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June 5, 2026

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 Response in Opposition to Atlanta Gas Light Company's Motion to Dismiss
Docket No. 56177

Dear Mrs. Tanner:

Enclosed for filing on behalf of SCANA Energy Marketing LLC's Response in Opposition to Atlanta Gas Light Company's Motion to Dismiss. Please return the extra copy to us showing the date of filing for the extra document. Thank you for your attention to this matter.

Sincerely,

HALL BOOTH SMITH, P.C.

William Bradley Carver, Sr.

Attorney for SCANA Energy Marketing, LLC

WBC/
Attachment

BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

SCANA Energy Marketing, LLC,	
Petitioner,	
v.	**Docket No. 56177**
Atlanta Gas Light Company,	
Respondent.	

PETITIONER'S RESPONSE IN OPPOSITION TO ATLANTA GAS LIGHT COMPANY'S MOTION TO DISMISS

The Georgia Public Service Commission ("Commission") has authority to review AGL's conduct on its Georgia distribution system. SCANA Energy Marketing, LLC ("SCANA") alleges that Atlanta Gas Light Company's ("AGL") decisions left it with no real way to avoid penalties. The Commission's Review would not interfere with federal regulation, change Transco's tariff, regulate retail pricing, or shift SCANA's costs to customers. It would only hold AGL accountable for how it administered its regulated intrastate distribution functions.

Review is essential because avoidable penalties should not become recurring costs for marketers or, ultimately, Georgia customers. AGL tries to recast this case as a federal jurisdiction dispute, but SCANA plainly challenges AGL's handling of nominations, confirmations, Daily Supply Requirements ("DSR") obligations, and

marketer communications. Transco's Operational Flow Order ("OFO") is the backdrop, not a jurisdictional barrier.

That is enough to survive dismissal. SCANA alleges a dispute the Commission can hear: AGL's conduct, not Transco's tariff. Accordingly, AGL's Motion to Dismiss ("Motion") should be denied.

ARGUMENT

I. The Complaint falls within Georgia and the Commission's authority to review AGL's tariff administration.

AGL's jurisdictional argument is a red herring. Georgia law authorizes the Commission to review AGL's conduct. Under O.C.G.A. § 46-2-20, the Commission exercises general supervision over regulated gas companies, may hear complaints, may require reasonable and just public services and facilities, and may examine how regulated companies are "managed, conducted, and operated." O.C.G.A. § 46-2-20(a), (b), (c), (e). That statutory authority fits this case.

Georgia authority confirms that this is the type of intrastate utility matter the Commission may review. The Georgia Supreme Court has recognized that "[t]he state has full power and authority to regulate and control business within its jurisdiction," absent a conflict with the state or federal constitution. *Montgomery & Atlanta Freight Lines v. Ga. Pub. Serv. Comm'n*, 175 Ga. 826 (1932). Consistent with that principle, the Commission has exercised authority over Georgia natural gas distribution systems, including certification, service-territory issues, and claims that

one gas system unreasonably interfered with another existing gas distribution system. *Atlanta Gas Light Co. v. City of Monroe*, Nos. 22787-U, 22850-U, 2007 WL 817287, at *2–3, *17–18 (Ga. P.S.C. Jan. 16, 2007); *In re City of Monroe*, Nos. 22787-U, 22850-U, 2006 WL 3896659, at *14–18 (Ga. P.S.C. Dec. 11, 2006). Those authorities confirm that SCANA's claim falls on the state-regulated side of the jurisdictional line because SCANA seeks review of AGL's administration of its own Georgia-regulated distribution functions. The Commission's authority also includes oversight of AGL's conduct as an electing distribution company and practices affecting certificated marketers' access to AGL's distribution system. *See* O.C.G.A. § 46-4-155. AGL's operational discretion exists within that Commission-regulated framework. That discretion may be broad, but it is not beyond review when its exercise affects marketers' access to, and ability to operate on, AGL's distribution system.

Contrary to AGL's assertion, the Complaint does not concern remote interstate activity divorced from AGL's system. The OFO event directly implicated AGL's administration of nominations and confirmations, and its lack of timely communication with marketers operating on its distribution system. AGL's decisions at those operational touchpoints limited marketers' ability to respond to and mitigate penalties. That is sufficient to establish a jurisdictional nexus to AGL's regulated conduct.

A. Transco's tariff does not shield AGL's conduct from Commission review.

The Federal Energy Regulatory Commission's ("FERC") authority over interstate pipelines does not immunize AGL's intrastate conduct from Commission review. Transco's OFO and tariff provisions provide factual context; they do not transform this proceeding into one of interpreting or modifying federal law.

Federal precedent confirms that FERC's authority over interstate transportation does not erase state authority over local distribution. *Bd. of Water, Light & Sinking Fund Comm'rs of City of Dalton v. FERC*, 294 F.3d 1317, 1322–23 (11th Cir. 2002). That same boundary applies in the FERC-approved rate and tariff context. In *Kentucky West Virginia Gas*, federal authority over FERC-approved rates and tariffs did not bar state review of separate state-regulated utility conduct. *See Ky. W. Va. Gas Co. v. Pa. Pub. Util. Comm'n*, 837 F.2d 600, 608–09 (3d Cir. 1988). Here, SCANA does not challenge Transco's tariff or the upstream Transco OFO penalties. It challenges AGL's Commission-regulated administration of nominations and confirmations (AGL Tariff[1] §19.4), DSR revisions (AGL Tariff §15.1.2), and marketer communications on December 13, 2025. That is local utility conduct, not federal tariff regulation.

AGL's suggestion that SCANA's claims belong before FERC only underscores the defect in its position. FERC regulates interstate pipeline matters; it

[1] Atlanta Gas Light Company Tariff for Gas Service ("AGL Tariff")

does not remedy deficiencies in AGL's administration of its own state-regulated distribution functions. Accepting AGL's position would leave that conduct effectively unreviewable, contrary to the Commission's statutory duty to supervise regulated utilities operating within Georgia. FERC has recognized the same boundary, distinguishing interstate capacity matters from AGL's "state-regulated, behind the city gate operations and services on its facilities in Georgia." *See Georgia Public Service Commission*, 110 FERC ¶ 61,048, at p. 35. Similar to those matters, SCANA's Complaint falls on the intrastate side of that line. The Commission may therefore review AGL's distribution-system conduct without implicating federal preemption.

II. SCANA has stated a claim by alleging reviewable conduct within the Commission's authority.

AGL cites no rule, regulation, or precedent requiring SCANA to allege an express tariff violation before the Commission may review regulated conduct. Thus, as a threshold matter, AGL's Motion to Dismiss asks the Commission to resolve disputed merits issues at the pleading stage. But SCANA needs only to "plainly and distinctly state the grounds thereof, all being set forth in writing" to file a Complaint to the Commission. Ga. Comp. R. & Regs. Chapter 515-2-1.04(1). Further, as the nonmoving party, SCANA's factual allegations should be construed in the light most favorable to SCANA, with any doubts resolved in its favor. *McCloud v. Lowndes Cnty. Bd. of Commissioners*, 369 Ga. App. 756, 756 (2023). Together, those points

leave AGL with a merits argument rather than a pleading defect. Therefore, dismissal is inappropriate because the Complaint plainly and distinctly alleges that AGL's intrastate conduct caused or contributed to SCANA's penalty exposure. *See* Compl. ¶¶ 21-26, 30-31.

More specifically, SCANA alleges that AGL posted or maintained DSR obligations, controlled whether volumes would be confirmed or accepted, and failed to provide timely notice before the post-cycle nomination deadline that would have allowed SCANA to reduce its exposure. *Id.* Those allegations concern AGL's administration of its own distribution system. AGL's Motion to Dismiss does not erase those pleaded operational facts. Because AGL had system-level visibility that marketers lacked, the Complaint plausibly supports Commission review of whether AGL's use of its operational tools caused or contributed to the penalties.

AGL's tariff undermines any suggestion that its distribution-system conduct is beyond Commission oversight. The tariff defines "Tariff" as "[a]ll Rate Schedules, Terms of Service, and Rules and Regulations approved by the Commission relating to Gas Service by the Company." AGL Tariff §§ 1.91, 3.1. That language reinforces the Commission's authority because the challenged conduct occurred within AGL's administration of Commission-approved tariff functions governing access to and operation on AGL's Georgia distribution system.

The DSR framework makes that jurisdictional connection concrete. DSR is

the minimum gas supply a marketer must tender to a Primary Pool to satisfy its share of firm requirements. *See* AGL Tariff §§ 15.1.1, 15.1.2. SCANA alleges that, during the Transco OFO, AGL's practices limited SCANA's ability to manage its nominations and available volumes to remain in compliance. That is a dispute over AGL's administration of its Georgia tariff during operational constraints, not a request to reinterpret or modify Transco's federal tariff.

AGL's reliance on discretionary tariff language does not defeat the Complaint. Discretion under a Commission-approved tariff is not immunity from Commission oversight. The Commission may review whether a utility's conduct within its regulated functions was reasonable and consistent with its obligations. That is especially true where, as here, the Complaint alleges that AGL's operational decisions foreclosed available mitigation measures during the OFO event.

AGL's own Motion confirms that its argument is a merits defense, not a pleading defect. AGL acknowledges that SCANA identified Tariff Sections 15.1.2, 17.2, and 19.4, but argues that those provisions did not require AGL to act differently. That argument must be tested in further proceedings. It does not justify dismissal at the threshold. If AGL's position were accepted as true, it would convert tariff discretion into unreviewable authority. The Commission should reject that premise. Whether AGL ultimately acted reasonably is a merits question, not a basis for dismissal.

III. SCANA bears ordinary market risk, not practical compliance traps.

SCANA does not seek to shift ordinary market risk or regulate marketer pricing. It accepted commodity market risks, including price volatility. It did not accept the risk that AGL would preclude any meaningful opportunity to mitigate penalty exposure.

The distinction is concrete: AGL had superior knowledge of operational constraints yet failed to notify marketers in a timely manner or meaningfully use any available mitigation tools before the post-cycle nomination deadline. Compl. ¶¶ 21, 24. That is an operational risk created by the intrastate-regulated utility, not an ordinary market risk borne by the marketer.

AGL's tariff structure did not give SCANA a meaningful choice to avoid penalties. In fact, AGL's tariff placed SCANA in an unavoidable penalty outcome: either satisfy AGL's posted DSR and risk Transco OFO penalties if excess gas remained upstream, or reduce deliveries and risk AGL's DSR incentive (penalties) for deficient volumes. The Complaint alleges that AGL controlled the operational tools necessary to avoid that dilemma, including DSR revisions, confirmations, and notice. Accepting those allegations as true, SCANA has plausibly alleged operational harm caused by AGL's administration of its own tariffed functions, not ordinary market risk assumed by SCANA.

AGL's Motion also recasts SCANA's requested relief. SCANA's request for

reimbursement is not an attempt to have Georgia customers absorb SCANA's penalties. SCANA challenges AGL's conduct within the Commission-regulated distribution system. When that conduct foreclosed SCANA's ability to comply with upstream requirements or reduce its exposure, the resulting harm was not merely market driven. Instead, it flowed from AGL's regulated operational decisions. Any relief would not regulate customer rates or alter Transco's tariff; it would hold AGL responsible for harm caused by its own regulated conduct.

O.C.G.A. § 46-4-160(c) does not change that conclusion. SCANA is not asking the Commission to regulate the price at which SCANA sells natural gas to customers. It seeks review of AGL's conduct as a regulated distribution utility. Any remedy would flow from the Commission's evaluation of that conduct and ordinary principles of causation, not from regulation of marketer retail pricing. AGL's position would distort, not protect, the competitive market. If AGL may impose or preserve operational risk created by its own tariff administration, affected marketers must price that risk into future customer offerings. Larger marketers, whose volumes are more likely to exceed upstream tolerances, would bear a greater risk premium even when they engaged in the same conduct as smaller marketers. That is not ordinary competition. It is a market consequence of AGL's regulated operational conduct, and it reinforces why Commission review is appropriate.

Lastly, the Georgia Natural Gas Competition and Deregulation Act

("Deregulation Act") does not place AGL's conduct beyond review. The Deregulation Act limits the Commission's authority over marketer pricing; it does not immunize a regulated distribution company from oversight of its own operational decisions. AGL's contrary position would convert deregulation into a shield against scrutiny of utility conduct and place core aspects of AGL's system administration outside Commission review. At minimum, SCANA has plausibly alleged that AGL's actions caused or materially contributed to the penalties at issue.

CONCLUSION

For these reasons, SCANA respectfully requests that the Commission deny Atlanta Gas Light Company's Motion to Dismiss and permit SCANA's Complaint to proceed.

Respectfully submitted this 5th day of June, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on this day, I have e-filed with the Commission the foregoing PETITIONER'S RESPONSE IN OPPOSITION TO ATLANTA GAS LIGHT COMPANY'S MOTION TO DISMISS, and served by email to the following parties:

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Respectfully submitted this 5th day of June, 2026.

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