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Executive Secretary G.P.S.C.

Docket # 44280
Document #



Ms. Sallie Tanner
Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334

Re: Docket No. 44280 (Georgia Power 2022 Rate Case) - In the Matter of the Document Filing #227259 (Large Load Contract Filing - 7.15.26)

Dear Ms. Tanner,

The organizations noted below respectfully request that Commission Staff file an objection to Document Filing #227259, concerning OpenAI's contract for electric service, and recommend that the Commission reject the contract unless it includes robust consumer protections sufficient to ensure that existing ratepayers are not exposed to any costs associated with serving this extraordinarily large new load.

As an initial matter, we commend Commission Staff, the Public Service Commissioners, and Georgia Power Company for their initial efforts in revising to the Company's Rules and Regulations approved in Docket No. 44280 in January 2025[1]. Those revisions established certain protections for existing customers when new customers with loads of 100 megawatts or more connect to Georgia Power's system. In particular, the Commission approved language providing that "[t]he Company shall exercise the discretion under the Rules and Regulations changes in a manner designed to protect existing customers from bearing any of the costs of adding these large customers."

[1]Order on Georgia Power Company's Revision to Rules and Regulations Tariff Compliance Filing, Docket No. 44280, Document No. 222325 (Ga. Pub. Serv. Comm'n Apr. 17, 2025), https://psc.ga.gov/search/facts-document/?documentId=222325

The Commission's order further established that large-load customers would be subject to a minimum bill designed to ensure that they bear the costs associated with serving their load. As the order explains:

> Under the draft terms and conditions, customers would pay the higher of tariffed rates or a minimum bill amount each billing period they are a customer. If a customer ended the contract early, the customer would be liable for the minimum bill amounts (not tariffed rate amounts) for each period for the remaining term of the contract.[2]

The order further explains that "[t]he minimum bill amounts would be set to recover the transmission and generation costs being incurred to serve the new large-load customers." This principle was reinforced by Southern Company, Georgia Power's parent company, during its first-quarter 2026 earnings call, when the Company described the minimum bill as being "designed to recover all of the costs introduced into the system.[3]"

These commitments establish a clear framework that should govern the Staff's review of OpenAI's contract: existing Georgia Power customers should not be required to subsidize the costs of serving a new large-load customer. Given the unprecedented scale of the load, projected to be 3.2 gigawatts, according to OpenAI[4], it is particularly important that Staff ensure the agreement contains enforceable protections that fully insulate existing ratepayers from costs associated with the project, including costs arising from new generation, transmission, distribution, system upgrades, or other investments necessary to serve the load.

Yet, as our expert witness, John Wilson, explained in Sierra Club, SACE and NRDC's testimony in the 2025 Rate Case Stipulation, Docket No. 44280, the protections could provide meaningful safeguards against exposing existing customers to the costs of serving new large-load customers only "if diligently implemented by Georgia Power[5]". Mr. Wilson also cautioned that the rules and tariffs provide Georgia Power with substantial discretion in their implementation, creating significant risks if those protections are not applied rigorously.

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[2] Id.

[3] *Southern Co. (SO) Q1 2026 Earnings Call Highlights: Strong Growth and Strategic Advances*, Yahoo Finance (Apr. 30, 2026). https://finance.yahoo.com/sectors/energy/articles/southern-co-q1-2026-earnings-071800118.html

[4] OpenAI, Building AI Infrastructure with the Effingham County Community (July 22, 2026), https://openai.com/index/building-ai-infrastructure-with-the-effingham-county-community/.

[5] John D. Wilson, *Direct Testimony of John D. Wilson on Behalf of Natural Resources Defense Council, Sierra Club and the Southern Alliance for Clean Energy*, Docket No. 44280, Doc. No. 222977 (Ga. Pub. Serv. Comm'n June 12, 2025).

Specifically, Mr. Wilson warned that if Georgia Power establishes contract terms that are insufficient to fully recover the costs associated with generation or transmission infrastructure built to serve a new large-load customer, those costs could ultimately be borne by future customers if the underlying contracts are not renewed or replaced by comparable load. As he explained:

> If Georgia Power sets contract term lengths that are insufficient to fully recover depreciation expense for generation or transmission plants built to serve the additional load, then future customers could bear those costs if the contracts are not renewed or replaced with other customer load.[6]

That concern is particularly relevant to the contract before Staff. The magnitude of the load from the announced OpenAI project heightens the consequences of any shortcomings in the fully redacted contract's cost-recovery provisions. A contract that does not adequately ensure recovery of all costs incurred to serve the load could leave existing or future Georgia Power customers responsible for those costs.

Sierra Club, SACE and NRDC's testimony also raised concerns about whether the existing process for reviewing cost-of-service data and methods, and their application to tariffs, is sufficient to protect existing customers. As Mr. Wilson explained, Georgia Power's practice of entering into large-load contracts creates a fundamental timing problem: these contracts may be executed before Staff and other parties have an opportunity to evaluate their implications through a cost-of-service proceeding. Without full disclosure of the terms and financial implications of these agreements, it may be impossible to determine whether they adequately protect existing customers.

Mr. Wilson cautioned that:

> If Georgia Power's approach to these contracts is flawed, neither Staff nor other parties will have the information needed to raise concerns about how those contracts affect the rates of other customers until the cost-of-service study is made available for review.[7]

Critically, waiting until a future rate case to identify and address shortcomings in a contract may be too late. As our testimony noted, "[d]eferring this review until the next rate case could create a situation where either

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[6] Id.

[7] Id. (Wilson, *Direct Testimony*, Docket No. 44280, Doc. No. 222977.)

customers or Georgia Power have to bear the costs obligated in those contracts if the guaranteed revenues are insufficient.[8]"

For these reasons, we respectfully request that Commission Staff file a formal objection to Document Filing #227259 by the August 14, 2026, deadline and recommend that Staff reject the contract unless and until it includes sufficient protections to ensure that OpenAI remains financially responsible for the costs associated with its contracted load.

Additionally, Staff should also object to the contract in order to ensure that a public process can occur around an agreement of this magnitude. A contract involving potentially billions of dollars in new infrastructure and a customer with an exceptionally large load should not be approved without meaningful public scrutiny of the terms that will determine who bears the risks if the customer's load does not materialize as anticipated, the customer terminates the agreement early, or the investments required to serve the load exceed the revenues ultimately recovered from the customer.

At a minimum, Staff should ensure that OpenAI cannot terminate or materially reduce its contracted load without sufficient financial obligations to cover the full lifecycle costs of generation, transmission, and distribution that Georgia Power has incurred or committed to incur on its behalf. The contract should include enforceable provisions requiring OpenAI to stand behind its commitments through a combination of up-front financial commitments, appropriate collateral requirements, and minimum bills sufficient to recover the full costs of serving its load. These protections should remain in place for a term sufficient to ensure that the costs of generation, transmission, and other infrastructure dedicated to serving the customer are fully recovered.

The Commission should also use this opportunity to establish greater transparency and accountability for large-load contracts going forward. The current process does not provide sufficient public visibility into agreements that can have significant implications for other Georgia Power customers. At a minimum, the Commission should require that material terms of large-load contracts be made publicly available in unredacted form, including:

- Contracted load, including the total MW or GW commitment;
- Load ramp-up schedules and anticipated in-service dates;
- Contract duration and renewal provisions;
- Termination, curtailment, and early-exit provisions;
- Minimum bill requirements and the methodology used to establish them;
- Collateral, security, and other financial assurance requirements;
- The generation, transmission, and distribution investments attributable to serving the customer; and

[8] Id. (Wilson, *Direct Testimony*, Docket No. 44280, Doc. No. 222977.)

- The mechanisms through which the customer is responsible for recovering those costs.

The Commission should further consider establishing a separate tariff class for large-load customers that incorporates these protections as standard requirements, rather than relying on individualized contracts and Georgia Power's discretion to determine whether and how those protections apply. As recommended in NRDC's report, *At the Crossroads: A Better Path to Managing Data Center Load Growth*[9], large-load customers should be required to commit to their contracted capacity through up-front financial payments, collateral requirements, and minimum bills designed to recover their full costs.

Finally, the Commission should establish a process for evaluating the broader system impacts of large-load customers before those costs are shifted to other ratepayers. This should include conducting studies to determine whether a proposed large load will increase costs for other customers and, where such impacts are identified, requiring the large-load customer to mitigate or fully cover those costs.

For contracts of this size, the Commission should also consider establishing a threshold above which a large-load contract requires an affirmative Commission vote before it can take effect. Such a threshold could be based on the size of the contracted load, for example, 500 MW, or the anticipated value of the associated investment, for example, $1 billion, or some combination of the two. Requiring Commission approval for contracts above such a threshold would ensure that decisions with potentially significant and long-lasting consequences for Georgia's electricity system and ratepayers receive the level of public and regulatory scrutiny they warrant.

At a minimum, the Commission should ensure that the contract between Georgia Power and OpenAI includes the following provisions:

1. Minimum Contract Term

The contract term length is a key component of the contract that helps determine the minimum total revenue which a new customer will be responsible for paying to the utility. Even when a customer terminates its service, the customer will still be required to pay the remaining minimum charges through the remaining contract term. Therefore, the contract length should be set at a length to ensure recovery of a reasonable fraction of total costs incurred by the utility to connect and serve the customer. Given that most electric system components are depreciated over a very long lifetime (often 30 years or more),

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[9] McKenna Beck and Jackson Morris, *At the Crossroads: A Better Path to Managing Data Center Load Growth*, Natural Resources Defense Council (Sept. 15, 2025), https://www.nrdc.org/resources/crossroads-better-path-managing-data-center-load-growth

the minimum contract duration must be long if it is to recover an adequate amount of revenue. Sierra Club, SACE and NRDC recommend a minimum contract length of at least twenty years to align the contract length with the life of generation and transmission assets. Contracts shorter than the life of assets procured or built for large load consumers can result in serious cost shifting to other ratepayers. At least six large load tariffs have established minimum contract lengths of fifteen years or more.[10]

Tariffs frequently include a ramp-up period, representing an initial period when capacity is gradually added as the large load customer meets certain milestones, after which the full contract terms would commence. Large load customers should continue to have to pay minimum demand billing charges and exit fees in the event of early termination. These charges and fees can be scaled to match contract capacity during the ramp-up period. In Louisiana, for example, Meta secured approval to build three new billion-dollar gas plants and related infrastructure based in part on a guarantee that ratepayers would be shielded from paying for the project.[11] But that same day, Meta sold off 80% of its ownership in a data center to a venture debt company, enabling Meta to depart from the project in as little as four years. Protections during the ramp-up period are essential for insulating ratepayers from project costs in the event that the trillion-dollar companies initiating them walk away.

2. <u>Minimum Billing Demand</u>

The Commission should require minimum billing demand of at least 80% of contract capacity, consistent with multiple approved tariffs, with serious consideration of 90% to better match the high load factors that data centers actually operate at and that drive cost causation. Minimum billing demand requirements ensure revenue stability even if the data center customer reduces usage. The minimum billing demand should apply to all demand-based charges, including distribution, transmission, and generation capacity charges, and it should apply during any ramp-up period, scaled to the capacity milestones established for that period. Even if data centers remain interconnected for the duration of their contract, they could underpay the grid costs that they incurred, and thus shift those costs to other customers, if the grid capacity they requested exceeds the amount that they actually use. To insulate other customers against this risk, existing and proposed large load tariffs in other states have typically included minimum billing requirements, frequently in the form of a percentage of

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[10] Alyssa Perez et al., RMI, Large Energy Users Want Power. Here's How to Protect Other Ratepayers from the Costs (Nov. 7, 2025), rmi.org/large-energy-users-want-power-heres-how-to-protect-other-ratepayers-from-the-costs/.

[11] Consumer Groups Alarmed as Louisiana PSC Declines to Take Up Probe into Meta Risky Financing Deal, Earthjustice (Feb. 25, 2026), earthjustice.org/press/2026/consumer-groups-alarmed-as-louisiana-psc-declines-to-take-up-probe-into-meta-risky-financing-deal.

contracted demand. These percentages have generally ranged from 75 to 100%.[12] Several utilities also include a minimum energy billing requirement.[13]

3. Exit Fees and Early Termination

Exit fees protect ratepayers if the customer terminates service before the contract term expires. Exit fees should equal the minimum billing demand multiplied by the number of months remaining in the contract term (or some minimum period such as 12 months, whichever is greater). For data center customers that do break their contracts, large load tariffs typically include an exit policy requiring the data center customer to pay the remaining minimum charges through the contract term,[14] blunting the revenue shortfall that could otherwise result from early termination. For example, Wisconsin Electric Power Company proposed to assess an exit fee equal to the remaining undepreciated value of any dedicated facilities,[15] and Public Service Company of Colorado proposed an exit fee of 75% of a customer's needs under customer load ramp schedule for the remainder of the 15-year service term.[16] Exit fees should additionally: (i) apply during any ramp-up period, scaled to ramp-up capacity milestones; (ii) include all minimum charges (energy, demand, and rider charges); (iii) only be reduced to the extent Alabama Power demonstrates offsetting revenues from reassigning the capacity or selling it into wholesale markets; (iv) apply in addition to any early termination penalties if less than required notice is provided.

4. Collateral

Collateral requirements are minimum criteria that large load customers must meet to ensure they can cover the costs of electric service provision. These requirements help reduce stranded asset risks and can also play a role in firming up the speculative nature of load interconnection requests. Two key elements must be determined: acceptable collateral forms and appropriate collateral amounts. The PSC should evaluate and define forms of acceptable collateral that stakeholders have agreed on in other venues. Recommended

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[12] Nelson Direct, at 59, Table 5 (Public Service Company of Colorado – 75% of scheduled demand; Appalachian Power Co., Indiana Michigan Power, Evergy, Evergy Kansas, Consumers – 80% of contracted demand; Dominion – 85% of contracted demand; AEP Ohio – 90% of contracted demand; Rappahannock Electric Cooperative – 100% of contracted MVA capacity, Wisconsin Electric Power Co. – 100% of firm demand).

[13] Id. (Appalachian Power Co., Dominion – 60% of energy).

[14] Id.

[15] Request for Approval of Very Large Customer Tariff, WE Energies, Wi. Pub. Serv. Comm'n Docket ID 6630-TE-113 at 10 (Mar. 31, 2025), apps.psc.wi.gov/ERF/ERFview/viewdoc.aspx?docid=539747.

[16] Rebuttal Testimony and Attachment of Thomas L. Bailey, Co. Pub. Util. Comm'n Proceeding No. 24A-0442E at 41 (May 23, 2025), www.dora.state.co.us/pls/efi/EFI_Search_UI.search.

forms of collateral are (1) cash or (2) irrevocable letters of credit. These forms of collateral are preferable to corporate guarantees from a parent company or surety bonds, which have increasingly been clouded by novel financing arrangements leveraging venture debt.[17]

Additionally, collateral requirements must be sufficiently high to guard against speculative load interconnection requests, given the inherent economic incentives to duplicate requests. For example, the Michigan Public Service Commission recently approved a default collateral requirement for Consumers Energy of 50% of the total minimum monthly charges multiplied by the number of months remaining on the full contract term, to be recalculated annually.[18] Similarly, the Virginia State Corporation Commission approved Dominion's collateral requirement of $1.5 million/MW (with a reduction of up to 70% based on the customer's established credit), with 1/14th of the collateral released each year throughout the contract term.[19]

5. <u>Contract Capacity Reductions</u>

Existing and proposed LLTs have typically included provisions addressing the potential for large load customers to reduce their capacity during the contract term. While some tariffs prohibit reduction in capacity altogether (e.g., Rappahannock Electric Cooperative; AEP Ohio), others authorize some amount of reduction with no penalty so long as the customer provides sufficient notice. For example, APCo's tariff authorizes a 20% reduction at no penalty in year 8 of the contract with 42 months notice.[20] Evergy authorizes a 10% reduction capacity with no penalty with 36 months notice.[21] Because the investments required to supply large customers presents stranded asset risk and the protection of other customer classes from paying inter-class subsidies depends on these customers fulfilling the terms of their contracts, it is important that a large load customer pays for any capacity reductions within the full term of the contract. Allowing a customer to reduce their capacity at no cost exposes other customer classes to unnecessary risk. Even if the utility is able to reassign the generation capacity of a reduced contract, there will be transmission and distribution assets directly serving the customer that cannot be reassigned and will not be fully paid for by the customer.

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[17] See, e.g., Matt Wirz, Three AI Megadeals Are Breaking New Ground on Wall Street, Wall St. J. (Nov. 11, 2025), www.wsj.com/tech/ai/three-ai-megadeals-are-breaking-new-ground-on-wall-street-896e0023.
[18] Michigan Large Load Tariff Order, at 112.
[19] Va. Final Order at 25.
[20] Nelson Direct at 59, Table 5.
[21] Id.

6. Cost Allocation.

This project may be the largest single electric load addition in Georgia history. While traditional ratemaking allocates all generation across all existing customers, the addition of a customer load that is much larger than most power generation units obviously, in and of itself, will trigger the need to construct additional generation. If that generation is gas, it may also trigger the need for additional firm pipeline capacity and a costly pipeline expansion project. Yet, the current ratemaking approach, which is based upon a 12 Coincident Peak ("12 CP") class allocation methodology, could allocate roughly half the costs of such generation to the residential class and further shares to small business.

The Commission should engage this issue directly and in a public forum, and it should do so before the project advances any further. The Commission should determine what share, if any, of the roughly three thousand megawatts of generation and related expenses such as firm pipeline transportation that will be necessary to supply the instant data center, will be charged to other ratepayers.

The Georgia Public Service Commission has an opportunity through its review of Document Filing #227259 to ensure that the promise of Georgia's large-load rules, that existing customers will be protected from the costs of serving new large loads, is meaningfully implemented. We respectfully urge Staff to file an objection by August 14 and recommend that the Commission reject the OpenAI contract unless it contains enforceable protections sufficient to safeguard Georgia's ratepayers, such as the ones outlined in this letter. We further urge the Commission to use this proceeding to establish a more transparent, accountable, and durable framework for evaluating large-load contracts in the future.

Sincerely,

Natural Resources Defense Council

Sierra Club Georgia Chapter

Southern Alliance for Clean Energy