

**BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION  
STATE OF GEORGIA**

**IN RE:**

**Georgia Power Company's  
2004 Rate Case**

**Docket No. 18300-U**

**BRIEF OF THE METROPOLITAN ATLANTA  
RAPID TRANSIT AUTHORITY**

The Metropolitan Atlanta Rapid Transit Authority (hereinafter "MARTA") hereby files its brief and recommendations in the above referenced docket concerning proposed rate increases by Georgia Power Company (hereinafter "Georgia Power") before the Georgia Public Service Commission (hereinafter "PSC" or "Commission").

**I. BRIEF PROCEDURAL BACKGROUND**

On July 1, 2004, Georgia Power filed a rate case before the PSC in Docket No. 18300-U (hereinafter "Rate Case") requesting \$328.3 million in additional revenue requirements in accordance with filed testimony and accompanying exhibits. On August 26, 2004, MARTA intervened in the Rate Case as a full party of record. Georgia Power supplies MARTA with electric service and has established a special rate category, called the Electric Transmission Rate (hereinafter "ET Rate"), that will be affected by Georgia Power's proposed rate increase.

On October 8, 2004, MARTA filed the written testimony and exhibits of its expert, Dr. Bruce E. Biewald, making recommendations regarding the Georgia Power rate proposal. On October 27, 2004, the Commission heard the oral testimony of Dr. Biewald regarding deficiencies in MARTA's existing and proposed electricity rates. On November 8, 2004, Georgia Power filed rebuttal testimony focusing on the various intervenors' recommendations for Georgia Power's rate proposals. Rebuttal hearings were held from November 18-22, 2004, in

which Georgia Power presented testimony responding to the intervenors issues with respect the proposed rate increase, including brief testimony from Georgia Power's witness, Terry A. Austin, addressing some of MARTA's issues regarding the ET Rate and its associated Cost of Service Study.

The Commission requested that parties file any supporting briefs or proposed orders by December 13, 2004 and advised the parties that it will render its final decision regarding the Rate Case at its regularly scheduled Administrative Session on December 21, 2004.

## **II. MARTA'S DISCUSSION OF ISSUES**

In this proceeding, the Commission has an excellent opportunity to move Georgia Power's electricity rates towards parity and to establish greater fairness among its many ratepayers. MARTA applauds the Commission's improvements to date on moving towards ratepayer parity, for example, by requiring Georgia Power to prepare and file a cost of service study by individual rate schedules rather than customer classes. This type of detailed information and accountability is exactly what the Commission and ratepayers need to scrutinize Georgia Power's various assertions concerning its costs and rates of return. Moreover, by requiring a detailed breakdown of cost of service information, interested ratepayers can now monitor and evaluate the disparity of rates among individual ratepayers.

The disappointing aspect of the Commission's parity efforts is that Georgia Power apparently did not utilize the new detailed Cost of Service Study in its proposed rate design for this Rate Case.<sup>1</sup> Georgia Power's failure in this regard is an inequitable move away from rate parity and can only perpetuate the long history of disproportional electricity rates in the State of Georgia. The testimony and evidence in the Rate Case clearly demonstrate that MARTA has been paying considerably more in electricity rates than should be required of a state-created

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<sup>1</sup> See Oral Testimony of Terry A. Austin ("Austin Testimony") (Nov. 19, 2004) at 3418-3419.

public mass transit authority providing a state-mandated public service. MARTA encourages the Commission to continue working towards rate parity and to use its authority to ferret out the existing and proposed inequities that cause Georgia Power ratepayers to be subject to unjust and unreasonable rates.

**A. MARTA's Electric Transportation Rate**

MARTA is a public rapid transit authority established by an Act of the General Assembly of this State (Ga. L. 1965, pp. 2243, *et seq.*) ("MARTA Act") for the purpose of acquiring, building, operating, and maintaining a system for mass transportation in the City of Atlanta and the Counties of Fulton, DeKalb, Cobb, Clayton, and Gwinnett. MARTA's transit system includes a rail transit system powered solely by electricity. In order to effectively operate the rail transit system, MARTA consumes over 180 GWh of electricity annually, making it one of the ten largest customers of Georgia Power.<sup>2</sup> MARTA's electricity service is billed and paid for under a special rate category, called the ET Rate, established by Georgia Power.<sup>3</sup> MARTA is the only ratepayer under the ET Rate. The cost of electricity service under the ET Rate is a substantial component of the total fixed operating budget for MARTA's rail transit system.<sup>4</sup>

Dr. Bruce E. Biewald testified on behalf of MARTA that the ET Rate has been and continues to be unfair and unjust. He testified that MARTA is a relatively efficient customer for Georgia Power to provide electricity service because MARTA has a very steady "base load" demand and a current monthly load factor of 70%.<sup>5</sup> MARTA annually purchases over 180 GWh

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<sup>2</sup> See Testimony of Bruce E. Biewald, Ph.D. ("Dr. Biewald Testimony") (Oct. 27, 2004) at 2514-2515.

<sup>3</sup> *Id.* at 2512.

<sup>4</sup> Over the past twenty years MARTA has paid approximately \$150 million to Georgia Power for electricity under the ET Rate. *See id.* at 2511. Moreover, MARTA currently pays almost \$10 million a year to Georgia Power under the ET Rate. *See id.* at 2537.

<sup>5</sup> *See id.* at 2515.

of electricity under the ET Rate at an average price of 4.77 cent/kWh.<sup>6</sup> The ET Rate is unfair for two separate reasons: (1) the average price for Georgia Power's other largest customers served for the same time period amounted to approximately 21% less (*i.e.*, only 3.94 cent/kWh) than the ET Rate;<sup>7</sup> and (2) MARTA's steady base load demand allows Georgia Power to operate at more efficient and less-costly service levels (*i.e.*, Georgia Power does not have to constantly ramp power up and down to meet MARTA's load as it does with most of its other customers that have continually changing demand levels).<sup>8</sup>

As Dr. Biewald correctly noted, the average price paid by MARTA is disproportionately higher than most of Georgia Power's other largest ratepayers.<sup>9</sup> There is no discernable correlation between the excessive ET Rate charged by Georgia Power and MARTA's efficient and steady base load demands. Simply stated, MARTA is an efficient electricity customer that Georgia Power is unfairly penalizing by requiring MARTA to pay unreasonably high electricity prices under the current and proposed ET Rate schedules, and thereby subsidizing many of the other Georgia Power ratepayers that enjoy disproportionately lower rates.<sup>10</sup>

The funding for MARTA's rail transit system comes from special sales and use taxes levied in Fulton and DeKalb Counties and fare box revenues which must cover 35% of MARTA's operating expenses. MARTA receives no state or federal funding for operating costs.

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<sup>6</sup> *Id.* at 2514.

<sup>7</sup> *See id.* at 2514-2515.

<sup>8</sup> *See id.* at 2515.

<sup>9</sup> *See* Exhibit BEB-4 to Dr. Biewald Testimony (Dr. Biewald's scatter plot chart indicates MARTA's 4.77 cents per kWh is excessively high compared to eight of the other largest Georgia Power ratepayers paying less than 4.0 cent per kWh, and in some cases paying substantially less than MARTA with similar load factors).

<sup>10</sup> One of the fundamental objectives of sound rate structure for utilities is the concept of "Fairness to Ratepayers" which calls upon the principle that the burden of meeting total revenue requirements must be distributed fairly and without arbitrariness, capriciousness, and inequities among the beneficiaries of utility service and to avoid undue discrimination. *See* Dr. Biewald Testimony at 2517 (*citing* Bonbright, et al., *Principles of Public Utility Rates*, 1988).

Therefore, based on MARTA's limited operational funding, any increases in operating expense resulting from increases in electricity rates may require MARTA to raise fares or reduce service.

### **B. Georgia Power's Cost of Service Study**

Cost of service studies are essential tools used by utility regulators for rate parity in order to appropriately assign costs to different categories of ratepayers based on how those individual ratepayers cause costs to be incurred by the respective utility.<sup>11</sup> Utilities also utilize cost of service studies in creating rate designs that avoid price discrimination among ratepayers and create useful price signals that encourage efficient use of system capacity, leading to lower overall costs for the utility. Cost of service studies used in rate design tend to produce stable rates of return and revenue streams for the utility, while providing steady price signals to ratepayers thereby allowing them to reliably measure and predict their existing and future electricity usage.

Georgia Power's cost of service study in the 2001 Rate Case in Docket No. 14000-U was limited in scope and not useful for rate parity.<sup>12</sup> Georgia Power was criticized during its last rate case for only allocating costs and rates of return into four customer classifications.<sup>13</sup> Georgia Power admitted it was earning higher rates of return on some schedules and lower rates of returns on others but did not know the magnitude of earnings for any particular rate schedule.<sup>14</sup> Georgia Power agreed that breaking down such disparity in rates of return would be important to the Commission. At that time, J. Steven Shurbutt, an Advisory Staff witness, recommended that, in order to more clearly focus proper attention on the performance of the individual rate

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<sup>11</sup> See Dr. Biewald Testimony at 2519 (citing *Electric Utility Cost Allocation Manual*, National Association of Regulatory Utility Commissioners, Jan. 1992).

<sup>12</sup> See Testimony of J. Steven Shurbutt, on behalf of the Advisory Staff of the Commission, in Docket No. 14000-U ("Shurbutt Testimony") (Oct. 12, 2001) at 12.

<sup>13</sup> *Id.* at 12-13.

<sup>14</sup> *Id.* at 13.

schedules and enhance the cost of service study's usefulness for ratemaking purposes, Georgia Power should be required in its 2004 rate case to develop and file a cost of service study that more accurately portrays whether a given rate schedule is recovering its appropriate costs; a cost of service study would also be more conducive to unbundling Georgia Power's rate design.<sup>15</sup> The Commission appropriately considered the cost of service study evidence and in the interest of fairness to ratepayers, required Georgia Power to develop and file a more detailed cost of service study broken-down by individual rate schedules for its 2004 rate case.

The Georgia Power Cost of Service Study ("COSS"), although flawed as described below, nonetheless demonstrates the existing rate inequity among Georgia Power ratepayers. Specifically, Georgia Power's COSS originally indicated a rate of return for service to MARTA at 8.58%.<sup>16</sup> In rebuttal testimony prompted by Dr. Biewald's observations, Georgia Power admitted that the COSS with respect to MARTA was based on incorrect Distribution Levels D through F representing alleged capital expenditures by Georgia Power for which it was attempting to recover those improper capital costs in the COSS.<sup>17</sup> Dr. Biewald identified the COSS error in his testimony, correctly stating that MARTA has invested \$50 million of its own money for distribution facilities so that MARTA takes power at Distribution Level C. Therefore, the COSS is attempting to wrongly recover, or in essence, double-recover, distribution costs from MARTA that are not incurred by Georgia Power.<sup>18</sup> Once these improper Distribution

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<sup>15</sup> See *id* at 16-17.

<sup>16</sup> See Austin Testimony at 3417; Dr. Biewald Testimony at 2518.

<sup>17</sup> Distribution Levels D – F improperly allocate costs to MARTA for generation, transmission, and distribution to the primary level. See Austin Testimony at 3417; Dr. Biewald Testimony at 2519-2520.

<sup>18</sup> See Dr. Biewald Testimony at 2519-2520; 2534.

Levels are removed from the COSS and calculated against MARTA's proposed rate hike, Georgia Power would receive a rate of return of over 11.22% on the MARTA ET Rate.<sup>19</sup>

Georgia Power's witness, Terry A. Austin, attempted to explain away any significance of the COSS error by claiming it does not affect the rate of return for other Georgia Power ratepayers or ratepayer classes.<sup>20</sup> However, Mr. Austin admitted on cross-examination that the COSS error affects the total rate base to MARTA in the amount of \$2.2 million dollars.<sup>21</sup> Since MARTA is the only ratepayer under the ET Rate, this type of error has substantial financial implications to MARTA's rate base.

Mr. Austin next claims that although there is a \$2.2 million dollar impact to MARTA's rate base, the COSS was not utilized by Jonathan M. Kubler in his rate design and should have no real impact on MARTA's rate.<sup>22</sup> However, this testimony does not explain why MARTA's proposed rate increase is 11% while the overall proposed rate increase average is 7%.<sup>23</sup> In fact, Georgia Power failed to submit any evidence into the record of this proceeding that would support a larger rate increase for MARTA than for most other Georgia Power customers. As the exhibits and testimony indicate, MARTA was already paying excessively more than was fair to an efficient and steady base load demand customer. MARTA should not be expected to bear another ET Rate increase and further subsidize the disproportionately lower rates of other Georgia Power ratepayers.

### **C. State-Created Public Authority**

Public entities and organizations that offer public benefits and services to Georgia residents have been and continue to be considered in Georgia Power's rate design with respect to

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<sup>19</sup> See Austin Testimony at 3418.

<sup>20</sup> See *id.*

<sup>21</sup> See *id.*

<sup>22</sup> See Austin Testimony at 3418-3419.

<sup>23</sup> See Dr. Biewald Testimony at 2518; 2533.

keeping electricity rates down.<sup>24</sup> MARTA is a state-created entity with a mandate to provide public mass transportation for the common interest and benefit of the citizens of the City of Atlanta and the surrounding counties.<sup>25</sup> The MARTA rail system is the backbone of the regional transportation system, with all local bus transit providers, including Cobb Community Transit, Gwinnett Transit, Clayton County Transit and Georgia Regional Transportation Authority (GRTA) express buses, feeding into the MARTA rail system. The provision of a rapid transit system for the metropolitan Atlanta area is a vital economic concern to the citizens of the region and the public interest of the State as a whole. The efficiency and effectiveness with which MARTA is meeting its legislatively created purposes can impact the users of MARTA and the citizens of the metropolitan Atlanta area, should MARTA require additional funding to cover the proposed Georgia Power rate increase. Therefore, any unfair and unjust electricity rate increase affecting MARTA's ability to operate and maintain a rapid transit system in an efficient and effective manner has severe local and regional consequences. If the Commission continues to allow unfair and unjust rate increases without some proportionate reduction in MARTA's ET Rate, then MARTA's ability to continue to offer a vital public service at a reasonable cost to citizens and without State funding, could be compromised.

### **III. MARTA'S RECOMMENDATIONS AND CONCLUSION**

MARTA continues to subsidize the rates of other Georgia Power ratepayers through its disproportionately excessive ET Rate schedule. MARTA has an extremely steady base load demand, which reduces Georgia Power's costs related to serving this load; nevertheless, MARTA has been required to pay considerably more for electricity service than almost all of Georgia Power's other largest ratepayers. Moreover, Georgia Power has not even attempted to

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<sup>24</sup> *See id.* at 2528-2530.



justify its current 11% rate hike proposed for MARTA. Georgia Power is overreaching by asking the Commission to continue the existing rate inequity against a state-created public mass transportation authority like MARTA with limited resources and operating budget. MARTA recommends that the Commission reject the current 11% increase for the ET Rate. The Commission should revise and reduce the ET Rate to the average price of 3.94 cents/kWh paid by comparable Georgia Power customers in order to bring MARTA's existing electricity rates into parity with the other ratepayers. MARTA encourages the Commission to produce fair and reasonable rates for MARTA and the Georgia citizens paying for and using MARTA's services.

Respectfully submitted this 13<sup>th</sup> day of December, 2004.



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**CERTIFICATE OF SERVICE**

I hereby certify that I have this day served the foregoing Brief of the Metropolitan Atlanta Rapid Transit Authority by depositing copies of the same, postage prepaid, in the United States mail, addressed to the following parties of record at their addresses shown below:

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