

SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 205-745-3060

2829 2ND AVENUE SOUTH, SUITE 282
BIRMINGHAM, AL 35233-2838

Facsimile 205-745-3064

June 26, 2020

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. 32953**

Dear Secretary Thomas:

On behalf of Intervenors Energy Alabama and Gasp, please find *Energy Alabama and Gasp's Response in Opposition to Alabama Power Company's Motion for Leave to Reply to Supplemental Record* in the above referenced matter.

This filing is submitted to the Commission through its e-filing system, consistent with the rules and practices of the Commission. The original and one copy are being delivered to the Commission via overnight mail.

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

Sincerely,



Keith Johnson

Southern Environmental Law Center

Encl.

**BEFORE THE
ALABAMA PUBLIC SERVICE COMMISSION**

**In re: Petition for a Certificate of
Convenience and Necessity by
Alabama Power Company**

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Docket No. 32953

**ENERGY ALABAMA AND GASP’S RESPONSE IN OPPOSITION TO ALABAMA
POWER COMPANY’S MOTION FOR LEAVE TO REPLY AND REPLY TO
SUPPLEMENTAL BRIEFING**

On May 28, 2020, the Commission issued a Procedural Ruling Allowing Limited Supplemental Briefing (“Ruling”) in this matter concerning Energy Alabama/Gasp and Sierra Club’s (“Intervenors”) joint request for supplemental briefing and a briefing schedule to address the impacts of the coronavirus pandemic on Alabama Power Company’s (“Alabama Power” or Company”) Petition for a Certificate of Convenience and Necessity (“Petition”) to add 2,400 megawatts of electric capacity. The Ruling denied the Intervenors’ request for supplemental briefing and the proposed briefing schedule; however, because Alabama Power’s post-hearing brief included a discussion of the coronavirus’s impacts on its Petition,¹ the Commission did allow limited, supplemental briefing by Intervenors. The Ruling specifically limited this additional briefing to five pages regarding the potential impacts of the coronavirus on Alabama Power’s Petition. Ruling at 2.

¹ For example, in its post-hearing brief, the Company states that “we [the Commission] would be remiss in our responsibility as a regulatory authority if our analysis here did not consider the potential for prolonged economic effects flowing from the pandemic, and specifically, whether potential impacts to the state, national and global economies are likely to cause a material change in the amount of capacity needed by Alabama Power.” Br. of Ala. Power Co. in the form of a Proposed Order at 24.

On June 4, 2020, Intervenors submitted limited, supplemental briefing in accordance with the Commission's Ruling. On June 5, 2020, the Commission staff recommended that the Petition proposed by Alabama Power be adopted, except for the 400 MW of solar plus battery storage projects, which the staff recommended be reviewed in another docket. Also on June 5, Alabama Power filed its Motion for Leave to Reply and Reply to Energy Alabama, Gasp and Sierra Club's Supplemental Briefing ("Motion"). On June 9, 2020, at the Commission's next regularly scheduled meeting, the Commissioners voted unanimously to approve the recommendation of the PSC staff. However, a final order has not yet been issued by the Commission, and the record remains open in this case.²

In its Motion, the Company describes the Intervenors' respective briefs as "dismal perspectives" on the current economic crisis and claims that just as many projections can be found for an economic recovery that is either "nearer" term or "simply unknowable at this juncture." Mot. at 1. The Company then proceeds to list citations to articles that allegedly show: 1) the economic recovery will not be protracted; or 2) the pace of recovery is uncertain and depends on various factors; or 3) the recovery will not be uniform. The Company also accuses Intervenors of seeking delay in hopes that "portfolio options . . . self-terminate." *Id.* at 4.

Alabama Power's Motion should be denied and should not be part of the final record. The Commission's Ruling sought to level the playing field given the Company's unilateral and sweeping claims in post-hearing brief that this unprecedented economic and health crisis does not have an impact on the Company's Petition to substantially increase its power portfolio. The Commission found that the Company's claims were clearly extra-record evidence: "However,

² See Press Release, Alabama Public Service Commission (June 9, 2020), http://psc.alabama.gov/Releases/2020/Alabama%20Power%20Certificate%20approval_Docket%2032953%20%20Press%20Release_6_9_20%20JAG.pdf ("Until the final order delineating the decision is completed and signed, this docket is considered an ongoing proceeding.").

given Alabama Power’s inclusion of a limited discussion regarding the impact of the coronavirus in its brief, *the Intervenors* shall be given the opportunity to supplement their post-hearing briefs with a *comparable discussion* of the potential impacts of the coronavirus on Alabama Power’s request for additional capacity.” Ruling at 2 (emphasis added). The Ruling allowed Intervenors a chance for a limited, proportional response regarding coronavirus. It did not invite further submissions on the subject by the Company.

If the Commission does consider the supplemental information provided by the Company in its Motion, then Energy Alabama and Gasp request that the Commission also consider the supplemental information contained in this Response in Opposition. The evidence continues to mount, in a torrid fashion, of the increasing severity of the coronavirus pandemic. The number of Alabamians infected per day has hit new highs, with more than 1,100 cases “shatter[ing] the daily record.”³ And, unfortunately, many health experts warn of a second wave in the fall.⁴

In addition, the economic recovery continues to be uncertain.⁵ Although gradual reopenings by the states have helped boost the economy, unemployment numbers remain high.⁶

³ Ramsey Archibald, *Alabama adds over 950 new coronavirus cases for third consecutive day, hospitalizations reach all-time high*, AL.com (June 26, 2020), <https://www.al.com/news/2020/06/alabama-adds-over-950-new-coronavirus-cases-for-third-consecutive-day-hospitalizations-reach-all-time-high.html>.

⁴ Nurith Aizenman, *Coronavirus 2nd Wave? Nope, The U.S. Is Still Stuck In The 1st One*, NPR (June 12, 2020), <https://www.npr.org/sections/health-shots/2020/06/12/876224115/coronavirus-second-wave-nope-were-still-stuck-in-the-first-one>; Nicole Chavez, *Another wave of coronavirus will likely hit the US in the fall. Here’s why and what we can do to stop it*, CNN (May 2, 2020), <https://www.cnn.com/2020/05/02/health/coronavirus-second-wave-fall-season/index.html>.

⁵ See Silvia Amaro, *IMF Set to Slash Economic Forecasts and Warns of a Crisis ‘Unlike Anything the World Has Seen’*, CNBC (June 16, 2020), <https://www.cnbc.com/2020/06/16/imf-set-to-slash-economic-forecasts-amid-crisis-unlike-no-other.html> (“The forthcoming June World Economic Outlook Update is likely to show negative growth rates even worse than previously estimated.”); *OECD Economic Outlook, June 2020: The World Economy on a Tightrope*, OECD (June 10, 2020), <http://www.oecd.org/economic-outlook/june-2020/> (“The global economy is now experiencing the deepest recession since the Great Depression in the 1930s, with GDP declines of more than 20% and a surge in unemployment in many countries.”).

⁶ Ben Casselman & Tiffany Hsu, *Continued Layoffs Signal an ‘Economic Scarring’*, N.Y. Times (June 18, 2020), <https://www.nytimes.com/2020/06/18/business/economy/coronavirus-unemployment->

Last week the Federal Reserve cautioned that there will be an “extended period” in which it will be “difficult for many people to find work.”⁷ Widespread joblessness and weakened economic output will likely hinder the economic recovery,⁸ and the International Monetary Fund (“IMF”) just released data showing that recovery is more uncertain. “Compared to our April *World Economic Outlook* forecast, we are now projecting a deeper recession in 2020 and a slower recovery in 2021.”⁹ In IMF’s baseline case, the advanced economies don’t get back to 2019 Quarter 1 GDP until 2022 Quarter 1.

claims.html?action=click&module=Top%20Stories&pgtype=Homepage (“Economists said the current layoffs, though smaller than the wave in March and early April, were in some ways more worrying because they suggested that the crisis was reaching deeper into the economy even as lockdowns eased.”); Press Release, *ADOL Has Disbursed Nearly \$2 Billion in Unemployment Benefits; Payments Represent 95% of Claims*, Alabama Department of Labor (June 18, 2020), https://www.labor.alabama.gov/news_feed/News_Page.aspx?id=243; Reade Pickert et al., *Reopenings Slowly Energize U.S. Economy Amid Rise in Virus Cases*, Bloomberg (June 15, 2020), <https://www.bloomberg.com/graphics/recovery-tracker/> (“Initial jobless claims for regular state programs have continued to fall but still totaled 1.5 million in the week ended June 6, more than double the worst week during the Great Recession.”).

⁷ Lucia Mutikani, *U.S. Layoffs Easing, Labor Market Distress Persists*, Reuters (June 10, 2020), <https://www.reuters.com/article/us-usa-economy-idUSKBN23I0GQ>; see Megan Henney, *Fed Warns Economic Damage From Coronavirus Pandemic Could be ‘Quite Persistent’*, Fox Business (June 12, 2020), <https://www.foxbusiness.com/economy/fed-says-us-economic-recovery-from-coronavirus-recession-is-extraordinarily-uncertain>, (“Fed reiterated gloomy outlook in its twice-annual report to lawmakers The Federal Reserve in a new report released Friday warned the U.S. economy faces “persistent” damage as a result of the coronavirus outbreak and related lockdown.”).

⁸ See David J. Lynch, *Ripple Effects of Downturn Show Pandemic’s Toll Was Just the Beginning*, Wash. Post (June 14, 2020), <https://www.washingtonpost.com/business/2020/06/14/ripple-effects-downturn-show-pandemics-early-economic-toll-was-just-beginning/> (“After a quick initial bounce this year, the economy ‘will go largely sideways’ until a coronavirus vaccine is developed, according to economist Mark Zandi of Moody’s Analytics.”); Darren Dodd, *OECD Warns of Deep Economic Scars from Pandemic*, Financial Times (June 10, 2020), <https://www.ft.com/content/94a640cf-44a5-483a-b29f-dc0320f5f167> (“By the end of 2021, the loss of income will exceed that of any previous recession over the last 100 years outside wartime, with dire and long-lasting consequences for people, firms and governments,” noted the [OECD’s] chief economist. The OECD’s best-case scenario — where there is no substantial second wave of the virus — involves a global contraction of 6 per cent this year and the world economy still below what it was at the start of 2020 by the end of next year.”)

⁹ Gita Gopinath, *Reopening from the Great Lockdown: Uneven and Uncertain Recovery*, IMFBlog (June 24, 2020), <https://blogs.imf.org/2020/06/24/reopening-from-the-great-lockdown-uneven-and-uncertain-recovery/>.

The bottom line is that the circumstances have changed substantially since Alabama Power submitted its Petition. For the Company to not consider this recent data for this Petition amounts to sticking your head in the sand. The Company should be required to file an updated IRP, load forecast and reserve margin study. The Company, in its haste to push this massive capacity increase through the Commission, is not even willing to wait until the end of the year, when the data would more clearly show the longer-term impacts of this economic and health calamity. Alabama ratepayers deserve this additional scrutiny, as they are the ones bearing all the risk of Alabama Power's Petition and will suffer in the long-run.

Alabama Power's Motion for Leave to Reply and Reply to Energy Alabama, Gasp and Sierra Club's Supplemental Briefing should be denied and its evidentiary submissions excluded from the record. In the alternative, Energy Alabama and Gasp ask that this Response in Opposition and supporting materials be included as part of the final record.

Respectfully submitted this 26th day of June, 2020.



Keith Johnston (JOH230)
Christina Tidwell (AND119)
Southern Environmental Law Center
2829 2nd Avenue South, Suite 282
Birmingham, Alabama 35205
Tel: (205) 745-3060
Fax: (205) 745-3064
candreen@selcal.org
kjohnston@selcal.org

Kurt Ebersbach (EBE007)
Southern Environmental Law Center
Ten 10th Street NW, Suite 1050
Atlanta, Georgia 30309
Tel: (404) 521-9900
Fax: (404) 521-9909
kebersbach@selcga.org

Counsel for Energy Alabama and Gasp

CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2020, I served the foregoing *Energy Alabama and Gasp's Response in Opposition to Alabama Power Company's Motion for Leave to Reply and Reply to Supplemental Briefing* via electronic mail to the parties below:

Dan H. McCrary
Scott B. Grover
Balch & Bingham, LLP
P.O. Box 306
Birmingham, AL 35201-0306
dmccrary@balch.com
sgrover@balch.com

Robin G. Laurie
Riley W. Roby
Balch and Bingham LLP
105 Tallapoosa Street, Ste. 200
Montgomery, AL 36104
rlaurie@balch.com
rroby@balch.com

Jennifer L. Howard
Rimon, P.C.
2000 Southbridge Pkwy.
Suite 205
Birmingham, AL 35209
jen.howard@rimonlaw.com

Conwell Hooper
Executive Director
American Senior Alliance
225 Peachtree Street NE
Suite 1430 South Tower
Atlanta, GA 30303
conwellhooper@gmail.com

Patrick V. Cagle
President
Alabama Coal Association
2 Office Park Circle, Suite 200
Birmingham, AL 35223
patrick@alcoal.com

George N. Clark
President
Manufacture Alabama
401 Adams Avenue, Suite 710
Montgomery, AL 36104
george@manufacturealabama.org

Diana Csank
Julie Kaplan
Sierra Club
50 F Street NW, 8th Floor
Washington, DC 20001
diana.csank@sierraclub.org
julie.kaplan@sierraclub.org

Joel E. Dillard
Dillard, McKnight, James & McElroy
2700 Highway 280
Suite 110 East
Birmingham, Alabama 35233
jdillard@baxleydillard.com

Paul Griffin
Executive Director
Energy Fairness
P.O. Box 70072
Montgomery, AL 36107
paul@energyfairness.org

C. Richard Hill, Jr.
Capell & Howard, P.C.
P.O. Box 2069
Montgomery, AL 36102-2069
crh@chlaw.com

Olivia Martin
Tina Hammonds
Zack Wilson
Assistant Attorney General
Office of the Attorney General
501 Washington Avenue
Montgomery, AL 36130
omartin@ago.state.al.us
thammonds@ago.state.al.us
zwilson@ago.state.al.us



Keith Johnston