

November 15, 2021

**VIA E-FILE & OVERNIGHT MAIL**

Mr. Walter L. Thomas, Jr., Secretary  
Alabama Public Service Commission  
RSA Union Building  
100 North Union Street, Suite 950  
Montgomery, AL 36104

**RE: Alabama Power Company Petition for Certificate of Convenience and  
Necessity; Docket No. 33182**

Dear Secretary Thomas:

In accordance with the Alabama Public Service Commission's Notice of Pending Petition dated October 29, 2021, enclosed please find a *Petition to Intervene by Energy Alabama and GASP* in response to Alabama Power Company's Petition for Certificate of Convenience and Necessity for the acquisition of existing combustion turbine generating capacity in Calhoun County, Alabama, filed October 28, 2021 in the above-referenced docket.

Petitioners are submitting this filing to the Commission through its e-filing system consistent with the rules and practices of the Commission.

Please contact me if you have any questions or concerns regarding the enclosed filing.

Sincerely,



Christina Tidwell  
Southern Environmental Law Center

Enclosure

**BEFORE THE  
ALABAMA PUBLIC SERVICE COMMISSION**

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	)	
<b>In re: Petition for a Certificate of</b>	)	
<b>Convenience and Necessity by</b>	)	<b>Docket No. 33182</b>
<b>Alabama Power Company</b>	)	
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**PETITION TO INTERVENE BY ENERGY ALABAMA AND GASP**

COME NOW, Energy Alabama and GASP (collectively, “Petitioners”), pursuant to Rule 8 of the Rules of Practice of the Alabama Public Service Commission (“Commission”), and as permitted by statute, Ala. Code § 37-1-87, hereby submit their Petition to Intervene in the above-referenced proceeding before the Commission. In support of this petition, Petitioners respectfully state as follows:

1. On October 28, 2021, Alabama Power Company (“Alabama Power” or the “Company”) filed a Petition for a Certificate of Convenience and Necessity requesting authorization to acquire an existing combustion turbine generating plant and all related facilities currently owned by Calhoun Power Company, LLC, which are located near Eastaboga, Calhoun County, Alabama (“Calhoun Power Facility”). *See* Petition, *In re: Ala. Power Co. Petition for Certificate of Convenience and Necessity*, Docket No. 33182 (Ala. P.S.C. Oct. 28, 2021).
  
2. On October 29, 2021, the Commission issued a Notice of Pending Petition in the above-referenced docket, according to which this Petition to Intervene is timely filed. *See* Notice of Pending Petition, *In re: Ala. Power Co. Petition for Certificate of Convenience and Necessity by Ala. Power Co.*, Docket No. 33182 (Ala. P.S.C. Oct. 29, 2021).

3. Pursuant to Alabama Code § 37-1-87, “[e]very person, firm, corporation, co-partnership, association or organization affected thereby may by petition intervene and become a party to any proceeding before the commission.”

4. The Commission has adopted the Alabama Supreme Court’s requirements for associational standing:

[I]n order for an association to achieve intervenor status and seek relief on behalf of its members, said association must establish that: (a) its members would otherwise have standing to use in their own right; (b) the interests it seeks to protect are germane to the organization’s purpose; and (c) neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit.

*Declaratory Proceeding to Consider the Administrative Interpretation of Ala. Code § 37-1-87 (1975), as amended, Governing Intervention in Proceedings before the Ala. Pub. Serv. Comm’n*, Docket 28941, 2004 WL 417279, at \*7 (Ala. P.S.C. Jan. 9, 2004) (citing *Bama Budweiser of Montgomery, Inc. v. Anheuser-Busch, Inc.*, 783 So. 2d 792 (Ala. 2000)).

5. GASP is an Alabama 501(c)(3) nonprofit association headquartered in Birmingham, Alabama. GASP’s business address is 2320 Highland Avenue South, Suite 270, Birmingham, Alabama 35205.

6. GASP seeks to improve the environmental, economic and public health of Alabama through education, advocacy and collaboration.<sup>1</sup> Presently, GASP has over 1,500 members in Alabama. To fulfill its mission, GASP works to improve air quality, increase renewable energy opportunities, and transition away from the use of fossil fuels to create a healthy, just and sustainable Alabama. For example, through its website, GASP provides information about solar energy and an opportunity to sign a petition entitled “Solar for All Alabamians,” which has been signed by 932 people. GASP also fulfills its mission through environmental justice advocacy work,

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<sup>1</sup> See GASP, <https://gaspgroup.org/> (last visited November 15, 2021).

pushing for environmental, economic and public health for all Alabamians no matter their race, ZIP code, or socioeconomic status.

7. GASP has a direct, personal interest in these proceedings both on its own behalf and on behalf of its members. GASP and its members are affected by the expenditure and resource decisions made by the Commission and Alabama Power, as well as the manner in which those decisions are made.

8. Alabama Power is GASP's electricity provider.

9. Many of GASP's members are Alabama Power customers. The names and addresses of the following GASP members are provided, each of whom are currently residential electric customers of Alabama Power. The identified members understand the nature and purpose of these proceedings and desire that GASP participate on their behalf.

- a. Abigail Brudvig  
209 Vetavia Street  
Irondale, AL 35210
- b. Gabrielle Gordon  
165 Greenwood Circle  
Calera, AL 35040
- c. Rev. Michael Malcolm  
919 4th Terrace  
Pleasant Grove, AL 35127

10. GASP and its members have immediate, pecuniary and substantial interests in the outcome of this proceeding. Furthermore, GASP's members' interests in these proceedings are germane to GASP's mission to advocate for an increase in clean, renewable energy in the state and a transition away from fossil fuels for electricity generation. The listed members would have standing in their own right to participate in this proceeding, but neither the claims asserted, nor the

relief requested, require the participation of individual GASP members. Accordingly, GASP has associational standing to intervene in this proceeding.

11. Energy Alabama is an Alabama 501(c)(3) nonprofit association headquartered in Huntsville, Alabama. Energy Alabama's business address is P.O. Box 1381, Huntsville, Alabama 35807.

12. Energy Alabama seeks to accelerate the state's transition to sustainable energy.<sup>2</sup> Presently, Energy Alabama has over 250 members throughout the state of Alabama. To fulfill its mission, Energy Alabama focuses on education, advocacy, and technical assistance, and works with governmental entities, utilities and the general public to grow the awareness and use of sustainable energy. For example, Energy Alabama publishes information about sustainable energy, including "An Alabamian's Guide to Sustainable Energy." In addition, through its website, Energy Alabama provides information about energy efficiency programs, such as the North Alabama Buildings Performance Challenge, GoodUse, and Saving Generations programs.

13. Energy Alabama has a direct, personal interest in these proceedings on behalf of its members. Energy Alabama's members are affected by the expenditure and resource decisions made by the Commission and Alabama Power, as well as the manner in which those decisions are made.

14. Many of Energy Alabama's members are Alabama Power customers. The names and addresses of the following Energy Alabama members are provided, each of whom are currently residential electric customers of Alabama Power. The identified members understand the nature and purpose of these proceedings and desire that Energy Alabama participate on their behalf.

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<sup>2</sup> See Energy Alabama, <https://alcse.org> (last visited November 15, 2021).

- a. Tim Brice  
5079 Cherokee Woods Circle  
Birmingham, AL 35210
- b. B. Lynne Ingram  
1641 Barry Avenue  
Birmingham, AL 35209
- c. Kathleen Kirkpatrick  
339 Rose Lane  
Montgomery, AL 36104

15. Energy Alabama and its members have immediate, pecuniary and substantial interests in the outcome of this proceeding. Furthermore, Energy Alabama's members' interests in these proceedings are germane to Energy Alabama's mission to accelerate the growth of sustainable energy in Alabama. The listed members would have standing in their own right to participate in this proceeding, but neither the claims asserted, nor the relief requested, require the participation of individual Energy Alabama members. Accordingly, Energy Alabama has associational standing to intervene in this proceeding.

16. Energy Alabama and GASP have been granted intervention and participated in previous Commission proceedings. *See, e.g.,* Ruling Establishing Procedural Schedule, *In re: Ala. Power Co. Petition for Certificate of Convenience and Necessity*, Docket No. 32953 (Ala. P.S.C. Oct. 9, 2019).

17. The Commission's review of Alabama Power's Petition for a Certificate of Convenience and Necessity to acquire additional fossil fuel capacity from the Calhoun Power Facility implicates the organizational missions and interests of both Petitioners. The entirety of Petitioners' positions is unknown due to the need for discovery and the redaction of the Purchase and Sale Agreement; however, to the extent there is any need for additional capacity on Alabama Power's system, Petitioners will advocate for responsible, cost-effective investments that serve the

interests of their members and Alabama Power customers. Petitioners also reserve the right to address other issues raised in the Company's petition or raised by other intervenors as this docket proceeds.

WHEREFORE, Petitioners respectfully request that the Commission enter an order granting them leave to intervene and to fully participate as parties in this docket.

Respectfully submitted this 15th day of November, 2021.



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*Attorneys for Petitioners Energy Alabama and GASP*

**CERTIFICATE OF SERVICE**

I certify that copies of the foregoing have been served upon the counsel of record by electronic transmission on this the 15th day of November, 2021.

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