BEFORE THE
GEORGIA PUBLIC SERVICE COMMISSION

In Re: Georgia Power Company 2022 Rate Case	**)** **)** **)** **)**	**Docket No. 44280**

FINAL BRIEF OF GEORGIA SOLAR ENERGY INDUSTRIES ASSOCIATION, SOLAR ENERGY INDUSTRIES ASSOCIATION, AND VOTE SOLAR.

The Georgia Solar Energy Industries Association ("GASEIA"), the Solar Energy Industries Association ("SEIA"), and Vote Solar (collectively, "GASEIA Intervenors"), submit the following brief to the Georgia Public Service Commission ("Commission") in the above-captioned docket.

GASEIA Intervenors respectfully request the following actions by the Commission in this rate case:

1. Reject Georgia Power's request to recover $1.4 million in purported cost shifts associated with RNR solar customers, which is not supported by cost-based data as required by Georgia statute and the 2022 IRP Order.
2. Eliminate the customer cap on the RNR Monthly Netting program until Georgia Power provides adequate cost-based support to enable the Commission to set sustainable, just and reasonable rates for rooftop solar. We support the addition of a $20 minimum bill for RNR customers as part of this policy decision for the Commission.

3. Reject Georgia Power's proposal to make its "Smart Usage" TOU-RD rate mandatory for new RNR solar customers, as the rate is unlawfully discriminatory, poorly designed, and punitive for most solar and non-solar customers alike.
4. Reject Georgia Power's proposed $200 interconnection fee for customer-owned generation smaller than 250 kW, which is unsupported by accurate cost-based data.
5. Reject Georgia Power's proposed DER Management System investments, which have not been justified based on the amount of DERs projected to come on Georgia Power's system.
6. Establish a Consumer Protection Task Force to better share information and coordinate efforts between Commission staff, the Attorney General's office, Georgia Power, EMCs, municipal utilities, solar installers, and consumer groups, with representation for each on the task force.

In support of these requests, GASEIA Intervenors submit the following:

I. THE COMMISSION MUST REJECT GEORGIA POWER'S PROPOSED COST RECOVERY FOR AN UNSUPPORTED COST SHIFT ASSOCIATED WITH RNR CUSTOMERS.

Georgia Power has requested to increase base rates for all customers by $1.4 million to recover for "revenue erosion" caused by reduced energy sales to RNR solar customers. Georgia Power admits it has not performed a cost of service study to support this proposed recovery, and instead has offered only a poorly supported calculation of a revenue shortfall compared to pre-RNR projections. This lack of cost-based support is not allowable under Georgia statute and is an unwarranted departure from established methods used for rate recovery by this Commission.

a. Georgia statue and the Commission's 2022 IRP Order both require Georgia Power to submit cost-based analysis to support any rate increase triggered by an RNR cost shift.

Georgia Code § 46-2-26.1(b) requires Georgia Power to file cost of service data in support of any ratemaking determination by the Commission, and further specifies that "the utility shall have the burden of explaining and supporting the reasonableness of all estimates and adjustments contained in its cost of service data."[1]

Consistent with its duties under this statute, the Commission directed Georgia Power in its final order in the 2022 IRP proceeding ("2022 IRP Order") to file "the cost information necessary to set just and reasonable rates, terms, and conditions for rooftop solar" in the current rate case proceeding.[2] Importantly, the Commission noted that "we simply do not have the cost information necessary,"[3] even though Georgia Power had presented its "revenue erosion" argument in support of the cost shift during testimony in the IRP proceeding. So the Commission has already recognized that revenue erosion was not sufficient for determining just and reasonable rates, and called for Georgia Power to give the Commission and parties to the 2022 rate case "the opportunity to provide, test, and challenge cost-based data" as required under Georgia statute.[4]

b. Georgia Power acknowledges it has not produced cost-based support for the amount it seeks to recover for RNR cost shifts.

Despite the express language of the Commission's 2022 IRP Order and the clear statutory mandate for cost-of-service data in a rate proceeding, Georgia Power acknowledges that it has not provided a cost of service study in this proceeding to support its claims that the RNR tariff

[1] O.C.G.A. § 46-2-26.1(b) (2021)
[2] Order Adopting Stipulation, issued July 29, 2022 in Docket Nos. 44160 and 44161, P. 71 at page 43.
[3] *Id.*
[4] *Id.*

results in a cost shift to non-solar customers. In response to the very first question asked during Company's supplemental direct testimony, Witnesses Legg and Evans confirmed that the Company was not submitting cost-based data:

> "Q. Panel, Preston Thomas on behalf of Public Service -- PIA staff. I just want to start, has the company conducted a cost-of-service study that distinguishes RNR customers from non-RNR customers?
>
> A (Witness Evans) No, we have not. A cost of service study designed for such a small population would be unreliable."[5]

PIA Staff and intervenors also testified that Georgia Power had not complied with the Commission's requirement to submit cost-based data to support any RNR cost shift.[6]

c. The Company's reasons for not submitting cost-based analysis are inadequate to justify a departure from the requirements of Georgia statute.

The Company's witnesses offer two reasons for not providing cost-based analysis and instead focusing only on revenue-based reasoning, both of them inadequate to justify their failure to provide the analysis required under Georgia law.

First, witnesses Evans and Legg argued that cost-of-service studies lack the "surgical precision" needed to identify costs associated with serving solar customers.[7] However, the Company was unable to explain why other utilities were able to perform such solar cost-of-service studies for other state commissions, including a recent study performed by Duke in South

[5] Transcript 3743:24 – 3744:5; *see also* 3746:14-16.
[6] PIA Staff Supplemental Direct Testimony at 14; GASEIA Intervenors Supplemental Direct Testimony at 5.
[7] Transcript 3744:6-9.

Carolina, which the witnesses did not even bother to review before deciding cost-based data was simply unworkable.[8] Furthermore, the Company obviously did not see any precision or reliability problems associated with conducting a revenue-based analysis for the same group of customers it says were too small for a cost-based analysis.

Second, Georgia Power's witnesses argued that the cost impact from RNR customers was smaller than the revenue impact, and therefore not material enough to warrant analysis. Witness Legg actually acknowledged that there is a reduced cost to serve RNR customers, but insists the revenue reductions are larger and therefore the only part worthy of analysis.

> "And so when you have customers who are using less energy, that changes the energy part of the equation. **The cost goes down a little bit in this case, but the energy [sales revenue] goes down more than that.** And so that's ultimately what happens is the costs are spread among fewer kilowatt hours, and the result is everyone else's rates are higher as a result." [emphasis added][9]

The Company offers no cost-based analysis to quantify the extent to which "the cost goes down a little bit" and instead selectively offers only revenue-based justifications for its proposed rate increase. This deliberate omission of cost analysis to focus only on the "energy part of the equation" not only overstates revenue erosion by not adjusting for simultaneous cost savings, but it also fails to satisfy Georgia law requiring costs to be studied before approving any rate change, as noted above.

[8] Transcript 3797:3-4.
[9] Transcript 3745:21-3746:2.

d. Raising rates on non-solar customers without cost justification would be in conflict with the intent of the Cogen Act not to shift costs to all customers.

Without a cost-based justification for a rate increase resulting from a purported RNR cost shift, the Company's proposal to charge customers based on revenue erosion only is in conflict with the intent of the Cogen Act to prevent socialization of costs from solar customers to non-solar customers. Georgia Code § 46-3-54(3) provides that "In setting the fees for metering service [for customer generators], the commission . . . will include the direct costs associated with interconnecting or administering metering services or distributed generation facilities and will not allocate these costs among the utility's entire customer base."[10] While Georgia Power is not limiting its proposed cost recovery in this proceeding to components of "metering service," this language of the Cogen Act expresses a clear intent by the legislature of not spreading costs associated with behind-the-meter generation to all customers. It also demonstrates an intent that fees be based on "direct costs" incurred by the Company, consistent with other Georgia statues that also require rates and fees be tied to costs, not simply lost revenues.

e. If Georgia Power wants cost recovery for lost revenues, it needs to ask the General Assembly to grant the Commission authority to approve such revenue-based rate increases.

What Georgia Power is asking the Commission to approve in this proceeding is outside the Commission's statutory authority to set just and reasonable rates based on cost-of-service data provided by the Company and subjected to scrutiny in a rate proceeding. The Commission implicitly enforced this limitation on its authority when it stated in the 2022 IRP Order that it did not have the information necessary to determine just and reasonable rates for rooftop solar. Since Georgia Power has not offered any meaningful cost-based support or analysis beyond what was

[10] The Georgia Cogeneration and Distributed Generation Act of 2001, O.C.G.A. § 46-3-54(3) (2021)

already discussed in that IRP proceeding, the Commission should be explicit this time in its rejection of Georgia Power's cost recovery proposal based only on "revenue erosion."

It is worth noting that Florida utilities sought to obtain this very type of legislative authority for cost recovery of lost revenues in net metering legislation in 2022,[11] and Governor DeSantis's stated reason for his veto of the legislation was this "speculative" justification for rate increases:

> "The Legislature passed CS/CS/HB 741, which, in part, authorizes public utilities to impose additional charges to recover lost revenues resulting from residential solar generation that exceeds the public utility's estimate. The amount that may be recovered under this provision is speculative and would be borne by all customers.
>
> Given that the United States is experiencing its worst inflation in 40 years and that consumers have seen steep increases in the price of gas and groceries, as well as escalating bills, the state of Florida should not contribute to the financial crunch that our citizens are experiencing."[12]

The Commission should heed the wisdom of Governor DeSantis in rejecting this speculative approach to rate making, until such time as the General Assembly provides a basis in law for it.

[11] *See* House Bill 741 (2022) as enrolled lines 120-166 (https://www.flsenate.gov/Session/Bill/2022/741/BillText/er/PDF)
[12] Veto transmittal letter for House Bill 741, dated April 27, 2022 (https://www.flgov.com/wp-content/uploads/2022/04/4.27.22-Veto-Transmittal-Letter.pdf)

II. THE COMMISSION SHOULD EXPAND THE RNR MONTHLY NETTING PILOT TO ALLOW FOR MEASURED GROWTH OF BEHIND-THE-METER SOLAR.

As the Commission heard many times during this rate case proceeding and in the 2022 IRP proceeding before it, all parties in this proceeding agree it is a policy decision for the Commission how best to encourage rooftop solar growth in Georgia at a pace that is sustainable and does not unjustly impact other customers.

a. The Commission must balance the right of customers to save money against the Company's arguments against expanding RNR monthly netting.

As Georgia Power's customers face new rate increases in addition to rampant price inflation for their other household expenses, many will look to rooftop solar as a responsible investment to hedge their long-term energy costs. This Commission must balance the right of those customers to manage their energy costs, as well as the benefits to the economy and to the grid from private investment in rooftop solar, against concerns raised by the Company in this proceeding about the danger of cost shifts to non-solar customers.

But the specter of a cost shift does not tie the hands of the Commission to expand rooftop solar opportunities for customers when the Company has not met its burden of proof to recover for a cost shift without meaningful, cost-based data to support the Company's claims. As GASEIA Intervenors have testified, no cost shift will occur if the Commission rejects the Company's proposed $1.4 million in cost recovery in this proceeding, because the Company will simply make $1.4 million less in profits above the Commission's approved ROE set point, based on its history of consistently earning above that set point.

If the Company is concerned that an actual cost shift is possible because it will not earn above the ROE set point, then the Commission can allow the Company to come back with a cost-recovery proposal for RNR cost shifts if it can demonstrate that (i) the cost recovery it seeks is

supported by cost-of-service data, not just lost revenues, and (ii) that the Company is earning below its lower ROE band such that the cost shift is unjustly lowering the Company's actual returns below the Commission's authorized level.

b. Growing the rooftop solar market will bring economic investment and jobs to Georgia.

We recommend the Commission recognize other benefits that rooftop solar brings to Georgia. As GASEIA Intervenors testified, Georgia ranks very low in terms of both total residential solar capacity (39th) and per capita capacity (47th).[13] Georgia is missing out on a massive opportunity for job growth and investment in the state's economy, much of which may be captured by locally owned and operated companies. In addition to helping customers control their bills in a time of rising prices, we ask this Commission to weigh the economic development benefits to the State of Georgia in terms of additional local jobs and investment that will come from responsible growth of rooftop solar.

c. The incentives in the Inflation Reduction Act do not dramatically change the economics for residential customers to go solar compared to before the Act, so they are not a reason to delay expansion of RNR Monthly Netting.

Despite testimony from Georgia Power witnesses that new IRA incentives would be a "game changer" for rooftop solar in Georgia, the fact of the matter is the incentives for RNR-sized systems (capped at 10 kW for residential and 250 kW for commercial) are not eligible for most of the new incentives, and the terms of Investment Tax Credit that does apply to these systems is not changed under the IRA.

[13] GASEIA Intervenors Supplemental Direct Testimony at 36-37.

Some of the IRA changes that will grow the overall solar market, but do not apply to RNR customers include:

- Residential customers are not eligible for the Production Tax Credit ("PTC"), which offers a $0.015/kWh inflation-adjusted credit (currently set to $0.026/kWh) for renewable energy production, but it is only applicable to commercial taxpayers under Section 48.
- Domestic Content and Energy Community Bonus Credits are only for commercial customers. As with the PTC, the bonus adders for domestic content and energy community locations are only applicable to commercial entities under Section 48. Residential owners will not qualify for these bonus credits.
- The residential ITC is not refundable. Residential customers do qualify for a 30% ITC under Section 25D, but they must have taxable income to offset as the tax credit is not refundable.
- The residential ITC was restored to 30%, but it never went below 26% before. Restoring this credit to 30% is certainly beneficial but it will not have a major impact on the short-term market conditions.

III. THE COMMISSION SHOULD REJECT ANY MANDATE FOR SOLAR CUSTOMERS TO BE ON THE SMART USAGE (TOU-RD) RATE.

In evaluating the Company's proposal to force all new RNR customers onto the Smart Usage TOU-RD rate, the Commission should start with the principle that solar customers should have the same right to choose their rates as any other customer, unless Georgia Power has met the burden of justifying this form of rate discrimination. Georgia Power has not met that burden in this proceeding, and mandating Smart Usage for solar customers would violate Georgia's statutory prohibition against discriminatory rates. And as PIA Staff and multiple parties have

testified in this proceeding, the TOU-RD rate is poorly designed and would have a punitive impact on both solar and non-solar residential customers.

The Commission should require Georgia Power to make improvements to TOU-RD and provide better cost-based support for making it mandatory before even considering such a proposal again in the future.

a. Requiring customers to take service on a particular rate as a condition for installing solar is discriminatory and violates Georgia law.

Georgia Code § 46-3-11 prevents any electricity supplier from "having or applying any rate, charge, or service rule or regulation which unreasonably discriminates against or in favor of (1) any member of a class of consumers as opposed to any other consumer who is or should be in the same class of consumers for such purposes, or (2) any class of its consumers as opposed to another class of consumers for such purposes." [14]

As argued above with regard to the Company's cost-shift analysis, Georgia Power has not met its burden of providing adequate cost-based analysis to justify rate decisions for solar customers as reasonable and just in this proceeding. Just as the Commission has noted in the IRP Order that it needs cost-based information to set just and reasonable rates, terms, and conditions for rooftop solar in Georgia,[15] the failure of the Company to provide that cost-based support in this proceeding also bars the Commission from finding a reasonable basis to discriminate against solar customers by mandating they sign up for a punitive demand-based rate.

The Company's revenue-loss-mitigation justification for mandating TOU-RD is not only methodologically flawed, it is legally inadequate for the Commission to approve such a proposal. Under the Company's logic, any group of customers it can identify as causing "revenue erosion"

[14] O.C.G.A. § 46-3-11(a) (2021)
[15] 2002 IRP Order, P. 71 at page 43.

by purchasing fewer kilowatt-hours of energy could be forced on whatever rate Georgia Power decides would best protect its revenue. If the Commission approves policies like this, someday families buying a new HVAC system could find after their purchase that Georgia Power requires them to be on a new rate that (by design) eliminates some of the energy savings that made the system worth buying.

If Georgia Power wants solar customers to be limited to a certain rate option, the Company should propose that policy again in another proceeding when it is willing to provide actual cost-based analysis to support it. In the meantime, the Commission should reject this unsupported proposal in this rate case.

b. The Smart Usage rate is a bad fit for solar and non-solar customers and has no precedent in other states.

As GASEIA Intervenors testified, the TOU-RD rate is a bad fit for all customers that are not structurally benefitted by demand-based rates,[16] as well as solar customers. GASEIA Intervenors showed that 90% of customers with usage below the median were charged more on the TOU-RD rate than the R rate.[17] Furthermore, as GASEIA Intervenors testified, there is no state that has approved a mandatory three-part demand rate for residential solar customers of an investor-owned utility.[18]

IV. GASEIA INTERVENORS SUPPORT THE CREATION OF AN INTER-AGENCY TASK FORCE FOR CONSUMER PROTECTION ISSUES.

The Company has recommended in this proceeding that the Commission formalize coordination with the Attorney General's office to respond to customer complaints about unscrupulous solar installers. We would respectfully expand this recommendation and suggest

[16] GASEIA Intervenors Supplemental Direct Testimony at 49.
[17] GASEIA Intervenors Direct Testimony at 59.
[18] GASEIA Intervenors Supplemental Direct Testimony at 50.

instead the Commission work with all stakeholders, including the Company and the solar industry, to address the consumer protection issues that the Company has raised. We would recommend the Commission invite the Attorney General's office to participate in an inter-agency task force to develop a comprehensive set of policy recommendations for Commissioners to consider within six months. Such a task force should include Georgia Power, solar industry representatives, Commission Staff, representatives from the EMCs and municipal utilities, and possibly other state agencies like the Governor's Office of Consumer Protections

Respectfully submitted this 8th day of December, 2022.



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