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NORTH GEORGIA EMC,	)	
	)	
Petitioner,	)	
v.	)	**Docket No. 55200**
	)	
CITY OF CALHOUN,	)	
	)	
Respondent.	)	

ORDER AFFIRMING AND ADOPTING HEARING OFFICER'S ORDER ON PETITION OF NORTH GEORGIA EMC v. CITY OF CALHOUN

APPEARANCES:

On behalf of North Georgia EMC:

JAMES A. ORR, Attorney
LEE A. PEIFER, Attorney
BENJAMIN E. REED, Attorney
HENRY C. THARPE, Jr., Attorney

On behalf of The City of Calhoun:

PETER K. FLOYD, Attorney
MICHEAL H. SHANLEVER, Attorney
HANNAH S. MCLEAN, Attorney
CHRISTOPHER E. JOHNSON, Attorney

Following the passage of the Georgia Territorial Act (the "Act") in 1973, North Georgia EMC ("NGEMC"), 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 its 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 of North Georgia EMC v. City of Calhoun ("Hearing Officer's Order"), 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 Order'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 Order on Petition in this matter on March 14, 2024. The Commission granted the Application for Review and oral arguments were heard on June 27, 2024. During the September 17, 2024 Administrative Session, the Commission voted to affirm and adopt the Hearing Officer's Order.

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WHEREFORE IT IS ORDERED that Commission affirms the Hearing Officer's Order on Petition of North Georgia EMC v. City of Calhoun issued on February 13, 2024, and hereby adopts the Hearing Officer's Order in its entirety. By affirming the Hearing Officer's Order, the Commission expressly adopts the Hearing Officer's findings of facts and conclusions of law set forth in the Order on Petition of North Georgia EMC v. City of Calhoun.

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

The above by action of the Commission in its Administrative Session on the 17th day of September 2024.

Sallie Tanner
Executive Secretary

10-16-24
Date

Jason Shaw
Chairman

10-16-24
Date