Georgia Public Service Commission

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In Re: **Georgia Power Company's 2013 Rate Case**

ORDER ADOPTING SETTLEMENT AGREEMENT

Record Submitted: December 4, 2013 Decided: December 17, 2013

APPEARANCES

On behalf of Georgia Public Service Commission Public Interest Advocacy Staff:

JEFFREY STAIR, Esq., DANIEL WALSH, Esq., and ROBIN COHEN, Esq.

On behalf of Georgia Power Company:

KEVIN C. GREENE, Esq., BRANDON MARZO, Esq., JACK JIRAK, Esq., and STEVE HEWITSON, Esq.

On behalf of Association for Fairness in Rate Making:

DAN MOORE

On behalf of The Commercial Group:

ALAN R. JENKINS, Esq.

On behalf of Georgia Association of Manufacturers:

CHARLES B. JONES, III, Esq.

On behalf of Georgia Industrial Group:

RANDALL D. QUINTRELL, Esq.

On behalf of Georgia Municipal Association:

MARCIA RUBENSHON, Esq.

On behalf of Georgia Solar Energy Industries Association, Inc.:

NEWTON M. GALLOWAY, Esq., TERRI M. LYNDALL, Esq., and J. CHADWICK TORRI, Esq.

On behalf of Georgia Watch:

ROBERT B. BAKER, JR., Esq.

On behalf of The Kroger Company:

KURT J. BOEHM, Esq.

On behalf of Metropolitan Atlanta Rapid Transit Authority:

ROBERT B. BAKER, JR., Esq.

On behalf of Resource Supply Management:

JIM CLARKSON

On behalf of Sierra Club:

ASHTEN BAILEY, Esq., and ROBERT UKEILEY, Esq.

On behalf of Southern Alliance for Clean Energy:

KURT EBERSBACH, Esq., and KATIE OTTENWELLER, Esq.

On behalf of U.S. Department of Defense and other affected Federal Executive Agencies:

KYLE J. SMITH, Esq.

BY THE COMMISSION:

I. GEORGIA POWER COMPANY'S 2013 RATE CASE

On June 28, 2013, Georgia Power Company ("Company" or "Georgia Power") filed a traditional electric rate case. This filing was made pursuant to the Georgia Public Service Commission's ("Commission") Order in Docket No. 31958, the Company's 2010 rate case. In 2010 rate case, the Commission voted to approve and issue an Accounting Order three years in term that was to remain in effect through December 31, 2013. The Commission ordered Georgia Power the following regarding its next rate case filing:

> By July 1, 2013, the Company shall file testimony and exhibits required in a general rate case along with supporting schedules required by the Commission to support a "traditional" rate case. The test period utilized by the Company in its rate case filing shall be from August 1, 2013 to July 31, 2014. The Company may propose to continue, modify or discontinue the Alternative Rate Plan. The Company shall also file projected revenue requirements for calendar years 2014, 2015, and 2016. (Docket No. 31958, Final Order, p. 6)

The Company's 2013 rate case filing was made in compliance with the Procedural and Scheduling Order issued by the Commission on May 22, 2013 that identified the procedures that were to be followed in this docket along with corresponding dates on which designated events were set to occur with respect to the Company's filing. In the body of this same order, the Commission, pursuant to O.C.G.A. § 46-2-25, suspended the subject matter of Georgia Power's filing for a period of five months ending January 1, 2014. In addition, the Commission ruled that the proceedings on the Company's filing constituted complex litigation, as that term is defined in O.C.G.A. § 9-11-33.

The Company's 2013 rate case filing was comprised of information responsive to the Commission's rule regarding Minimum Filing Requirements ("MFRs"), exhibits reflecting Georgia Power's cost of service study, sales and revenue forecast, depreciation rates, and cash working capital, and the testimony and exhibits, were offered, of Ron Hinson, Steven Fetter, James H. Vander Weide, Michael T. O'Sheasy, Gregory N. Roberts and the panel of Laura Patterson and Elliot Spencer.

In addition to the Public Interest Advocacy Staff of the Commission ("Advocacy Staff") which has the right by statute to participate in this proceeding, intervention were filed by a number of interested parties. These interested parties were Association for Fairness in Rate Making ("AFFIRM"); the Commercial Group; the Georgia Association of Manufacturers ("GAM"); the Georgia Industrial Group ("GIG"); Georgia Municipal Association ("GMA"); the Georgia Solar Energy Industries Association, Inc. ("GSEIA"); Georgia Watch; the Kroger Company ("Kroger"); Metropolitan Atlanta Rapid Transportation Authority ("MARTA");

Resource Supply Management; Sierra Club; Southern Alliance for Clean Energy ("SACE"); and the U.S. Department of Defense and other affected Federal Executive Agencies ("DOD").

Hearings on Georgia Power's direct case in support of its filing were conducted on October 2 and 3, 2013. Thereafter, on or about October 18, 2013, testimony and supporting exhibits were filed by the Advocacy Staff; DOD; MARTA; the Commercial Group; Kroger; GAM/GIG; AFFIRM; Georgia Watch; and GSEIA. On October 22, 2013, pursuant to the Commission's October 17, 2013 Order Modifying Procedural and Scheduling Order, the Advocacy Staff filed the testimony of Ralph Smith. Hearings resumed on November 5, 6 and 7, 2013, at which time the Advocacy Staff and intervenors presented their respective direct cases.[1]

On November 15, 2013 the Company filed its rebuttal testimony of Dr. Vander Weide, Mr. Fetter, Mr. Roberts, the panel of Ms. Patterson and Mr. Spencer, and the panel of John L. Pemberton, Daniel W. Lindsey and Leslie R. Sibert. On November 15, 2013 a Settlement Agreement was entered into by the Company and Advocacy Staff resolving the contentions raised during the pendency of the proceeding. On November 18, 2013, the Company withdrew the previously filed rebuttal testimony and filed the rebuttal testimony of the panel of Ms. Patterson, Mr. Spencer, Mr. Roberts and Mr. Fetter. In its filing, the Company represented that the Advocacy Staff and the Company had entered into a Settlement Agreement (the "Settlement Agreement") resolving the issues in contention between the two parties. The Settlement Agreement was attached to the Company's rebuttal testimony and a copy is attached hereto as Attachment 1.

The Company presented its rebuttal case on November 25, 2013, at which time the hearings in this matter were concluded. On December 4, 2013, parties in this matter filed proposed orders and briefs.

At each phase of the hearing of evidence in this case the Commission also heard from numerous public witnesses who expressed their views on the Company's application, either individually or on behalf of specific groups

II. COMMISSION ACTION

In its rebuttal testimony, the Company introduced the Settlement Agreement designed to resolve the issues that had been raised in this docket. The Settlement Agreement was executed on behalf of Advocacy Staff and the Company. The following parties also either executed the Settlement Agreement, or expressly indicated their support of the Settlement Agreement: the Commercial Group, GAM, GIG, GMA, GSEIA, Georgia Watch, Kroger, MARTA, Resource

[1] Because of significant and unexpected medical issues, Advocacy Staff Witness King was unable to appear personally before the Commission. Mr. James Garren, an associate of Mr. King, adopted the testimony of Mr. King, appeared before the Commission and was cross-examined. As the recommendations of Mr. King's pre-filed testimony were factored into the terms of the Settlement Agreement, hereinafter the Commission will also refer to the recommendations as testimony as being those presented by Mr. King.

Supply Management, SACE and DOD. The Settlement Agreement was designed to set rates to go into effect January 1, 2014 using a three year Alternate Rate Plan ("ARP") with an earnings band of 10.00% to 12.00%. Rates under the accounting order would be set as described in the Settlement Agreement with a 10.95% return on equity ("ROE"). The Settlement Agreement further provided for the continuation of the Environmental Compliance Cost Recovery ("ECCR") Tariff which will collect certain environmental costs which will be incurred by the Company. The Settlement Agreement further provides for an increase in the municipal franchise fee tariff pursuant to the Commission's final orders in Docket Nos. 21112 and 25060, as well as an increase in the DSM tariffs.

The Settlement Agreement also provides that the traditional base tariffs shall be adjusted in 2015 and 2016 to recover the revenue requirements for traditional base rates, the ECCR tariff, the DSM tariffs, and the municipal franchise fee tariff. The Settlement Agreement also provides for continuation of the Interim Cost Recovery ("ICR") mechanism so that if at any time during the term of the ARP the Company projects that its retail earnings will be lower than 10.00% retail ROE for any calendar year, the Company may petition the Commission for the implementation of an ICR tariff which would be used to adjust the Company's ROE back to 10.00% ROE. The Settlement Agreement also requires the Company to file testimony and exhibits required in a general rate case along with supporting schedules required by the Commission to support a "traditional" rate case by July 1, 2016. The test period for such rate case shall be from August 1, 2016 to July 31, 2017.

At its regular Administrative Session held on December 17, 2013, the Commission voted to adopt the Settlement Agreement.

FINDINGS OF FACT

1.

The Commission finds that the resolution of the matters raised in this docket, as provided in the Settlement Agreement is appropriate and is in the best interest of the State of Georgia. It is supported by testimony and other evidence in the record and will result in just and reasonable rates. In discussing the individual components of the Settlement Agreement, the Commission remains mindful that the Settlement Agreement reflects a compromise among a large number of parties with disparate interests, and that the Settlement Agreement must be considered as a whole. It is plain from reviewing the resolution that no party to the proceeding, including every party that signed on to the Settlement Agreement, prevailed on every issue. However, the Settlement Agreement offers a fair resolution to the full range of issues presented in this docket. It is recognized that in all probability neither the Company, Advocacy Staff nor any of the parties that signed on to the Settlement Agreement would agree *in isolation* to the resolution of a specific issue that is contrary to the position taken by that party. The Commission notes that such a significant number of the parties represented in this proceeding have signed on to the Settlement Agreement, including the overwhelming majority of the parties that sponsored

testimony in this proceeding, indicates strongly that those parties concluded that the Settlement Agreement, taken as a whole, provides for a just and reasonable resolution of the proceeding.

2.

The Settlement Agreement provides that, effective January 1, 2014, the Company shall (1) increase its traditional base rate tariffs by $79.555 million, (2) collect an additional $1.464 million through the DSM tariffs, (3) collect an additional $25.076 million through the ECCR tariff, and (4) collect an additional 2.18% of the Company's total revenues through the MFF tariff, which dollar amount will change as total revenues change as allowed by the Settlement Agreement. The Settlement Agreement further provides that effective January 1, 2015 and January 1, 2016, the traditional base tariffs, the ECCR tariff, the DSM tariff and the MFF tariff shall be each adjusted as described in paragraph 6 of the Settlement Agreement. The ECCR revenue requirement for the plan years is based on projected investments and expenses associated with the ECCR tariff for those years. (Smith Prefiled Testimony, p. 16). The projected costs are based on a compliance strategy that was approved as part of the Company's 2013 Integrated Resource Plan. *Id.* The ECCR revenue requirements are affected by the resolution of other issues in this case, including return on equity, cost of capital, environmental plant, depreciation and O&M expense. *Id.* at 17. It is consistent with the testimony of Staff witness Smith not to levelize the increased amount to be recovered by the ECCR tariff over the three year ARP. (Smith Prefiled Testimony, pp. 18-19). Levelizing the increase, as proposed by the Company, would result in a more substantial rate increase to consumers beginning on January 1, 2014. *Id.*

3.

The Commission further finds that it is reasonable to adopt the Settlement Agreement. The Settlement Agreement contains substantial adjustments to the Company's initially proposed revenue requirement, and these adjustments benefit all customer groups. Many of Advocacy Staff's recommended adjustments are reflected in the Settlement Agreement. This Commission has resolved prior Georgia Power rate case proceedings through three year accounting orders as opposed to traditional rate case proceedings. There is no magic to either a traditional revenue requirement rate case order or an accounting order. That is, a sound order using either approach is fair to the Company and provides benefits to consumers. Conversely, an order based on principles that are not sound cannot be saved simply by reliance on either the traditional rate case or accounting order methodology. The Commission finds that the accounting order proposed in the Settlement Agreement is just and reasonable, provides the proper incentives to the Company and offers substantial benefits to the ratepayers.

4.

Those revenue requirement adjustments contained in the Settlement Agreement that reflect corrections to the Company's initial filing and were acknowledged by Georgia Power are just and reasonable. These adjustments are shown on lines 6-7 of Exhibit A to the Settlement

Agreement. These adjustments reduce the revenue requirement by $4.935 million as compared to what Georgia Power requested in its initial filing.

5.

Line 10 of Exhibit A to the Settlement Agreement consists of an adjustment to depreciation rates and a reduction of the proposed revenue requirement related depreciation expenses by $87.429 million. Staff Witness, Charles King, proposed depreciation lives that resulted in a reduction to the Company's proposed depreciation expense in the amount of $94.679 million. (Smith Testimony, p. 13). Therefore, the Settlement Agreement incorporates a depreciation expense adjustment that is largely consistent with Staff's litigation position on depreciation. The Commission finds the compromise reached with respect to this line item to be just and reasonable.

Depreciation and depreciation rates cannot be calculated with precision and must be developed by analysis which requires a considerable application of judgment (King Direct Testimony, p. 8-9) The amount that the Settlement Agreement adjusts the Company's depreciation expense downward does not differ substantially from the adjustment recommended by Staff witness King. King recommended the following modifications to the Company's proposal: (1) an extension of the plant life span for the McIntosh and McDonough-Atkinson combined cycle turbine/steam plant life span from the 40 years recommended by the Company to 51 years, (2) an extension in the life spans for Georgia Power's gas turbine units from the 45 years recommended by the Company to 60 years, (3) a reduction by half of the accruals for the dismantlement of the common portion of all production plants, and (4) revised remaining lives and depreciation rates for five transmission accounts, four distribution accounts and one general plant account. (King, p. 7)

The Commission finds that the determination of depreciation expense set forth in the Settlement Agreement is just, reasonable and supported by the record. It is well-established that the determination of an appropriate depreciation expense to include in base rates is not an exact science. It is based on judgment and projections. The adjustments largely address the concerns raised in King's testimony.

Line 11 of Exhibit A to the Settlement Agreement reflects the agreed upon adjustment to adopt Staff witness Smith's recommendation to eliminate certain stock based compensation from the retail revenue requirement. As Smith noted in his testimony, Georgia Power did not record a stock option expense until it was required for GAAP purposes in 2006. Accounting Standard Codification ("ASC") 718 Compensation – Stock Compensation requires companies to recognize the value of stock options granted as compensation expense. (Smith Prefiled Testimony, p. 84). However, this Commission is not required to recognize the adjustment for ratemaking purposes simply because it is recognized for accounting purposes. Moreover, the fact that the Company's recognition of this expense resulted from GAAP rules establishes that the expense was not incurred to attract or retain employees. (Smith Prefiled Testimony, p. 85)

The Settlement Agreement adopted by the Commission in Georgia Power's 2010 rate case included unspecified adjustments to the Company's case; therefore the Commission did not directly address this issue in 2010. However, in the 2007 Georgia Power rate case, the Commission removed the Company's recovery of stock option expense from the retail revenue requirement.

The Commission concludes that it is appropriate to eliminate this expense from the revenue requirement because the cost of these compensation programs is incurred to improve the financial performance of Southern Company for the benefit of stockholders. The expense is not incurred to improve customer service or to achieve other regulated utility service requirements. As observed by Staff witness Smith, the objectives of maximizing shareholder value may be directly opposed to minimizing costs to ratepayers. (Smith Pre-filed Testimony, p. 91). Finally, this adjustment does not prohibit the Company from paying stock based compensation to any of its employees or officers. Instead, it merely restricts recovery of the expense from ratepayers. Eliminating the stock based compensation expense represents a $16.509 million adjustment to the revenue requirement.

Lines 12 and 13 of Exhibit A to the Settlement Agreement reflect the agreed-upon adjustments to the amortization periods for environmental ECCR Construction Work in Progress ("CWIP") to nine years and to the recovery of the Storm Damage Regulatory Asset to six years resulting in adjustments of $13.884 million and $6.891 million respectively. These adjustments again recognize that depreciation rates and amortization periods cannot be calculated with precision. The application of the amortization periods is a timing issue and does not ultimately affect the receipt of these revenues. The storm damage adjustment does not adversely affect the Company's ability to recover prudently incurred storm damage expenses, and it does not in any way jeopardize Georgia Power's ability to respond to meet its safety and reliability obligations. As Company witness Patterson testified, "[t]he length of the amortization periods for [CWIP amortization, storm damage expense and other amortization items addressed in the settlement] are a matter of discretion for the Commission and the agreed-upon time periods are a fair resolution with respect to those issues." (Tr. 2283) The number of parties that support the Settlement Agreement indicates that adoption of these recovery periods is a reasonable exercise of the Commission's discretion.

The Commission finds these provisions reasonable. The adjustments effectively allow the Company an opportunity to earn a fair return while reducing the impact of its proposed rate increase on current ratepayers.

Line 15 of Exhibit A to the Settlement Agreement includes an adjustment of $14.175 million to reflect a number of Staff's recommendations. The Settlement Agreement does not identify which particular Staff recommended adjustments are being reflected. The sum of the Staff's recommended adjustments that are not expressly addressed elsewhere in this order exceed $14.175 million. Staff raised a significant number of issues with the Company's filing. The Settlement Agreement directly addresses the majority of the dollar amounts in dispute in relation to Staff's proposed adjustments. As has been noted, regulation is not an exact science. It involves making any necessary and appropriate adjustments to existing data based on expert

testimony regarding what may occur in the future. A number of the adjustments recommended by Staff that are not specifically addressed elsewhere in the order are based on Staff's conclusion that the Company's projections for the future test year are not reasonable in light of past experience. It cannot be stated with certainty on any particular adjustment what will be experienced in the future test year. However, the Commission finds that the evidence supports the reasonableness of making some adjustment to the Company's direct case in relation to the Staff adjustments on the whole. The $14.175 million adjustment provides meaningful relief to ratepayers and recognizes both that the Company's projections on a number of issues were not consistent with past experience, and that the Company did not adequately demonstrate a basis for assuming the changes set forth in its direct case.

Line 16 of Exhibit A to the Settlement Agreement is Municipal Franchise Fees ("MFF"). The amount of this line item is merely the product of a calculation involving other line items. That is, the formula for determining the appropriate MFF was not at issue in this rate case. Instead, the resolution of the other line items provides the inputs into the formula for the calculation of this line item. Therefore, the Commission finds that the MFF included in the Settlement Agreement is reasonable and consistent with its prior orders.

Paragraphs 2 and 3 of the Settlement Agreement describe and provide that the Annual Surveillance Report ("ASR") will be filed by the Company by March 15 of the year following the reporting year. The Commission finds that the adjustments to the Company's initial filing agreed to in the Settlement Agreement, itemized in Exhibit A to the Settlement Agreement and further described above, shall be applied for ASR filing purposes for each year of the ARP. Specifically, to be included in the ASR are the Stock Based Compensation adjustment (line 11) and the Miscellaneous Adjustments (line 15). The Stock Based Compensation adjustment would be reported as the actualized amount and the Miscellaneous Adjustments would be reported as the amount agreed to in the Settlement Agreement of $14,175,000

6.

The Settlement Agreement provides for step increases for years 2015 and 2016 to account for increases to the traditional base rates, ECCR, DSM and MFF. For the traditional base rate increase, the additional increases of $101.431 in 2015 and $36.310 million in 2016 account for additional capacity needs that the Commission has already certified. The Settlement Agreement also provides that the traditional base rate increase for years 2015 and 2016 shall be updated based on any additional capacity that the Company needs to serve its customers. The Commission finds that this provision is reasonable and serves the public interest. It protects ratepayers from committing to the inclusion of power that may not be needed during the term of the ARP..

The step increases for the ECCR tariff and DSM operate in the same manner. The amounts of the increase for both the ECCR and DSM shall be updated to reflect the information from the most current budget available at the time of the compliance filing for each component of the ECCR revenue requirement calculation and the DSM. The DSM tariff shall also be adjusted based on the true-up process agreed to by the Company and the Staff. This provision is

reasonable because Commission approval of any compliance filings submitted by the Company will be required prior to recovery of the costs.

The Sierra Club opposed the Settlement Agreement arguing that the structure of the proposed settlement agreement, specifically as it relates to the inclusion of step increases relating to the ECCR, violates Georgia's Test Year statute, O.C.G.A. § 46-2-26.1. The Sierra Club further argues that the ECCR inclusion is tantamount to approving costs based on a projected budget, rather than using actual numbers that would be provided once the units are used and useful.

The Commission disagrees with the arguments posed by the Sierra Club. The Test Year statute requires only that the Company file a twelve-month forward looking test period and that the Commission utilize such test period in evaluating the requested change in rates It does not mandate exclusive Commission reliance on such test period or prohibit the Commission from considering revenues and expenses arising beyond the test period. In fact, the Commission's Procedural and Scheduling Order required the Company to file revenue requirement projections for both the traditional test year and calendar years 2014, 2015 and 2016. *Procedural and Scheduling Order* at 1. The Commission's prior three-year rate orders have all taken into account revenue and expenses occurring beyond the test period (either through step increase or levelized adjustments) and this Settlement Agreement simply follows that established precedent. Additionally, on the issue of Commission review of the items that are included in the ECCR revenue requirements are investments and activities that the Commission has considered and approved within the context of the Integrated Resource Planning proceedings. Also, as the Company is required to make compliance filings with regard to the ECCR revenue requirements, these costs will indeed be subject to the Commission review.

7.

The rate increases provided for in this Order shall be allocated by rate group. The Settlement Agreement incorporates most of the Staff's recommendations with regard to cost of service and rate design issues. (Panel Rebuttal Testimony, p 19). The resulting rate increases will be allocated by rate group using the revenue distribution method recommended by Staff Witness Watkins, with some exceptions and with the spread adjusted for balancing. (Panel Rebuttal Testimony, p.19). The exceptions are based on testimony by the Company and several intervenors with regard to further movements towards parity and the importance of the RTP rate to remain as currently designed and for further RTP tariff availability. (Panel Rebuttal Testimony, p 19-20). In order to further address rate parity issues, in particular with respect to the TOU-MB rate, that group will receive a rate increase of 80% of what would otherwise be allocated Watkins' proposed revenue distribution method. The ET tariff will not be increased and customers on the ET rate will be allowed to adjust their Customer Base Line ("CBL") such that 40% of their load may be at Real Time Pricing ("RTP") prices, provided that they comply with the RTP tariff. In addition, the Outdoor Lighting Service, Governmental Tariff will not be increased. The Settlement Agreement also reflects the Company's proposed increase for tariffs in the marginal group. The TOU-SC and FPA tariffs of the marginal group will be designed to recover increased revenues from the customers receiving service under these tariffs, and the

Settlement Agreement does not provide an adjustment for parity. The CBL portion of the RTP tariffs of the marginal group will reflect the rate increase as proposed by Mr. Watkins for their respective groups.

AFFIRM testimony in this proceeding focused on the parity level of the TOU-MB rate class generally and AFFIRM's customers more specifically. AFFIRM advocated, in part, for a restructuring of the existing TOU-MB rate into a "Part A" and "Part B" portion of the rate. (Tr. 2163-68) The "Part A" portion of the rate would be applicable to non-restaurants, while the "Part B" portion of the rate would be applicable only to restaurants. The Settlement Agreement responds in two ways to the contentions of AFFIRM with respect to TOU-MB. First, the Settlement Agreement largely adopts the allocation methodology of Advocacy Staff witness Watkins pursuant to which the TOU-MB rate would only receive a 90% allocation. Second, the Settlement Agreement further provides that the TOU-MB rate will receive only an 80% increase of what would otherwise have been allocated to TOU-MB under the methodology of Mr. Watkins. Therefore, because customers on TOU-MB (including AFFIRM customers) will only receive an increase of 80% on a 90% allocation, the TOU-MB rate is in actuality only receiving 72% of the overall increase. (Tr. 2291) While the Settlement Agreement does not adopt AFFIRM's recommendation in totality, it does move the TOU-MB rate closer to parity, which is the position advocated by AFFIRM. The Settlement Agreement does not ignore AFFIRM's contentions but instead responds to them in a measured but meaningful way that continues a gradual movement towards parity, which has long been the policy of this Commission.

Additionally, AFFIRM as a part of its post-hearing Brief, proposed that the Commission adopt as a part of the Final Order in this proceeding language (a) adopting the AFFIRM proposed rate design adjustments and (b) ordering the Company, Advocacy Staff and all parties to monitor the TOU-MB rate in 2014 and 2015 and mutually agree to structural and pricing changes that would materially move the rate closer to parity in the Company's 2016 rate proceeding. With regard to the first part of the AFFIRM proposed language, as the Commission has stated herein, rate pricing and structure of the TOU-MB rate schedule as included in the Settlement Agreement addresses the movement toward parity. While this movement may not be satisfactory to AFFIRM, the Commission finds that the agreement reached and presented considers the movement of all rates toward parity. With regard to AFFIRM's proposal that all interested parties be ordered to monitor the TOU_MB rate for the next two years and be required to arrive at mutually agreeable pricing and structural changes, the Commission finds that each party has an inherent obligation to itself or its clientele to take up such ongoing study. Direction and order by this Commission for such study is superfluous.

It should be noted that rate design is again subjective and matter of considered judgment. In this instance, given the specific facts of this case, the Commission finds that the agreed resolution of the cost of service and rate design issues are fair and reasonable. This conclusion is bolstered by the number of interested parties that have executed or expressed support of the Settlement Agreement. In light of the reasonable allocation of costs and rate design contemplated and specified in the Settlement Agreement, as well as the agreement to such methodologies for cost allocation and rate design by the majority of parties to this docket, the Commission finds that the allocation of costs and rate design contemplated and specified in the

Settlement Agreement are reasonable and in the best interests of all customer groups. However, adoption of the Settlement Agreement in no way discredits the proposals made by any party, and it does not prejudice any cost of service or rate design proposals in future cases. Instead, a Settlement Agreement must be considered as a whole, and examined as to whether its adoption serves the public interest by resulting in just and reasonable rates for all classes of ratepayers.

8.

The Settlement Agreement provides that rates will be set using a 10.95% ROE, which appropriately balances the interests of the Company and its customers, and which the Commission finds to be just and reasonable. The difference between the respective ROE recommendations of Georgia Power and Advocacy Staff represented the largest dollar amount of any single issue in the case. Georgia Power recommended an ROE of 11.50%, whereas Advocacy Staff's witness, David C. Parcell, recommended an ROE of 10.00%. Jeffrey Pollock, on behalf of GAM and GIG, testified that removing certain adjustments recommended by Company witness Vander Weide would reduce the Company's proposed ROE from 11.5% to 10.56%. Georgia Watch witness Elizabeth Coyle and Kroger witness Kevin Higgins testified that the Company had not demonstrated that an increase of the Company's current 11.15% return on equity level to 11.50% was warranted.

As in every rate case, the Commission understands its obligation to provide a fair rate of return to the regulated utility. A fair rate of return is normally interpreted to mean that an efficient and economically managed utility will be able to maintain its financial integrity, attract capital, and have an opportunity to earn comparable returns to those of similar risk investments. These concepts are derived from economic and financial theory and are generally implemented using financial models and economic concepts. In determining a fair rate of return in the present case, the Commission is mindful of the standards established by the United States Supreme Court in Bluefield Water Works and Improvement Co. v. Public Serv. Comm'n of West Virginia, 262 U.S. 679 (1923), and Federal Power Comm'n v. Hope Natural Gas Co., 320 U.S. 591 (1942). Consistent with the Bluefield and Hope decisions, the Commission has considered comparable earnings, financial integrity, and capital attraction in reaching the decision that the 10.95% ROE set forth in the Settlement Agreement is just and reasonable.

The 10.95% ROE for the ARP is also well within the range of evidence presented in this proceeding, and is a reasonable compromise for a number of reasons. The 10.95% ROE appropriately takes into account the Company's large capital program, which was acknowledged by Mr. Parcell as a relevant factor in determining an appropriate ROE. (Tr. 1371) Also, the Company's rebuttal panel testified that a 10.95% authorized return and 10.00% to 12.00% earnings band should allow the Company to maintain its "A" category credit ratings. (Tr. 2268) The panel also testified that the 10.95% ROE will allow the Company to continue to access the capital markets at reasonable terms in order to secure necessary financing for the Company's ongoing capital program. (Id.) The Company's rebuttal panel further testified that that a stipulated ROE of 10.95% with an earnings range of 10.00% to 12.00%, coupled with the already existing supportive regulatory policies, will be viewed by the rating agencies as evidence of continuation of a constructive regulatory environment. (Tr. 2272) While the authorized ROE has been reduced from

that which was approved in the prior rate case, the change does not signal a dramatic change in this Commission's consistent regulation and represents a reasonable compromise between the positions of the two expert witnesses in this case that have offered detailed analysis of the market's required return.

This adjustment is shown on lines 8 and 9 of Exhibit A to the Settlement Agreement. The Commission finds that the ROE allowed by the Settlement Agreement will allow the Company continued access to the capital markets at competitive rates and will allow the Company to construct infrastructure necessary to serve customers and comply with environmental regulations.

9.

In addition, the Settlement Agreement provides for an earnings band between 10.00% and 12.00% retail ROE. Pursuant to this provision, the Company will not file a general rate case unless its calendar year retail earnings are projected to be less than 10.00% ROE. Any retail earnings above 12.00% ROE will be shared, with two thirds being directly refunded to customers, allocated on a percentage basis to all customer groups including RTP incremental usage, and the remaining one third being retained by the Company.

The division of any retail earnings above the top of the earnings band as provided by the Settlement Agreement is identical to the division of retail earnings approved by this Commission in the Company's 2010 rate case, Docket No. 31958, and provides benefits to consumers that would not be realized in the context of a traditional rate case order. Under a traditional rate case order, the Company could earn well in excess of a 12.00% ROE without the ratepayers receiving any rate reductions. While the Commission would have the authority to bring the Company in under a rule nisi proceeding to reduce its rates, such a proceeding would take a significant amount of time and any order reducing rates would be prospective in nature. The Commission finds that it is fair and reasonable that in the event the Company is earning above the top end of the earnings band, the portion of the excess earnings not flowing to the Company's shareholders be devoted to customer rate reductions.

10.

The Settlement Agreement further provides that the Interim Cost Recovery ("ICR") mechanism approved in the Company's 2010 rate case, Docket No. 31958, shall be continued utilizing the earning band discussed above. Under the ICR mechanism, if at any time during the term of the rate plan, the Company projects that its retail earnings will be lower than 10.00% retail ROE for any calendar year, based on the most recent budget, including the latest projections regarding rate base, revenues, expenses, changes in projected debt and preferred security costs, it may petition the Commission for the implementation of an ICR ("Interim Cost Recovery") tariff which will be used to adjust the Company's earnings back to 10.00% ROE. Any ICR tariff approved by the Commission shall expire at the earlier of the date upon which the next general rate case takes effect or the end of the calendar year in which the ICR tariff becomes effective. Continuation of the ICR mechanism also maintains certain procedural guidelines

regarding the filing of any request for implementation of an ICR tariff, and further maintains that in lieu of requesting implementation of an ICR tariff, or if the Commission chooses not to implement the ICR, the Company may file a full rate case. Georgia Power must file its request to implement the ICR tariff no less than 90 days prior to its proposed effective date.

The Commission finds that the portion of the Settlement Agreement allowing for continuation of the ICR mechanism during the term of the rate plan is just and reasonable and provides ratepayers with rate stability. Under a traditional rate case order, the Company would be able to file another rate case whenever it deemed appropriate, and the Commission would have the authority, following consideration of any such request, to adjust the Company's rates as appropriate. The provision of the Settlement Agreement providing for continuation of the ICR mechanism, thereby allowing the Company to request the Commission for implementation of an ICR tariff, does not fundamentally alter the Company's rights in this respect, but does provide rate stability for consumers in that any ICR tariff may adjust the Company's earnings only back to 10.00% ROE. Under the terms of the Settlement Agreement, the Company may file a full, general rate case prior to July 1, 2016 only in the event that the Company's earnings are projected to drop below the bottom of the earnings band.

The Commission also finds that continuation of the ICR mechanism does not expose ratepayers to increased risks as compared to either a traditional rate case setting, or the format of the alternative rate plans that Georgia Power has operated under in recent years. Any adjustment filed by the Company under the ICR tariff would not take effect unless and until it is approved by the Commission. If the Commission does not act by the proposed effective date of the ICR tariff, the Company's filing would be deemed denied. Furthermore, the Company would have the burden of proof to demonstrate that its proposed adjustment was appropriate. The Commission would maintain the discretion to reject any filing by the Company pursuant to this tariff. In such an instance, Georgia Power would have the ability to file a traditional rate case, provided that it was dissatisfied with the Commission's ruling and maintained that its earnings were projected to be below the bottom of the earnings band set in this proceeding.

11.

The Settlement Agreement provides that the Company will implement a prepay program according to the timeline set forth in the Company's response to Data Request STF-5-2 and will notify the Commission if any circumstances arise that will delay implementation of such program. The Company plans to begin a pilot program in the second quarter of 2014 and complete the roll-out to the remainder of the Company's service territory in 2014. (Tr. 1485)

The Commission finds this provision of the Settlement Agreement to be reasonable. The Company's prepay pilot program, originally approved by this Commission in 2012, ended June 30, 2013. Continuation of the prepay program will provide benefits to the Company and its customers by mitigating the risk of bad debt and providing additional service options to customers, including an option for customers to opt out of deposit requirements. In addition, the program remains subject to the Commission's review.

12.

The Settlement Agreement also provides that the Supplemental Power Service ("SPS") tariff will be withdrawn. As originally proposed by the Company, the SPS tariff would apply to all customers that install and utilize any self-generation (other than emergency generation used during power outages) of any size utilized after January 1, 2014 and require a source of supplementary power, including all residential and small commercial customers that install a small solar panel on their roof in order to reduce their electricity purchases from Georgia Power. (Tr. 1475)

The Commission finds that withdrawal of the SPS tariff is reasonable. As Staff witnesses Watkins and Barber testified, the amount of solar currently installed in Georgia Power's territory is relatively small, and the Company has not projected or provided any evidence that the installation of self-generation systems will grow substantially over the next few years. (Tr. 1479) As such, the Commission has sufficient time to give the proper attention to this important policy decision which will guide the installation of distributed generation systems throughout the state. In addition, while most of the discussions around the country have focused on the shifting of costs and revenue collection associated with solar customers engaged in net metering, the Company's proposed SPS tariff would apply to all supplemental self-generation and is specifically tailored and applicable to those customers that install supplemental self-generation behind the meter and do not sell energy into Georgia Power's grid. (Id.) Finally, the Commission will soon investigate and approve avoided cost amounts to be used in the pricing for the 525 MW of additional Advanced Solar Initiative solar. As the Company will employ a similar methodology to calculate the avoided costs to be used for the pricing for both the Utility Scale and distributed generation programs as was used in the avoided costs determinations for the SPS capacity charge, the Commission finds that it is appropriate to defer this issue to a future time.

13.

The Settlement Agreement provides that the Low Income Senior Discount will be increased by an amount sufficient to offset the impact of the rate increases specified in the Settlement Agreement up to an amount no greater than $18.00. In its rebuttal testimony, the Company testified that in order to help mitigate the impact of the rate increase on its most vulnerable customers over the term of the Settlement Agreement, the Low Income Senior Discount will be increased from the current $14.00 to $18.00. (Tr. 2278) The Commission finds that the increase in the Low Income Senior Discount is reasonable, in the public interest and will offset in part the rate increases specified in the Settlement Agreement.

14.

The Settlement Agreement also requires the Company to further investigate the need for, and costs associated with, providing hourly usage information to all of its metered customers. The Company is required to file this information within six months of the final order in this

docket, after which the Commission will provide further guidance on whether such a program should be implemented.

Providing customers with usage information on a daily aggregate basis does not provide sufficient information to customers so they may better manage their energy usage and their overall energy consumption. Hourly usage data will allow customers to make wiser energy decisions to change behavior and save on their electric bills. The Commission finds that it is reasonable to require the Company to further investigate the need for, and costs associated with, providing hourly usage information to all of its metered customers.

15.

The date on which the rates pursuant to the Settlement Agreement shall become effective is January 1, 2014.

16.

The Commission finds that a three-year term for the Settlement Agreement ending December 31, 2016 is reasonable. The Company shall file a general rate case by July 1, 2016. As part of its consideration of that general rate case, the Commission will determine whether to continue, modify or discontinue the Settlement Agreement beyond December 31, 2016.

CONCLUSIONS OF LAW

1.

The Georgia Public Service Commission has general ratemaking jurisdiction over Georgia Power Company under O.C.G.A. Ch. 2, T. 46. The Georgia Public Service Commission has general supervision over electric light and power companies. O.C.G.A. §§ 46-2-20(a) and 46-2-21. The Commission has "exclusive power to determine what are just and reasonable rates and charges to be made by any person, firm, or corporation subject to its jurisdiction." O.C.G.A. § 26-2-23; see also O.C.G.A. §§ 46-1-1(5), 46-2-24, 46-2-25, 46-2-26.1, and 46-2-26.2.

2.

The Settlement Agreement complies with the test year statute for electric utilities which provides in relevant part:

> In any proceeding to determine the rates to be charged by an electric utility, the electric utility shall file jurisdictionally allocated cost of service data on the basis of a test period, and the commission shall utilize a test period, consisting of actual data for the most recent 12 month period for which data are available, fully adjusted separately to reflect estimated operations during the 12 months following

the utility's proposed effective date of the rates. After the initial filing and until new rates go into effect, the utility shall file actual cost of service data as they become available for each month following the actual data which were filed. The utility shall have the burden of explaining and supporting the reasonableness of all estimates and adjustments contained in its cost of service data.

(O.C.G.A. § 46-2-26.1(b))

Georgia Power filed the requisite data on the basis of a test period, and the Settlement Agreement uses the test period as a starting point and then makes necessary and appropriate adjustments to reflect operations during the 12 months following the utility's proposed effective date of the rate. The test period data serves as the benchmark from which adjustments are made for each year of the Alternative Rate Plan. This methodology is consistent both with the statute and with Commission precedent in rate case proceedings dating back to 1998.

3.

The rates resulting from the Settlement Agreement are fair, just and reasonable. By adopting the Settlement Agreement, the Commission retains its jurisdiction to ensure that the Company's rates are fair, just and reasonable.

4.

The remaining terms and conditions of the Settlement Agreement are reasonable and appropriate. By adopting the Settlement Agreement, the Commission adopts a reasonable resolution of the remaining issues in this docket.

5.

The Commission retains its jurisdiction to ensure that the Company abides by and implements the rates, terms and conditions set forth in the Settlement Agreement adopted herein, and to issue such further order or orders as this Commission may deem proper.

III. ORDERING PARAGRAPHS

WHEREFORE, IT IS ORDERED, that the Settlement Agreement shall be and the same hereby is adopted, that its terms and conditions are fully incorporated herein, and that Georgia Power Company shall comply with said terms and conditions.

ORDERED FURTHER, that the terms and conditions set forth in the Settlement Agreement are just and reasonable and shall take effect for service rendered from and after January 1, 2014.

ORDERED FURTHER, that the tariffs implemented by Georgia Power to implement the aforesaid annual rate increase in the years 2014, the adjustments contemplated in 2015 and 2016, as well as the terms and conditions of the Settlement Agreement shall be subject to review by the Commission to ensure that such tariffs, as implemented, are proper and just.

ORDERED FURTHER, that for purposes of the rate increase in the year 2014, Georgia Power shall file compliance tariffs within 30 days of the issuance of this Order, reflecting rates to implement the rate increases ordered herein. These tariffs shall reflect the rate allocations adopted in this Order, and shall be subject to the Commission's review for final approval.

ORDERED FURTHER, that for purposes of the rate adjustments specified in Section 6 of the Settlement Agreement, the Company shall make compliance filings of the updated tariffs at least 90 days prior to the effective date of the tariffs. Compliance filings shall be served upon all parties of record to this proceeding. Upon receipt of such compliance filing, parties may offer input relative to the filing to the Commission.

ORDERED FURTHER, that all findings, conclusions and decisions contained within the preceding sections of this Order are adopted as findings of fact, conclusions of law, and decisions of regulatory policy of this Commission.

ORDERED FURTHER, that jurisdiction over this proceeding is expressly retained for the purpose of entering such further order or orders as this Commission may deem proper.

ORDERED FURTHER, any motion for reconsideration, rehearing, or oral argument shall not stay the effectiveness of this order unless expressly ordered by the Commission.

The above by action of the Commission in Administrative Session on the 17th of December, 2013.

Reece McAlister
Executive Secretary

12-23-13
Date

Chuck Eaton
Chairman

12/23/13
Date

Docket No 36989

Order Adopting

Settlement Agreement

ATTACHMENT 1

SETTLEMENT AGREEMENT
Georgia Power Company's 2013 Rate Case
Docket No. 36989

Georgia Power Company ("Georgia Power" or the "Company") and the undersigned stipulating parties agree to the following Alternate Rate Plan ("ARP"), which shall commence January 1, 2014 and shall continue through December 31, 2016. The ARP shall consist of the following terms:

1. Effective January 1, 2014, Georgia Power shall (1) increase its traditional base rate tariffs by $79.555 million, (2) collect an additional $1.464 million through the Demand Side Management ("DSM") tariffs, and as adjusted based on the DSM True up process agreed to by the Company and Staff, (3) collect an additional $25.076 million through the Environmental Compliance Cost Recovery ("ECCR") tariff, and (4) collect an additional 2.18% of the Company's total revenues through the Municipal Franchise Fee ("MFF") tariff, which dollar amount will change as total revenues change as allowed by this ARP in paragraph 6 below, as well as with any future Fuel Cost Recovery ("FCR") changes and future Nuclear Construction Cost Recovery ("NCCR") changes.

2. The Company's retail revenue requirement was calculated using a total return on investment ("ROI") of 7.71%, which incorporates a 50.84% equity level and a return on equity ("ROE") of 10.95%. For Annual Surveillance Reporting ("ASR") purposes, beginning January 1, 2014, the earnings band shall be set at 10.0% to 12.0% ROE and the Company shall report earnings based on the actual historic cost of debt and capital structure. The Company will not file a general rate case unless its calendar year retail earnings are projected to be less than 10.0% ROE. Any retail earnings above 12.0% ROE will be shared, with two thirds being directly refunded to customers, allocated on a percentage basis to all customer groups including RTP incremental usage, and the remaining one-third retained by the Company.

3. The Company will file its ASR by March 15th of the following year.

4. For book accounting and ASR purposes, the schedule for the Nuclear Decommissioning Trust - Tax Funding (reference the attached "Proposed Supplemental Order - Nuclear Decommissioning Costs") shall be approved.

5. The Company's filing, including its application to increase base rates, will be approved as filed with the following reductions to revenue requirement, which have been agreed to for the purposes of settlement and compromise and have been reflected in the tariff adjustments noted in Paragraph 1 above and are detailed in Exhibit A. (Note that the impacts of such changes on the MFF tariff are reflected separately in Paragraph (j) below):

a) Lines 6 and 7: $4.113 million for traditional base tariffs and $0.822 million for the ECCR tariff as a result of the various items identified by Commission Staff and the Company as included in the Company's errata filed September 26, 2013.

b) Lines 8 and 9: $63.389 million for traditional base tariffs and $8.567 million for the ECCR tariff as a result of a reduction in the Company's proposed ROE of 11.5% to a ROE of 10.95%.

c) Line 10: The Parties agree that the Company will modify its depreciation rates and reduce the proposed revenue requirement related to depreciation expense by $87.429 million.

d) Line 11: The Parties agree that Mr. Smith's proposal to eliminate certain stock based compensation from retail revenue requirements will be adopted for purposes of this ARP period.

e) Line 12: $13.884 million to extend the amortization period for environmental ECCR CWIP amounts to 9 years.

f) Line 13: $6.891 million to extend the recovery of the Storm Damage Regulatory Asset to 6 years.

g) Line 14: $3.529 million to reflect the latest projections based on plans approved by the Commission in its Final Order in the 2013 DSM proceeding (Docket No. 36499).

h) Line 12: $14.175 million for purposes of settlement and compromise regarding a number of Commission Staff's recommendations but without any specific allocation to any particular item and without any concession by either party with respect to the merits of their respective positions.

i) Line 17: $3.952 million to the MFF tariff to reflect the revenue requirement impact of changes described above.

6. The following rate adjustments shall be made during the term of this ARP:

a) Effective January 1, 2015, (i) the traditional base tariffs shall be adjusted to reflect the expected additional capacity related costs reflected on Line 23 for calendar year 2015; (ii) the ECCR tariff shall be increased to reflect the additional environmental costs reflected on Line 24 for calendar year 2015; (iii) the DSM tariff shall be increased to reflect the additional approved DSM costs reflected in Line 25 for calendar year 2015 and as adjusted based on the DSM True up process agreed to by the Company and Staff; and (iv) the MFF tariff shall be increased to collect the municipal franchise fees incurred by the Company.

b) Effective January 1, 2016, (i) the traditional base tariffs shall be adjusted to reflect the additional capacity related costs reflected on Line 28 for calendar year 2016; (ii) the ECCR tariff shall be increased to reflect the additional environmental costs reflected on Line 29 for calendar year 2016; (iii) the DSM tariff shall be decreased to reflect the reduction in approved DSM costs reflected on Line 30 for calendar year 2016 and as adjusted based on the DSM True up process agreed to by the Company and Staff; (iv) the MFF tariff shall be increased to collect the municipal franchise fees incurred by the Company.

7. For purposes of the 2015 and 2016 rate adjustments specified in Section 6, the Company shall make compliance filings of the updated tariffs at least ninety (90) days prior to the effective date of the tariffs. The Company's compliance filings will be based on the calculations supporting the amounts reported in Exhibit A but with the following updates:

   a) Lines 23 and 28 shall be updated to reflect any additional power purchase agreements that at the time of the compliance filing are projected to provide capacity to the Company during the following year.

   b) Lines 24 and 29 shall be updated to reflect information from the most current budget available at the time of the compliance filing for each component of the ECCR revenue requirement calculation.

   c) Lines 25 and 30 shall be updated to reflect the most recent projections at the time of the compliance filing based on plans approved by the Commission in its Final Order in the 2013 DSM proceeding (Docket No. 36499).

   d) Where applicable, at the time of the compliance filing for the annual step increases described above, all calculations shall be updated to reflect the Company's then most current cost of debt projection in the capital structure projected at the time of the compliance filing.

   e) The annual step increases in 2015 and 2016 will use the most current kWh sales forecast for the applicable year to set the rates which will increase on the same relative percentage basis as the 2014 base rates were increased.

8. The Company agrees to meet with Staff within sixty (60) days of the Commission's Final Order to provide further information regarding the cost of debt imputed in the affiliate PPAs included in Lines 23 and 28.

9. Pursuant to the Order in Docket 37468, in the event the Department of Energy ("DOE") does not issue a federal loan guarantee in connection with the construction of Plant Vogtle Units 3 and 4, the United States Congress takes action to rescind the DOE loan guarantee program, or the Company determines that the final terms and conditions of the loan guarantee by the DOE are not in the best interest of its customers, the issue of recovery and amortization of deferred loan costs will be determined by the Commission in the next Georgia Power base rate proceeding.

10. In the event that the Company determines that an asset is impaired or the Commission approves the retirement of a retail generation asset as a result of any environmental regulation or legislation, the Company may request that costs associated with such impairment or retirement be deferred as a regulatory asset.

11. The Interim Cost Recovery ("ICR") mechanism approved in the 2010 Rate Case in Docket No. 31958 is continued throughout the term of this ARP utilizing the earnings band in Paragraph 2.

12. The rate increases shall be allocated by rate group, using the methodology as proposed by Witness Watkins in GAW/JCB-8, column 2, except (i) as otherwise provided in this Stipulation, (ii) that the spread shall be adjusted for balancing, and (iii) to reflect the Company's proposed increase for the tariffs in the marginal group. TOU-SC and FPA tariffs of the marginal group will receive the base increase with no adjustment for parity. The customer base line ("CBL") portion of Real Time Pricing ("RTP") tariffs of the marginal group will reflect the rate increases as proposed by Mr. Watkins for their respective groups.

13. Allowance costs for SO2 will be included in the RTP lambda component beginning January 1, 2014. Future environmental allowance costs will be included in the RTP lambda component only after approval by the Commission.

14. The ET tariff will not be increased. Customers on the ET rate will be allowed to adjust their CBL such that 40% of their load may be at RTP prices, but those customers will be required to comply with the RTP tariff.

15. The increase for TOU-MB will be 80% of what would otherwise be allocated to that rate under paragraph 12 above.

16. The Outdoor Lighting Service, Governmental Tariff shall not be increased.

17. Approximately 10 MW will be available for conversion of embedded load to RTP load to the commercial customers that participated in the 2004 and 2010 RTP conversion programs. The customers will be limited to those who participated in both of those years and are currently on the RTP tariff. The conversion will be on a first come, first served basis. The amount of conversion will be based off of the original load-shape used in the 2004 program but cannot go below 50% of such customer's 2004 load. In no case will the new CBL be higher than the customer's current CBL. The new CBL level will be established in accordance with the RTP tariff.

18. The estimated revenue erosion associated with these conversions of embedded load to RTP described in paragraph 17, and the adjustments described in Paragraphs 14 and 15 will be spread to tariffs within the affected rate group.