

**BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF GEORGIA**

GEORGIA POWER COMPANY,

Petitioner,

v.

**THE WALTON ELECTRIC
MEMBERSHIP CORPORATION,**

Respondent.

Docket No. 42509

**ANSWER AND DEFENSES OF RESPONDENT
THE WALTON ELECTRIC MEMBERSHIP CORPORATION**

Respondent The Walton Electric Membership Corporation ("Walton EMC") responds to the individually numbered Paragraphs of the Petition of Georgia Power Company ("Georgia Power") as follows:

1.

Walton EMC admits the allegations of Paragraph 1 of the Petition.

2.

Walton EMC admits the allegations of Paragraph 2 of the Petition.

3.

As to the allegations in Paragraph 3 of the Petition, Walton EMC admits that the dispute concerns the provision of electric service to the premises located at 266 Industrial Park Road, Hartwell, Georgia 30643, and that the premises is located in Georgia Power's assigned service territory. Georgia Power's characterization of the effect of O.C.G.A. § 46-3-3(1) does not require a response. Walton EMC admits that the photograph in Exhibit A, with the text added by Georgia Power, shows the general location of the premises, but denies that the undated photograph shows

sufficient detail or is of sufficient quality to show the current state of the new premises reconstructed by the owner. Walton EMC denies the remaining allegations of Paragraph 3 of the Petition to the extent that such allegations attempt to portray the new and different facilities constructed on the premises by the owner as the former facilities on the premises previously served by Georgia Power.

4.

As to the allegations of Paragraph 4 of the Petition, Walton EMC admits that Georgia Power lawfully extended services to the old premises after March 29, 1973, but denies that Georgia Power is entitled to provide permanent electric service to the new premises, due to the fact that the owner demolished and dismantled the old premises and constructed and installed a new and different facility, resulting in a new premises that is not “in substantial kind” to the old and dismantled premises, and the owner has lawfully selected Walton EMC as the electric supplier for the premises pursuant to O.C.G.A. § 46-3-8(a). Further answering, the owner purchased the premises, including the facility, in 2017 for approximately \$7 million, which facility had been used as a textile mill and as warehouse space. As of the date of this Petition, the owner has spent in excess of \$220 million to dismantle the old premises and construct and install a new and different facility with new electric infrastructure. This new facility will be used as a pet food manufacturing and large-scale pet products distribution center, with the first phase the manufacturing process expected to be operational in the late third quarter of 2019. The old premises and facility were not capable of, nor licensed or approved to, manufacture and store pet food products.

5.

As to the allegations of Paragraph 5 of the Petition, Walton EMC admits that the owner obtained temporary electric service from Georgia Power for the premises beginning in 2017.

Answering further, the owner obtained temporary electric service from Georgia Power's existing facilities in order to perform dismantling and construction activities at the premises. The owner intends to disconnect service from Georgia Power and to take permanent service from Walton EMC for its new manufacturing operations at the premises, since the temporary service and electric facilities provided by Georgia Power are insufficient to serve such manufacturing operations at the new premises. Except as expressly admitted herein, Walton EMC denies the allegations of Paragraph 5 of the Petition.

6.

As to the allegations of Paragraph 6 of the Petition, Walton EMC admits that Georgia Power is providing temporary electric service to the premises. Answering further, the owner obtained temporary electric service from Georgia Power's existing facilities in order to perform dismantling and construction activities at the premises. The owner intends to disconnect service from Georgia Power and to take permanent service from Walton EMC for its new manufacturing operations at the premises, since the temporary service and electric facilities provided by Georgia Power are insufficient to serve these manufacturing operations at the new premises. Except as expressly admitted herein, Walton EMC denies the allegations of Paragraph 6 of the Petition.

7.

Walton EMC denies the allegations of Paragraph 7 of the Petition. The facility on the premises has been "destroyed or dismantled," as those terms have been interpreted by the Commission in its prior decisions, because the present owner has spent in excess of \$220 million, with an additional approximately \$80 million to be spent on construction activities in future phase(s), including replacing substantial portions of the roof and floor; adding five new transformer locations that will be served from a transmission substation to be built; rewiring the

facility to enable performance of the new manufacturing operations; constructing new buildings; and installing manufacturing equipment. These significant changes have made the premises unsuitable for its prior uses. As noted, the old premises and facility were not capable of, nor license or approved to, manufacture and store pet food products.

8.

Walton EMC admits the allegations in the first and second sentences of Paragraph 8¹ of the Petition. The remaining allegations of Paragraph 8 set forth Georgia Power's characterization of the dispute and do not require a response. To the extent that a response is required, Walton EMC admits that Georgia Power contends that it is entitled to service the premises because the premises was served by Georgia Power and does not qualify for any exception under the Territorial Act. Walton EMC disputes this contention and further states that the substantial changes made to the facility on the premises resulted in a new premises that is not "in substantial kind" to the old and dismantled premises, and due to this, the owner accordingly may exercise its right to select its electric supplier in accordance with O.C.G.A. § 46-3-8(a), and that Walton EMC is entitled to extend service to the premises in accordance with the valid choice of a consumer utilizing a new premises with a connected load upon initial full operation in excess of 900 kilowatts.

9.

The allegations of Paragraph 9² of the Petition set forth Georgia Power's characterization of the dispute and do not require a response. To the extent a response is required, Walton EMC admits that Georgia Power contends that Walton EMC's provision of electric service to the

¹ Petitioner erroneously labeled the 8th Paragraph of its Petition as the 6th Paragraph. Walton EMC refers to such Paragraph herein as "Paragraph 8."

² Petitioner erroneously labeled the 9th Paragraph of its Petition as the 7th Paragraph. Walton EMC refers to such Paragraph herein as "Paragraph 9."

premises would violate the Territorial Act. Walton EMC disputes this contention and further states that because the premises is a new premises and was not reconstructed "in substantial kind," the owner lawfully exercised its right to select Walton EMC as its electric supplier in accordance with O.C.G.A. § 46-3-8(a).

* * *

Except as expressly admitted herein, the allegations of the Petition are denied.

WHEREFORE, Walton EMC requests that the Commission:

- (1) Dismiss Georgia Power's Petition;
- (2) Find and determine that Walton EMC is the sole lawful supplier of electric service to the premises;
- (3) Order Georgia Power to disconnect service to the premises, if Georgia Power has established service, and transfer such service to Walton EMC; and
- (4) Afford Walton EMC such other and further relief as the Commission deems just and proper.

Respectfully submitted this 24th day of May, 2019.



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Attorneys for Walton EMC

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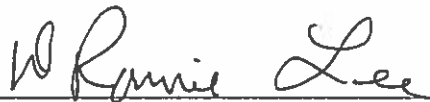
WALTON ELECTRIC MEMBERSHIP
CORPORATION,

Respondent.

Docket No. 42509

**VERIFICATION OF ANSWER AND DEFENSES OF
RESPONDENT WALTON ELECTRIC MEMBERSHIP CORPORATION**

The undersigned employee of Walton Electric Membership Corporation, after being duly sworn by the undersigned officer authorized to administer oaths, states and deposes that he is of legal age and competent to testify; that he has personal knowledge of the facts stated in the **Answer and Defenses of Respondent Walton Electric Membership Corporation** filed in the above-referenced matter; and that the facts stated therein are true and correct and to the best of his personal knowledge.



D. Ronnie Lee
President and Chief Executive Officer
WALTON ELECTRIC MEMBERSHIP
CORPORATION



SWORN AND SUBSCRIBED
before me this _____ day
of _____, 2019.
NOTARY
PUBLIC
GWINNETT COUNTY, GEORGIA
My Commission Expires: July 23, 2019

My Commission Expires: July 23, 2019

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing **ANSWER AND DEFENSES OF THE WALTON ELECTRIC MEMBERSHIP CORPORATION** has been served upon the following by United States Mail, properly addressed and postage prepaid, on this the 24th day of May, 2019.

Robert P. Edwards, Jr.
Troutman Sanders LLP
Bank of America Plaza
600 Peachtree Street, N.E.
Suite 5200
Atlanta, Georgia 30308-2216

and by hand-delivery as follows:

Reece McAlister
Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334

A handwritten signature in black ink, appearing to read "David R. Cook", written over a horizontal line.

David R. Cook (Georgia Bar No. 435130)
Autry, Hall & Cook, LLP