

**BEFORE THE
ALABAMA PUBLIC SERVICE COMMISSION**

ALABAMA POWER COMPANY

Docket No. 32953

In re: Petition for Certificate of Convenience
and Necessity

**REPLY OF ALABAMA POWER COMPANY TO SOUTHERN RENEWABLE ENERGY
ASSOCIATION'S RESPONSE TO ALABAMA POWER COMPANY'S OBJECTION
FOR LEAVE TO INTERVENE**

Alabama Power Company ("Alabama Power" or "Company"), petitioner in the above-captioned proceeding, hereby restates and reinforces its objection to the petition to intervene filed in this proceeding by Southern Renewable Energy Association ("SREA"). Notwithstanding its response, SREA continues to fall short of the showing required under Commission precedent and Alabama law for standing to participate in a proceeding before the Commission.

1. SREA's response opens with diversionary demonstrations of compliance with several requirements of the Commission's Rules of Practice that are uncontested and irrelevant to the challenged issue of standing. First, Mr. Mahan contends that he may appear before the Commission as "a bona fide officer or full-time employee of a corporation [or] association" under Commission Rule 5(A). Alabama Power's objection is not predicated on this aspect of the Commission's rules. SREA then recites Commission Rule 8(C), which sets forth the required contents of a petition to intervene, such as "the grounds of their proposed intervention" and the "position and interest of the petitioner". In essence, SREA seems to argue that standing is established simply by including statements that match those elements. SREA again misses the point. Alabama Power does not object because SREA failed to state an interest, but because the interest so stated is not sufficient under Alabama law to provide standing to participate in this proceeding.

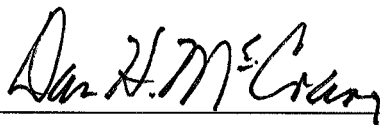
2. Finally reaching the basis for Alabama Power's objection (the absence of interest sufficient to support standing), SREA basically repeats the same ineffectual arguments made in its petition. As noted in Alabama Power's objection, an interested party may only intervene in a proceeding before the Commission upon an affirmative showing that it is "affected thereby." Ala. Code § 37-1-87. Such a showing requires a party "to demonstrate that they have a direct, personal interest in the proceedings under consideration and not merely issues in common with the general public." *Declaratory Proceeding*, APSC Docket No. 28941 (Jan. 9, 2004). *See also Alabama Power Co.*, APSC Docket No. U-4485 (May 12, 2003), *appeal dismissed sub nom. Alabama Env't'l Council v. APSC*, 893 So. 2d 287 (Ala. 2004); *M.W. Smith Lumber Co. v. APSC*, 24 So. 2d 409, 411 (Ala. 1946). In its response, SREA again says that the Commission's actions in this docket will affect unidentified members' investment decisions and repeats that its members hope "to ensure that they can provide low cost energy resources in Alabama." *See Response*, p. 2. Broad statements of this sort demonstrate nothing more than a generalized interest in this proceeding that is insufficient to confer standing. SREA is a Texas-based association that has not named any ongoing projects, specific interests, or members¹ in Alabama Power's service territory. If the standard for intervention were as broad as SREA suggests, any business or association that might consider operating in Alabama, even decades in the future, could achieve intervenor status, as could any individual contemplating a future move to Alabama. SREA's suggestion is refuted by firmly established by Commission and judicial precedent. *See Alabama Power's objection*, ¶¶ 2-4.

3. SREA concludes by pointing to a number of other proceedings in which it has allegedly been involved, basically arguing that, because it was allowed to participate there, it

¹ While the Commission has recognized that reliance on customer status is not the only way to demonstrate standing, other associations have availed themselves of this approach, which for this proceeding does satisfy the threshold requirement for standing. However, if SREA identified a member in Alabama, the question would remain, in the absence of customer status, whether that member's interest remained too attenuated to support intervention.

should be allowed to participate here. Whether or to what extent SREA has (or has not) been involved in matters before other commissions, under different rules, regulations, statutes and precedent, has no bearing on a determination of its standing to participate in the instant proceeding. It is incumbent on SREA to make the requisite showing under Alabama law to support its requested intervenor status in this docket – a showing it has twice failed to make.

WHEREFORE, for the foregoing reasons, the Company submits that the application for leave to intervene of SREA fails to establish sufficient basis, as a matter of Alabama law, to afford standing in this proceeding. Accordingly, its application is due to be denied.



Attorney for Alabama Power Company

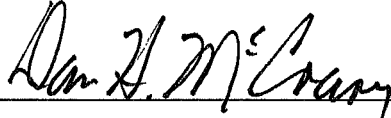
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CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of October, 2019, I have served a copy of the foregoing via electronic mail on Southern Renewable Energy Association, in care of its Executive Director as signatory to its application for leave to intervene.

A handwritten signature in black ink, appearing to read "Don H. McCrary", is written over a horizontal line.

Attorney for Alabama Power Company