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**EXECUTIVE SECRETARY  
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**DOCKET# 43838**

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## Georgia Public Service Commission

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### BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION

#### DOCKET NO. 43838 PROCEDURAL AND SCHEDULING ORDER

**IN RE: Georgia Power Company's Application to Adjust Rates to Include Certain Plant Vogtle Unit 3 and Common Costs**

In its January 11, 2018 Order in the 17<sup>th</sup> Vogtle Construction Monitoring ("VCM") proceeding, Docket No. 29849, the Commission determined that upon reaching Commercial Operation of Unit 3, retail base rates will be adjusted to include the costs related to Unit 3 and common facilities which were deemed prudent in the January 3, 2017 Supplemental Information Review (SIR) Stipulation. The Commission also determined that this rate adjustment will be effective the first month after Unit 3 is in Commercial Operation.

The Commission hereby issues this Procedural and Scheduling Order for the sole purpose of approving Georgia Power's rate adjustment filing related to the Unit 3 and common facility costs consistent with Georgia law and the Stipulation approved by the Commission on January 3, 2017 and the Order on the 17<sup>th</sup> VCM, including the costs recoverable through an adjustment to the base revenue requirement and base rates, the costs that will remain eligible for recovery through the Nuclear Construction Cost Recovery tariff, the costs that will be reflected in Fuel Cost Recovery, and the costs, if any, eligible for deferral and consideration for recovery in future ratemaking proceedings. The Commission will not be making prudence determinations in this proceeding. For those costs that were not deemed prudent in the SIR Stipulation, the Commission will make such prudence determinations in a proceeding that will commence upon fuel load of Unit 4.<sup>1</sup>

<sup>1</sup> See VCM 17 Order at 14, para. 10.

## **Background**

The SIR Stipulation adopted by the Commission on January 3, 2017, provided that:

None of the costs that were incurred, verified and approved through the 14<sup>th</sup> Vogtle Construction Monitoring Report should be disallowed from rate base on the basis of imprudence as specified in O.C.G.A. § 46-3A-7.<sup>2</sup>

A total of \$3.509 billion in construction costs had been incurred, verified and approved through VCM 14. This \$3.509 billion included costs related to Unit 3 and common facilities as well as costs related to Unit 4.

The SIR Stipulation also provided that:

Financing costs on capital dollars that have been verified and approved will be deemed prudent provided they are incurred pursuant to O.C.G.A. § 46-2-25 and this agreement and provided that they are incurred prior to December 31, 2019 for Unit 3 and December 31, 2020 for Unit 4.<sup>3</sup>

The SIR Stipulation also coupled Units 3 and 4 for ratemaking purposes, providing that “[t]he Project, consisting of both Units 3 and 4, will be placed into retail rate base on December 31, 2020 or upon reaching commercial operation whichever is later.”<sup>4</sup> The SIR Stipulation then defined Commercial Operation “as the Unit being fully dispatchable on demand at the stated Net Electrical Output of 1,102 MWe of the Unit.”<sup>5</sup>

The Commission, in its January 11, 2018 Order in the 17<sup>th</sup> VCM, approved a revised capital and construction cost forecast of \$7.3 billion, which is not intended to be a cost cap,<sup>6</sup> and the Company’s revised schedule, which included the Company’s new expected date of Commercial Operation for Unit 3 of November 2021 and for Unit 4 of November 2022. The 17<sup>th</sup> VCM Order also partially decoupled Unit 3, providing: “To further incent the Company to complete the Units as safely and quickly as possible, the Commission also finds that upon reaching Commercial Operation of Unit 3, which is expected to be in November 2021, retail base rates will be adjusted to include the costs related to Unit 3 and common facilities deemed prudent in the January 3, 2017 Stipulation. This rate

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<sup>2</sup> SIR Stipulation, para. 1. This paragraph further provides that “Should any system, structure, or component, or portion thereof, included in such costs not perform as required or specified in the design documents, or not meet any NRC requirement, and subsequently delays commercial operation of the Unit(s) as defined in this stipulation, the Commission expressly reserves its right to review and disallow any cost and or schedule impacts of such deficiency.” Any arguments for disallowance pursuant to this sentence will be addressed as part of the proceeding that will commence upon fuel load of Unit 4.

<sup>3</sup> SIR Stipulation, para. 8.

<sup>4</sup> SIR Stipulation, para. 12.

<sup>5</sup> SIR Stipulation para. 13.

<sup>6</sup> VCM 17 Order at 18 (ordering that “no directives or findings in any part of this Order suggest that there is a cost cap”).

adjustment will be effective the first month after Unit 3 is in commercial operation.”<sup>7</sup> The 17<sup>th</sup> VCM Order also stated that “all decisions regarding cost recovery from customers will be made later in a manner Consistent with Georgia law and the Stipulation approved by the Commission on January 3, 2017, and this Order.”<sup>8</sup>

The revised cost of \$7.3 billion was net of the Toshiba Parental Guarantee. The 17<sup>th</sup> VCM Order provided that “[t]he balance of the proceeds received from Toshiba, net of the Company’s costs to obtain that payment and net of the costs of providing those customer credits, will be applied to the CWIP balance. This will have the effect of reducing the level of the NCCR and the Company’s earnings on the NCCR until the CWIP balance is built back up with actual investments to the original certified amount of \$4.418 billion.”<sup>9</sup>

In VCM 23, the Company and PIA Staff agreed in a Stipulation approved by Commission Order on February 23, 2021 to:

[M]eet in a good faith effort to develop a mutually agreeable recommendation to the Commission regarding the procedure for and the timing, form and substance of the rate adjustment filing related to the Unit 3 and common facility costs consistent with Georgia law and the Stipulation approved by the Commission on January 3, 2017 and the Order on the 17<sup>th</sup> VCM, including the costs recoverable through an adjustment to the base revenue requirement and base rates, the costs that will remain eligible for recovery through the Nuclear Construction Cost Recovery tariff, the costs that will be reflected in Fuel Cost Recovery, and the costs, if any, eligible for deferral and consideration for recovery in future ratemaking proceedings. The parties shall provide such recommendation to the Commission or otherwise report on their progress by March 31, 2021.<sup>10</sup>

### **Rate Adjustment Proceeding**

Georgia Power Company shall submit its application to adjust rates, including the Minimum Filing Requirements described below, on June 15, 2021, with all proposed rate changes to become effective the first month after Unit 3 is in Commercial Operation.

Pursuant to O.C.G.A. § 50-13-13, this proceeding shall be considered a contested case. As such, the Commission hereby designates the following staff members to act as Public Interest Advocacy Staff (“PIA Staff”) in this proceeding:

Steve Roetger  
Tom Newsome

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<sup>7</sup> VCM 17 Order, page 14, para. 8.

<sup>8</sup> VCM 17 Order, page 18.

<sup>9</sup> VCM 17 Order, page 15, para. 11.

<sup>10</sup> VCM 23 Stipulation, para. 4. This date was subsequently extended to April 30, 2021. See letter dated March 31, 2021 filed in Docket No. 29849.

Robert Trokey  
Shemetha Jones  
Dan Walsh  
Preston Thomas

PIA Staff shall be responsible for performing an independent evaluation of the filed case from the standpoint of promoting the public interest and just and reasonable rates and advocating for that position. PIA Staff is considered a party to the case and may negotiate settlements with other parties, in the public interest.

The Commission hereby designates the following Staff members to act as Commissioner Advisory Staff in this proceeding:

Pandora Epps  
Allison Morris  
Blair Fink  
George Brown  
Nancy Gibson

The Commissioner Advisory Staff shall not be a party to this case, but shall act as a technical advisor to the Commissioners, and shall make its recommendation to the Commission based exclusively on its own independent evaluation of the facts contained in the record. No member of the Commissioner Advisory Staff may engage in *ex parte* discussions regarding the pending contested case with any other party, including PIA Staff.

This proceeding also shall be deemed "complex litigation" as that phrase is used in O.C.G.A. § 9-11-33(a). Discovery procedures shall apply accordingly. The Commission authorizes the Staff to issue discovery pursuant to O.C.G.A. § 46-2-57(a). PIA Staff may conduct depositions and use any other methods of formal and informal discovery in this docket. The use of any informal discovery methods shall not augment or abridge existing discovery rights and responsibilities.

An original and fifteen (15) copies of all filings, including direct testimony, rebuttal testimony, briefs and proposed orders, shall be accompanied by an electronic version of the filing that shall be made on a CD using Microsoft Word® format for text documents and Excel® for spread sheets. Under no circumstances should any electronic filing consist of more than four (4) files, including attachments. This filing shall be made at the office of the Executive Secretary, Georgia Public Service Commission, 244 Washington St., SW, Atlanta, Georgia 30334-5701.

The Commission finds that it is appropriate and administratively convenient to hold hearings and proceedings in this docket. Pursuant to the Commission's Utility Rule 515-2-1-.04, GPC is directed to give first notice of the proceedings in this case not later than September 1, 2021.

All hearings in this case shall take place virtually or in the Commission's hearing room on the first floor of the Commission offices located at 244 Washington Street, as directed by the Chairman of the Commission.

## **PART I. HEARING SCHEDULE AND FILING DATES**

### **June 15, 2021**

Consistent with this Order, Georgia Power Company shall file its application to adjust rates, including the Minimum Filing Requirements set forth below, by 4:00pm on June 15, 2021.

### **July 21, 2021**

Georgia Power shall file direct testimony supporting its rate adjustment application with the Commission by 4:00pm on July 21, 2021.

### **September 9, 2021**

PIA Staff and Intervenors shall file separate direct testimony with the Commission by 4:00pm on September 9, 2021.

### **September 30, 2021**

Georgia Power may file rebuttal testimony by 4:00pm on September 30, 2021.

### **October 14-15, 2021**

Immediately following the regularly scheduled 9:30am committee meeting, the Commission will convene the hearing in this docket. The Commission will begin by first hearing applications to intervene, any objections thereto, and any appropriate motions concerning the pre-filed testimony. Following these motions, the Commission will conduct hearings on Georgia Power's direct testimony. Immediately following hearings on Georgia Power's direct testimony, the Commission will commence with hearings on PIA Staff and Intervenors direct testimony. Thereafter, the Commission will hear any rebuttal testimony filed by Georgia Power. The hearing shall reconvene at 9:30am on October 15, 2021, if necessary.

### **October 21, 2021**

All briefs and proposed Orders are to be filed with the Commission by 4:00pm on October 21, 2021.

### **October 28, 2021**

At its regularly scheduled 9:30am Energy Committee, the Commission shall hear the Commissioner Advisory Staff recommendation in this matter and hear from any interested parties regarding that recommendation.

**November 2, 2021**

At its regularly scheduled Administrative Session, the Commission will render a decision in this docket.

**PART II. Minimum Filing Requirements for Company's Application**

The Minimum Filing Requirements are attached hereto as Attachment A.

**PART III. INTERVENTION AND HEARING PROCEDURES**

The following are procedures to which the parties should adhere with respect to this docket.

**1. Intervention**

Applications to intervene and Commission approval thereof are governed by O.C.G.A. § 46-2-59 and the Commission's Utility Rule 515-2-1-.06.

***Intervention Period***

- (a) Any person or party, on whom a statute does not confer an unconditional right to intervene, must file an application for leave to intervene within 30 days following the first published notice of the proceeding.

***Application Requirements***

- (b) In addition to the requirements prescribed by O.C.G.A. § 46-2-59 for applications for leave to intervene, the application must (1) identify other intervening parties or intervening party applications whose interest is similar to that of the applicant, along with an explanation of why the identified intervening party or intervening party applicant will not adequately represent the applicant's interest; and (2) state the applicant's present intention to submit direct testimony and by whom and on what subject. The requirements identified herein shall constitute a continuing obligation of the applicant or intervening party. Each application for leave to intervene shall also contain a valid email address for the intervening party.

Each applicant shall submit an original and fifteen (15) copies of its application to intervene to the Commission, addressed to the Executive Secretary, Mr. Reece McAlister, 244 Washington Street S.W., Atlanta, Georgia 30334-5701.

In addition, each applicant shall submit a copy of its application to the Georgia Power Company and all other parties who have applied to intervene, and submit a Certificate of Service to the Commission certifying that these copies have been

served on the other parties. To obtain a list of other applicants that have intervened, contact Ms. Quawanda Boyer, Assistant to Utility Division Director, Georgia Public Service Commission, 244 Washington St., S.W., Atlanta, Georgia 30334-5701, (Telephone Number: (404) 656-0977).

### ***Late Applications for Intervention***

- (c) Any application for leave to intervene filed late must state the reason why such application was not submitted within 30 days of first published notice. Objections to late intervention applications must be filed in conformance with the requirements of O.C.G.A. § 46-2-59(d).

### ***Rulings on Intervention Applications***

- (d) The Commission will take up and rule on applications for leave to intervene at the hearing in this docket.

## **2. Service**

Each party has the responsibility to serve copies of any documents filed with the Commission upon each intervenor and intervenor applicant. Furthermore, in the case of documents filed prior to the deadline for intervention established above, copies shall also be served upon each party indicated in the Certificate of Service accompanying this Order.

## **3. Witnesses' Testimony**

- (a) Summations of direct testimony will take no longer than 15 minutes or, at the discretion of the Commission, no longer than 30 minutes.
- (b) Summations should be limited to testimony and exhibits in the pre-filed testimony.
- (c) Demonstrative handouts intended to be used during summations of the pre-filed testimony or in opening or closing statements, if applicable, must be pre-filed at least five (5) days prior to the hearing and must be limited to the scope of the testimony and exhibits in the pre-filed testimony.
- (d) Except for good cause shown, corrections to testimony must be pre-filed at least five (5) days prior to the hearing.
- (e) In the absence of a valid objection made and sustained to prefiled testimony, the prefiled testimony and exhibits, with corrections, will be admitted into the record as if orally given prior to the witness' summation, subject to a motion to strike after admission or other relevant objection.

- (f) Where the testimony of a panel of witnesses is presented, cross-examination may either be addressed to the panel, in which case any member of the panel may answer, or cross-examination may be addressed to an individual panel member, in which case that panel member shall give the answer; provided, however, that any other panel member shall be allowed to supplement the answer given.
- (g) Motions to strike any portion of pre-filed testimony must be filed at least two days prior to the hearing.
- (h) Any individual who presents testimony during this proceeding may not conduct cross examination of other parties.

#### **4. Hearing Exhibits**

For the record in all hearings, it shall be the responsibility of the parties sponsoring any hearing exhibits to ensure that the Hearing Reporter, all parties of record, the Commissioners, and the Commissioner Advisory Staff receive copies of the hearing exhibits at the time of introducing the exhibits at the hearings. (Exhibits filed with pre-filed testimony should already have been provided in fifteen (15) or more copies, as per Commission Rule 515-2-1-.04(3)).

### **PART IV. LEGAL AUTHORITY AND JURISDICTION**

The Commission has general supervisory authority over electric utilities. O.C.G.A. §§ 46-2-20 and 21. The Commission has the exclusive power to determine just and reasonable rates and charges made by Georgia Power Company. O.C.G.A. § 46-2-23(a). The procedure for changing rates is governed by O.C.G.A. § 46-2-25. The Commission has jurisdiction over placing construction costs in base rates. O.C.G.A. § 46-3A-7. The Commission has jurisdiction over financing associated with the construction of a nuclear generating plant which has been certified by the commission prior to January 1, 2018. O.C.G.A. § 46-2-25(c.1). The Commission has jurisdiction over fuel costs. O.C.G.A. § 46-2-26.

### **PART V. ISSUES INVOLVED**

The issues to be addressed in this proceeding include, but are not limited to, the following:

- (a) What are the costs related to Unit 3 and common facilities deemed prudent in the SIR Stipulation?
- (b) What is the appropriate retail base rate adjustment to recover the costs identified in Issue Involved (a), above? As part of this determination what is the revenue requirement to be recovered from ratepayers and what is the appropriate rate design for the recovery?

- (c) What costs will remain eligible for recovery through the Nuclear Construction Cost Recovery tariff?
- (d) What costs will be reflected in Fuel Cost Recovery?
- (e) What costs, if any, are eligible for deferral and consideration for recovery in future ratemaking proceedings?
- (f) What process will be used to determine that Unit 3 is “fully dispatchable on demand at the stated Net Electrical Output of 1,102 MWe” as that term is used in the SIR Stipulation?

#### **PART VI. RIGHTS OF PARTIES**

The parties have the following rights in connection with this hearing:

- (1) To respond to the matters asserted in this document and to present evidence on any relevant issue;
- (2) To be represented by counsel at its expense;
- (3) To subpoena witnesses through the Commission by filing requests with the Executive Secretary of the Commission; and
- (4) Such other rights as are conferred by law and the rules and regulations of the Commission.

#### **PART VII. SPECIALIZED TESTIMONY AND ASSISTANCE**

This proceeding shall be deemed to be part of Docket No. 29849 for purposes of allocating Construction Monitoring funds.

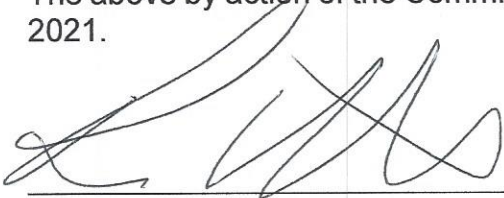
#### **PART VIII. ADMINISTRATIVE NOTICE**

The Commission hereby takes administrative notice of the record in Docket Nos. 27800 and 29849.

#### **WHEREFORE THE COMMISSION ORDERS that:**

- A. The Commission hereby adopts the procedures, schedule and statements regarding the issues set forth within this Procedural and Scheduling Order.
- B. A motion for reconsideration, rehearing or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.
- C. Jurisdiction over this matter is expressly retained for the purpose of entering such further Order or Orders, as this Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 18th day of May, 2021.



Reece McAlister  
Executive Secretary

5/20/21

Date



Chuck Eaton  
Chairman

5-20-21

Date