BUSINESS COUNCIL
OF ALABAMA

August 06, 2026

BY ELECTRONIC FILING

Alabama Public Service Commission
RSA Union Building
100 North Union Street, Suite 950
Montgomery, Alabama 36104

Re: Comments to *Generic Proceeding to Establish a Process for Consideration of Contracts for Electric Service Between Alabama Power and Large Load Data Center Customers* in Docket No. 33709

The Business Council of Alabama ("BCA") appreciates the opportunity to offer these comments pertaining to the generic proceeding initiated by the Alabama Public Service Commission ("APSC") in the above-referenced docket ("Generic Proceeding"). The APSC is seeking to assess whether or to what extent new or revised procedures and standards are needed for the review and approval of contracts for electric service between Alabama Power Company ("APC") and "large load data center customers."[1] As explained by the APSC in its order issued July 8, 2026 ("July Order"), this Generic Proceeding was prompted by recently enacted Act No. 2026-610 (Act No. 610, as codified in Alabama Code § 37-4-22.1), which specifies the showings that, if made, render such a contract in the public interest and thus appropriate for APSC approval.

BCA is the largest statewide business advocacy organization in Alabama, serving as the unified voice for the state's business community. BCA represents the interests of thousands of member companies and advocates on behalf of nearly one million working Alabamians. Its members include small, medium, and large businesses across diverse industries, and the organization engages with state and federal lawmakers to shape public policy on issues such as economic development, workforce training, tax policy, healthcare, and regulatory reform. Given this mission, BCA and its members are very interested evolving technologies and their potential to influence nearly every type of business or industry. As relevant here, these technologies rely on data centers–some quite large–that require significant amounts of electricity. The resulting new load requirements are prompting calls for assurance that utility contracts to serve large data centers will not cause rates for other customers to increase. To that end, the Generic Proceeding seeks to confirm that the APSC has in place an appropriate process to determine whether a proposed APC contract with a large data center customer satisfies the criteria set forth in Act No. 610 and thus is consistent with the public interest.

BCA offers the following comments in support of the current review process and procedures long used by the APSC for contracts submitted pursuant to Rate FCR (Flexible

---

[1] Alabama Code § 37-4-22.1(a).

P.O. Box 76 • Montgomery, AL 36101-0076 • Phone: 800 665-9647 • www.bcatoday.org

Contract Rate). For many years, Alabama has benefited from economic development attributable to a regulatory environment at the APSC that is considered stable, fair and efficient, including the review procedures involving contracts for larger commercial and industrial customers that are the driving force for economic expansion. While the APSC may find it appropriate to adjust certain limited aspects of that process (*e.g.*, specified timeframes for review and procedural mechanics for approval or disapproval), BCA perceives no need to revise the existing review framework and surrounding practices in any material way. Simply put, "if it isn't broken, don't fix it."

A. The APSC should stay focused on the legislative directive in Act No. 610.

From BCA's perspective, innovative technologies (if developed and deployed responsibly) present a generational opportunity to enhance Alabama's economic future by, among other things, increasing productivity, accelerating scientific discovery, spurring the development of new industries, improving public safety and facilitating access to knowledge. These technologies are here to stay, and there is a very real international race to see which countries will be at the forefront of development and thus best positioned to reap the benefits of their deployment. The growth in data centers is an integral and essential part of that process and critical to positioning the United States to prevail. Moreover, security considerations support the storage of our data in data centers located on American soil.

As noted in the July Order,[2] the scope of this proceeding is narrow, being limited to matters within the APSC's jurisdiction and, in particular, ensuring an efficient contract review process is in place when Section 37-4-22.1 becomes effective on October 1, 2026. To this end, BCA urges the APSC to stay focused on the specific showings prescribed by the legislature. Indeed, the APSC appears to identify only a few areas under the current FCR process that necessitate consideration (mainly of a timing and procedural nature), and yet it invites public comment on a wide range of other topics ranging from long-established costing fundamentals to an undefined "holistic review" pertaining to the addition of data centers.

Entertaining a more expansive process than necessary to implement Act No. 610, particularly one that invites delay and risks exposure of sensitive competitive information, is beyond the stated purpose of the Generic Proceeding and would undermine confidence in a stable regulatory environment that encourages economic development. Such would be contrary to what BCA sees as the legislative objective of Act No. 610, which is to encourage the timely development and deployment of data centers for the benefit of the state, provided the interests of other electric service customers in Alabama are protected. Both are accomplished if the criteria set forth in the

[2] *See* July Order at p. 7 ("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").

statute are satisfied, in which case the electric service contract is, by definition, consistent with the public interest and due to be approved.

B. The existing FCR process is a proven means for reviewing data center and other contracts to determine whether they benefit all customers and are thus in the public interest.

A comparison of the criteria applied under Rate FCR[3] and those contemplated under Section 37-4-22.1[4] reveals remarkable similarity to the point where one might reasonably conclude that the purpose of Act No. 610 was largely to codify those existing requirements and ensure they continue to be applied to evaluate contracts between APC and "large load data center customers".[5] This, coupled with the APSC's general overview of the FCR process—as expanded and clarified in APC's Confirmation of Consent filed on July 13, 2026—makes it apparent to BCA that the APSC has long been applying the appropriate analytical assessment to evaluate such contracts, as augmented by the longstanding practice of pre-filing review to confirm that Staff has the information it needs to make the necessary determinations concerning a given contract.

For purposes of statutory compliance, BCA concurs that the review process needs to include the one element from Act No. 610 not explicitly set forth in the FCR process, *i.e.*, "[w]hether 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". As well, BCA would have no objection to modest changes in the post-filing timeframes or procedures for purposes of "deemed approved" or "disapproval" by the APSC. However, BCA would oppose suggested revisions that, as applied, would inject inordinate delay in a review process that has a long and effective history. Nor is there any reason to question the ongoing use of analytical tools, techniques and data that are reliable and fully understood by the Staff, APC and the industry at large. Having in place a streamlined and well-defined review process is important because customers contemplating contracts such as these must typically move forward with reasonable speed or otherwise may be forced to pursue options elsewhere. Should that occur, other APC customers (and the State at large) will miss out on the benefits that such contracts (if approved) would otherwise provide.

C. The APSC must continue to protect confidential and proprietary contract information.

In its capacity as representative of the business community, BCA is very attuned to the need to preserve and protect information that is confidential and proprietary to an individual company or enterprise. The disclosure of otherwise non-public information can do significant harm to a contracting electric service customer, providing competitors, suppliers and others with

---

[3] *See* July Order at p. 3.

[4] *See* Section 37-4-22.1(b), as discussed in July Order at pp. 3-5.

[5] *See* Section 37-4-22.1(a)(2) (data processing center with an expected total peak demand of 150 megawatts or greater).

damaging insight into sensitive areas such as financial inputs (*e.g.*, unit prices, escalation provisions, minimum payment obligation, contract duration), the nature and extent of expansion plans (*e.g.*, size, location, timeframe), market entry strategies, and system architecture and performance expectations. Confidentiality is no doubt an important concern of APC too, as the disclosure of critical contractual terms and conditions vis-à-vis one customer could adversely impact APC's ability to negotiate favorable terms (for the benefit of customers) with another party.

The discussion above is offered to underscore the importance of protecting commercially sensitive and confidential information, as recognized in the July Order.[6] BCA has no doubt that the APSC and its Staff are well acquainted with the handling of such information and appropriate steps and procedures for preventing disclosure.[7] BCA is likewise confident that the Attorney General's Office will implement appropriate protective measures with respect to all such non-public information made available during the temporary modification of the Rate FCR process.[8] Apart from such access afforded Staff and the Attorney General's Office for review and evaluation purposes, it is critically important that the Commission's procedures permit no wider disclosure of confidential information contained in the subject contracts.

BCA applauds the APSC for taking the proactive step of initiating this Generic Proceeding to ensure an effective and efficient review process is in place to implement Alabama Code § 37-4-22.1 when it takes effect on October 1, 2026. As indicated above, BCA believes that, with minimal revisions, the current review process under Rate FCR can be adapted to accomplish this goal. The APSC should not allow this Generic Proceeding to drift beyond what is necessary in that regard. BCA appreciates the opportunity to provide this input and looks forward to continued engagement on this matter.

Sincerely,

President and CEO
Business Council of Alabama

---

[6] *See* July Order at p. 6.

[7] Section 37-1-13 establishes a penalty for any APSC employee who inappropriately discloses information obtained through the course of the regulatory function.

[8] *See* APC's Confirmation of Consent filed on July 13, 2026.