STATE OF GEORGIA

BEFORE THE PUBLIC SERVICE COMMISSION

CITY OF CARTERSVILLE,	)	
	)	
Petitioner,	)	
	)	
v.	)	Docket No. 55973
	)	
GEORGIA POWER COMPANY,	)	
	)	
Respondent.	)	

GEORGIA POWER COMPANY'S OBJECTION TO PETITIONER'S MOTION FOR LEAVE TO FILE SUPPLEMENTAL PREFILED DIRECT TESTIMONY

COMES NOW Georgia Power Company ("Georgia Power" or the "Company"), Respondent in the above-referenced matter, and files its objection to Petitioner, City of Cartersville's ("Cartersville") Motion for Leave to File Supplemental Prefiled Direct Testimony (the "Motion"). Because Cartersville seeks to introduce irrelevant and untimely evidence, the Motion should be denied.

1. **Georgia Power disputes that the connected load at the time of initial full operation of the Premises exceeded 900 kW, and any characterization to the contrary is mistaken.**

As an initial matter, Georgia Power clarifies Cartersville's assertion that "for purposes of the pending motion for summary judgment, Respondent is not disputing that Allied Tube & Conduit Corp.'s ("Atkore") connected load at the time of its initial operation of the premises was 900 kilowatts or greater." (Motion at 2.) This contention misrepresents Georgia Power's position. As articulated in Georgia Power's Motion for Summary Judgment, "the Premises did not have connected load of 900 kW or greater at initial full operation." (Motion for Summary Judgment at 8-10.)

Cartersville's assertion and Motion underscore its fundamental misunderstanding of the plain text of the Georgia Territorial Electric Service Act (the "Territorial Act"). Cartersville is conflating connected load "at the time of initial full operation of the premises" (a statutory term of art) with the load of any new tenant when it begins operating at an existing premises (an arbitrary metric of no legal significance). (Motion at 1-2.) "Connected load" at "initial full operation" has specific meaning under the Territorial Act. As the Commission has determined previously, "the term 'initial full operation of the premises' means the load to be furnished the customer at the time the customer commences full operation of the facility as designed."[1] A premises, as defined in the Territorial Act, is the premises itself, untethered from the customer or tenant.[2] Once established, the connected load at that fixed point in time does not change, absent destruction and dismantlement of the premises and reconstruction not in substantial kind.[3]

To be clear, Georgia Power understands that Cartersville has introduced load studies for the Premises dated May 31, 2023, and August 30, 2023, showing a total load of 1,514.94 kVA and 1,543.14 kVA, respectively. *See* Exhibit P14; Exhibit P24. However, since the Premises had already reached initial full operation well below 900 kW, Atkore's plans for expanded use of the property are irrelevant because future expansions of a premises do not qualify the premises for the large load exception.[4]

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[1] *Okefenokee Rural EMC v. Georgia Power Company*, Docket No. 3870-U at *7 (Initial Decision Jan. 4, 1990) (quoting *Douglas County Electric Membership Corp. v. Georgia Power Company*, Docket No. 3686-U (Initial Decision June 8, 1988)).

[2] O.C.G.A. § 46-3-3(6) (defining "Premises" as "the *building*, *structure*, or *facility* to which electricity is being or is to be furnished") (emphasis added).

[3] O.C.G.A. § 46-3-8(b).

[4] *See Douglas County Electric Membership Corp.* at p. 9, fn. 1 (explaining that the adopted definition of initial full operation of the premises "should not be construed to mean that if a consumer has plans for future growth, or hopes to expand its facilities in the future such that the expanded facilities would result in a connected load of 900kw or greater, that the facility would qualify under the exception set forth in O.C.G.A. Section 46-3-8(a).").

2. The proposed supplemental direct testimony is irrelevant and unhelpful to the hearing officer in resolving the issue in this case.

Georgia Power objects to the Motion as it seeks to introduce irrelevant evidence. Under Georgia law, "[e]vidence is relevant if it logically tends to prove or disprove a material fact at issue in a case."[5] Cartersville's request to offer evidence and testimony of "Atkore's connected load at the time of its initial operation of the premises" does not address any of the elements of the Territorial Act's large load exception. (Motion at 2.) The proffered evidence seeks to establish Atkore's planned **use** of the premises; it does not address the connected load **of the premises** at initial full operation.

Further, the duplicative nature of the additional load study precludes any relevance it could have, as Petitioner already introduced load studies dated May 31, 2023, and August 30, 2023. (*See* Exhibit P24 and P14.) A prospective load count conducted some nine months *after* Cartersville filed its petition is not helpful to the hearing officer in resolving the issue in this case. For each of these reasons, Georgia Power objects to the introduction of the irrelevant testimony in this proceeding.

CONCLUSION

Courts routinely exclude irrelevant testimony and evidence, whether late or timely. The Hearing Officer appointed by the Commission may do so as well. *See Ga. Power Co. v. Ga. Pub. Service Comm'n*, 122 P.U.R. 4th 214 (July 21, 1988) ("Determining the competency and relevancy of evidence is within the express parameters of the Commission's authority and cannot be disturbed on review [ ] unless that authority has been manifestly abused.") The July 16th load study and any supporting testimony of Gregory A. Rupert are irrelevant, untimely, and in violation of

[5] *Jackson Elec. Membership Corp. v. Georgia Pub. Serv. Comm'n*, 294 Ga. App. 253, 260 (2008); *see* O.C.G.A. § 24-4-401.

the Scheduling Order. Accordingly, the Commission should deny Petitioner's Motion for Leave to File Supplemental Prefiled Direct Testimony.

Respectfully submitted, this 15th day of September, 2025.

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