



Deposition of:

Hearing

November 21, 2019

In the Matter of:

**Bankston, James H., Et Al. Vs. Alabama
Power Company**

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ALABAMA PUBLIC SERVICE COMMISSION

MONTGOMERY, ALABAMA

IN RE: RATE RIDER RGB

(Supplementary backup or maintenance power)

JAMES H. BANKSTON, et al.,

Petitioners/Complainants,

vs.

DOCKET NO. 32767

ALABAMA POWER COMPANY

and

ALABAMA POWER COMPANY,

Petitioner.

DOCKET NO. U-4226

* * * * *

TESTIMONY AND PROCEEDINGS before the
Honorable John Garner, Chief Administrative Law
Judge, at the Carl L. Evans Chief Administrative
Law Judge Hearing Complex, RSA Union Building,
100 North Union Street, Montgomery, Alabama, on
November 21, 2019, commencing at approximately
9:00 a.m.; and reported by Stacey L. Johnson,
Certified Court Reporter and Commissioner for
the State of Alabama at Large.

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APPEARANCES

FOR THE APPLICANT:

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THE COURT: For the Record,
we're here this morning, November 21,
2019, for a public hearing in the
matter of Dockets 32767 and U4226.
Interested parties were made aware of
today's hearing pursuant to a
procedural ruling entered in this

1 cause on October 7, 2019.

2 Let the Record reflect that
3 in addition to the
4 complainant/intervenors, James H.
5 Bankston, Ralph B. Phifer, and GASP,
6 Inc., which I may collectively refer
7 to as Bankston, et al., or the
8 complainant/intervenors, the
9 Commission also granted the petition
10 to intervene in this cause as
11 submitted by Energy Alabama, and that
12 will be Mr. Daniel Tait. We'll get
13 appearances here in a moment.
14 Yesterday the Commission received a
15 petition to intervene in this cause
16 from the Attorney General of Alabama.
17 That petition is granted, making the
18 attorney general also a part of the
19 Record in this proceeding.

20 All right. Now, let's go
21 ahead and get the appearances of
22 counsel for the Record. Who will be
23 appearing on behalf of the applicant?

1 MR. GROVER: Yes, Your Honor.
2 I'm Scott Grover with the law firm of
3 Balch & Bingham. And with me today
4 is Ms. Natalie Dean. She's the
5 regulatory pricing manager for
6 Alabama Power.

7 THE COURT: Any other
8 appearances for Alabama Power?

9 MR. GROVER: No, Your Honor.

10 THE COURT: Mr. Johnston?

11 MR. JOHNSTON: Keith Johnston on
12 behalf of GASP, and here with me is
13 Kurt Rabago and Christina Andreen.

14 MR. RAGSDALE: I'm Clay
15 Ragsdale. I represent Dr. Bankston
16 and Dr. Pfeifer.

17 MR. EBERSBACH: And, Your Honor,
18 we also have Karl Rabago as our
19 expert appearing today.

20 THE COURT: We'll get to
21 Mr. Rabago shortly, but thank you for
22 that.

23 Other appearances by staff?

1 MR. REID: Yes, Your Honor. My
2 name is John Reid. I'm a director
3 with the Commission staff. And
4 seated with me is Mr. Chad Mason.
5 He's an attorney with the Commission
6 staff. We are here to observe the
7 proceedings, but we'd like to reserve
8 the option to ask clarifying
9 questions if we find that to be the
10 case.

11 THE COURT: Yes, sir.

12 And the attorney general I
13 see is in attendance.

14 MR. WILSON: Zack Wilson, I
15 represent the attorney general. I
16 have Tina Hammonds and Olivia Martin
17 with me. Again, we're similar to the
18 staff, just here to observe and
19 reserve the right to ask questions,
20 if necessary.

21 THE COURT: All right, sir.
22 Thank you.

23 Is there anyone else who

1 needs to enter an appearance?

2 MR. TAIT: Daniel Tait, Energy
3 Alabama.

4 THE COURT: Mr. Tait, you need
5 to come on up to the table, sir.

6 MR. TAIT: Thank you, sir.

7 THE COURT: You are a party of
8 Record.

9 In the way of preliminary
10 matters, there was a request for some
11 clarification about the procedure
12 today. I think that's resolved
13 itself with Alabama Power's
14 responsive filings, so the power
15 company's witness is going to go
16 first. So I think we've resolved
17 that to the satisfaction of everyone.
18 Is that understood?

19 MR. GROVER: Yes, Judge.

20 MR. EBERSBACH: Yes, sir.

21 THE COURT: Very good. As far
22 as the procedure for presenting the
23 witnesses, we kind of gave the

1 direction for that in the procedural
2 ruling that was entered. What I'd
3 like for you to do, Counsel, is to
4 give a brief introduction of your
5 witness, and then the witness needs
6 to provide just a very brief summary
7 of their testimony that's been filed
8 on their behalf before they're
9 tendered for cross-examination. And
10 I'll swear each of you as you come to
11 the stand right here before us.

12 Any other preliminary
13 matters we need to address before we
14 proceed with the presentation of
15 Alabama Power's case?

16 MR. GROVER: None for Alabama
17 Power, Judge.

18 THE COURT: Let's proceed with
19 the testimony of Ms. Dean.

20 MR. GROVER: We would ask
21 Ms. Natalie Dean to take the chair.

22 THE COURT: And I'll need to
23 swear you before you're seated,

1 Ms. Dean.

2 NATALIE DEAN

3 the witness, after having first been
4 duly sworn to speak the truth, the whole truth,
5 and nothing but the truth, was examined and
6 testified as follows:

7 DIRECT EXAMINATION

8 BY MR. GROVER:

9 Q. Ms. Dean, could you repeat your position
10 with Alabama Power Company, please.

11 A. Yes. My testimony explains how the company
12 developed the backup power service charges
13 under part 1B of Rate Rider RGB. These
14 charges, which are consistent with the
15 requirements of PURPA and Alabama law,
16 enable the company to recover the costs
17 associated with serving the backup power
18 needs of customers with onsite
19 interconnected generation in a
20 nondiscriminatory manner.

21 I would note that last week the company
22 filed errata to my testimony to correct a
23 data sequencing error. In so doing, the

1 company recognized that the capacity
2 reservation charge and the RTA -- rate RTA
3 super peak charge should be one cent lower
4 than I previously indicated. At the
5 direction of the Commission, the company can
6 file conforming tariff sheets to reflect
7 this updated pricing and incorporate any
8 additional revisions to the tariff deemed
9 warranted.

10 Q. So as your summary reflects, you caused
11 testimony to be submitted in the Docket
12 U4226; is that correct?

13 A. That's correct.

14 Q. And that testimony concerned proposed
15 modifications to the company's Rate Rider
16 RGB, correct?

17 A. That's correct.

18 Q. And outside of the errata item that you just
19 noted, to your knowledge, does that
20 testimony remain true and accurate to the
21 best of your knowledge?

22 A. Yes, it does.

23 Q. And if I asked you the same questions set

1 forth in that testimony outside of the
2 errata item you described, you would provide
3 the same answers reflected in that
4 testimony?

5 A. Yes, I would.

6 Q. And in connection therewith, you also caused
7 to be filed -- caused to be filed in the
8 docket reply testimony on, I believe,
9 December 13, 2018?

10 A. That's correct.

11 Q. And the same set of questions. To your
12 knowledge and outside of the errata items
13 you described, does that testimony remain
14 true and correct to the best of your
15 knowledge and belief?

16 A. Yes, it does.

17 Q. And if I asked you those requests that are
18 set forth in your reply testimony, would you
19 provide the same answers as set forth in
20 your testimony?

21 A. Yes, I would.

22 MR. GROVER: I think with that,
23 Judge, we would tender the witness

1 for cross-examination.

2 THE COURT: All right. And I
3 don't know what order we want to
4 proceed. If the
5 complainants/intervenors want to go
6 first, that's certainly fine.

7 MR. EBERSBACH: Thank you, Your
8 Honor.

9 CROSS-EXAMINATION

10 BY MR. EBERSBACH:

11 Q. Good morning, Ms. Dean.

12 A. Good morning.

13 Q. We're here today to talk about Alabama
14 Power's Rate Rider RGB and specifically the
15 charges it assesses against customer
16 generators on certain rates listed in part
17 1B of the rider. That's the backup power
18 section, correct?

19 A. Correct.

20 Q. Now, there are four affected rates, one of
21 which is rate SCH. And that's for schools,
22 right?

23 A. That's correct.

1 Q. There is also LPS, which is for
2 nonresidential small power producers?

3 A. That's correct.

4 Q. There is RTA, which is a time of use rate,
5 right?

6 A. For residential. Correct.

7 Q. For residential. Okay. And finally, rate
8 FD, and that stands for family dwelling?

9 A. That's correct.

10 Q. So to be clear, the capacity reservation
11 charge applies only to those four rate
12 classes, right?

13 A. That's correct.

14 Q. And of those four, the rate RTA customer,
15 just one of those classes -- the RTA
16 customer has the option to avoid the charge,
17 but only if they pay a super peak charge; is
18 that right?

19 A. Actually, customers that take service under
20 LPS or school have options to take service
21 under different rates set forth in part 1A
22 as well.

23 Q. Okay. But of the four classes we just

1 mentioned, if they want to avoid the
2 capacity reservation charge, RTA is the only
3 one that can do it by paying the super peak
4 charge; is that right?

5 A. No, that's not correct. The customers that
6 take service under SCH or LPS can actually
7 take service under a different rate under
8 RT -- under the part 1A rates.

9 Q. But they can avoid paying the capacity
10 reservation charge by agreeing to pay that
11 super peak charge, those rate classes
12 cannot; is that right?

13 A. That's correct. The rate RTA super peak
14 charge only applies to residential
15 customers.

16 Q. Okay. And that rate super peak charge is
17 71 cents per kilowatt hour during the summer
18 period, which is June through September?

19 A. During the hours of three to five p.m.

20 Q. Okay. And to derive that super peak charge,
21 did the company generally follow the same
22 methodology as it used to come up with the
23 capacity reservation charge?

1 A. Yes, we did.

2 Q. Thank you. Now, rate FD is the company's
3 standard residential tariff?

4 A. Yes, it is.

5 Q. It's the rate that most of the company's
6 1.2 million residential customers are on; is
7 that right?

8 A. That is correct.

9 Q. And it's the rate FD population that the
10 company drew from to devise the part 1B
11 charges, right?

12 A. That's correct.

13 Q. Now, the capacity reservation charge, this
14 is a per kilowatt charge assessed against
15 the size of the customer self-generation
16 system, correct?

17 A. The rate itself is applied to the install
18 capacity at a customer's residence. Yes.
19 That's correct.

20 Q. And specifically, it's a nameplate capacity?

21 A. It is nameplate capacity. Correct.

22 Q. And while the charge applies to any
23 customer-sided generation, assuming the

1 customer remains interconnected, the reality
2 is that almost all customers currently
3 subject to it are solar customers, right?

4 A. Based on the information I have, that's
5 correct.

6 Q. Solar, the company recognizes, is the
7 predominant means of non-emergency self-
8 generation that in recent years customers
9 have increasingly been adopting; is that
10 right?

11 A. Can you say that one more time. I didn't
12 hear the full question.

13 Q. Solar is the predominant means of
14 non-emergency self-generation that in recent
15 year customers have been choosing to adopt?

16 A. Under the part 1B rates, I would say yes.

17 Q. And, in fact, the company designed the
18 charge based on representative profiles of
19 customers it considered likely to adopt
20 solar generation, right?

21 A. That's correct. We use actual customer data
22 to do that. Correct.

23 Q. And by looking at -- by looking to the

1 production profiles of solar generation?

2 A. I'm sorry. Say that one more time.

3 Q. In devising the charge, you look to the
4 production profiles of solar generation?

5 A. We actually looked at the output of a model
6 solar profile. Correct.

7 Q. Okay. Is it fair to say that concerns about
8 solar adoption are what prompted the company
9 to develop this charge in 2012?

10 A. I would say what prompted the company to
11 look at this in 2012 was that we actually
12 already had larger customers under the
13 part A rates that were taking service from
14 Alabama Power and requiring backup service
15 at that time.

16 On or around that time, we actually had
17 deployed AMI technology and began to detect
18 feeding back onto our system, and we
19 acknowledged at that time that we had
20 interconnected generators that had not
21 actually applied through the appropriate
22 protocol to actually have interconnected
23 generation on our system. And for the

1 safety and reliability concerns, that was
2 what prompted -- one of the reasons that
3 prompted us to investigate that.

4 Q. Okay. Thank you. Now, Rate Rider RGB has
5 been in place for about 30 years; is that
6 right?

7 A. That sounds about right.

8 Q. But the capacity reservation charge we've
9 been talking about, the company didn't
10 propose it until December 2012 and didn't
11 begin assessing it until roughly May 2013;
12 is that correct?

13 A. That's correct.

14 Q. And that was part of the fifth revision to
15 Rate Rider?

16 A. It was.

17 Q. The charges at that time was \$5 per
18 kilowatt, which is the charge currently in
19 effect today, right?

20 A. That's correct.

21 Q. So a rate FD customer with four kilowatts of
22 solar must pay the company \$20 per month or
23 \$240 per year?

1 A. That's correct.

2 Q. And must pay that charge for as long as
3 their system remains interconnected?

4 A. That's correct. That's the -- that's
5 actually the cost we are recovering to
6 provide backup service to those customers.

7 Q. So a residential customer who installed
8 solar like any rate FD customer, they're
9 going to have to pay the company's basic
10 service charge, right?

11 A. They're going to have to pay the basic
12 service charge. Which charge are you
13 talking about?

14 Q. Well, there's a basic service charge of
15 14.50; is that right?

16 A. Yes. That's correct.

17 Q. And that applies to all rate FD customers?

18 A. It does.

19 Q. So the solar customer on rate FD as well
20 would have to pay that?

21 A. That's correct.

22 Q. And then they pay a volumetric charge that
23 varies with their level of energy usage,

1 right?

2 A. Yes, they do.

3 Q. And that volumetric charge is designed to
4 recover both variable and fixed costs,
5 correct?

6 A. Yes, it is.

7 Q. And then under the Rate Rider, they would
8 pay this additional charge according to the
9 nameplate capacity if they're solar
10 installation?

11 A. If they chose to interconnect onsite
12 generation with the company's system, they
13 are subject to Rate Rider RGB, and, yes,
14 they have the option to pay the capacity
15 reservation charge.

16 Q. Well, if they're on rate FD, they would have
17 to pay, correct?

18 A. Well, they have the option to take service
19 under a different rate structure.

20 Q. Like RTA?

21 A. Like RTA. Correct.

22 Q. In which case, they would pay the super peak
23 charge?

1 A. That's correct.

2 Q. Okay. So when the charge was first adopted
3 in 2013, there were just 79 customer
4 accounts subject to it?

5 A. That's correct.

6 Q. And today there are approximately 155
7 customers subject to Rate Rider RGB?

8 A. That's correct.

9 Q. But that includes customers who are covered
10 under part 1A of the charge, right?

11 A. The 155?

12 Q. Yes.

13 A. The 155 applies to both part A and part B.
14 And I'll note the 155 represents the number
15 that was looked at about a year ago.

16 Q. Okay. So it's not necessarily current?

17 A. It's not a current number. That's correct.

18 Q. Do you have a current number?

19 A. I have a current number that's subject to
20 part B. I don't have a total
21 interconnected -- well, I'm sorry. I do
22 have an approximate of about 197.

23 Q. Okay. And what's the number that's subject

1 to the part B?

2 A. Today?

3 Q. Today.

4 A. Today that number is somewhere around 132.

5 Q. Okay. And just to be clear, the part A
6 customers do not pay the capacity
7 reservation charge; is that right?

8 A. The part A customers pay for backup through
9 the design of their rate.

10 Q. Right. So they don't pay the capacity
11 reservation charge?

12 A. They don't pay the capacity reservation
13 charge, but they do pay for backup service.

14 Q. Okay. Thank you. So you said 132 customers
15 under part B. That's out of some
16 1.2 million residential customers for the
17 company?

18 A. Yes.

19 Q. So would you agree that in 2013 and even
20 today the amount of installed customer-sided
21 solar capacity that's interconnected to
22 Alabama Power's system is pretty small?

23 A. I would -- I don't know what you classify as

1 small.

2 Q. Well, do you know -- there's 132 customers.
3 Do you know what the combined nameplate
4 capacity is for those customers?

5 A. I would say it's just over, I would say,
6 650 kilowatts.

7 Q. Okay. And with that compared to a total
8 capacity for the company of between 13,000,
9 14,000 megawatts?

10 A. Yes.

11 Q. Okay. Did the company consider the level of
12 penetration of customer-sided solar in its
13 service territory to be a relevant
14 consideration before adopting the charge?

15 A. Say that one more time.

16 Q. Did the company consider the level of
17 penetration of customer-sided solar on its
18 system to be a relevant consideration before
19 adopting the charge?

20 A. I would say the company considered any
21 customer that needed backup service needs to
22 be a relevant consideration to the Rate
23 Rider RGB requirements.

1 Q. Okay. So does that mean the answer to my
2 question is, no, you did not consider the
3 level of penetration to be relevant?

4 A. I would say we looked at all penetration of
5 all types of generation.

6 Q. Okay. But you said a moment ago around
7 600 kilowatts versus 13-, 14,000 megawatts
8 for the system. Was that a relevant
9 consideration?

10 A. Yes. I would also note you're only quoting
11 the backup needs for the part B rates.
12 There's a considerable number of megawatts
13 served under the part A rates as well.

14 Q. Well, we're here today to talk about the
15 part B charges.

16 A. Okay.

17 Q. And did the company look at any data before
18 adopting this charge regarding how many more
19 customers it expected to adopt solar on a
20 going forward basis?

21 A. No, we did not look at forecasting solar
22 adoption.

23 Q. Did the company have any data suggesting

1 solar penetration on the system was reaching
2 a point that it could affect system
3 reliability?

4 A. I would note that any customer that expects
5 backup needs on our system without planning
6 for that would impose reliability
7 considerations on our system.

8 Q. Was there any indication before adopting the
9 part B charges that the relatively small
10 levels of existing solar customers were
11 those likely to install solar were having or
12 were likely to have an adverse impact on the
13 company's financial integrity?

14 A. In the absence of cost recovery measures to
15 recover the cost of our business, I would
16 say the company absolutely would consider
17 whether or not we could recover those costs.

18 Q. But would it affect your financial integrity
19 in terms of credit ratings?

20 A. If I did not have adequate cost recovery
21 cost measures in place, absolutely. That's
22 true of any cost of my business.

23 Q. Even for 600 kilowatts?

1 A. Even for 600 kilowatts. That's correct.

2 Q. Did these solar customers drive any specific
3 infrastructure costs relating to
4 interconnection and reliable operation of
5 the grid?

6 A. Can you ask that one more time.

7 Q. Did the solar customers that were existing
8 at the time you adopted this charge drive
9 any specific infrastructure costs relating
10 to interconnection and reliable operation of
11 the grid?

12 A. I don't have that information. I would say
13 the company had to consider the full
14 requirements needs of the customer with
15 onsite -- interconnected onsite generation.

16 Q. Did those solar customers require the
17 company to procure any additional capacity?

18 A. I don't have that information. Not to my
19 knowledge.

20 Q. Now, the capacity reservation charge applies
21 based on the size of the customer's system
22 and not based on their actual usage,
23 correct?

1 A. That's correct.

2 Q. Now, you're aware that some affected
3 customers filed a complaint with this
4 Commission about the charge, correct?

5 A. Yes, I am.

6 Q. Have you read the affidavits of the
7 customers involved in this action?

8 A. Yes, I have.

9 Q. So those customers allege that the charge
10 will cost them thousands of dollars over the
11 life of their installed systems
12 significantly undermining their investment
13 and lengthening its payback period. Do you
14 have any reason to dispute that the
15 customers have been impacted as they allege?

16 A. I don't have any reason to dispute that. I
17 would say that they have requested the
18 company to provide a service to them and
19 there's a cost to that service.

20 Q. Now, in response to the complaints, the
21 company made a filing to increase the charge
22 by 42 cents per kilowatt and simultaneously
23 moved to dismiss the complaint, correct?

1 A. Correct.

2 Q. And now there's an errata filing lowering
3 your proposed increase by one cent, correct?

4 A. That's correct.

5 Q. So if approved, the new charge would be
6 \$5.41 per KW?

7 A. That is correct.

8 Q. So if it's approved, the complainants would
9 now pay 5.41 per kilowatt rather than the \$5
10 they pay today?

11 A. That's correct.

12 Q. Which would negatively impact the economics
13 of their private investments even more than
14 the current charge?

15 A. I can't speak to the economics of a
16 customer's choice to install interconnected
17 onsite generation. I can tell you the
18 charge recovers the cost to provide backup
19 power service to those customers.

20 Q. But you understand it is affecting the
21 savings they would otherwise realize without
22 the charge, correct?

23 A. I can tell you that my consideration is to

1 recover the cost to provide service to the
2 customers that have decided to interconnect
3 onsite generation.

4 Q. Now, you would acknowledge that customer-
5 sided solar provides certain benefits,
6 right?

7 A. Can you elaborate?

8 Q. Well, at a minimum, would you agree that a
9 customer with solar reduces system costs
10 when they're able to rely on self-generation
11 during peak times?

12 A. Can you say that one more time, please.

13 Q. That a customer with solar reduces system
14 costs when they're able to rely on self-
15 generation during peak times?

16 A. I would say that customer avoids the
17 variable cost associated with costs.

18 Q. So the company doesn't have to supply that
19 electricity to that customer if they're
20 self-generating?

21 A. Keep in mind, the capacity reservation
22 charge actually recovers the cost to have
23 capacity available to serve those needs when

1 and if they need it whenever that time frame
2 is.

3 Q. I understand that. But there is a variable
4 energy benefit, correct?

5 A. And I would say we actually did take that
6 into consideration in the development of the
7 charge.

8 Q. Right. So there is a system benefit at
9 least in that respect, correct?

10 A. I would say the customers avoid that cost.
11 Correct.

12 Q. And so does the company?

13 A. Yes.

14 Q. Now, peak times are generally when the
15 system is most stressed, correct?

16 A. That is correct.

17 Q. And marginal energy production is at its
18 most expensive?

19 A. Yes, it is.

20 Q. So if customers are self-supplying the
21 electricity during peak times, that reduces
22 system stress and system costs?

23 A. Say that one more time, please.

1 Q. If customers are self-supplying electricity
2 during peak times, that reduces system
3 stress and system costs?

4 A. Correct. But if they don't produce, I have
5 to stand ready to serve them whatever that
6 time is, including the peak.

7 Q. Okay. That wasn't my question but I
8 understand. Similarly, to the extent the
9 solar -- the solar customer is not using
10 capacity during peak times, that frees up
11 capacity for use by other customers, does it
12 not?

13 A. That's correct.

14 Q. But the company didn't perform any
15 assessment of the costs and benefits of
16 distributed solar generation before
17 instituting this charge or the proposal to
18 increase it, correct?

19 A. I would say we actually did the benefits.
20 We actually did consider the variable cost
21 benefits that the customer avoids, and we
22 actually -- in the consideration of the
23 fixed cost avoidance, we actually did give

1 credit for that. To the extent that you're
2 talking about something other than that, the
3 capacity reservation charge actually
4 recovers the cost of backup. I think if
5 you're talking about something else, that is
6 better suited in a different tariff.

7 Q. Well, the company did file some responses to
8 supplemental data requests served by the
9 Commission, right?

10 A. Yes.

11 Q. And do you recall request number 4?

12 A. I don't remember the number of the
13 questions.

14 Q. Well, you were asked did the company
15 consider and quantify any benefits that may
16 be provided on a consistent basis by such
17 onsite generation.

18 A. Yes.

19 Q. And do you recall the company said that it
20 did not perform any independent assessment
21 of the benefits or costs of interconnected
22 onsite generation in developing the capacity
23 reservation charge in the RTA charge?

1 A. Right. The capacity reservation charge
2 actually is meant to recover the cost of
3 providing backup. As I stated before, the
4 benefits, other than the variable cost
5 benefits that we actually already did talk
6 about and did consider and a percentage of
7 the fixed cost benefits that we actually did
8 consider, no, any additional benefits
9 associated with the production of that
10 facility are not suited recoverable under
11 this tariff.

12 Q. Okay. But I think you just acknowledged
13 there are variable energy and fixed cost
14 benefits?

15 A. Yes. And we did acknowledge those in the
16 calculation.

17 Q. Okay. So you did not use -- Southern
18 Company has developed a framework for
19 considering the cost and benefits of
20 distributed solar. You're aware of that,
21 correct?

22 A. If you're talking about the framework that
23 was used on behalf of Georgia Power.

1 Q. Yes, but developed by Southern Company,
2 correct?

3 A. That's correct.

4 Q. And you didn't consult that framework?

5 A. No, we did not.

6 Q. And you didn't develop a similar framework
7 for Alabama?

8 A. No, we did not.

9 Q. So as we sit here today, the company hasn't
10 assessed whether distributed solar
11 generation in its territory may provide a
12 net benefit at least up to some level of
13 penetration?

14 A. Again, I'll say the benefit associated with
15 the production of any solar facility is
16 better suited on a -- in a different tariff.
17 You're talking about the benefit that
18 generators put back on our system. That
19 doesn't have any bearing on the cost
20 recovery of providing backup service to
21 those customers under this charge.

22 Q. So you're talking about solar exported to
23 the grid?

1 A. That's correct.

2 Q. So you acknowledge that's a benefit?

3 A. I would say that to the extent it avoids
4 variable costs that the company incurs, yes.

5 Q. And frees up capacity?

6 A. Capacity -- it depends on what you talk
7 about by frees up capacity.

8 Q. Well, if a solar customer is a net exporter
9 during system peak, they're providing both
10 an energy benefit and they're not using the
11 company's capacity at all so that other
12 customers can use it; is that right?

13 A. Right. But I have to stand ready to serve
14 that generation anytime that customer needs
15 it up to and including the peak.

16 Q. Are you aware that your sister utility,
17 Georgia Power, proposed but withdrew a
18 charge similar to the capacity reservation
19 charge in 2013?

20 A. I'm aware that they looked at that, yes.

21 Q. But that wasn't relevant to your
22 determination either?

23 A. Of something that Georgia Power did in a

1 different jurisdiction?

2 Q. Right.

3 A. No.

4 Q. Do you know how Georgia Power's solar --

5 MR. GROVER: Your Honor, I
6 object. We've given a little bit of
7 a leash talking about other
8 jurisdiction, but I mean, last time I
9 checked, we're here in Alabama before
10 the Alabama Public Service Commission
11 so just with that caveat.

12 THE COURT: Yeah, let's keep
13 those questions to a minimum as far
14 as if you want to touch on it
15 briefly, but I don't want to dwell on
16 that issue.

17 MR. EBERSBACH: Your Honor, that
18 was my last question.

19 Q. Just to establish that you didn't consider
20 that relevant.

21 A. The things that I considered relevant in the
22 development of the capacity reservation
23 charge are charges that Alabama Power incurs

1 on behalf of serving all of its customers,
2 especially for those customers that ask for
3 the service of providing backup service to
4 them. Those were the costs that we assessed
5 when developing the capacity reservation
6 charge.

7 Q. So the experience of other states with
8 higher levels of solar penetration than
9 Alabama, you considered irrelevant to your
10 determination?

11 A. I don't know how solar penetration in a
12 different state affects the cost here in
13 Alabama.

14 Q. So the answer is, yes, you did not consider
15 it relevant?

16 A. I did not.

17 THE COURT: I think her answer
18 speaks for itself.

19 Q. Now, the company's position is that the
20 capacity reservation charge is needed to
21 cover the cost of providing backup service
22 to those self-generating customers, right?

23 A. That's correct.

1 Q. But the company did not do any cost of
2 service analysis specific to the population
3 of rate RD customers, did it?

4 A. I'm sorry. I didn't hear the question.

5 Q. The company didn't do any cost of service
6 analysis specific to the rate FD customers
7 with solar, did it?

8 A. Yes, we did. That's not correct.

9 Q. Well, you looked at the usage of customers
10 who had adopted solar but prior to their
11 adoption of solar; am I right about that?

12 A. Right. It wouldn't -- it wouldn't make
13 sense for me to use a profile after they
14 adopted solar. I needed to know what their
15 load profile looked like before they adopted
16 solar.

17 Q. Okay. So you didn't look at the actual
18 metered net usage of existing partial
19 requirements customers subject to part B of
20 the rate rider?

21 A. Well, I need to understand what the customer
22 looked like before they installed generation
23 and after they installed generation to

1 understand the costs associated with that.

2 Q. And --

3 A. Of which I don't have that information
4 available to me.

5 Q. Well, you -- customers who have adopted
6 solar, you do have their net usage?

7 A. I have their net usage. Correct.

8 Q. And that's what you send them a bill for,
9 correct?

10 A. I'm sorry?

11 Q. That's what you bill them for, correct?

12 A. For their net usage?

13 Q. Yes.

14 A. I actually do bill them for their net usage
15 under supplementary service rate. Correct.

16 Q. So you have that data?

17 A. I do have that data, but I don't have their
18 solar production data.

19 Q. Right. But the -- when you say you compared
20 data before and after solar adoption, you
21 weren't looking at the actual net metered --
22 the net usage date for those customers, you
23 were looking at a representative profile to

1 which you had applied a solar production
2 profile; is that right?

3 A. I looked at the before usage of actual
4 customers prior to them installing onsite
5 generation. And the reason for that is
6 understanding how to -- how to use that
7 information. I need to understand what
8 their profile looks like ahead of them
9 installing generation. I need both sets of
10 information in the same subset to be able to
11 evaluate that.

12 Q. Okay. But had you used actual metered net
13 usage data, you would know exactly what
14 demands the customer -- solar customer
15 placed on the system and when, would you
16 not?

17 A. Yes, I have that information, but I don't
18 have -- what I don't have available to me is
19 the total consumption of the house. I only
20 have the net. So if I'm only looking at the
21 net, I don't know what their load profile
22 looked like before they installed it, which
23 is a critical piece of information.

1 Q. But you do know exactly when they're using
2 the system, right?

3 A. Right. But I need to understand of the --
4 if I'm looking at a ten kilowatt -- ten
5 kilowatt residence, somebody that demand is
6 ten kilowatts and they've installed a two
7 kilowatt generator, I need to understand the
8 relationship between what the entire
9 household is to understand how to
10 appropriately recover the cost for backup.
11 I wouldn't want to charge them backup for
12 the full ten.

13 Q. But with net usage, could you not determine
14 whether those solar customers as a class
15 remain within the normal variation for the
16 residential class as a whole?

17 A. When you say normal variation within the
18 class as a whole, I don't know what you
19 mean.

20 Q. Well, rate FD is a volumetric energy, right?

21 A. Yes.

22 Q. And it's designed to recover both variable
23 and fixed costs as we've discussed, right?

1 A. That's correct.

2 Q. And you would agree that there is load
3 diversity among residential customers as a
4 class, right?

5 A. Yes, there is.

6 Q. Not just in terms of how much electricity
7 they consume but when they consume it?

8 A. I would say a residential class as a whole
9 tends to peak about the same time.

10 Q. And rate FD is designed to recoup the
11 company's fixed and variable costs with
12 consideration of that load diversity among
13 residential customers, correct?

14 A. Yes.

15 Q. Okay. So going back to your analysis, you
16 developed a representative load profile for
17 customers without onsite generation. And
18 that is a rate FD customer, right?

19 A. That's correct.

20 Q. You then reduced that representative
21 customer's usage by the expected hourly
22 production of the onsite solar generation as
23 modeled by the PB watts tool?

1 A. Right.

2 Q. And specifically the hourly production of
3 one kilowatt of solar?

4 A. That's correct.

5 Q. Would you agree that a residential customer
6 with only one kilowatt of solar is unlikely
7 to ever have excess production to the grid?

8 A. I don't know that to be a fact.

9 Q. So ultimately, you came up with the two
10 profiles -- representative profiles, one
11 with one kilowatt of solar and one without?

12 A. Yes.

13 Q. And you determined that the representative
14 customer of one kilowatt of solar is less
15 costly to serve; is that right?

16 A. I would say -- in terms of less costly to
17 serve, I would say they avoid the variable
18 cost as we stated earlier, but I do not
19 avoid any of the fixed cost to serve that
20 customer. I have to stand ready to serve
21 that customer. I cannot change my
22 infrastructure to serve that customer. They
23 might need me at any time and I have to

1 stand ready to serve them, so I do not avoid
2 the fixed cost associated with that.

3 Q. Do you happen to have your exhibit MD 4 with
4 you?

5 A. Give me a minute to find it, please.

6 THE COURT: While she's looking
7 for that, I continue to hear the
8 chirping of an electronic device.
9 It's annoying the heck out of me and
10 it's taking away my focus. If
11 anybody's streaming this proceeding,
12 shut it down right now. We don't
13 record proceedings. We don't stream
14 live hearings here at the Commission.
15 Any live streaming needs to be shut
16 down right now. It's not permitted.
17 If that's what I'm hearing, the
18 chirping, that needs to stop because
19 it's annoying the crap out of me.

20 Now, proceed now that I can
21 focus hopefully.

22 Q. Ms. Dean, you have Exhibit MD 4 before you?

23 A. Yes, I do.

1 Q. Now, I understand your testimony you just
2 gave, but I just want to ask you does this
3 document not show that the fixed cost
4 component for the representative solar
5 customer is less than for the nonsolar
6 customer?

7 A. What you're assuming is that that customer
8 will never require backup from the company.

9 Q. And if a customer never required firm
10 backup, those capacity cost savings would be
11 there; is that your testimony?

12 A. Yes, if they did not interconnect to the
13 system and require and ask for the company
14 to provide backup power service to them,
15 they would reduce these costs. That's
16 correct.

17 Q. Okay. Now, I think we can agree it's
18 unlikely a solar customer would never
19 require backup if they're interconnected,
20 correct?

21 A. Absolutely they would require backup.

22 Q. But neither should we assume that a solar
23 customer will always require backup to the

1 full extent of their system's nameplate
2 capacity, right?

3 A. Correct. I think we provided information to
4 show that.

5 Q. Backup power is for when the customer's
6 system is not producing what it would
7 generally produce. Do you agree with that?

8 A. I believe I can tell you what the rate says
9 backup power is supposed to be for.

10 Q. Well, you recall we took your deposition --

11 A. Yes.

12 Q. -- earlier this year, and you said that
13 backup power is for when the customer's
14 system is not producing what it generally
15 would produce. Do you stand by that
16 description?

17 A. Yes.

18 Q. It's for unscheduled outages, backup power?

19 A. I would say again what I stated at the
20 deposition, it is for periods when the
21 generator is not operating when it should be
22 operating.

23 Q. Okay. It's to serve in place of what's

1 ordinarily generated by the customer's
2 facility?

3 A. I would say it's in place to serve when it
4 should be generating for the customer.

5 Q. Now, the company's assumption is that for
6 every ten kilowatts of solar on its system,
7 it must hold six and a half kilowatts in
8 reserve as backup; is that right?

9 A. That's correct.

10 Q. Is that capacity reserved exclusively for
11 the solar customer?

12 A. I would say the calculations that we've set
13 forth and what we've shown represents the
14 capacity needs to serve the backup
15 generation needs of these particular
16 customers.

17 Q. But are you saying that that six and a half
18 kilowatts -- just to use that as an
19 example -- it's only there for the solar
20 customer or can it be used for other
21 purposes when it's not needed to support the
22 solar customer?

23 A. Well, look, if I am evaluating how I serve

1 my customers -- let's just say three people
2 in this audience have interconnected solar,
3 all three of them have interconnected one
4 kilowatt of solar, I'm required to serve
5 100 percent of their needs no matter when
6 that happens. The point of the capacity
7 reservation charge and the reference to the
8 six and a half kilowatts that you talk about
9 or the 65 percent actually represents at any
10 given point in time that three kilowatts of
11 backup power that I'm supposed to serve, I
12 only need 65 percent of that.

13 Q. Okay.

14 A. But I still have to stand ready to serve
15 each individual customer's needs 100 percent
16 of the time whenever they need it, but I'm
17 recognizing that -- through customer
18 diversification that, yes, I should not
19 expect to serve 100 percent of that for all
20 three of those customers all at the same
21 time.

22 Q. So you don't need to reserve capacity on a
23 one-to-one basis?

1 A. Not for backup power.

2 Q. And that's due to diversity as you just
3 mentioned?

4 A. Correct.

5 THE COURT: While you have a
6 little break there, let me just make
7 a clarifying statement here as far as
8 videoing. We don't record Commission
9 meetings where it's involving a
10 contested public hearing. So I don't
11 want to see anybody recording
12 anything. You've got the recording
13 of what's transpiring here with the
14 court reporter on the Record, which
15 will be available for anyone to read.
16 So I don't want to see any videoing
17 at this point. I don't know if that
18 was clear earlier. Particularly live
19 streaming, but any recording at all.
20 So that needs to stop.

21 All right. Proceed. I'm
22 sorry.

23 Q. Ms. Dean, just a clarification. So I may

1 reference your initial written direct and
2 reply written direct testimony, do you have
3 that before you?

4 A. I do.

5 Q. Okay. Thank you. So now, you've noted in
6 your testimony that the federal statute
7 known as PURPA, which is Public Utilities
8 Regulatory Policies Act, and I believe you
9 reference that as saying for the proposition
10 the company cannot assume a hundred percent
11 of customers who've adopted their own
12 generation, that their systems will all be
13 down at the same time?

14 A. That's correct.

15 Q. Okay. And I think the language from PURPA
16 is you can't assume reductions in electric
17 output by every onsite generator will occur
18 simultaneously or during system peak or
19 both. Does that sound familiar?

20 A. Yes.

21 Q. Now, is it your understanding PURPA actually
22 requires Alabama Power to furnish backup
23 service, right?

1 A. If the customer requests it, the company has
2 to provide it.

3 Q. And it also says that the utility where they
4 must reserve such backup capacity, it's
5 proper for them to recover the cost
6 associated with doing so?

7 A. Correct. And not have it subsidized from
8 other customers.

9 Q. But at the same time, the rates must be just
10 and reasonable and in the public interest,
11 correct?

12 A. Yes.

13 Q. Okay. Now, you recognize that -- or do you
14 recognize that the regulations are designed
15 to encourage small power construction?

16 A. I can't speculate on the purpose of the
17 regulations.

18 Q. Well, you've cited order 69 --

19 A. Yes.

20 (Simultaneous cross-talk.)

21 Q. -- expense your testimony?

22 A. Yes.

23 Q. You're familiar with that document?

1 A. Yes, I am.

2 Q. And that it first issued the regulations and
3 talked about --

4 A. Yes.

5 Q. So are you familiar with language in that
6 document about purpose of those regulations
7 being in part to encourage small power
8 production?

9 A. If you could read that to me, I could...

10 Q. Do you have that document with you?

11 A. I don't have it.

12 Q. Okay.

13 MR. GROVER: Actually, point of
14 reference, I think you do. It's in
15 the reply testimony.

16 THE WITNESS: Okay. Thank you.

17 MR. GROVER: It's the yellow
18 sheets. Okay.

19 Q. And, Ms. Dean, I'm referring to page 12215.

20 A. I don't know if I have that page.

21 MR. GROVER: Actually she
22 doesn't have that page.

23 THE COURT: That's MD reply 5,

1 right?

2 MR. GROVER: She may just
3 have...

4 MR. EBERSBACH: May we approach,
5 Your Honor?

6 THE COURT: Yes, you may.

7 Q. Ms. Dean, I represent for the Record, I've
8 handed you what I believe to be a full copy
9 of order 69. Do you recognize the document
10 as that?

11 A. Yes.

12 Q. And if you could look at page 12215.

13 A. Okay.

14 Q. And up to the -- in the left-hand column up
15 towards the top, do you see the language
16 about prescribing rules that the Commission
17 determined necessary to encourage current
18 generation and small power production?

19 A. Yes.

20 Q. And further down in same column towards the
21 bottom, do you see the language there about
22 three major obstacles faced by small power
23 producers?

1 A. I don't. Can you point to which
2 paragraph -- which paragraph it is, please.

3 Q. The paragraph right at the bottom that says,
4 secondly, some utilities charge
5 discriminatorily higher rates for backup
6 power service to generators and small power
7 producers. You see that language?

8 A. Yes.

9 Q. But am I correct that none of this part of
10 the order 69 is cited in your testimony; is
11 that correct?

12 A. It wasn't included as an exhibit in the
13 testimony, no.

14 Q. Or discussed in the body of the testimony?

15 A. Not to my recollection, no.

16 Q. Now, in addition to being just and
17 reasonable and in the public interest, rates
18 for sales to these small power producers by
19 utilities cannot be discriminatory in
20 comparison to rates charged to customers
21 without self-generation unless such
22 differential treatment is justified, right?

23 A. Right.

1 Q. And do you understand that to mean
2 justification must have empirical support?

3 A. Yes.

4 Q. Do you understand that to be
5 nondiscriminatory, the rate for backup
6 service must be based on the probability
7 that the self-generating customer will or
8 will not contribute to the need for and use
9 of backup capacity?

10 A. What section is that cited in, please?

11 Q. I believe that's cited in your testimony --
12 your reply testimony at page 6, lines 4 to
13 6.

14 A. Okay. You said page 6?

15 Q. Yes, ma'am. Lines 4 to 6.

16 A. Yes.

17 Q. And it -- so it -- is that where the
18 diversity considerations we've been talking
19 about come into play?

20 A. Give me a second to read it again.

21 Q. Sure.

22 A. Okay. I would say again in our analysis
23 what we said was exactly as I explained it

1 earlier, I'm assuming that at any given
2 point in time, I'm not going to have to
3 serve 100 percent of the backup service
4 needs required of each and every customer
5 all at the same time.

6 Q. And do you consider that a form of
7 probability analysis?

8 A. I guess so.

9 Q. So just a few questions about the
10 determination -- what I'll call the
11 diversity credit of 35 percent that you
12 extend to the solar customer. You've noted
13 that determination was based on several
14 factors, such as customer diversity?

15 A. Correct.

16 Q. And also things like annual utilization of
17 the onsite generation and its expected
18 output during system peak?

19 A. Yes.

20 Q. And there were some others, but am I correct
21 that in each instance the company relied on
22 no numerical representation of those
23 factors?

1 A. I think what we stated was that there wasn't
2 a single calculation or mathematical
3 equation that produced a 65 percent number.
4 We utilize multiple pieces of information to
5 evaluate, to use the company's informed
6 judgment, to determine that was the
7 appropriate amount of capacity to hold
8 available.

9 Q. Okay. But you recall I asked you about this
10 in your deposition, and I think in each
11 instance you said judgment, not a numerical
12 representation.

13 A. Can you say that one more time.

14 Q. At your deposition when I asked you about
15 this, you said the company relied on its own
16 judgment but not any numerical
17 representation of any of those factors that
18 were discussed.

19 A. Right. I don't have a calculation to point
20 me to -- a single calculation to point me to
21 65 percent. I do have information available
22 to me that I evaluated and consulted that
23 actually informed my judgment.

1 Q. Okay. But just to be clear, we were talking
2 about four different factors, and for each
3 of those factors, I believe your prior
4 testimony was that there was no numerical
5 representation for any of those factors?

6 A. I would have to look at that testimony. I
7 don't recall exactly that. I did have
8 pieces of information available to me that I
9 did consult. Annual utilization of the
10 generator otherwise known as capacity factor
11 is actually something that we did produce
12 information about.

13 Q. Okay. The company relied on no data
14 regarding the frequency of unscheduled
15 outages of customer-sided solar, did it?

16 A. The frequency of outages? I believe we
17 represented information in the modeled solar
18 load shape that actually looked at the
19 instances in where outages did occur.

20 Q. But unscheduled outages is the question.

21 A. I think your definition of unscheduled
22 outage and mine may differ.

23 Q. What's yours?

1 A. Again, I said it's anytime the generator
2 should be operating and it's not --

3 Q. Okay. So --

4 A. -- and I'm providing backup power service to
5 them.

6 Q. And the data you looked at had those
7 instances built into it?

8 A. I would say a single solar load shape that
9 was modeled had it for a single customer.

10 Q. Both the -- what you might call the normal
11 variability and also the unexpected outage,
12 both of those things?

13 A. The normal variable at a given point in
14 time.

15 Q. I mean, do you make a distinction between
16 normal variability and an unscheduled
17 outage?

18 A. I would say an outage of the generator,
19 anytime it is not operating when it should
20 be, is an unscheduled outage.

21 Q. Now, regarding the company's -- I'll call it
22 the 65 percent determination for shorthand,
23 would you agree that that determination

1 figures prominently into the company's
2 calculation of the \$5.41 charge?

3 A. Can you say that one more time.

4 Q. That your determination of 65 percent being
5 the appropriate backup need, that figures
6 prominently into your -- to the number
7 you've ultimately come up with to assess
8 against?

9 A. It was a piece of information that was used
10 in the calculation to provide backup power
11 service.

12 Q. But if the number was 5 percent, the charge
13 would be correspondingly lower, correct?

14 A. And if it was a hundred percent, it would be
15 correspondingly higher.

16 Q. That's all my math skills right there.

17 Now, PURPA, the statute we've been
18 talking about, that draws a distinction
19 between supplementary and backup power,
20 right?

21 A. Yes.

22 Q. And so does Rate Rider RGB?

23 A. Yes, it does.

1 Q. Under PURPA, supplementary power is electric
2 energy or capacity used by a facility in
3 addition to that which it ordinarily
4 generates. Is that your basic
5 understanding?

6 A. Yes. I would have to consult the exact
7 language from the rate, but that sounds
8 about right.

9 Q. Whereas, backup power, we've talked about
10 unscheduled outages, that would replace, not
11 be in addition to, but it would replace what
12 would ordinarily be generated were it not
13 for the unscheduled outage?

14 A. Yes.

15 Q. And when you talk about supplementary power,
16 an interconnected customer with solar,
17 assuming they don't have storage, is
18 unlikely to be able to meet all of their
19 electricity needs with self-generation.
20 Would you agree with that?

21 A. Can you say that one more time.

22 Q. Talking about supplementary power, an
23 interconnected solar, assuming they don't

1 have storage, is unlikely to be able to meet
2 all of their electric needs with self-
3 generation?

4 A. Are you talking about a point in time, or
5 are you talking about in totality?

6 Q. Well, let's say a residential customer with
7 four kilowatts.

8 A. Yes.

9 Q. They're still going to need you if they're
10 interconnected, right?

11 A. Yes, they're going to need me for
12 supplementary service as well as backup.

13 Q. And so for one thing, the customer source is
14 unlikely to ever produce at its full
15 nameplate capacity. Would you agree with
16 that?

17 A. I don't disagree with that.

18 Q. And won't produce as much as or even at all
19 when there's cloud cover?

20 A. I would say that's when they need me to
21 provide backup power service to them.

22 Q. Not supplementary power?

23 A. No. If the generator is supposed to be

1 producing during daylight hours and it is
2 not producing, I'm providing backup power
3 service to that generator.

4 Q. And a solar system won't produce at night
5 obviously?

6 A. No, it does not produce at night. And I've
7 taken that into consideration in my
8 analysis.

9 Q. So in those instances to the extent of their
10 unmet power needs, the company (sic)
11 purchases electricity from the company?

12 A. I'm sorry. Say that again.

13 Q. In those instances when the solar system
14 isn't producing to the extent of their unmet
15 power needs, the company (sic) purchases
16 electricity from the company?

17 A. The company purchases --

18 Q. The customer purchases electricity from the
19 company.

20 A. The customer -- if the generator is not
21 producing, the customer -- and they're
22 interconnected to the system and the
23 company's providing firm backup power

1 service, that customer is consuming usage
2 from the company no matter when that occurs.

3 Q. At the full retail rate?

4 A. At the full retail rate, at the
5 supplementary power rate. Correct.

6 Q. The supplementary rate is the same as the
7 rate that would apply to any rate FD
8 customer, right? It's that volumetric
9 energy charge?

10 A. It is.

11 Q. And that's designed to recover both fixed
12 and variable cost as we've discussed?

13 A. Yes, it is. It's not designed to recover
14 the cost of backup.

15 Q. And really even for unscheduled outages when
16 the customer system is unexpectedly down and
17 they as a result purchase power from the
18 company, they're paying to the extent of
19 their usage both variable and fixed costs,
20 correct?

21 A. Say that one more time.

22 Q. They're paying to the extent of their usage
23 both variable and fixed costs under rate RFD

1 when there's an unscheduled outage and they
2 draw from the grid?

3 A. Rate FD, yes. But keep in mind, that
4 customer is a partial requirements customer
5 and not a full requirements customer.

6 Q. Now, for supplementary power, Rate Rider RGB
7 assesses no capacity reservation charge,
8 correct?

9 A. Say that one more time.

10 Q. For supplemental power, Rate Rider RGB
11 assesses no capacity reservation charge?

12 A. For supplemental power?

13 Q. Right.

14 A. No. It's a partial requirements customer.
15 The customer by definition has installed
16 interconnected onsite generation and has
17 modified their supplementary power rate to
18 include the cost of backup, which is served
19 under the capacity reservation charge.

20 Q. Right. Okay. I'll move on. So the
21 capacity reservation charge is just for
22 backup power, not supplemental power, right?

23 A. The capacity reservation charge recovers the

1 cost of providing backup power service to
2 those customers when they need it.

3 Q. In distinguishing between what's
4 supplementary and backup power, would you
5 agree that the key is determining what a
6 solar generation system ordinarily
7 generates?

8 A. Say that one more time.

9 Q. Let me ask you this. The company would not
10 consider it appropriate to assess the backup
11 charge for supplementary power needs,
12 correct?

13 A. I will tell you that the customer has
14 modified their consumption from the company
15 such that they are a partial requirements
16 customer. They have asked the company to
17 provide an additional service to that
18 customer. They are paying for the
19 supplemental service during times when the
20 generator is not producing. Yes, they're
21 paying for that both for the supplemental
22 needs and for the backup power needs. The
23 capacity reservation charge actually

1 recovers any additional cost above and
2 beyond what's recovered through the
3 supplementary power rate to pay for the cost
4 of backup power. I think we acknowledged in
5 the testimony the reason why we want to look
6 at the cost that the customer pays under the
7 supplementary power rate is so we do not
8 over recover cost associated with providing
9 backup.

10 Q. And we'll get to that in a moment. In
11 developing the capacity reservation charge,
12 you relied on the PB Watts tool as we talked
13 about. That tool has built into it certain
14 assumptions about weather variances and
15 invertor efficiency, correct?

16 A. Yes, it does.

17 Q. And the company then weighted the load shape
18 based on the three weather zones that
19 represent solar production across the
20 Alabama Power service territory?

21 A. I would say we represented all of the
22 weather across Alabama in a single load
23 shape.

1 Q. So does the company consider that resulting
2 profile indicative of what a solar
3 installation would ordinarily generate in
4 its service territory over the course of a
5 year?

6 A. I would say it would be an average across
7 the state for one single customer.

8 Q. Well, so, then, how did you determine what a
9 solar system ordinarily generates?

10 A. How did I determine what a solar system
11 ordinarily generates?

12 Q. Right.

13 A. Based on the data produced from N Rail PB
14 Watts tool.

15 Q. And then you weighted it across the weather
16 zones?

17 A. To represent an average customer -- single
18 customer -- in our service territory.

19 Q. So is that consistent with what you would
20 expect a solar system for that
21 representative customer to ordinarily
22 generate over the course of a year?

23 A. For a single customer.

1 Q. But that was the representative customer
2 that you used to develop the charge,
3 correct?

4 A. That's correct.

5 Q. Now, in your reply testimony, you say backup
6 power covers all reductions and onsite
7 generation, including unscheduled outages
8 associated with the absence of sunlight. Do
9 you recall that?

10 A. Yes.

11 Q. And I believe you said this before. So you
12 would consider backup power as needed for
13 reductions in output due to cloud cover?

14 A. Yes. If the solar system should be
15 producing and instantaneously has a cloud
16 cover come over it, I am absolutely required
17 to stand ready to serve the needs of that
18 customer whenever that happens.

19 Q. But hasn't the weather information you
20 already took into account to develop your
21 solar production profile -- doesn't that
22 weather data already include assumptions
23 about the cloud cover one might ordinarily

1 expect in a year?

2 A. As I mentioned for a single customer, it
3 does, but what it doesn't look at is
4 multiple customers across my territory
5 generating at the same time. That profile
6 does not represent that.

7 Q. Now, you -- in your reply testimony, you
8 provided an EPRI study of distributed solar
9 PV performance in Alabama, correct?

10 A. Yes.

11 Q. And that's a -- you have that with you?

12 A. I do.

13 Q. That's a 2015 report, but it's based on data
14 collected from 2011 through 2013?

15 A. Yes.

16 Q. And to be fair, while you submitted this
17 report with your reply testimony, you did
18 not rely on it when you initially made your
19 determination for the charge, correct?

20 A. That's correct. I did not have this
21 information -- I didn't have this
22 information available to me or I wasn't
23 aware of it at the time I developed the

1 capacity reservation charge, but I would say
2 based on the information in this study, it
3 absolutely validates the company's
4 conclusions that 65 percent capacity is
5 sufficient to meet the backup power needs of
6 all of our customers across our territory.
7 Variability is one thing that comes into
8 play when you look at that, as I mentioned
9 earlier.

10 Q. Right. So you say in your reply testimony
11 the report demonstrates that solar resources
12 in Alabama are often unavailable and can be
13 expected to be unavailable in multiple
14 regions simultaneously?

15 A. That's correct.

16 Q. Can I get you to turn to page 2-2 of that
17 report.

18 A. Okay.

19 Q. And do you see the language in the final
20 paragraph, however, the calendar is clear
21 that across the two locations daily profiles
22 can vary quite a bit?

23 A. Yes.

1 Q. And it goes on to say, for example, on
2 August 27th, Tuscaloosa has a mostly clear
3 day while Mobile experiences significant
4 cloud cover in the afternoon?

5 A. Correct.

6 Q. Now, August is a summer month, a time when
7 it's hot and demand on the system can be
8 quite high?

9 A. Yes.

10 Q. So isn't EPRI saying here on such a summer
11 day even if it's cloudy in Mobile, it could
12 be perfectly clear in Tuscaloosa?

13 A. I think what the study is saying is that
14 there is variability across the entirety of
15 our territory on any given day, especially
16 in the summer.

17 Q. So would you agree on that August 27th date
18 that's discussed here, the company wouldn't
19 be required to maintain full backup for a
20 solar system in Tuscaloosa and in Mobile?

21 A. And I don't think I'm -- I think that is
22 taken into account with the 65 percent
23 capacity that we used in our calculation.

1 That's why it wasn't a hundred percent.

2 Q. Okay. Now, I want to get back to the point
3 you just made about the company didn't want
4 to overcharge customers for supplementary
5 service --

6 A. Yes.

7 Q. -- and backup. So after determining that
8 the fixed capacity cost was 65 percent of
9 that \$129 per kilowatt difference between
10 the solar and nonsolar customer, you did
11 another calculation, correct?

12 A. Say that one more time.

13 Q. So you've applied that 65 percent -- or the
14 35 percent credit if we want to call it
15 that -- then you did a -- as I understand
16 it, you did another calculation, and your
17 purpose there was to make sure that the
18 customer wasn't overcharged?

19 A. That's correct.

20 Q. In here what you focused on was the
21 difference in expected annual cost recovery
22 between the two profiles; is that right?

23 A. To the best of my recollection, yes.

1 Q. And you also switched from a one kilowatt
2 solar profile to a 4.3 KW, which you said
3 represents the average size of onsite
4 generation for interconnected customers?

5 A. That's correct. I used a one kilowatt
6 system to determine the cost per kilowatt to
7 provide backup power service to customers
8 with interconnected onsite generation, and
9 then I needed to represent what actual
10 customers were doing on my system. Correct.

11 Q. Not actual customers, the representative
12 profile you developed?

13 A. The representative profile based on actual
14 customer usage.

15 Q. Now, you determined the representative solar
16 customer purchases some 5,358 kilowatt hours
17 fewer annually from the company than the
18 customer without solar; is that right?

19 A. That's correct. They've modified their
20 profile. They are consuming less from me
21 and generating it themselves.

22 Q. Now, in part of the errata filing, this
23 results in the cost recovery difference of

1 \$609?

2 A. Yes.

3 Q. And to this amount, you applied the cost of
4 service savings identified earlier in your
5 testimony and discussed this morning,
6 namely, the variable energy cost reduction
7 and the fixed capacity cost reduction
8 associated with the 35 percent credit?

9 A. Say that one more time.

10 Q. Okay. To this figure of \$609 difference in
11 cost recovery, you applied -- and I can
12 refer you to page 18 of your initial written
13 direct -- you applied cost of service
14 savings identified earlier in your
15 testimony, namely, the variable energy
16 reduction -- energy cost reduction and the
17 fixed capacity cost reduction associated
18 with the 35 percent credit?

19 A. Yes, the acknowledgment that I'm not holding
20 100 hundred percent capacity available.
21 Again, I'm utilizing 65 percent, so I'm
22 giving them the credit of not holding
23 100 percent capacity available to serve

1 them.

2 Q. Right. And your testimony is that both of
3 those things -- the variable energy cost
4 reduction and the fixed capacity reduction,
5 you call them both cost of service savings
6 in your testimony, correct?

7 A. Can you point me to that page again, please.

8 Q. Page 18 of your initial written direct at
9 line 19.

10 A. Page 18. What was the line again?

11 Q. 19.

12 A. Of my reply testimony?

13 Q. No, ma'am. The initial testimony.

14 A. Initial testimony. Yes, I think I
15 acknowledge a portion of the fixed cost
16 savings, again, because I'm not holding
17 100 percent capacity available to serve all
18 these customers all at the same time.

19 Q. Okay. So taking the two reductions
20 together, you determined that the cost to
21 serve this partial requirements customer was
22 reduced by \$330 annually?

23 A. Yes. That's correct.

1 Q. In other words, the representative customer
2 with solar is \$330 less costly to serve than
3 the customer without solar?

4 A. Based on this analysis, yes.

5 Q. But this still left the company short \$279,
6 and that's the difference between the 609 we
7 were just talking about that you
8 theoretically would have recovered from this
9 customer had they not invested in solar and
10 the \$330 cost of service reductions
11 resulting from the solar?

12 A. Right.

13 Q. And then you divided that figure by the size
14 of the system and 12 months of the year,
15 which gives you the capacity reservation
16 charge?

17 A. That's correct.

18 Q. So how did this help you distinguish between
19 supplementary and backup service so as to
20 avoid overcharging the customer?

21 A. So if you'll recall from the analysis, I
22 calculated the cost recovery for a customer
23 without solar and a cost recovery with

1 solar. I have to stand ready to serve that
2 customer. I think as we identified earlier,
3 I don't avoid any of the fixed cost to serve
4 that customer. I acknowledge the fact, as
5 we discussed earlier with the example, that
6 it's not appropriate for me to hold
7 100 percent capacity available for each and
8 every customer all at the same time. And so
9 I provide that information. I avoid the
10 variable cost associated with that because
11 I'm not burning fuel to serve those
12 customers, and I acknowledge the fact that
13 I'm not holding 100 percent of the backup
14 power needs to serve all of those customers
15 all at the same time.

16 Q. Which is more expensive to the company, to
17 hold 100 percent capacity in reserve or
18 65 percent?

19 A. It's more expensive to hold 100 percent
20 available to serve the customers.

21 Q. Now -- so you -- I suppose we could agree
22 that the -- there's 10,127 kilowatt hours
23 billed to the customer with solar. Could we

1 call that the supplemental service?

2 A. No. There's backup in there as well.

3 Q. I'm just asking about supplemental service.

4 So that would be --

5 A. Right. But in order for me to answer that
6 question, I would have to say that no backup
7 power service was needed at all at any time
8 when that solar panel was producing.

9 Q. I'm not asking about backup service at all
10 at this point.

11 A. Right.

12 Q. Would you agree that the 10,127 that the
13 customer still purchased from the company,
14 that that's what they purchased net of their
15 system's production, correct?

16 A. I would say that's what they purchased from
17 the company net of the system production.
18 Correct.

19 Q. So would that be supplemental service, those
20 billings?

21 A. I would say they're billed under the
22 supplementary service rate, but to the
23 extent those kilowatt hours were consumed

1 because of an outage, backup power could be
2 considered in that as well.

3 Q. So, then, how do you know you're not
4 overcharging the customer for --

5 A. Because I'm taking that into account when I
6 calculate what they pay for supplemental
7 service.

8 Q. Now, the resulting net unrecovered cost of
9 \$279, that's the cost of providing backup
10 service, correct?

11 A. For that representative customer. Correct.

12 Q. Does that figure tell you anything about how
13 often the customer's system experiences an
14 unscheduled outage?

15 A. Again, that's not what they're paying for.
16 They're paying for me to hold capacity
17 available to serve them whenever they need
18 it, whether that's due to an unscheduled
19 outage because of damage to the panel,
20 whether it's due to cloud cover because it's
21 not a sunny day when it's supposed to be
22 sunny, that's what that is recovering the
23 cost for, to provide that service to those

1 customers who have required it from the
2 utility.

3 Q. Okay. And I understand your position. I'm
4 just trying to establish the number doesn't
5 have anything to do with how frequently the
6 customer's system experiences an unscheduled
7 outage.

8 A. Because it's designed to recover the cost to
9 stand ready to serve them whenever that
10 might be.

11 Q. The company does not contend that it has a
12 right to any particular level of usage and
13 associated billings from a customer, does
14 it?

15 A. Say that one more time.

16 Q. The company does not contend that it has a
17 right to any particular level of usage and
18 associated billings from a customer,
19 correct, any customer?

20 A. A right to?

21 Q. Correct.

22 A. I'm not exactly sure what you're asking.

23 Q. Well, suppose a residential customer without

1 solar went from buying 15,000 kilowatt hours
2 a year to 10,000 because their kids left for
3 college, the company couldn't send the
4 customer a bill for the difference, could
5 it?

6 A. I would say those are two totally
7 different -- that's -- that's -- no, they --
8 we couldn't recover costs of something that
9 we didn't incur.

10 Q. And when the college kids come home for the
11 summer and home usage shoots back up, the
12 company has to provide that power but it
13 wouldn't assess a backup charge for having
14 held that capacity in reserve in the
15 interim, correct?

16 A. Right. That's a full requirements customer.
17 The company is required to serve 100 percent
18 of that customer's needs. Again, they're a
19 full requirements customer. They are not a
20 partial requirements customer.

21 Q. So let's look at the example you give in
22 your reply testimony at pages 9 and 10. And
23 I'm looking to the bottom of page 9, line 16

1 and 17, and going on to the next page. So
2 there you're talking about a full
3 requirements customer with a peak demand of
4 ten kilowatts?

5 A. Yes.

6 Q. And you say Alabama Power must be prepared
7 to meet that ten kilowatts at any time,
8 including during system peak. You see that?

9 A. Yes.

10 Q. You go on to say that were that same
11 customer to install five kilowatts of solar,
12 the company must still be prepared to meet
13 the original full capacity requirement of
14 ten KW?

15 A. That's correct.

16 Q. But we've established that under PURPA,
17 Alabama gives that customer a 35 percent
18 credit, and that means the effective backup
19 requirement for the solar installation is
20 not five KW, but 65 percent of that,
21 correct?

22 A. No. I'm actually required to stand ready to
23 serve 100 percent output. As I described

1 earlier in my example, the 65 percent
2 acknowledges that over the entirety of the
3 group of customers that have installed
4 onsite generation, I'm not holding
5 100 percent for each and every one of those
6 all at the same time to serve them. But for
7 a single individual customer, absolutely I'm
8 required to serve 100 percent of their needs
9 at any given time.

10 Q. But you can't charge them for the five
11 kilowatts of backup, you can only charge
12 them for 65 percent or 3.25 kilowatts?

13 A. Correct. I have acknowledged the fact that
14 I'm not holding 100 percent available --

15 Q. Okay.

16 A. -- to serve them.

17 THE COURT: If you'll back away
18 just a little bit from the
19 microphone. I think we're getting
20 some feedback.

21 THE WITNESS: Okay.

22 THE COURT: You're good. It's
23 just there's a little bit of --

1 THE WITNESS: Okay.

2 THE COURT: A little more
3 distance will help.

4 Thank you.

5 Q. So what you feel is legitimate for that
6 customer is to charge not for five kilowatts
7 but for 3.25 in this example, 65 percent of
8 five kilowatts?

9 A. Say that one more time. Can you repeat that
10 one more time.

11 Q. Yes, ma'am. The customer we were just
12 talking about where they installed a five KW
13 system, insofar as what the company feels is
14 legitimate to bill that customer for, it's
15 65 percent of five, not the full five?

16 A. I'm recovering the cost to provide backup
17 cost to that customer. To the extent that
18 I've got multiple customers that have the
19 ability to use that generation at the same
20 time and rely on my customer
21 diversification, assuming I don't have to
22 serve 100 percent of the needs of every
23 single customer all at the same time, yes,

1 that's what the 65 percent represents.

2 Q. And it's cheaper for the company to hold
3 3.2 KW in reserve than five KW?

4 A. Yes, it would be. I think I acknowledged
5 that earlier.

6 Q. So that customer, that ten KW demand
7 customer having adopted solar, is less
8 costly to serve?

9 A. And we acknowledge that in our calculation.

10 Q. Just a few final questions, Ms. Dean.

11 The capacity reservation charge does
12 not vary with the level or pattern of the
13 customer usage, correct?

14 A. The capacity reservation charge?

15 Q. Does not vary with the level or pattern of
16 the customer's usage?

17 A. No. I'm standing ready to serve that
18 customer whenever they need it.

19 Q. The charge is not impacted by the extent to
20 which the customer reduces or contributes to
21 system demand?

22 A. I'm holding capacity available to serve
23 those customers. That is what the charge is

1 recovering cost for.

2 Q. I understand. But to answer my question,
3 it's not impacted by the extent to which the
4 customer reduces or contributes to system
5 demand?

6 A. I would say we acknowledge that in the
7 65 percent.

8 Q. So the question is -- the answer is, no, the
9 charge is not impacted by the extent to
10 which the customer reduces or contributes to
11 system demand?

12 A. I think we actually did take that into
13 account in the 65 percent versus the
14 hundred.

15 Q. So the effect of this charge is that two
16 customers each having five kilowatt systems
17 will pay the same charge even if one is a
18 net consumer during system peak and the
19 other is a net producer or even an exporter
20 during the system peak; is that true?

21 A. Are you talking about two customers with
22 interconnected generation?

23 Q. Yes. Same size system, five KW.

1 A. That they will pay the same thing?

2 Q. Yes.

3 A. It depends on how their system produces. I
4 can't say that two solar facilities produce
5 the exact same thing at the same time.

6 Q. That's not my question. They will both pay
7 the same charge even if their usage patterns
8 are totally different?

9 A. Are you talking about the capacity
10 reservation charge?

11 Q. Yes, ma'am.

12 A. They will pay the charge based on the
13 installed capacity that they have
14 interconnected to the company's system and
15 asked the company to back up.

16 Q. And the capacity reservation charge has
17 nothing to do with whether those actual
18 customers have usage patterns within the
19 normal variation for the -- of usage for the
20 rate FD class as a whole?

21 A. Say that one more time. I'm not sure what
22 you're asking me.

23 Q. The charge has nothing to do with whether

1 the actual customer have usage patterns
2 within the normal variation of usage for the
3 rate FD class as a whole?

4 A. I don't think a customer that requires
5 backup power service has the same usage
6 pattern. They're a partial requirements
7 customer. They do not have the same usage
8 pattern.

9 THE COURT: Speaking of backing
10 up, if you'll slide the microphone
11 forward just a little bit.

12 THE WITNESS: Sorry. Is that
13 better?

14 Q. Do you know whether the actual customer
15 subject to the charge -- do you know whether
16 their net usage patterns are -- fall within
17 the average for the rate FD class as a whole
18 or higher than average, lower than average?
19 Do you know?

20 A. I don't know that. But I can tell you they
21 are a partial requirements customer and they
22 require backup power service from the
23 company.

1 MR. EBERSBACH: Your Honor,
2 those are all my questions.

3 Thank you.

4 THE COURT: Other intervenors?

5 Mr. Tait?

6 MR. TAIT: I do have a few
7 questions.

8 MR. GROVER: Your Honor, can I
9 just get a clarification? I don't
10 mean to, like, interrogate Mr. Tait.
11 But I feel like the rules of practice
12 for a corporation or a corporate body
13 to inquire or interrogate the
14 witness, they need to be an officer
15 or a full-time employee of the entity
16 on whose behalf they're inquiring.

17 THE COURT: We can get
18 clarification on that. As I
19 understand it, Mr. Tait is the COO of
20 the association.

21 MR. TAIT: That is correct.

22 MR. GROVER: Okay. So you are a
23 a full-time employee?

1 MR. TAIT: Yes.

2 THE COURT: That's my
3 understanding. If you will confirm
4 that.

5 MR. TAIT: That is correct.

6 MR. GROVER: Okay. Very good.
7 Please.

8 CROSS-EXAMINATION

9 BY MR. TAIT:

10 Q. All right. Very good. Thank you.

11 Ms. Dean, we talked a little bit
12 about -- I'm going to refer probably to some
13 of the questions, and so stop me if anything
14 is not clear from referring to those
15 questions. But we talked a little bit about
16 supplementary power and backup power. One
17 of my -- do you believe that the average
18 Alabamian that is receiving service under
19 these rate schedules that you have
20 understands the distinction between
21 supplementary and backup power, or like in
22 your professional judgment would you say
23 that most people understand the distinction

1 between supplementary and backup?

2 A. I would say that those customers that choose
3 to install generation should understand that
4 the operation of a generator is not a simple
5 task. It's not easily understood. That's
6 why the utility does it. And so to the
7 extent that customers choose to do that, I
8 would say the operation of a generator is
9 much more complicated than the rate that we
10 have set forth to recover the cost of backup
11 power service.

12 Q. Would you say that you conducted -- that the
13 company regularly conducts cost of service
14 rate making -- conducts cost of service
15 studies in order to establish its rates?

16 A. Yes, we do. In fact, we did so in this
17 case.

18 Q. Okay. Do you believe that cost of service
19 rate making or cost of service studies
20 should include all known benefits and all
21 known costs?

22 A. I believe what we represented here was the
23 cost of service to provide backup power

1 service to those customers. To the extent
2 that you are talking about benefits from the
3 actual production of the facility put back
4 on my system, as I mentioned before, that
5 doesn't have anything to do with the cost of
6 providing backup power service to these
7 customers that have requested that service
8 from the company.

9 Q. But just to be clear, a cost of service --
10 in your professional judgment when you do a
11 cost of service study for anything, whether
12 it be in this particular case or not, you
13 take into account all of the known
14 benefits -- costs and benefits when you're
15 looking at establishing a particular rate,
16 say, for your schools rate or for a small
17 industrial provider? You do all known costs
18 and benefits to those cases, correct?

19 A. I evaluate the cost of my business against
20 those who have caused that cost to happen.

21 Q. Okay. You mentioned earlier that in
22 response to a question from -- about Georgia
23 Power and the rate rider that was developed

1 by -- sorry -- not the rate rider but the
2 framework that was developed by Southern
3 Company, I'm just wondering -- you
4 mentioned, if I understood this right, that
5 that was not taken into consideration in
6 this particular case; is that correct?

7 A. No. And it appropriately shouldn't be. I'm
8 developing the cost to provide backup power
9 service under this rate rider. As I
10 mentioned before, if what you're talking
11 about is the actual benefit from the
12 production of that facility put back on my
13 system, that doesn't have anything to do
14 with providing backup power service. That
15 is a service that I'm providing that these
16 customers have asked me to provide.

17 Q. Did you maybe not take that into account but
18 consult with colleagues, especially in the
19 Southern Company family, that may have gone
20 through similar types of work that you were
21 undertaking in their states?

22 A. Again, I think I'm charged with recovering
23 the cost of providing backup power service

1 under this rate rider that occurs in the
2 state of Alabama under the jurisdiction of
3 this Commission.

4 Q. Okay. Just a few more questions.

5 So you mentioned earlier that you had
6 approximately, not an exact number here, but
7 approximately around 650 kilowatts of
8 installed -- I don't know if that was solar
9 or self-generation, you know, in total.
10 Does the company also track information
11 regarding, say, energy efficiency programs
12 that it operates or natural energy
13 efficiency that may occur through, say,
14 things like codes and standards?

15 A. So I'll clarify when we're talking about the
16 600 kilowatts that you talked about, that
17 only applied to the part B rates. There is
18 a significant amount of generation, again,
19 as I stated before, that's subject to the
20 part A rates. So what I'm talking about
21 here today is the cost of providing backup
22 power to those customers that have requested
23 that from me.

1 Q. Okay. Very good. Thank you for that
2 clarification. But do you also -- does the
3 company also track information regarding its
4 energy efficiency programs, how much energy
5 it's able to save or avoid generation for
6 through its programs, or does it also track
7 information regarding, say, codes and
8 standards that might happen from, say,
9 making HVACs more efficient over time, how
10 that might impact the company as well?

11 A. I'm not sure if we do or not. I'm sure we
12 do at some point or some level, and, yes,
13 customers have the option to install
14 efficiency measures if they so see fit. I
15 will also state that those customers remain
16 full requirements customers and do not
17 require backup service power from me. This
18 is an entirely separate service that I'm
19 providing, and there's a cost to that.

20 Q. You mentioned earlier that if someone had --
21 you were talking about a one kilowatt array
22 for purposes of finding a one -- you know, a
23 per kilowatt hour charge or the cost there

1 and it failed, you had to stand ready to
2 provide a hundred percent of that power. So
3 if that one KW -- let's assume is a one KW
4 system failed, you had to be ready to
5 provide one kilowatt of power backup, does
6 the company also do something similar for
7 when there is a sizeable load addition? For
8 instance, say, someone purchases an electric
9 car or a second refrigerator for their
10 garage to enjoy an Alabama football game,
11 right, does the company also take those
12 types of things into consideration in terms
13 of now you have new load with which you have
14 to back up?

15 A. I wouldn't say I'm backing that up. I would
16 say that's a full requirements customer. As
17 I've stated before, this is not about the
18 full requirements customers. I have a class
19 of customers served under the rate FD
20 population that are different shapes and
21 sizes. Those customers have not asked me to
22 provide backup. These customers with
23 interconnected onsite generation have asked

1 me to provide an additional service to them.

2 Q. I'm sorry. Perhaps my question was slightly
3 unclear. I was talking about in this
4 particular instance that I was giving you of
5 someone who was, say, a solar interconnected
6 customer, they have a capacity reservation
7 charge they were already paying on that
8 system but then add new load to that system
9 to put them either at or above maybe where
10 they were prior to the solar array, and so
11 I'm wondering how this rate and this process
12 would affect that person.

13 A. I would say unless they add additional solar
14 panels, they're not asking me to provide
15 additional backup service.

16 Q. Okay. So the company itself also protects
17 itself against backup as well, right? It
18 has a reserve margin, correct?

19 A. The company does have a reserve margin.

20 Q. Do you know what the reserve margin
21 currently is for the company?

22 A. I don't have that number available to me
23 right now.

1 Q. Okay. I believe -- well, I believe it --
2 I'll just go -- let's just say 16 percent.
3 And I say that because 16 percent is the
4 current reliability standard as established
5 by NAERC, the North American Energy
6 Reliability Council. And so these are
7 reliability standards, right, that the
8 company and every utility -- Alabama Power
9 is no different -- must abide by in order so
10 that, say, a power plant goes down, it still
11 has enough in reserve capacity to be able to
12 meet the demands of its customers; is that
13 correct?

14 A. Yes, the company is required to hold
15 reserves available in circumstances beyond a
16 typical situation.

17 Q. Very good. You mentioned in some earlier
18 statements that you have 35 percent -- you
19 call it a diversity credit, I believe. But
20 there was a -- you know, 65 percent that you
21 were holding back as a portion, if you will,
22 that you had to be ready to serve. Even
23 though you had to serve a hundred percent of

1 the load, you were only going to charge
2 65 percent in order to try to avoid
3 overcharge. Is that a correct
4 characterization of your --

5 A. I would say what I mentioned was 65 percent
6 should be sufficient for all of the
7 generation interconnected to my system to
8 provide backup to that.

9 Q. So I want to drill down a little bit on the
10 65 percent. If you have -- you mentioned
11 that if you're charging the 65 percent
12 backup but are required to provide the
13 hundred percent and you have -- you're able
14 to give some of that credit, right, it
15 doesn't have to be one to one because you
16 have some generation -- you have some
17 diversity, whether it be weather or
18 location, the very things you made that
19 representative profile, you're able to
20 provide some diversity there. Would you
21 agree, then, that because there is that
22 diversity that allows you to provide that
23 credit that as the diversity of the system

1 if it increases would actually allow the
2 company to lower the fee and/or eliminate
3 the fee if there were sufficient diversity
4 to overcome it?

5 A. Well, you're assuming that the diversity --
6 what I'm giving credit to is the diversity
7 of the generation. But the information that
8 I have available to me, which represents
9 that certain groups of customers, namely, my
10 residential class, drive my peak. They
11 actually require me when at their peak --
12 their noncoincident peak -- at that time the
13 customer -- residential customer peaks, they
14 need me and that drives my system peak. So
15 to the extent that you're suggesting that
16 diversity, you're talking about the
17 generation itself. I'm talking about when
18 my customers use my product, and I know that
19 my residential class drives my peak and I
20 know that information is well in excess of
21 65 percent. So that means that when my
22 customers need me, I have to stand ready to
23 serve them.

1 Q. So to make sure that I understand completely
2 what you're saying, you're saying that
3 because it's a residential customer as
4 opposed to the -- all the customer classes
5 together, that's what would cause the
6 65 percent to be 65 percent as opposed to
7 maybe something much lower; is that correct?

8 A. I'm saying it's based on the customers that
9 take firm backup power service from me under
10 the part B rates.

11 Q. But the 35 percent credit that you gave,
12 now, that was in large part driven by -- I
13 mean, there were other factors, but there
14 were some related to diversity, right?

15 A. Yes.

16 Q. And so can you explain to me all the
17 diversity factors that were considered
18 there?

19 A. All of the diversity --

20 Q. Yeah. Like what adds to diversity?

21 A. Are you talking about to --

22 Q. For the 35 percent.

23 A. -- to provide 65 percent backup?

1 Q. Yes, for the 35 percent credit that is
2 applied, some of that at least is related to
3 diversity.

4 A. That's a piece of information. I mentioned
5 earlier I relied on multiple pieces of
6 information, one of those was the actual
7 capacity factor of interconnected solar
8 generators. We know that number is
9 somewhere around 15 to 20 percent. That
10 basically means the solar generators
11 produce -- it's their annual solar --
12 depending on the time period, it's their
13 production over the maximum amount
14 available, and on an annual basis, that
15 number is somewhere around 15 to 20 percent.
16 That is a piece of information. I also
17 reflected that we looked at how much these
18 generators produce at the time the system
19 peaks. That is a piece of information that
20 we had available to us. In addition to
21 that, I look at how my customers use my
22 product across the entirety of my year but
23 at -- specifically at the peak. That is an

1 important number to me, and I know my
2 residential class needs me to provide
3 capacity to them at the time I peak. Their
4 coincidence with me is well in excess of
5 65 percent.

6 Q. If I understand what you just said
7 correctly -- and please correct me if I'm
8 wrong -- that because the residential is
9 well in excess of 65, are you arguing that
10 you could actually raise that, it should be
11 higher?

12 A. No. I believe all of that -- those pieces
13 of information informed my judgment for me
14 to say 65 percent is fair and appropriate
15 for me to hold available capacity to serve
16 these customers.

17 Q. All right. I think I just have one final
18 question.

19 Earlier, we talked a little bit about
20 the differences between potential solar
21 customers -- customers who have onsite solar
22 generation and those who do not. In the
23 sense of comparing them and their overall

1 load profiles, you talked a little bit about
2 how they -- you compared before and after,
3 for instance. Has the company conducted any
4 analysis of a representative load of solar
5 customer after they've gone solar?

6 A. Are you -- I'm not sure what you mean.

7 Q. What I'm getting at here is after -- say you
8 have 190-some-odd -- I can't remember the
9 exact number now -- the 190-something people
10 who are connected to you under this
11 particular rate that have onsite generation,
12 that you believe the vast majority are
13 solar, correct?

14 A. Correct.

15 Q. Okay. And so in those cases, I'm wondering
16 have you looked at the characteristics of
17 that small group of people and how they
18 compare to the overall residential rate
19 class?

20 A. I think we talked about that. I have net
21 energy consumption. If all I'm looking at
22 is what those customers have produced or --
23 or what they're imposing on my system today,

1 that's their net consumption. That does not
2 reflect the amount of capacity that I have
3 to hold available to serve them at any given
4 point in time. Again, go back to my analogy
5 of the -- in the testimony that talked about
6 ten kilowatts and they installed five
7 kilowatts of solar, if I'm only looking at
8 the net profile, I haven't taken into
9 consideration the fact that at any given
10 point in time, I have to stand ready to
11 serve ten kilowatts.

12 MR. TAIT: No further questions.

13 THE COURT: Any questions from
14 the attorney general?

15 MS. MARTIN: I have just two.

16 CROSS-EXAMINATION

17 BY MS. MARTIN:

18 Q. Ms. Dean, I'm Olivia Martin. I'm here on
19 behalf of the attorney general, and we
20 represent rate payers as a whole, so we
21 represent not a specific class but all of
22 the rate payers. And as I understand your
23 testimony, the rate was developed so that

1 rate payers as a whole are not subsidizing
2 partial requirements customers or solar
3 customers?

4 A. That is correct. And that is the intent of
5 this charge.

6 Q. So do you anticipate that the inputs and
7 data that you used to develop Rate RGB would
8 change as there was more solar penetration
9 in the market or not?

10 A. Can you ask that one more time.

11 Q. Well, as there's more solar penetration in
12 the market, you would have more data, more
13 information, and perhaps your assumptions
14 might change. So at that point, would Rate
15 RGB be modified or changed?

16 A. Well, let me clarify. I actually don't have
17 metered data associated with the production
18 of the onsite facilities. I don't have that
19 information available to me. I'm not
20 authorized to collect that data today, so I
21 don't have that. What I did do was actually
22 use model data to represent solar systems
23 on -- in the state of Alabama. So, no,

1 based on additional information,
2 penetration, I don't expect that information
3 to be materially different than what I've
4 assumed here.

5 Q. So if we had an -- instead of having less
6 than 200 solar customers, if we had 5,000,
7 you think this data would be good?

8 A. I think based on the cost to serve these
9 customers in this time frame, I do believe
10 this data to be sufficient.

11 Q. Is the company required to charge cost-based
12 rates?

13 A. Yes, we are.

14 Q. And so how often do you update your rates?

15 A. I'm sorry?

16 Q. How often do you change your rates based on
17 cost -- how often do you do cost of service
18 studies?

19 A. Our rates are evaluated annually under the
20 RSE mechanism to determine the cost to serve
21 customers.

22 Q. Thank you.

23 MS. MARTIN: I have no further

1 questions.

2 THE COURT: Any clarifying
3 questions from the staff?

4 MR. REID: Your Honor, we do not
5 have any additional questions. Most
6 of the information presented today
7 was in the Record already, and we're
8 familiar with that so we don't have
9 any additional questions.

10 THE COURT: Okay. I believe
11 that covers all the intervenors.

12 Any redirect?

13 MR. GROVER: I just have really
14 one. I think Mr. Tait covered most
15 of my questions.

16 REDIRECT EXAMINATION

17 BY MR. GROVER:

18 Q. Ms. Dean, that EPRI study, could you get
19 those again, page 2-2?

20 A. Yes.

21 Q. I think Mr. Ebersbach focused on the
22 language in the document relating to August
23 27th where it seems to indicate some changes

1 or differences in variability in Tuscaloosa
2 and Mobile. Are you oriented as to that?
3 I'm sorry. I got ahead of you.

4 A. Yes, I am.

5 Q. Okay. What I just wanted to point out, look
6 at, if you will, there's a chart on 2-2,
7 depicts what appears to be monthly
8 production for August 2012 in the city of
9 Tuscaloosa. How would you describe the
10 output levels for August 30th?

11 A. I would say it's not producing anything.

12 Q. And then turn the page, and for the city of
13 Mobile, August 2012, how would you describe
14 the production levels for the city of
15 Mobile?

16 A. It also is not producing anything.

17 Q. Thank you.

18 THE COURT: Mr. Grover, if
19 you'll speak up. We're having a
20 little bit of difficulty.

21 MR. GROVER: I'm sorry, Your
22 Honor. This is what happens when I
23 sit down. I'm a diaphragm speaker.

1 I don't want to stand and shout.

2 COMMISSIONER CAVANAUGH: Can you
3 ask that question one more time and
4 let her answer it?

5 MR. GROVER: Absolutely,
6 Commissioner.

7 Q. My question was comparing the output levels
8 for August 30, 2012, for the cities of
9 Tuscaloosa and Mobile on pages 2-2 and 2-3
10 of the EPRI study, which is an exhibit to
11 your reply testimony, would you deem those
12 to be consistent with one another.

13 A. I would say they both are requiring full
14 backup at that time at the same time.

15 Q. Thank you, Ms. Dean.

16 MR. GROVER: That's all I have,
17 Judge.

18 THE COURT: All right.

19 Ms. Dean, thank you for your
20 testimony. Appreciate you being
21 available today for cross-
22 examination.

23 We're about an hour and

1 45 minutes in. Why don't we take a
2 very brief five-minute break before
3 we go into presentation of the next
4 witness.

5 We're off the Record for a
6 five-minute break.

7 (Recess from 10:45 a.m. to
8 11:08 a.m.)

9 COMMISSIONER CAVANAUGH: Once
10 again, I will repeat this is not our
11 regularly scheduled monthly meeting.
12 This is a formal hearing. For that
13 reason, we ask you to display proper
14 decorum, and Judge Garner will go
15 over the rules again for this
16 hearing, this formal hearing. It
17 will be led by our chief
18 administrative law judge, Judge John
19 Garner. And just make sure your
20 phones are still off, and I'll, once
21 again when it's over, try to remind
22 you to turn them back on.

23 Judge Garner, I'll turn the

1 meeting back over to you.

2 THE COURT: Thank you, Madam
3 President.

4 Just a refresher for those
5 who may have come in late, we do have
6 a formal public hearing today, so we
7 expect normal formal decorum to be
8 observed. And we're not going to
9 tolerate any disturbances of any
10 kind. We have security here. We'll
11 escort you out if you're not in
12 compliance. There may or may not be
13 a warning on that.

14 And there's no recording of
15 this session because this is a
16 contested public hearing and, quite
17 honestly, if there's an appeal of
18 this case, it goes directly to the
19 Supreme Court, and so we're subject
20 to the exception of -- or the
21 exclusion of what a meeting is under
22 open meetings. So we can go forward
23 with enforcing that requirement, and

1 that's what we're going to do just to
2 keep everything from being disruptive
3 and distractions from transpiring.
4 So if you will all comply with those
5 rules. As there was fairly good
6 compliance with that early on, I just
7 would expect you to continue to
8 observe proper decorum as we go
9 forward.

10 So with that, I believe we
11 are ready to go back on the Record
12 officially, and we are ready for the
13 presentation of the next witness.

14 MR. JOHNSTON: Your Honor, with
15 your permission, we call Karl Rabago
16 to the stand.

17 THE COURT: All right. Have a
18 seat.

19 KARL RABAGO

20 the witness, after having first been duly
21 sworn to speak the truth, the whole truth, and
22 nothing but the truth, was examined and
23 testified as follows:

DIRECT EXAMINATION

BY MR. JOHNSTON:

Q. Mr. Rabago, please state your name and full business address for the Record.

A. Sure. My name is Karl Rabago, and my business address is 2025 East 24th Avenue, Denver, Colorado.

Q. And by whom are you employed?

A. I am self-employed by Rabago Energy, LLC. I'm also a part-time employee of Pace Energy and Climate Center based at the Elizabeth Howell [] School of Law at Pace University in White Plains, New York.

Q. On whose behalf are you testifying?

A. I'm testifying on behalf of GASP and named intervenors.

Q. Mr. Rabago, on November the 14th, 2018, did you prepare and cause to be prefiled in this docket both a confidential and public disclosure version of 54 pages of direct testimony in question and answer format?

A. Yes, sir, I did.

Q. Did you also cause to be prefiled along with

1 your testimony and exhibits marked as
2 Exhibits KRR 1 through KRR 2?

3 A. Yes, I did.

4 Q. Do you have any changes to your previous
5 filed direct testimony or exhibits at this
6 time?

7 A. Well, I do want to point out as I mentioned
8 in the intro that the testimony says --
9 because I was living in New York -- that my
10 home address was in White Plains. I've
11 since moved. I now live in Denver. That's
12 the address that I previously provided.

13 Second, while I -- when I prepared that
14 testimony, I was serving as the executive
15 director of the Pace Energy and Climate
16 Center. I've since moved on to be a senior
17 advisor to the center and that went along
18 with my move back home to Denver.

19 And then third, I want to note that my
20 testimony was obviously filed so early that
21 it did not incorporate the company's latest
22 errata.

23 And then finally, I actually do have

1 one line edit that I need to make in my
2 testimony.

3 Q. Would you cite that testimony and edit you
4 need to make?

5 A. That error appears on page 15 of my
6 testimony at line 5. I erroneously there
7 say the phrase, the few DG customers it
8 currently has. What I was doing was
9 falsely -- incorrectly saying that the
10 stratification exercise used to DG customer
11 data. I knew better and I should have known
12 better. A proper substitution of correct
13 words would be strike the few DG customers
14 it currently has and replace with separates
15 rate FD customer sample load profiles for
16 the class as a whole into four groups.

17 And I have no other changes.

18 Q. Okay. And beyond that, beyond the errata
19 that the company has just filed and the
20 changes that you just cited, if I were to
21 ask you the same questions that appear in
22 your prefiled testimony at the hearing today
23 under oath, would you answer the same?

1 A. The same or substantially the same, yes.

2 MR. JOHNSTON: Your Honor, I
3 move to have Mr. Rabago's direct
4 prefiled testimony be entered into
5 the Record as if they were given
6 orally from the stand.

7 THE COURT: We can do that. I
8 don't know that it's really necessary
9 given the posture of this proceeding.
10 It's already in the Record. I don't
11 really think that's a necessity.
12 Normally that is what we do, but we
13 normally don't have so much back and
14 forth about prefiles.

15 MR. JOHNSTON: Understood.

16 THE COURT: Since we didn't do
17 it for the other side -- it's already
18 in the Record and his revisions have
19 been noted, and so that I think
20 covers it. But you're correct that
21 that's normal procedure, but I don't
22 think in this case that it's
23 necessary to do that.

1 BY MR. JOHNSTON:

2 Q. Mr. Rabago, did you prepare a summary of
3 your testimony?

4 A. Yes, I did.

5 MR. JOHNSTON: Your Honor, with
6 permission, I'd like to ask
7 Mr. Rabago to read his summary.

8 THE COURT: Absolutely.

9 A. Thank you very much. Madam Chair, members
10 of the Commission, Your Honor, as I said
11 before, my name is Karl Rabago. My
12 testimony overview is as follows:

13 A very few of Alabama Power's small
14 customers have made significant personal
15 investments to purchase and install solar
16 power generators that provide some of the
17 electricity that those customers use for
18 day-to-day life. Alabama Power has proposed
19 and secured approval to charge special rates
20 that eliminate much of the savings that
21 those customers expect to realize from their
22 investments.

23 Through its Rate Rider RGB, the company

1 has imposed punitive, discriminatory, and
2 unlawful charges on self-generation
3 customers. The charges were in the past
4 approved by this Commission on application
5 by the company. Since that approval, GASP
6 and other named intervenors have filed a
7 complaint with the Commission seeking an
8 order that the company withdraw the punitive
9 charges and rates in Rate Rider RGB. My
10 testimony addresses the many ways in which
11 Alabama Power Rate Rider RGB is inconsistent
12 with Alabama and federal law, the ways in
13 which the company relied on unreasonable
14 methods for calculating the charges it
15 imposes under Rate Rider RGB for backup
16 service and the ways in which the resulting
17 charges are inconsistent with established
18 principles of electricity rate design and
19 implementation.

20 Solar customer generators typically do
21 not produce all the electricity they need
22 for their homes or small businesses. For
23 that reason, self-generators typically

1 interconnect to the grid in parallel. That
2 means that the customers can use the
3 electricity they generate when it's
4 available and other times, such as when the
5 sun goes down, can use electricity provided
6 by the local franchised utility provider.
7 The purposes of self-generation are to
8 reduce electricity bills, to increase use of
9 environmentally friendly generation, and to
10 increase energy self-reliance.

11 Solar naturally creates a tension with
12 a traditional monopoly utility business
13 model because utilities make profits through
14 sale of electricity that they seek return of
15 and on their invest -- and on -- they
16 generate and deliver this electricity.
17 Customer-installed solar cuts into the
18 traditional utility profit-making business
19 model by reducing sales. But solar also
20 reduces utility costs, especially because it
21 generates before and during summer peak
22 demand periods when demands and costs are
23 often highest.

1 The law requires that rates, including
2 Rate Rider RGB, must be just and reasonable,
3 nondiscriminatory, and consistent with
4 applicable regulations. The law also
5 defines the obligation of the utilities in
6 crafting rates and tariffs that apply to
7 these generators. Because variable
8 resources like solar systems do not operate
9 around the clock, they regularly require
10 supplementary power service. That's power
11 service the customer needs in addition to
12 what the customer generator normally
13 produces. There's no dispute here that
14 solar customers pay a full retail rate for
15 supplemental service. They pay for each and
16 every kilowatt hour they draw from the grid,
17 and those payments fully cover the variable
18 and fixed costs associated with that usage.
19 Typically despite the reduced level of usage
20 resulting from their solar investments,
21 these customers remain well within the range
22 of normal usage patterns, which utilities
23 like Alabama Power plan for when they

1 develop their rates.

2 This proceeding is not about
3 supplemental power service. It's about
4 backup power service. Customer generator
5 systems like all generators are also subject
6 to unscheduled outages. During these
7 events, which could result from severe
8 weather or unexpected electronic breakdowns,
9 such as in the invertor systems that convert
10 direct current into alternating current, the
11 utility must provide backup power service.
12 Utilities like Alabama Power are required to
13 provide supplementary power service and
14 backup power service on reasonable,
15 nondiscriminatory terms. Alabama Power has
16 instead secured and continues to seek
17 Commission approval to charge customers for
18 backup service through Rate Rider RGB
19 through a discriminatory, unjust, and
20 unreasonable rate calculation and design.

21 THE COURT: Mr. Rabago, let me
22 stop you a moment.

23 I just made eye contact with

1 a violator of the recording policy
 2 sitting right here on the second-to-
 3 last row, all the way to end. If you
 4 will escort him out, sir. Raise your
 5 right hand like you just committed a
 6 foul, because that's what you just
 7 did.

8 UNIDENTIFIED SPEAKER: Is this
 9 not --

10 THE COURT: You just violated
 11 protocol.

12 UNIDENTIFIED SPEAKER: Is this
 13 not a public --

14 THE COURT: I'm not answering
 15 any questions. Just leave the
 16 premises before it gets worse than it
 17 already is.

18 Sorry, Mr. Rabago.

19 A. No problem. The company takes the logical
 20 and unreasonable position that it must
 21 always maintain backup generation for
 22 customer generators and charge for this
 23 permanent standby energy capacity on a

1 reservation basis. It is this always
2 available reservation of power that the
3 company bases its charge for backup power on
4 regardless of actual experience or data
5 concerning unscheduled outages at customer
6 generation facilities. Rather than measure
7 the number of times and the duration of
8 events under which customer generators
9 require or are likely to require backup
10 power service based on actual metered data
11 and experience, Alabama Power has
12 constructed a hypothetical process with only
13 the most tangential connection to real-world
14 data. Ultimately, the company's analysis
15 rests on an estimate of sales that the
16 company loses when customers generate their
17 own electricity. This lost sales
18 calculation for a hypothetical customer with
19 only a token adjustment that the company
20 says it would not make but for the explicit
21 requirement in federal regulation is the
22 foundation of Alabama Power's backup service
23 charge in Rate Rider RGB. The charges are

1 inappropriate, and in my view, they're
2 unlawful because they rely on projected
3 revenue deficiencies and not on cost to
4 serve customers. The company's analysis
5 shows that solar customers are less costly
6 to serve than customers without solar. It's
7 only when lost revenues are inserted in the
8 calculation that the company establishes the
9 basis for its charge. But lost revenues are
10 not the same as cost of service.

11 Monopoly utilities like Alabama Power
12 do not have a right to any particular level
13 of billings from their customers. Customers
14 seek to lower their bills in all sorts of
15 ways. Solar is just one. That is their
16 right. And the utility has no right and
17 should have no right to claw those savings
18 back in the form of unjustified charges.

19 So I'll wrap up here. The charges that
20 Alabama Power assesses under Rate RGB are
21 punitive, they're confiscatory, they're
22 unjust, and they're unjustified. They
23 directly undermine the economics of customer

1 choice to invest in self-generation, in many
2 cases cutting the expected savings in half.
3 The effect, if not the purpose, of these
4 charges is to deter customer-sided solar
5 development in this company's solar
6 territory. And in this unfortunate respect,
7 the charge has been remarkably successful.
8 The charges are one of the principle reasons
9 that sun-rich Alabama trails other states in
10 solar development and the many jobs that
11 this nation industry is creating. I know of
12 no other investor-owned utility that
13 assesses a charge this punitive for backup
14 service.

15 While utilities in other states
16 certainly have tried to do what Alabama
17 Power has done, those attempts have been
18 rejected as improper for several reasons.
19 This included in Georgia where Alabama
20 Power's sister utility, Georgia Power,
21 operates and which has a much higher level
22 of customer-sided solar generation. The
23 only reason -- the only reasonable remedy

1 for the company is to withdraw the backup
2 service charge provisions of Rate Rider RGB
3 and start collecting the data needed to
4 determine what, if any, charge is just and
5 reasonable. The company is entitled to
6 charge customer generators for the cost it
7 occurs to provide service during unscheduled
8 outages.

9 With solid state solar generation
10 facilities, which have no moving parts,
11 unscheduled outages still occur, and the
12 frequency and impact of such outages can be
13 calculated or at least estimated on
14 probabilities grounded in measured
15 experience. The company should be ordered
16 to use legitimate experience-based data
17 about unscheduled outages and their
18 frequency to develop backup service charges.

19 Your state is blessed with great solar
20 resources that provide free fuel for
21 electricity generation. Taking advantage of
22 solar can create new jobs and strengthen
23 Alabama's economy and enhance your energy

1 independence. Alabama is presented with and
2 should take advantage of this opportunity,
3 the regulatory support for growth and the
4 non -- the utility solar generation market.

5 That concludes my overview.

6 MR. JOHNSTON: Your Honor,
7 Mr. Rabago is now available to answer
8 questions from the bench or for
9 cross-examination by the parties.

10 THE COURT: Thank you, sir.

11 Mr. Grover?

12 MR. GROVER: Your Honor, I think
13 we reserve just for the party for the
14 burden of ultimate production to
15 reserve any questions for Mr. Rabago
16 subject to questions from the bench,
17 the attorney general, or from staff.

18 THE COURT: So you have no
19 questions at this time?

20 MR. GROVER: Not at this time,
21 no.

22 THE COURT: Let's go to the
23 attorney general's office.

1 MS. MARTIN: No, we don't have
2 any questions.

3 THE COURT: Mr. Tait, any
4 questions?

5 MR. TAIT: No, Your Honor.

6 THE COURT: From the staff?

7 MR. REID: No, Your Honor.
8 Mr. Rabago's summary pretty much
9 paralleled his testimony that we
10 already have and are familiar with,
11 so we don't have any questions.

12 THE COURT: I take it there's
13 probably no questions --

14 MR. GROVER: In light of
15 Ms. Dean's testimony today, we have
16 no questions.

17 THE COURT: Any other
18 presentation from the
19 complainants/intervenors?

20 MR. JOHNSTON: No, Your Honor.
21 I think with that, we'll conclude.

22 THE COURT: All right. And I
23 take it you have nothing further as

1 well, Mr. Grover?

2 MR. GROVER: Nothing further,
3 Your Honor. Thank you.

4 THE COURT: I've given some
5 thought to post-hearing briefs, which
6 I don't think we really need because
7 this evidence has been vetted at
8 several different levels. So I think
9 we've pretty well gone over the
10 testimony. What I do think might be
11 productive, however, is briefs in the
12 form of proposed order. If the
13 parties would like to do that, that
14 might be helpful. And I'll allow
15 that from each side. The deadline
16 for that would be December 20th. The
17 transcript will turn around -- that's
18 going to be pretty tight, but I will
19 offer that if the parties are
20 interested in lieu of a post-hearing
21 brief, post-hearing brief in the form
22 of a proposed order.

23 MR. GROVER: The 20th is fine,

1 Your Honor. Thank you.

2 THE COURT: Are you okay with
3 that?

4 MR. JOHNSTON: We're fine with
5 that. Thank you.

6 THE COURT: All right. Then we
7 will allow for that very thing to be
8 filed on or better December 20th.

9 Anything further from the
10 parties before we close out?

11 Okay. I've been instructed
12 that we want to take just a brief
13 recess. Just stay in your seats, I
14 think, and we'll be right back.

15 (Recess from 11:26 a.m. to
16 11:27 a.m.)

17 THE COURT: I believe that we
18 have everything we need, and we'll
19 take the matter under advisement.
20 There will not be a decision today
21 obviously. We will evaluate -- the
22 Commissioners will and the staff --
23 the additional testimony that's been

1 provided today, and then a decision
2 will be rendered at the appropriate
3 time. And the decision will be
4 rendered at an open meeting of the
5 Commission, which everyone will be
6 able to attend and perhaps video, if
7 they'd like to. There's a
8 distinction. It's not intended to be
9 a joke. There is a distinction in
10 the two types of meetings. So it
11 will be an open and transparent
12 decision whenever it is rendered. It
13 will be on an agenda and noticed, and
14 you can all tend if you'd like. And
15 there obviously is a transcript that
16 as soon as it's available it will be
17 posted on the website, and you can
18 have access to that. In fact,
19 everything that's in the official
20 file outside of what transpired today
21 is already available for anyone to
22 review, and you can avail yourselves
23 of that as you so desire. So we

1 appreciate all the parties and all
2 the individuals who made an effort to
3 attend today. We appreciate your
4 interest.

5 And with that, the matter is
6 taken under advisement and that will
7 conclude the public hearing.

8 (Proceedings and testimony
9 concluded at 11:29 a.m.)

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REPORTER'S CERTIFICATE

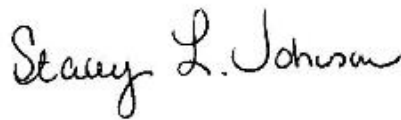
STATE OF ALABAMA

AUTAUGA COUNTY

I, Stacey L. Johnson, Certified Court Reporter and Commissioner for the State of Alabama at Large, hereby certify that on November 21, 2019, I reported the proceedings and testimony in the matter of the foregoing cause, and that pages [] through [] contain a true and accurate transcription of the examination of said witnesses by counsel for the parties set out herein.

I further certify that I am neither of kin nor of counsel to any of the parties to said cause, nor in any manner interested in the results thereof.

This the 9th day of December, 2019.



STACEY L. JOHNSON, CCR

Commissioner for the

State of Alabama at Large

CCR 386, Expires 9/30/2020

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