



Friday, December 20, 2019

Mr. Walter L. Thomas, Jr.  
Executive Secretary  
Alabama Public Service Commission  
100 North Union Street  
P.O. Box 304260  
Montgomery, AL 36130

RE: Docket U-4226 and Docket 32767 – RATE RIDER RGB (SUPPLEMENTARY, BACK-UP, OR MAINTENANCE POWER)

Dear Mr. Thomas,

Please find enclosed Energy Alabama's Proposed Order in the above referenced dockets. This filing will be followed up with an original and the requisite amount of physical copies to the above address.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Tait", is written over a light blue horizontal line.

Daniel Tait  
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Energy Alabama  
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Encl. Energy Alabama Proposed Order  
cc: Official Service List, *via electronic mail only*

BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF ALABAMA

DOCKET NO. U-4226

DOCKET NO. 32767

RATE RIDER RGB (SUPPLEMENTARY, BACK-  
UP, OR MAINTENANCE POWER)

ALABAMA PUBLIC

SERVICE COMMISSION

**ENERGY ALABAMA PROPOSED ORDER**

**I. Procedural Background**

On April 27, 2018 The Southern Environmental Law Center (SELC), on behalf of Gasp, and Ragsdale LLC, on behalf of two private Alabama citizens, filed a complaint asking the Alabama Public Service Commission to determine that Alabama Power's rate treatment of solar customers is unfair, unjust, contrary to public interest, and otherwise unlawful.

On May 23, 2018, Alabama Power filed a request for an extension to file a response to the complaint, which was originally due May 31. The PSC granted the request, pushing the response deadline to June 15, 2018.

On June 15, 2018, Alabama Power filed a motion to dismiss the complaint in Docket 32767 and also filed in Docket No. U-4226 proposing modifications that seek to increase Rate Rider RGB.

On August 23, 2018, the Alabama Public Service Commission (PSC) granted the Petitioners' motion to intervene in the informal rate docket, U-4226.

On October 29, 2018, Petitioners deposed Alabama Power representative Natalie Dean.

On November 12, 2018, Petitioners filed testimony by Karl Rábago.

On December 13, 2018, Alabama Power filed reply testimony.

On December 21, 2018, Petitioners requested evidentiary hearing.

On February 13, 2019, Energy Alabama filed a motion to intervene with the Alabama PSC.

On June 25, 2019, the PSC staff issued supplemental data requests of Alabama Power.

On July 23, 2019, Alabama Power responded to the PSC staff's questions and data requests.

On July 12, 2019, Energy Alabama was allowed to intervene the aforementioned dockets.

On August 20, 2019, Petitioners and Energy Alabama filed replies to Alabama Power's responses to the PSC staff's questions.

On October 7, 2019, Administrative Law Judge (ALJ) John Garner issued a procedural ruling establishing a limited public hearing for November 21, 2019.

On October 28, 2019, Alabama Power deposed Petitioners' expert witness, Karl Rábago.

On November 21, 2019, the limited public hearing was held at the Carl L. Evans Hearing Complex in Montgomery, Alabama. ALJ Garner requested proposed orders from the parties by December 20, 2019.

## **II. Findings and Conclusions**

After full consideration of the evidence presented and information made available to it, the Commission **FINDS** that Alabama Power was unable to establish an adequate empirical justification for the current or proposed charges under Rate Rider RGB I.B. The Commission recognizes that Alabama Power is entitled to recover back-up charges, however, such charges must be based in the actual cost to serve customers, not based on hypothetical situations where costs may occur but have not yet been documented.

The Commission **FINDS** that Rate Rider RGB Part I.B is discriminatory. The Public Utilities Regulatory Policies Act of 1978 (PURPA) prohibits Alabama Power from discriminating against

one class of customers. 18 C.F.R. § 292.30S(a)(1)(ii). PURPA further requires rates for sales "which are based on accurate data and consistent system-wide costing principles shall not be considered to discriminate against any qualifying facility to the extent that such rates apply to the utility's other customers with similar load or other cost-related characteristics." *Id.* at § 292.30S(a)(2). The evidence supports Petitioners' claim that solar customers subject to Rate Rider RGB Part I.B will always pay more for service than non-solar customers with an identical service profile.

The Commission **FINDS** that Alabama Power's June 15, 2018 filing in U-4226 is a post-hoc attempt to justify Rate Rider RGB Part I.B. The evidence submitted by Alabama Power to support its new proposed charge, specifically the EPRI study cited in ND Reply-7, was not identified as a source of information for its Rate Rider RGB until it submitted reply testimony on behalf of Company witness Dean, even though the study has been available since 2015.

The Commission **FINDS** that Alabama Power did not follow well-established principles of cost-of-service ratemaking, as evidenced by its acknowledgement that customers covered by the Rate Rider RGB Part I.B have a lower cost of service than other customers. Specifically, cost-of-service ratemaking requires the Company to study all costs and benefits, however the Company only studied its purported costs.

The Commission **FINDS** that Alabama Power erred in not reviewing or discussing Rate Ride RGB Part I.B, or similar principles, with peers across the Southern Company system and other utilities with significantly higher levels of renewable energy. The Commission understands, and in fact requires, that Alabama Power is responsible only for serving customers in Alabama. However, Alabama Power can and should use established best practices whenever possible.

The Commission **FINDS** that Alabama Power's 35% diversity credit is not based in actual data, but of the Company's judgement. The Commission respects the professional judgement of Alabama Power and its team. However, professional judgement cannot be substituted for objective data, especially when data is, or can become, readily available for use.

The Commission **FINDS** that the people of Alabama, and consequently electric ratepayers, are best served when diverse interests can work together to develop consensus. The Commission believes an honest, transparent, technically and methodologically sound assessment of the full range of costs, avoided costs, and benefits of distributed generation can and should be completed. Further the Commission believes this assessment should be public and open to all stakeholders.

**IT IS, THEREFORE, ORDERED BY THE COMMISSION** that Alabama Power's June 15, 2018 Motion to Dismiss in Docket 32767 is denied.

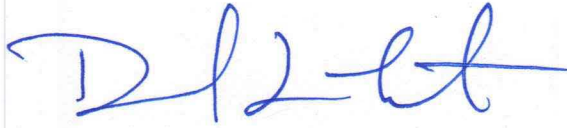
**IT IS FURTHER ORDERED BY THE COMMISSION** that the Petitioners' July 6, 2018 Amended Complaint and Petition for Declaratory Judgment and Injunctive Relief is granted.

**IT IS FURTHER ORDERED BY THE COMMISSION** that all fees collected by Alabama Power under Rate Rider RGB Part I.B from June 15, 2018 through the date of this order, shall be refunded.

**IT IS FURTHER ORDERED BY THE COMMISSION** that Alabama Power is hereby required to conduct a study of both the costs and benefits of customer-sited generation. The study must be submitted to the Commission no later than 12 months from the date of this order and must be based in real data from the Southern Company system. The Company must include diverse stakeholders throughout the process and strive to produce consensus recommendations to the Commission. Where consensus is unable to be achieved, each stakeholder shall have the opportunity to state their position on the issue at hand before the Commission.

DONE in Montgomery, Alabama this \_\_\_\_\_ day of January, 2020.

RESPECTFULLY SUBMITTED, this 20th day of December 2019.



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**CERTIFICATE OF SERVICE**

I, Daniel L Tait, hereby certify that I have on this day filed with the Alabama Public Service Commission the original of the Energy Alabama's Proposed Order and that in compliance with the Alabama Public Service Commission's Rules of Practice and Procedure, I have served a copy via electronic mail or via United States Postal Service, to all parties of Docket No. U-4226 and Docket No. 32767.

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This day the 20<sup>th</sup> of December 2019,



Daniel L Tait