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Docket No. 15326: CONSIDERATION OF MODIFYING THE EXISTING PSC RULES CONCERNING UNIVERSAL SERVICE FUND MANDATED BY HB 1568

FINAL ORDER APPROVING ATLANTA GAS LIGHT COMPANY'S PETITION FOR WAIVER OF COMMISSION RULE 515-7-5-.07(2)(C)

I. Background

In Commission Rule 515-7-5-.07, the Rule addresses "Applications for Disbursements from a Universal Service Fund: Electing Distribution Company". In 515-7-5-.07(1), the Rule addresses the Annual USF Facilities Expansion Plan filings, as provided below:

An EDC seeking a distribution from the USF shall file with the Commission an Annual USF Facilities Expansion Plan ("Annual Plan") by September 1st of each year for the anticipated USF expansion projects for the 12-month period of January 1 through December 31 of the following year. USF funds shall only be available to aid in the construction of the approach main line-extension, service main, natural gas fueling infrastructure for motor vehicles, compressed natural gas ("CNG") station, or Liquefied Natural Gas ("LNG") facilities for any proposed facilities expansion. The filing for Annual Plan projects will use engineering estimates as part of the cost review. The Commission shall determine if the projects are in the public interest and may accept, reject, or modify the proposed projects. The disbursements to the EDC for completed projects will be for actual costs that are below the EDC's 5% budget cap for that Annual Plan year. The disbursements for completed projects will be limited to unencumbered funds in the USF. For any amounts that exceed the 5% budget cap or the unencumbered USF funds, those amounts will go into the EDC's rate base for ratemaking purposes. Any Plant recovered through USF disbursements shall not be recovered in the EDC's rate base for ratemaking purposes. The EDC may file revisions to its Annual Plan as necessary during the year. The Commission shall determine whether any such revisions are in the public interest, and may accept, reject, or modify the proposed projects. In establishing its Annual Plan, the EDC shall consider the following:

(a) The facility needs of the system to ensure the reliability of the distribution system and service to customers;

(b) The facility needs of the system to ensure the availability of a diversity of gas supply and interstate capacity options to serve the system;

(c) The forecasted growth requirements of the EDC's system based on historical growth trends;

(d) The forecasted growth requirements of the EDC's system based on input from developers and builders regarding their future development plans; and

(e) The forecasted growth requirements of the EDC's system based on input from state and local community officials regarding economic development needs and the forecasted growth of local communities.

In 515-7-5-.07(2), the EDC must file seven (7) minimum filing requirements ("MFR") for each proposed project. In 515-7-5-.07(2)(c), MFR-3, it addresses the stakeholder process. AGL, as the EDC, must provide a venue for a public survey to allow any stakeholder to identify potential projects for consideration. The Rule provides that the stakeholder process begins April 1st and ends June 30th. Please see below.

MFR-3 the EDC will set up a link on its website with a description of the Annual Plan and use an online public stakeholder process to help identify potential projects across the State of Georgia. The public survey will begin April 1st and close June 30th each year. As part of the Annual Plan filing, the EDC will include stakeholder information as an electronic Excel spreadsheet that will list the following, if available:

i. Name of Stakeholder
ii. Date Responded to Survey
iii. Company/Organization Address, Phone #, and Email Address
iv. Project Name
v. Project Type
vi. County
vii. Project Address (If known)
viii. Project Closest Intersection
ix. Year Natural Gas Service Needed
x. Economic Development Details in Project Area

II. AGL's Petition

On January 2, 2024, AGL filed a Petition for Waiver of Commission Rule 515-7-5-.07(2)(c), which is the MFR-3 stakeholder process. AGL requested that the Commission approve a waiver to adjust the opening of the survey to February 1, 2024, and close on April 30, 2024. AGL stated that moving up the survey date is necessary to provide the Company enough time to fully assess each potential project, select projects to include within the Annual Plan, and comply with the regulatory requirement to file the Annual Plan by September 1, 2024, related to the USF 2025 Plan filing.

III. Staff's Analysis

Pursuant to O.C.G.A. § 50-13-9.1(c), in order for a company subject to an agency's jurisdiction to obtain a waiver of a duly promulgated rule, it must demonstrate "that the purpose of the underlying statute upon which the rule is based can be or has been achieved by other specific means which are agreeable to the person seeking the variance or waiver and that strict application of the rule creates a substantial hardship to such person." O.C.G.A. § 50-13-9.1 (b)(1) defines "substantial hardship" as a "significant, unique, and demonstrable economic, technological, legal, or other type of hardship to the person requesting a variance or waiver which impairs the ability of the person to continue to function in the regulated practice or business."

After careful consideration of AGL's petition, Staff determined that AGL satisfied the criteria set forth by the law for the granting of a waiver. The Staff reviewed AGL's petition and Commission Rule 515-7-5-.07(2)(c) and found no issues with moving the stakeholder process to February 1, 2024, and close on April 30, 2024, for the USF 2025 Plan filing to be filed September 1, 2024. Furthermore, Staff finds that the waiver of the rule "would serve the purpose of the underlying statute." O.C.G.A. § 50-13-9.1(d)(4).

IV. Staff's Recommendations

During the January 16, 2024, Administrative Session, the Commission approved AGL's request for a waiver to Commission Rule 515-7-5-.07(2)(c) to specifically move the stakeholder survey date to February 1, 2024 – April 30, 2024, for the USF 2025 Plan filing.

V. Commission Decision

The Commission finds that AGL meets the criteria set forth by the law for the granting of a waiver.

Therefore, the Commission grants a waiver of Commission Rule 515-7-5-.07(2)(c) to move the stakeholder survey to February 1, 2024 – April 30, 2024, for the USF 2025 Plan filing.

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VI. Ordering Paragraphs

WHEREFORE IT IS ORDERED, that the Commission approves AGL's request for a waiver to Commission Rule 515-7-5-.07(2)(c) that will move the USF 2025 Plan filing stakeholder process to February 1, 2024, to April 30, 2024.

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 this matter is expressly retained for the purpose of entering such further Order or Orders as the Commission may deem just and proper.

The above by action of the Commission in an Administrative Session on the 16th day of January 2024.

Sallie Tanner
Executive Secretary

1-19-24
Date

Jason Shaw
Chairman

1-19-24
Date