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G.P.S.C.



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REECE McALISTER
EXECUTIVE DIRECTOR

SALLIE TANNER
EXECUTIVE SECRETARY

Georgia Public Service Commission

(404) 656-4501
(800) 282-5813

244 WASHINGTON STREET, SW
ATLANTA, GEORGIA 30334-5701

FAX: (404) 656-2341
www.psc.state.ga.us

DOCKET NO. 43838

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

ORDER ADOPTING STIPULATION

APPEARANCES

On behalf of Georgia Public Service Commission Public Interest Advocacy Staff:

PRESTON THOMAS, Esq. and JACK BRANCH, Esq.

On behalf of Georgia Power Company:

KEVIN C. GREENE, Esq., STEVE HEWITSON, Esq. and ALLISON PRYOR, Esq.

On behalf of Concerned Ratepayers of Georgia:

BEN J. STOCKTON AND STEVEN C. PRENOVITS

On behalf of Georgia Association of Manufacturers:

CHARLES B. JONES, III, Esq.

On behalf of Georgia Interfaith Power & Light and Partnership for Southern Equity:

KURT EBERSBACH, Esq., JILLIAN KYSOR, Esq. and NICHIA
RAKPANICHMANEE, Esq.

On behalf of Georgia Watch:

LIZ COYLE

On behalf of Interstate Gas Supply:

BRAD CARVER, Esq.

On behalf of Metropolitan Atlanta Rapid Transit Authority:

ROBERT BAKER, Esq.

On behalf of Resource Supply Management:

JIM CLARKSON

On behalf of Southern Alliance for Clean Energy:

BRYAN JACOB

STATEMENT OF PROCEEDINGS

In its January 11, 2018 Order in the 17th Vogtle Construction Monitoring (“17thVCM Order”) proceeding, Docket No. 29849, the Georgia Public Service Commission (“Commission”) determined that upon reaching Commercial Operation of Unit 3, retail base rates would 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 Stipulation (“SIR Stipulation”). The Commission also determined that this rate adjustment would be effective the first month after Unit 3 is in Commercial Operation.

On May 20, 2021, the Commission issued its Procedural and Scheduling Order (“PSO”) for the sole purpose of approving Georgia Power Company’s (“Company, GPC, or Georgia Power”) rate adjustment filing related to the Unit 3 and common facility costs consistent with Georgia law, the SIR Stipulation approved by the Commission on January 3, 2017, and the 17th VCM Order, 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 (“NCCR”) 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 ensured that it 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 prudency determinations in a proceeding that will commence upon fuel load of Unit 4.¹

The Company submitted its Application to adjust rates, including Minimum Filing Requirements ("MFRs") on June 15, 2021.

Applications to Intervene were filed by: Georgia Interfaith Power & Light and Partnership for Southern Equity ("GIPL-PSE"); Georgia Association of Manufacturers ("GAM"); Concerned Ratepayers of Georgia ("CRG"); Southern Alliance For Clean Energy ("SACE"); Resource Supply Management ("RSM"); and Georgia Watch.

In accordance with the PSO, the Company filed the direct testimony of the panel of Daniel S. Tucker and Sarah P. Adams and updated the supporting MFRs based on a revised in-service date for Unit 3. On September 8, 2021, the Company substituted its direct testimony with the direct testimony of the panel of Aaron P. Abramovitz and Sarah P. Adams. No substantive changes were made to the direct testimony other than to substitute the biographic information of Aaron Abramovitz for Daniel Tucker after Aaron Abramovitz replaced Daniel Tucker as Executive Vice President, Chief Financial Officer, and Treasurer of the Company.

On September 9, 2021, the Commission's Public Interest Advocacy Staff ("PIA Staff") filed the direct testimony and exhibits of the panel of Tom Newsome and Lane Kollen and the panel of Steven D. Roetger, Dr. William R. Jacobs Jr., and Donald N. Grace. Also, on September 9, 2021, GAM filed the direct testimony and exhibits of Jeffry Pollock and the Metropolitan Atlanta Rapid Transit Authority ("MARTA") filed the direct testimony of Kevin L. Hurley. No other Intervenor submitted testimony in this docket.

On September 30, 2021, the Company filed the rebuttal testimony of the panel of Aaron P. Abramovitz and Sarah P. Adams in response to the positions advocated by PIA Staff, GAM, and MARTA, and updated the MFRs based on a revised in-service date for Unit 3.

On October 13, 2021, the day before the Commission was to hold a hearing on the direct testimony from all Company and Intervenor that had filed testimony, the PIA Staff and the Company entered into a Stipulation. The hearing regarding the Company's direct and rebuttal testimony, PIA Staff and Intervenor direct testimony, and joint testimony of PIA Staff and Georgia Power in support of the Stipulation was held on October 14, 2021. At the hearing, over the objection of Georgia Watch, PIA Staff withdrew the pre-filed testimony of Tom Newsome and Lane Kollen. The parties filed briefs on October 21, 2021. The Commission decided the matter at the regularly scheduled Administrative Session on November 2, 2021. In doing so, the Commission hereby adopts in this Order, the Stipulation executed on behalf of the PIA Staff and Georgia Power.

¹ See VCM 17 Order at 14, para. 10.

Background

On January 3, 2017, the Commission adopted the SIR Stipulation which provides:

None of the costs that were incurred, verified and approved through the 14th Vogtle Construction Monitoring Report should be disallowed from rate base on the basis of imprudence as specified in O.C.G.A. § 46-3A-7.²

A total of \$3.509 billion in construction costs has 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 4.³

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.”⁴ 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.”⁵

The Commission, in its January 11, 2018 Order in the 17th VCM, approved a revised capital and construction cost forecast of \$7.3 billion, which is not intended to be a cost cap,⁶ 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 17th 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 adjustment will be effective the first month after Unit 3 is in commercial operation.”⁷ The 17th VCM Order also stated that “all decisions regarding cost recovery from

² 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.

³ SIR Stipulation, para. 8.

⁴ SIR Stipulation, para. 12.

⁵ SIR Stipulation para. 13.

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

⁷ VCM 17 Order, page 14, para. 8.

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.”⁸

The revised cost of \$7.3 billion was net of the Toshiba Parental Guarantee. The 17th 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.”⁹

In VCM 23, the Company and PLA 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 17th 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.*¹⁰

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 the 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.

Issues Involved

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

⁸ VCM 17 Order, page 18.

⁹ VCM 17 Order, page 15, para. 11.

¹⁰ 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.

- 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 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?

Findings of Facts and Conclusions of Law

1.

After thorough consideration of the attached Stipulation, the Commission finds as a matter of fact and concludes as a matter of law that the terms and conditions of the Stipulation are reasonable and in the public interest. The Commission further finds and concludes that adoption of the Stipulation constitutes a fair, efficient, effective and responsible discharge of the Commission's duties in accordance with Georgia law. All other recommendations and/or requests are denied.

The Stipulation contains eight provisions which are as outlined below:

Provision one of the Stipulation results in the approval of the Company's Application as modified by the Stipulation.

Provision two specifies the deemed prudent amount of Unit 3 and Common Costs that will be allowed in rate base the month after Unit 3 reaches Commercial Operation. This provision also states the parties' agreement as to the treatment of the Toshiba Parental Guarantee funds following the conclusion of the prudency proceeding.

Provisions three and four address the depreciation on the deemed prudent amount going into rate base and the depreciation on the Unit 3 and Common Costs that are being deferred, along with the agreed to depreciation rate.

Provision five provides customer protections that take effect if Unit 3 does not operate as anticipated. In its brief, the Company summarizes this provision as follows: "If Unit 3 materially deviates from its expected performance as of the date Georgia Power files the prudency review, the stipulating parties agree that (i) the Commission has the right to review the Operating and

Maintenance (“O&M”) expenses for Unit 3 and Common facilities and (ii) Georgia Power has the burden to prove that any outage or derating that resulted in lower than anticipated production was not the result of unreasonable or imprudent construction, testing, or startup activities. (Tr. 156.). If the Company fails to meet this burden, the Stipulation authorizes the Commission to order Georgia Power to return to customers an appropriate portion of those O&M costs to be determined by the Commission.”

Provision six states that the Company will update the MFRs, proposed rate adjustment, and tariffs, for any changes in the Commercial Operation date or changes in federal or state income tax rates prior to implementing the rate adjustment.

Provision seven pertains to the definition of Commercial Operation as applicable to Unit 3 and Unit 4. For Unit 4 the definition will remain unaltered. For Unit 3, however, the parties agreed that “...Commercial Operation shall not be declared for rate recovery purposes unless and until Unit 3 successfully completes all appropriate pre-operational tests and power ascension testing and any necessary mediation required for safe and reliable operation.”

The final provision states that nothing in the Stipulation is intended to be construed as a disallowance of any capital cost or operating cost.

2.

Metropolitan Atlanta Rapid Transit Authority (MARTA)

MARTA requested that the Commission exempt the Electric Transportation (“ET”) tariff from any rate increase for the cost recovery of Vogtle Unit 3 and Common Costs. (MARTA Brief p.8). Alternatively, in its brief, MARTA requested that any such costs receive the same rate adjustment approved as provided in the 2019 Rate case.

MARTA argued that expansion of its service territory would benefit from any such tariff treatment. It also claimed that it is key to attracting corporate hubs and sporting events. (MARTA Brief p.3). MARTA cited future project plans and the resulting benefits to society and the Company. (*Id.*).

Georgia Power recommended that MARTA’s request to exempt the ET tariff from any rate increase be denied. The Company argued that “It is appropriate for all of Georgia Power’s customers to share in this rate adjustment, and the Company has proposed to design rates to recover the Unit 3 rate adjustment equally across all base tariffs.” (Georgia Power Brief p. 7). The Company further argued that “Since all customers will benefit from Georgia Power’s share of Unit 3’s output, it is appropriate for all of Georgia Power’s customers to share in its cost.” (*Id.*).

The Commission has carefully reviewed MARTA’s proposal and finds that rate allocation is better addressed in a rate case proceeding where the Commission will have access to more data and can consider the appropriateness of MARTA’s proposed modifications to rate allocation in a

broader context of rate design. The Commission finds and concludes that MARTA's request and alternative recommendation is denied at this time.

3.

Georgia Association of Manufacturers (GAM)

GAM stated that it does not oppose any of the provisions of the Stipulation, except for the provision that would implement the increase in base rates following Commercial Operation of Unit 3. (GAM Brief p. 5). As it relates to the timing of the rate adjustment, GAM proposes that the Commission consider implementing an alternate way in which the Company recovers Vogtle Unit 3 rate adjustments.

To address the multiple rate changes that are slated to take effect starting on January 1, 2022, GAM proposed what it states is "a simple alternative to manage these impending increases..." by recommending that the NCCR decrease "...be deferred to January 1, 2023 to coincide with any other rate adjustments made during the 2022 Rate Case." (GAM Brief p. 2). GAM claimed that such deferral is ideal because it would not deny recovery to the Company of any Commission-approved dollars yet allows for recovery in a way that is more stable and predictable for customers. (*Id.*). It further stated that its approach would allow the Commission to base the cost of capital on its updated decision in the 2022 Rate Case and would allow the Commission some time with Unit 3 in service to better evaluate the appropriateness of the Company's projected O&M expenses before adjusting rates to customers since non-fuel O&M expenses are not fully known or predictable. (GAM Brief p. 3).

Georgia Power contended that GAM's proposal goes against the Commission's goal in the 17th VCM Order to incentivize the Company to complete Unit 3 as soon as possible by allowing recovery one month after commercial operation. The Company further argued that any delays in placing Unit 3's costs in rate base would adversely affect the Company and would not materially benefit customers long-term. (Georgia Power Brief p. 8).

The Commission finds that GAM's proposed deferral would not only cause additional complexity to the intended scope of this Docket, but would also contradict the original intent of the 17th VCM Order in incentivizing the timely Commercial Operation of Unit 3. The Commission finds and concludes that denial of GAM's recommendation is appropriate in this proceeding.

4.

Georgia Interfaith Power & Light and the Partnership for Southern Equity (GIPL-PSE)

GIPL-PSE recommended that the Commission use this opportunity to recouple the rate treatment of Units 3 and 4 such that no capital costs may enter rate base until full project completion. GIPL-PSE contended that recoupling is well within the Commission's authority as it would simply restore the status quo from before the 17th VCM Order. GIPL-PSE noted that decoupling was not one of the conditions insisted upon by the Company in order to continue the

project. It contended that decoupling was an incentive mechanism devised by the Commission to achieve completion by the revised dates approved in the 17th VCM Order and because timely completion has not occurred, recoupling is appropriate as a matter of basic fairness to ratepayers. GIPL-PSE further contended that its recommendation is consistent with the governing statute, O.C.G.A. § 46-3A-7, which requires that prudence determinations and related rate base adjustments await full project completion. (GIPL-PSE Brief p. 5).

Alternatively, GIPL-PSE recommended that the Commission defer consideration of the Company's requested retail rate adjustment until the 2022 rate case. GIPL-PSE maintained that deferring consideration until the 2022 rate case would allow the Commission to determine whether the Company's proposed \$300 million rate increase is truly warranted, and that the Commission could allow the Company to move the \$2.1 billion into rate base without those sums necessarily triggering a rate increase of the magnitude currently under consideration. GIPL-PSE argued that whether and how much of a rate increase is needed will depend on the array of factors normally examined in a general rate case, including the Company's earnings history and authorized Return on Equity. (GIPL-PSE Brief pp. 5-7).

The Commission denies GIPL-PSE's request to recouple the rate treatment of Units 3 and 4 as doing so would mean that no capital cost enter the rate base until the entirety of the nuclear project has been completed. This is clearly at odds with the Commission's intent to incentivize the commercial operation of Unit 3. For these same reasons, the Commission also denies GIPL-PSE's alternative recommendation to defer consideration of the retail rate adjustment until the 2022 rate case.

5.

Southern Alliance for Clean Energy (SACE)

SACE stated that it does not oppose the recommendation by MARTA to exclude the ET Service Schedule from the rate adjustment for Plant Vogtle. Additionally, it stated that it does not oppose the recommendation by GAM to defer the rate adjustment for Plant Vogtle Unit 3 until it can be considered with the general rate case in 2022. (SACE Brief pp. 3-4).

SACE further recommended that the Commission exempt low-income residential customers (at or below 200% of the Federal poverty level) from any rate increase associated with Plant Vogtle, arguing that doing so is within the discretion of the Commission (Tr.223) and consistent with prior decisions (pointing to the provisions for income-qualified customers in the 2019 IRP Orders and 2019 Rate Case). (SACE Brief p. 3).

SACE requested that the Commission consider the historically disproportionate allocation of the NCCR rider when deciding on the allocation of rate increases, arguing that an equal allocation is not an equitable allocation. SACE pointed out that the Company collected \$3.5 billion via NCCR from January 2011 through December 2020, with over 47% (\$1.66 billion) coming from Residential customers, 40% (1.39 billion) from Commercial customers (Georgia Power's

response to Staff Data Request STF-198-25-b), and only 11.5% (\$401 million) from Industrial customers. (Tr.218-220).

Finally, SACE recommended that the Commission validate the relevant calculations involved in adjusting the rates before approving the final tariff and rider adjustments. SACE claimed that neither PIA Staff nor the Company provided a “tariff expert” (Tr.212) nor a “detailed rate expert.” (Tr.215). SACE also pointed out that the Stipulation filed the day prior to the hearing invalidated the amendments in the proposed tariffs and thus it is difficult to confirm the Company’s calculations. SACE also took issue with the fact that Provision six of the Stipulation states that “...Georgia Power will update the Minimum Filing Requirements (“MFRs”), proposed rate adjustment, and tariffs...” because SACE believes that there will not be another opportunity for the Commission to review the tariffs. (Tr.212). In other words, SACE argued that the “decision scheduled for November 2 will approve that math in advance” and is concerned about potential discrepancies. (SACE Brief pp. 4-5).

The Commission does not disagree that special provisions for low-income residential customers may be appropriate, but finds that such provisions are better suited for consideration during the upcoming general Rate Case where the Commission will have access to more data and can consider them in a broader context of the Company’s overall rate design. The issue regarding the impacts of the allocation of the NCCR rider on rate increase allocations should likewise be raised by SACE in the upcoming Rate Case proceeding. The Commission finds and concludes that SACE’s recommendations are therefore denied.

6.

Concerned Ratepayers of Georgia (CRG)

CRG provides the Commission its findings and conclusions but offers no recommendations in its brief. (CRG Brief pp. 6-7). CRG finds and concludes that the Commission has three alternatives as it relates to this proceeding: (1) maintain the status quo and not protect the public from the Company’s monopolist pricing policies; (2) discontinue future hearings if the Commission is “...intent upon entering into exclusion arrangements between the Company and its regulators”; and (3) “The Commission can start to do the right thing and protect the public from these massive and unjustified rate increases.” (Id.).

The Commission finds and concludes that CRG’s opinions are based on an inaccurate understanding of the Commission’s procedures as well as its purpose as a constitutional regulatory

body. Having offered no relevant recommendations within the scope of this Docket, the Commission finds no sound recommendation in CRG's brief upon which to act.

7.

Resource Supply Management (RSM)

RSM presented a list of ways the Commission could provide relief to ratepayers which include matters concerning cross-subsidy from small businesses to residential customers, favoritism of renewable generation and electric vehicles, income taxes, natural gas hedging, Demand Side Measures programs, and enhancing customer demand response. (RSM Brief pp. 1-3).

As it relates to issues specific to this case, RSM recommended that the Commission "...defer much of the cost recovery to the next planned rate case when a cost-of-service study can show any overearnings to offset the current revenues needs." (RSM Brief p. 3).

The Commission finds that RSM's list of possible methods to provide relief to ratepayers has implications that extend outside the scope of this proceeding. It is therefore more appropriate for RSM to raise its concerns during the Company's upcoming Rate Case or its Integrated Resource Plan proceeding. Further, the Commission denies RSM's recommendation that the cost recovery for Unit 3 be deferred until the next Rate Case, because, as previously noted, it would run contrary to provisions of the 17th VCM Order.

ORDERING PARAGRAPHS


WHEREFORE IT IS ORDERED, that the Commission adopts the attached Stipulation as a fair and reasonable resolution of the issues in Docket No. 43838.


ORDERED FURTHER, that all findings, conclusions, statements, and directives made by the Commission and contained in the foregoing sections of this Order are hereby adopted as findings of fact, conclusions of law, statements of regulatory policy, and Orders of this Commission.

ORDERED FURTHER, that 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.

ORDERED FURTHER, that jurisdiction over these matters 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 its Administrative Session on the 2nd day of November, 2021.


Sallie Tanner
Executive Secretary


Tricia Fridemore
Chairman

11-15-21
Date

11-15-21
Date

STIPULATION

The undersigned parties stipulate and agree that Georgia Power Company's ("Georgia Power" or "Company") Application to Adjust Rates to Include Certain Plant Vogtle Unit 3 and Common Costs, Docket No. 43838, should be resolved by the Commission entering an order directing as follows:

1. Georgia Power's Application should be approved as modified by this Stipulation.
2. The parties agree to adopt an allocation of the deemed prudent amount of \$3,569M to Unit 3 and Common, resulting in a rate base increase of \$2,100M the month after Unit 3 reaches Commercial Operation as provided in paragraph 7, below. The parties further agree that upon conclusion of the prudency proceeding, the amount found reasonable and prudent by the Commission to be placed into rate base will be net of the entire remaining balance of Toshiba Parental Guarantee funds of \$1.493 billion and that the Toshiba Parental Guarantee funds will not be used to offset imprudently incurred costs.
3. Georgia Power will include in rates depreciation on the deemed prudent amount going into rate base (\$2,100M) but will defer depreciation on Unit 3 and Common above those going into rates as a regulatory asset/liability to be recovered in a manner to be determined by the Commission during the prudency proceeding. If the Commission determines in the prudency review that capital costs relating to the deferred depreciation on amounts not already deemed prudent are imprudent, the Commission shall disallow recovery of that deferred depreciation.
4. The parties agree that depreciation shall be calculated using Public Interest Advocacy ("PIA") Staff's proposed depreciation rate of 1.677%.
5. To address Staff's concerns regarding performance of Unit 3 after Commercial Operation, Georgia Power agrees that, as of the date on which the Company files the prudence review, if Unit 3 has materially deviated from its expected performance, the Commission has the right to review the Operating and Maintenance (O&M)¹ expenses embedded in the tariffs for Unit 3 and Common and Georgia Power shall have the burden to prove during the full prudence review that any outage or derating that resulted in lower than anticipated electricity production by Unit 3 was not the result of unreasonable or imprudent construction, testing or startup activities. If the Company does not meet this burden, the Commission shall be authorized to order the Company to credit an amount of the O&M costs determined to be appropriate by the Commission back to the benefit of customers in a manner to be determined by the Commission.
6. Using the current expected Commercial Operation date of June 2022, Georgia Power will update the Minimum Filing Requirements ("MFRs"), proposed rate adjustment, and tariffs based on the provisions of this Stipulation and, if necessary, will update the MFRs for any

¹ O&M includes all costs, both Unit-specific and allocated from SNC or any Southern Company subsidiary.

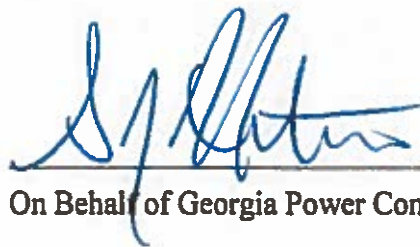
different Commercial Operation date or a change in federal or state income tax rates prior to implementing the rate adjustment.

7. The parties agree that the definition of Commercial Operation as defined in the January 3, 2017 Supplemental Information Review ("SIR") Order Adopting Stipulation ("SIR Order") in Docket No. 29849 shall not be altered or amended for Unit 4 and the parties reserve the right to make any arguments regarding what process will be used to determine that Unit 4 is "fully dispatchable on demand at the stated Net Electrical Output of 1,102 MWe" as that term is used in the SIR Stipulation. For Unit 3, however, the parties agree that Commercial Operation shall not be declared for rate recovery purposes unless and until Unit 3 successfully completes all appropriate pre-operational tests and power ascension testing and any necessary remediation required for safe and reliable operation. Once Georgia Power certifies to the Commission that Unit 3 has successfully completed all such testing and is fully dispatchable at the stated net electrical output of 1,102MWe, no further action or proceeding shall be required for Georgia Power to adjust retail base rates pursuant to the final order in this proceeding.
8. Nothing in this Stipulation is meant to be nor should be construed as a disallowance of any capital cost of construction or any costs of operation.

Agreed to this 13th day of October 2021.



On Behalf of PIA Staff



On Behalf of Georgia Power Company