H|B|S HALL BOOTH SMITH, P.C.
ATTORNEYS AT LAW

Brad Carver
Phone: 404.954.6967
BCarver@hallboothsmith.com

191 Peachtree Street NE
Suite 2900
Atlanta, GA 30303-1775, USA

Office: 404.954.5000
Fax: 404.954.5020
www.hallboothsmith.com

August 23, 2024

VIA ELECTRONIC DELIVERY

Mrs. Sallie Tanner, Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, Georgia 30334

Re: SCANA Energy Marketing, LLC's Comments in Response to the Commission's First Revised Notice of Proposed Rulemaking to Amend Existing Commission Rule Chapter 515-7-8: Service Quality Standards for Certificated Marketers and Regulated Providers
Docket No.: 15296

Dear Mrs. Tanner:

We have enclosed for filing on behalf of SCANA Energy Marketing, LLC ("SCANA Energy") the following documents:

SCANA Energy Marketing, LLC's Comments in Response to the Commission's First Revised Notice of Proposed Rulemaking to Amend Existing Commission Rule Chapter 515-7-8: Service Quality Standards for Certificated Marketers and Regulated Providers (including Exhibit A).

These filings are submitted electronically in accordance with the Commission's Alternative Electronic Filing Procedures. If you have any questions concerning this filing, please feel free to contact us.

Very truly yours,

HALL BOOTH SMITH, P.C.

William Bradley Carver, Sr.

Enclosures

BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

IN RE:	**NOTICE OF PROPOSAL RULEMAKING TO AMEND EXISTING COMMISSION RULE CHAPTER 515-7-8: SERVICE QUALITY STANDARDS FOR CERTIFICATED MARKETERS AND REGULATED PROVIDERS**	**DOCKET NO: 15296**

SCANA ENERGY MARKETING, LLC'S COMMENTS IN RESPONSE TO THE COMMISSION'S FIRST REVISED NOTICE OF PROPOSED RULEMAKING TO AMEND EXISTING COMMISSION RULE CHAPTER 515-7-8: SERVICE QUALITY STANDARDS FOR CERTIFICATED MARKETERS AND REGULATED PROVIDERS

COMES NOW, SCANA Energy Marketing, LLC (hereinafter "SCANA") and files the following comments in response to the Georgia Public Service Commission's ("Commission") First Revised Notice of Proposed Rulemaking to Amend Existing Commission Rule Chapter 515-7-8: Service Quality Standards for Certificated Marketers and Regulated Provider, filed on or about July 19, 2024 (hereinafter, the "Proposed Rule").

A. INTRODUCTION.

SCANA appreciates the considerable time and resources the Commission's staff spent reviewing natural gas marketers' comments in response to the Notice of Proposed Rulemaking to Amend Existing Commission Rule Chapter 515-7-8: Service Quality Standards for Certificated Marketers and Regulated Provider, filed on or about October 4, 2023 and addressing many of the marketers' concerns in the Proposed Rule. While SCANA is generally aligned with the direction taken in the Proposed Rule, SCANA contends several additional changes are necessary to create a rule that is easily understood and can be consistently enforced by the Commission. The comments

below address each of SCANA's material concerns. Additionally, attached hereto as Exhibit A is a redline with SCANA's suggested revisions to the Proposed Rule to address each of its concerns.

B. PROPOSED RULE 515-7-8-.12 SHOULD BE REVISED TO CLARIFY THAT THE TIMELY IMPLEMENTATION OF REMEDIAL ACTIVITIES SHOULD SATISFY THE RULE.

Subsections (a) and (b) of Proposed Rule 515-7-8-.12 provides: "All remedial activities must be completed by the end of the remediation period." This timeframe, especially in the context of the Call Center Service Level SQM, does not appropriately recognize the business realities a Marketer failing to meet the established benchmark would likely face. Specifically, the primary levers a Marketer can pull to remedy deficiencies in call center performance is by hiring and training additional customer service representatives or retraining customer service representatives on the issues that are driving call volumes or call length times. It would be extraordinarily difficult to plan for and fully execute upon such remedial activities within 90 days of determining such remedial activities would be necessary. While SCANA does not object to a Marketer being subject to penalties if a Marketer fails to meet the established benchmark in the second and third month, SCANA contends the more appropriate standard with respect to the timeliness of the remedial activities set forth in the Remedial Action Plan is evidence that the Marketer has begun commercially reasonable efforts to implement such remedial activities prior to the end of the remediation period. The Exhibit A redline attached hereto proposes language to address this concern.

C. PROPOSED RULE 515-7-8-.12 SHOULD BE REVISED TO CLARIFY THAT ONLY THE FAILURE TO MEET THE BENCHMARK CAN SUBJECT A MARKETER TO A PENALTY.

Both subsections (a) and (b) of Proposed Rule 515-7-8-.12 provide: "*If the deficiencies were not eliminated and the established benchmark was not met*, then the Marketer will be assessed

a penalty." Proposed Rule 515-7-8-.12(a) and (b) (emphasis added). The italicized language implies that a penalty could be assessed if (a) the marketer failed to meet the benchmark in the second and third month of the remediation period and (b) (because of the use of the word "and") in situations where the "deficiencies were not eliminated" even where all the benchmarks were "met." The word "deficiencies," especially since it is plural, suggests that the standard is something in addition to meeting the applicable SQM benchmark in the second and third month of the remediation period. *See Danbert v. N. Georgia Land Ventures, LLC*, 287 Ga. 495, 497, 697 S.E.2d 204, 206 (2010) ("to assume that the terms "public street" and "public access street" are synonymous would require that this Court deem the use of the term "public access street" in the Regulations to be mere surplusage, and this we will not do.").

Moreover, the phrase "deficiencies. . . eliminated" arguably introduces a subjective element into the application of the presumptive penalty. For example, this language may create an argument that a failure to complete the remedial activities could be considered a "deficiency" and therefore a basis for a presumptive penalty. In short, the assessment of a penalty should solely be based on the objective factor of whether the marketer met the SQM benchmark in the second and third month of the remediation period. In the redline attached as Exhibit A, SCANA proposes language to address this specific concern.

D. PROPOSED RULE 515-7-8-.13 RELATED TO PENALTIES SHOULD BE REVISED TO CLARIFY A PENALTY IS NOT DUE BEFORE THE COMMISSION ENTERS ITS ORDER.

O.C.G.A. § 46-4-158.1(c), which is referenced in the Proposed Rule, pertinently provides:

> (c) Failure to comply with service quality standards established in accordance with this Code section shall subject an electing distribution company, certificated marketer, or regulated provider to fines *as determined by the commission.*

O.C.G.A. § 46-4-158.1(c) (emphasis added). The Proposed Rule recognizes that the Commission retains the right to determine whether to impose a penalty and the amount of the penalty in cases of non-compliance with the established benchmark. Specifically, the Proposed Rule refers only to a "presumptive" penalty and notes that "all penalties will be subject to Commission discretion and Staff, or any interested party may petition the Commission to have penalties adjusted." However, ambiguity is introduced into the Proposed Rule 515-7-8-.13 with the following language: "Payments are due by the 15th of the month following the Remediation Report and every 15th of the subsequent month thereafter, when applicable (if non-compliance continues)." This language suggests a Marketer must pay a penalty (in an undetermined amount) by the 45th day after the end of the third month whether the Commission has entered an order to that effect or not. First, requiring payment without an order wherein the Commission actually *determines* the penalty is violative of O.C.G.A. § 46-4-158.1(c), especially where the Proposed Rule only establishes a "presumptive", not a sum certain penalty amount. Second, as drafted, in cases where the Commission has not entered an order by the 45th day after the end of the remediation period, a Marketer would be faced with uncertainty on whether to pay the presumptive penalty amount by the 45th day or wait until the Commission enters an order. In the redline attached as Exhibit A, SCANA proposes language to address this specific concern.

Therefore, SCANA respectfully requests the Commission accept SCANA's recommended changes and re-issue the Notice of Proposed Rulemaking with its suggested changes incorporated therein.

Respectfully submitted, this 23rd day of August 2024.

HALL BOOTH SMITH, P.C.

WILLIAM BRADLEY CARVER
Georgia Bar No.: 115529
JOEL L. MCKIE
Georgia Bar No.: 585780
Attorneys for SCANA Energy Marketing, LLC

191 Peachtree Street, Suite 2900
Atlanta, GA 30303
(404) 954-5000 (O)
(404) 954-5020 (F)

BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

IN RE: **NOTICE OF PROPOSAL RULEMAKING TO AMEND EXISTING COMMISSION RULE CHAPTER 515-7-8: SERVICE QUALITY STANDARDS FOR CERTIFICATED MARKETERS AND REGULATED PROVIDERS**

DOCKET NO: 15296

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing **SCANA ENERGY MARKETING, LLC'S COMMENTS IN RESPONSE TO THE COMMISSION'S FIRST REVISED NOTICE OF PROPOSED RULEMAKING TO AMEND EXISTING COMMISSION RULE CHAPTER 515-7-8: SERVICE QUALITY STANDARDS FOR CERTIFICATED MARKETERS AND REGULATED PROVIDERS** via electronic mail only, upon the following as reflected:

Sallie Tanner
Assistant Executive Secretary
Georgia Public Service Commission
244 Washington St., S. W.
Atlanta, GA 30334

Brett Newsom
Tara Surratt
Adam Wise
SCANA Energy
3344 Peachtree Rd, Suite 2150
Atlanta, GA 30326
brett.newsom@scanaenergy.com
tara.surratt@scanaenergy.com

Meredith W. Hodges
Gas South, LLC
3625 Cumberland Blvd, Suite 1500
Atlanta, GA 30339
meredith.hodges@gassouth.com

Jim Bottone
Phil Weatherly
Walton EMC Natural Gas
P O Box 260
Monroe, GA 30655-026
jbottone@waltonmc.com
pweatherly@waltonemc.com

Brandi Kirkpatrick
Melissa Lauderdale
NextEra Georgia
Brandi.Kirkpatrick@gexaenergy.com
Melissa.Lauderdale@gexaenergy.com

Trish McFadin
Director of Governmental Affairs
SouthStar Energy Services
d/b/a Georgia Natural Gas
817 W. Peachtree St NW, Suite 1000
Atlanta, GA 30342
trish.mcfadin@southstarenergy,com

Robert B. Remar Esq.
Roger & Hardin LLP
2700 International Tower
Peachtree Center
229 Peachtree Street, N.E.

Atlanta, GA 30303
rremar@sgrlaw.com

Steve Moore
Director of Regulatory Affairs
Mansfield Power & Gas, LLC
1025 Airport Parkway, SW
Gainesville, GA 30501
smoore@mansfieldpowergas.com

Daniel N. Hart
Chief Operating Officer
True Natural Gas
807 Collinsworth Road
Palmetto, GA 69268
john.holtz@greenmountain.com
heather.caporale@nrg.com

Avi Kielson
TSE
akeilson@genieretail.com

Newton Galloway
ngalloway@gallyn-law.com

Herschel Arant
Fuel Georgia
harant@cgemc.com

Chang, Patricia
Constellation
Patricia.Chang@constellation.com
adrienne.mouton-henderson@constellation.com

dhart@truenaturalgas.com
lmarler@truenaturalgas.com

Allan Jenkins
Stream Energy
XOOM Energy
aj@jenkinsatlaw.com

This 23rd day of August 2024.

HALL BOOTH SMITH, P.C.

WILLIAM BRADLEY CARVER, SR.
Georgia Bar No.: 115529
JOEL L. MCKIE
Georgia Bar No.: 585780
Attorneys for SCANA Energy Marketing, Inc.

191 Peachtree Street, N.E.
Suite 2900
Atlanta, GA 30303
(404) 954-5000 · (404) 954-5020/Fax

Exhibit "A"

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RULES OF GEORGIA PUBLIC SERVICE COMMISSION
515-7 GAS UTILITIES
CHAPTER 515-7-8
SERVICE QUALITY STANDARDS FOR ~~CERIFICATED~~CERTIFICATED
MARKETERS AND REGULATED PROVIDERS

515-7-8 SERVICE QUALITY MEASURES (SQMs) ~~STANDARDS~~ FOR CERTIFICATED MARKETERS ~~AND REGULATED PROVIDERS~~

Rule 515-7-8-.01 Commission Authority and Scope

The Georgia Legislature has empowered the Georgia Public Service Commission to promulgate rules and regulations to establish Service Quality Measures (SQMs) ~~standards~~ for each certificated Marketer ~~and regulated provider~~ in Georgia.

Rule 515-7-8-.02 Definitions

Terms used in these rules have the following meaning:

(a) "Act" means the Natural Gas Competition and Deregulation Act, as provided for in Official Code of Georgia Annotated (O.C.G.A.) § 46-4-150 et seq.

(b) "Ancillary service" means a service that provides necessary support ~~is ancillary~~ to the receipt or delivery of natural gas, including without limitation, storage, balancing, peaking, and customer services.

(c) "Benchmark" means a standard or point of reference against which a Service Quality Measure (SQM) may be compared or assessed. For the purposes of this rule, the Commission has established benchmarks for several Service Quality Measures (SQMs).

(d~~c~~) "Commission" means the Georgia Public Service Commission.

(e~~d~~) "Commodity sales service" means the sale of natural gas exclusive of any distribution or ancillary service.

(f~~e~~) "Consumer" means a retail customer of commodity sales service or of firm distribution service who uses such service or services primarily for personal, family, or household purposes.

(g~~f~~) "Customer service" means a function related to serving a retail customer including without limitation, billing, meter reading, turn-on service, and turn-off service. Notwithstanding any provision of law to the contrary, any person may perform one or more customer services without first becoming certificated in accordance with O.C.G.A. § 46-4-153; provided however, that such service may only be performed in compliance with all state and federal laws pertaining to the safety of natural gas pipelines and distribution systems and any other applicable safety standards.

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(h) “Data Reporting Filing” means the Marketer’s monthly filing of the tracked data within a recording period.

(i~~g~~) "Distribution service" means the delivery of natural gas by and through the intrastate instrumentalities and facilities of a gas company or of a marketer certificated pursuant to O.C.G.A. § 46-4-153, regardless of the party having title to the natural gas.

(j~~h~~) "Electing Distribution Company" or "EDC" means a gas company that elects to become subject to the provisions of the Act and satisfies the requirements of O.C.G.A. § 46-4-154.

(k~~i~~) "Gas" means natural gas.

(l~~j~~) "Gas company" means any person to whom a certificate of public convenience and necessity has been issued by the Commission to own, operate, acquire, or construct any intrastate pipeline or distribution system, or any extension thereof, for the sale of natural gas.

(m~~k~~) "Interruptible" means a type of distribution service that is subject to interruption or curtailment.

(n~~l~~) "Marketer" means any person certificated by the Commission to provide commodity sales service or distribution service pursuant to O.C.G.A. § 46-4-153 or ancillary services incident thereto. For purposes of this Rule, the term Marketer includes the Regulated Provider as a separate entity from any other Marketers.

(o) “Recording period” means the month in which required data is tracked pursuant to the Commission approved SQMs rules.

(p) “Remediation period” means the time allowed by this rule for a marketer to correct its failure to meet a service quality measure (SQM) benchmark.

(q~~m~~) “Regulated provider of natural gas” means the entity selected by the Commission to provide consumers with natural gas commodity service and ancillary services incident thereto in accordance with O.C.G.A. § ~~Code Section~~ 46-4-166.

(r~~n~~) “Retail customer” or “retail purchaser” means a person who purchases commodity sales service or distribution service, and such purchase is not for the purpose of resale.

(s)” Staff” means the Georgia Public Service Commission Staff.

(t) “Passing Remediation” means a Marketer has successfully met an SQM benchmark established by the Commission during the Remediation Period as defined in section 515-7-8-.12. If the Marketer does not achieve a passing remediation, it is considered a failed remediation, and the Marketer will be subject to a penalty.

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Rule 515-7-8-.03 Service Quality Measures (SQMs) ~~Standards~~: Customer Service, Billing, and Meter Reading

Every Marketer shall be required to meet SQMs ~~service quality standards~~ to ensure that quality service is afforded to all natural gas customers in Georgia. Specifically, all Marketers shall meet Commission established benchmarks in the following areas:

a. Call Center Service Level;
b. Requests for information from the EDC as authorized by the Tariff or Commission Order and certain requests as determined necessary by the Commission;
c. Billing Accuracy and Timeliness;
d. Responsiveness to Consumer Inquiries and Complaints;
e. Meter Reading Accuracy, if the M~~a~~rketer either directly or through a third party is performing the meter reading function;
f. Meter Reading Timeliness, if the Marketer either directly or through a third party is performing the meter reading function;
g. Transmittal of Meter Reading Data to the EDC, including Timeliness and Accuracy of data, if the marketer either directly or through a third party is performing the meter reading function; and
h. Transmittal of accurate and timely electronic transactions of consumer data to the EDC.

If a Marketer fails to meet an SQM benchmark established by the Commission, the Marketer shall notify Staff of the missed SQM benchmark by highlighting the failing percentage in that month's reporting filing. This notice does not require the Marketer to make a separate filing from the monthly reporting filing.

Rule 515-7-8-.04 Service Quality Measure (SQM): Call Center Service Levels

The purpose of this SQM is to measure the percentage of calls answered within 180 seconds or less during a month to ensure a prompt response to a call. This SQM will be measured over one (1) calendar month.

Marketers shall be responsible for answering at least 80% of calls within 180 seconds. If placed into an Interactive Voice Response (IVR), the 180 seconds start when the customer makes the selection to speak with an agent.

The Marketer, at a minimum, shall meet the established SQM benchmark of 80% for Call Center Service Level. The formula for measuring this benchmark shall be as follows:

(Answered Calls/ Total Received Calls) *100

For purposes of calculating the formula described above, the following terms shall have the following definitions:

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(i) "Answered Call" means any call answered by a Marketer within 180 seconds or less and does not include any calls that meet the definition of a "Customer Terminated Call" that were terminated prior to 180 seconds.

(ii) "Customer Terminated Call" means (A) any call terminated by the customer and (B) any call terminated by the customer where prior to speaking with agent, the customer had requested a call back. A "Customer Terminated Call" shall not be included in the numerator or denominator in the above-described formula if the call is terminated prior to 180 seconds. A "Customer Terminated Call" shall be included in the denominator but not the numerator in the above-described formula if the call is terminated after 180 seconds.

(iii) "Total Received Calls" means all calls received by the Marketer within a recording period in which a customer makes the selection to speak with an agent and only excludes those calls that meet the definition of a "Customer Terminated Call."

Rule 515-7-8-.05 Service Quality Measure (SQM): Billing Accuracy

The purpose of this SQM is to measure the accuracy of a bill sent to a customer by a Marketer versus the number of bills corrected over a period of one(1) month. Marketers shall be responsible for maintaining a 98.5% monthly billing accuracy rate.

The Commission defines inaccurate bills as those bills that were sent to consumers but have to be cancelled and re-billed or those bills that have to be corrected due to Marketer error. Any cancelations or corrections due to meter reading errors or any other error caused by the EDC will not be counted against the marketer.

Rule 515-7-8-.06 ~~-4~~ Service Quality Measure (SQM) ~~Standards~~: Responsiveness to the Georgia Public Service Commission

Every Marketer shall be required to meet each SQM benchmark ~~service quality standards~~ to ensure compliance with Commission Orders. Reporting is not required for this measure.

Rule 515-7-8-.07 Service Quality Measure (SQM): Meter Reading Accuracy, Meter Reading Timeliness, Transmittal of Meter Reading Data to the EDC

Until such time that the Commission determines that meter reading is a competitive service performed by the Marketers, reporting is not required for these measures.

Rule 515-7-8-.08 Service Quality Measure (SQMs): Transmittal of accurate and timely electronic transactions of consumer data to the EDC

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Until such time that the Commission determines that transmittal of accurate and timely electronic transaction of consumer data to the EDC is a required metric, reporting is not required for these measures.

Rule 515-7-8-.09 Additional Service Quality Measures

In addition to the SQMs set forth in this Rule, the Commission may establish additional SQMs as the Commission may from time to time deem necessary.

Rule 515-7-8-.10~~06~~ Methodology for Establishment and Review of Benchmarks and Penalties

a. The Commission shall determine the appropriate benchmarks necessary to measure whether a Marketer ~~or regulated provider~~ has complied with the SQMs ~~service quality standards~~ established by the Commission pursuant to this Rule, as well as the appropriate penalties that may be assessed against a Marketer ~~or regulated provider~~ that fails to comply with such SQMs ~~service quality standards~~;

b. The Commission reserves the right to conduct a hearing for the purpose of establishing the appropriate benchmarks to be utilized in determining whether a Marketer has complied with the SQMs ~~service quality standards~~ established herein, as well as the appropriate penalties to be assessed against a Marketer ~~or regulated provider~~ that fails to comply with such SQMs ~~service quality standards~~. Prior to such hearing, the Marketers, the Commission Staff and any other interested party shall file any proposed benchmarks and penalties for consideration by the Commission. Following such hearing, the Commission shall issue an Order approving and adopting appropriate benchmarks and associated penalties; and

c. Following the establishment of initial benchmarks and penalties, the Commission may conduct hearings annually for the purpose of reviewing the SQMs ~~service quality standards~~ adopted by the Commission, as well as the benchmarks and penalties established as described in Section (b) above. Prior to such annual hearings, the Marketers, the Commission Staff and any other interested party may file proposed revisions to the SQMs, ~~service quality standards~~ benchmarks and penalties for consideration by the Commission.

Rule 515-7-8-.11~~07~~ Reporting and Compliance

Each Marketer shall file reports with the Commission demonstrating its performance with each SQM ~~regard to the service quality standards~~ established by the Commission. Such reports shall

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be filed by the 15th of the month following the recording period, and in a form approved ~~at least on a quarterly basis, or on some other periodic basis if ordered~~ by the Commission.

Rule 515-7-8-.12 Remediation

Marketers are expected to meet the Commission established SQM benchmarks each month. If the Marketer fails to meet an SQM benchmark, remediation may be required as set forth in this Rule.

(a) Call Center Service Level Remediation

For the Call Center Service Level, should a Marketer miss this benchmark twice within a 12-month period, such Marketer shall go into a 3-month remediation period that will begin on the first day of the month immediately following the second month in which the Marketer missed the benchmark; and will continue for two (2) additional consecutive months.

Such Marketer shall file with the Commission a Remediation Action Plan (RAP) to identify and explain the deficiency, specify how the deficiency will be remedied, and provide a timetable for remedial activities. The filing shall be made by no later than the last day of the first month of the remediation period. All remedial activities must be completed by the end of the remediation period or the Marketer shall show evidence of its commercially reasonable efforts to implement the remedial activities within the remediation period.

At the conclusion of the remediation period (which will be on the last day of the third month), the Marketer will have fifteen (15) days to file with the Commission a Remediation Report that demonstrates its compliance with the benchmark that is the subject of the RAP. If ~~the deficiencies are not eliminated and~~ the established benchmark is not met, then the Marketer will be assessed a penalty. This penalty will be due on the 15th of the following month.

In order to achieve a passing remediation and avoid a penalty, the Marketer, at a minimum, shall meet a 70% benchmark during the second month of the remediation period, and the established SQM benchmark of 80% during the third month of the remediation period. Marketers failing their remediation because they did not meet the benchmark in the second and third month, will be assessed a penalty. That penalty will continue for every month thereafter until the marketer meets the established benchmark.

(b) Billing Accuracy Remediation

For the Billing Accuracy SQM, should a marketer miss this benchmark twice within a 12-month period, such Marketer shall go into a 3-month remediation period that will begin on the first day of the month immediately following the second month in which the Marketer missed the benchmark; and will continue for two (2) additional consecutive months.

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Such Marketer shall file with the Commission a Remediation Action Plan (RAP) to identify and explain the deficiency, specify how the deficiency will be remedied, and provide a timetable for remedial activities. The filing shall be made by no later than the last day of the first month of the remediation period. All remedial activities must be completed by the end of the remediation period or the Marketer shall show evidence of its commercially reasonable efforts to implement the remedial activities within the remediation period.

At the conclusion of the remediation period (which will be on the last day of the third month), the Marketer will have fifteen (15) days to file with the Commission a Remediation Report that demonstrates its compliance with the benchmark that is the subject of the RAP. If ~~the deficiencies are not eliminated and~~ the established benchmark is not met, then the Marketer will be assessed a penalty. This penalty will be due on the 15th of the following month.

In order to achieve passing remediation and avoid a penalty, the Marketer, at a minimum, shall meet the established SQM benchmark of 98.5% during the second and third month of the remediation period. Marketers failing their remediation because they did not meet the benchmark in the second and third month, will be assessed a penalty. That penalty will continue for every month thereafter until the marketer meets the established benchmark.

Rule 515-7-8-.13~~08~~ Penalties

Pursuant to O.C.G.A. § 46-4-158.1(c), failure to meet an SQM benchmark shall subject a certificated Marketer to fines as determined by the Commission.

The Marketer shall be assessed a penalty after a failed remediation period as explained in Rule 515-7-8-.12.

The presumptive penalty for non-compliance with any SQM benchmark, shall be $25,000 per each non-compliance event. All penalties will be subject to Commission discretion and Staff, or any interested party may petition the Commission to have penalties adjusted.

Marketers shall deposit the penalties directly into the Universal Service Fund (USF) escrow account by electronic wire transfer, certified check, or cashier's check. If so ordered by the Commission, p~~P~~ayments are due by the 15th of the month following the Remediation Report and every 15th of the subsequent month thereafter (or such other dates set by the Commission), when applicable (if non-compliance continues). ~~All penalties will be subject to Commission discretion and Staff, or any interested party may petition the Commission to have penalties adjusted.~~

~~Failure to comply with any service quality standards adopted by the Commission shall subject a Marketer or regulated provider to civil penalties as determined by the Commission.~~

Rule 515-7-8-.14 Rolling Probation Period

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For a period of one (1) year after the filing date of the remediation report, the Marketer will remain subject to a penalty for each recording period that it is not in compliance with the established SQM benchmark that was subject to remediation. The Marketer will not be given remediation opportunities again for the same benchmark until such time as the Marketer has demonstrated compliance with the benchmark for twelve (12) consecutive months. After the probation period has ended, the Marketer will be allowed to participate in the remediation procedures set forth in this Rule. During this period, Marketers will not be penalized in the event of force majeure as defined on 515-7-8-.15.

Rule 515-7-8-.15~~09~~ Force Majeure

The Commission recognizes that a Marketer's ~~or Regulated Provider's~~ performance data may be influenced by factors beyond its control. Accordingly, in the event of a force majeure, as defined by Rule 12 of AGLC's Commission-approved Tariff, a Marketer ~~or regulated provider~~ may file a petition for an exception with the Commission seeking to have the scheduled SQMs ~~service quality standards and/or benchmark~~ results modified. The Marketer ~~or regulated provider~~ will also be allowed to file an expedited petition seeking immediate relief from a payment of penalties as set forth in these Rules in the event of a force majeure. In any such petition, the Marketer ~~or regulated provider~~ shall have the burden of demonstrating that the benchmark was not met due to causes beyond the Marketer's ~~or regulated provider's~~ control and which could not have been avoided by exercise of due care. The filing of any such petition shall not contain any payments under these Rules unless otherwise ordered by the Commission.

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