAFF**
)**

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Lisa D. Nordstrom, Deputy Attorney General, and in response to the Notice of Extended Comment/Protest Deadline issued in Order No. 29257 on June 4, 2003, submits the following additional comments.

BACKGROUND

On September 11, 2000, the Commission received a petition from residents of Atlanta, Idaho, enumerating their concerns about the electric service being provided by Atlanta Power Company. The petition requested "a formal investigation into the reliability of electrical service for the Atlanta townsite." At the Commission's direction, Staff processed the customer petition on an informal basis and worked with the Company and its customers. This resulted in several improvements and a report detailing Staff's findings. On April 10, 2003, the Commission issued

a Notice of Proposed Order in this docket, to which customers, Staff and the Company responded by filing comments.

In its May 1, 2003 Comments, Staff requested an opportunity to respond directly to customers in writing regarding issues raised in the comments. Staff further asked that the Commission schedule a public workshop in Atlanta so that Staff could discuss its response and/or resolve any remaining customer concerns in person. Because a formal hearing takes testimony but does not allow the Commission or Staff to respond to customer questions, the Commission believed customers and interested parties would likely prefer the “question and answer” workshop format to that of a formal hearing. Order No. 29257 at 1. The Commission also found that many of the issues raised by Atlanta customers could be addressed in detail by the Commission engineering, accounting and consumer assistance Staff familiar with this case. *Id.* As a result, on June 4, 2003 the Commission published a Notice of Public Workshop. On June 18, 2003, Staff sent the letter to Atlanta Power customers and interested parties responding to customer comments and questions. (Attachment A)

JUNE 28, 2003 WORKSHOP

Approximately 40 individuals attended the June 28th workshop held in Atlanta. Lynn Stevenson (owner and President), Dave Gill (part-time employee) and Jerry Jaramillo (bookkeeper) were present on behalf of the Company. State Senator Fred Kennedy was also in attendance.

Staff fielded questions on the various topics for approximately three and a half hours. In particular, participants discussed: 1) the adequacy of the Company’s recordkeeping; 2) the amount of time it takes the Company to diagnose and fix outages; 3) non-compliance with previous Commission Orders; 4) uniformity of voltage; 5) frequency of outages; 6) the need for a backup diesel generator and possible funding; and 7) general maintenance of the system and transmission lines. Atlanta Power personnel offered additional information on several of these issues as well.

Staff observed that those in attendance were divided regarding their support of the petition that initiated this case. Based on the crowd’s applause at one point in the workshop, Staff estimates that two-thirds of the crowd appeared **NOT** to support the positions of those who

signed the original Petition. Several others indicated they supported Atlanta Power and appreciated having electricity given the remoteness of the area.

STAFF RESPONSE TO POST-WORKSHOP COMMENTS

Staff has worked with interested parties and customers to answer their individual questions by telephone, in writing, and at the workshop. Based on the post workshop comments, it is clear that a couple individuals remain unsatisfied with Staff's responses, continue to demand answers to previously answered questions, and/or misstate facts in their comments--even after lengthy workshop discussions on June 28, 2003. To the extent we have already addressed these issues and/or questions in our written response to Atlanta Power customers, Staff wishes to incorporate our June 18, 2003 response into the record as Attachment A rather than attempt to answer each question again in these comments.

Staff notes that comments dated June 28, 2003, which were subsequently revised and re-submitted on June 29, 2003, included a copy of a letter submitted to IPUC Staff before the beginning of the June 28th workshop. It is Staff's belief that most of the issues described in the letter were appropriately discussed and addressed during the three and a half hour workshop. These comments frequently misstate Staff's findings, despite Staff's attempts during both written¹ and verbal² communication to inform these individuals of the facts gathered and documented by Staff. Staff attempts to correct the most egregious examples of these misstatements and offer additional recommendations in the paragraphs that follow.

Annual Reports

In comments dated June 29, 2003, certain commentators stated that "since the company filed the annual report required to secure its rate increase, it has not filed another annual report." This is not accurate because although its last rate increase was in 1993, the Company filed annual reports for the years through 1997 as previously noted in our audit and informal investigation reports. These commentators also stated that IPUC "staff, including the attorney confirmed that the P.U.C. does not require A.P. to file annual reports." Not only did Staff not

¹ Staff's written communications include Staff's audit report, Staff's report on the informal investigation and its June 18, 2003 letter (Attachment A).

² Staff's verbal communications include more than a dozen telephone calls during the last 2 years and a three and a half hour workshop discussing these same issues.

make this assertion, the Commission mandates that all regulated utilities file annual reports. In its Proposed Order of April 10, 2003, the IPUC proposed a date by which Atlanta Power was to submit its delinquent annual reports. Due to the comments received in this case and the extension of the comment-filing deadline, that Order has not been finalized. It remains Staff's recommendation that the Company file its annual reports as required by the *Idaho Code* and as proposed by the Commission.

Company Recordkeeping and Written Documentation

In the same comments dated June 29, 2003, the parties wrote "to use the P.U.C. staff member's terminology, the rates are based on 'trust-me bookkeeping.'" No Staff member made this statement at the workshop or any other time. This appears to be a characterization of the commentors based on a misquote of Commission Order No. 24925 associated with Case No. ATL-E-93-1. The Commission referred to a 1988 Order in which the Commission stated that "trust me" representations of utility management were not an acceptable basis for determining whether expenses occurred. In fact, the Commission Order No. 24925 explicitly rejected "trust me" bookkeeping based solely on oral representations.

Participants also discussed the Company's lack of materials and supplies inventory at the workshop. The parties that filed the June 29, 2003 comments seem to have erroneously interpreted this as proof that their power rates are not fact-based. However, as discussed at the workshop and in Staff's most recent audit report, the \$7,000 in Company materials and supplies inventory was not allowed in Staff's calculation of the Company's revenue requirement. Furthermore, the case on which the Company's most recent rates are based (Case No. ATL-E-93-1) did not allow this \$7,000 for the purposes of ratemaking. Thus, these expenses are **not** recovered by customer rates because they were not adequately documented.

As discussed at the workshop, the Company's recordkeeping has improved since Staff's original audit of the Company's records in 1992. As Staff previously noted in its June 18, 2003 letter, audit report and at the workshop, the audit verified transactions included within the Company's expenses and assets by reviewing: 1) the Company's bank statements, 2) returned checks and invoices for numerous years including the test and subsequent years, and 3) information from organizations with which the Company had a financial relationship. In instances where invoices were not found, Staff evaluated whether such an expense actually

occurred and was reasonable. For example, the Company's 1998 and 1999 bank statements contained two payments to Kinko's Copies that were represented as payments for the copying of FERC license applications. Based upon observation of both a draft and final license application and the number of copies distributed, these costs comprised approximately \$350 of the revenue requirement identified in the most recent audit. As also noted in the audit, these dollar amounts would require written verification (such as invoices) to confirm these costs were they to be recoverable in a rate case. The commentors stated that disallowing this type of expense would result in lower power rates. Yet, because this expense occurred after the Company's most recent rates were established, it did not impact the Company's rates.³

The comments dated June 29, 2003 made many allegations regarding the high rates Atlanta Power customers pay. As stated in the June 4, 1993 Order establishing their rates, the facts underlying customer rates remain as follows:

... the level of rates for Atlanta Power is primarily a function of an extremely small customer base, many of whom are only seasonal customers. The level of investment is not unreasonably high for a small electric company. Nor is the annual revenue requirement. We are obligated by statute to provide the Company an opportunity to recover its operating costs and realize a reasonable return on its investment. We cannot require the Company stockholders to fund utility operations out of pocket or require the Company management and employees to work for free or on the cuff.

Order No. 24925 at 13.

That said, Staff continues to believe that the Company still needs to improve its recordkeeping. It remains Staff's recommendation that the Company maintain adequate supporting documentation of transactions and file them in a manner that allows for subsequent retrieval. Additional recommended improvements include, but are not limited to: 1) preparing and maintaining Board of Directors' meeting minutes; 2) performing a periodic inventory of assets that includes preparation and maintenance of a list of assets (including materials and supplies) on at least an annual basis; 3) issuing checks sequentially; and 4) entering payment information at the time of check issuance and performing bank statement reconciliations each month in a timely manner.

³ See also Staff's letter of June 18, 2003, responses to Question Nos. 8-10.

Delivery Voltage

At the workshop and in comments filed following the workshop, parties to this case have discussed the distance from transformers to customer meters in relation to adequate delivery voltages. At the workshop Staff stated that in its experience, 150 to 200 feet was the maximum distance acceptable to the larger utilities regulated by the Commission. The Atlanta Power system has one or more areas where multiple customers are served from one transformer. Some Atlanta Power customers are more than 200 feet from the transformer. Mr. Stevenson correctly pointed out at the workshop that what matters to customers is the amount of delivery voltage and that his system is designed to deliver 110 volts to customers. He accomplishes this with good quality copper conductors and appropriate transformer voltage settings. At the conclusion of the workshop an outlet at the schoolhouse was tested and found to be just over 110 volts. It was suggested at the workshop that customers could easily test voltage at their service locations. If voltage was found to be significantly below 110, customers were told they should contact the Company who agreed to rectify the problem.

Reliability

With regard to backup generation, the Staff continues to believe that Atlanta Power Company should not be required to purchase a system backup generator largely due to the cost and its impact on customer rates. This recommendation is consistent with, and is largely based on, the results of the customer survey indicating that nearly all respondents were unwilling to pay increased rates in order to purchase the backup generator. However, the community would benefit if either the community or Atlanta Power Company could obtain a grant to finance the generator. The community may want to take the lead in pursuing a grant since it would be the primary beneficiary.

The Staff intends to continue working with Atlanta Power regarding plans for system maintenance, restoration of service after an outage, and the effective use of the system status phone number. Discussions concerning tree trimming this summer are presently ongoing.

Maximum Outage Response Time

Although the comments filed on June 29, 2003 stated that a 75-hour outage is not uncommon, Staff is aware of only one 75-hour outage and considers it to be uncommon. These comments also suggested that a maximum response time be established in an outage situation.

Staff notes that Atlanta Power maintains no full-time employees in an effort to keep rates from being higher than they are. There have been and will be times in the future when Atlanta Power's maintenance people will not be in town when an outage occurs or will be committed to other jobs. For safety reasons, it is not reasonable to expect anyone to travel the roads that lead to Atlanta in the dark. It is also difficult if not impossible to drive the system and check for problems in the dark.

Because of these difficulties, Staff believes that any such outage response plan must have a great deal of flexibility. With this in mind, Staff initially recommended such a plan in its investigative report and the Commission included that plan in its Proposed Order. That plan would allow the Company time to diagnose the problem and approximately a day for the delivery of parts in Boise before a backup generator be brought in. Although a plan that shortens outages would be ideal, Staff has been unable to identify one that is safe, feasible, and can be implemented at little or no cost. If the Commission chooses to establish a maximum response time, the Commission should also address what constitutes an "adequate response." Staff believes that there could be a substantial difference of opinion on this matter.

Tariff Clarification

Customers have raised questions regarding when Atlanta Power may assess connection and reconnection fees. The Commission increased connection and reconnection fees for customers in Case No. ATL-E-93-1. Customers who closed accounts for more than 30 days were assessed reconnection fees of \$200. This rate was established as an incentive for seasonal and permanent customers to stay connected during winter and contribute to the electrical system costs. O. N. 24925 at 9. The connection fee for new customers and customers disconnected for 30 days or less is \$25.

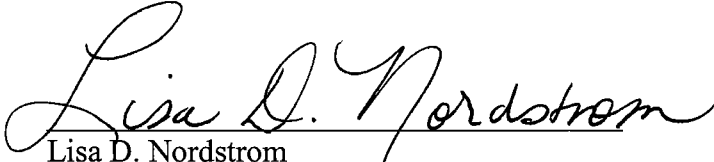
Staff is concerned that a former customer may apply for service under a different name when requesting connection in order to avoid paying the high reconnection fees. Staff intends to

work with the Company to revise and clarify the conditions under which connection and reconnection fees may be applied.

STAFF RECOMMENDATIONS

1. As stated in our prior comments, Staff recommends that Atlanta Power continue to bring in a leased generator for a multi-day outage rather than increase rates to purchase a new one.
2. Staff recommends the community of Atlanta pursue state and/or federal grants to fund the purchase of a backup generator.
3. Staff continues to recommend the Company file its past-due annual reports as required by the *Idaho Code* and as proposed by the Commission.
4. Staff recommends that it work with the Company to revise the Company's tariff. Specifically, Staff recommends clarification of the conditions under which connection and reconnection fees would apply. Any proposed tariff revisions resulting from Staff's discussions with the Company will be submitted to the Commission for its review and approval prior to implementation.

Respectively submitted this ^{22nd} day of July 2003.


Lisa D. Nordstrom
Deputy Attorney General

Technical Staff: Keith Hessing
Patricia Harms
Carol Cooper

i:umisc:comments/atle03.1lnkhpcc additional

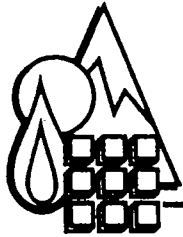
CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 22ND DAY OF JULY 2003, SERVED THE FOREGOING **ADDITIONAL COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. ATL-E-03-1, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

LYNN STEVENSON
ATLANTA POWER COMPANY
PO BOX 100
FAIRFIELD ID 83327-0100

CONLEY WARD
GIVENS PURSLEY
PO BOX 2720
BOISE ID 83701-2720


SECRETARY



IDAHO PUBLIC UTILITIES COMMISSION

Dirk Kempthorne, Governor

P.O. Box 83720, Boise, Idaho 83720-0074

Paul Kjellander, President
Marsha H. Smith, Commissioner
Dennis S. Hansen, Commissioner

June 18, 2003

Atlanta Power Customers
Senator Fred Kennedy
Interested Persons
Atlanta Power Company

To address questions and concerns posed by several Atlanta Power Company customers, the Idaho Public Utilities Commission Staff will hold a workshop at the Atlanta Elementary School on **SATURDAY, JUNE 28, 2003 AT 1:00 P.M.**

Staff has prepared the following response to written customer questions received by the Commission thus far. We hope you will have the opportunity to review this document prior to the workshop so that Staff can answer any follow-up questions you may have in person.

Following the workshop, the Commission will accept additional written comments in this docket until Tuesday, July 22nd. Once this date has passed, the Commission will likely make a final decision on the merits of the case. Individuals who are aggrieved by the Commission's final decision may seek reconsideration by filing a petition with the Commission within 21 days of the final Order. Petitions for reconsideration must set forth the reasons why the decision is erroneous and what argument the petitioner will offer if reconsideration is granted. *Idaho Code* § 61-626.

We hope to see you at the public workshop. Should you need to contact us prior to the public workshop, please call the Commission at (208) 334-0300 or toll free at (800) 432-0369.

Sincerely,

Randy Lobb
Utilities Division Administrator
Idaho Public Utilities Commission Staff

PREFACE

Before we respond to the written questions of customers and interested parties, we thought it might be helpful to provide some background information on the roles of the Commission and its Staff. Following the preface, we organized Staff's responses by topic to address questions regarding procedure, accounting/billing, service quality and non-compliance issues.

Purpose of the Idaho Public Utilities Commission: Under state law, the Idaho Public Utilities Commission (IPUC) regulates Idaho's electric, gas, telecommunications and water investor-owned utilities and makes decisions that are in the public interest. The Commission must assure customers adequate service and set just, reasonable and sufficient rates.

The Commission does not regulate publicly owned, municipal or cooperative utilities. In setting rates, the Commission must consider the needs of both the utility and its customers. Customers must be ensured of paying a reasonable rate, and utilities must be allowed to recover their legitimate costs of serving their customers and earning a fair rate of return. Commission operations are funded by fees assessed on the utilities and railroads it regulates.

Authority vested with the Commission: The IPUC has quasi-legislative, quasi-judicial, and executive powers and duties. In its quasi-legislative capacity, the Commission sets rates and makes rules governing utility operations. In its quasi-judicial mode, the Commission hears and decides complaints, issues written Orders similar to court orders and may have its decisions appealed to the Idaho Supreme Court. In its executive capacity, the Commission enforces state laws affecting the utility and rail industries.

Commission Composition: The governor appoints the three commissioners who are confirmed by the Idaho Senate. No more than two commissioners may be of the same political party. The commissioners serve staggered six-year terms. The governor may remove a commissioner before his/her term has expired for dereliction of duty, corruption or incompetence.

Role of the Commission Staff: To help ensure its decisions are fair and workable, the Commission employs a staff that includes engineers, rate analysts, attorneys, accountants, investigators, and economists. Other than being a possible customer of a regulated utility, these Staff professionals have no stake in the outcome of the cases in which they participate. Like the

Commissioners, Staff members are not allowed to hold any stock, interest or position in utilities regulated by the Commission.

The Staff analyzes each petition, complaint, rate increase request or application received by the Commission. In formal Commission proceedings, the Staff acts as a separate party to the case, presenting its own testimony, evidence and expert witnesses. The Commission considers Staff recommendations along with those of other participants in each case - including utilities, public, agricultural, industrial, business and consumer groups. Although Staff's professional experts make recommendations, the three Commissioners ultimately decide the outcome of each case.

STAFF RESPONSE TO CUSTOMER QUESTIONS

PROCEDURE

Question No. 1: The original petition requested a "formal investigation." Why did the Commission proceed informally and without an explanation?

Staff Response to Question No. 1: Idaho law permits the Commission to use its discretion to determine whether formal or informal procedure is appropriate for a particular case. *See* IDAPA 31.01.01.022. Commission Rule 22 encourages the use of informal proceedings to settle or determine cases. The informal nature of such proceedings do not diminish their importance, but merely offer a different method of obtaining the evidence necessary for the Commission to make an informed decision. Informal proceedings do not generally substitute for formal proceedings, do not exhaust administrative remedies, and do not prejudice the right of interested persons to present the matter formally to the Commission. *See* IDAPA 31.01.01.024.

A significant advantage to using informal procedure is that it allows the Commission Staff to gather information, give advice or assistance, and propose possible resolutions without burdening ratepayers with the additional expense that typically accompanies formal procedure. Because they make rulings much like judges do in court, the Commissioners cannot directly answer customer questions regarding pending cases. Consequently, the Commission scheduled the public workshop in Atlanta to allow customers the opportunity to have their questions answered by Staff.

Question No. 2: Why did it take over 2½ years for Staff to complete its investigation?

Staff Response to Question No. 2: In response to the customers' petition, Staff proposed to audit the Company, identify potential improvements and associated costs, and survey customers. The audit required more time than originally estimated because records had to be located, organized and verified. Most significantly, an unexpected spike in western electric wholesale market prices dramatically increased Staff's overall workload and delayed completion of the investigation. Staff's workload also included cases with statutory deadlines that took precedence over other cases. Although the result of the Atlanta Power investigation was substantially delayed, the Staff continued to work with Atlanta Power Company on three areas of concern and made progress in resolving them as described in Staff's report of March 6, 2003.

Question No. 3: Why were customers only given 30 days to respond to the Proposed Order?

Staff Response to Question No. 3: The Commission determined that 21 days would be sufficient to review and comment on the proposed Order. *See* IDAPA 31.01.01.312. If reviewers needed more time to file comments, they could request additional time in writing as Atlanta Power Company did on May 7, 2003. The Commission has liberally granted such requests in the past. In any event, Commission Order No. 29257 has extended the comment period in this case to July 22, 2003.

Question No. 4a: Why were only six customers of record identified as having signed the original petition?

Staff Response to Question No. 4a: Staff compared names on the petition with Company customer records and matched six names as appearing on both lists.

Question No. 4b: Is there a certain number of people who must complain for the PUC to regulate the utility?

Staff Response to Question No. 4b: All Idaho investor-owned electric utilities are regulated by the Idaho Public Utilities Commission according to statute regardless of the number of complaints filed against the utility.

Question No. 4c: Can a single person file a formal complaint regarding service? What regulation or law prohibits a person from protesting to the regulatory agency about the lack of electricity that has been paid for?

Staff Response to Question No. 4c: Customers do not pay for electricity that they do not receive because electricity that is not used is not recorded on the customer's meter. Any person may file a complaint against regulated utilities regarding service. *Idaho Code* § 61-612 states that *any person* may file a written complaint that sets forth "any act or thing done or omitted to be done by any public utility" including any alleged violation of the law or Commission Order or rule. However, this statute prevents the Commission (except upon its own motion) from entertaining complaints from non-governmental entities as to the "reasonableness of any rate or charges" unless the complaint is signed by at least 25 current or prospective consumers or purchasers.

Question No. 5: Why was it stated in Staff's response to Senator Kennedy that the delay was caused by difficulty reaching the people in Atlanta?

Staff Response to Question No. 5: Staff's letter to Senator Kennedy stated, "The delay in completing the investigation was at least in part due to the difficulty in reaching both customers and the Company to conduct the survey and obtain financial and operational information." Staff's customer survey was designed as a telephone survey initially. An effort to contact a few customers on two different occasions ended with no contacts. Following that a mailing list was obtained from Atlanta Power and a written survey form was prepared. The change in plans required additional time and lengthened the process.

Attachment A
Case No. ATL-E-03-1
Staff Comments
7/22/03 Page 5 of 20

ACCOUNTING/BILLING

Question No. 6a: Why has Atlanta Power been allowed to continue its improper accounting practices since June 4, 1993?

Staff Response to Question No. 6a: Commission Staff has worked with Atlanta Power Company for the last decade to improve its accounting practices. The Commission recognizes that regulatory compliance has a financial cost that can be particularly burdensome for utilities that have few ratepayers over whom these costs can be spread. Moreover, Atlanta Power is a small utility with no full-time employees and limited resources. Consequently, Atlanta Power does not possess the same level of accounting proficiencies and resources as do larger, publicly traded utilities that employ a staff dedicated to regulatory compliance. See also Staff response to Question No. 19a regarding compliance with Commission Orders.

Question No. 6b: Why has Atlanta Power not been required to file all annual reports since 1997?

Staff Response to Question No. 6b: With regard to annual reports, *Idaho Code* § 61-405 makes allowances for small-scale utilities that “serve a small community of persons” by allowing the Commission to prescribe “an abbreviated or modified” format. This statute would allow the Commission to modify Atlanta Power’s annual reporting requirement to provide the name of the utility, the address of its office, a list of its officers, the number of customers, the number of kilowatt hours sold, and the Company’s estimated revenue. The Commission Staff already acquired this information for 1998 and 1999 as part of its investigation. No benefit would be gained from having the utility (and customers) expend resources filing pre-2000 reports when those resources that could be better applied to filing annual reports for 2000, 2001 and 2002. In recognizing this fact, the Commission seeks to maximize customer resources (by avoiding unnecessary accountant fees) while maintaining comprehensive regulatory oversight.

Question No. 7a: How can Staff accurately audit the Company when the Company has not complied with previous Orders?

Staff Response to Question No. 7a: Staff is able to audit the Company by reviewing its records including its bank statements, returned checks, and invoices. Because some records were not located at the Company's office, Staff obtained financial information directly from some organizations with which the Company had a financial relationship.

Question No. 7b: Why isn't Staff willing to perform its statutory and regulatory duties?

Staff Response to Question No. 7b: Staff has performed its statutory and regulatory duties by gathering facts in the current investigation by means of a Company audit and customer survey. Staff has made recommendations to both the Company and the Idaho Public Utilities Commission for their consideration. Furthermore, Staff continues to respond to customer questions and concerns by telephone, letter, and in person at the public workshop on June 28, 2003

Question No. 8a: Atlanta Power earned \$3,000 more than it should have in 1999 using improper methods. Why were there over-earnings in 1999? If 1999 was a "test year," how do other years compare?

Staff Response to Question No. 8a: Staff's most recent audit of the Company compared the revenues earned in 1999 using the current rate structure established in 1993 with the Company's expenses and allowed return on investment for 1999. Revenues exceeded expenses and return on investment by approximately \$3,000. However, no provision existed for backup generator rental costs in those expenses. Based upon invoices reviewed for such rentals, generator rental and fuel costs in a year can be more than \$3,000. Additionally, there were no accounting expenses incurred for filing annual reports in the 1999 expenses. Both these expenses are normal operating expenses and if incurred, would significantly reduce and probably eliminate the Company's excess of revenue over expenses.

Attachment A
Case No. ATL-E-03-1
Staff Comments
7/22/03 Page 7 of 20

Staff's most recent audit tested Company records for the year 1999. The previous audit of test year 1997 calculated a revenue shortfall of approximately \$10,000. A "revenue shortfall" occurs when the amount of revenue collected by the Company falls short of the Company's expenses and allowed return on investment for the year audited. It can also be referred to as an "earnings deficit."

Staff's most recent audit also recommended improvements to the Company's recordkeeping. The improvements include performing a periodic inventory of assets, issuing checks sequentially, performing bank statement reconciliations in a timely manner, and obtaining and retaining documentation supporting each financial transaction.

Question No. 8b: How much has Atlanta Power over-charged its customers from 1999 to 2003? All overpayments made should be refunded to customers so the town could use the money to fund its own new generator.

Staff Response to Question No. 8b: The context of this question appears to imply that the *over-recovery* estimated in the audit of test year 1999 results from *overcharges* to the Company's customers. This is not the case. Over-recovery of normalized costs (average expenses and allowable return on investment) when approved rates are correctly charged does not constitute an overcharge. Over- or under-recoveries are kept or absorbed by the Company as explained in Staff response to Question No. 10. Over- or undercharges result from the improper application of Commission-approved rates or the application of an incorrect rate and can be corrected back in time for a period of up to three years. No overcharges were identified during the audit.

Question No. 9: How and why can the PUC support the high rates charged without proper documentation?

Staff Response to Question No. 9: The most recent Order from the Idaho Public Utilities Commission that established rates for the Atlanta Power Company was Order No. 24925 in Case No. ATL-E-93-1 dated June 4, 1993. The Commission, based upon the evidentiary record at that time, established the Company's rates. Rates are established to provide a regulated utility with sufficient revenue to pay its expenses and earn a return on the cost of investor-supplied property (i.e., investment) used in providing service to the public. The Company's

revenue, expenses and investment in property change over time. Staff's most recent audit compared the revenues earned in 1999 using the current rate structure established in 1993 with the Company's expenses and allowed return on investment for 1999. To confirm transactions included within the Company's expenses and assets, the audit included review of the Company's bank statements, returned checks, invoices for numerous years including the test and subsequent years, and information from organizations with which the Company had a financial relationship. The audit results noted in Staff response to Question No. 8a show that current rates come very close to recovering current costs. Therefore, it is Staff's position that a general rate case to increase or decrease current rates is not presently justified.

Question No. 10: Has the Schedule 5 temporary surcharge of 4.5 cents/kWh been removed from customer rates (O.N. 24925 & 23367)? If not, can any overpayments resulting from its continuation after the loan was paid off be returned to customers?

Staff Response to Question No. 10: Schedule 5 of Atlanta Power's tariff was cancelled June 15, 1993 when the Commission approved new rates in Atlanta Power's general rate case. At that time any remaining Kirby Dam costs were included in the Company's general rates, which will stay in place until the Commission revises them in a future case. Those rates are still in effect today. The theory is that utility costs that expire are generally replaced by new costs that are also recoverable from customers. To verify that this theory is holding true, the Commission Staff audits each regulated utility from time to time as it recently did during the informal review of this complaint. As noted previously, the audit results show that current rates come very close to recovering current costs. Therefore, it is Staff's position that a general rate case to increase or decrease current rates is not presently justified. Although many if not all of the costs to be recovered through the Schedule 5 temporary surcharge have been paid in full, other costs associated with a new hydro generator and Federal Energy Regulatory Commission (FERC) relicensing have taken their place.

Laws governing permanent rates established by the appropriate regulatory authority prohibit customer refunds or surcharges for under- or over-collections of amounts paid or collected through the proper application of approved rates in past time periods. In short, this "retroactive ratemaking" is not legal. In the current context this means that, **hypothetically**

even if the Staff's audit showed that Atlanta Power had over-recovered \$20,000 in the 1999 test year, refunds could not be ordered. Likewise if the Company had under-collected its costs by \$20,000 the under-collection could not be recovered from customers either. If either one of these hypothetical situations occurred, new rates to recover the correct amount would possibly be established and put in place going forward.

Question No. 11a: Has the note to IDWR for \$57,000 for installation of a hydraulic gate on top of the dam been paid off?

Staff Response to Question No. 11a: Yes, it has.

Question No. 11b: There was no footnote in the Order to remind Atlanta Power that rates should be adjusted upon satisfaction of the note to IDWR.

Staff Response to Question No. 11b: Although Staff recommended in O.N. 24925 that rates be adjusted upon satisfaction of the note to Idaho Department of Water Resources, the Commission did not order it. Therefore, there have been no overpayments because the rates were made permanent. This was not an oversight but rather recognition of expected cost replacement as described in Staff's response to Question No. 10.

Question No. 11c: What are the true costs of generating power at Kirby Dam?

Staff Response to Question No. 11c: The Company's costs for providing power to customers include operation, maintenance and general administrative expenses plus depreciation and taxes. Rates are based on these annual costs and an allowable rate of return on the Company's investment in assets to provide service. In Staff's audit of the year 1999, the combination of these annual costs (called a company's "revenue requirement") equaled approximately \$57,000.

