Docket #55378 Georgia Power Company 2023 Integrated Resource Plan Update

Hearing Request: (Note: Transcript citation is unavailable due to the prohibitively high cost—in the thousands of dollars—to obtain transcripts, which creates a substantial barrier for intervenor participation)

Q: Commissioner Pridemore: I would like to make a hearing request that the Georgia Center for Energy Solutions provide its membership list.

Response from the Georgia Center for Energy Solutions:

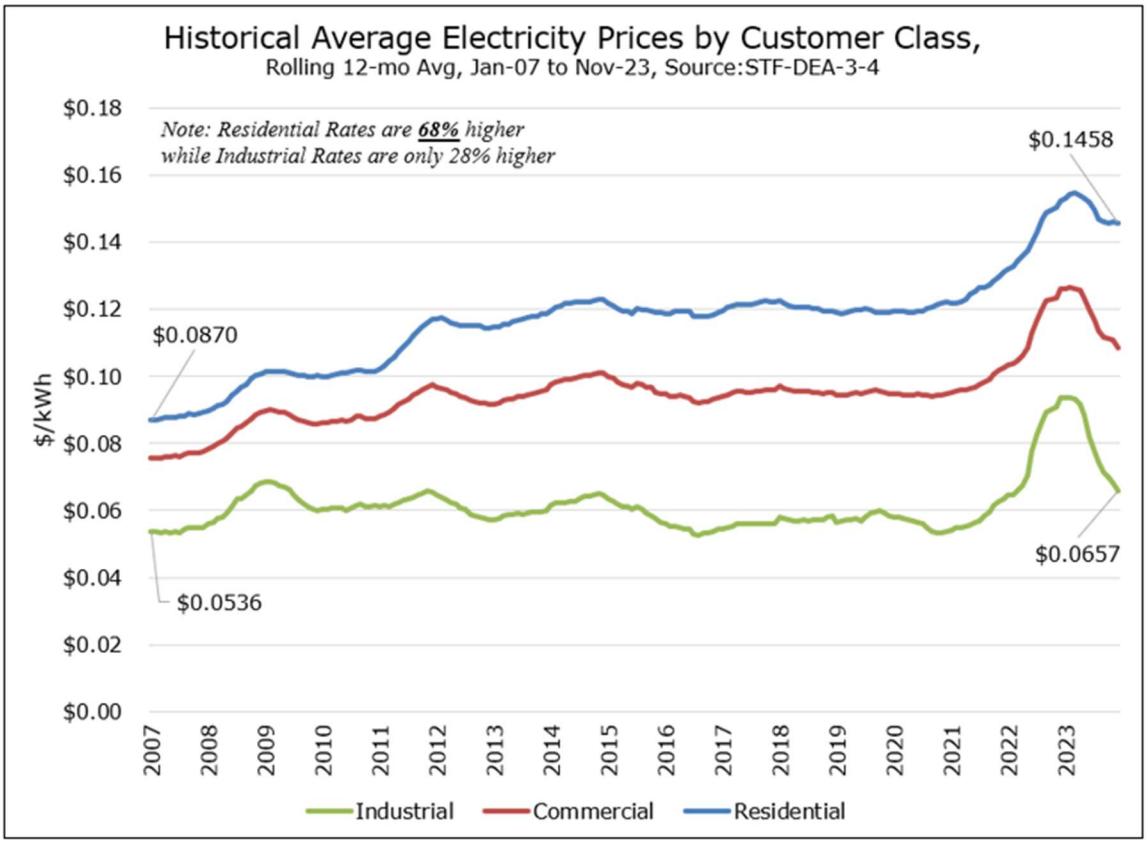
The Georgia Center for Energy Solutions (GCES) is not able to provide a membership list for the following two reasons (not an exhaustive list):

(1) A request from the Georgia Public Service Commission (PSC or the Commission) for a list of member names is likely a violation of the 14th Amendment of the United States Constitution, which states that, "*No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.*" That such a request is a constitutional violation is upheld in the precedential case NAACP v. Alabama ex rel. Patterson, 357 U.S. 449 (1958)[1]. In this case, the U.S. Supreme Court unanimously held that to require disclosure of an association's membership lists, a state must have a compelling justification for this infringement on the right of free association. The unanimous Court decision held that "*Immunity from state scrutiny of petitioner's membership lists is here so related to the right of petitioner's members to pursue their lawful private interests privately and to associate freely with others in doing so as to come within the protection of the Fourteenth Amendment." Further, the Court held that freedom to associate with organizations dedicated to the "advancement of beliefs and ideas" is an inseparable part of the Due Process Clause of the Fourteenth Amendment.*" GCES asserts that the PSC—an agency of the State of Georgia—obtaining the names of GCES membership would interfere with the free association of its members and that the PSC has not demonstrated a compelling reason for such an infringement of constitutional rights.

(2) The PSC Commissioners and Staff did not ask any substantive questions related to the objective merits of the GCES pre-filed testimony and oral summary provided March 1, 2024. Instead, the PSC staff cited O.C.G.A § 46-2-59(e) asking how the Commission can assess whether GCES's interests are already represented by other intervenors if it does not know its membership. The answer is that GCES very clearly stated its purpose in its application for leave to intervene: "*GCES is a 501(c)(3) nonprofit Georgia-based corporation formed to promote the development of an economic and regulatory framework to transition Georgia's electric sector, transportation sector, and other sectors in the state to a 100% clean energy (zero carbon) future in an equitable, reliable, resilient, sustainable, and economically efficient manner and in furtherance of the public benefit. GCES seeks to intervene in these proceedings to ensure*

[1] "National Association for the Advancement of Colored People v. Patterson." Oyez, www.oyez.org/cases/1957/91 Accessed 10 Mar. 2024.

rigorous integrated resource planning, analysis, and resource evaluation using proper assumptions and methodologies that result in a low-cost, low-risk, diversified, sustainable, resilient, and reliable portfolio of supply side and demand side-resources with minimal harmful environmental impacts." The other intervenors do not necessarily share the same public benefit interest, do not bring the same IRP expertise as GCES, and have been unable to convincingly demonstrate to the PSC that Georgia Power Company (the Company) is systematically manipulating the IRP process (contrary to what is required by law in O.C.G.A. § 46-3A-2), which results in a disadvantage for residential electricity customers. In particular, commercial and industrial electricity customers are represented by parties in this proceeding who are invited to join exclusive, secret meetings with Commission and Staff to negotiate an IRP stipulation agreement, resulting in disparate outcomes. Specifically, the Company's response to STF-DEA-3-4 shows residential electricity rates have climbed 68% since the 2007 IRP compared to industrial electricity rates that only rose 28% in the same time period. GCES receives no remuneration from its membership or any outside party—past, present, or future—for the considerable expense incurred to participate as a legitimate intervenor providing substantive and meritorious analysis. Rather, GCES intervenes *pro bono* to provide a counterweight to the self-serving interests of Georgia Power Company, to point out the Company's failure to follow the law[2], and to provide low-cost and pragmatic energy solutions that the Commission and the Company may adopt.



[2] O.C.G.A § 46-3A-3 lists "Actions prohibited without a certificate of public convenience and necessity" and this includes "enter[ing] into a long-term purchase of electric power." Prior to this proceeding, Georgia Power Company entered into two Power Purchase Agreements (PPA) with its affiliate Mississippi Power Company and with Santa Rosa Energy Center LLC while only seeking Commission review and certification after entering into the contracts.