BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

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

ATLANTA GAS LIGHT COMPANY'S REPLY TO SCANA ENERGY MARKETING, LLC'S RESPONSE IN OPPOSITION TO ATLANTA GAS LIGHT COMPANY'S MOTION TO DISMISS

Atlanta Gas Light Company ("AGL" or "Company") files with the Georgia Public Service Commission ("Commission") this Reply to SCANA Energy Marketing, LLC's ("SCANA") response ("Response") to AGL's motion to dismiss the complaint SCANA filed on April 6, 2026 ("Complaint"). The Complaint seeks redress beyond the Commission's jurisdiction and fails to state a claim upon which the Commission may grant relief, and SCANA's Response fails to remedy the Complaint's failures. Therefore, the Commission should dismiss the Complaint without further action.

INTRODUCTION

The Commission should grant AGL's Motion to Dismiss because: (1) the Commission does not have jurisdiction over a FERC-regulated pipeline penalty; and (2) even if the Commission were to have jurisdiction, SCANA failed to state a basis for a cause of action. This is not a rate proceeding. This is not a violation of Part 192 of the federal code. This is a penalty assessed by a federally regulated interstate pipeline to a shipper.

SCANA's Response confirms rather than cures the fundamental defect in the Complaint: SCANA asks this Commission to determine that penalties assessed by a federally regulated interstate pipeline, Transcontinental Gas Pipe Line Corporation ("Transco"), under Transco's FERC-approved tariff were "unavoidable" and to order AGL to reimburse SCANA for those federally regulated penalties. (Response at 8). That relief requires the Commission to interpret and apply Transco's tariff provisions, evaluate compliance with a FERC-jurisdictional operational flow order ("OFO"), and shift a marketer's interstate pipeline costs to a regulated distribution utility—all without identifying any violation of Georgia law, any Commission order, or any enforceable provision of AGL's Commission-approved tariff.

The Response attempts to recast the Complaint as a challenge to AGL's "intrastate distribution functions" in an effort to invoke state law, but SCANA cannot escape the core problem: the alleged harm is a Transco OFO penalty, the claimed cause is an inability to comply with Transco's tariff scheduling provisions, and the requested remedy is reimbursement of those Transco penalties by AGL. (Response at 1). No amount of relabeling converts a federal pipeline penalty dispute into a state-law claim actionable before this Commission.

Additionally, SCANA's Response fails to allege any new facts that give the Commission authority to override these constitutionally imposed jurisdictional boundaries. SCANA has failed to plead a set of facts sufficient for the Commission to grant relief, and the Commission must dismiss SCANA's Complaint.

ARGUMENT

I. SCANA CANNOT MANUFACTURE COMMISSION JURISDICTION BY RELABELING A TRANSCO PENALTY DISPUTE AS AN AGL DISTRIBUTION ISSUE.

SCANA couches its Response in Georgia law, but the substance of its allegations and the relief it seeks remain outside the Commission's jurisdiction. SCANA contends that it "alleges a

dispute the Commission can hear: AGL's conduct, not Transco's tariff." (Response at 2). And yet, the relief SCANA ultimately seeks is an order requiring AGL to reimburse SCANA for the federally regulated interstate pipeline penalties. Transco imposed the penalties under its FERC-approved tariff, which is wholly outside the Commission's scope of review.

SCANA relies on *Montgomery & Atlanta Freight Lines v. Georgia Public Service Commission*, 166 S.E. 200 (Ga. 1932), and *Atlanta Gas Light Co. v. City of Monroe*, Docket Nos. 22787-U and 22850-U, 2007 WL 817287 (Ga. Pub. Serv. Comm'n Jan. 16, 2007), which establish only that the Commission has authority over intrastate distribution matters.[1] Neither case holds that the Commission may provide relief from failure to comply with a FERC-jurisdictional pipeline's OFO. Similarly, *Board of Water, Light & Sinking Fund Commissioners of City of Dalton v. Federal Energy Regulatory Commission*, 294 F.3d 1317 (11th Cir. 2002), and *Kentucky West Virginia Gas Co. v. Pennsylvania Public Utility Commission*, 837 F.2d 600 (3d Cir. 1988), recognize jurisdictional boundaries between state and federal regulation—they do not support Commission authority to determine whether Transco OFO penalties were justified or to reallocate those penalties from a marketer to a distribution utility.[2] In fact, in *Kentucky West Virginia Gas Co.*, the Third Circuit cautioned that "[a]n otherwise valid state law may not be applied in such a way as to interfere with a federal regulatory scheme." 837 F.2d at 609.

Notably, *Georgia Public Service Commission*, Docket Nos. RP04-92-001 and RP04-92-002, 2005 WL 139752 (FERC Jan. 24, 2005), which SCANA cites, distinguishes between state-regulated operations behind the city gate and interstate capacity and tariff matters that remain

[1] Notably, *Montgomery & Atlanta Freight Lines* addresses freight line distribution, and *Atlanta Gas Light Co.* does not address a federal jurisdiction argument.

[2] Furthermore, in *Board of Water, Light & Sinking Fund Commissioners of City of Dalton*, the Eleventh Circuit found that FERC "was acting well within its jurisdictional mandate in approving [a] direct delivery connection" despite Congress carving out an exclusion "in particular over the 'local distribution' of natural gas to consumers." 294 F.3d at 1322-23. The Eleventh Circuit went on to say, "we do not believe that the existence of local effects which may be subject to state regulation deprives the Commission of authority to regulate the interstate transport of natural gas—an issue squarely within FERC's jurisdictional mandate." *Id.* at 1326.

within FERC's exclusive jurisdiction. SCANA's requested relief requires the Commission to pass judgment on the propriety of Transco's OFO penalties and the availability of post-cycle nomination procedures under Transco's tariff. These are precisely the interstate tariff matters that FERC, not the Commission, has jurisdiction to decide. SCANA further asserts that it "does not challenge Transco's tariff or the upstream Transco OFO penalties." (Response at 4). This assertion does not comport with the assertions made in the Complaint. SCANA would have the Commission interfere with a FERC-approved penalty system. Such interference is not within the Commission's jurisdiction.

Nowhere in the Complaint or in the Response does SCANA establish any obligation under Georgia law, AGL's tariff, or a Commission order that requires AGL to have taken the actions SCANA now argues justify requiring AGL and its customers to pay SCANA's OFO penalties. SCANA's citations to state law and authorities cannot overcome this fatal flaw in the substance of the Complaint. All SCANA has established is that the Commission has authority to regulate AGL under certain circumstances that do not fall within federal jurisdiction; SCANA has *not* established that the Commission has authority to regulate AGL under *these* circumstances SCANA alleged in its Complaint, which *do* fall within federal jurisdiction. *See, e.g.*, *Georgia Public Service Commission*, 111 FERC P 61178, 2005 WL 1060915, at *3 (FERC May 6, 2005) ("The [Natural Gas Act] gives [FERC] exclusive jurisdiction over the allocation of interstate pipeline capacity, including any releases by LDCs of their interstate capacity to marketers."). The Commission's general supervisory power is not a roving license to adjudicate any dispute tangentially connected to a regulated utility. Thus, the Commission does not have jurisdiction over federally regulated interstate pipeline penalties, and the Commission should grant AGL's Motion to Dismiss.

II. THE COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF MAY BE GRANTED.

The Complaint fails to allege a violation of Georgia law, Commission order, or the Commission-approved tariff that would empower the Commission to act on the Complaint. Even in the Response, SCANA is unable to summon any facts upon which the Commission may grant relief. SCANA "seeks review of AGL's administration of its own Georgia-regulated distribution functions" and vaguely references "AGL's administration of nominations and confirmations, and its lack of timely communication with marketers operating on its distribution system" without alleging any *plain and distinct* facts that amount to a violation of Georgia law, Commission order, or AGL's tariff warranting Commission review. (Response at 3). The relevant question on a motion to dismiss is whether SCANA has pleaded a cognizable claim—i.e., a violation of an enforceable duty owed to SCANA under AGL's tariff or Georgia law. *See, e.g.*, *JPMorgan Chase Bank, N.S. v. Durie*, 830 S.E. 2d 387, 391 (Ga. Ct. App. 2019) (reversing the lower court's refusal to grant a motion to dismiss in part due to the appellee's failure "to allege any cognizable statutory or common law duty that the Appellants allegedly breached"). SCANA has not met this threshold.

SCANA invokes the liberal pleading standard of Ga. Comp. R. & Regs. 515-2-1-.04(1) and *McCloud v. Lowndes County Board of Commissioners*, 369 Ga. App. 756 (2023), arguing that the Commission must construe SCANA's factual allegations in SCANA's favor and that SCANA need only "plainly and distinctly state the grounds" of its complaint. (Response at 5). Even under the most liberal construction, a complaint must state a claim on which the tribunal can grant relief. Accepting SCANA's factual allegations as true for purposes of this Motion, those allegations must still identify a legal duty that AGL violated and a remedy within the Commission's power to award. The Complaint identifies no AGL tariff provision that AGL

breached, no Georgia statute that AGL violated, and no Commission rule or order that AGL contravened. Further, the Complaint fails to request relief that is within the Commission's power to award. SCANA instead asks the Commission to invent a reasonableness-and-causation standard not found in AGL's tariff or Georgia law, and to adjudicate after-the-fact whether AGL's real-time operational decisions were optimal from SCANA's perspective. That is not a cognizable claim, regardless of how generously the Commission construes the factual allegations.

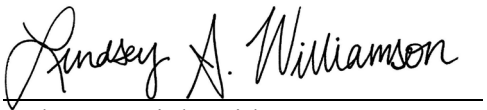
SCANA argues it faced a "dilemma": deliver gas to satisfy AGL's posted daily supply requirement ("DSR") and risk Transco penalties if supply exceeded demand or reduce deliveries and risk AGL DSR incentive penalties. (Response at 8). But this is the inherent commercial tension that marketers operating in a deregulated wholesale environment must manage. The obligation to balance supply and demand across both a local distribution company's system and an interstate pipeline's capacity is a core function of gas marketing. That other marketers navigated this same situation without incurring penalties demonstrates that compliance was achievable. Moreover, characterizing normal market risk as a "dilemma" imposed by AGL does not transform AGL's ordinary tariff administration into actionable misconduct. AGL posted DSRs consistent with its Commission-approved tariff authority. AGL confirmed nominations consistent with that same tariff authority. SCANA had access to the same Transco OFO notices that the rest of the market had access to. The fact that Transco subsequently imposed penalties on certain shippers who failed to comply with the OFO reflects the operation of Transco's tariff, not a violation of AGL's. The onus to comply with the Transco OFO is on the shipper. SCANA is the shipper. Being part of the Georgia market does not relieve SCANA of its FERC obligations.

CONCLUSION

AGL respectfully requests that the Commission grant AGL's Motion to Dismiss the Complaint. SCANA has failed to state a claim on which the Commission can grant relief. The Complaint identifies no violation of AGL's tariff, no breach of Georgia law, and no contravention of a Commission. The relief SCANA seeks—reimbursement of FERC-jurisdictional pipeline penalties—would require the Commission to interpret and apply Transco's tariff, exceed the boundaries of state regulatory jurisdiction, and undermine the competitive natural gas market structure established by the General Assembly.

Respectfully submitted this 6th day of July 2026.

HOLLAND & KNIGHT LLP



Robert S. Highsmith Jr.
State Bar of Georgia No. 352777
Lindsey S. Williamson
State Bar of Georgia No. 783366

Attorneys for Atlanta Gas Light Company

1180 West Peachtree Street, N.W.
Suite 1800
Atlanta, Georgia 30309
Telephone: (404) 817-8500
Facsimile: (404) 881-0470
Robert.highsmith@hklaw.com
Lindsey.williamson@hklaw.com

BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

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

CERTIFICATE OF SERVICE

I do hereby certify that I have caused to be served the foregoing **ATLANTA GAS LIGHT COMPANY'S REPLY TO SCANA ENERGY MARKETING, LLC'S RESPONSE IN OPPOSITION TO ATLANTA GAS LIGHT COMPANY'S MOTION TO DISMISS**, upon the following parties via email as follows:

Sallie Tanner
Executive Secretary
Georgia Public Service Commission
244 Washington St., S. W.
Atlanta, GA 30334
stanner@psc.ga.gov

William Bradley Carver, Sr., Esq.
Rodney P. Favors, Jr., Esq.
Hall Booth Smith, P.C.
191 Peachtree Street NE, Suite 2900
Atlanta, Georgia 30303
bcarver@hallboothsmith.com
rfavors@hallboothsmith.com

Nancy Tyer, Director Natural Gas Unit
Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, GA 30334
ntyer@psc.ga.gov

J. Brett Newsom
Adam Wise
SCANA Energy Marketing, LLC
3344 Peachtree Road, Suite 2150
Atlanta, Georgia 30326
brett.newsom@scanaenergy.com
adam.wise@scanaenergy.com

Janey Chauvet, Sr. Engineer
Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, GA 30334
jchauvet@psc.ga.gov

Nijah James, Engineer
Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, GA 30334
njames@psc.ga.gov

Keimani Harvey, Attorney
Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, GA 30334
kharvey@psc.ga.gov

Blake O'Farrow
Director, External Affairs
Southern Company Gas
10 Peachtree Pl NE
Atlanta, GA 30309
bofarrow@southernco.com

Elizabeth Wade
Chief Counsel, Regulatory Affairs
Southern Company Gas
10 Peachtree Pl NE
Atlanta, GA 30309
ewade@southernco.com

William S. Horne
Director – Resource Planning &
Economic Development
Southern Company Gas
10 Peachtree Place NE
Atlanta, Georgia 30309
bhorne@southernco.com

Juan Johnson
SouthStar Energy Services LLC
30 Ivan Allen, Jr. Blvd. NW
Suite 900
Atlanta, GA 30308
juajohns@southernco.com

Sandy Lomm
NextEra Energy Services Georgia LLC
900 Circle 7 5 Parkway Southeast
Suite 200, Atlanta, GA
sandy.lomm@nexteraenergy.com

Patricia McFadin
SouthStar Energy Services LLC
30 Ivan Allen, Jr. Blvd. NW
Suite 900
Atlanta, GA 30308
Trish.mcfadin@southstarenergy.com

Robert B. Remar, Esq.
Tawney D. Mack, Esq.
Smith Gambrell Russell LLP
1105 W. Peachtree Street NE
Suite 1000
Atlanta, Georgia 30309
rremar@sgrlaw.com
tmack@sgrlaw.com

Meredith Hodges
Ashley Jenkins
David Wanger
Freddy Cardozo
Gas South, LLC
3625 Cumberland Blvd, Ste. 1500
Atlanta, GA 30339
Meredith.Hodges@GasSouth.com
Ashley.Jenkins@gassouth.com
David.Wagner@gassouth.com
Freddy.Cardozo@gassouth.com
Regulatory@GasSouth.com

Mark Caudill
Mark D. Caudill, LLC
Attorney at Law
3290 Commons Gate Bend
Berkeley Lake, GA 30092
mark@MDCaudill.com

Noah Turner
Brad Puryear
Mansfield Power and Gas, LLC
2765 Woodwin Rd.
Doraville, Georgia 30305-2980
nturner@mansfieldoil.com
bpuryear@mansfieldoil.com

Jim Bottone
Phil Weatherly
Walton EMC Natural Gas
P.O. Box 260
842 U.S. Hwy 78
Monroe, GA 30655
jbottone@waltonemc.com
pweatherly@waltongas.com

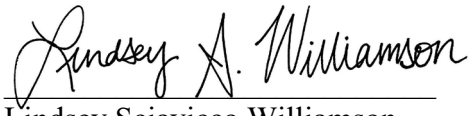
Leslie Marler
Lori Smith
True Natural Gas
807 Collingsworth Road
Palmetto, GA 30268
lmarler@truenaturalgas.com
lorismith@truenaturalgas.com

Michelle Johnson
Texican Natural Gas Company
2839 Paces Ferry Road, Suite 725
Atlanta, GA 30339
mjohnson@texican.com

Robert B. Baker
Robert B. Baker, PC
2480 Briarcliff Road, NE, Suite 6
Atlanta, GA 30329
bobby@robertbbaker.com

This 6th day of July 2026.

HOLLAND & KNIGHT LLP



Lindsey Sciavicco Williamson
State Bar of Georgia No. 783366