BEFORE THE
GEORGIA PUBLIC SERVICE COMMISSION

In Re: Georgia Power Company's 2022 Rate Case	))))	Docket No. 44280

RESPONSE TO SOUTHERN ENVIRONMENTAL LAW CENTER'S MOTION FOR COMMISSION OVERSIGHT OF NEW LARGE LOAD CUSTOMER CONTRACTS

INTRODUCTION

On December 11, 2024, Georgia Power Company ("Georgia Power" or the "Company") filed a Request for Approval of Revisions to Georgia Power Company's Rules and Regulations (the "Request") in Docket No. 44280 before the Georgia Public Service Commission (the "Commission"). The revisions contained in the Request introduced certain enhancements in response to the continued robust economic growth and historically large load economic development projects that are discussed in the Company's 2023 Integrated Resource Plan Update in Docket No. 55378 (the "2023 IRP Update"). Specifically, the Company sought revisions as follows:

> **Rule A.1**, relating to the application for electric service, to provide minimum billing requirements and longer contract term lengths for large load customers with an expected peak demand of 100 MW or greater at one or more premises located on one tract or contiguous tracts of land,[1]

[1] *Request for Approval of Revisions to Georgia Power Company's Rules and Regulations*, Docket No. 44280 (December 11, 2024) (hereinafter "Request") at 2.

Rule D.2, relating to transmission or wholesale distribution line extensions and service connection regulation, to specify that service contracts will be for the term specified in the applicable rate schedule, or for a longer term if needed, and to ensure that the costs associated with serving or preparing to serve the customer are recovered,[2] and

Section D, to add a new Section D.13 to specify certain performance security and/or credit provisions for large load customers, and to add a new Section D.14 to require large load customers to pay any costs the Company incurred in serving or preparing to serve the customer upon termination of its contract for electric service.[3]

On January 10, 2025, the Southern Environmental Law Center ("SELC") filed a Motion for Commission Oversight of New Large Load Customer Contracts ("Motion"). Notably, SELC asked the Commission to approve the Company's requested revisions with one exception, which was to reject the Company's proposed change to General Rule A.1 because it is not narrowly tailored.[4] SELC alleged that the Company's proposed change to this Rule "would allow Georgia Power to add any condition it wants to any tariff."[5] SELC calls for two additional steps: (1) Commission oversight over negotiated rate terms for new large load customers before such terms are executed and (2) adoption of a policy stating that Georgia Power's recruitment of and service to large load customers shall not result in increased costs for existing customers.[6] SELC requested that any such rulings "last at least until such time as a full cost of service study and tariff review can be conducted to inform a Commission strategy . . . to ensure existing customers are not

[2] *Id.* at 2.
[3] *Id.* at 2–3.
[4] *Motion for Commission Oversight of New Large Load Customer Contracts*, Docket No. 44280 (Jan. 10, 2025) (hereinafter "Motion") at 2. Based on this argument, SELC raises no objection to the Company's other proposed changes involving Section D.2.
[5] *Id.* at 8.
[6] *Id.* at 2.

subsidizing Georgia Power's recruited new customers."[7] For the reasons below, the Commission should deny SELC's Motion.

ARGUMENT

This Commission and the Company already exercise adequate oversight over new economic development large load customer contracts. Contrary to SELC's assertion, the Company's Request in this case will simply add additional protections as Georgia continues to experience increasing growth in economic development large load projects. SELC's assertions that the Company's request is inconsistent with its testimony in the 2023 IRP Update regarding customer protections are unfounded. The Request is entirely consistent with the goal of ensuring that other customers are protected from the costs incurred in serving and preparing to serve large load customers, while also allowing all customers to benefit from this economic development growth. Contrary to SELC's assertion, the revisions to General Rule A.1 are appropriate and narrowly tailored to provide protections with clear applicability criteria. In any event, this docket is not the appropriate vehicle to consider SELC's policy positions, which can instead be considered, if appropriate, in the Company's next base rate case.

A. The Company's request to revise its Rules and Regulations is consistent with the Company's commitments in the 2023 IRP Update.

SELC cited two statements made by counsel for the Company during proceedings for the 2023 IRP Update, which highlighted the Company's commitments to ensure that customers receive the benefits of large load growth projected in that docket.[8] SELC then suggests that the Company's Request to add additional tools to address the continued growth in large load customers

[7] *Id.* at 2.
[8] *See id.* at 1 (citing 2023 IRP Update, Docket No. 55378, T.464:11–13 and T.497:8).

is somehow an admission that customers have not previously been protected from subsidizing new large load customers.[9]

This argument is entirely without merit. During the 2023 IRP Update proceedings, the Company accurately explained how it was attracting beneficial economic development load to the state, and how increased revenue from serving large economic development load customers would put downward pressure on rates.[10] The Company further explained that there are both costs and increased revenues involved in serving large load customers, but here, the revenues produced are projected to place downward pressure on rates that will benefit all customers.[11] The Company thereafter agreed in its next base rate case filing to lock in at least $2.89 per month of downward pressure on rates for the typical residential customer using an average of 1,000 kWh per month for 2026, 2027, and 2028.[12] That commitment from the 2023 IRP Update by the Company is unchanged and is not impacted by the Company's request for revisions to its Rules and Regulations. In fact, the protections afforded to customers in the Company's Request are in addition to, not in place of, the protections afforded by the 2023 IRP Update.

Further, at the time of the 2023 IRP Update, the Company's existing contracting tools and tariff structure were reasonably sufficient to ensure the benefits of the anticipated large load customers. However, the amount of large load economic development projects continues to grow, as the Company has reported to the Commission,[13] pursuant to the Order in the 2023 IRP Update.[14] This expanding growth will continue to provide many potential benefits to Georgia Power

[9] *Id.* at 1–2.
[10] 2023 IRP Update, GPC Direct Hearing, Docket No. 55378 (Jan. 17, 2024), Tr. 464:12–14.
[11] *See id.* at 464:2–19.
[12] *See Order Adopting Stipulated Agreement*, Docket No. 55378 (Apr. 26, 2024), at 8, 13, 17.
[13] *See Q1 2024 Large Load Economic Development Report*, Docket No. 55378 (May 15, 2024); *Q2 2024 Large Load Economic Development Report*, Docket No. 55378 (Aug. 16, 2024); *Q3 2024 Large Load Economic Development Report*, Docket No. 55378 (Nov. 18, 2024).
[14] *See Order Adopting Stipulated Agreement*, Docket No. 55378 (Apr. 26, 2024) at 13.

customers, and the revisions sought in the Request give the Company an updated set of tools and an adapted range of flexibility to take advantage of those benefits. At the same time, these tools will build upon the protections already in place, which shield other customers from the costs in serving or preparing to serve large load customers.

Through its Request, the Company seeks tools similar to those being sought by and approved for other utilities in other jurisdictions. Tools such as minimum bill amounts, minimum contract term lengths, collateral requirements, and termination payments are all consistent with steps taken by other utilities like those in the Carolinas, Indiana, and Ohio, steps which are all being taken to ensure the benefits of economic development loads are realized and that the costs for investments to serve those loads are recovered from the appropriate class of customers.[15]

B. The Company's request establishes an appropriate level of Commission oversight.

SELC alleges that "[t]he magnitude of the costs implicated by today's proposed data centers warrants . . . increased oversight by this Commission"[16] and that customer choice load offers "require additional oversight for these 'unprecedented' large loads."[17] Accordingly, SELC

[15] *See, e.g., Submission of Unopposed Settlement Agreement and Unopposed Motion for Acceptance of Out of Time Filing*, Indiana Utility Regulatory Commission Cause No. 46097 (Nov. 22, 2024) (requiring Indiana Michigan Power Company's new large load customers to make long-term financial commitments to ensure they pay for the costs to serve them and that such costs are not passed on to existing customers); *see also Joint Stipulation and Recommendation*, Public Utilities Commission of Ohio Case No. 24-508-EL-ATA (Oct. 23, 2024) (seeking commission approval to require new large load data centers to cover AEP Ohio's cost of infrastructure, show financial viability, and pay an exit fee for potential project cancellation); *see also* "Duke Energy's new 2 GWs of US data centers to include minimum take agreements, CFO says," Reuters (Nov. 7, 2024), https://www.reuters.com/business/energy/duke-energys-new-2-gws-us-data-centers-include-minimum-take-agreements-cfo-says-2024-11-07/#:~:text=Contracts%20for%20data%20centers%20and,to%20be%20approved%20by%20regulators (last accessed Jan. 14, 2025) (requiring minimum payments for Duke Energy customers with power demand at a single site of more than 100 MW, regardless of usage).

[16] Motion at 3.

[17] *Id.* at 6.

requests that the Commission "exercise oversight over individually negotiated rate terms for new large load customers before such terms are executed."[18]

In reality, there is already an increased level of oversight associated with the Company's Request. The Company has been working with Commission Staff to ensure the Commission understands how the changes within the Company's Request will be implemented. For example, the Company has already provided the Commission with a general overview of the terms and conditions intended to implement the revisions to its Rules and Regulations, and the Company has agreed to file completed contracts with the Commission within 30 days of contract execution. The Commission already has and also retains the right to review these issues, modify rules and regulations, or take other actions necessary to protect customers, and Commission Staff can recommend further amendment to the Rules and Regulations. These measures ensure that the Commission has a direct and proper level of oversight and no additional oversight is needed.

Moreover, SELC's attempt to utilize QTS Fayetteville as evidence of cost shifting reflects a fundamental misunderstanding of the facts. For example, SELC alleges that the Company "made QTS [Fayetteville] an offer **before"** a 35-mile 500kV line was identified in public transmission planning documents and further alleges that said line is necessary for the Company to serve QTS Fayetteville.[19] SELC also alleges that QTS Fayetteville should have been assigned the full cost of the line, but that those costs were not so allocated.[20] This is belied by the facts. The offers the Company develops for prospective large load customers include bulk transmission investment costs projected over the life of the project, whether currently planned or not. In the case of QTS

[18] *Id.* at 2.
[19] Motion at 5.
[20] *See id.* at 6–7 (noting how local costs are assigned to a customer choice project when that project receives the sole benefit but alleging that the Company's description of the project "suggests it has and will ask all customers to pay these costs").

Fayetteville, the transmission ten-year plans filed in the Company's 2022 IRP[21] and 2023 IRP Update[22] provided for service to the QTS Fayetteville project but without the need for the 500kV line identified by SELC. The transmission projects identified for QTS Fayetteville in previous filings remain sufficient to serve that customer. SELC incorrectly associates the 500kV line with QTS Fayetteville. The need for that 500kV line was identified only after significant additional loads were included in transmission planning cases along with significant generation resource changes. It is important to note that these planning cases reflect additions for all Georgia Integrated Transmission System ("ITS") participants, not just Georgia Power. The state's transmission system is jointly planned by the ITS participants. Planning activities are responsive to load and generation additions for the state's electric utilities. The 500kV line is needed to preserve grid reliability in certain contingency situations and, therefore, the need for the line was not driven by the Company's service to QTS Fayetteville.[23] Indeed, the line is not needed for that service, but rather to comply with NERC requirements. Thus, SELC's examples do not support the cost shifting theory that they have espoused.

C. The language of the Company's requested revision to General Rule A.1 is appropriate and narrowly tailored.

SELC also opposes the Company's proposed changes to General Rule A.1, claiming that "as written[,] it would allow Georgia Power to add any condition it wants to any tariff."[24] SELC accordingly calls for its rejection, or for a narrow tailoring of the language to "specifically identified terms and conditions" that protect customers from subsidization of new large loads.[25]

[21] *See* 2022 IRP Technical Appendix, Vol. 3 – Transmission Plan, Docket No. 44160 (Jan. 31, 2022) at 127.
[22] *See* 2023 IRP Update Transmission Supplemental Filing, Docket No. 55378 (Jan. 19, 2024).
[23] QTS Fayetteville will be allocated the appropriate level of cost for the line, but SELC's suggestion that all costs for the line should be allocated to QTS Fayetteville because this project necessitated the development of the line is incorrect.
[24] Motion at 8.
[25] *Id.*

But the Company's proposed additions to General Rule A.1 are already narrowly tailored and specific. The revisions allow the Company to place additional terms and conditions only on customers with an expected peak demand of 100 MW or greater at one or more premises, in order to reinforce the recovery of the costs associated with serving or preparing to serve these customers.[26] Thus, the revised General Rule A.1 allows the Company the latitude to institute minimum billing and longer contract terms, but only for that specific subset of customers whose demand may cause the costs at issue.

As previously stated, the Company has provided the Commission Staff with a general overview of the terms and conditions that are intended to implement the revisions to the Rules and Regulations, and the Company also plans to submit proposed tariff modifications consistent with these changes.

D. There is no justification to take immediate action to adopt the policy positions advocated for by SELC, and SELC will have the opportunity to advocate for its policy positions in the Company's next base rate case.

SELC also unnecessarily proposes that the Commission take immediate steps to "[a]dopt a policy that Georgia Power's recruitment and service of large load customers under the Territorial Service Act shall not result in increased costs for existing customers."[27] This proposal is unnecessary in light of the Company's Request. The entire purpose of the Request is to broaden the toolset available to the Company so that customers can continue to benefit from large load customer growth. As discussed previously, the Company demonstrated in the 2023 IRP Update that the anticipated economic growth would bring significant benefits to customers.[28] To that end,

[26] *See* Request at 2.
[27] Motion at 2.
[28] 2023 IRP Update, Company Rebuttal Hearing, Docket No. 55378 (Mar. 27, 2024), Tr. 1939:16–19 ("The 2023 IRP Update will provide substantial benefits to customers, and we expect that the revenues associated with energy sales from incremental large load customers will put downward pressure on rates for all customers, including residential

the Company filed its Request in this docket in advance of the next base rate case to ensure that its Rules and Regulations remain up to date and can adapt as the large load economic development grows. Approval of tools—such as minimum term lengths, minimum bills, credit requirements, collateral requirements, and termination provisions—expands the Company's ability to ensure that the anticipated benefits of large load customer growth accrues to all customers. Most significantly, these revisions enhance the Company's existing measures that are intended to ensure that large load customers continue to pay for the costs they cause on the system.

Moreover, approving the Company's Request does not limit the ability of SELC to advocate the positions it raises in its Motion in future base rate cases, nor does it alter the ability of the Commission to consider those positions in such a proceeding. Every base rate case includes a review of the Company's Rules and Regulations and a new cost of service study. With regards to the next base rate case, the Company has agreed to file a cost of service study with sufficient detail to show how forecasted costs relate to the new capacity, as well as forecasted revenues from the prospective new large load customers, will be allocated to various customer rate groups.[29] The Company's Request does not change the Company's prior commitment to provide that information, which this Commission can review at the appropriate time in the base rate case.

CONCLUSION

Georgia Power's Request for Approval of Revisions to Georgia Power Company's Rules and Regulations benefits all customers by expanding tools that protect customers from the costs

and small business customers."); *see also id. at* 1942:1–2 ("The incremental forecasted load projected in the 2023 IRP Update would result in additional revenues that will benefit all retail customers in future rate adjustments.").
[29] *See Order Adopting Stipulation*, Docket No. 55378 (April 26, 2024) at 13, 17.

associated with large load projects. For the reasons discussed above, the Commission should deny SELC's Motion.

Respectfully submitted, this 16th day of January, 2025.

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