EXHIBIT "A"

BEFORE THE PUBLIC SERVICE COMMISSION

STATE OF GEORGIA

SUSTAINABLE NEWTON, SARA and RANDALL VINSON, and THEODOSIA and WILLIAM WADE,	:	
Petitioners,	:	DOCKET NO.: 57243
v.	:	
VOLTAGRID, LLC,	:	
Respondent.	:	

VOLTAGRID, LLC'S EMERGENCY APPEAL FROM THE HEARING OFFICER'S NOVEMBER 4, 2026 ORDER AND MOTION FOR STAY

Comes now, VOLTAGRID, LLC ("VoltaGrid"), Respondent in the above-styled docket, and, pursuant to O.C.G.A. § 50-13-17 and Commission Rule 515-3-1-.11 (the "Trade Secret Rule" or the "Rule"), without waiving any argument asserted in its pending Motion to Dismiss, the objections stated in its Brief in Opposition to Petitioners' Trade Secret Motion (the "Opposition"), or its Response and Objection to First Amendment to Notice of Hearing and Scheduling Order (the "Objection"), hereby appeals to the Commission (the "Emergency Appeal") from the Hearing Officer's "Order on Petitioners' Motion Challenging Trade Secret Designations and for Access to Trade Secret Information" issued November 4, 2026 (the "Order"). VoltaGrid also moves the Commission for an immediate stay of the Order pending its review. In support of its Emergency Appeal, VoltaGrid shows the Commission as follows.[1]

[1] VoltaGrid brings this appeal to the Commission because the Commission's Trade Secret Rule assigns the determinations at issue to the Commission, Ga. Comp. R. & Regs. 515-3-1-.11(3), (4), (7); because the Order itself provides that it may be stayed if "ordered by the Commission" and retains jurisdiction for further orders by "the Hearing Officer or the Commission," Order at 6; and to exhaust the remedies available within the agency. *See* O.C.G.A. § 50-13-19(a). VoltaGrid expressly reserves its right to seek immediate judicial review under O.C.G.A. §

INTRODUCTION

The Order ignores the plain directives of Commission Rule 515-3-1-.11(7) which requires an in camera inspection of VoltaGrid's trade secret documents **by the Commission** and **the Commission's determination** that the information provided "does not constitute a trade secret or only a portion of the information is a trade secret, or that the protected information must be disclosed in part or in whole in connection with any hearing," or "otherwise, followed by a Commission order to that effect." That order "shall be automatically stayed for thirty (30) days."

If the Hearing Officer's Order is upheld, it will erode the confidence of parties appearing before the Commission that their trade secret data will be protected from disclosure after it has been provided to the Commission pursuant to the Trade Secret Rule in good faith to assist the Commission in reaching a decision in a matter pending before it. If the Order becomes Commission precedent, any trade association, public interest organization, or individual can file a petition and obtain trade secret data from a respondent like VoltaGrid solely pursuant to a Non-Disclosure Agreement ("NDA") without Commission compliance with the Trade Secret Rule, without review of the filer's standing to make the claim, and without analysis of the Commission's jurisdiction to hear and resolve it.

The Order directs VoltaGrid to "execute a protective agreement" by 4:00 p.m. on November 12, 2026, and provides that, "immediately upon executing" it, Petitioners' counsel "shall be granted access" to the information VoltaGrid designated as trade secrets when it responded to Commission Staff's data requests.[2] The Order grants access "assuming, without

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50-13-19(a), because review of a final agency decision would not provide an adequate remedy for the forced disclosure of trade secrets.

[2] Order at 6. VoltaGrid has since narrowed its designations to 45 documents. Notice Regarding Trade Secret Claims & Ex. 1 (Oct. 27, 2026) ("Notice").

deciding, that the material is trade secret."[3] No one has examined a single one of the 45 designated documents to determine whether it contains trade secret data. The in-camera inspection, Commission determination, and automatic thirty-day stay required by the Commission's Trade Secret Rule are all deferred to "the conclusion of this case."[4] By then, the disclosure will be complete, and those protections will mean nothing.

The Order inverts the Trade Secret Rule, which commits both access requests and designation challenges to the Commission, not a hearing officer. It permits the Commission to order protected information disclosed "in connection with any hearing, or otherwise" only "after a hearing and an in-camera inspection," and it automatically stays any such order for thirty days.[5] The Order also compels VoltaGrid to "execute" an "agreement," a power neither the Hearing Officer nor the Commission holds over an entity whose jurisdictional status is undecided.

The Trade Secret Rule does not simply "allow" access to trade secret data, as directed by the Order. The Rule is protective and therefore extends access only to a "party or intervenor,"[6] and a person who wishes to intervene in a Commission proceeding must first show an interest that entitles it to participate.[7] The Georgia Electric Territorial Service Act, O.C.G.A. § 46-3-1 *et seq.* (the "Territorial Act"), imposes the same threshold on a complainant: the Commission may act on a complaint only from itself, an electric supplier, or "any other interested party," meaning one with "a legal, protectible interest."[8]

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[3] Order at 5.
[4] *Id.*
[5] Ga. Comp. R. & Regs. 515-3-1-.11(3), (7).
[6] Ga. Comp. R. & Regs. 515-3-1-.11(3). A "party" in a Commission proceeding is defined by statute as "the affected applicant, any person who is permitted to intervene as provided in this Code section, and the Utility Finance Section." O.C.G.A. § 46-2-59(a). Petitioners do not fall into any of these categories.
[7] *See* O.C.G.A. § 46-2-59(c), (e)(2) (application for leave to intervene "shall set forth with particularity the facts pertaining to his interest," and only a person "who demonstrates a legal, property, or other interest in the proceeding" may be permitted to intervene).
[8] O.C.G.A. § 46-3-13; *Brown v. Lawrence*, 204 Ga. 788, 51 S.E.2d 651 (1949); *see also* Ga. Comp. R. & Regs. 515-2-1-.12(1)(e) (petition must set forth "in detail the petitioner's interest in the matter and why and how the petitioner is

Ultimately, the Hearing Officer adopted the position of Petitioners and the Advocacy Staff to compel VoltaGrid to execute a protective agreement and produce trade secret data before VoltaGrid's defenses of Petitioners' lack of standing and the Commission's lack of jurisdiction are even heard. If the Order is allowed to stand, any person who files a petition alleging a violation of a statute the Commission administers, such as the Territorial Act, may obtain a business's confidential commercial information before anyone decides whether that person has the required legal standing to pursue the claim before the Commission. If merely filing a petition or complaint with the Commission is enough, as the Order holds Petitioners' Territorial Act complaint to be, the filing becomes a weapon: a discovery device available to competitors, to opponents of a project, and to anyone else who wants to see a utility's or company's contracts, pricing, and technology.

Respondents, like VoltaGrid, named in such a Petition will be reluctant to submit their trade secret data to the Commission fearing the risks of its inappropriate use and public release. Companies considering investment in Georgia will reasonably ask whether the confidential terms of their customer contracts will be handed to their opponents at the outset of any proceeding, prior to a determination that they have standing to bring the action or whether the Commission has jurisdiction to hear the claim. Deciding standing and jurisdiction issues before ordering disclosure protects both the integrity of the Commission's process and the utilities and businesses that rely on it.

Because the Order requires VoltaGrid to execute an NDA and provide its trade secret data to Petitioners' counsel by November 12, VoltaGrid respectfully asks the Commission to stay the Order immediately; to conduct its own hearing and in-camera review, as the Trade Secret Rule

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uncertain or insecure with respect to his rights"). *See* Brief in Support of Respondent, VoltaGrid, LLC's Motion to Dismiss (Sept. 16, 2026) ("MTD Br."), Part I; Respondent VoltaGrid, LLC's Reply Brief in Support of Its Motion to Dismiss (Oct. 26, 2026) ("MTD Reply"), Part I.

requires, before any protected information is disclosed; and to vacate the Order's directive that VoltaGrid execute a protective agreement and turn over trade secret data.

BACKGROUND

On September 14, 2026, VoltaGrid responded to Staff's Data Request STF-PIA-1, producing approximately 4,700 pages of documents. Approximately 1,000 of those pages were designated as trade secrets and submitted under seal, with the Statement of Confidentiality and supporting affidavit, as Rule 515-3-1-.11(1) requires. Staff has full access to all of them. Two days later, VoltaGrid moved to dismiss Petitioners' claims on the grounds that Petitioners are not "interested parties" under O.C.G.A. § 46-3-13 and that the Commission lacks jurisdiction over VoltaGrid because it does not furnish service to the public within the meaning of O.C.G.A. § 46-2-21(b)(5). That motion is fully briefed and awaits a decision.[9]

On October 2, 2026, Petitioners moved both to challenge VoltaGrid's trade secret designations under paragraph (7) of the Trade Secret Rule and for access to the protected information under paragraph (3) (together, the "Trade Secret Motion"). VoltaGrid filed its opposition to the Motion on October 14, 2026. The Hearing Officer heard the Trade Secret Motion, rather than referring it to the Commission as required by the Rule. VoltaGrid objected that the Rule reserves the trade secret hearing, the in-camera inspection, and the ultimate decision to the Commission. VoltaGrid also declined to provide an NDA for release of its trade secrets to Petitioners.[10]

On October 27, 2026, following the City of Covington's production of certain requested documents under the Georgia Open Records Act, VoltaGrid narrowed its trade secret designation

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[9] MTD Br. at 7–23; MTD Reply at 1–19.
[10] Objection, Parts IV–V.

to 45 documents, totaling approximately 486 pages, and identified each by Bates number together with the Bates range of its public disclosure version after further review.[11] VoltaGrid's remaining 45 documents subject to trade secret protection were identified to the parties.[12]

At the October 29 hearing, VoltaGrid's Chief Legal Officer, Mr. Daniel Ro-Trock, testified that the identified trade secret documents had clear economic value and that VoltaGrid would be harmed by their inappropriate release. Petitioners presented no witnesses or evidence in support of their motion. The Hearing Officer did not inspect the protected documents in camera.

On November 4, 2026, the Hearing Officer issued the Order. It (1) grants Petitioners' request for access under paragraph (3) of the Rule, "assuming, without deciding, that the material is trade secret;" (2) defers the paragraph (7) challenge, "with in camera review and the 30-day stay," to the Commission "at the conclusion of this case, should Petitioners determine to renew the request;" (3) finds Petitioners' proposed Confidentiality Agreement "adequate and reasonable;" (4) orders that "counsel for Petitioners and VoltaGrid shall execute a protective agreement," to be filed by 4:00 p.m. on November 12, 2026; and (5) provides that no motion "shall . . . stay the effective date of this Order, unless otherwise ordered by the Commission."[13] From the Order, VoltaGrid brings this appeal to the full Commission.

ARGUMENT AND CITATION OF AUTHORITY

I. THE TRADE SECRET RULE REQUIRES THE COMMISSION TO CONDUCT ITS OWN HEARING AND IN-CAMERA REVIEW BEFORE ANY PROTECTED INFORMATION IS DISCLOSED.

A. The Trade Secret Rule commits access and designation decisions to the Commission.

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[11] Notice at 1 & Ex. 1.
[12] *Id.*
[13] Order at 5–6.

Every operative step of the Trade Secret Rule requires Commission action. A party seeking access "may petition *the Commission* for such access."[14] A challenge to a designation is made by motion "*with the Commission*," and it is "*the Commission*" that determines, "after a hearing and an in-camera inspection," whether the information must be disclosed.[15] "*The Commission*," after receiving an executed protective agreement, provides the copies "agreed upon in the protective agreement,"[16] and the Commission and its staff may not disclose protected information except as authorized by the affected party, "by Commission order, by court order, or by these rules."[17] The "First Amendment to Notice of Hearing and Scheduling Order" acknowledged as much, describing a party's entitlement to "a hearing *from the Commission*" under paragraph (3) and to "a hearing and in-camera inspection *by the Commission*" under paragraph (7).[18] The Order nonetheless decides the access request itself.

B. An order granting access is an order that protected information "must be disclosed," which the Rule permits only after a Commission hearing and in-camera inspection.

The Order separates Petitioners' request for access under paragraph (3) of the Trade Secret Rule, which it decides, from Petitioners' designation challenge under paragraph (7), which it reserves to the Commission.[19] The Rule does not permit that separation. Paragraph (7) applies not only when the Commission determines that information is not a trade secret, but also when it determines "that the protected information must be disclosed in part or in whole in connection with any hearing, or otherwise."[20] In either case, the determination may be made only "after a hearing and an in-camera inspection," and the resulting order "shall be automatically stayed for thirty (30)

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[14] Ga. Comp. R. & Regs. 515-3-1-.11(3) (emphasis added).
[15] *Id.* 515-3-1-.11(7) (emphasis added).
[16] *Id.* 515-3-1-.11(4) (emphasis added).
[17] *Id.* 515-3-1-.11(8).
[18] First Amendment to Notice of Hearing and Scheduling Order at 1 (Oct. 22, 2026) (emphasis added).
[19] Order at 5.
[20] Ga. Comp. R. & Regs. 515-3-1-.11(7).

days."[21] The Order ignores the Rule's requirements and summarily compels VoltaGrid to disclose its protected information to Petitioners. Labeling it a grant of "access" does not remove it from paragraph (7); it simply skips the safeguards paragraph (7) requires.

C. Any balancing of harms is for the Commission, and only after it decides the threshold questions.

Paragraph (3) of the Trade Secret Rule permits access only after weighing "the potential for economic harm to [the affected party]" against "the public benefit derived from allowing the party or intervenor access to such information."[22] That balancing depends on two separate questions that the Order assumes are true but does not decide. First, the Order assumes that Petitioners are an appropriate "party or intervenor" entitled to seek access, and second, the Order assumes that VoltaGrid is a "party or utility subject to the jurisdiction of the Commission" whose information the Rule governs.[23] VoltaGrid's pending Motion to Dismiss presents both questions.[24] Until the Commission answers them, there is nothing to balance. If Petitioners are not interested parties, they have no claim to access. If the Commission lacks jurisdiction over VoltaGrid, it has no authority to order VoltaGrid's information disclosed at all. The Order reverses that sequence: it decides access first and leaves the threshold questions for later.

The Commission must resolve how the equities are balanced as part of the paragraph (7) process. Paragraph (7) of the Rule requires a hearing and an in-camera inspection. It expressly covers a determination that protected information "must be disclosed in part or in whole in connection with any hearing, or otherwise." A grant of access under paragraph (3) is that kind of determination. The Commission must therefore weigh harm against benefit on the record of a

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[21] *Id.*
[22] Ga. Comp. R. & Regs. 515-3-1-.11(3).
[23] Ga. Comp. R. & Regs. 515-3-1-.11(1), (3). *See* Part II.C, *supra.*
[24] O.C.G.A. §§ 46-2-21(b)(5), 46-3-13; MTD Reply at 1–2, 18–19.

paragraph (7) hearing, after examining the documents themselves, and any resulting order is automatically stayed for thirty days.

The Order did neither. It concluded categorically that "any potential for economic harm to VoltaGrid can be adequately minimized to a reasonable level through the use of protective agreement."[25] But a protective agreement is the Rule's precondition for access, not a reason to grant it. If it were enough, the balance would always favor access.

The Commission rejected that premise earlier this year. Petitioners in Georgia Power's large-load docket sought access to the workpapers Georgia Power uses to price offers to data centers "under an appropriate non-disclosure agreement." The Commission heard the petition itself, took testimony subject to cross-examination, and denied access.[26] It applied the paragraph (3) test to the specific information requested, found that Georgia Power had "presented strong evidence of the potential for economic harm," and concluded that the information Georgia Power had already provided was sufficient to address the public-interest question.[27] An NDA was not enough there, even though the petitioners had already received other trade secret information under an NDA in the same docket. It is not enough here, where Petitioners' standing is disputed and no one has examined the documents.

The Order identified the public benefit as "allowing Petitioners to be able to fully litigate their position."[28] It did not say which protected documents bear on which issue, or why Petitioners need them when Staff, which represents the public interest in this docket, already has every page.

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[25] Order at 3.

[26] Order Denying GIPL and Southface Institute's Joint Petition for Access to Trade Secret Information Under a Non-Disclosure Document at 1–2, Docket Nos. 56298 & 56310 (Ga. Pub. Serv. Comm'n Feb. 26, 2026) (Doc. No. 225589).

[27] *Id.* at 2 (crediting testimony that a competitor that "knew how Georgia Power priced its contracts . . . might be able to undercut and harm the Company, its customers, and the state of Georgia").

[28] Order at 3.

Those are document-specific questions. The harm from disclosing a contract's pricing terms is not the same as the harm from disclosing an equipment specification. Only the Commission can answer those questions, document by document, after in-camera review.

That review is readily manageable. VoltaGrid has narrowed its trade secret designation to 45 documents and identified each one, along with its public disclosure version, in which only the protected portions are redacted.[29] The only question is whether Petitioners may see the redacted portions, which the Commission can review in camera with little burden, as the Rule requires before any disclosure is ordered.

D. Deferring in-camera review to "the conclusion of this case" makes that review meaningless.

The Trade Secret Rule requires in-camera review of the documents by the Commission before production to Petitioners. "Once the data that constitute a trade secret are disclosed to others, or others are allowed to use those data, the holder of the trade secret has lost his property interest in the data."[30] An in-camera inspection conducted after the documents have been reviewed and used by Petitioners' counsel protects nothing. The authority on which the Order relies makes the same point: the Commission is "under a duty to prevent the destruction or impairment of property right or interest by unrestricted access or disclosure of such documents and records until there can be an adjudication that 'alleged trade secrets' do not qualify as 'trade secrets.'"[31] The Order reverses that sequence, ordering access now and leaving the adjudication for later, if Petitioners "determine to renew the request."[32]

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[29] Notice, Ex. 1; VoltaGrid LLC's Supplement Responses to Staff's Data Requests STF-PIA-1; *see* Ga. Comp. R. & Regs. 515-3-1-.11(1)(b).
[30] *Ruckelshaus v. Monsanto Co.*, 467 U.S. 986, 1011 (1984).
[31] Order at 2 (citing *BellSouth Telecomms., Inc. v. Ga. Pub. Serv. Comm'n*, Civil Action File No. E-07376, slip op. at 15–16 (Fulton Cnty. Super. Ct. Apr. 14, 1993)).
[32] Order at 5.

The Commission should therefore conduct the hearing and in-camera inspection the Trade Secret Rule requires before any protected information is disclosed. Consistent with VoltaGrid's pending Motion to Dismiss, that hearing should follow the Commission's determination of whether Petitioners are interested parties entitled to seek access and whether the Commission has jurisdiction over VoltaGrid.[33] The Commission has followed that sequence before.[34] Any testimony or argument concerning the content of the protected information should be taken in closed session, attended only by the Commission, its Staff, and VoltaGrid.

Before the Hearing Officer, Advocacy Staff argued that VoltaGrid's trade secret data should be released to Petitioners' counsel in advance of a determination on standing and jurisdiction in sole reliance on an executed NDA given Petitioners' counsel's previous compliance therewith in previous dockets before the Commission. The Trade Secret Rule provides no "good behavior" exception from its application on the basis of prior compliance with the restrictions imposed by an NDA by the Petitioners or their counsel in a prior docket. Further, the Trade Secret Rule cannot be used by the Commission to compel a party, such as VoltaGrid (which is not subject to the Commission's jurisdiction) to execute an NDA that requires production of its trade secret data.

II. THE HEARING OFFICER EXCEEDED HIS AUTHORITY.

A. A hearing officer's powers are limited to conducting the hearing and building the record.

The General Assembly has defined what a Commission hearing officer may do. A hearing officer may administer oaths, issue subpoenas, regulate the course of the hearing, exercise "such

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[33] As VoltaGrid has explained, only "a party or intervenor" may seek access under paragraph (3), and the Rule's procedures apply to information submitted by a "party or utility subject to the jurisdiction of the Commission." Ga. Comp. R. & Regs. 515-3-1-.11(1), (3); *see* Opposition, Parts I–II; Objection, Part I. *See also* MTD Br., Parts I–II; MTD Reply, Parts I–II. VoltaGrid preserves those objections.

[34] Order Issuing Declaratory Rulings at 3–5, 27–30, *In re U.S. Air Force Seeking Declaratory Relief*, Docket Nos. 11276-U & 11463-U (Ga. Pub. Serv. Comm'n Apr. 18, 2000) ("Air Force/Enron Order") (deciding legal questions before any evidentiary hearing); *see* MTD Reply at 18–19.

other powers necessary for the efficient and expeditious conduct of the hearing, to the end that a complete and orderly record may be developed," and make written findings of fact.[35] At the conclusion of the hearing, the hearing officer certifies the record, with proposed findings, to the Commission.[36] The Order describes the Hearing Officer's role in exactly these terms: he will "render a recommended decision and certify the entire record to the Commission for its consideration."[37]

An order compelling the disclosure of trade secrets is not record-building. It is a final and irreversible adjudication of property rights. Unlike a recommended decision, it cannot be corrected on review of the certified record. The general power to regulate the course of a hearing does not include the power to make a determination that the Rule specifically reserves to the Commission.

B. The Assignment Order did not delegate the Commission's Trade Secret Rule determinations to the Hearing Officer.

The Commission's "Assignment to Hearing Officer" directed a hearing on the issues raised in the Petition and on whether VoltaGrid is providing service subject to the Commission's jurisdiction.[38] It did not delegate to the Hearing Officer the determinations that paragraphs (3), (4), and (7) of the Trade Secret Rule reserve to the Commission. The duties the Trade Secret Rule imposes on the Commission remain the Commission's.

C. VoltaGrid's designation of its documents under the Rule does not authorize the Hearing Officer to disregard the Trade Secret Rule.

The Order reasons that VoltaGrid "submitted the withheld documents under Rule 515-3-1-.11 and has invoked that Rule's protections," and therefore "cannot rely on the Rule to withhold

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[35] O.C.G.A. § 46-2-58(b).
[36] O.C.G.A. § 46-2-58(d).
[37] Order at 2.
[38] Order at 2; Assignment to Hearing Officer (Aug. 24, 2026).

the documents while maintaining that the Rule's access provisions do not reach it."[39] While VoltaGrid does not seek to escape the Trade Secret Rule, it has consistently argued that the Commission cannot adjudicate a trade secret dispute before it determines that Petitioners have standing to assert the claims raised in their Petition and that the Commission has jurisdiction over VoltaGrid. VoltaGrid asks only that the Rule be followed in full. If the Rule governs, all of it governs, including the provisions reserving access decisions to the Commission, requiring in-camera inspection, and staying any disclosure order for thirty days. The Order applies the provision that favors Petitioners and defers the provisions that protect VoltaGrid. Moreover, VoltaGrid's trade secrets are protected from disclosure independently of the Rule. When an agency determines that information submitted to it is a trade secret, "the agency shall withhold the records."[40] Designating the documents was the only way to preserve that protection. It was not consent to disclosure, or to the Commission's jurisdiction.

D. The hearing was procedurally defective because it failed to comply with the Commission's own rules.

The Hearing Officer also heard Petitioners' request without the notice the Commission's own rules require. The Trade Secret Rule requires a person seeking access to trade secret information to file a "petition" with the Commission.[41] Commission rules correspondingly require that "[o]n all applications, petitions and complaints … notice shall be given to the persons or corporations interested in or affected by said action at least thirty (30) days before any hearing that may be scheduled."[42] Here, the Hearing Officer treated Petitioners' filing as a "petition" for

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[39] Order at 5.

[40] O.C.G.A. § 50-18-72(a)(34); *Campaign for Accountability v. Consumer Credit Rsch. Found.*, 303 Ga. 828, 837–38 (2018).

[41] Ga. Comp. R. & Regs. r. 515-3-1-.11(3).

[42] Ga. Comp. R. & Regs. r. 515-2-1-.04(3).

purposes of the Trade Secret Rule,[43] but then disregarded the Commission rule that applies to "all … petitions," requiring 30-day notice before a hearing.[44] To the contrary, the hearing on Petitioners' petition for access to VoltaGrid's trade secret information was noticed on October 22, 2026, for a hearing held October 29, 2026—just seven days later.[45] VoltaGrid filed a written objection asking that the October 29 hearing be removed from the calendar.[46] The Order rests on a hearing that the Commission's rules did not permit to go forward, and it should be vacated for that reason alone.

III. NEITHER THE HEARING OFFICER NOR THE COMMISSION CAN COMPEL VOLTAGRID TO ENTER INTO A PROTECTIVE AGREEMENT.

A. Before the Commission can compel VoltaGrid to execute an NDA, it must determine that VoltaGrid is subject to the Commission's jurisdiction.

The Hearing Officer has yet to determine whether VoltaGrid is subject to the Commission's jurisdiction. The Commission's statutory authority to enforce its orders reaches a "person, firm, or corporation . . . subject to the jurisdiction of the commission," and the duty to obey Commission orders runs to "[e]very company under the jurisdiction of the commission."[47] While avoiding a decision that VoltaGrid is subject to the Commission's jurisdiction, the Order stated: "That question is central to this docket and nothing in this Order decides it."[48] The Order instead relied on the Commission's general rulemaking power.[49] But the authority to make rules "to effectuate and implement all laws conferring powers and duties upon the commission" does not enlarge those powers, and an agency "certainly is not authorized to establish rules that conflict with

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[43] Order at 1, 5.
[44] Ga. Comp. R. & Regs. r. 515-2-1-.04(3).
[45] First Am. to Notice of Hr'g & Scheduling Order at 2 (Oct. 22, 2026).
[46] VoltaGrid Resp. & Obj. to First Am. to Notice of Hr'g at 7 (Oct. 27, 2026).
[47] O.C.G.A. §§ 46-2-91(a), (c); 46-2-92(a).
[48] Order at 4.
[49] Order at 4 (citing O.C.G.A. § 46-2-30).

legislation."[50] Notably, the Trade Secret Rule itself cites as its source of authority the statute that expressly limits the jurisdiction of the Commission to companies "furnishing service to the public."[51] An order compelling VoltaGrid to surrender its property to Petitioners requires a finding that it is subject to the Commission's jurisdiction, which the Order expressly avoids.[52]

B. An agreement requires consent, which cannot be compelled by the Trade Secret Rule.

The Rule provides that a person granted access "shall be required to enter into a protective agreement *with the affected party*," and it directs the Commission to provide "the number of copies of the protected information *agreed upon* in the protective agreement."[53] The obligation the Rule imposes runs to the person seeking access. Nothing in the Rule authorizes the Commission, much less a hearing officer, to compel the affected party to agree. Under Georgia law, a contract requires "[t]he assent of the parties to the terms of the contract."[54] An "agreement" executed under compulsion is not an agreement, and VoltaGrid has not consented. The Order nonetheless directs that "counsel for Petitioners and VoltaGrid shall execute a protective agreement," on terms the Hearing Officer selected from Petitioners' proposal.[55] That directive should be vacated.

C. Compelled disclosure raises constitutional concerns the Commission should address before any disclosure.

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[50] *N. Fulton Med. Ctr., Inc. v. Stephenson*, 269 Ga. 540, 543 (1998); *see also Estes v. Perry*, 167 Ga. 902, 904–06 (1929) (Commission's general supervisory power does not "introduce any new class of business" into its jurisdiction).
[51] Ga. Comp. R. & Regs. r. 515-3-1-.11 (authority note) (citing Ga. L. 1907, pp. 72–81, now codified at O.C.G.A. § 46-2-21(b)(5)).

[52] The Order relies on the Commission's 2001 order directing Atlanta Gas Light Company to execute a protective agreement, and on a same-day Fulton County Superior Court order denying AGLC's emergency petition for review, Order at 4 & n.13 (citing *Atlanta Gas Light Co. v. Ga. Pub. Serv. Comm'n*, Civil Action No. 2001CV42180, slip op. (Fulton Cnty. Super. Ct. Aug. 29, 2001)), and on a similar Commission order directed to BellSouth, *see BellSouth Telecomms., Inc. v. Ga. Pub. Serv. Comm'n*, Civil Action File No. E-07376, slip op. (Fulton Cnty. Super. Ct. Apr. 14, 1993). AGLC and BellSouth were regulated utilities indisputably subject to the Commission's jurisdiction; as the Order itself recognizes, "jurisdiction was not at issue." Order at 4. Neither decision addressed whether the Commission may compel an entity whose jurisdictional status is unresolved to execute an agreement surrendering its trade secrets, and neither is binding precedent.
[53] Ga. Comp. R. & Regs. 515-3-1-.11(3)(a), (4) (emphasis added).
[54] O.C.G.A. § 13-3-1.
[55] Order at 5–6.

The Order's compelled disclosure of VoltaGrid's trade secrets raises constitutional concerns, particularly where the Commission has not determined that VoltaGrid is subject to its jurisdiction. A trade secret is property, and "the right to exclude others is central to the very definition of the property interest."[56] A government-compelled appropriation of the right to exclude is a per se taking.[57] The Georgia Constitution forbids taking or damaging private property "without just and adequate compensation being first paid."[58] VoltaGrid has set out these objections in its Opposition and preserves them here.[59]

IV. THE COMMISSION SHOULD IMMEDIATELY STAY THE ORDER.

The Order provides that no motion will stay its effective date "unless otherwise ordered by the Commission,"[60] and the hearing officer scheduled the compliance date *before* the next Administrative Session. The Commission should do so immediately, for four reasons.

First, the harm is irreparable. Once Petitioners' counsel reviews VoltaGrid's trade secrets, no later ruling by the Commission or a reviewing court can restore them.[61] Without a stay, the Commission's review of this appeal, and any judicial review, would come too late to matter.

Second, a stay is required by the Trade Secret Rule. Any Commission determination that protected information "must be disclosed . . . in connection with any hearing, or otherwise" is "automatically stayed for thirty (30) days from the date of the order."[62] The stay exists to give the affected party an opportunity to seek judicial review before disclosure. The Order acknowledges

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[56] *Ruckelshaus*, 467 U.S. at 1011; *Outside Carpets, Inc. v. Indus. Rug Co.*, 228 Ga. 263, 267–68 (1971).
[57] *Cedar Point Nursery v. Hassid*, 594 U.S. 139, 158 (2021).
[58] Ga. Const. art. I, § III, para. I(a).
[59] Opposition, Part III.
[60] Order at 6.
[61] *Ruckelshaus*, 467 U.S. at 1011.
[62] Ga. Comp. R. & Regs. 515-3-1-.11(7).

that the thirty-day stay is part of the process reserved to the Commission,[63] yet it orders disclosure before that process occurs. Staying the Order simply preserves the protection the Rule guarantees.

Third, the Order forces VoltaGrid into an untenable choice before the Commission can act. It provides that by November 12, VoltaGrid must either execute an "agreement" to which it does not consent, potentially waiving the very objections presented in this appeal, or risk being found out of compliance with the Order. Georgia law also contemplates that interim agency rulings may be reviewed immediately where review of the final decision would not provide an adequate remedy, and that the agency may stay its own decision pending review.[64] A stay preserves those rights.

Fourth, a stay will not prejudice Petitioners. The Commission's Staff has had access to every page of the protected documents since September 14, 2026, and the public disclosure version of each of the 45 designated documents, with only the protected portions redacted, is already available. Petitioners filed their direct testimony and their response to the Motion to Dismiss without them. The Motion to Dismiss, which may moot the Trade Secret Motion entirely, is fully briefed. At most, a stay delays access to information that VoltaGrid contends Petitioners have no right to obtain, and any necessary adjustment to the hearing schedule is within the Hearing Officer's control. A short delay is not comparable to the permanent loss of VoltaGrid's property.

Given the Order's November 12, 2026 deadline, VoltaGrid respectfully requests that the Commission act on this motion for stay on an expedited basis, or, at a minimum, that the Hearing Officer suspend the deadline pending the Commission's ruling.

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[63] Order at 5.

[64] O.C.G.A. § 50-13-19(a), (d)(1).

CONCLUSION

For the foregoing reasons, VoltaGrid respectfully requests that the Commission:

1. Immediately stay the Order in its entirety, including the November 12, 2026 deadline to file an executed protective agreement and the directive that access be granted upon execution, pending the Commission's decision on this appeal;
2. Vacate the Order's grant of access to VoltaGrid's protected information and its directive that VoltaGrid execute a protective agreement;
3. Hold the Trade Secret Motion in abeyance until VoltaGrid's Motion to Dismiss is decided;
4. If the Trade Secret Motion is thereafter heard, conduct the hearing and a document-by-document in-camera inspection of the 45 documents identified in VoltaGrid's Notice before the Commission under Rule 515-3-1-.11(3) and (7), with any testimony or argument concerning the content of protected information taken in closed session;
5. Confirm that any order determining that protected information is not a trade secret or must be disclosed is automatically stayed for thirty days under Rule 515-3-1-.11(7), and stay any such order pending judicial review; and
6. Grant such other relief as is just and proper.

This 9th day of November, 2026.

[Signatures Continued on Next Page]

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BEFORE THE PUBLIC SERVICE COMMISSION
STATE OF GEORGIA

SUSTAINABLE NEWTON, SARA and RANDALL VINSON, and THEODOSIA and WILLIAM WADE,	:	
Petitioners,	:	DOCKET NO.: 57243
v.	:	
VOLTAGRID, LLC,	:	
Respondent.	:	

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the within and foregoing VOLTAGRID, LLC'S EMERGENCY APPEAL FROM THE HEARING OFFICER'S NOVEMBER 4, 2026 ORDER AND MOTION FOR STAY upon the following persons by causing electronic copies of the same to be transmitted to each interested party that has supplied a valid email address, and all other parties to be served via e-mail or first class mail with adequate postage affixed thereon and deposited in the United States Mail addressed as follows:

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This 9th day of November, 2026.

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