STATE OF ALABAMA

ALABAMA PUBLIC SERVICE COMMISSION
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MONTGOMERY, ALABAMA 36130-4260

CYNTHIA LEE ALMOND, PRESIDENT
JEREMY H. ODEN, COMMISSIONER, PLACE 1
CHRIS V. BEEKER III, COMMISSIONER, PLACE 2

JOHN A. GARNER, EXECUTIVE DIRECTOR

Alabama Power Company,
Petitioner

Petition: For a certificate of convenience and necessity for the acquisition of existing combined cycle generating capacity at the Lindsay Hill Generating Station located in Autauga County, Alabama, together with all transmission arrangements, structures, equipment, devices, substations, and facilities, environmental control measures, facilities or arrangements for the handling, treatment, transportation, delivery, storage and processing of fuel, and any and all other appliances, appurtenances, facilities, rights, equipment, acquisitions, commitments and accounting authorizations necessary for or incident thereto.

Docket No. 33513

ORDER GRANTING PETITION FOR CERTIFICATE OF PUBLIC CONVIENCE AND NECESSITY

BY THE COMMISSION:

This matter comes before the Commission by virtue of the petition for a certificate of convenience and necessity ("Petition") filed by Alabama Power Company ("Alabama Power" or "Company") on October 30, 2024 pursuant to Alabama Code § 37-4-28. By the Petition, Alabama Power seeks authorization to acquire existing combined cycle generating capacity known as the Lindsay Hill Generating Station ("Lindsay Hill" or "Lindsay Hill Facility").

The filing was duly noticed and, in accordance with statutory requirements, a public hearing involving all interested parties was held, following the allotment of time for written and document discovery, a cycle of responsive and rebuttal testimony by the intervening parties and Alabama Power, and the deposing of Company witnesses in this proceeding. On the basis of the record compiled in this case,

including the written and document discovery and deposition transcripts provided to Commission Staff in accordance with the protocol followed in this proceeding, and the testimony and exhibits received at the hearing, along with other information available to the Commission in the ordinary course of its jurisdictional activities, we find the Petition to be supported by substantial evidence and in furtherance of Alabama Power's duties to its customers as a public utility operating within the State of Alabama and under the jurisdiction of this Commission. Specifically, we conclude that the substantial weight of the evidence before us shows that Alabama Power has a need for additional generating capacity and that the proposed acquisition represents an appropriate means by which the Company can address this need in a reliable and cost-effective manner. Accordingly, the Commission grants the Petition and approves the issuance of a certificate of convenience and necessity for the acquisition of the Lindsay Hill Facility.

I. PROCEDURAL HISTORY

On October 30, 2024, Alabama Power filed the Petition requesting the issuance of a certificate of convenience and necessity for the acquisition of the generating plant and all related facilities currently owned by Tenaska Alabama Partners, L.P., said plant and facilities being located near Billingsley, Alabama. In support of its Petition, the Company submitted testimony and exhibits of Mr. Christopher J. Habig, Ms. Maria J. Burke and Mr. Adam J. Ricks. Consistent with Alabama Code § 37-4-28, Alabama Power also requested that the Commission hold a public hearing to consider the Petition. The Petition was duly noticed on November 1, 2024.

Petitions to intervene in this matter were timely filed by the Office of the Attorney General of Alabama ("Attorney General"), Alabama Industrial Energy Consumers ("AIEC") and Energy Alabama and GASP (jointly, "Energy Alabama/GASP"). These petitions were granted in the Commission's Procedural Ruling Granting Interventions and Establishing Procedural Schedule issued November 19, 2024 ("November 19 Ruling"). The November 19 Ruling also instituted deadlines for the filing of intervenor testimony and Alabama Power's rebuttal testimony, established a date for the public hearing, set a deadline for the filing of post-hearing briefs and provided parameters for the undertaking of discovery.

The parties engaged in a robust discovery process, encompassing multiple sets of interrogatories and document production requests predominantly directed to the Company, as well as depositions of two of Alabama Power's witnesses (Mr. Habig and Ms. Burke). Consistent with recent practice, discovery responses were treated as non-public due to the presence of confidential information, with copies retained by the Legal Division of the Commission Staff for inclusion in the official administrative record.

On January 27, 2025, Energy Alabama/GASP submitted the testimony and exhibits of Dr. Elizabeth Stanton and Mr. James F. Wilson. On March 12, 2025, Alabama Power and AIEC filed an Agreement and Stipulation whereby Alabama Power agreed to revise the amortization period for a proposed regulatory asset, as described in the direct testimony of Mr. Ricks. With this modification, AIEC expressed support for the acquisition of Lindsay Hill—support that was affirmed by counsel for AIEC at the evidentiary hearing.[1] Thereafter, on March 14, 2025, the Company filed rebuttal testimony and exhibits for all three of its witnesses. Alabama Power also filed a letter on April 11, 2025, documenting the above-described handling of the discovery responses,[2] and on April 14, 2025, Energy Alabama/GASP filed an Unopposed Motion to File Deposition Designations. Two days later, the Commission issued a Procedural Ruling adopting the operative provisions of the unopposed motion.

The Commission held a public hearing in this matter on April 15, 2025. Thereafter, and as discussed below, Alabama Power and Energy Alabama/GASP each presented its respective witnesses for direct and cross-examination. Following the hearing, as directed by the Procedural Ruling, the parties engaged in the process to designate portions of deposition transcripts for entry into the record. On May 16, 2025, the parties submitted post-hearing briefs in the form of proposed orders, consistent with the November 19 Ruling.

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[1] Hearing Tr., p. 227, line 16 through p. 228, line 9.

[2] At the hearing, the Presiding Judge noted the Company's April 11 letter and confirmed the treatment of such materials for purposes of the administrative record. Hearing Tr., p. 13, lines 4 through 21.

II. GOVERNING LEGAL STANDARDS

This Commission has long recognized that one of the most fundamental obligations of a utility under our jurisdiction is the duty to render adequate service and maintain its facilities.[3] The Legislature set forth this duty in Alabama Code § 37-1-49:

> Every utility shall maintain its plant, facilities and equipment in good operating condition and shall set up and maintain proper reserves for renewals, replacements and reasonable contingencies. Every utility shall render adequate service to the public and shall make such reasonable improvements, extensions and enlargements of its plants, facilities and equipment as may be necessary to meet the growth and demand of the territory which it is under the duty to serve.[4]

As most recently recognized in the *Calhoun Power Acquisition*, this Legislative mandate is an integral part of Alabama Power's public utility function and is neither optional nor delegable.[5]

Under our precedent, Alabama Power must obtain a certificate of convenience and necessity for the acquisition of an existing generation facility, such as Lindsay Hill.[6] We are authorized to issue such a

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[3] *See, e.g.*, *In re Certificate of Convenience and Necessity (Calhoun Power Acquisition)*, APSC Docket No. 33182, pp. 6-7 (July 15, 2022); *In re Certificate of Convenience and Necessity (Barry Steam Plant, et al.)*, APSC Docket No. 32953, pp. 8-9 (Aug. 14, 2020), *aff'd sub nom. Energy Alabama, et al. v. APSC*, No. CV-2021-90028.00 (Mtgm. Cty. Cir. Ct. Aug. 27, 2021) ("*2020 Certificate Order*"); *In re Certificate of Convenience and Necessity (Barry Steam Plant)*, APSC Docket No. 26115, p. 2 (Dec. 31, 1997) ("*1997 Certificate Order*"); *In re Certificate of Convenience and Necessity (Greene Co. Steam Plant)*, APSC Docket No. 21887, p. 2 (Jan. 24, 1992) ("*1992 Certificate Order*").

[4] Ala. Code § 37-1-49; *see also* Ala. Code § 37-1-80(a) (requiring that the Commission, as part of its fixing rates that are just and reasonable both to the utility and the public, "give due consideration among other things to … the necessity, under honest, efficient and economical management of such utility, of enlarging plants, facilities and equipment of the utility under consideration, in order to provide that portion of the public served thereby with adequate service."); *cf. APSC v. Southern Bell Tel. & Tel. Co.*, 42 So. 2d 655, 665 (Ala. 1949) (recognizing the Legislative mandate in section 52, Title 48, Code of 1940 (now Ala. Code § 37-1-80(a)) that "the utility is at all times required to furnish adequate service to the public and to construct plant and facilities for enlargement and improvement of its service."); *see also General Tel. Co. of Southeast v. APSC*, 335 So. 2d 151, 155 (Ala. 1976) (citing *Southern Bell*, *supra*, and stating "the plain holding of that case is that the law of this state … [is] that the utility is at all times required to furnish adequate service to the public and to construct plant and facilities for enlargement and improvement of its service.").

[5] *See Calhoun Power Acquisition,* p. 6; *2020 Certificate Order*, pp. 9, 19; *see also General Tel. Co. of Southeast*, *supra*, at 155.

[6] *See, e.g.*, *In re Escambia Community Utils., LLC*, APSC Docket No. 32193 (Nov. 9, 2015). Alabama Power and Lindsay Hill's owner are also required to obtain authorization from the Federal Energy Regulatory Commission ("FERC") for the transfer of the plant to Alabama Power. The requested authorization from FERC remains pending. *See In re Tenaska Alabama Ptrs., L.P., et al.*, FERC Docket No. EC25-27-000.

certificate in our discretion, with such conditions as we deem advisable. When exercising this authority, however, we are not to interfere with the proper operation of the utility as a business by usurping managerial prerogatives.[7] Moreover, management is presumed to act in good faith, and it is incumbent on those challenging a decision of management to overcome this presumption through substantial, affirmative evidence demonstrating that the decision is not in proper furtherance of the utility's duty.[8]

A decision of this Commission must be supported by substantial evidence, and may not contain prejudicial error in its application of the law to the facts.[9] In evaluating the matter before us, we are not "rigidly bound to the recommendation of any particular witness", but instead sit "as an expert administrative body analyzing the evidence and exercising [our] own expert judgment thereon."[10] The Commission may receive and consider evidence shedding some light on an issue, even if not traditionally admissible in a court of law.[11] We also may take notice of our own orders and may rely upon our expert knowledge of factors and information known and available to us.[12]

III. FUNDAMENTAL ISSUES

In a certificate proceeding such as this, the Commission must make two fundamental determinations before it can lawfully grant Alabama Power's Petition. First, the Commission must be

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[7] *See* Ala. Code § 37-4-28; *see also Alabama Power v. APSC*, 359 So. 2d 776, 780 (Ala. 1978); *cf. South Central Bell Tel. Co. v. APSC*, 425 So. 2d 1093, 1096 (Ala. 1983) ("A commission is not empowered to substitute its judgment for that of the owners, who are responsible for the rendition of service, unless the owners have abused their discretion.").

[8] *See Calhoun Power Acquisition*, p. 7; *2020 Certificate Order*, pp. 9-10; *see also Southern Bell Tel. & Tel. Co.*, *supra*, at 674.

[9] *See* Ala. Code § 37-1-124; *see also APSC v. Cooper Transfer Co.*, 326 So. 2d 283, 287 (Ala. 1975); *Illinois Cent. R. Co. v. Thomas Alabama Kaolin Co.*, 153 So. 2d 794, 795 (Ala. 1963).

[10] *Ala. Gas Corp. v. APSC*, 425 So. 2d 430, 435 (Ala. 1982).

[11] *See, e.g.*, *Alabama Power Co.* v. APSC, 179 So. 2d 725, 730 (Ala. 1965).

[12] *See Illinois Cent. R. Co.*, *supra*, at 796-97; *see also Marshall Durbin & Co. of Jasper, Inc. v. Envt'l Mgmt. Comm'n*, 519 So. 2d 962, 965 (Ala. Civ. App. 1987) ("A decision of an administrative agency is not arbitrary or capricious where there is a reasonable justification for the decision or where it is founded upon adequate principles or fixed standards."); *In re Ala. Gas Corp.*, APSC Docket Nos. 18046 and 18328, 1990 WL 10091984 (APSC 1990) ("Even so, the Commission takes administrative notice of the fact that the rate increases called for by the RSE formula have never exceeded the 4% annual cap.").

satisfied that the Company has shown a need for additional capacity. If the evidence supports this showing, the Commission must also determine that the evidence demonstrates that the resource(s) proposed by the Company represent a reasonable means by which to satisfy the identified need. These fundamental issues, and the arguments and evidence of the parties relevant to each, are addressed below.

A. Need for Additional Capacity

Summary of the Evidence

In the Company's direct testimony, Mr. Habig presented the results of the Company's 2024 Integrated Resource Plan ("IRP") process, as updated with available inputs regarding resource availability and the load forecast ("updated 2024 IRP").[13] Mr. Habig confirmed that the updated 2024 IRP followed the same IRP process reviewed and endorsed by the Commission on many occasions, including the application of seasonal planning and the target system reserve margin for the winter period.[14] He then presented the results of the Company's updated 2024 IRP, which showed a reliability-driven need of 1,179 MW in the winter of 2029 that grows annually through the planning horizon.[15]

The direct testimony of Ms. Burke provided support for the load forecast included in the updated 2024 IRP. She began by explaining the analytical approach used by Alabama Power to develop energy and peak demand forecasts that reflect the anticipated electricity needs of customers in the coming years.[16] She also highlighted actual system load observations from January 2024 and discussed how they served to

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[13] Direct Testimony of Christopher Habig, p. 4, line 13 through p. 5, line 7. *See also* Response of Alabama Power Company to Energy Alabama and GASP's First Set of Interrogatories and Requests for the Production of Data and Documents, CONFIDENTIAL SELC-DR 1 DPR-00 Attachment F, p. 4.

[14] Direct Testimony of Christopher Habig, p. 6, lines 15-19. The Company must have sufficient generating resources both to meet the expected requirements of its customers and to provide an adequate margin of reserves. *See Calhoun Power Acquisition*, p. 7 n.22; *Cf.* Ala. Code § 37-1-49 ("Every utility shall maintain its plant, facilities and equipment in good operating condition and shall set up and maintain proper reserves for renewals, replacements and reasonable contingencies."). As relevant here, this Commission found that Alabama Power had demonstrated the appropriateness of planning to a winter target reserve margin of 26 percent. *See 2020 Certificate Order*, pp. 12 & n.21, 22. That same target winter reserve margin, as diversified, was used in the updated 2024 IRP.

[15] Direct Testimony of Christopher Habig, p. 6, line 20 through p. 7, line 3, and Figure 1.

[16] Direct Testimony of Maria Burke, p. 2, line 19 through p. 8, line 8.

validate the results derived from the models.[17] Ms. Burke concluded her direct testimony with a table reflecting the most recent ("B2025") winter peak demand forecast for the next ten years.[18]

In response to Ms. Burke's testimony, Energy Alabama/GASP offered the testimony of Mr. Wilson.[19] While Mr. Wilson found the Company's residential, commercial and wholesale forecasts to be reasonable, he challenged the Company's forecast for the industrial class and the anticipated ramp rate for new data center load.[20] As to the industrial class forecast, Mr. Wilson opined that the forecast for that class is too high, observing that actual industrial energy sales have fallen short of the Company's projections in ten of the last twelve years.[21] Mr. Wilson also testified that growth in certain industrial sectors likely would not be as strong as forecasted by Alabama Power. As to the data center load, he testified that the projected ramp rate for such load was "unrealistic".[22] Acting on these two concerns, Mr. Wilson proposed adjustments to the Company's load forecast that would reduce the 2029 reliability need from 1,179 MW to only 320 MW.[23] Mr. Wilson concluded his testimony by suggesting the Commission consider adopting policies to protect customers in the event large new data center loads fail to materialize[24] and presenting an alternate calculation for weather normalizing actual winter demand.[25]

In her rebuttal testimony, Ms. Burke refuted Mr. Wilson's proposed adjustments to the load forecast. First, she discredited his adjustment to the winter demand forecast based on industrial energy

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[17] *Id.*, p. 8, line 9 through p. 9, line 20.

[18] *Id.*, p. 10, Table 1.

[19] Direct Testimony of James Wilson, p. 6, lines 3-8. Mr. Wilson expressly stated that his testimony did not address any other aspect of the Company's IRP-based determination of a reliability-based capacity need.

[20] *Id.*, p. 5, lines 4-15.

[21] *Id.*, p. 9, line 8 through p. 10, line 9.

[22] *Id.*, p. 19, lines 5-9.

[23] *Id.*, pp. 6-7, Table JFW-1.

[24] *Id.*, p. 18, line 4 through p. 19, line 4.

[25] *Id.*, p. 21, line 8 through p. 22, line 6.

forecast variances. She observed that Mr. Wilson predicated his recommendation on the false premise that annual energy sales variances will directly correlate to peak demand variances, without any work showing that such a correlation exists.[26] She further explained that Mr. Wilson offered no consideration for other factors contributing to the industrial sales variance, such as the lingering effects of the pandemic.[27] Ms. Burke also showed how Mr. Wilson misconstrued industrial segment data produced during discovery (confusing national segment data for Alabama specific data), and that an evaluation of Alabama data in fact supported growth in the industrial forecast.[28] In summary, Ms. Burke found no credible basis for Mr. Wilson's proposal to reduce Alabama Power's forecasted industrial peak load by 550 MW over a five-year period.[29] As shown by Ms. Burke, the combined effect of these adjustments would result in an assumption of no industrial growth during that period, even though the Company has documented more than 700 MW of additional industrial load (comprising both existing customer expansions and new industrial customers) by 2029.[30]

Responding to Mr. Wilson's criticism of the ramp rates in the B2025 forecast for large data center customers and his recommended 100 MW annual cap in that regard, Ms. Burke reported that the Company had executed a contract with a new data center customer following preparation of the B2025 forecast that calls for the Company to serve a ramp rate even larger than what Mr. Wilson had characterized as "overly optimistic" and well above his suggested cap.[31] Ms. Burke further testified how that same contract refutes Mr. Wilson's implication that the Company and the Commission are somehow failing to protect other customers from the possibility of project delay or cancellation. As pointed out by Ms. Burke, the contract

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[26] Rebuttal Testimony of Maria Burke, p. 4, lines 7-15.

[27] *Id.*, p. 4, line 16 through p. 5, line 3.

[28] *Id.*, p. 7, line 9 through p. 8, line 9.

[29] *Id.*, p. 4, line 2 through p. 5, line 21.

[30] *Id.*, p. 5, lines 17-21.

[31] *Id.*, p. 8, line 12 through p. 9, line 11.

includes minimum term and minimum billing demand provisions of the very sort that Mr. Wilson has endorsed in other jurisdictions as appropriate measures to protect against risk shifting and to prevent speculative projects.[32]

Ms. Burke also responded to Mr. Wilson's testimony regarding weather normalization. First, she reiterated that peak demand forecasts for the Company are calculated using the Itron Metrix ND/Metrix LT models, with the weather normalization process serving only as a validation tool by which the Company can ascertain the relative accuracy of the peak demand forecast.[33] Ms. Burke then testified that the Company's overall weather normal actual winter peak demand has been higher than the forecasted winter peak by an average of about 3.6 percent across the most recent dozen years, illustrating that—notwithstanding Mr. Wilson's critique of the industrial energy sales segment of the forecast—*total* peak demand has been *under* forecasted across this period.[34] Ms. Burke dismissed Mr. Wilson's alternate weather normalization methodology, noting that his approach was mathematically unsound.[35]

Ms. Burke concluded her rebuttal testimony by reporting the peak demand experienced by the Company in January 2025. Like the system loads seen in January 2024, Alabama Power's most recent cold weather demand peaked at a level that was remarkably close to the B2025 forecasted winter peak. In her view, these actual loads further support the Company's use of the Itron model and validate the results derived from it.[36]

At hearing, Ms. Burke verified her pre-filed direct and rebuttal testimony and was cross-examined by counsel for Energy Alabama/GASP. Among the various areas of inquiry, Ms. Burke stated that the potential for unnecessary investment due to an overstated load forecast was "really unlikely", particularly

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[32] *Id.*, p. 9, line 12 through p. 11, line 2.

[33] *Id.* p. 11, line 4 through p. 12, line 4.

[34] *Id.*, p. 12, line 5 through p. 13, line 2.

[35] *Id.*, p. 13, line 3, through p. 15, line 4.

[36] *Id.*, p. 15, lines 5-18.

given the fact that the Company has been under forecasting the peak demand.[37] Ms. Burke disagreed with the implication that changing economic factors, such as the recent imposition of varying levels of tariffs, could result in lower loads, given the fact that tariff discussions continue to evolve and resulting changes could be positive or negative.[38] Ms. Burke also defended the load forecast relating to data centers, noting among things that changes in efficiency did not automatically correlate to reduced demand. And even if the demand proved to be lower, she observed that the applicable contract includes provisions that protect against cost-shifting to other customers.[39]

On redirect, Ms. Burke confirmed that contracts such as the one just referenced are approved under a special contracting process that requires, among other things, the contract economics to pass the Rate Impact Measure ("RIM") test adopted by the Commission.[40] In addition, Ms. Burke confirmed that the industrial class represents 40 percent of the Company's retail electricity sales, but only 15 percent of the Company's actual peak demand.[41]

Commission Findings and Conclusions

It is well settled that the existence of a future capacity deficit relative to Alabama Power's target reserve margin constitutes a prima facie demonstration of a reliability-based need by the Company.[42] Likewise, the Company's IRP process has long served as the basis for petitions to this Commission for certification of new resources required for reliability. We are familiar with that process and how it is

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[37] Hearing Tr., p. 33, line 24 through p. 34, line 20; *see also* Rebuttal Testimony of Maria Burke, p. 13, lines 1-12 and Figure MJB-2.

[38] Hearing Tr., p. 35, line 14 through p. 36, line 13.

[39] Hearing Tr., p. 53, line 22 through p. 58, line 2. *See also* Conf. Hearing Tr., p. 8, line 25 through p. 10, line 12.

[40] Conf. Hearing Tr., p. 13, line 7 through p. 14, line 6.

[41] Conf. Hearing Tr., p. 15, line 17 through p. 17, line 9.

[42] *See Calhoun Power Acquisition,* p. 11; *2020 Certificate Order*, pp. 18-19; *1997 Certificate Order*, p. 4; *1992 Certificate Order*, p. 3.

conducted, having reviewed and endorsed the use of the IRP process on many occasions.[43] It assimilates comprehensive underlying information and inputs and employs detailed analytical modeling across a range of scenarios, producing important informational and planning outputs that include future reliability needs and an indicative benchmark plan of potential resources to meet the indicated needs. As explained by Mr. Habig, this benchmark provides a starting point from which, among other things, the Company can make assessments regarding cost-effective resources to address those needs in a reliable and timely manner.[44]

The updated 2024 IRP shows that the Company has adequate capacity for reliability purposes for the next few years, primarily due to the expiration of a wholesale supply arrangement at the end of 2025.[45] For several IRP cycles, the capacity associated with that contract has been included among the resources that would be used to meet the reliability needs of retail customers starting in 2026.[46] Such recognition has enabled the Company to satisfy near-term reliability requirements for retail customers without procuring additional resources; however, the updated 2024 IRP now shows a reliability need in 2029 that has grown to almost 1,200 MW and increases through the planning horizon.[47] In the context of our precedent, this showing constitutes a *prima facie* demonstration of need and the proper evidentiary foundation for the issuance of a certificate of convenience and necessity.

The testimony of Mr. Wilson directed to the Company's B2025 load forecast does not change this conclusion. As discussed above, his proposed adjustments to the load forecast would reduce the forecasted demand by nearly 700 MW (a 550 MW reduction to the industrial peak demand forecast and a 136 MW

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[43] *See, e.g.*, *Calhoun Power Acquisition,* p. 11; *2020 Certificate Order*, pp. 19, 27, 31; *1997 Certificate Order*, pp. 5-6; *1992 Certificate Order*, p. 3.

[44] Conf. Hearing Tr., p. 32, line 2 through p. 33, line 2.

[45] Direct Testimony of Christopher Habig, p. 7, lines 4-9.

[46] *Id.*

[47] *Id.*, p. 6, line 20 through p. 7, line 3, and Figure 1.

reduction in the expected load from new data centers).[48] Each of these adjustments is replete with conceptual errors and unsupported assumptions, and Ms. Burke comprehensively refuted them both. Accordingly, we find Mr. Wilson's proposed reductions lack credible evidentiary support.

A particularly noteworthy flaw in Mr. Wilson's testimony involves his use of *energy sales* variances for purposes of a *peak demand* calculation. The predicate for Mr. Wilson's alternative industrial demand forecast (the 550 MW reduction through 2029) is the historical annual variance in energy sales from the Company's industrial class. While at any point in time there may be some correlation between a loss of energy sales and peak demand, Mr. Wilson made no effort to determine whether or to what extent that correlation exists. Nor did he explore other contributing, transient factors to the variances, such as the pandemic and its lingering effects on labor markets and traditional supply chains. Furthermore, Ms. Burke testified at the hearing that while the industrial class comprises 40 percent of Alabama Power's energy sales, the class represents only 15 percent of the peak demand.[49]

The balance of Mr. Wilson's alternative load forecast reflects a downward adjustment to the ramp rates reflected in the B2025 forecast for new, large data center customers. The Company's ramp rates were based on input from a data center customer, whereas Mr. Wilson touts his experience with data centers in Virginia.[50] As a threshold matter, we would ascribe more weight to the direct feedback from prospective customers in Alabama than to generalizations about other jurisdictions, but we need not decide on that basis. Rather, on rebuttal the Company offered evidence of a recently approved contract with a new data center customer that calls for the Company to serve a load ramp even larger than what Mr. Wilson characterized as "overly optimistic" and well in excess of the 100 MW limit underlying his proposed adjustment. That same contract conclusively responds to Mr. Wilson's comments regarding risk shifting

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[48] Direct Testimony of James Wilson, p. 14, lines 13-17. The peak load reductions proposed by Mr. Wilson (686 MW), after accounting for associated planning reserves, reduce the reliability need in 2029 by 858 MW.

[49] Conf. Hearing Tr., p. 15, line 17 through, p. 16, line 1.

[50] Direct Testimony of James Wilson, p. 15, line 14 through p. 16, line 2.

to other customers in the event a data center's build out was delayed, as the contract reflects minimum term and minimum billing demand provisions designed to protect against that possibility.[51] With the oversight of the Commission,[52] such contracts protect other customers while properly balancing risk of delay and the Company's duty to serve.

Finally, we note that the record in this proceeding documents actual winter peak demand in both January 2024 and January 2025 that is remarkably close to results of the Itron model used by the Company and supported by Ms. Burke.[53] This not only serves to validate the Company's B2025 load forecast, but also casts further doubt on Mr. Wilson's alternative peak demand forecast projecting demand levels that are consistently lower (both in 2025 and thereafter). As discussed above, that alternative forecast is based solely on selective adjustments involving the industrial class and data center ramp rates. Load forecasting, by definition, is challenging—especially given the many impactful variables that are subject to change—with resulting variances within each of the component parts that comprise the Company's overall peak demand forecast.[54] But it is that *overall Company forecast*, reflecting the combined result of all constituent parts, that provides the requisite input for the IRP. To that end, the record shows that the Company's winter

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[51] Rebuttal Testimony of Maria Burke, p. 10, line 4 through p. 11, line 2.

[52] Energy Alabama/GASP included as hearing exhibits materials reflecting new procedures in Georgia to protect customers in this manner. *See* Energy Alabama/GASP Hearing Ex. 4 and 5. Such procedures are unnecessary in Alabama, as the Commission's contracting process (pursuant to which the referenced data center contract was approved) has been in place for nearly 30 years and requires, among other things, that such contracts pass the Rate Impact Measure test. *See* Conf. Hearing Tr., p. 13, line 18 through p. 14, line 6; *see also* Hearing Tr., p. 56, line 21 through p. 57, line 23.

[53] Rebuttal Testimony of Maria Burke, p. 14, line 19 through p. 15, line 18. In addition, these actual system loads, and the temperatures at which they occurred, further support the conclusion that Mr. Wilson's testimony respecting the Company's weather normalization process is without merit.

[54] To this end, the Commission does not believe that the recent adoption of certain economic policies by the Trump Administration provides a legitimate basis to second-guess the Company's peak demand forecast. Obviously, these policies are intended to increase the economic strength of the Nation, not weaken it. Moreover, if some adjustment transpires, there is nothing before us that would support the conclusion that the adjustment would be anything other than short-term in nature. Given the approach this Commission took in Docket No. 32953 with respect to the uncertainties caused by the Covid-19 pandemic, which was an unprecedented event relative to the modern economy, we believe the same course is appropriate here. *Cf. In re Certificate of Convenience and Necessity (Barry Steam Plant, et al.)*, APSC Docket No. 32953, pp. 24-27 (Aug. 14, 2020), *aff'd sub nom. Energy Alabama, et al. v. APSC*, No. CV-2021-90028.00 (Mtgm. Cty. Cir. Ct. Aug. 27, 2021).

peak demand forecast—which Mr. Wilson suggests is too high—actually has been *lower* than the Company's overall weather normal actual winter peak demand by an average of about 3.6 percent across the most recent dozen years.[55] This validates the analytical approach Alabama Power uses to develop its load forecast and negates any reasonable concern that the winter peak demand reflected in the IRP is overstated.[56]

In conclusion, the evidentiary record clearly establishes the Company's B2025 peak load forecast to be a reliable and appropriate input for the updated 2024 IRP. Energy Alabama/GASP, focusing on the peak load forecast through the testimony of Mr. Wilson, have offered no credible evidence that undermines the Company's showing in that regard. Accordingly, we find Alabama Power has satisfied its burden of proving a reliability-based need for 1,179 MW of additional capacity in 2029.

B. Reasonable Means to Satisfy the Need

Summary of the Evidence

After describing the Company's IRP process and the results of the updated 2024 IRP, Mr. Habig's direct testimony addressed the manner whereby the Lindsay Hill acquisition was selected as a cost-effective resource to respond to the identified reliability need.[57] He testified regarding the issuance of a Capacity RFP in July 2023 that solicited proposals for dispatchable capacity resources either in the form of a power purchase agreement ("PPA") or an agreement for the acquisition of new-build or existing facilities.[58] Self-build options for the Company, developed independently by a functional group at Southern Company Services, were also submitted and considered.[59] In all, the Company received formal proposals from four

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[55] Rebuttal Testimony of Maria Burke, p. 12, line 5 through p. 13, line 2. Furthermore, and as Ms. Burke testified at the hearing, this variance is attributable to the time it has taken the Company to better appreciate the responsiveness of its customers to winter weather (as opposed to variances in industrial energy sales). Conf. Hearing Tr., p. 16, line 20 through p. 18, line 3.

[56] Hearing Tr., p. 33, line 24 through p. 34, line 20.

[57] Direct Testimony of Christopher Habig, p. 8, line 1 through p. 14, line 6.

[58] *See id.*, Ex. CJH-1.

[59] Deposition of Christopher Habig, p. 104, line 13 through p. 105, line 20.

bidders comprising nine options, representing approximately 4,045 MW of capacity.[60] Over the course of the evaluation process, seven of these proposals were eliminated from further consideration for various reasons, leaving only two bids on the Short List—an acquisition and a PPA—both related to the Lindsay Hill Facility.[61]

Throughout the RFP process, the costs and benefits associated with competing proposals were assessed in a comprehensive and consistent manner, across a range of scenarios representing alternative fuel costs and costs associated with potential greenhouse gas regulation.[62] As depicted on Figure 2 of Mr. Habig's direct testimony, the total evaluated cost analysis showed the Lindsay Hill acquisition to be more cost competitive than the Lindsay Hill PPA, both on average and across all scenarios.[63] Mr. Habig further explained that, in addition to this direct economic benefit, ownership of Lindsay Hill brings the intangible value of being a sister unit in close proximity to the Company's Central Alabama Facility, which creates opportunities for efficiencies in terms of inventory, labor force, supervision and other actions and activities involving the operation and maintenance of those largely identical units.[64]

In response to Mr. Habig's direct testimony, Energy Alabama/GASP offered the testimony of Dr. Stanton. She first expressed concern over resource supply diversity risk, noting that the Lindsay Hill acquisition will increase Alabama Power's reliance on resources using natural gas.[65] In so doing, she suggested that this risk is not reflected in cost modeling underlying the Company's IRP.[66] Dr. Stanton then stated that battery storage and solar plus battery storage would have had the opposite effect on the

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[60] Direct Testimony of Christopher Habig, p. 9, lines 10-15.

[61] *Id.*, p. 10, lines 15-25. These reasons included non-compliance with RFP requirements, bidder withdrawal, cost uncertainties and in-service dates beyond the Company's 2029 year of need.

[62] *Id.*, p. 11, lines 1-6; *see also* Rebuttal Testimony of Christopher Habig, p. 20, lines 8-17.

[63] Direct Testimony of Christopher Habig, p. 11, lines 1-10, and Figure 2.

[64] *Id.*, p. 13, lines 4-18.

[65] Direct Testimony of Elizabeth Stanton, p. 9, line 4 through p. 12, line 9.

[66] *Id.*, p. 12, lines 10-14.

Company's resource portfolio and criticized the Company for excluding such resources from the 2023 Capacity RFP.[67] Building on these related assertions, Dr. Stanton opined that the Company should be required to reissue the RFP until it receives a minimum of four resources and three resource types.[68]

On rebuttal, Mr. Habig addressed the claims and criticisms of Dr. Stanton. With regard to fuel diversity, he discussed the evolution of the Company's capacity mix by fuel type, presenting snapshots of that mix as of 2014, 2024 and 2029 (assuming inclusion of Lindsay Hill).[69] He explained that the observed transition from coal to natural gas primarily has been driven by the effects of environmental rules and regulations of the U.S. Environmental Protection Agency on the relative economics of coal-fired resources. Mr. Habig then showed that the amount of natural gas in Alabama Power's post-acquisition capacity mix would remain well in line with that of other load serving entities and regions in the United States.[70]

Mr. Habig recognized that all generation, including natural gas-fired generation, bears risk in one form or another.[71] He then discussed the various steps taken by the Company to mitigate risk associated with natural gas resources, such as procuring firm transportation on interstate pipelines, relying on gas storage, and considering options for on-site fuel oil backup. Mr. Habig further explained that the Company's reserve margin is designed to account for the various reliability risks associated with system resources.[72] Mr. Habig testified that Alabama Power does, in fact, assess supply diversity risk for planning and evaluation purposes, citing the Company's scenarios and production cost modeling reflecting various planning uncertainties.[73] Refuting another misapprehension by Dr. Stanton, Mr. Habig reiterated that

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[67] *Id.*, p. 13, line 2 through p. 15, line 4.

[68] *Id.*, p. 16, line 16 through p. 17, line 20.

[69] Rebuttal Testimony of Christopher Habig, p. 4, line 1 through p. 6, line 9, and Figures 1-3.

[70] *Id.*, p. 6, line 10 through p. 8, line 4, and Figure 4 (depicting nationwide percentages of natural gas-fired capacity).

[71] *Id.*, p. 8, lines 5-16.

[72] *Id.*, p. 8, line 17 through p. 9, line 4.

[73] *Id.*, p. 10, line 12 through p. 11, line 7, and Ex. CJH-1.

detailed economic analysis was performed on the viable alternatives at every stage of the RFP evaluation using well established and accepted evaluation methodologies, including the use of production cost modeling tools.[74]

Responding to Dr. Stanton's criticism over the exclusion of battery storage and solar plus battery storage from the 2023 Capacity RFP, Mr. Habig emphasized that the solicitation sought market offerings that would provide reliable, dispatchable, cost-effective supply to meet the needs of the Company's customers.[75] He explained that battery storage and solar plus battery storage proposals were excluded in recognition of Commission concerns, expressed only a few years earlier, regarding their limited dispatchability during the winter and the Company's lack of operational experience with battery storage systems.[76] Mr. Habig then described the Company's efforts to secure the requisite operational experience and the reasons why those efforts have been unsuccessful to date.[77] And to the extent Dr. Stanton sought to imply (without any supporting analysis) that such projects would be more cost-effective, Mr. Habig identified the four solar/storage proposals from the 2024 Renewable RFP that would have satisfied the minimum size requirements of the 2023 Capacity RFP and compared their economics to those of the Lindsay Hill acquisition. Notwithstanding certain assumptions that advantaged the solar/storage projects, his analysis showed the Lindsay Hill acquisition to be a lower cost alternative.[78] Mr. Habig's concluded his testimony by rebutting Dr. Stanton's recommendation to reissue RFPs, showing it to be impractical,

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[74] *Id.*, p. 20, lines 8-17; *see also* Hearing Tr., p. 136, line 22 through p. 137, line 21. This initially involved the application of the "peaker method" (a simplified production cost model) to derive the Short List, followed by full production cost modeling of the final two proposals.

[75] Rebuttal Testimony of Christopher Habig, p. 12, lines 1-9.

[76] *Id.*, p. 12, line 10 through p. 13, line 15; *see also 2020 Certificate Order*, p. 55.

[77] Rebuttal Testimony of Christopher Habig, p. 13, line 16 through p. 15, line 6.

[78] *Id.*, p. 16, line 1 through p. 18, line 4. *See also* Conf. Hearing Tr., p. 45, line 18 through p. 47, line 3.

contrary to the basic purpose of the RFP process and inconsistent with the Company's statutory duty to provide reliable service.[79]

At hearing, Mr. Habig likewise verified his pre-filed direct and rebuttal testimony, noting one correction on a chart in his rebuttal testimony. On cross-examination by counsel for Energy Alabama/GASP, much of the questioning focused on the IRP benchmark plan, which Mr. Habig confirmed is an indicative set of future resources selected by the model based on estimates of technology, fuel, regulatory compliance, and other cost inputs and assumptions.[80] He further explained how the RFP process evaluates viable market and self-build options to identify and select cost-effective resources to supply the needed capacity.[81]

Mr. Habig was examined regarding various aspects of the Lindsay Hill acquisition, including the gas transportation arrangements as well as mitigation measures in the event of delays in pipeline expansion.[82] He was also asked questions regarding the way energy benefits are determined, explaining that the same process used to ascertain such benefits for Lindsay Hill was reflected in his analysis of the solar/BESS proposals.[83]

On redirect, Mr. Habig reiterated that the benchmark plan is a modeling exercise that uses generically repeatable technologies to establish a ceiling cost that the Company seeks to beat through the RFP process.[84] He confirmed that while the Lindsay Hill acquisition will put some upward pressure on rates, its selection comports with the RIM test because it reflects the most cost-effective option.[85] And

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[79] Rebuttal Testimony of Christopher Habig, p. 22, line 16 through p. 23, line 2.

[80] Hearing Tr., p. 109, line 23 through p. 113, line 7.

[81] Hearing Tr., p. 118, line 20 through p. 119, line 8; p. 126, line 24 – p. 127, line 11.

[82] Conf. Hearing Tr., p. 20, line 4 through p. 22, line 10. *See also* Hearing Tr., p. 96, line 20 through p. 98, line 16 (questions from the Attorney General regarding operational efficiencies).

[83] Conf. Hearing Tr., p. 24, line 13 through p. 27, line 20.

[84] Conf. Hearing Tr., p. 32, line 2 through p. 33, line 2.

[85] Conf. Hearing Tr., p. 36, lines 1-10.

while indicating there is no reason to expect pipeline expansion delay, Mr. Habig elaborated further on responsive strategies should that occur as well as natural gas price mitigation measures employed by the Company.[86] He also testified that the nationwide natural gas percentages shown on Figure 4 (compared to the Company's post-acquisition percentage mix in 2029) reflect information as of 2022 and those percentages can be expected to increase moving forward.[87]

Commission Findings and Conclusions

We find the substantial weight of the evidence supports Alabama Power's requested acquisition of the Lindsay Hill Facility to address its identified capacity need. The Company's 2023 Capacity RFP was properly framed to exclude solar/energy storage system proposals in view of our stated concerns in Docket No. 32953 and the Company's inability, despite reasonable efforts, to obtain the actual operational experience specified by this Commission before relying on energy storage (with or without solar) for system reliability. The record further establishes that the acquisition of Lindsay Hill is the least-cost option among the potentially viable alternatives available to the Company, as reflected in proposals and self-build projects responsive to the 2023 Capacity RFP. Alabama Power's analysis of the economic benefit of the Lindsay Hill acquisition, tested against the potential self-build and market alternatives submitted in response to the RFP, is clear and undisputed.[88] That analysis shows the acquisition to be $236/kW less on average than its closest competitor (the Lindsay Hill PPA), measured on the basis of total lifecycle costs across the fuel and carbon cost scenarios evaluated.[89]

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[86] Conf. Hearing Tr., p. 44, line 16 through p. 47, line 17; p. 42, line 14 through p. 43, line 14.

[87] Conf. Hearing Tr., p. 41, lines 1-5.

[88] Contrary to Dr. Stanton's testimony, the Company did, in fact, receive three proposals for combustion turbine resources and those proposals were, in fact, evaluated using production cost modeling. *See* Direct Testimony of Elizabeth Stanton, p. 8, lines 10-12; *see also* Rebuttal Testimony of Christopher Habig, p. 19, line 17 through p. 20, line 17.

[89] Direct Testimony of Christopher Habig, p. 11, lines 1-12, Figure 2, and Ex. CJH-2 (Confidential – Not Intended for Public Disclosure).

The Lindsay Hill acquisition also possesses a number of attributes that augment its value and further support our decision here. As a sister unit to the nearby Central Alabama Facility owned by Alabama Power, there are clear opportunities for efficiencies in terms of inventory, labor force, supervision and other actions and activities involving the operation and maintenance of those largely identical units. Potential synergies also arise from the fact that Central Alabama has access to natural gas transportation from both Transcontinental Gas Pipe Line Company ("Transco") and Southern Natural Gas Company, whereas Lindsay Hill is served exclusively from Transco. Common ownership of Lindsay Hill and Central Alabama affords the Company additional optionality in the context of planning and contracting for firm transportation for the natural gas supply for both units, not only promoting reliability but also creating the potential for cost savings.[90]

The testimony of Energy Alabama/GASP witness Dr. Stanton offers nothing to support a contrary view of the evidentiary record, as summarized here.[91] Dr. Stanton did not dispute the results of the Company's economic evaluations that led to its selection, nor did she attempt to demonstrate superior economics associated with any suggested resource alternatives.[92] Rather, she implied that the acquisition might make Alabama Power unduly reliant on natural gas, with her apparent solution being to pursue battery storage and solar plus battery storage resources. The Company demonstrated, however, that the percentage of natural gas resources in its capacity mix—even with the Lindsay Hill acquisition—is well in line with that of other load serving entities and regions across the country.[93]

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[90] *Id.*, p. 13, lines 4-18.

[91] In its rebuttal case, Alabama Power thoroughly examined and responded to each of Dr. Stanton's criticisms through the testimony of Mr. Habig. *See* Rebuttal Testimony of Christopher Habig, p. 2, line 17 through p. 21, line 19.

[92] Dr. Stanton's only comment in this regard was a factually incorrect statement, refuted by Mr. Habig on rebuttal, that "only two alternatives were fully evaluated and compared through economic modeling." Direct Testimony of Elizabeth Stanton, p. 16, line 5-8; Rebuttal Testimony of Christopher Habig, p. 20, lines 8-17.

[93] Rebuttal Testimony of Christopher Habig, pp. 4-8 and Figures 1-4; Conf. Hearing Tr., p. 40, line 16 through p. 41, line 5.

As noted by Mr. Habig and previously recognized by this Commission, all forms of generation present risk in one form or another.[94] We find that the Company properly assesses supply diversity risk through the use of modeling scenarios reflecting various planning uncertainties (including potential futures for the cost of natural gas and the potential for various carbon-related cost pressures) and production cost modeling (reflecting inputs such as planned and unplanned unit unavailability based on typical maintenance schedules and random outage assumptions for different types of units). Alabama Power's participation in the Southern Company System Intercompany Interchange Contract also serves to mitigate overall supply diversity risk.[95] In the specific context of natural gas resources, the Company takes appropriate steps to mitigate pipeline transportation risk, including the procurement of firm gas transportation to support full output of the resources, the use of natural gas storage and the potential for on-site oil backup.[96] We find that, through procedures, policies and practices such as these, the Company is taking reasonable and appropriate steps to address the supply diversity concerns discussed by Dr. Stanton.

We further find that, as noted earlier, the Company is responding appropriately to our previously stated concerns regarding the need for actual operational experience with battery energy storage resources before relying on such resources to address a reliability need of the magnitude established in this record. Alabama Power has demonstrated ongoing diligent efforts to secure such experience, both through the Renewable RFP process under the Renewable Generation Certificate established in Docket No. 32382 and its planned construction of a utility-scale battery energy storage system at the Plant Gorgas site.[97] Other

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[94] *See Calhoun Power Acquisition,* p. 25 ("Suffice it to say that every form of supply necessarily carries its own set of potential risks (some perhaps being unknown at present), requiring the utility to assess those risks and, if the decision is made to proceed with a given alternative, manage them as cost-effectively as practicable should they come to bear.").

[95] Rebuttal Testimony of Christopher Habig, p. 8, line 5 through p. 12, lines 6 through 18.

[96] *Id.*, p. 8, line 5 through p. 11, line 7, and Ex. CJH-1.

[97] *Id.,* p. 13, line 16 through p. 14, line 14.

operating companies on the Southern system are also installing such resources,[98] which presumably will contribute to the Company's understanding of the operational capabilities of battery energy storage systems.

As relevant here, however, there was no such experience at the time of the 2023 Capacity RFP, thus making the Company's exclusion of battery energy storage systems (with or without solar) from that RFP entirely appropriate. The Commission therefore rejects Dr. Stanton's assertion that this exclusion somehow invalidates the selection of the Lindsay Hill acquisition as the cost-effective choice.[99] Moreover, even if such resources had been solicited, the Company's economic evaluation of solar/storage resource proposals from the 2024 Renewable RFP shows the Lindsay Hill acquisition to be the more cost-effective option for customers.[100]

Finally, we reject Dr. Stanton's recommendation that the Company should be required to reissue RFPs until it receives proposals for a minimum of four resources and three resource types.[101] The Commission finds such an approach to be inconsistent with the purpose of the RFP and impractical in the context of the Company's duty to provide reliable service. We agree with Mr. Habig that a RFP's validity is not contingent on the number or type of proposals received, as the goal is to see what the market has to offer consistent with the Company's parameters and regulatory requirements.[102] In the case of the 2023 Capacity RFP, the evidence supports a conclusion that the number of responses reflects an increasingly capacity-constrained wholesale market, coupled with increasing demand for available capacity due to significant regional growth largely driven by data centers.[103] Issuing another RFP will not change the

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[98] Hearing Tr., p. 131, line 18 through p. 135, line 2.

[99] Direct Testimony of Dr. Elizabeth Stanton, p. 14, line 20 through p. 15, line 4.

[100] Rebuttal Testimony of Christopher Habig, p. 16, line 1 through p. 18, line 4; Conf. Hearing Tr., p. 45, line 18 through p. 47, line 3. As noted at the hearing, Lindsay Hill will not fully resolve the Company's winter capacity need. Mr. Habig explained that the Company will be looking at multiple options to meet that remaining deficit. Hearing Tr., p. 149, line 13 through p. 151, line 5.

[101] Direct Testimony of Dr. Elizabeth Stanton, p. 17, lines 12-20.

[102] Rebuttal Testimony of Christopher Habig, p. 21, lines 13-19.

[103] *Id.*, p. 19, line 17 through p. 20, line 7.

market or cause underlying conditions to go away. More importantly, we find that the time required to issue sequential RFPs in hopes of a different market response would impede the Company's ability to take necessary and timely steps to fulfill its duty to provide reliable service.

As for other various issues and arguments raised by Energy Alabama/ GASP, we do not find them to rise to any level of materiality, let alone substantiality, sufficient to overcome the evidentiary showing made by Alabama Power. This includes the fact that the 2024 IRP benchmark plan identified peaking capacity as the resource type to meet the identified need, whereas Lindsay Hill is an "intermediate or baseload resource".[104] As the record reflects, "[the] indicative guidance [from the benchmark plan] is based on generic input data and does not reflect the economics associated with specific opportunities. The acquisition of [Lindsay Hill], which is an intermediate or baseload resource, provides the same contribution to reliability as the peaking option identified in the benchmark plan, along with additional energy benefits that make it the economic choice. Accordingly, Lindsay Hill was selected to meet the identified need."[105]

In his deposition, Mr. Habig reiterated that the benchmark plan was merely indicative, "to give us an indication of the type of technology that could be deployed to meet the need going forward."[106] And with specific regard to combined cycle technology not being selected to meet the upcoming need, Mr. Habig testified at the hearing that combined cycle technology was not available to the model in the 2024 benchmark plan in 2029, so it was forced to select other technologies to address the capacity need in that year.[107] The reason for the constraint was the lead time required to construct a new facility. In the 2025 IRP, 900 MW of combined cycle capacity was made available to the model in the form of an acquisition

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[104] Direct Testimony of Dr. Elizabeth Stanton, p. 8, lines 3-5.

[105] Response of Alabama Power Company to Energy Alabama and GASP's First Set of Interrogatories and Requests for the Production of Data and Documents, CONFIDENTIAL SELC-DR 1 DPR-00 Attachment N, Response 1.

[106] Deposition of Christopher Habig, p. 127, lines 11-14.

[107] Hearing Tr., p. 117, lines 1-13.

(as opposed to new construction) and the model selected that capacity for the benchmark plan as a cost-effective alternative for 2029.[108]

The Commission finds that the foregoing recitation of record evidence affirmatively negates any conclusion to be drawn from the absence of combined cycle technology in the 2024 benchmark plan in 2029. When allowed to do so, the model chose that technology to address the upcoming need because—at least based on generic inputs—it was expected to be cost effective. Moreover, as we have previously held:

> The benchmark plan is just that—a "benchmark" of deployable options that serves as the starting point for evaluating the cost-effectiveness of competing alternatives. Had the market offerings been at a higher cost, the Company presumably would have acted on the benchmark plan. In this case, however, there were significant amounts of more cost-effective capacity offerings, enabling the Company to choose for its portfolio those proposals from the market that provide the best value for customers.[109]

The Commission certainly recognizes that the benchmark plan emanating from the IRP process provides useful indicative information for planning purposes. Benchmark results should not, however, somehow preclude the Company from pursuing market opportunities that provide better economics for customers.[110]

Regulatory Accounting and Rate Treatment for Lindsay Hill

Summary of the Evidence

Mr. Ricks provided testimony as to the proposed regulatory accounting and rate treatment to facilitate the integration of the Lindsay Hill Facility into the Company's retail cost of service. Consistent with the FERC Uniform System of Accounts, the Company is requesting the Commission to direct it to record as an electric plant acquisition adjustment in FERC Account 114 the difference between the original cost of Lindsay Hill (net of accumulated depreciation, amortization and other allowed adjustments) and the acquisition costs of Lindsay Hill. The Company also requests the Commission to direct it to amortize the

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[108] Conf. Hearing Tr., p. 33, line 20 through p. 34, line 8.

[109] *2020 Certificate Order*, p. 30 n.96.

[110] Conf. Hearing Tr., p. 32, line 2 through p. 33, line 2.

amounts recorded in FERC Account 114 to FERC Account 406 over the remaining life of the facility from the date of acquisition (estimated to be approximately 17 years).[111]

As explained by Mr. Ricks, the full output of Lindsay Hill will remain committed to a third party through April 30, 2027 pursuant to an existing power sales agreement (Fuel Conversion Services Agreement, or "FCSA"). Accordingly, the Company proposed to postpone operation of Subpart A of Rate CNP (Adjustment for Commercial Operation of Certificated New Plant) ("Rate CNP") until the term of the FCSA ends. During that time, the costs of ownership of Lindsay Hill would be reflected in the Company's annual calculations and submissions under Rate RSE, but without effect on customers for the reasons discussed below. When Subpart A operates, the corresponding plant factor would reflect a retail revenue requirement on the acquisition cost (net of amortization, depreciation and other allowed adjustments) and adjustments to plant balances. This total retail revenue requirement would then be allocated to the respective rate schedules subject to Rate CNP in accordance with the allocation formula selected by the Commission, proposed to be the Revenue Allocation formula because the facility is being certified based on a capacity need. Other costs not captured in the plant factor would be recovered as appropriate under Subpart C of Rate CNP, Rate ECR (Energy Cost Recovery Rate) or Rate RSE (Rate Stabilization and Equalization Factor).[112]

Mr. Ricks' direct testimony also described the proposed treatment of costs and revenues arising during the term of the FCSA ("Interim Period"). Under Generally Accepted Accounting Principles ("GAAP"), the Company is required to record an adjustment in its books and records at the acquisition date to reflect the estimated value of the costs and revenues associated with the FCSA based on the current market value of that contract ("Fair Value"). The Fair Value would be recorded as part of the previously discussed electric plant acquisition adjustment and as a liability associated with costs of ownership during the Interim Period. GAAP provides specific requirements for determining the Fair Value that do not align

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[111] Direct Testimony of Adam Ricks, p. 2, line 13 through p. 3, line 2.

[112] *Id.*, p. 3, lines 18-20.

with the costs of ownership, resulting in costs that exceed the combined value of the FCSA revenues and the liability (collectively, "the Offsets").

Absent direction from the Commission, the described cost differential would be recovered during the Interim Period through the operation of Rate RSE. To avoid that result, the Company proposed to establish a regulatory asset to which the Company would record such costs of ownership in excess of the Offsets. Then, as authorized by the Commission, the Company would amortize the regulatory asset beginning in May 2027. In his direct testimony, Mr. Ricks proposed an amortization period equivalent to the Interim Period.[113] Pursuant to an Agreement and Stipulation with AIEC, the proposed amortization period was later revised in his rebuttal testimony, providing for the regulatory asset to be amortized beginning in May 2027 over the remaining life of the Lindsay Hill Facility.[114] With this modification, the net cost pressure on rates as of May 2027 is estimated to be approximately $3.32 per month on a typical residential bill.

There was no testimony filed in response to that of Mr. Ricks and no alternative accounting or rate treatments proposed. At the hearing, Mr. Ricks was cross-examined at some length, but little of that examination related to the substance of his direct or rebuttal testimony. On redirect, Mr. Ricks confirmed that, applying a traditional net present value analysis, the alternative amortization periods produce the same result for customers.[115]

Commission Findings and Conclusions

We find the Company's requested rate treatment, as set forth in Mr. Ricks' direct testimony and modified in his rebuttal testimony in accordance with the Agreement and Stipulation, to be consistent with prior such requests by the Company and in accordance with the cost recovery mechanisms on file with this Commission. We direct Alabama Power to reflect all associated costs and revenues from the time of its

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[113] *Id.*, p. 4, lines 10-18.

[114] Rebuttal Testimony of Adam Ricks, p. 2, lines 8-16.

[115] Hearing Tr., p. 216, lines 9-13.

closing of the Lindsay Hill acquisition through April 2027 in the Company's annual calculations and submissions under Rate RSE.[116] Consistent with this directive, the effectiveness of the Rate CNP, Subpart A Plant Factor ("Plant Factor") for billings shall be postponed until May 2027.[117] Upon its effectiveness for billings, the Plant Factor shall include the retail revenue requirement on the acquisition cost, net of amortization, depreciation and other allowed adjustments, and adjustments to plant balances, determined in accordance with Rate CNP. The Plant Factor also shall include the amortization of the regulatory asset established hereunder.

Reasonably identifiable costs and attributes related to compliance with governmental mandates, such as expenditures associated with plant assets, operating and maintenance expenses, and accumulated depreciation and deferred income taxes, shall be excluded from the Plant Factor, but shall be recoverable through the Rate CNP, Subpart C Compliance Factor. Likewise, all associated energy costs, as defined by Rate ECR (Energy Cost Recovery Rate), shall be recoverable in accordance with that rate. Finally, as this acquisition is for purposes of reliability, the total retail revenue requirement reflected in the Plant Factor for the upcoming 12-month period, including operation, maintenance, depreciation and amortization expenses, shall be allocated based on the Revenue Allocation formula. Consistent with the FERC Uniform System of Accounts, Alabama Power also shall record as an electric plant acquisition adjustment in FERC Account 114 the difference between the original cost of the facility, net of accumulated depreciation, amortization and other allowed adjustments, and the acquisition costs for Lindsay Hill. The Commission further directs the Company to amortize the amounts recorded in FERC Account 114 to FERC Account 406 over the remaining life of the facility. Finally, the Commission authorizes the Company to establish the regulatory asset described by Mr. Ricks and, beginning in May 2027, to amortize that regulatory asset

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[116] To be clear, we are not directing the Company to take any action respecting its 2025 Rate RSE filing (as filed November 27, 2024). While that filing appropriately did not include any projection of costs and revenues arising during calendar year 2025, the Company's submission in 2026 reflecting actual results for 2025, in accordance with Rate RSE, will capture the costs, revenues and Commission-Required Adjustments associated with the acquisition in 2025.

[117] As such, we direct the Company to file the Rate CNP, Subpart A Plant Factor not later than sixty (60) days prior to its effectiveness.

over the remaining life of the facility. Any activity recorded in the regulatory asset shall be reflected in the corresponding Rate RSE filings as a Commission-Required Adjustment.

IV. FINAL FINDINGS, CONCLUSIONS AND ORDERING PARAGRAPHS

After consideration of the record compiled in this case, including the written and document discovery provided to the Commission Staff and the testimony and exhibits received at the hearing, along with other information available to the Commission, the adequacy and reliability of the Company's system, and the necessity and desirability of the addition of Lindsay Hill as related thereto, the Commission **FINDS** that it is in the interest of the Company and of the public served by it that the acquisition of existing combined cycle generating capacity at the Lindsay Hill Facility, as described more fully herein, together with all transmission facilities, transmission arrangements, structures, substations, and facilities, environmental control measures, facilities or arrangements for the handling, treatment, transportation, delivery and processing of fuel, and any and all other appliances, appurtenances, facilities, rights, equipment, acquisitions, commitments and accounting authorizations necessary for or incident thereto, be obtained as proposed and described by the Company in this proceeding.[118] The Commission **FURTHER FINDS** that the Company has complied with all laws of the State of Alabama the administration of which the Commission is charged applicable to the certificate of public convenience and necessity herein sought.

IT IS, THEREFORE, ORDERED BY THE COMMISSION that the October 30, 2024 Petition of Alabama Power Company be and hereby is in all things granted, and the Commission, by the issuance of this instrument as a Certificate of Convenience and Necessity, does hereby grant and confer upon Alabama Power Company, its successors and assigns, all the rights, power and authority that, under the laws of the State of Alabama, the Commission is authorized to confer for the purpose of enabling the Company to acquire the existing combined cycle generating capacity known as the Lindsay Hill Generating

[118] As demonstrated in this proceeding, Lindsay Hill is a cost-effective resource that will satisfy the need for reliable electricity caused by low growth across all customer classes. Looking ahead, the Commission is aware of large load prospects exploring the possibility of locating in Alabama Power's service territory. The Commission urges Alabama Power to continue to explore opportunities to mitigate the effect of this acquisition on customer rates as such new load is contracted.

Station, together with all transmission arrangements, structures, substations, and facilities, environmental control measures, facilities or arrangements for the handling, treatment, transportation, delivery and processing of fuel, and any and all other appliances, appurtenances, facilities, rights, equipment, acquisitions, commitments and accounting authorizations necessary for or incident thereto.

IT IS FURTHER ORDERED BY THE COMMISSION that a copy of this instrument be retained in the records of this Commission and that the original, under the seal of the Commission, be furnished to the Company as a Certificate of Convenience and Necessity authorized and required under the provisions of Alabama Code § 37-4-28.

IT IS FURTHER ORDERED BY THE COMMISSION that the Company implement the rate and regulatory accounting treatments and otherwise tender all necessary filings and submissions to this Commission in accordance with the discussion provided in the body of this Order.

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

DONE at Montgomery, Alabama, this 13th of August, 2025.

ALABAMA PUBLIC SERVICE COMMISSION

Cynthia Lee Almond

Cynthia Lee Almond, President

Jeremy H. Oden, Commissioner

Chris V. Beeker, III, Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary