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VIA HAND DELIVERY

Mr. Walter Thomas
Secretary
Alabama Public Service Commission
100 N. Union Street
9th Floor
Montgomery, Alabama 36104



Re: Alabama PSC Docket No. U-4226

Dear Mr. Thomas:

Please find enclosed for filing by Alabama Power Company in the above-referenced matter an original and ten (10) copies of the its Response to Complainants'/Intervenors' "Notice of New Authority".

If the Alabama Public Service Commission or you have any questions related to the enclosed tariffs, please let me know.

Sincerely,


Riley W. Roby

Enclosures

**BEFORE THE
ALABAMA PUBLIC SERVICE COMMISSION**

JAMES H. BANKSTON, ET AL.,)	DOCKET NO. 32767
)	
Petitioners/Complainants)	
)	
v.)	
)	
ALABAMA POWER COMPANY)	
)	
Respondent)	
)	
and)	
)	
ALABAMA POWER COMPANY)	DOCKET NO. U-4226
)	
Petitioner)	
)	
In re: Rate Rider RGB (Supplementary,)	
Back-Up, or Maintenance Power))	

**ALABAMA POWER COMPANY'S RESPONSE
TO COMPLAINANTS'/INTERVENORS' "NOTICE OF NEW AUTHORITY"**

Alabama Power Company ("Alabama Power" or "Company"), by and through its undersigned counsel, hereby submits this response to the recent "Notice of New Authority"¹ filed by James Bankston, Ralph Pfeiffer, and Gasp, Inc. ("Complainants/Intervenors") in the above-captioned dockets. The submission seeks to draw the Commission's attention to a recent order issued by the Michigan Public Service Commission that denied efforts by DTE Electric Company to establish cost recovery measures (not unlike Rate Rider RGB) associated with service to customers with installed on-site generation.

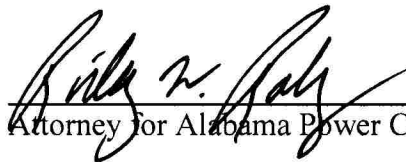
¹ In submitting the notice, Complainants/Intervenors invoke Rule 12(F) of the Alabama Rules of Appellate Procedure, rules that Alabama Power does not immediately recall ever having been used in a matter before the Commission.

This Commission of course is not governed by orders from Michigan.² The filing thus strikes Alabama Power as an effort by Complainants/Intervenors to revive their arguments against the design of Rate Rider RGB. Based on Alabama Power's review of the materials, it seems that decision—part of a much larger proceeding—occurred in the context of changes to the state's net metering laws. As such, the order carries with it the surrounding legislative policies embraced by the state of Michigan—policies that seem to vary significantly from those in Alabama.

Alabama law is clear as to the prices that should be paid to customers that seek to interconnect generation and sell the excess output to the supplying electricity provider. *See* Ala. Code §§ 37-4-140(a)(1) and (c)(1). Such customers are entitled to prices based on avoided costs; costs that, by law, exclude components such as the capacity made available to meet the entirety of the customer's demand. *See* Ala. Code § 37-4-140(a)(1). Such customers also are responsible for the cost of services afforded them by the electric supplier, services that include back-up power. Importantly, those costs are not to be allocated to the electric supplier's entire customer base. *See* Ala. Code § 37-4-140(c)(1). Thus, whether and how a state like Michigan seeks to handle the recovery of costs incurred by an electric supplier providing back-up power—including if it decides to spread such costs across other customers that have not installed on-site generation—is irrelevant to the Commission's consideration of the issues before it in the above-captioned dockets, and in the light of Alabama law.

Alabama Power again respectfully submits that it has carried its burden of demonstrating the justness and reasonableness of the proposed modifications to Rate Rider RGB, and that the complaint pending in Docket No. 32767 is due to be dismissed as a matter of law.

² Given this, it does not seem that the Michigan order constitutes either pertinent or significant authority, as required under the appellate rule invoked by Complainants/Intervenors.


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CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing on counsel of record in this public proceeding by electronic transmission, hand delivery, and /or U.S. Mail on this the 31st day of May, 2019.


OF COUNSEL