

SOUTHERN ENVIRONMENTAL LAW CENTER

Telephone 205-745-3060

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

ELECTRONICALLY FILED

Friday, September 11, 2020

TR2034685

ALABAMA PUBLIC SERVICE COMMISSION

WALTER L. THOMAS, JR., SECRETARY

September 11, 2020

VIA E-FILE & OVERNIGHT MAIL

Mr. Walter L. Thomas, Jr., Secretary
Alabama Public Service Commission
RSA Union Building
100 North Union Street, Suite 950
Montgomery, AL 36104

**RE: Alabama Power Company Petition for Certificate of Convenience and
Necessity; Docket No. 32953**

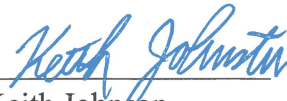
Dear Secretary Thomas:

On behalf of Intervenors Energy Alabama and Gasp, please find the enclosed *Petition for Reconsideration and Rehearing* in this matter.

This filing is being submitted to the Commission through its e-filing system, consistent with the rules and practices of the Commission. The original and one copy are being delivered to the Commission via overnight mail. A service copy will be served on the parties of record.

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

Sincerely,



Keith Johnson

Southern Environmental Law Center

Encl.

BEFORE THE ALABAMA PUBLIC SERVICE COMMISSION

IN RE: Petition for a Certificate of)	
Convenience and Necessity by)	Docket 32953
Alabama Power Company)	

**ENERGY ALABAMA AND GASP'S PETITION FOR
RECONSIDERATION AND REHEARING**

Energy Alabama and Gasp (“Energy Alabama/Gasp” or “Intervenors”), pursuant to Rule 21 of the Rules of Practice and Alabama Code § 37-1-105, respectfully petition for reconsideration and rehearing of the Commission’s August 14, 2020 Order (“Order”) in this docket. That Order granted Alabama Power Company’s (“Alabama Power” or “Company”) Petition for a Certificate of Convenience and Necessity (“Petition”), authorizing the Company to build, acquire or purchase almost 1,900 megawatts (MW) of natural gas generation and to pursue up to 200 MW of unspecified demand-side management (DSM) and distributed energy resource (DER) programs. However, the Commission denied the Company’s proposal to purchase 400 MW of power from five solar plus battery energy storage systems (“solar plus storage projects”).

Since the Commission voted to approve the Petition and issued its Order, mounting evidence indicates that the coronavirus (COVID-19) pandemic has substantially altered the economic outlook underpinning Alabama Power’s alleged capacity need. Recent economic outlooks are now more conclusive than they were in May and June, at the beginning of the coronavirus crisis, and show a delayed return to normalcy, with forecasts for future U.S. gross domestic product (GDP) not returning to the 2019 level until 2022, at the earliest. Accordingly, Intervenors urge the Commission to reconsider its need determination and grant a rehearing for the purpose of taking further testimony on Alabama Power’s claimed capacity need. In addition, given the poor economic outlook and resulting hardships for Alabama Power customers,

Intervenors urge the Commission to reconsider its refusal to require the Company's shareholders to bear any stranded costs associated with its proposals.

Finally, the Commission should reconsider its denial of the solar plus storage projects. Alabama Power's own testimony and analysis persuasively demonstrated that those projects will help meet Alabama Power's claimed reliability need and are the most cost-effective of all the options brought forward, and the Commission should not substitute its judgment for the Company's. Regardless of the magnitude of the Company's claimed capacity need post COVID-19, the solar plus storage projects will provide both energy and capacity value to customers and exert downward pressure on rates, a result that is even more urgent now given the economic devastation wrought by the pandemic.

BACKGROUND

Since the close of the hearing on March 11, 2020, the COVID-19 pandemic has spread throughout Alabama, the United States, and the entire world. Alabama's first coronavirus case was confirmed two days after the hearing concluded.¹ On April 3, 2020, Governor Ivey issued a stay-at-home order.²

Post-hearing briefs in the form of proposed orders were due on May 1, 2020. Procedural Ruling (Apr. 14, 2020). Although no evidence in the record related to COVID-19, Alabama Power unilaterally included in its proposed order a limited discussion of the pandemic. While acknowledging that it would be "remiss" for the Commission not to consider the pandemic's effects on the Petition, the Company saw no need to reassess its forecasts, asserting that "the

¹ Press Release, Ala. Dep't of Pub. Health, First Alabama resident confirmed as positive for COVID-19 (Mar. 13, 2020), <https://www.alabamapublichealth.gov/news/2020/03/13.html>.

² Press Release, Office of the Governor of Ala., Governor Ivey Issues Stay at Home Order (Apr. 3, 2020), <https://governor.alabama.gov/newsroom/2020/04/governor-ivey-issues-stay-at-home-order/>.

long-term impacts of the pandemic are not knowable with any reasonable degree of certainty.”
Post-Hr’g Br. of Ala. Power Co. at 24-25 (May 1, 2020).

That same day, Energy Alabama/Gasp, jointly with Sierra Club, filed a Motion for Supplemental Briefing and Request for a Briefing Schedule to more fully brief the pandemic’s potential impacts on Alabama Power’s claimed need for capacity resources. The parties sought a three-month briefing schedule ending August 1, 2020.

On May 28, 2020, the Commission denied the requested briefing schedule, but allowed the intervening parties one week to file five pages of supplemental briefing on the pandemic’s implications on Alabama Power’s Petition. Procedural Ruling (May 28, 2020). Energy Alabama/Gasp filed their Supplemental Brief on June 4, arguing that the pandemic’s impacts cast even further doubt on Alabama Power’s claimed capacity needs, and that the Commission could reassess those needs without jeopardizing the Company’s preferred portfolio. Energy Alabama/Gasp urged the Commission not to rush a decision without assessing how the pandemic and resulting economic fallout might have impacted the magnitude and timing of the Company’s claimed capacity need. Energy Ala. & Gasp’s Supp. Br. at 5 (June 4, 2020). Intervenors also urged the Commission to require updated plans and forecasts from the Company before making a final determination on the Petition. *Id.*

On Friday, June 5, 2020—only one day after the deadline for supplemental briefs addressing impacts of the pandemic—the Commission Staff included its Petition recommendation on the agenda for the Commission’s June 9 monthly meeting.³ Staff recommended issuance of a certificate of convenience and necessity (“certificate”) for the construction of Plant Barry Unit 8, the acquisition of the Central Alabama Generating Station,

³ Memorandum from PSC Legal Division to Commissioners, *Agenda – June 9, 2020 Commission Meeting* (June 5, 2020), available for download at <https://www.pscpublicaccess.alabama.gov/pscpublicaccess/PSC/CommissionMeetingDetailsPage.aspx?meetingId=71d1ddca-9afa-4913-a194-d14f5ec06d04>.

approval of a power purchase agreement (PPA) for output from the Hog Bayou Energy Center, and the authority to pursue up to 200 MW of undefined DSM and DER programs. Staff recommended that the Commission not issue a certificate for the solar plus battery storage projects, but instead recommended that those projects be evaluated in a separate docket. The recommendation did not mention the pandemic or any of the supplemental briefing on that issue.

Two business days later, at its monthly meeting on Tuesday, June 9, the Commission voted unanimously to approve Staff's recommendation. In approving the Petition, the Commission did not mention the pandemic's impacts on the Petition.⁴

On August 14, 2020, the Commission issued its final order in the docket. Adopting almost verbatim the threadbare and self-serving coronavirus discussion contained in Alabama Power's proposed order (filed more than three months earlier, on May 1), the Commission's Order summarily dismissed the impacts of the coronavirus pandemic:

[The PSC] would be remiss in [its] responsibility as a regulatory authority if [its] analysis here did not consider the potential prolonged economic effects flowing from the pandemic, and specifically, whether potential impacts to the state, national and global economies are likely to cause a material change in the amount of capacity needed by Alabama Power

Order at 24. But rather than give this question the fresh attention and critical analysis it deserved, the Commission's Order again simply parroted the Company: "[a]ll information available to this Commission . . . suggests that the long-term impacts of the pandemic are not knowable with any reasonable degree of certainty." *Id.* at 25.

LEGAL STANDARD

Under Rule 21 of the Commission's Rules of Practice, a party may make an application for rehearing or reconsideration within 30 days from the final order. For applications "based

⁴ A recording of the Commission's June 9, 2020 monthly meeting is available on YouTube.com. See *AlaPSCOnline Live Stream*, YouTube (June 9, 2020), <https://www.youtube.com/watch?v=XNRjWylIgJo>.

upon matters of law, the Applicant must state fully the legal propositions involved and cite the authorities therefor.” PSC Rules of Practice 21(A). For applications based on new evidence to be offered on a rehearing, “the nature and purpose of the evidence must be briefly stated, and it must not appear to be merely cumulative.” *Id.* If the Commission finds that a hearing for additional testimony is justified, it will set a hearing date and “give consideration to the record in the light of such additional testimony and render its decision and order thereon.” PSC Rules of Practice 21(B).

In addition, the Alabama Code also allows interested persons to apply for rehearing on any matter. The Commission must grant and hold such rehearing within 60 days after the application has been filed. Ala. Code § 37-1-105.

Energy Alabama and Gasp seek reconsideration and rehearing within the larger legal framework applicable to the Company’s Petition. Pursuant to Alabama Code § 37-4-28, the Commission had to make two fundamental determinations: first, that Company had shown a need for additional capacity; and second, that the proposed facilities were a reasonable means to satisfy that need. As the petitioner, Alabama Power bears the burden of proof to make both showings.

GROUND FOR RECONSIDERATION AND REHEARING

I. As the longer-term impacts of the COVID-19 pandemic have become clearer, the Commission should reconsider its Order and grant a rehearing on Alabama Power’s claimed capacity need.

In the months since the parties briefed the issue, the economic implications of this unprecedented pandemic have become clearer for Alabama and the country. Updated economic forecasts, including from sources cited by the Company in its post-hearing briefing, now show a slower return to normalcy than originally hoped. Forecasts of future U.S. GDP, which drive

many other measures of economic activity such as electricity demand, are pushed back by about three years, indicating that GDP will not return to pre-pandemic levels until 2022 or later. The declaration of Energy Alabama/Gasp expert Mr. James Wilson, attached as Exhibit 1, sets forth the nature and purpose of new evidence of the pandemic's economic implications that would be offered on rehearing.

a. Nature of the new evidence

Like much of the country, Alabama is still very much in the throes of the COVID-19 pandemic. After businesses reopened in early May, Alabama saw an exponential increase in the number of coronavirus cases. From early July to mid-August, the 7-day moving average for new cases stayed above 1,000 per day. And from mid-July to early August, the 7-day moving average of new cases soared above 1,500 per day. Ex. 1 at Fig. 2. Alabama continues to see about 1,000 new cases of COVID-19 reported each and every day. *Id.* ¶ 5. As of September 11, there have been 136,703 cases and 2,333 deaths in the state.⁵

As Mr. Wilson states in the attached declaration, the current economic outlook is less uncertain than it was in May or June, when there was hope that the pandemic would pass quickly. Ex. 1 ¶ 8. Even if it was true then that “the long-term impacts of the pandemic are not knowable with any reasonable degree of certainty,” Order at 25, that is no longer the case. Six months into the pandemic, longer-term economic forecasts have become more certain. Recent forecasts of future U.S. GDP show the U.S. economy not returning to the 2019 level of GDP until 2022 at the earliest. Ex. 1 ¶ 8.⁶

⁵ *Alabama's COVID-19 Data and Surveillance Dashboard*, Ala. Dep't of Pub. Health, <https://alpublichealth.maps.arcgis.com/apps/opsdashboard/index.html#/6d2771faa9da4a2786a509d82c8cf0f7> (last visited Sept. 11, 2020).

⁶ In addition to the significant short and long-term economic impacts from the pandemic, the Alabama Industrial Energy Consumers testified that Alabama Power would not have a capacity need until four years out. This analysis did not even consider the pandemic. Tr. 971:12-18.

Tracking these updated national forecasts, Alabama’s economic outlook is also more pessimistic than earlier in the pandemic. The most recent update, from July, shows the Alabama economy declining 5% in 2020 followed by an increase of just 3% in 2021. *Id.* ¶ 10. Alabama businesses continue to suffer, with the Alabama Department of Commerce identifying over twenty businesses announcing plant closings or layoffs affecting thousands of workers. *Id.*

The Commission should reconsider its Order given this new, critical information that bears directly on the Petition. Like Alabama Power’s proposed order, the Commission’s Order cites Morgan Stanley research from May as supporting the assertion that “some sources of publicly available information were forecasting an economic rebound by the end of 2021, if not sooner.” Order at 25. But Morgan Stanley too has revised its assessment as the pandemic and its economic toll have lingered. Morgan Stanley’s updated case anticipates tepid economic growth of 1.7% per year over 2020-2025. Ex. 1 ¶ 9. Just as it would have been “remiss” of the Commission not to consider the pandemic’s impacts on the Petition in June, it would be a failure of regulatory oversight not to consider more updated and reliable forecasts now.

The ongoing severity of the pandemic calls into question other aspects of the Commission’s Order as well. For example, quoting Alabama Power’s proposed order verbatim, the Commission found the timing of the proposed portfolio’s implementation across multiple years “particularly well-suited for current events.” Order at 25. Emphasizing the near-term economic uncertainty wrought by the pandemic, the Order takes language from the Company’s proposed order declaring the “staggered arrival of the resources” to be “somewhat serendipitous.” *Id.* at 61. But in actuality, given the Commission’s rejection of the solar plus storage projects (which was improper, for the reasons described below), the resources’ arrivals

are not staggered.⁷ Instead, the overwhelming majority of the approved projects—over 1,600 MW of the 1,900 MW—will come online in 2023. The 238 MW Hog Bayou PPA is the only supply-side addition that will take effect earlier, specifically, this year. Given the current, clearer picture of longer-term economic upheaval, the arrival of so much capacity in one year is anything but serendipitous.⁸ The upward rate pressure occasioned by these resources will hit customers as they continue to suffer the effects of the pandemic—all for new capacity that is unlikely to be needed.⁹

b. Purpose of the new evidence

For its claimed capacity need Alabama Power relied on its B2019 Load Forecast, which was prepared over two years ago, in August 2018, using forecasts from May of that year. Ex. 1 ¶ 14. Of course, the Company's B2019 Load Forecast did not contemplate the current pandemic-induced economic downturn. Now, based on current economic outlooks, it has become increasingly clear that Alabama Power's B2019 Load Forecast cannot serve as an accurate reflection of its future capacity needs. As discussed in Mr. Wilson's attached declaration, "if the Company were to update its load forecast, the economic downturn would substantially affect the forecasts in all sectors." *Id.* This includes both the industrial sales forecast and peak load forecast, which would be substantially lower in an updated analysis. *Id.* ¶ 15. Mr. Wilson

⁷ The solar plus storage projects would have been staggered, with one taking effect in 2022, another in 2023 and the remaining three in 2024. Order at 32.

⁸ Furthermore, the Company's 2019 Integrated Resource Plan, prepared before the COVID-19 economic downturn, indicated a need for only 1,200 MW by 2025—not 1,900 MW by 2023. Order at 14.

⁹ The Commission recently acknowledged the economic hardships facing customers when it, commendably, authorized Alabama Power to return \$100 million in over-collected fuel costs. The Commission found the refund "justified by the unique economic challenges customers are currently experiencing due to the coronavirus pandemic." Order, *Ala. Power Co. Pet. for Accounting Authorization related to the Use of Regulatory Liability for Customer Refunds*, Docket U-5344 (Ala. P.S.C. Aug. 7, 2020). Now that economists are predicting a longer road to full recovery, the Commission should again be mindful of customer hardship by reconsidering the timing and magnitude of Alabama Power's claimed capacity need.

concludes that “if Alabama Power were to update its forecasts of loads and capacity needs, they would be substantially lower for the 2020 to 2023 period than projected by the B2019 Load Forecast; and if it were to update its resource development plans based on the delayed future capacity needs, the revised plans would increase the benefits to customers.” *Id.* ¶ 18.

Simply put, under the changed circumstances resulting from the pandemic, Alabama Power cannot meet its burden of proof to justify a capacity need using its 2018 load forecast. To justify building and buying the massive amounts of new capacity proposed in its Petition, the Company must submit updated data on the timing and amount of its capacity need. Failing to require such updated analyses would be imprudent and leave customers footing the bill for expensive, unnecessary generation. The Commission should therefore reconsider its previous need determination and grant a rehearing on Alabama Power’s updated capacity need based on this new evidence.

In doing so, the Commission need not fear that, as the Order currently states, “cost-competitive resource options comparable to those reflected in the proposed portfolio [will] no longer be available.” Order at 26. Such cost considerations are secondary to the question of need; the Commission showed no similar hesitation in rejecting the solar plus storage projects on the mistaken basis that those projects provide no or little capacity value, even though doing so meant losing the most cost-competitive projects. Moreover, as Mr. Wilson discusses in Exhibit 1, such a concern goes against trends in the energy industry over many years showing that technology and fuel costs continue to decline. Ex. 1 ¶ 17. While new and different proposals may be offered now that the market is aware of the Company’s winter capacity need, there is no reason to expect that these proposals would deliver less benefit to customers. To the contrary, an informed market will propose more options and promote competition, thus producing better results for customers.

Id. Given the unanticipated economic strain of the global pandemic, it is worth re-testing the market, assuming the Company can still show a capacity need.

II. The Commission should reconsider its decision to burden ratepayers with stranded asset risks.

Under Alabama Code § 37-4-28, the Commission is authorized to prescribe conditions on its issuance of a certificate for convenience and necessity. The Commission has previously exercised this authority to protect customers from undue risk. *See* Tr. 429:14-20. In this proceeding, several intervening parties, including the Attorney General’s office (which is charged with representing the rate-paying public), Energy Alabama/Gasp, and Sierra Club, recommended that the Commission impose a condition requiring that Alabama Power and its shareholders bear any stranded asset risk associated with its proposal. As the Attorney General stated in its post-hearing brief, the proposed natural gas facilities could become stranded or uneconomic as a result of new emission standards or changes in technology. Attorney General’s Resp. to the Pet. at 3. As such, the Attorney General recommended that the Commission prescribe a condition on its certificate issuance: “If any of the units in the Petition are to be approved, such approval should be conditioned on the requirement that any stranded costs resulting from these units be borne by the Company’s shareholders. Ratepayers should not be left to pay any stranded costs on these assets.” *Id.*

Despite these multiple parties’ recommendations, the Commission chose not to include any such condition. The Commission justified its decision on the basis that, in its view, it is unlikely that these facilities will become stranded assets in the near-term: “[N]either the record in this case nor any information otherwise available to us indicates a near-term prospect that the resources requested here will suddenly become unnecessary, or incapable of being dispatched by Alabama Power to meet customer demand reliably or cost-effectively.” Order at 44. Stating that

it would be “inequitable” to burden Alabama Power and its shareholders with the risk of stranded assets, even though shareholders reap substantial benefits from self-build assets like Barry Unit 8, the Commission’s Order instead places all of the risk on Alabama Power customers. *Id.*

In light of the new evidence of the pandemic’s lasting economic implications and resulting hardships to customers, the Commission should reconsider this issue as well. While the Commission found no “near-term prospect” that the facilities would become stranded assets, it failed to consider customers’ near-term economic prospects before placing all stranded asset risk on their shoulders. *See* Order at 45. But as the Commission has subsequently demonstrated, it understands customers’ near-term plight all too well. In early August, in connection with issuing a refund to customers, the Commission acknowledged the “unique economic challenges customers are currently experiencing due to the coronavirus pandemic.” Order, *Ala. Power Co. Pet. for Accounting Authorization related to the Use of Regulatory Liability for Customer Refunds*, Docket U-5344 (Ala. P.S.C. Aug. 7, 2020). With the worsened economic outlook, customers’ economic circumstances are likely to remain challenging for some time. To ensure that its decision does not inequitably burden customers during and after this economic crisis, the Commission should revisit its refusal to place stranded asset risk on Company shareholders.

III. The Commission should reconsider its denial of the proposed solar plus storage projects.

Pursuant to the provision governing certificate proceedings, Alabama Code § 37-4-28, once the Commission determines that a utility has shown a capacity need, it must then determine whether the proposed facilities are a reasonable means of meeting that need. According to the Commission’s view of its role under the applicable law, it must not “interfere with the proper operation of the utility as a business by usurping managerial prerogatives.” Order at 9. Nor, according to the Order, is the Commission “empowered to substitute its judgment for that of the

owners [of the utility], who are responsible for the rendition of service, unless the owners have abused their discretion.” *Id.* at 9, n.12.

But in denying the solar plus battery storage projects, the Commission does just that, making the Order internally inconsistent and arbitrary. Not only does the Commission substitute its judgment for that of the utility, it does so without any foundation in the record. The Order lacks any citation to the record to justify its concerns about the reliability and dispatchability of the two-hour batteries and the Southern System’s lack of operational experience with battery storage systems. *Id.* at 54-55. Nor does the Order explain or support the Commission’s concerns about certain terms of the PPAs for the solar plus storage projects. *Id.* at 55.

In sharp contrast to the Order’s scant rationale, the record is replete with evidence of the reliability benefits and cost-effectiveness of the solar plus storage projects. Alabama Power persuasively showed that the five solar plus storage projects provide both capacity and energy benefits and help with its winter reliability needs. As Mr. Looney testified, “[the batteries] can have a very high benefit to reliability, because we’re going to withhold it until that moment when they’re needed most.” Tr. 800:20-23. He also testified that “the battery capacity allows us to increase flexibility in our system.” Tr. 801:7-10. Indeed, the batteries were chosen because they “will serve a specific reliability function in the Company’s generating fleet” and “can provide a very high capacity equivalence.” Looney Rebuttal Test. 7:3-7. Mr. Looney also testified that the batteries would help the Company during peak periods and would be as effective as the other projects in extreme weather events. Tr. 801:9-16, 832:16-32, 833:1-2. The reliability benefits of the solar plus storage projects are therefore supported by substantial record evidence, much of it from the Company.

Furthermore, the solar plus storage projects were the most cost-effective resources proposed by Alabama Power. As discussed in the Company's written testimony, the solar plus storage projects "proved to be economically attractive when modeled along with existing system resources." Kelley Direct Test. 19:5-7. The projected energy benefits of the projects also added to the overall fuel cost savings. Kelley Rebuttal Test. 20:13-14. Not only were they economically attractive compared to other resources, they "proved to be the most cost-effective options in our evaluation" and "provide excellent value for customers." Looney Rebuttal Test. 4:3-5. According to Mr. Looney's Exhibit MBL-1 (Ala. Power Hr'g Ex. 36), the denial of the solar plus storage projects results in lost savings of roughly \$5 million per year.¹⁰ In total, based on the PPA terms of the solar projects, the Commission's denial means lost savings of roughly \$135 million for Alabama Power customers (in nominal dollars).¹¹ The projects would also provide an important hedge against carbon price risk as well as help Southern Company achieve its goal of net-zero carbon by 2050.

In determining that these least-risky, lowest cost resources were not able to meet the Company's need, the Commission substituted its judgment for the Company's, interfered unreasonably with Alabama Power's operation of its business, and made a decision contrary to the substantial weight of the evidentiary record. Therefore, the Commission should reconsider its denial of the projects.

¹⁰ Using the figures provided on page 1 of Exhibit MBL-1, the annual lost savings was calculated by multiplying the \$/kW average net present value for each facility by its winter capacity (in this case, 68 MW for each facility) to arrive at the net present value for the facility. Then, the net present values for the five facilities were added together.

¹¹ Using the PPA terms listed on page 2 of Exhibit MBL-1, the annual net present value for each facility was multiplied by each facility's PPA term. These calculations were then added together to arrive at the total lost savings.

CONCLUSION

Energy Alabama and Gasp respectfully request that the Commission reconsider its capacity need determination given the new and increasingly certain evidence of a prolonged economic recovery and grant a rehearing to take further testimony on Alabama Power's capacity need; reconsider its decision to not include a condition placing stranded asset risk on Company shareholders; and reconsider its denial of the solar plus storage projects.

Respectfully submitted this 11th day of September, 2020.



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

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

Counsel for Energy Alabama and Gasp

CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2020, I served the foregoing *Energy Alabama and Gasp's Petition for Reconsideration and Rehearing* via electronic mail to the parties below:

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

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

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

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

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

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

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

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

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

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

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



Keith Johnston

Exhibit 1

BEFORE THE
ALABAMA PUBLIC SERVICE COMMISSION
MONTGOMERY, ALABAMA

IN RE:)	
)	
ALABAMA POWER COMPANY)	Docket No. 32953
)	
Petition for a Certificate of Convenience)	
and Necessity)	

DECLARATION OF JAMES F. WILSON

I. INTRODUCTION

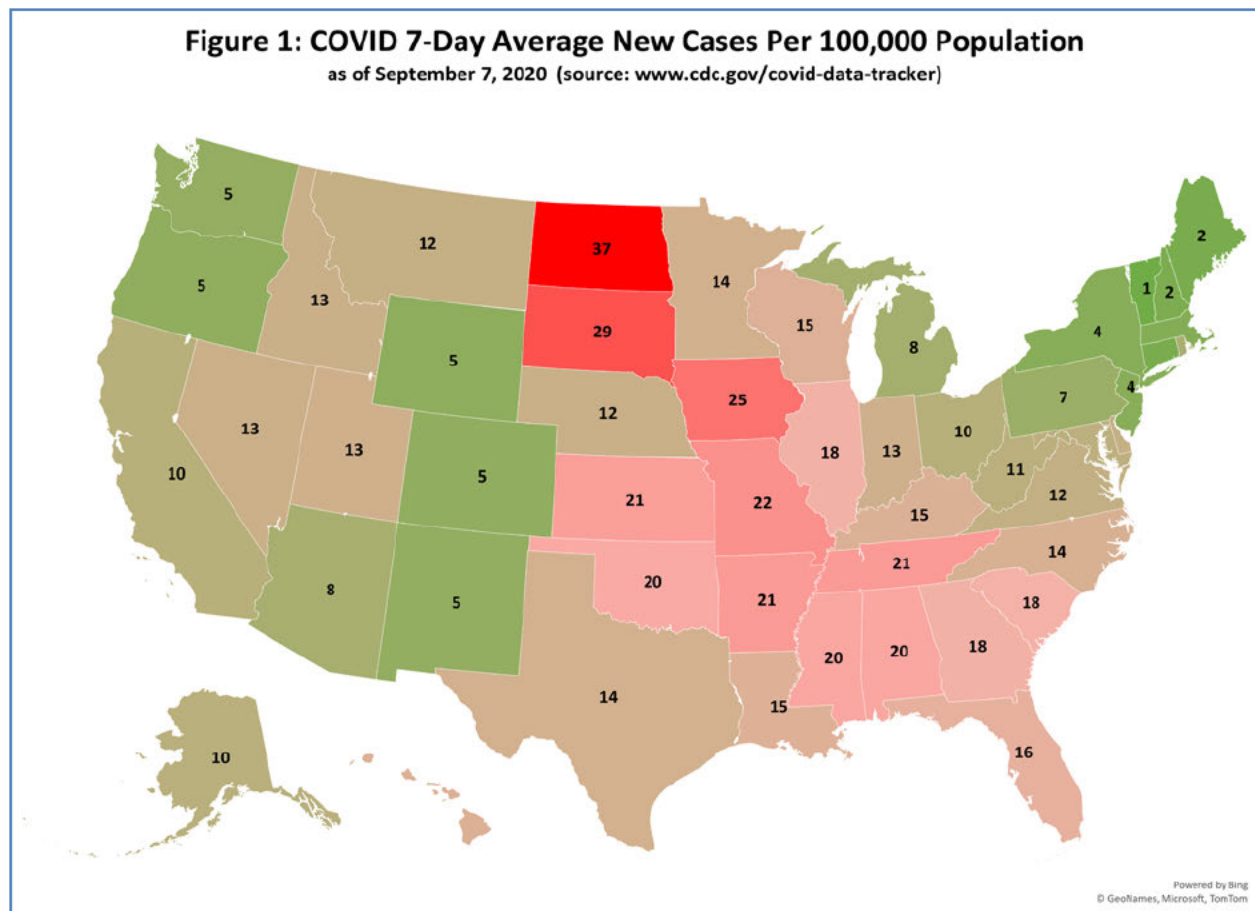
1. My name is James F. Wilson. I am an economist and independent consultant doing business as Wilson Energy Economics. My business address is 4800 Hampden Lane Suite 200, Bethesda, Maryland 20814.

2. My direct testimony in this proceeding was submitted on behalf of Energy Alabama and Gasp, Inc. on December 4, 2019. My curriculum vitae, summarizing my experience and listing past testimony, was Exhibit JFW-1 attached to my direct testimony.

3. I was asked by counsel for Energy Alabama and Gasp, Inc. to provide a brief update on the impact of the ongoing coronavirus (COVID-19) pandemic and the implications for Alabama Power Company's load forecast and need for capacity in this docket.

II. PANDEMIC UPDATE

4. At this time the pandemic is not under control in many countries and in many states, including Alabama. Globally, the rate of new infection has been steady over the past month at about 1.8 million new cases per week.¹ As of September 7, 2020, Alabama is experiencing new infections at a seven-day average rate of 20 per day per 100,000 population; only about ten states have such high rates of new infection at this time (Figure 1).² While various countries are experiencing outbreaks, only a few countries have such a high rate of infection per 100,000 population as these states.³ While Alabama's count has risen recently



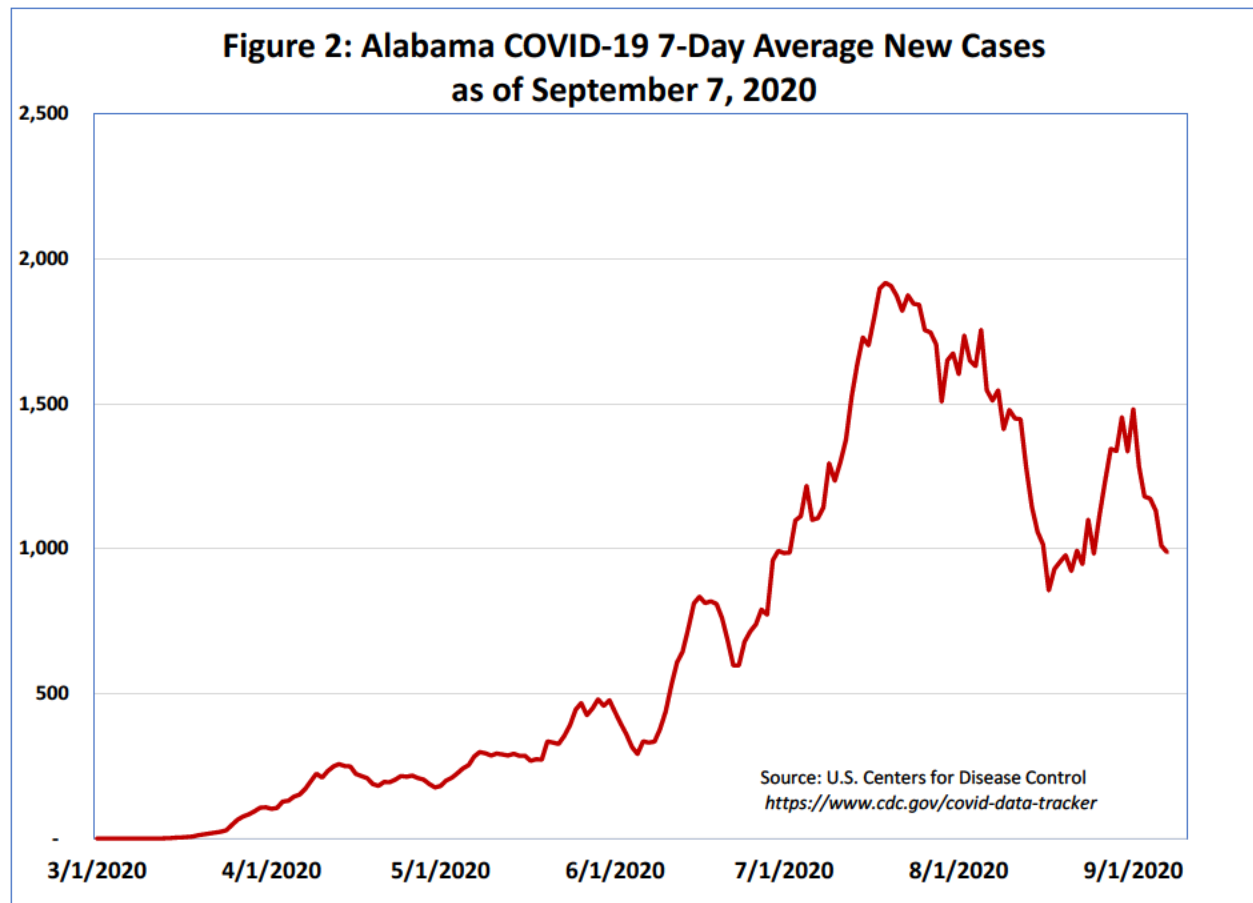
¹ World Health Organization, <https://covid19.who.int/>.

² Figure 1 data is from U. S. Centers from Disease Control, <https://www.cdc.gov/covid-data-tracker/>.

³ Source: European Centre for Disease Prevention and Control, data collated by University of Oxford Our World In Data, <https://covid.ourworldindata.org/data/owid-covid-data.csv>.

largely due to outbreaks on university campuses,⁴ it also had one of the highest rates in the country before the campuses reopened. Of course, actual rates of new infection are undoubtedly higher than the reported numbers, as many cases are not detected.

5. Whereas Alabama's current rate of new infection is lower than at the peak in July, it is more than double the level in the May-early June time frame when the Commission received supplemental briefing on the pandemic impacts (Figure 2). At the time of Alabama Power's reply to the supplemental briefing (June 5), Alabama had reported less than 20,000 cases of



⁴ See, for instance, University of Alabama System COVID-19 dashboard, showing over 2,600 positive tests during August 25 to September 3, <https://uasystem.edu/covid-19-dashboard/>.

COVID-19 to the U.S. Centers for Disease Control; as of September 7, that total is 132,973 and has been increasing by about 1,000/day.⁵

6. Efforts to develop a vaccine are showing progress in many countries, and some candidate vaccines likely will seek regulatory approval this autumn. However, it remains to be seen how quickly any vaccine can receive regulatory approval, ramp up manufacturing and distribution, and achieve a substantial level of acceptance within various populations.⁶

7. Accordingly, it should be expected that federal, state and local actions to attempt to control the pandemic will continue to influence economic circumstances. Large and small businesses in Alabama and across much of the globe will continue to sacrifice the quantities of their goods and services in the interest of the health and safety of their employees, customers and communities.

III. ECONOMIC OUTLOOKS

8. That the pandemic is likely to have significant economic impacts over the coming years is less uncertain than it was in the May and June time frame, when there was still some hope that the pandemic could pass quickly and allow economies to fully reopen. Moody's Investors Service August 2020 forecast of real U.S. GDP for 2020 and 2021 anticipates a decline of 5.7% in 2020 followed by an increase of 4.5% in 2021.⁷ However, Moody's Investors Service states that "economic recovery is tenuous with the pandemic proving difficult to contain" and

⁵ U. S. Centers from Disease Control, <https://www.cdc.gov/covid-data-tracker/>.

⁶ See, for instance, James Paton, Bloomberg News, *QuickTake: The Keys to Speed in Race for Vaccine, and Its Perils*, updated on September 2, 2020, <https://www.bloomberg.com/news/articles/2020-06-03/the-keys-to-speed-in-race-for-vaccine-and-its-perils-quicktake>.

⁷ Moody's Investors Service, *Global Macro Outlook 2020-21 (August 2020 Update)*, https://www.moodys.com/researchdocumentcontentpage.aspx?docid=PBC_1241698&cid=RCXRN9CU6689704.

1 “[r]isks to the economic outlook are tilted to the downside first and foremost because the world
2 is still battling the pandemic.”⁸ The International Monetary Fund’s latest outlook for the U.S. is
3 somewhat more pessimistic: a decline of 8% in 2020 followed by an increase of 5.4% in 2021.⁹
4 Both outlooks have the U.S. economy returning to the 2019 level of GDP in 2022 at the earliest.
5 In essence, forecasts of future U.S. GDP, which drive many other measures of economic activity
6 such as electricity demand, are pushed back by about three years.

7 9. Citing to a document from Morgan Stanley, the Commission’s August 14, 2020
8 Order in this docket stated that “some sources of publicly available information were forecasting
9 an economic rebound by the end of 2021, if not sooner.”¹⁰ The cited document is dated May 12,
10 2020; Morgan Stanley updated its outlook on July 29.¹¹ Morgan Stanley’s new Base Case
11 anticipates a second wave of rising infection rates and business tightening in the fall of 2020, a
12 vaccine arriving in the spring of 2021, and tepid economic growth (1.7%/year; pre-pandemic
13 expectations were over 2%) over 2020-2025.

14 10. With respect to the Alabama economy, the Center for Business and Economic
15 Research (“CBER”) at the Culverhouse College of Business, University of Alabama, provides
16 regular updates and forecasts. The most recent update, issued July 2020, has the Alabama
17 economy declining 5% in 2020 followed by an increase of 3% in 2021.¹² This is somewhat more

⁸ *Id* pp. 3-4.

⁹ International Monetary Fund, *World Economic Outlook Update*, June 2020,
<https://www.imf.org/en/Publications/WEO/Issues/2020/06/24/WEUpdateJune2020>.

¹⁰ August 14 Order p. 25, citing to Morgan Stanley Research, *Coronavirus: Recession, Response, Recovery*,
<https://www.morganstanley.com/ideas/coronavirus-impact-on-global-growth>.

¹¹ Morgan Stanley Research, *Life in the Time of COVID: Four Scenarios for the Road Ahead*, July 29, 2020,
<https://www.morganstanley.com/ideas/coronavirus-us-economic-outlook>.

¹² Center for Business and Economic Research, Culverhouse College of Business, *Economic Outlook Update: July 2020*, <https://alabama.app.box.com/s/2t73dfu9byxrbmn6qev8ztfut3u520p5>.

1 pessimistic than the previous update, from May 2020: a decline of 3.8% in 2020, followed by an
2 increase of 3% in 2021.¹³

3 11. Early in the pandemic there was a huge jump in unemployment in Alabama,
4 across the U.S., and in many countries; but it was expected that the vast majority of these
5 workers would be back to work soon as the pandemic passed and economies reopened. While
6 unemployment has declined, it remains very high, and many businesses are closing or converting
7 reductions in employment from temporary to long-term. The Alabama Department of
8 Commerce’s “Warn List” currently identifies over twenty businesses that have announced
9 Alabama plant closings or layoffs affecting thousands of Alabama workers, including such major
10 Alabama employers as U.S. Steel and Goodyear.¹⁴

11 12. CBER also routinely surveys Alabama business executives and publishes an
12 Alabama Business Confidence Index (“ABCI”).¹⁵ The most recent values of the ABCI were
13 50.5 and 51.8; these are the lowest values since 2015, and compare to values around 60 during
14 2017 to 2019.¹⁶

¹³ Center for Business and Economic Research, Culverhouse College of Business, *Economic Outlook Update: May 2020*, <https://alabama.app.box.com/s/gic7qqev5jsk7z63kwbfr8xmcwzxou57>.

¹⁴ Alabama Department of Commerce, *Made in Alabama, Plant Closings/Layoffs Warn List*, <https://www.madeinalabama.com/warn-list/?warn-year=>.

¹⁵ Center for Business and Economic Research, Culverhouse College of Business, *Alabama Business Confidence Index*, Volume 19, Third Quarter 2020, <https://cber.culverhouse.ua.edu/alabama-business-confidence-index/state-results/>.

¹⁶ *Id.*, p. 4.

1 **IV. IMPLICATIONS FOR ALABAMA POWER’S LOAD FORECAST AND NEED**
2 **FOR CAPACITY**

3 13. Beginning in March 2020, temporary closure of many businesses caused a sharp
4 decrease in electric loads in most areas. With reopening in many areas, loads are closer to prior
5 levels, and load patterns have changed somewhat due to increased working from home and
6 perhaps other changes.¹⁷ Load forecasts for future years will reflect the anticipated lasting
7 economic impacts of the pandemic rather than the short-term disruption of the past six months.

8 14. The B2019 Load Forecast Alabama Power relied upon in this docket was
9 prepared in 2018; it was based on economic and demographic forecasts from IHS Markit dated
10 May 2018.¹⁸ The outlook for the 2020 to 2024 time frame has worsened since that time. In my
11 opinion, if the Company were to update its load forecast, the economic downturn would
12 substantially affect the forecasts in all sectors.

13 15. In particular, the B2019 forecast for the industrial sectors was based upon sales
14 forecasts collected through surveys of large industrial customers.¹⁹ In light of the economic
15 downturn and reduced confidence of Alabama businesses, if the Company were to repeat its
16 surveys at this time, the industrial sales and peak load forecasts would be substantially lower.

17 16. The Commission’s August 14 Order in this docket recognizes (at p. 25) that most
18 of the generation resources proposed by the Company in this docket do not begin to support
19 customer needs until mid to late 2023. However, the August 14 Order also expresses concern (at

¹⁷ See, for instance, PJM, *Recent COVID-19 Load Impacts*, Planning Committee meeting, September 1, 2020, <https://www.pjm.com/-/media/committees-groups/committees/pc/2020/20200901/20200901-item-10-recent-covid-19-load-impacts.ashx>.

¹⁸ Hearing Transcript at page 285, lines 3-6 and page 290, lines 21-23; Energy AL/Gasp Hearing Ex. 13 at 1 (Ex. JFW-5, CONFIDENTIAL Response to Sierra DR-1 I-04 Attachment C).

¹⁹ Burke Rebuttal Testimony at page 16, line 14 through page 17, line 4; Energy AL/Gasp Hearing Ex. 13 at 5 (Ex. JFW-5, CONFIDENTIAL Response to Sierra DR-1 I-04 Attachment C).

1 p. 26) that if the Commission were to deny components of Alabama Power’s petition in this
2 docket due to the impacts of the pandemic, “cost-competitive resource options comparable to
3 those reflected in the proposed portfolio would no longer be available.” This concern is contrary
4 to the trends in the energy industry over many years now, with costs of technologies and fuels
5 continuing to decline due to innovation, competition, and increasing efficiency in production. In
6 addition, as the pandemic leads to delay or cancellation of some generation projects across the
7 globe, prices for turbines and other key components may be depressed for some period until
8 production adjusts or demand picks up.

9 17. The Commission’s August 14 Order also expresses concern (at p. 26) that because
10 the market has become aware that Alabama Power has a winter capacity need, it is “equally (if
11 not more) likely that an informed market would come to the table with different proposals in
12 hand, resulting in a portfolio that is less beneficial for customers.” While market participants
13 would undoubtedly come to the table with new and different proposals, I see no basis for the
14 expectation of reduced benefit to customers. This is not how markets, and in particular energy
15 markets in the U.S., work. Contrary to this expressed concern, when a market is informed, it is
16 likely that more potential providers will step forward, and will bring forth more options, greater
17 competition, and better results for consumers.

18 18. In conclusion, I find that if Alabama Power were to update its forecasts of loads
19 and capacity needs, they would be substantially lower for the 2020 to 2023 period than projected
20 by the B2019 Load Forecast; and if it were to update its resource development plans based on the
21 delayed future capacity needs, the revised plans would increase the benefits to customers.

22 19. I declare under penalty of perjury that the foregoing is true and correct.
23

1 Executed in Bethesda, Maryland, on this 10th day of September, 2020.

2 

3 _____
James F. Wilson