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May 1, 2020

Mr. Walter Thomas, Secretary
Alabama Public Service Commission
100 N. Union St., Suite 850
Montgomery, Alabama 36130

Re: Alabama Power Company Petition for Certificate of Convenience and Necessity
Docket 32953

Dear Mr. Thomas:

Enclosed is the original and three copies of a *Response to the Petition for a Certificate of Convenience and Necessity by Alabama Power Company* regarding the above referenced docket submitted by the Attorney General's Office. Please stamp one of the copies "filed" for return to our office.

Sincerely,

A handwritten signature in cursive script that reads "Zack Wilson".

Zack Wilson
Assistant Attorney General

Enclosure

**BEFORE THE
ALABAMA PUBLIC SERVICE COMMISSION
MONTGOMERY, ALABAMA**

In Re:)	
)	
)	
Petition for a Certificate of Convenience and Necessity by Alabama Power Company,)	Docket 32953
)	
)	
Petitioner.)	

**RESPONSE TO THE PETITION FOR A CERTIFICATE OF CONVENIENCE AND
NECESSITY BY ALABAMA POWER COMPANY**

I. Introduction

The Attorney General for the State of Alabama (“Attorney General”) respectfully submits this response regarding the Petition for a Certificate of Convenience and Necessity (“Petition”) filed by Alabama Power Company (“Company”). Upon the filing of a certificate of convenience and necessity pursuant to Alabama Code § 37-4-28, and “after a public hearing of all parties interested,” the Alabama Public Service Commission (“Commission”) “may, or may not, in its discretion, issue such a certificate of convenience and necessity, and if issued, may prescribe such conditions upon the issuance as it may deem advisable.”

Pursuant to Alabama Code § 37-1-16, the Attorney General is tasked with intervening in proceedings before the Commission on behalf of the using and consuming public when he deems it to be advisable in the public interest. While recognizing the appropriateness of spending on capital projects when a need is sufficiently proven, the Attorney General does not take a position on the specific energy mix or amount of new capacity requested in the Petition. The Attorney General’s staff lacks the technical expertise, or access to consultants, necessary to make an

informed decision on the Petition's specific requests. As the Commission's staff has the necessary technical expertise, the Attorney General will defer to its decision on the appropriate energy mix and amount of new capacity needed by the Company. However, it is imperative that accountability measures are instituted in order to protect Alabama ratepayers as the efficacy of any approved additions are realized in the years to come.

If a need for additional electricity capacity is proven by the Company, the Commission must ensure that such capacity is acquired at a reasonable cost. The costs of the Company's proposals will significantly impact millions of customers in the monthly bills they must pay for electricity. Therefore, if the Petition is approved, the Commission should monitor costs incurred by the Company and require subsequent approvals by the Commission if the actual costs exceed the Company's current projections. As we enter a period of economic uncertainty, there is a heightened need to ensure that Alabama ratepayers are not left to bear the burden of any capacity additions that prove unnecessary. It is the Commission's duty to ensure that all requests contained within the Petition are presently necessary. If any of the proposed additions are not presently necessary, the Commission should delay approval of those additions until such necessity arises.

II. Cost to Ratepayers

The Company's Petition proposes using new capacity additions, primarily fueled by natural gas combined-cycle generating facilities, to meet energy requirements over the 20-year planning period analyzed in the Company's 2019 Integrated Resource Plan. While a large fleet of natural gas units may seem reasonable or prove worthy, it is impossible to know what the most technologically advanced electricity generation method will be forty (40) years from now. The costs that will be borne by ratepayers should be a central consideration when formulating long-

term resource plans. If this Petition is granted, it will increase electricity bills for a population that already faces one of the highest energy burdens in the United States.¹

In an era of little to no demand growth, when the Company is already removing plants from service before their planned retirement dates, the Company is now asking to add thousands of megawatts of new capacity. As a regulated monopoly, the Company will continue to pass the costs of shuttered plants as well as these proposed additions along to its customers. If the Company has over-forecasted future electricity demand, Alabama ratepayers will be left to foot the bill. Presently, ratepayers will be required to pay the Company for the costs incurred plus a profit, regardless of how much these units run and whether they do so profitably. The Commission must use its expertise to ensure that all proposed costs to be incurred and profits to be acquired by the Company are convenient and necessary.

As natural gas combined-cycle generating facilities, like the proposed Barry Unit 8, are built to last for decades, such investments may become stranded or the costs may become uneconomic due to new emission standards or technological change. If, for instance, Barry Unit 8 were to become a stranded asset, either ratepayers or the Company's shareholders would be burdened with absorbing the costs of the unit for the remainder of its depreciable life. Monopolistic utilities should not be able to make a profit on assets that are not actively producing electricity for their customers.

If any of the units in the Petition are to be approved, such approval should be conditioned on the requirement that any stranded costs resulting from these units be borne by the Company's shareholders. Ratepayers should not be left to pay any stranded costs on these assets. The Company's continued insistence that these units will not become stranded assets should make the

¹ See *Transcript for Hearing Held March 9-11, 2020 for Alabama Power Company*, Volume 2 at page 875-76.

addition of this requirement immaterial. If the Company is certain of the need for the proposed additions, it should not be able to deny financial responsibility for the supposed de minimis chance of such additions becoming stranded assets.

III. Demand-Side Management and Distributed Energy Resource Programs

In addition to the supply-side additions requested under the Petition, the Company is also seeking the authority to pursue 200 megawatts of demand-side management and distributed energy resource programs. These options should be denied due to the lack of detail as to what these options may entail. Given an increasing winter peak, demand-side management and distributed energy resource programs geared toward reducing winter electricity consumption are particularly needed. Further, such options may offer low-cost ways to meet future electric requirements while also benefiting Alabama by reducing the energy burden on ratepayers. However, the current proposal lacks sufficient detail to allow for an informed decision on the project's efficacy.

Such programs should be approved individually only once they are fully developed and vetted by the Company. Approving the broad authority now, while requiring a more specific proposal to come before the Commission at a later date, would be superfluous. Rather, the Company should be directed to research potential demand-side programs and, once completed, bring them before the Commission for approval on a program-by-program basis.

Further, when considering demand-side options, steps should be taken to ensure that the Company is not incentivizing customer behavior that tends to increase the Company's current winter peak level. For example, the Company has instituted programs that incentivize customers to switch to electric heat. While the level of impact can be debated, this type of demand-side program has contributed to the winter capacity issues that the Company is presently trying to cure.²

² See *Transcript for Hearing Held March 9-11, 2020 for Alabama Power Company*, Volume 1 at page 475.

Demand-side options are more beneficial to all when directed toward curbing electricity usage and lowering the energy burden placed on Alabama ratepayers.

IV. Conclusion

The outcome of this proceeding will have a significant impact on ratepayers for decades to come. All possible steps should be taken to minimize the risk placed on the shoulders of ratepayers. Therefore, the Attorney General recommends that the Commission adopt the following measures:

1. The Company shall periodically report all costs related to this Petition to the Commission and shall seek subsequent approvals by the Commission if actual costs exceed the Company's current projections.
2. Any costs incurred by the Company due to any addition in this Petition becoming a stranded asset shall be borne by the Company's shareholders rather than ratepayers.
3. The 200 megawatts of demand-side management and distributed energy resource programs are denied due to a lack of sufficient detail provided in the Petition. Such programs shall be brought before the Commission at a later date once they are fully developed.

Respectfully submitted this 1st day of May 2020.

Steve Marshall
Attorney General

By:

/s/ Olivia Martin
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Tina Hammonds
Zack Wilson
Assistant Attorneys General

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CERTIFICATE OF SERVICE

I hereby certify that I will, on May 1, 2020, serve a copy of the foregoing upon the following via hand delivery to:

Mr. Walter L. Thomas, Secretary
Alabama Public Service Commission
100 N Union Street
Montgomery, AL 36104

Hon. John A. Garner
Alabama Public Service Commission
100 N Union Street
Montgomery, AL 36104

And that I have filed a copy via e-mail to:

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