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**GENERIC PROCEEDING TO ESTABLISH A
PROCESS FOR CONSIDERATION OF
CONTRACTS FOR ELECTRIC SERVICE
BETWEEN ALABAMA POWER COMPANY
AND LARGE LOAD DATA CENTER
CUSTOMERS**

DOCKET 33709

ORDER

BY THE COMMISSION:

Alabama law permits electric utilities, such as Alabama Power Company (“Alabama Power” or the “Company”), to enter into a contract to provide electric service subject to approval of the Alabama Public Service Commission (“Commission”). Ala. Code § 37-4-22. Before becoming effective, such a contract shall be submitted to the Commission for review and shall be approved if the provisions of the contract are “consistent with the public interest.” *Id.* A recently enacted law, Act No. 2026-610 (“Act 610”), refines the public-interest standard for Commission approval of a contract for retail electric service between a utility and a large load data center customer,¹ as follows:

(b) Consistent with the commission’s authority under Title 37 generally and Section 37-4-22 specifically, a contract for retail electric service between a utility and a person that qualifies as a large load data center customer is consistent with the

¹ A large load data center customer is defined as a “customer of the utility which has executed a contract for retail electric service with the utility which requires the utility to serve an expected total peak demand of 150 megawatts or greater at one or more contiguous parcels of land, meets the definition of a data processing center under Section 40-9B-3, and operates solely for the purpose of data processing.” Ala. Code § 37-4-22.1(a).

public interest where the commission determines that the contract pricing and contract terms and conditions over the contract term are expected to:

(1) Provide for the recovery of the incremental costs of retail electric service to the large load data center customer's premises from the large load data center customer; and

(2) Promote positive benefits to other retail electric customers of the utility.

(c) The determination of whether a contract between a large load data center customer and a utility promotes positive benefits under subdivision (b)(2) includes considerations such as:

(1) Whether the pricing and terms and conditions of the contract could lower costs for other customers of the utility;

(2) Whether the large load data center customer is expected to increase the efficiency of the utility's power system; and

(3) Whether the large load data center customer promotes or contributes to economic growth in the community where the premises of the large load data center customer is located.

Ala. Code § 37-4-22.1

Given the Legislature's refinement of the public-interest standard and the recent nationwide proliferation of data centers, the Commission finds it necessary and appropriate to establish a generic proceeding to develop new procedures and standards for the review and approval of contracts for electric service between Alabama Power and large load data center customers. In initiation of this proceeding, this Order: 1) describes the current processes for review of electricity service contracts; 2) outlines a proposed new process; 3) lists issues for consideration in this proceeding; and 4) establishes comment periods for public participation.

Current Contract Review Procedures

Currently, the Commission addresses electricity service contracts pursuant to Rate FCR (Flexible Contract Rate), which was approved through an order issued in April of 1996 in Docket U-3672. Rate FCR applies to commercial and industrial customers who need flexibility and have an account of no less than 1 megawatt. It sets the following review criteria for contracts filed with the Commission:

- Prices charged under this rate shall not be less than the Company's incremental costs of providing service to the Consumer's location.
- Pricing under this rate shall be structured to meet the Consumer's requirements while providing benefits to all other customer groups.
- Contracts utilizing this rate shall be supported by economic evaluations, made in accordance with methods accepted by the Commission, that demonstrate that pricing under each contract will promote a positive benefit to all ratepayers over the term of the contract.
- Premature cancellation of any such contract shall require the Consumer to pay full compensation to the same extent as if the rates under standard rate schedules and contracts applied.
- All of the Company's costs of fuel and taxes shall be recovered.

Under Rate FCR, Commission Staff reviews contracts filed by Alabama Power to determine compliance with the criteria stated above. Contracts are deemed approved ten days after filing with the Commission, unless the Commission disapproves the contract within the ten-day period.

While the criteria established by Rate FCR generally reflect the standards in Act 610, the Commission recognizes that Rate FCR was approved years before the emergence of large scale data centers, which may require more electricity capacity and energy than typical contract customers did at that time. In addition to evaluating the use of a decades-old rate for a new type of customer, the Commission identifies two specific issues with evaluating large load data center customer under Rate FCR: first, some contracts with large load data centers may require more than ten days to review; and second, the current Rate FCR process does not incorporate the Office of the Attorney General ("Attorney General"), as the representative of the using and consuming public.

While it is the typical process for evaluating contracts, Rate FCR does not mandate that Alabama Power submit all applicable contracts through the Rate FCR process. In the alternative, the Company may choose to file for approval of a contract pursuant to Ala. Code § 37-4-22. Such a filing, as under Rate FCR, would still be subject to the public-interest standard; however, these contracts would not be deemed approved after a 10-day period. Such filings submitted outside of Rate FCR would require a Commission vote for approval.

Proposed Contract Review Procedures

The Commission proposes the following framework for review of contracts for electric service to large load data centers, subject to modification based on comments and input received in this proceeding:

I. Applicability and Scope

For all contracts with customers that meet the definition of a large load data center customer under Act 610, Alabama Power shall use this process. For all other contracts, Alabama Power may utilize Rate FCR or file for approval under Ala. Code § 37-4-22.

II. Submission Requirements

The Company shall file a public version of the filing with the Secretary of the Commission (redacted as needed) and submit an unredacted version of the same filing to Commission Staff.

Such submission shall include:

- A. A complete copy of the proposed contract, including all exhibits, attachments, and amendments;
- B. A detailed analysis demonstrating how the contract satisfies the requirements of Alabama Code § 37-4-22.1(b), including evidence that the contract pricing and terms are

expected to provide for recovery of incremental costs of retail electric service² from the large load data center customer and promote positive benefits to other retail electric customers;

C. Supporting documentation regarding the considerations set forth in Alabama Code § 37-4-22(c), including impacts on other customers' costs, power system efficiency, and economic development;

D. Any other information Alabama Power deems relevant to the Commission's evaluation;

E. Contact information, including an email address, for the company representative who can respond to questions from Commission Staff or the Attorney General.

III. Notice to Attorney General

Concurrently with submission to the Commission Staff, Alabama Power shall provide a complete copy of all materials submitted to the Commission Staff to the Attorney General. The Company must provide the unredacted version to the Attorney General, including all exhibits, attachments, amendments, and supporting documents.

IV. Review Period

Commission Staff shall review the submitted contract and supporting materials to determine whether the contract complies with, and is consistent with, the public interest as defined by Ala. Code § 37-4-22.1. Commission Staff and the Attorney General may serve the Company representative with inquiries or data requests via email or other agreed-upon method. Alabama Power must respond to Staff and Attorney General's inquiries and data requests within five business days. Should Commission Staff find that the contract does not satisfy the criteria, Staff

² Incremental costs of retail electric service are defined as the "additional costs associated with the generation, transmission, distribution, sale, or furnishing of electricity to a large load data center customer, including fuel costs and taxes, which the utility would not incur but for the large load data center customer contract." Ala. Code § 37-4-22.1(a).

may communicate with Alabama Power about potential modifications to the contract or may recommend disapproval at a publicly noticed meeting. The Attorney General may also recommend modifications or suggest that the Staff recommend disapproval.

V. Deemed Approval Provision

Should the Commission not issue an order disapproving the contract within sixty calendar days from the date of filing, the contract shall be deemed approved by the Commission. The approval would then be recognized at the next Commission meeting, but no vote or order would be required.

VI. Disapproval and Modification

At the recommendation of Commission Staff, if the Commission determines that a contract does not satisfy the requirements of Ala. Code § 37-4-22.1, the Commission will issue an order disapproving the contract within the sixty-day review period, specifying the deficiencies and, if feasible, recommending modifications. Alabama Power may submit a revised contract for renewed review within that 60-day timeframe.

VII. Confidentiality

The Commission recognizes that contracts may contain commercially sensitive and confidential information. The Commission shall establish appropriate internal procedures for maintaining the confidentiality of trade secrets, proprietary business information, and other confidential commercial or financial information, consistent with Alabama law and Commission precedent.

VIII. Alabama Power Consent to Additional Rate FCR Requirements during Generic Proceeding

During the pendency of this generic proceeding, Alabama Power may continue to submit contracts with large load data centers under the Rate FCR process. However, the Commission

seeks the Company's consent to temporarily modify the Rate FCR requirements to: 1) require Alabama Power to provide a copy of the unredacted filing to the Attorney General; and 2) extend the review period to forty-five days. If these additional temporary provisions to Rate FCR are agreeable for large load data center contracts, Alabama Power should file consent to these terms in this docket.

Topics and Issues for Public Comment

The Commission seeks input from Alabama Power, large load data center customers, the Attorney General, consumer advocates, and other interested parties regarding the appropriate processes and criteria for evaluating such contracts. In this generic proceeding, the Commission will limit its consideration to issues related to the review of contracts pursuant to Ala. Code §§ 37-4-22 and 37-4-22.1. To facilitate efficiency, the public is encouraged to refrain from submitting comments outside of the scope of these statutes or the Commission's authority. For instance, Alabama law does not grant the Commission jurisdiction over data center siting or environmental regulation. Therefore, comments related to these areas will not support the objective of this generic proceeding. Within the scope of reviewing large load data center contracts pursuant to Ala. Code §§ 37-4-22 and 37-4-22.1, the Commission invites comments on the following topics:

Contract Review Standards: What specific criteria should the Commission apply when evaluating whether a contract for electric service to a large load data center customer satisfies the requirements of Ala. Code Section 37-4-22.1(b) that the contract pricing and terms are expected to (1) provide for recovery of incremental costs from the large load data center customer and (2) promote positive benefits to other retail customers?

Incremental Cost Analysis: What methodologies and assumptions should be used to calculate the "incremental costs of retail electric service" as defined in Ala. Code § 37-4-

22.1(a)(1)? What documentation should Alabama Power be required to provide to support their incremental cost calculations?

Benefits to Other Customers: How should the Commission evaluate whether a contract "promote[s] positive benefits to other retail electric customers" pursuant to Ala. Code § 37-4-

22.1(b)(2)? What specific metrics or evidence should be required?

Economic Development Considerations: How should the Commission assess whether a large load data center customer "promotes or contributes to economic growth in the community" as contemplated by Ala. Code § 37-4-22.1(c)(3)? What types of economic impact analysis should be required?

Power System Efficiency: What methods should be used to evaluate whether a large load data center customer is "expected to increase the efficiency of the utility's power system" pursuant to Ala. Code § 37-4-22.1(c)(2)?

Contract Terms and Conditions: What specific contract terms and conditions, as defined in Ala. Code Section 37-4-22.1(a)(3), including minimum term length, upfront payments, security and collateral, and minimum payment requirements, are appropriate and should be required in contracts with large load data centers?

Review Timeline: Is the proposed 60-day deemed-approval timeline appropriate? Should the timeline be shorter or longer? Under what circumstances, if any, should the timeline be extended? Should there be a process for requesting an extension?

Submission Requirements: Are the proposed submission requirements adequate? What additional information should Alabama Power be required to submit with proposed contracts?

Role of Attorney General: Does the proposed process provide an adequate role for the Attorney General?

Public Notice and Transparency: What information should be made publicly available, and what information should be protected as confidential?

Post-Approval Monitoring: Should the Commission establish procedures to monitor compliance with approved contracts and to evaluate actual impacts on other customers and the Company's power system?

Contract Modifications: What procedures should apply to amendments or modifications of previously approved contracts? Should all amendments require Commission review, or only material changes?

Alternative Review Processes: Are there alternative review processes that would better serve the public interest while complying with Ala. Code Section 37-4-22.1? Should the Commission consider expedited approval procedures for certain types of contracts or contract terms?

Big Picture Planning: What additional processes should be in place for a holistic review of the addition of data centers to Alabama Power's system?

Public Comments

The Commission hereby establishes the following schedule for public comments. Interested parties shall have thirty calendar days from the date of this Order to file initial comments addressing the proposed contract review framework and the topics for comment set forth above. Initial comments shall be filed on or before August 6, 2026. Interested parties shall have fifteen calendar days following the close of the initial comment period to file reply comments in response to other parties' initial comments. Reply comments shall be filed on or before August 21, 2026. All comments filed in this proceeding shall be submitted electronically to the Commission's electronic filing system and shall be publicly available.

The Legal Division shall assign an administrative law judge to oversee this generic proceeding and make a recommendation to the Commission on the adoption of a new process.

IT IS, THEREFORE, ORDERED BY THE COMMISSION that a generic proceeding is established to develop new procedures and standards for the review and approval of contracts for electric service between electric utilities and large load data center customers.

IT IS FURTHER ORDERED BY THE COMMISSION that the Commission proposes a review process, as discussed more fully above, that would allow Alabama Power Company to submit contracts to Commission Staff for review, with concurrent submission to the Alabama Attorney General, and provide for deemed approval if the contract is not disapproved by the Commission within sixty days from filing.

IT IS FURTHER ORDERED BY THE COMMISSION that interested parties may submit initial comments in this proceeding, which will be considered by the Commission if received on or before August 6, 2026. Any initial comments submitted by this deadline will be available for review on the Commission's website.

IT IS FURTHER ORDERED BY THE COMMISSION that interested parties may submit reply comments in this proceeding, which will be considered by the Commission if received on or before August 21, 2026. Any reply comments submitted by this deadline will be available for review on the Commission's website.

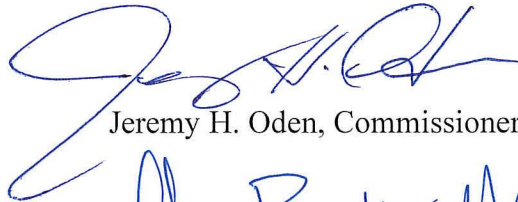
IT IS FURTHER ORDERED BY THE COMMISSION that this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama this ^{8th} day of July 2026.

ALABAMA PUBLIC SERVICE COMMISSION



Cynthia Lee Almond, President



Jeremy H. Oden, Commissioner



Chris V. Beeker III, Commissioner

ATTEST: A True Copy



Devon D. Beaty, Secretary