BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

SUSTAINABLE NEWTON, SARA and RANDALL ("RANDY") VINSON, and THEODOSIA and WILLIAM ("BILLY") WADE,	)	
Petitioners,	)	Docket No. 57243
v.	)	
VOLTAGRID, LLC,	)	
Respondent.	)	

INTERVENOR GEORGIA EMC'S RESPONSE IN OPPOSITION TO VOLTAGRID'S MOTION TO DISMISS

Intervenor Georgia EMC hereby submits this response in opposition to VoltaGrid, LLC's ("VoltaGrid") argument in its Motion to Dismiss and supporting brief that the Public Service Commission ("Commission") has no jurisdiction to address VoltaGrid's violations of the Georgia Territorial Electric Service Act, O.C.G.A. §§ 46-3-1 through 46-3-15 ("Territorial Act") or its activities under the Georgia Cogeneration and Distributed Generation Act of 2001 ("Cogeneration Act"), O.C.G.A. §§ 46-3-50 through 46-3-56.[1]

INTRODUCTION

The General Assembly delegated to the Commission express, broad jurisdiction and authority to enforce the provisions of the Territorial Act. VoltaGrid's assertion that it is exempt from this jurisdiction and authority is based not on the language of the Territorial Act, but on the provisions of 1907 statutes, and authorities thereunder, that address the Commission's supervisory and ratemaking jurisdiction over entities that provide such extensive public service

[1] Georgia EMC takes no position herein on VoltaGrid's standing argument.

as to qualify as public utilities. Such statutes and authorities in no way diminish the Commission's broad authority to enforce the provisions of the 1973 Territorial Act. The Commission also has jurisdiction over VoltaGrid under the plain terms of the Cogeneration Act.

BACKGROUND

VoltaGrid acknowledges that "[f]or purposes of this motion [to dismiss], the allegations of the Petition are presumed to be true." VoltaGrid Br. at 7 n.26. *See Roberson v. Northrup*, 302 Ga. App. 405, 405 (2010) ("In ruling on a motion to dismiss, the trial court must accept as true all well-pled material allegations in the complaint and must resolve any doubts in favor of the plaintiff.") (citations omitted). The Petition for Expedited Declaratory Judgment and Enforcement Against VoltaGrid ("Petition") alleges that VoltaGrid, an electric power company headquartered in Texas, is constructing a 90-megawatt power generation facility in Covington, Georgia, that will sell power to a separate company called Serverfarm. Pet. ¶¶ 7-8. *See also id.* ¶ 17 ("VoltaGrid verified to EPD that it 'will provide prime power to the nearby Serverfarm facility.'"); ¶ 25 ("VoltaGrid plans to furnish power to Serverfarm . . ."). The Serverfarm premises are located at 10835 Hazelbrand Road NE in Covington, Georgia. *Id.* ¶ 8. The Petition further alleges that Georgia Power Company is the "electric supplier for that territory under the Territorial Act" and is "the primary electric supplier for Serverfarm's property." *Id.* ¶¶ 11, 25. The Petition further alleges that "Georgia Power is currently providing or is planning to provide electricity to Serverfarm," and that VoltaGrid "is not entitled to serve the Serverfarm property . . . under the Territorial Act." Pet. ¶¶ 11, 23. These allegations, which must be taken as true, bring this matter squarely within the provisions of the Territorial Act.[2]

[2] To the extent VoltaGrid's characterization of its service as an "energy conversion service" or "tolling arrangement" (VoltaGrid Br. at 2, 4) raises a factual issue, it need not be resolved at this time since the allegations in the Petition must be taken as true on this motion.

ARGUMENT

The primary question here is whether the Commission has the authority and jurisdiction to enforce the Territorial Act against an out-of-state company that is building generation to furnish electricity to a premises located in territory exclusively assigned to an electric supplier pursuant to the Territorial Act. The answer is yes.

1. VoltaGrid conflates the Commission's regulatory jurisdiction over public utilities with the Commission's jurisdiction to enforce the provisions of the Territorial Act.

The Commission's jurisdiction and authority in this case come from its express, broad statutory power to enforce the provisions of the Territorial Act. VoltaGrid seeks to divert attention from this statutory authority by focusing on the scope of the Commission's authority over public utilities subject to its general supervisory jurisdiction under O.C.G.A. §§ 46-2-20 and/or 46-2-21. Under these statutes, the Commission was granted ratemaking and other authority over entities subject to its general jurisdiction. *See, e.g.,* O.C.G.A. § 46-2-20 (general supervision authority); § 46-2-23 (ratemaking authority); § 46-2-28 (authority regarding issuance of stocks and bonds). But the issue here does not turn on whether the Commission has general or supervisory authority over VoltaGrid and could thereby regulate its rates and other aspects of service. Instead, this case involves the Territorial Act, and the Commission's authority to enforce the provisions of the 1973 Territorial Act is not limited to public utilities over which the Commission otherwise has general or supervisory authority.

2. The Commission has broad authority and jurisdiction to enforce the Territorial Act.

In adopting the Territorial Act, the General Assembly stated the following legislative findings and declaration of policy:

> The public interest requires, and it is declared to be the policy of the State of Georgia, that, in order (1) to assure the most efficient, economical, and orderly rendering of retail electric service within the state, (2) to inhibit duplication of the lines of electric suppliers, (3) to foster the extension and location of electric supplier

> lines in the manner most compatible with the preservation and enhancement of the state's physical environment, and (4) to protect and conserve lines lawfully constructed by electric suppliers, *it is necessary and appropriate that the state establish and implement a plan whereby every geographic area within the state shall be either assigned to an electric supplier or declared unassigned as to any electric supplier . . . .*

O.C.G.A. § 46-3-2 (emphasis added). The General Assembly further determined that the Commission "be delegated power, authority, and jurisdiction with respect to such plan." *Id.* A centerpiece of the General Assembly's plan was the assignment of geographic service areas by the Commission. *See* O.C.G.A. § 46-3-4 ("After March 29, 1973, and continuing thereafter as rapidly as it is administratively practicable to do so, the [C]ommission is authorized and directed to assign to electric suppliers or to declare as unassigned areas-B all geographic areas in this state that were, on March 29, 1973, located outside the corporate limits of any municipality."). Over about a two-year period, and subject to Commission oversight and approval, geographic service areas were assigned to electric suppliers in the state.

In addition to delegating authority to the Commission to make the initial territorial assignments, the General Assembly also delegated ongoing authority to the Commission under the Territorial Act, including, for example, the authority to assign previously unassigned areas (O.C.G.A. § 46-3-8(d)(2)) and the authority to transfer service among electric suppliers (*id*. § 46-3-8(c)).

Moreover, the General Assembly delegated broad enforcement authority to the Commission. Pursuant to O.C.G.A. § 46-3-13, the Commission was granted "the authority and jurisdiction" to "enforce the provisions" of the Territorial Act "by appropriate orders." Section 46-3-13 reads in full as follows:

> At any time, upon its own complaint or the complaint of any other electric supplier or any other interested party, the commission shall have the authority and jurisdiction, after notice to all affected electric suppliers and other interested parties, and after a hearing, to enforce the provisions of this part by appropriate orders.

Notably, the General Assembly granted the Commission *affirmative* authority to enforce the Territorial Act. The Commission's authority is not limited to ruling on a complaint that has been brought before it. Rather the Commission was given authority to enforce the Territorial Act "upon its own complaint" and "[a]t any time." *Id.* This confirms that the General Assembly considered the Commission's broad enforcement authority to be an important part of achieving the legislative purposes and policies underlying the Territorial Act.

Contrary to VoltaGrid's assertions, the General Assembly did not limit the Commission's enforcement authority under the Territorial Act to electric suppliers or entities that are otherwise subject to the Commission's general supervisory jurisdiction. There are simply no words in O.C.G.A. § 46-3-13 to support this argument. The General Assembly did not provide, for example, that the Commission has authority to enforce the Territorial Act only "as among electric suppliers," or only "as to entities furnishing service to the public." Instead, the General Assembly granted the Commission broad authority "to enforce" the Territorial Act "by appropriate orders." *Id.* VoltaGrid's attempt to rewrite this statute should be rejected.

3. The Commission's enforcement authority under the Territorial Act plainly applies here.

The legislative purposes and policies underlying the Territorial Act would be severely eroded if VoltaGrid's argument were accepted. There can be no doubt that the Commission's broad delegated power, authority, and jurisdiction to enforce the

Territorial Act by appropriate orders includes enforcing a centerpiece of the Territorial Act: the exclusive right of an electric supplier to extend electric service to new premises located within its assigned area. As VoltaGrid acknowledges, "[w]ithin its assigned area, 'the [assignee] electric supplier shall have the exclusive right to extend and continue furnishing service to new premises.'" VoltaGrid Br. at 8-9 (quoting O.C.G.A. § 46-3-3(1)).[3]

If accepted, VoltaGrid's argument—that the Commission has no authority to enforce this provision unless an encroaching power supplier is serving a "significant segment" of the public (VoltaGrid Br. at 19)[4]—would threaten to eviscerate the Territorial Act and the important purposes and policies it embodies. Under this argument, a power supplier located just across the border in Alabama, Florida, South Carolina, or Tennessee (or another state farther afield) could come into Georgia and cherry pick the most economically attractive loads in an electric supplier's assigned area and the Commission would be powerless to stop it. This would make a mockery of the legislative mandate that an electric supplier "shall have the exclusive right to extend and continue furnishing service to new premises" located in its assigned territory. That assigned area would no longer be "exclusive." Instead, it would be decidedly *non*-exclusive because

[3] There is no basis for VoltaGrid's suggestion that the Commission's authority to enforce the provisions of the Territorial Act is limited to deciding the select list of issues set forth on page 10 of its brief. *See* VoltaGrid Br. at 10 (citing O.C.G.A. § 46-3-8).

[4] As explained below, VoltaGrid bases this argument on a case that predates the 1973 Territorial Act. *See Atlanta Gas Light Co. v. Ga. Pub. Serv. Comm'n*, 228 Ga. 347, 351 (1971).

any entity—or multiple entities—could come into that assigned territory and extend service to new loads with impunity, and the Commission could do nothing about it.[5]

Moreover, VoltaGrid's argument, if accepted, would not be limited to new loads. As VoltaGrid acknowledges, under the so-called "grandfather clause" of the Territorial Act, "every electric supplier shall have the exclusive right to continue serving any premises lawfully served by it on March 29, 1973, or thereafter lawfully served by it . . ." VoltaGrid Br. at 3 n.6; O.C.G.A. § 46-3-8(b). But under VoltaGrid's argument, an out-of-state or other power supplier not serving a "significant segment" of the public in Georgia could pick off customers *already served* by an electric supplier, and the Commission would be powerless to stop it. In other words, so long as an out-of-state or other generation entity does not serve a significant segment of the public, it could make off with as many *existing* customers as it desires, and the Commission could do nothing about it. This would gut the exclusive right of an electric supplier to continue serving any premises lawfully served by it. Such an absurd result cannot be squared with the plain language of the Territorial Act. *See Roofing Supply of Atlanta, Inc. v. Forrest Homes, Inc.*, 279 Ga. App. 504, 506 (2006) (statutes must be construed so as to avoid an absurd result).

VoltaGrid's argument, if accepted, would also severely undermine the legislative policies underlying the Territorial Act. One of those policies is "to assure the most efficient, economical, and orderly rendering of retail electric service within the state." O.C.G.A. § 46-3-2. If an electric supplier invests large sums of money to serve a

[5] A single out-of-state generator could seek to engage in even more expansive encroachment through affiliates, subsidiaries, partnerships, etc.

customer, only to have that customer snatched away by an out-of-state power supplier, the electric supplier's other customers would have to absorb the cost. The same is true if an electric supplier makes investments in lines and electrical facilities in anticipation of serving future load in its assigned territory. That investment could become stranded (with the costs thereof to be absorbed by the electric supplier's other consumers) if future customers in the area can be picked off by a power supplier serving less than a significant segment of the public. The result in either of these situations would be the opposite of "the most efficient, economical, and orderly rendering of retail electric service." *Id.*

Policies underlying the Territorial Act also include "to inhibit duplication of the lines of electric suppliers" and "to protect and conserve lines lawfully constructed by electric suppliers." O.C.G.A. § 46-3-2. These policies would also be undermined if an out-of-state supplier not otherwise subject to the Commission's regulatory jurisdiction is free to ignore the Territorial Act and extend lines to new or existing customers, even if those lines are duplicative of the lines of an electric supplier serving customers in its assigned area.

4. Section 46-3-11 of the Territorial Act is not a limitation on the Commission's broad enforcement authority.

Ignoring the legislature's broad grant of enforcement authority to the Commission under O.C.G.A. § 46-3-13, VoltaGrid relies on a *non-jurisdictional* provision of the Territorial Act that in no way diminishes the Commission's authority. Quoting selectively from O.C.G.A. § 46-3-11, VoltaGrid argues that (1) this provision prohibits an "electric supplier" from furnishing retail electric service to any premises the electric supplier is not entitled to serve under the Territorial Act; (2) "electric supplier" is defined as an electric light and power company "subject to regulation by the commission" (O.C.G.A. § 46-3-

3(3)); (3) whether an entity is subject to regulation by the Commission turns on whether it furnishes service to the public; and (4) since VoltaGrid does not furnish service to the public, the Commission is powerless to enforce the Territorial Act as to VoltaGrid. VoltaGrid Br. at 16-17. This argument is wholly without merit.

First, despite VoltaGrid's contention that O.C.G.A. § 46-3-11 constitutes a "jurisdictional requirement" (VoltaGrid Br. at 17), this provision says nothing about the power, authority, or jurisdiction of the Commission. Instead, this statute simply imposes certain restrictions on the provision of electric service by electric suppliers. Nothing in this statute qualifies, limits, or diminishes the General Assembly's broad grant of enforcement authority to the Commission under O.C.G.A. § 46-3-13.

Second, VoltaGrid quotes only part of the subsection on which it relies. O.C.G.A. § 46-3-11(b) provides that "[n]otwithstanding any other provision of law, every electric supplier is prohibited from, directly or indirectly, by ordinance, law, policy, contract, rate, regulation, or otherwise . . . ." There follows a list of several activities that electric suppliers are prohibited from undertaking by means of ordinance, contract, rates, etc. *See* O.C.G.A. § 46-3-11(b)(1)-(4). The last of these—on which VoltaGrid stakes its jurisdictional argument—is "(4) Furnishing retail electric service to any premises which such electric supplier is not entitled to serve under this part." *Id.* This subsection of O.C.G.A. § 46-3-11(b) simply ensures that electric suppliers do not attempt, by ordinance, contract, rate provisions, etc., to circumvent the Territorial Act and serve premises they are not entitled to serve. In no way does this provision somehow strip the Commission of its authority to enforce the Territorial Act as to entities that do not serve a significant segment of the public.

5. The Commission's authority to enforce the Territorial Act is not limited to its general supervision of power suppliers that "furnish service to the public."

VoltaGrid's primary argument is that "[t]he jurisdiction of the Public Service Commission is limited, by statute, to companies 'furnishing service to the public.'" VoltaGrid Br. at 14. But this is simply not the case. While the Commission's supervisory and regulatory authority under O.C.G.A. §§ 46-2-20 and 46-2-21 may be limited to entities that furnish service to the public, those statutes are not the be-all and end-all of the Commission's jurisdiction and authority. To cite just one example (in addition to the Territorial Act), the Commission exercises extensive administrative and enforcement authority under the Georgia Underground Facility Protection Act ("GUFPA"), O.C.G.A. §§ 25-9-1 through 25-9-14. It cannot be credibly argued that the exercise of the Commission's authority under GUFPA is limited to entities that "furnish service to the public."[6]

Notwithstanding the Commission's distinct, delegated authority to enforce the Territorial Act, VoltaGrid devotes much of its brief to a discussion of authorities addressing the Commission's jurisdiction under the 1907 Railroad Commission statutes (now codified at O.C.G.A. §§ 46-2-20 and 46-2-21). None of these authorities address the Commission's broad jurisdiction and authority to enforce the Territorial Act—and most predate the Territorial Act by decades.

For example, VoltaGrid relies extensively on a 1909 opinion by the attorney for the Railroad Commission, which addressed the scope of the 1907 statutes. VoltaGrid Br. at 15. This opinion predates the 1973 Territorial Act by over 60 years and obviously has

[6] VoltaGrid cites no authority for its characterization of O.C.G.A. § 46-2-21(b) as establishing "personal jurisdiction" and § 46-2-20(a) as establishing "subject matter jurisdiction." VoltaGrid Br. at 17.

no bearing on the scope of the Commission's enforcement authority under that act. Nor does a 1909 recommendation of the Railroad Commission have any bearing on the yet-to-be-enacted Territorial Act. VoltaGrid Br. at 16. Additionally, this recommendation focuses on the supervisory authority granted in the 1907 statutes. *See* 1909 Report at 9 (recommending that certain power plants be subject to the "supervision" and "jurisdiction, authority and control of the Commission").[7] *See generally* O.C.G.A. § 46-2-20 (section titled "Jurisdiction of commission" providing that the Commission "shall have the general supervision of all . . . gas or electric light and power companies"). As noted above, the Commission's jurisdiction and authority to enforce the Territorial Act does not turn on whether VoltaGrid is or should be subject to the Commission's supervisory authority over rates, issuance of bonds, etc.

The other authorities relied upon by VoltaGrid are likewise inapposite. For example, *Atlanta Gas Light Company v. Georgia Public Service Commission*, 228 Ga. 347 (1971) (VoltaGrid Br. at 18), predated the Territorial Act and addressed whether Atlanta Gas Light's "total energy" service was subject to the Commission's regulation of rates, which is not the question here. *Atlanta Gas Light Co.*, 228 Ga. at 352 (concluding that although the "form of rate regulation has not yet been determined," Atlanta Gas "cannot avoid regulation of its rates by converting its natural gas into a total energy service."). That case is also the source of VoltaGrid's misplaced and non-statutory argument that the Commission's authority under the Territorial Act should be limited to suppliers of a "significant segment" of the public. *See id.* at 351.

[7] Thirty-Seventh Annual Report of the Railroad Commission of Georgia, "Jurisdiction of Commission over Power Companies not Furnishing Service to the Public," at 9 (1909) ("1909 Report").

Nor do the Attorney General opinions VoltaGrid cites provide support for its argument that the Commission lacks authority and jurisdiction in this proceeding. VoltaGrid Br. at 19-20. Two of the three opinions, the 1969 and 1972 opinions, were issued before the 1973 Territorial Act and addressed the Commission's general regulatory and supervisory jurisdiction over public utilities under O.C.G.A. §§ 46-2-20 and 46-2-21(b)(5). *See* 1969 Op. Att'y Gen. No. 69-27, 1969 Ga. AG LEXIS 441 (Jan. 21, 1969) (addressing whether a trailer park owner rendered such service "as to become a public utility," thereby subjecting it to the Commission's "jurisdiction over the rates charged"); 1972 Op. Att'y Gen. No. 72-84, 1972 Ga. AG LEXIS 76 (June 27, 1972) (addressing whether "a business renders such public service as to qualify as a public utility," thereby subjecting it to the Commission's jurisdiction under the predecessor to O.C.G.A. § 46-2-20). The 1985 opinion, while issued after the 1973 Territorial Act, is likewise limited to a discussion of the Commission's jurisdiction under O.C.G.A. § 46-2-21, specifically "*whether the safety and rate jurisdiction* of the Commission" extended to master-metered customers of a natural gas distribution system. *See* 1985 Op. Att'y Gen. No. 85-39, 1985 Ga. AG LEXIS 42 (July 23, 1985) (emphasis added). This opinion said nothing about the Commission's authority to enforce the Territorial Act.

VoltaGrid's reliance on the *Air Force* and *Enron* privatization cases is likewise misplaced. Those proceedings arose from the Department of Defense's ("DoD") exploration of conveying ownership and operation of electric and natural gas distribution systems on its military bases from the DoD to non-federal entities. The Commission was asked to address certain questions posed by the Air Force and Enron. One of those questions was whether, if DoD conveyed DoD-owned electric or natural gas facilities on its military bases to a non-federal

entity, the Commission would have jurisdiction under O.C.G.A. § 46-2-21(b)(5) over the rates charged on the bases by such entity. The Commission concluded that due to uncertainty in the factual record, including whether the non-federal entity would be providing utility services to private entities located on the bases, it could not determine whether this would constitute "furnishing service to the public." Order Issuing Declaratory Rulings, *In re U.S. Air Force Seeking Declaratory Relief* at 28, Docket No. 11276-U (Ga. Pub. Serv. Comm'n Apr. 18, 2000). The Commission went on to say that *if* the non-federal entity provided utility services behind the meter solely and exclusively to the federal government (and not to private entities), this "would not be deemed to be furnishing service to the public in a manner that would invoke *agency jurisdiction over the rates that the DoD installation is ultimately being charged.*" *Id.* (emphasis added). As with other authorities relied on by VoltaGrid, this ruling addressed the scope of the Commission's regulatory authority under O.C.G.A. § 46-2-21 over *rates* being charged for the on-site distribution of electricity (or natural gas) by a non-federal entity.

Although VoltaGrid mentions in passing that the *Air Force/Enron* order "dealt with the application of the Territorial Act" (VoltaGrid Br. at 20), VoltaGrid does not describe the Commission's rulings in this regard. The two Territorial Act rulings related to Robins Air Force Base, which was served by Georgia Power Company. In its declaratory rulings, the Commission held (1) that the Territorial Act did not apply to the mere ownership and operation of an on-base electrical distribution system, meaning the Commission did not have authority under the Territorial Act to "approve a third-party entity selected by a consumer to purchase, run and maintain those segments of an electric distribution system behind a meter" (in this case, the Georgia Power meter); and (2) that the Territorial Act "does not permit an electric supplier other than Georgia Power to serve those segments of the Robins Air Force Base that this company has

been serving since March 29, 1973." *Order Issuing Declaratory Rulings, In re U.S. Air Force Seeking Declaratory Relief* at 10, 11. In this second ruling, the Commission upheld Georgia Power's exclusive Territorial Act right to continue providing electric service to Robins Air Force Base.

The *Air Force/Enron* order demonstrates that the Commission appropriately considers questions pertaining to territorial rights under the Territorial Act separately from the Commission's general supervisory jurisdiction under O.C.G.A. § 46-2-21. The Commission recognized that non-federal ownership and operation of a military base's on-site distribution facilities behind the meter presumptively would not constitute furnishing service to the public so as to come within the Commission's ratemaking jurisdiction under § 46-2-21, but this was entirely separate from, and had no effect on, Georgia Power's exclusive right under the Territorial Act to provide electric service to the base.

Finally, VoltaGrid's out-of-state citations do not support its position. None of these cases dealt with the Territorial Act or any other Georgia statute.

6. The Cogeneration Act further establishes the Commission's authority and jurisdiction over VoltaGrid in this proceeding.

VoltaGrid's argument that the Commission does not have authority under O.C.G.A. § 46-3-13 of the Territorial Act to "enforce" the Cogeneration Act misses the point: under the Cogeneration Act, the Commission has express authority over cogenerators, unless the cogenerator uses all the energy itself or sells excess energy to an electric supplier.

Under O.C.G.A. § 46-3-53(a), "[a]ny person may operate a cogeneration facility *without being subject to the jurisdiction or regulation of the commission* if such person uses all of the electric energy, steam, or other form of useful energy produced at such cogeneration facility." (emphasis added). The electric energy produced at a cogeneration facility "shall not be sold to

any other person." *Id.* A cogeneration facility operator may "sell any excess electric energy to an electric supplier *without being subject to the jurisdiction or regulation of the commission.*" O.C.G.A. § 46-3-53(b) (emphasis added). An entity that does not comply with these provisions is, by the express terms of the Cogeneration Act, subject to the jurisdiction and regulation of the Commission.

As alleged in the Petition, VoltaGrid is a cogeneration facility, but VoltaGrid is not *using* all of its electric energy; rather, VoltaGrid is *selling* its energy to Serverfarm, which is not an electric supplier. Pet. ¶ 26. Under these alleged facts, which must be taken as true for purposes of this motion, VoltaGrid is subject to the jurisdiction and regulation of the Commission under the express language of the Cogeneration Act.

CONCLUSION

VoltaGrid's construction of a generation facility to provide electric service to Serverfarm falls squarely within the Commission's jurisdiction and authority to enforce the Territorial Act. The question is not, as VoltaGrid contends, whether VoltaGrid qualifies as a public utility "furnishing service to the public" subject to the Commission's general supervision. The Commission has separate, broad jurisdiction and authority under the Territorial Act to address the issues raised in this proceeding. To accept VoltaGrid's argument would pave the way for out-of-state power suppliers to cherry pick new and existing customers exclusively entitled to be served by Georgia's electric suppliers, and the Commission would be powerless to stop it. This is directly contrary to the express provisions of the Territorial Act and the legislative policies underlying it. For the reasons set forth herein, Georgia EMC requests that the Hearing Officer deny VoltaGrid's Motion to Dismiss.

Respectfully submitted, this 16th day of October, 2026.

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CERTIFICATE OF SERVICE

I certify that on this day, I have e-filed with the Commission the foregoing **INTERVENOR GEORGIA EMC'S RESPONSE IN OPPOSITION TO VOLTAGRID'S MOTION TO DISMISS** and served a copy by email to the following:

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This 16th day of October, 2026.

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