



STATE OF ALABAMA
ALABAMA PUBLIC SERVICE COMMISSION
P.O. BOX 304260
MONTGOMERY, ALABAMA 36130-4260

CYNTHIA LEE ALMOND, PRESIDENT

JEREMY H. ODEN, COMMISSIONER, PLACE 1

CHRIS V. BEEKER III, COMMISSIONER, PLACE 2

LUKE D. BENTLEY IV, EXECUTIVE DIRECTOR

**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:

On July 8, 2026, the Commission issued an order (“Initial Order”) to establish a generic proceeding to develop new procedures for the review and approval of contracts for electric service between Alabama Power Company (“Alabama Power”) and large load data center customers. The Initial Order proposed a new framework for reviewing such contracts and sought public comments to be filed within a designated period. After considering the filed comments, the Commission hereby adopts new review procedures. To explain the rationale for the adopted review procedures, the following sections describe: the background for this generic proceeding; the framework proposed in the Initial Order; the Commission’s response to the public comments; and the new procedures established in this order.

Background

Alabama law permits electric utilities, such as Alabama Power, to enter into a contract to provide electric service subject to Commission approval upon a finding that its provisions are “consistent with the public interest.” Ala. Code § 37-4-22. In accordance with this code section, the Commission approved Rate FCR (Flexible Contract Rate) in 1996 in Docket U-3672. Rate FCR established a process for reviewing and approving contracts for electric service for commercial and industrial customers who need flexibility and have an account of at least one megawatt.

Rate FCR set the following 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

Contracts reviewed under Rate FCR are deemed approved ten days after filing with the Commission, unless the Commission disapproves the contract within the ten-day period.

Before initiating this generic proceeding, the Commission addressed electricity service contracts with large load data center customers pursuant to Rate FCR. As set out in the Initial Order, during the pendency of this generic proceeding, Alabama Power could continue to submit contracts with large load data centers under the Rate FCR process, with the following agreed-to, temporary modifications: 1) requirement that Alabama Power provide a copy of the unredacted filing to the Attorney General; and 2) the extension of the review period to forty-five days. Alabama Power filed its consent to these terms.

A recently enacted law, Act No. 2026-610 ("Act 610"), defines terms and refines the public-interest standard required by Section 37-4-22 for Commission approval of contracts for electric service between Alabama Power and large load data center customers, as follows:

- (a) For purposes of this section, the following terms have the following meanings:
- (1) Incremental costs of retail electric service. 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.
 - (2) Large load data center customer. 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.
 - (3) Terms and conditions. The provisions in a contract for service between a customer and utility which address matters such as minimum term for contract length, upfront payments, security and collateral, and minimum payment.

(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 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.

While the criteria established by Rate FCR generally reflect the standards in Act 610, the Initial Order recognized that Rate FCR was approved years before the emergence of large load 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 identified two specific issues with evaluating large load data center customers under Rate FCR: first, some contracts with large load data centers may require more than ten days to review; and second, the Rate FCR process does not incorporate the Office of the Attorney General ("Attorney General"), the statutory representative of the using and consuming public. Therefore, the Commission found it appropriate to initiate this generic proceeding to consider new procedures for the review and approval of contracts for electric service between Alabama Power and large load data center customers.

Framework Proposed in Initial Order

In the Initial Order, the Commission proposed and sought comments on the following framework for review of contracts for electric service to large load data centers:

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 service 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 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.

Commission Response to Public Comments

To gather public input, the Initial Order established a schedule for submitting public comments, with initial comments due on or before August 6, 2026, and reply comments due on or before August 21, 2026. In addition to seeking public comment on the proposed framework described above, the Commission

also sought public input on certain identified issues;¹ however, the Initial Order indicated that the Commission would limit its consideration to issues related to the review of contracts pursuant to Ala. Code §§ 37-4-22 and 37-4-22.1. The Commission encouraged commenters to refrain from submitting comments outside of the scope of these statutes or the Commission's authority. For instance, as recognized in the Initial Order, Alabama law does not grant the Commission jurisdiction over data center siting or environmental regulation.

During the comment period, the Commission received 19 sets of initial comments and 10 sets of reply comments, from the following:

Initial Comments	
Alabama Power Company	Attorney General's Office
Energy Alabama	Americans for Prosperity-Alabama
Manufacture Alabama	Energy Institute of Alabama
Business Council of Alabama	Southern Environmental Law Center
Customers in Oxmoor Valley near planned data center (also plaintiffs in lawsuit)	Jeri Mathews & Debbie Byrd Weaver
Sierra Club	Arie Lucille Kimble-Foster
Data Center Coalition	Alabama AFL-CIO
Jim Zeigler	Southeast Energy Efficiency Alliance
Black Warrior Riverkeeper	Ricky A. Neighbors
Gulf States Renewable Energy Industries Association	

Reply Comments	
Alabama Power Company	Energy Alabama
Senator Lance Bell	Alabama Industrial Consumers
Mary Rosenboom	Southern Environmental Law Center
Wanda Shelby	Manifest Energy
Gulf States Renewable Energy Industries Association	Arie Lucille Kimble-Foster

¹ The issues identified in the Initial Order included: contract review standards; methodologies and assumptions for incremental cost analysis; evaluation of benefits to other customers; economic development considerations; evaluation of power system efficiency; appropriate contract terms and conditions; the review timeline; submission requirements; the role of the Attorney General; public notice and transparency; post-approval monitoring; procedure for contract modifications; possible alternative review processes; and big picture planning.

The Commission made all comments available on its website, where they remain for public review. Overall, the comments were thoughtful, detailed, and varied. They provided numerous perspectives and information that proved useful in developing the approved procedures.

The following summarizes representative comments and provides the Commission's responses. These summaries and responses are organized around the framework proposed in the Initial Order, followed by comments and responses related to issues identified in the Initial Order. To avoid redundancy, the following does not list every issue identified in the Initial Order as a separate category because some are fully addressed elsewhere. For example, the comments and responses related to the issue of the *Role of Attorney General* are addressed in the *Notice to the Attorney General* category.

I. Applicability and Scope

As stated above, the Initial Order proposed that the new procedures apply to all Alabama Power electric service contracts with customers that meet the definition of a large load data center customer under Act 610.

A. Comments

Several comments referenced the Commission's jurisdiction and urged narrow applicability and scope. Alabama Power stated that "there are limits to the jurisdiction of the Commission.... It does not, for example, regulate customer siting matters (such as permitting and zoning), or environmental regulation." The Business Council of Alabama echoed those concerns, commenting that the proceeding's scope is narrow and that "Alabama law does not grant the Commission jurisdiction over data center siting or environmental regulation." In addition to requesting a narrow scope, Alabama Power also sought clarification, indicating its assumption that "the Commission's intended scope here is limited to contracts for which the Company today would seek Commission approval, either under Rate FCR or Ala. Code § 37-4-22."

Other commenters requested a broader applicability and scope. Black Warrior Riverkeeper asked “that the PSC expand the proposal to include all data centers with greater than 25 to 50 megawatts of capacity rather than the new law’s minimum 150 megawatts.” The Sierra Club sought a tiered approach, suggesting that “for contracts involving loads of 500 MW or greater, or involving complex contract structures, the Commission should establish a contested case proceeding with opportunity for discovery, testimony, and a hearing.” The Southern Environmental Law Center (“SELC”) also recommended “that the Commission broaden the range to at or more than 100 megawatts of capacity.”

B. Commission Response

Act 610 clearly defines large load data center customer, and the Commission finds no reason to extend these new procedures beyond customers that meet that definition. The procedures adopted in this order shall apply only to large load data center customers as defined by Act 610. To respond to Alabama Power’s request for clarification, the scope of the approved procedures is limited to contracts for which Alabama Power would have sought Commission approval under Rate FCR or Ala. Code § 37-4-22.

For data center customers with capacities less than 150 megawatts (the new law’s threshold), Rate FCR would continue to be applicable. In response to Black Warrior Riverkeeper’s request to include smaller data center customers, the standards in Rate FCR, which generally reflect the standards in Act 610, still apply. The Commission will continue to ensure that contracts with data center customers, including those evaluated under Rate FCR, meet those requirements.

Neither the proposed framework nor the identified issues suggest that the Commission intended to push the bounds of its jurisdictional authority with this generic proceeding. The Initial Order stated that “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” and encouraged the public “to refrain from submitting comments outside of the scope of these statutes or the Commission’s authority.” The Initial Order informed the public that “Alabama law does not grant the Commission jurisdiction over data center siting or environmental regulation.” To address commenters’ concerns about jurisdiction, the procedures approved in this order

address the review of contracts for electric service, a matter that falls squarely within the Commission's jurisdiction under both legacy Title 37 statutes and the newly passed Act 610.

II. Submission Requirements

As stated above, the Initial Order proposed that Alabama Power must 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.

A. Comments

Several commenters asked the Commission to require more public information about the large load data center customer. Energy Alabama requested that the public filing include the "customer's identity, including its ultimate corporate parent." The SELC suggested that "the Commission should consider requiring the following terms be made public: contract length, minimum payment obligations, cost allocation, exit fees, contracted load size, and the identity of the end user." SELC also asserted that the Commission should require the public notice to include the "identity of the data center end user, an explanation (in clear English) of the material terms of the contract."

Many commenters suggested the Commission require certain information to support the public interest determination. Sierra Club remarked that the proposed requirements are a "good baseline" but that "to ensure consistency between contracts, the Commission should request all supporting studies, analyses, and documentation relied upon negotiating, evaluating, and approving the proposed contract." The Sierra Club also suggested that the submission include information about the data center customer's "anticipated load profile, including expected variability, ramp schedule, targeted in-service date, and potential flexibility, as these project features will impact the extent and nature of the grid upgrades required to support the project." Energy Alabama proposed that the submission include a "load-materialization risk analysis showing outcomes for other customers if the load arrives at 100 percent, 50 percent, and zero percent of contracted capacity, and if the customer exits at the earliest permitted date." Customers in Oxmoor Valley wanted the submission to include the "total and levelized incremental cost of that [incremental generating] capacity and of any required transmission and interconnection upgrades, and whether 100% of that cost is

recovered from the customer over the term.” Gulf States Renewable Energy stated that “[t]he methodologies and findings that establish cost recovery and customer benefit should be public; genuinely sensitive commercial terms can be protected under a standard protective order.”

Many commenters support confidential treatment of certain information consistent with Alabama law. Americans for Prosperity stated that “[m]atters submitted to a public agency that are appropriate for confidential treatment under any relevant provision of Alabama law should be provided confidential treatment regardless of who submits the information, including a large load data center, Alabama Power, and any and all other persons and entities.” The Data Center Coalition commented that “material commercial terms and supporting information should be redacted when disclosure could cause competitive harm, subject to the Commission's established procedures and applicable Alabama law.” The Energy Institute of Alabama stated that “[a]ny process the Commission settles on should treat this information as the sensitive critical-infrastructure data it is.”

Alabama Power recognized that the proposed submission requirements align with the current review under Rate FCR. Alabama Power sought clarification on “whether the supporting materials that include confidential data and calculations need to be filed in redacted form, or simply submitted in a confidential, unredacted form to the Commission Staff and the Office of the Attorney General.”

Several commenters asked the Commission to require Alabama Power to explain why it should not publicly disclose certain information. Energy Alabama requested a redaction justification, specifically that “[f]or every item redacted from the public version, a specific justification of why the item is a trade secret or confidential commercial information. Blanket redactions should be rejected.” SELC stated that “[t]he Commission should create standards that allow for redactions of legitimate trade secrets or confidential infrastructure information while requiring public disclosure of material terms (i.e., those that are necessary to evaluate cost allocation, ratepayer risk, and system impact).”

Some commenters urged greater public transparency. Arie Lucille Kimble-Foster commented that “[t]he APSC must mandate total financial transparency,” and that “[n]o large-load data center contract

should be approved if the utility redacts the actual financial figures, load-build-up periods, or minimum-bill details from the public record.”

B. Commission Response

The Commission agrees with commenters (Energy Alabama and SELC) who asked for more required public information and also with commenters (Data Center Coalition) that recognized that publication of material commercial terms could cause competitive harm. The “total financial transparency” requested by Arie Lucille Kimble-Foster would cause competitive harm. The Commission also agrees with the Energy Institute of Alabama that sensitive critical-infrastructure data should not be made public. The Commission’s submission requirements must balance these concerns by identifying information that may be made public without compromising future negotiations or public safety.

Balancing these concerns, the Commission agrees with Energy Alabama and SELC that the customer’s identity, including its ultimate corporate parent, should be made public. This information would not compromise future negotiations or public safety. However, the Commission does not agree with SELC about making certain material contract terms public. Making the contract length, minimum payment obligations, cost allocation, or exit fees public could compromise future negotiations, which could affect Alabama Power’s other customers.

The Commission generally agrees with the commenters that suggested the Commission require Alabama Power to submit certain information to meet the public interest determination. The Commission finds that Alabama Power must provide a detailed analysis demonstrating how the contract satisfies the requirements of Alabama Code § 37-4-22.1(b), including information to show that the contract provides for the recovery of the incremental costs of retail electric service to the large load data center customer and promotes positive benefits to other retail electric customers of the utility. Alabama Power must also provide 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. Further, Alabama Power must timely respond to any questions from the Commission or the Attorney General regarding the provided information.

In response to the commenters who asked the Commission to require Alabama Power to explain why it should not publicly disclose certain information, the Commission generally agrees regarding the terms in the contract itself. To address this, the Commission will direct Alabama Power to submit a redacted version of the contract to the Commission and the Attorney General and identify the reasons for the redactions. Although this version is not required to be publicly filed, the Commission could make it available to the public through an Open Records Act request. The other information submitted to the Commission and the Attorney General, such as the Rate Impact Measure (“RIM”) test, includes confidential information that would compromise future negotiations if made public. However, Alabama Power must generally describe the analysis performed as part of its public filing.

To clarify Alabama Power’s confusion on “whether the supporting materials that include confidential data and calculations need to be filed in redacted form, or simply submitted in a confidential, unredacted form to the Commission Staff and the Office of the Attorney General,” the process approved in this Order requires that information to be included in the confidential submission to the Commission and the Attorney General.

After consideration of the comments, the Commission continues to find that the best option remains a two-tiered submission framework, with some changes based on public input. Therefore, Alabama Power is required to: 1) file a Petition to Contract with Large Load Data Center (“Petition”) with the Secretary of the Commission; and 2) contemporaneously with the Petition, provide the Legal Division of the Commission and the Attorney General with the contract and required supporting documents (“Confidential Submission”).

The Petition, which will be available to the public, shall include: 1) cover letter; 2) contract summary (including name of counterparty and parent entities, municipality or county where facility is located, and the maximum contracted electric capacity); 3) a summary of the methods utilized to ensure compliance with the “public interest” statutory and regulatory requirements; and 4) a certificate of service reflecting contemporaneous delivery of the Confidential Submission to the Legal Division of the Commission and the Attorney General. If the Petition represents that the data center customer has made

specific pledges or agreements to support economic development, the Commission encourages Alabama Power to include signed statements from that customer reflecting those pledges or agreements.

The Confidential Submission shall include: 1) a complete copy of the contract, including all exhibits, attachments, and amendments; 2) a copy of the proposed contract, including all exhibits, attachments, and amendments, redacted to remove all confidential and proprietary information, along with a description of the basis for the redactions; 3) a detailed analysis demonstrating how the contract satisfies the requirements of Alabama Code § 37-4-22.1(b), including the estimated incremental capacity required to maintain reliability, the estimated cost of total incremental generation that should be allocated to the project, the estimated cost of bulk transmission that should be allocated to the project, customer-specific direct costs, estimated revenue under the contract for the term of the contract, RIM test results showing the comparison of the incremental costs of serving the contract capacity with the revenues generated by the contract over its term; 4) 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; and 5) 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

The Initial Order proposed that Alabama Power provide the Attorney General with a complete copy of all materials submitted to the Commission Staff. This would include the unredacted contract and all exhibits, attachments, amendments, and supporting documents.

A. Comments

The Attorney General explained that funding constraints materially affect its participation: “the legislature has not appropriated any money for [the Consumer’s Utility Rate Hearing Fund] since 2013,” and, “[c]onsequently, for more than 13 years the attorneys in the Attorney General's Office have been almost completely dependent upon the PSC technical staff for assistance in providing ratepayer representation.” The Attorney General also addressed limits on whom it represents and urged a public-participation procedure: “Unfortunately, the Attorney General represents all ratepayers collectively and is unable to

represent the interests of particular classes of ratepayers. Individual ratepayers must be able to address the commission to protect individual interests.”

The Sierra Club commented that the “framework should be strengthened to ensure that the Attorney General's participation is meaningful” by allowing the Attorney General “an opportunity to request that a case be contested when warranted by the contract's terms or potential impacts.” The Sierra Club also stated that “[t]he Commission should not approve contracts over specific, substantiated objections from the Attorney General without providing opportunity for hearing and response.”

Several commenters raised concerns that the process would create a new role for the Attorney General. Manufacture Alabama objected to the creation of a mandatory role for the Attorney General, arguing that such a role is not authorized by Act 610, stating that “[t]he Legislature knows how to assign a function to the Attorney General when it intends to, and it did not do so here,” and that the Commission “cannot, by order, confer upon another constitutional officer a statutory role in this process that the Legislature declined to establish.” The Energy Institute of Alabama pointed out that Act 610 “is silent on the Attorney General altogether.”

B. Commission Response

The Commission finds that requiring Alabama Power to provide information to the Attorney General does not create a new role for the Attorney General or require the Attorney General to take any action. This requirement simply ensures that the Attorney General has an opportunity to review the same information that Alabama Power provides to the Commission. To receive this information, the Attorney General would not need to file a petition to intervene. Consideration of these Petitions would not be a case or proceeding before the Commission. Alabama Power would be required to provide information to the Attorney General as an integral part of the approved process.

In response to the Sierra Club’s suggestion that the process should be “strengthened” to ensure meaningful participation by the Attorney General. The Commission finds it best to leave the process open enough to allow the Attorney General to participate at its discretion as contemplated by Alabama law. The Commission does not seek to enlarge or foreclose any participation by the Attorney General. The

Commission does recognize that the Attorney General plays a crucial role as the representative of the using and consuming public, pursuant to Ala. Code § 37-1-16. The Attorney General's comment that it "represents all ratepayers collectively" should not prevent it from participating in review of contracts with large customers that impact all ratepayers as a collective group.

Therefore, after considering the comments, the Commission continues to find it appropriate and in the best interest of all customers to require Alabama Power to provide the Attorney General with the Confidential Submission contemporaneously with the filed Petition.

IV. Review Period

The Initial Order established a 60-day review period, and that the contract is deemed approved by the Commission if it is not disapproved within that period. The proposed process included the requirement that, during the review period, Commission Staff shall review the submitted contract and the 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. The Initial Order stated that, during the review, Commission Staff and the Attorney General may request information from Alabama Power or recommend modifications.

A. Comments

Some parties generally agreed with the 60-day review period. The Business Council of Alabama stated that it "would have no objection to modest changes in the post-filing timeframes." The Data Center Coalition recommended a 30-day standard review period with an option for the Commission to extend the review period by an additional 30 days "due to a contract's complexity, a material information deficiency, or a specific unresolved issue." The Data Center Coalition indicated that "this approach preserves the full 60 days when necessary without making it the routine period for contracts that present no unusual concern." Alabama Power discussed past pre-filing reviews by Commission Staff, indicating that "the most recent contract pre-filing review encompassed nearly 60 days" and that the "duration of this pre-filing review process varies with the complexity of the contract being proposed."

Some commenters stated that a 60-day review period is not sufficient. SELC stated that "sixty days is a short window for a contract that should last decades and could have multi-million or billion-dollar

impacts.” Americans for Prosperity contended that a 120-day review period would be more appropriate and that there should be an “extension process.” Energy Alabama further commented that “[s]ixty days is not enough time to review a contract that can bind the system for decades and rival the largest generating units in scale, and the proposed deemed-approval mechanism compounds the problem.” Energy Alabama recommended a 90-day review period with the possibility of an extension to 150 days “for contracts presenting unusual complexity, such as non- conforming terms, self-supply or co-located generation components, novel pricing structures, or aggregated multi-site arrangements.” In its reply comments, Energy Alabama pointed out that “[n]o commenter [in the initial comment period] argued that ten days of post-filing review is sufficient for contracts of this magnitude.”

Some commenters indicated concern about an unnecessary delay. Alabama Power “would recommend that the Commission reserve for itself the authority to recognize at a Commission meeting occurring within the 60-day window that a new contract has been reviewed and approved.” The Business Council of Alabama “would oppose suggested revisions that, as applied, would inject inordinate delay in a review process that has a long and effective history.”

B. Commission Response

The Commission continues to find that a 60-day period is generally sufficient to review a contract between Alabama Power and a large load data center customer. Alabama Power supports this by noting that a recent pre-filing review took about this long. However, the Commission recognizes that, as some commenters noted, more complex contracts may require more time to review. Additionally, the Commission has limited resources and may need more than 60 days for a review during particularly busy periods.

The Commission also recognizes that some contracts may not require a 60-day review and that unnecessary delay could be avoided if the process allowed for a quicker decision. A process that contemplates a vote by the Commission, without a mandated review period, allows for a quicker decision on less complicated contracts. As discussed below, the Commission intends to vote on each Petition as soon as the review is complete. The Commission does not intend to wait until near the end of the review period to vote or to rely on the “deemed approved” aspect of this process. To facilitate efficiency, Alabama Power

is encouraged to provide detailed information and respond quickly to any questions from the Commission or the Attorney General.

After considering the comments, the Commission finds that a 90-day review period is appropriate and would allow for sufficient time for review, even when resources are stretched thin. Even with a 90-day review period, the Commission encourages Alabama Power to file the Petition and provide the Confidential Submission at least 120 days before the date the contract would become void for failing to meet the condition precedent of Commission approval. After the Petition is filed, Commission Staff and the Attorney General may serve the Company representative with inquiries or data requests. Alabama Power shall use its best efforts to respond within five business days. Staff may communicate with Alabama Power about potential modifications to the contract and/or the supporting documents provided. The Attorney General may request to be included in any communication between the Staff and Alabama Power and have access to all data requests from Staff, along with Alabama Power's responses. The Attorney General may also offer suggested modifications to the contract. Staff will recommend approval or disapproval at a publicly noticed meeting.

Given the 90-day review period, compared to the 10-day period in Rate FCR, there is no longer any need to provide Commission Staff with an informal filing before the formal filing of the Petition. Therefore, Alabama Power shall not informally submit information about an upcoming filing under this process to Commission Staff or the Attorney General prior to filing the Petition.

V. Deemed Approval Provision

The Initial Order stated that, if the Commission does not issue an order disapproving the contract within sixty calendar days of filing, the contract shall be deemed approved by the Commission. As proposed in the Initial Order, the Commission would then recognize the approval at the next Commission meeting, but no vote or order would be required.

A. Comments

Some commenters argued that the "deemed approved" provision is unlawful. The Attorney General asserted that "[t]here is no statutory legal basis for a preemptive prospective approval of contracts filed

pursuant to a tariff without a vote of the commission.” The Attorney General asked the Commission to “clarify its procedures in these matters by explaining whether there are any circumstances in which the staff recommendation is determinative, without any further action by the Commission.” SELC asserted that “[a]utomatic approval would circumvent the statutory framework established by the legislature,” and that the law “necessitates a close look, analytical determinations, and explicit approval.”

Some commenters contended that the magnitude of these contracts requires a Commission vote rather than the “deemed approved” process. Energy Alabama stated that “[c]ontracts of this magnitude should require an affirmative Commission vote, just as new generating plants require affirmative Commission authorization.” Customers in Oxmoor Valley indicated a preference for “[a]n affirmative Commission vote rather than 60-day ‘deemed approval’ for any contract that, on the Company’s own IRP, drives hundreds of megawatts of new capacity.”

Several commenters preferred a Commission vote over the “deemed approved” provision. The Sierra Club indicated that “contracts should require affirmative Commission approval by an order following Staff recommendation.” Ricky A. Neighbors stated that “the Commission should avoid any process where silence becomes approval without a clear public record.”

Several commenters supported the “deemed approved” provision. Alabama Power and the Business Council of Alabama supported the existing FCR framework. Alabama Power responded to the Attorney General’s assertion that Alabama law requires a Commission vote to approve a contract. Alabama Power stated that “the Commission does not delegate to the Staff contract approval authority under Rate FCR when it relies on Staff’s knowledge and expertise, or when it relies on Staff to perform evaluative functions in support of the Commission’s regulatory responsibilities.” In its reply comments, Alabama Power also pointed out that the “deemed approved” process is comparable to the process in Alabama Code § 37-1-81, “by which the Legislature expressly provided for rates to go into effect absent suspension or disapproval by the Commission within a prescribed period.”

B. Commission Response

Regarding the position that the “deemed approved” concept is inconsistent with Alabama law, the Commission agrees with Alabama Power’s comments. Alabama law states that “[i]f the commission shall find the provisions of any such contract consistent with the public interest, it shall approve the same.” Ala. Code § 37-4-22. This section does not explicitly require a Commission vote; therefore, the relevant question is what methods Alabama law gives the Commission to indicate its approval. The Commission could vote, as it does for many matters, including the approval of this process. Under this new process, the Commission does intend to vote on whether to approve contracts with large load data center customers. However, as Alabama Power recognized, the statutory process for considering utility rate filings contemplates approval without a vote. Pursuant to Alabama law, a proposed rate may be allowed to go into effect “[i]n the absence of suspension or disapproval by the commission.” Ala. Code § 37-1-81. Therefore, the “deemed approved” provision of the process approved here is consistent with Alabama law.

Despite the legality of the “deemed approved” provision, the Commission finds that it should vote on contracts between Alabama Power and large load data center customers. The Commission generally agrees with commenters, like Energy Alabama, that stated that contracts of this magnitude should receive an affirmative Commission vote. The Commission intends to vote on each Petition, as it does on the vast majority of rate filings submitted pursuant to Section 37-1-81. Contract approval after 90 days without a vote sets a strict period for Commission review, recognizing that a review period without the “deemed approved” aspect would carry no consequence for inaction.

Therefore, after considering the comments, the Commission finds that contracts submitted under this process shall be approved or disapproved through a Commission vote. However, if the Commission fails to vote within 90 days of the filing, the Petition is deemed approved.

VI. Disapproval and Modification

The Initial Order stated that, 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.

A. Comments

Regarding modifications, Alabama Power supports review and approval of “any material amendment” to an approved Rate FCR contract. For non-material changes, Alabama Power typically gives notice to Commission Staff. Alabama Power also states that self-executing modification provisions may be used without filing when the modification would not affect compliance with the applicable Rate FCR review criteria.

B. Commission Response

The Commission agrees with Alabama Power that a material change to an approved contract warrants review and approval by the Commission. Such review should follow the same process as an original filing, but, depending on the modifications, the review and decision could occur in a shorter time. The Commission also agrees with Alabama Power that notice to the Commission is sufficient for non-material changes. The Commission reserves the right to find that a modification presented as non-material is actually a material modification that requires review through the approved review process. Further, self-executing modification provisions may be used without filing when the modification would not affect compliance with the applicable review criteria.

VII. Confidentiality

The Initial Order recognized 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.

A. Comments

Numerous comments recognized the importance of maintaining confidential information. Alabama Power stated that procedures to protect confidential information “include, but are not limited to, the separation of public and non-public information as part of the Commission's administrative record, and a

limitation on access to such information to personnel of the Commission and the Office of the Attorney General.” The Data Center Coalition indicated that “[c]ontracts for electric service with large load-data center customers are individually negotiated and may contain competitively sensitive information, including pricing and billing structures, load-ramp and development schedules, security and collateral arrangements, termination obligations, customer-identifying information where appropriate, and other facility-specific commercial terms.” The Data Center Coalition stated that “[p]ublic disclosure of these terms could reveal proprietary business plans and procurement strategies, compromise a customer's competitive position, and impair the parties' ability to negotiate future agreements.”

Regarding what information should remain confidential, the Data Center Coalition stated that “material commercial terms and supporting information should be redacted when disclosure could cause competitive harm, subject to the Commission's established procedures and applicable Alabama law.” The Sierra Club commented that “[c]onfidential treatment, if granted, should be narrowly limited to detailed proprietary information about the customer's operations, detailed credit and financial information, and specific security or operational details that could present safety risks,” and that “[g]eneric assertions that information is ‘commercially sensitive’ should not be sufficient to shield core contract terms from public review.” SELC stated that “[t]he Commission should create standards that allow for redactions of legitimate trade secrets or confidential infrastructure information while requiring public disclosure of material terms (i.e., those that are necessary to evaluate cost allocation, ratepayer risk, and system impact).”

Regarding what information should be public, the Sierra Club stated that “[i]nformation that should be public includes the large load data center customer's name and general location, contract capacity and expected energy usage, contract term and key commercial provisions (such as minimum billing requirements, exit fees, load ramp schedules, general contract provisions, the amount of energy requested, and the general collateral framework), a summary of the customer's economic commitments (including anticipated jobs and investment), staff analysis and recommendations, and the Commission's final order with its findings.” Energy Alabama commented that “[t]he following should always be public: the identity of the customer and its ultimate corporate parent; contracted capacity and location (at least to the county

level); contract term and ramp schedule; the minimum billing demand percentage and the form of credit support; the expected in-service date; and the Commission's complete analysis of statutory compliance.”

Some commenters offered solutions to balance transparency and confidentiality. Gulf States Renewable Energy recommended “a two- tier approach: a public version of every filing—including the cost-of-service methodology, the categories and magnitudes of incremental cost, the benefit analysis, and the required findings—should be placed on the public docket, while genuinely sensitive, competitively harmful specifics (for example, customer- identifying details or negotiated unit pricing) may be filed under a standard protective order and made available to Staff, the Attorney General, and reviewing parties who execute appropriate confidentiality undertakings.” Energy Alabama proposed a required “redaction justification,” which would include “specific justification of why the item is a trade secret or confidential commercial information.”

B. Commission Response

The Commission agrees that it must balance transparency and confidentiality, as discussed above in the section regarding submission requirements. The Commission seeks to provide transparency to the public and promote confidence in the evaluation of each contract. Gulf States Renewable Energy's two-tiered proposal is reasonable and generally consistent with the Commission's approach. Alabama Power must file a public petition with the Secretary of the Commission and provide the Commission's Legal Division and the Attorney General with the contract and required supporting documents.

The Commission recognizes that contracts may contain commercially sensitive and confidential information. Therefore, the Commission, through its Legal Division, 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. Contract Review Standards

The Commission sought comment on the specific criteria the Commission should 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.

A. Comments

Alabama Power recognized that Act 610 “generally reflects the requirements of the existing Rate FCR review process,” and commented that the proposed review process “offers a very workable and effective means” by which the Commission can evaluate whether a large load data center customer contract satisfies those requirements. Alabama Power further stated that “it seems evident the Legislature sought to codify in Alabama Code 37-4-22.1 the existing Rate FCR review process and its associated criteria as the applicable standards for the review of large load data center customer contracts, with the added emphasis of considering the potential for economic growth in a community.”

Ricky A. Neighbors stated that the “Commission should consider environmental and community costs as part of the public-interest review” and also “coordinate with other agencies where necessary and should not evaluate electric service contracts in isolation from the physical facilities and energy systems required to support them.”

B. Commission Response

The Commission finds that the law's criteria are sufficient and require no additional qualification. The Commission generally agrees with Alabama Power that, based on the text of Act 610, the Legislature essentially codified the review standards in Rate FCR with the additional requirement of considering economic growth in the community. Responding to Mr. Neighbors, as stated in the Initial Order, the Commission lacks jurisdiction over environmental regulation or facility siting. Therefore, the procedures approved here will not expand on the standards set out in Act 610, which generally reflect the standards of review in Rate FCR. Act 610 defines “terms and conditions” as including contract provisions that address minimum billing, contract length, and cash requirements. Under the process hereby approved, the Commission will consider such terms and conditions to determine whether the contract meets the public interest requirements.

IX. Incremental Cost Analysis

The Commission sought comment on the methodologies and assumptions that should be used to calculate the “incremental costs of retail electric service” as defined in Ala. Code § 37-4-22.1(a)(1) and the documentation that Alabama Power should be required to provide to support its incremental cost calculations.

A. Comments

Several commenters addressed the analysis of incremental costs. Sierra Club commented that “to determine that the contract provides for sufficient recovery of incremental costs, the Commission should evaluate whether it directly assigns transmission and distribution costs (through up-front payments, such as Contribution In Aid of Construction (CIAC) provisions).” Energy Alabama stated that “[t]he statute answers the methodological question itself.” Energy Alabama indicated that the statute “defines incremental costs 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)(1).” Energy Alabama asks the Commission to “apply this 'but for' causation standard rigorously and comprehensively” through a simple test for every cost category: “would Alabama Power incur this cost if this contract did not exist?” Alabama Power commented that, to calculate incremental costs, it “would use the same tools, models and data that are used throughout its operations, and which it uses today when it calculates such costs in connection with a proposed contract under Rate FCR.” Alabama Power contended that the existing methodologies and assumptions remain sufficient to review large load data center contracts.

B. Commission Response

The Commission generally agrees with the above-described comments. As Energy Alabama stated, the statute itself answers the methodological questions. And, as Alabama Power indicated, the analytical tools used to consider contracts under the FCR remain applicable and useful for considering contracts in the process approved here. Therefore, as part of the review, the Commission requires the submission of: the estimated incremental capacity required to maintain reliability; the estimated cost of total incremental

generation that should be allocated to the project; the estimated cost of bulk transmission that should be allocated to the project; customer-specific direct costs; estimated revenue under the contract for the term of the contract; and the RIM test results, showing the comparison of the incremental costs of serving the contract capacity with the revenues generated by the contract over its term.

X. Benefits to Other Customers

The Commission sought comment on how the Commission should evaluate whether a contract “promote[s] positive benefits to other retail electric customers” pursuant to Ala. Code § 37-4-22.1(b)(2) and what specific metrics or evidence should be required.

A. Comments

Alabama Power stated that it “believes the performance of a RIM evaluation should continue to serve as the metric for determining whether a proposed large load data center customer contract promotes positive benefits to customers.” Alabama Power referenced the language in Rate FCR, stating that “[t]o determine whether or not a new load addition passes the RIM test, the incremental costs of serving the new load are subtracted from the incremental revenues to be generated from the new load accumulated over the duration of the contract term. The resulting difference is discounted in recognition of the time-value of money to achieve a net present value of the load addition. When the net present value is positive, the RIM test has been passed.”

Some commenters described other ways a contract could promote positive benefits to customers. Energy Alabama commented that “[p]ositive benefits can also be delivered directly,” and that “[t]he Commission should encourage large load customers to fund low-income energy efficiency, weatherization, and similar bill-reduction programs as part of their contracts.” SELC stated that “[t]he Commission should also consider a data center customer's commitment to clean energy as an additional factor supporting a finding of positive benefit.”

B. Commission Response

The Commission agrees with Alabama Power that the RIM test should remain as a metric to show whether the contract benefits other customers. As with Rate FCR, the Commission will continue to require

the RIM test in the process approved by this order. The Commission also agrees with Energy Alabama and SELC that a contract may provide public benefit to customers in other ways, including through their proposals. If a data center customer agrees to provide direct public benefits, Alabama Power should include those commitments as part of the Petition, preferably through signed statements from the data center customer.

XI. Economic Development Considerations

The Commission sought comment on how to 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) and what types of economic impact analysis should be required.

A. Comments

Alabama Power recognized that considering economic growth in the community is unique among criteria in Act 610, “as it does not have an express parallel in the existing Rate FCR review criteria.” Alabama Power stated that “the Commission can readily identify and assess the various ways a particular project might contribute to or promote the economic development in a community, including through direct contributions to the local tax base, the creation of jobs, the award of grants and direct funding to schools, nonprofits and community organizations, and other community participation efforts.”

Several commenters had specific suggestions for how the Commission should consider whether a large load data center customer promotes economic growth in the community. Gulf Coast Renewable Energy commented that “[t]o avoid speculative claims, the Commission should require economic-development evidence that is specific, verifiable, and reasonably firm: projected capital investment, direct and indirect employment, expected tax contributions, construction timelines, and any enforceable commitments.” Americans for Prosperity listed a number of economic benefits that a large load data center may provide that the Commission could evaluate, including: tax revenues generated; jobs created during construction of the facility; jobs created during operation of the facility; ancillary economic benefits to a local community during the construction process; contributions to the local community, including charitable and philanthropic endeavors; ability of the project to attract additional projects to the area, including

additional data centers and other ancillary service providers; and job training programs offered or funded by the facility. SELC commented that “[r]egarding economic development, the Commission should require evidence in the form of verifiable economic studies.” The Southeast Energy Efficiency Alliance commented that “[c]onsiderations that may be relevant include: Workforce development: Commitments to local hiring, training partnerships with community colleges or technical schools, and apprenticeship programs tied to data center construction and operations”, and “[c]ommunity partnerships: Investment in local infrastructure including but not limited to pre-weatherization, weatherization, critical homes repairs, education, or community-defined benefits that extend value to the host community.” Ricky A. Neighbors stated that investment alone does not establish public interest and calls for evidence of measurable community benefits and impacts. Jeri Mathews suggested that certain information be provided to show that a project supports economic growth in the community, such as the number of permanent full-time jobs and the expected salary ranges.

B. Commission Response

The Commission generally agrees with all the above commenters. There are many ways to show that a large data center customer encourages or promotes economic benefit in the community. The Commission also agrees that those benefits should be quantifiable. However, given the variety of ways to provide economic benefit to the community, the Commission finds it unnecessary to elaborate on the types of benefits that would meet this criterion. Therefore, the Commission requires Alabama Power to include quantifiable benefits in its Petition but does not set specific requirements. Further, if a data center customer agrees to provide specific economic benefits, Alabama Power should include those commitments as part of the Petition, preferably through signed statements from the data center customer.

XII. Power System Efficiency

The Commission sought comment on 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).

A. Comments

Several commenters addressed the evaluation of power system efficiency. Energy Alabama recommended that “the Commission evaluate power system efficiency using measurable indicators,” and listed the following: system load factor (whether new load improves the ratio of average to peak demand); average total cost per MWh borne by non-data-center customers, before and after the contract; marginal fuel and dispatch effects; fuel and emissions intensity of the system; utilization of existing assets versus new build. SELC stated that “[a]ny finding or claim that a data center is expected to increase system efficiency must be based on transparent modeling and measurable performance metrics where underlying assumptions are fully explained.” Alabama Power commented that “the concept of ‘increased power system efficiency’ correlates to the expectation that a load addition will place downward pressure on rates.” Alabama Power stated that “[f]rom an operational perspective, the load addition will utilize (and thus contribute to the cost of) existing infrastructure, as well the incremental facilities (for which the load addition will pay fully).”

B. Commission Response

The Commission agrees with Energy Alabama that evaluation of power system efficiency should involve measurable indicators and with the Sierra Club that representations of increased efficiency include measurable performance metrics. This is consistent with Alabama Power’s comment that power system efficiency correlates to an expectation of downward pressure on rates for other customers. Therefore, as part of the review, the Commission requires the submission of: the estimated incremental capacity required to maintain reliability; the estimated cost of total incremental generation that should be allocated to the project; the estimated cost of bulk transmission that should be allocated to the project; customer-specific direct costs; estimated revenue under the contract for the term of the contract; RIM test results, showing the comparison of the incremental costs of serving the contract capacity with the revenues generated by the contract over its term; supporting documentation regarding the impacts on other customers’ costs, power system efficiency, and economic development.

XIII. Contract Terms and Conditions

The Commission sought comment on the 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, that are appropriate and should be required in contracts with large load data centers.

A. Comments

Several commenters provided specific contract terms and conditions that should be included or required in contracts with large load data centers. SELC recommended that the Commission consider the following terms and conditions: minimum contract length of 20 years, minimum demand charge of 85 percent of the contract demand, financial security sufficient to recover all of the minimum charges, clear consequences for early termination, a minimum load ramp of three years, clear load flexibility provisions, assignment protections, customer-funded impact studies, reliability standards, and conditional approval. The Sierra Club recommended the following terms and conditions: minimum contract length of at least 20 years, minimum billing demand of at least 80% of contract capacity, exit fees that equal the minimum billing demand multiplied by the number of months remaining in the contract term, collateral requirements sufficiently high to guard against speculative load interconnection requests, and provisions to address reductions in capacity. The Data Center Coalition stated that it “supports reasonable, evidence-based minimum terms, minimum-payment obligations, upfront commitments or collateral, advance notice, and clear exit fees.”

Energy Alabama asserted that the issue of contract terms and conditions “is where ratepayer protection is won or lost,” stating that the central risk of data center load is that Alabama Power builds the infrastructure for “load that arrives late, smaller than contracted, or never, leaving stranded costs for other customers.” Energy Alabama stated that “[t]he remedy is a set of minimum contractual requirements stringent enough that the customer, not the public, bears that risk.” Energy Alabama then proposed: a term of no less than 12 years, a defined ramp period, a minimum billing demand of no less than 85 percent of contract capacity, security corresponding to the customer’s remaining obligations, no unilateral termination

or capacity reduction in the first five years after ramp, interconnection costs paid entirely up front, and aggregation rules.

In its reply comments, Alabama Power stated that “a one-size-fits-all large load tariff with a corresponding contract template is not in the best interest of customers.” Alabama Power then asserted that the “recommendations of Energy Alabama, SELC and Sierra Club around contractual minimum billing demand provide a useful illustration,” adding that their minimum billing demand proposals did not “reflect on the equally important role that the actual demand charge plays in the operation of a minimum bill.” Alabama Power elaborated by stating that a “90 percent ratchet may look good on paper, but an 80 percent ratchet will be equally effective at ensuring cost recovery if the demand charge itself has been adjusted upward to reflect the application of that lower ratchet.” Alabama Power remarked that the same holds true for contract term lengths, pointing out the benefits of contractual flexibility.

B. Commission Response

The Commission agrees with Energy Alabama that the risk to current ratepayers is that the data center customer load is smaller than expected and leaves stranded costs for other customers. The Commission also agrees with Energy Alabama that current ratepayer protection is “won or lost” through the terms of the contract. However, the Commission does not agree that the best way to ensure that the contract protects existing customers is to mandate minimum terms and conditions through this proceeding. As Alabama Power pointed out, contract flexibility allows free negotiation of contract terms to the benefit of other customers. To be clear, the Commission’s decision not to set minimum terms and conditions here does not mean that the Commission is not reviewing the terms and conditions of a submitted contract. For example, the Commission certainly considers the term length of every contract and may disapprove a contract with a term that does not appear sufficient to recover costs. However, the Commission may find that a contract with a shorter term length is sufficient when other terms result in full recovery of incremental costs and benefit customers.

Therefore, the procedures approved here will not set minimums for the terms and conditions set out in Act 610, which generally reflect the standards of review in Rate FCR. Act 610 defines “terms and

conditions” as including contract provisions that address minimum billing, contract length, and cash requirements. Under the process hereby approved, the Commission will consider such terms and conditions to determine whether the contract meets the public interest requirements.

XIV. Post-Approval Monitoring

The Commission sought comment on whether the Commission should establish procedures to monitor compliance with approved contracts and to evaluate actual impacts on other customers and the Company’s power system.

A. Comments

Several commenters proposed post-approval monitoring requirements. Energy Alabama recommended “[s]emi-annual compliance reports from Alabama Power covering each approved contract: contracted versus actual demand and energy; revenues received versus incremental costs incurred; collateral held; any exit fees assessed; capacity-reduction notices; and the project.” Energy Alabama also proposed “[a]n annual public report, in aggregate form and provided by the regulated utility, showing total contracted large-load capacity, actual usage, revenue contribution, effects on Rate ECR and system costs, and system load factor and emissions intensity trends, so the public can see whether the promised benefits are materializing.” Gulf States Renewable recommended “periodic (for example, annual) compliance reporting that confirms the customer is meeting minimum-take, minimum-term, and payment obligations; that reconciles projected against actual incremental costs and benefits; and that flags material changes (for example, load ramp deviations or early termination).”

Alabama Power stated that “[e]xisting practices of the Commission embrace the oversight contemplated by this topic.” Alabama Power indicated that “[t]he routine and ongoing monitoring by Commission Staff of Alabama Power’s operations, coupled with the periodic and annual filings the Company must make in accordance with its formulary rate mechanisms, also provide for insight into the integration of a new customer load into the Company’s service territory.”

B. Commission Response

The Commission intends to monitor compliance with contracts approved through this process and to evaluate actual impacts on other customers and Alabama Power's system. However, the Commission does not find it necessary to establish specific reporting requirements at this time. The Commission has broad regulatory jurisdiction over utilities (Ala. Code § 37-1-32), the authority to request reports from Alabama Power (Ala. Code § 37-1-57), and regularly exercises that authority. Therefore, the Commission defers establishing a specific report at this time but plans to develop reporting requirements.

XV. Alternative Review Processes

The Commission sought comment on whether there are alternative review processes that would better serve the public interest while complying with Ala. Code Section 37-4-22.1 and whether the Commission should consider expedited approval procedures for certain types of contracts or contract terms.

A. Comments

Some commenters suggested the adoption of a large load tariff. The Sierra Club indicated that a large load tariff would streamline the review process and promote equal treatment of data centers. Energy Alabama stated that the "best alternative process is a published Large Load Tariff with two review tracks," a streamlined 90-day review for contracts that conform with the approved tariff and extended review for contracts that deviate. In its reply comments, Alabama Power included a draft tariff.

Several commenters urged for a process that requires a Commission vote rather than being deemed approved at the end of a review period. The Sierra Club stated that "the Commission should adopt the proposed 60-day review period but should not implement automatic deemed approval. Instead, contracts should require affirmative Commission approval by an order following Staff recommendation."

Some commenters asserted that the process should include a hearing in certain circumstances. The Sierra Club stated that "for contracts involving loads of 500 MW or greater, or involving complex contract structures, the Commission should establish a contested case proceeding with opportunity for discovery, testimony, and a hearing."

B. Commission Response

The Commission agrees with the proposal that Alabama Power comply with the requirements approved here by filing a separate large load data center tariff. Therefore, within ten calendar days of the effective date of this order, Alabama Power shall file a tariff that complies with the requirements of this order. This tariff shall include: applicability, submission requirements, review criteria, and the process for decision and review. This tariff shall reflect the standards consistent with Rate FCR and Act 610.

Addressing comments urging a vote, the Commission finds that it should vote on contracts between Alabama Power and large load data center customers. The Commission generally agrees with commenters who stated that contracts of this magnitude should receive an affirmative Commission vote. The Commission intends to vote on each Petition, as it does on most rate filings submitted pursuant to Section 37-1-81. Responding to the Sierra Club, the Commission does not see reason to establish a separate track for contracts involving loads of 500 MW or greater.

XVI. Big Picture Planning

The Commission sought comment on what additional processes should be in place for a holistic review of the addition of data centers to Alabama Power's system.

A. Comments

Some commenters provided suggestions for big-picture planning related to data centers. Energy Alabama indicated that “[e]ach individual contract might satisfy the statute while the sum of them commits Alabama Power to the largest construction program in its history: new gas units, new pipeline capacity, new transmission, decades of fixed costs” and recommended that the Commission open “a companion generic proceeding to establish integrated resource planning requirements for Alabama Power modeled on Georgia’s: a full IRP (not a summary) filed at least every three years, subject to public hearing, intervenor participation, discovery, and an affirmative Commission vote; transparent load forecasting with quarterly reporting of the large-load queue and contracted capacity; and coordination between the IRP and this docket’s contract review process, so that each large load contract is evaluated against a Commission-

reviewed resource plan rather than in a vacuum.” SELC stated that “[a]t a minimum, the Commission should require quarterly reporting on Alabama Power’s ‘pipeline’ of potential large-load customer contracts.”

Alabama Power pointed to its statutory requirement to render adequate service and duty to serve, and it indicated that any questions relating to service to data center customers “can be addressed in the normal course of the Commission’s regulatory oversight.”

B. Commission Response

The Commission agrees with the commenters who suggested that additional processes should be in place for a holistic review of adding data centers to Alabama Power’s system; however, it does not find it necessary to establish specific processes at this time. The Commission has broad regulatory jurisdiction over utilities (Ala. Code § 37-1-32), the authority to request reports from Alabama Power (Ala. Code § 37-1-57), and regularly exercises that authority. For now, the Commission defers establishing specific processes in this proceeding but plans to develop processes for a holistic review.

New Procedures for the Review and Approval of Contracts

Based on the above, the Commission hereby adopts the following procedures for the review and approval of contracts for electric service between Alabama Power and large load data center customers.

Applicability. The following procedures are applicable to large load data center customers as defined by Act 610. For other contracts, Alabama Power may continue to utilize Rate FCR or file for approval under Ala. Code § 37-4-22.

Submission Requirements. Alabama Power is required to: 1) file a Petition to Contract with Large Load Data Center (“Petition”) with the Secretary of the Commission; and 2) contemporaneously with the Petition, provide the Legal Division of the Commission and the Attorney General with the contract and required supporting documents (“Confidential Submission”). The Commission will post the Petition and make it available to the public. The Confidential Submission will not be available to the public.

The Petition shall include: 1) cover letter; 2) contract summary (including name of counterparty and parent entities, municipality or county where facility is located, and the maximum contracted electric

capacity); 3) a summary of the methods utilized to ensure compliance with the “public interest” statutory and regulatory requirements; and 4) a certificate of service reflecting contemporaneous delivery of the Confidential Submission to the Legal Division of the Commission and the Attorney General.

The Confidential Submission shall include: 1) a complete copy of the contract, including all exhibits, attachments, and amendments; 2) a copy of the proposed contract, including all exhibits, attachments, and amendments, redacted to remove all confidential and proprietary information, along with a description of the basis for the redactions; 3) a detailed analysis demonstrating how the contract satisfies the requirements of Alabama Code § 37-4-22.1(b), including the estimated incremental capacity required to maintain reliability, the estimated cost of total incremental generation that should be allocated to the project, the estimated cost of bulk transmission that should be allocated to the project, customer-specific direct costs, estimated revenue under the contract for the term of the contract, Rate Impact Measure (“RIM”) test results showing the comparison of the incremental costs of serving the contract capacity with the revenues generated by the contract over its term; 4) 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; and 5) contact information, including an email address, for the company representative who can respond to questions from Commission Staff or the Attorney General.

Decision and Review. Contracts submitted under this process shall be approved or disapproved through a Commission vote; however, if the Commission fails to vote within 90 days from the filing of the Petition, then the Petition is deemed approved.² The process would not call for a hearing or intervention. Alabama Power should file the Petition and provide the Confidential Submission at least 120 days before the date the contract would become void for failing to meet the condition precedent of Commission approval. Alabama Power shall not informally submit contract information to Commission Staff or the

² Commission Staff, through the Chief Administrative Law Judge, recommended that this process require a vote of the Commission without a “deemed approved” provision. After deliberation during the October Meeting, the Commission approved an amendment to the original recommendation. The amendment requires a vote within 90 days and deems the contract approved if the Commission does not vote within that 90-day review period.

Attorney General prior to filing the Petition. The Commission may vote on the Petition any time after the review is completed.

After the Petition is filed, Commission Staff and the Attorney General may serve the Company representative with inquiries or data requests. Alabama Power shall use its best efforts to respond within five business days. Staff may communicate with Alabama Power about potential modifications to the contract and/or the supporting documents provided. The Attorney General may request to be included in any communication between the Staff and Alabama Power and have access to all data requests from Staff, along with Alabama Power's responses. The Attorney General may also offer suggested modifications to the contract. Staff will recommend approval or disapproval at a publicly noticed meeting.

Compliance. Within ten calendar days of the effective date of this order, Alabama Power shall file a tariff that complies with the requirements of this order. The tariff shall include an effective date of not less than 30 calendar days from the date it is filed.

IT IS, THEREFORE, ORDERED BY THE COMMISSION that the Commission adopts the above-described procedures for the review and approval of contracts for electric service between Alabama Power Company and large load data center customers.

IT IS FURTHER ORDERED BY THE COMMISSION that, within ten (10) calendar days of the effective date of this order, Alabama Power Company shall file a tariff that complies with the requirements of this order, with an effective date of not less than thirty (30) calendar days from the date it is filed.

IT IS FURTHER ORDERED BY THE COMMISSION that, prior to the approval of a compliant tariff, Alabama Power may continue to submit contracts with large load data centers under the modified Rate FCR process that Alabama Power temporarily consented to by filing in this docket dated July 13, 2026.

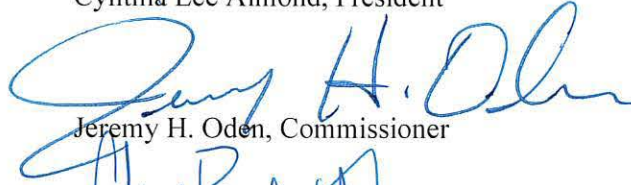
IT IS FURTHER ORDERED BY THE COMMISSION that this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama this 19th day of October 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