BEFORE THE ALABAMA PUBLIC SERVICE COMMIS

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ALABAMA PUBLIC SERVICE COMMISSION
DEVON BEATY, SECRETARY

IN RE: Generic Proceeding to Establish a Process for
Consideration of Contracts for Electric Service between
Alabama Power Company and Large Load Data Center Custo

Docket No. 33709

COMMENTS OF THE ENERGY INSTITUTE OF ALABAMA

I. The Energy Institute of Alabama and Its Stake in This Proceeding

The Energy Institute of Alabama ("EIA") offers these comments in response to the Order that opened this proceeding and welcomes the chance to take part. EIA is an Alabama nonprofit business association organized under Section 501(c)(6) of the Internal Revenue Code. Its work is defined by a three-part mission to: secure Alabama's standing as a leader in energy; widen the economic opportunity that abundant and affordable power creates; and strengthen the national security that a resilient energy system underwrites.

EIA believes the Legislature was quite clear in what Senate Bill 270 was meant to achieve — and what it was not. EIA's interest in the matter flows straight from its mission. How the Commission chooses to review contracts for the utilities it regulates with very large electric loads contracts will influence whether Alabama keeps attracting transformative capital, whether that capital becomes jobs and public revenue, and whether the infrastructure behind it stays secure against a threat landscape that has shifted sharply in recent years. EIA's comments address each of those three concerns in turn.

II. Alabama's Contract-Ratemaking Tools Are Both a Competitive Advantage and a Strategic Asset

Alabama's success in landing large, capital-intensive projects rests in no small part on the ability of regulated utilities, like all utilities, to use electric service contracting mechanisms. This Commission has overseen that process in the case of utilities it regulates for decades. These contracts enable utilities to negotiate terms particular to a given large load customer while requiring that any arrangement cover the added cost of serving that customer and leave the other customers of that utility better off, with safeguards should the customer depart early. The rigor built into that approach has been critical when the State wants to pursue projects that many other jurisdictions want—and to do so without a regulated utility pushing other costs onto their broad base of ratepayers.

Large computing campuses rank among the most consequential of those projects. They deliver construction activity, lasting employment, and meaningful growth in local and state revenue—the sort of expansion that sits at the heart of what EIA works for. And because approval already turns on a showing that other customers gain, growth of this kind generally spreads fixed system costs over more sales, helping households and small businesses rather than burdening them.

These campuses are also more than an economic-development story. The data centers rising across the country form the physical backbone of advanced computing, artificial intelligence, and the digital infrastructure on which national defense and the broader economy increasingly rely. A State that houses them houses strategic national assets. That fact recasts the question in this docket, and EIA turns to it now.

III. Energy Infrastructure Is National-Security Infrastructure

Among the three commitments that define EIA, national security is the one most easily set aside in a ratemaking docket. It should not be set aside here. The networks that produce and carry electricity in this country have become a chosen target of hostile foreign governments, and the events of recent years—including recent days—make it impossible to treat that danger as distant or hypothetical.

A. Hostile states are targeting the American energy and water sectors right now.

China has poured resources into embedding itself within United States critical infrastructure. The activity publicly tracked as Volt Typhoon has been assessed by federal agencies as a campaign to obtain and quietly hold access to power, water, communications, and transportation systems—pre-positioning for disruption should a conflict arise. In one confirmed instance, the operation lingered inside the networks of a Massachusetts electric and water utility for roughly ten months, gathering operational detail about how the grid is run.

Nor is the problem limited to a single adversary. In late July of this year, attackers tied to Iran struck the automated controls of more than thirty water utilities in Minnesota, compelling operators to revert to manual control. Federal officials have warned that the same Iran-aligned group is working to disrupt water and energy providers across the country. Human intervention averted public harm on that occasion. The takeaway is not that the systems proved resilient, but that they were struck at all—and that the margin of safety was narrower than anyone should accept.

This is the setting in which the Commission is deciding how the largest and most sensitive energy arrangements in the State for regulated utilities will be examined, recorded, and distributed.

B. A stable, well-capitalized energy system is itself a security asset.

Strengthening the grid, adding redundancy, and building capacity for new demand all depend on vast and continuing private investment. Capital of that scale gravitates toward jurisdictions with predictable rules and retreats from those whose rules look open to sudden change. A framework that stays steady is therefore more than sound economics; it is part of the State's security footing, because it enables the very investment that keeps the grid resilient. A proceeding that hints at a willingness to disrupt settled methods produces the opposite effect, seeding the uncertainty that delays investment and, with it, the modernization on which security rests.

There is a further dimension. Keeping advanced computing capacity on American soil—powered by American energy and governed by American law—is a national goal in its own right.

Alabama can contribute to it substantially, but only by remaining a dependable and appealing place to build.

C. How sensitive infrastructure information is handled is itself a security question.

Applications for very large loads inevitably hold the details an adversary prizes: where a facility will be located, how much power it will consume, and how it will tie into the grid. The more widely that unredacted material travels, the more openings it creates. Any process the Commission settles on should treat this information as the sensitive critical-infrastructure data it is.

IV. Senate Bill 270 Is a Narrow Law, and the Notice Ranges Well Past It

Senate Bill 270, now enacted as Act No. 2026-610, accomplishes one specific and bounded thing. It sharpens the public-interest test for a single, narrowly drawn kind of arrangement—a retail electric-service contract for a regulated utility with a large load data center customer, that is, a customer projected to draw at least 150 megawatts whose facilities serve data processing alone. It works within the framework of Section 37-4-22 of the Alabama Code, to which it adds a new Section 37-4-22.1, rather than displacing that framework. Nothing in the Act reaches past that one kind of arrangement.

The Order and questions in it go far beyond what the Act prescribes. The same body that passed this measure, the Legislature, is entirely capable of ordering a top-to-bottom review of ratemaking for regulated utilities; it deliberately declined to do so, choosing instead to specifically address the discrete and emerging circumstance of very large computing loads. The statute deserves to be carried out as written.

The Commission's stated analysis runs in the same direction. In opening the matter, it observed that the existing standards already applied to flexible contracts substantially match what the new law requires. In so doing, the Commission identified just two areas needing adjustment for these large loads: the current ten-day review period may be too brief for contracts of this magnitude, and the current procedure makes no formal place for the Office of the Attorney General. Both are limited questions of procedure. The notice, however, solicits comment on a much wider field—how added cost is to be calculated, how gains to the rest of the customer body are to be gauged, what standards should govern review, how system efficiency should be handled, and how the addition of new load should be planned for across the system as a whole. Those subjects are the foundations of ratemaking and utility regulation, not the mechanics needed to fulfill the purposes of the Act.

V. Reopening the Foundations of Ratemaking Would Work Against the Very Interests the Legislation Outlined

Every one of EIA's three commitments argues against turning this docket into a ground-up review of ratemaking for regulated utilities. A framework in flux discourages the investment that keeps Alabama in the running for major projects. It dampens the economic growth those projects bring to communities and public treasuries. And it erodes the security value of a grid whose modernization hinges on reliable rules. Even the signal that long-established and effective methods are up for reconsideration carries a price, because investment choices are made against expectations, and expectations are precisely what a sweeping review would unsettle.

The hazard grows once one considers where such a review would lead. Suppose the Commission does rewrite, in this very proceeding, the tests for judging these large computing contracts involving regulated utilities. It would then be fair to ask whether those new tests reach the other existing and approved contracts already on the books—and, if not, on what principled basis two similarly sized customers are held to different rules. That is a thicket the narrow task before the Commission gives it no reason to enter now. The wiser path is to leave established foundations in place and to implement the new law within them.

VI. The Notice Would Give the Attorney General a Role the Statute Withholds—and That Raises Its Own Security Concern

EIA respectfully suggests that the Commission ordering the role of the Office of the Attorney General exceeds what the law provides. Act No. 2026-610 is silent on the Attorney General altogether: it hones a public-interest test and routes that test through authority the Commission already possesses, but it does not mandate a role in that process for the Attorney General. Longstanding Alabama law already addresses the means whereby the Attorney General engages in regulatory matters and hands the Commission no power to create a new role. When the Legislature means to bring that office into a regulatory function, it says so in plain terms; here it did not. The resulting silence is not an omission for the Commission to cure—it reflects a deliberate legislative choice the Commission should respect.

VII. Conclusion and Requested Action

EIA favors faithful execution of Act No. 2026-610 and has no objection to a reasonable procedure for the limited set of large computing contracts the statute reaches. EIA respectfully requests that the Commission:

(1) keep this docket focused on carrying out the Act for the large load data center customers it defines, and specifically on the two adjustments the Commission flagged on its own initiative—the length of the review period and any procedural changes suited to contracts of this size;

(2) leave undisturbed the methods by which added cost is computed, customer benefit is measured, and contracts are judged—the elements the Commission has already found consistent with the Act;

(3) avoid going beyond the legislation which seems clearly intended to avoid disrupting matters already governed by Section 37-4-22, such as Alabama Power Company Rate FCR, and keep the current flexible-contract structure in place for customers, so that the settled expectations underpinning Alabama's competitiveness and the investment in its grid are not put at risk; and

(4) refrain from imposing on the Office of the Attorney General a role that Act 610 does not specify and, in whatever process it adopts, protect the confidentiality and security of sensitive critical-infrastructure information.

It is respectfully submitted that this proceeding should be focused on the limited matters, if any, needed to implement the Act, not the pursuit of other inquiries tucked into the docket that go considerably beyond that purpose. EIA thanks the Commission for weighing these comments and for its stewardship of an energy system on which Alabama's prosperity and security alike depend.

Dated: August 6, 2026