

October 8, 2021

Mr. Reece McAlister  
Executive Secretary  
Georgia Public Service Commission  
244 Washington Street, S.W.  
Atlanta, Georgia 30334

RE: Sawnee Electric Membership Corporation vs. Georgia Power Company  
Docket No. 43899

Dear Mr. McAlister:

On behalf of Sawnee EMC, I enclose for filing in the above-referenced proceeding Sawnee EMC's Objections and Response to RaceTrac's Petition for Leave to Intervene.

Sincerely,



James A. Orr

cc: Ms. Nancy Gibson, Hearing Officer

BEFORE THE PUBLIC SERVICE COMMISSION  
STATE OF GEORGIA

SAWNEE EMC,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 43899
	)	
GEORGIA POWER COMPANY,	)	
	)	
Respondent.	)	

**SAWNEE EMC’S OBJECTIONS AND RESPONSE TO  
RACETRAC’S PETITION FOR LEAVE TO INTERVENE**

Sawnee Electric Membership Corporation (“Sawnee EMC”), in accordance with O.C.G.A. § 46-2-59(d) and Section 1 of the July 27, 2021 Notice of Hearing and Scheduling Order (“Notice of Hearing”), hereby objects and responds to the petition of RaceTrac Petroleum, Inc. (“RaceTrac”) for leave to intervene.

**1. RaceTrac’s application for leave to intervene should be denied because it was filed too late.**

Georgia law and the Notice of Hearing provide that any person without an unconditional statutory right to intervene must file an application for leave to intervene within 30 days following the first published notice of the proceeding. O.C.G.A. § 46-2-59(c); Notice of Hearing at § 1(a). RaceTrac does not claim to have an unconditional statutory right to intervene. The Notice of Hearing was published by the Public Service Commission (the “Commission”) on July 27, 2021. RaceTrac, therefore, had until August 26, 2021, to apply for leave to intervene. RaceTrac filed its petition on September 23, 2021—28 days too late. Accordingly, its petition for leave to intervene should be denied.

**2. Even if timely, RaceTrac’s petition to intervene would not meet the requirement of demonstrating a legal, property, or other interest in this proceeding.**

Even if RaceTrac had filed its petition to intervene in a timely manner, it would not meet the threshold requirement for intervention applications—demonstration of “a legal, property, or other interest in this proceeding.” O.C.G.A. § 46-2-59(e)(2). The issue before the Commission in this proceeding is whether Georgia Power Company has the right, under O.C.G.A. § 46-3-8(a) of the Georgia Territorial Electric Service Act, to serve a set of electric vehicle chargers located in Sawnee EMC’s assigned territory.

RaceTrac has absolutely no legal, property, or other interest in this proceeding. RaceTrac’s petition to intervene indicates—*on its face*—that it does not even own a single charging station. (*See* RaceTrac’s Petition for Leave to Intervene at ¶¶ 4, 5, 6.) RaceTrac simply “foresees the development and installation of EV charging stations” at its convenience stores. (*Id.* at ¶ 4.) Any purported interest RaceTrac claims to have in this proceeding is purely conjectural, based on RaceTrac’s hope someday “in the future” to own charging stations in the state of Georgia. (*Id.* at ¶ 6.) *If this were all it took to demonstrate an interest sufficient to justify intervention, there would be no limit to interventions in cases before this Commission.* The undisputed fact is that, regardless of the outcome of this proceeding, none of RaceTrac’s *actual* legal, property, or other interests—as opposed to *hoped-for* future interests—will be affected. Thus, even if timely, RaceTrac’s application for leave to intervene should be denied.

**3. In any event, RaceTrac’s conjectural interest in this proceeding is adequately represented by other parties.**

Even if RaceTrac had timely moved to intervene and could demonstrate a bona fide legal, property, or other interest in this proceeding, any such interest would already be more than adequately represented by other parties in the proceeding. *See* O.C.G.A. § 46-2-59(e)(2) (“In

determining whether to permit intervention, the hearing officer may consider whether the person’s interest is adequately represented by other parties. . . .”). Georgia Power, which has been involved in numerous Territorial Act proceedings before the Commission for over four decades, will no doubt fully address the relevant principles on which this case will be decided. Additionally, two parties who filed *timely* applications to intervene—Electrify America, LLC and Tesla, Inc.—actually do own charging stations in Georgia. (See Georgia Power Company’s Response and Answer to Sawnee EMC’s Petition at 1; Application for Leave to Intervene of Tesla, Inc. at ¶ 2.) Thus, the position of owners of electric charging stations will also be fully represented in this proceeding.

RaceTrac asserts that it is different from Electrify America and Tesla because they, unlike RaceTrac, do not “own site locations at which EV charging stations may be deployed. . . .” (RaceTrac’s Petition for Leave to Intervene at ¶ 5.) But this hardly demonstrates that whatever speculative interest RaceTrac purports to have in this proceeding will not be adequately represented by those entities. Moreover, RaceTrac’s position reveals a fundamental misunderstanding of the very provision—O.C.G.A. § 46-3-8(a)—upon which this case will turn. That provision of the Territorial Act (the so-called “large load exception”) only applies to “new premises”:

Service to one or more *new premises* . . . if utilized by one consumer and having single-metered service and a connected load which, *at the time of initial full operation of the premises*, is 900 Kilowatts or greater (excluding redundant equipment), may be extended and furnished, if chosen by the consumer . . . (5) by any electric supplier if the premises are located outside the limits of a municipality.

O.C.G.A. § 46-3-8(a) (emphasis added). Adding charging stations to existing RaceTrac convenience stores manifestly would not qualify as “new” premises and thus would not come within the large load exception. Thus, the distinction advanced by RaceTrac for its contention

that other parties cannot adequately represent its interest utterly defeats its petition to intervene: the issue before the Commission in this proceeding simply does not concern the installation of charging stations on RaceTrac's—or anyone else's—*existing* site locations.

### **CONCLUSION**

For the foregoing reasons, RaceTrac's Petition to Intervene should be denied.

Respectfully submitted, this 8th day of October, 2021.

/s/ James A. Orr

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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served a copy of the within and foregoing **SAWNEE EMC'S OBJECTIONS AND RESPONSE TO RACETRAC'S PETITION FOR LEAVE TO INTERVENE** by email as follows:

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I have also filed a copy of the forgoing with the Commission via the Commission's Alternative eMail procedure.

This 8th day of October, 2021.

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