FILED
MAY 29 2024
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NORTH GEORGIA EMC,

Petitioner,

v.

CITY OF CALHOUN,

Respondent.

DOCKET# Docket No. 55200
DOCUMENT# 218839

SCHEDULING ORDER

Following the passage of the Act in 1973, North Georgia EMC ("NGEMC" or "North Georgia"), Georgia Power Company, and the City of Calhoun (the "City") entered into a binding Territorial Agreement ("Agreement") on April 8, 1975. This Agreement has been the subject of numerous Commission and Judicial proceedings over the past 45 years between the two electric suppliers.

The Agreement contains a provision that delineates a large geographical area referred to as "the Box" beyond which the City agreed not to "extend it's lines at any time." (*Agreement, p. 2*)

North Georgia filed its Petition on May 26, 2023, claiming that the City has extended its electric lines and supplied electric service to a new premises in violation of the parties' territorial agreement and North Georgia EMC's rights under the Territorial Act.

On June 26, 2023, this matter was assigned to the Commission's undersigned Hearing Officer for hearing and initial decision pursuant to the provisions of O.C.G.A. §§ 50-13-13 and 50-13-17. By their agreement to schedule the Proceedings and an Oral Argument, counsel for the parties waived statutory or regulatory deadlines for the rendering of a decision in this case.

Thereafter, three Briefing rounds were submitted: Initial Briefs on October 6, 2023; Response Briefs on November 13, 2023; and Reply Briefs on November 21, 2023. The Parties delivered their oral arguments before the Hearing Officer on December 8, 2023.

On February 13, 2024 the Hearing Officer issued their Order on the Petition, finding that as a matter of law that NGEMC squandered its opportunity to test the validity of the 2022 Order by failing to submit a request for reconsideration by the full Commission, and if confirmed, a request for judicial review. The Hearing Officer determined that the 2022 Ruling's embracement and adoption of the findings and conclusions in Docket No. 14496 is conclusive and controlling in the present proceeding (*Order Denying City of Calhoun's for Declaratory Ruling, Docket No. 42514, May 17, 2022*) and that the City is permitted, upon annexation and provision of municipal services, to lawfully extend its electric service outside the Box.

Pursuant to O.C.G.A. 50-13-17(a) NGEMC filed its application for full Commission review of the Hearing Officer's Initial Decision in this matter on March 14, 2024. On April 5, 2024 NGEMC and the City reached a stipulation regarding the briefing schedule.

WHEREFORE, pursuant to the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-13, and in furtherance of the orderly, efficient and expeditious resolution of this matter, **IT IS HEREBY ORDERED** as follows:

A. It appearing to the Commission, upon stipulation by the above-named parties, both of whom agree to the below schedule, that entry of a scheduling order is desirable to facilitate the Commission's consideration of North Georgia EMC's March 14, 2024 Application for Full Commission Review of Hearing Officer's Initial Decision, the Commission hereby orders the following briefing schedule:

April 19, 2024

Deadline for Respondent City of Calhoun's response brief.

May 10, 2024

Deadline for North Georgia EMC's reply brief.

B. The Commission hereby adopts and issues the briefing schedule set forth within this Order.

C. A motion for reconsideration, rehearing, oral argument, or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

D. Jurisdiction over these matters is expressly retained for the purpose of entering such further Order or Orders as the Hearing Officer or the Commission may deem just and proper.

E. This Scheduling Order shall be served upon all Parties of record via e-mail and shall constitute Notice to the Parties of the briefing schedule stipulated in this review. Public notice of

this schedule shall be given by the Commission on the Commission Calendar posted on the Commission's website.

SO ORDERED, this 29th day of May, 2024.

Sallie Tanner
Executive Secretary

5-29-24
Date

Jason Shaw
Chairman

5-29-24
Date