

APPENDIX C

GPSC ORDER

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**IN RE: DOCKET NO. 17687-U: GEORGIA POWER COMPANY'S 2004 APPLICATION
FOR AN INTEGRATED RESOURCE PLAN**

**DOCKET NO. 17688-U: SAVANNAH ELECTRIC AND POWER COMPANY'S 2004
APPLICATION FOR AN INTEGRATED RESOURCE PLAN**

FINAL ORDER

Date Submitted: July 2, 2004 Date Decided: July 9, 2004

APPEARANCES

For Georgia Power Company: Kevin C. Greene, Esq., Melissa L. Pignatelli, Esq., Troutman Sanders; **For Savannah Electric and Power Company:** Leamon R. Holliday, III, Esq., Bouhan, Williams and Levy; **For the Commission Staff:** Jeffrey C. Stair, Esq. Administrative Procedures Attorney, and Helen O'Leary, Administrative Procedures Attorney; **For the Consumers' Utility Counsel Division:** John Z. Wu, Staff Attorney; **For the Georgia Industrial Group:** Randall Quintrell, Esq.; **For the Georgia Textile Manufacturer's Association:** Peyton S. Hawes, Esq.; **For Calpine Corporation:** Michael S. Bradley, Esq., and Charles B. Jones, III, Esq., Sutherland, Asbill & Brennan; **For Southern Alliance for Clean Energy, Inc.:** James J. Presswood, Jr., Esq., Staff Attorney; **For Alliance to Save Energy:** Mr. Harry Misuriello; **For Georgia Environmental Facilities Authority:** Erin Kelley, Esq.; **For Homeowners Opposing Powerline Encroachment:** Richard N. Hubert, Esq., Chamberlain, Hrdlicka, White, Williams & Martin; **For Resource Supply Management:** Mr. Jim Clarkson; **For Georgia Interfaith Power and Light:** J. Renee' Kastanakis, Esq.; Reverend Woody Bartlett; and **For Live Oaks Company, LLC:** Mr. John S. Ellis.

BY THE COMMISSION:

I. STATEMENT OF PROCEEDINGS

On January 30, 2004, Georgia Power Company ("Georgia Power" or "GPC") and Savannah Electric and Power Company ("Savannah Electric") (collectively referred to herein as "Companies") separately submitted to the Commission applications for Integrated Resource Plans ("IRPs" or "Plans") for approval pursuant to O.C.G.A. § 46-3A-1 *et seq.* ("IRP Act" or "Act"). The Georgia Public Service Commission ("Commission") issued a Procedural and Scheduling Order on March 5, 2004, finding it appropriate and administratively convenient to hold concurrent and consolidated hearings in these dockets. No party entered an objection to the consolidation of the cases. These proceedings were declared to be contested cases as the term is defined in O.C.G.A. § 50-13-13 and were also held to encompass complex litigation pursuant to O.C.G.A. § 9-11-33(a).

The Procedural and Scheduling Order directed the Companies, at a minimum, to address those issues that are required by the IRP Act and Commission Rule 515-3-4 ("IRP Rules"), as well as any directives issued for the Companies to follow in the 2001 IRP cases.¹ In addition to the issues that traditionally are included in an IRP case, the Commission sought input from interested parties whether existing Utility Rule 515-3-4-.04(3), Request for Proposals Procedure for Long-Term New Supply-Side Options, should be modified to provide in greater detail the manner in which new supply side resources are to be requested, evaluated and presented to the Commission for certification.

In accordance with O.C.G.A. § 46-3A-5(c), the Commission established fees for review of the IRPs within sixty days of the filing of the applications. The Commission concluded that \$143,060.00 was the appropriate fee for Georgia Power Company,² and \$61,311.00 for Savannah Electric.³ On March 16, 2004, Georgia Power and Savannah Electric remitted the established fee amount, thereby making the statutory deadline for this proceeding to be July 14, 2004.

Pursuant to statute, the Commission Staff ("Staff") and the Consumer Utility Counsel Division ("CUCD") of the Governor's Office of Consumer Affairs were parties to these dockets. Applications for Intervention were filed as follows:

Docket No. 17687-U: Resource Supply Management ("RSM") intervened on February 18, 2004; Georgia Industrial Group ("GIG") intervened on February 19, 2004; Georgia Textile Manufacturers Association ("GTMA") intervened on February

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1. See Final Order, Docket Nos. 12499-U, 13305-U and 13306-U, filed on July 17, 2001.
 2. Docket No. 17687-U, *Order Establishing Fee for Georgia Power Company's Application for Approval of the 2004 Integrated Resource Plan*, filed on March 22, 2004.
 3. Docket No. 17688-U, *Order Establishing Fee for Savannah Electric and Power Company's Application for Approval of the 2004 Integrated Resource Plan*, filed on March 22, 2004.

20, 2004; Calpine Corporation (“Calpine”) intervened on February 25, 2004; Georgia Environmental Facilities Authority (“GEFA”) intervened on February 25, 2004; Southern Alliance for Clean Energy (“SACE”) intervened on March 5, 2004;⁴ Live Oaks Company, LLC intervened on March 26, 2004; Alliance to Save Energy (“ASE”) intervened on April 16, 2004; Georgia Interfaith Power and Light (“GIPL”) intervened on April 16, 2004; and Homeowners Opposing Powerline Encroachment, Inc. (“HOPE”) intervened on April 19, 2004.

Docket No. 17688-U: Calpine intervened on February 25, 2004; SACE intervened on March 5, 2004;⁵ Live Oaks Company, LLC intervened on March 26, 2004; and ASE intervened on April 16, 2004.

No party was denied intervention during the proceedings.⁶

On March 5, 2004, and again on May 25, 2004, the Commission filed amendments to its Procedural and Scheduling Order. Both sets of amendments were not substantive in nature, but, rather, were the result of the Commission’s need to modify the dates on which the hearings were to be held and filings were to be made.

The Commission conducted the hearings in three phases in this matter. During the first phase of the hearings, the Companies presented their direct cases on April 19, 2004, and April 20, 2004, through one panel of witnesses comprised of Mr. Richard A. White. Mr. Larry R. White, Mr. Jeffrey A. Burleson, and Mr. Garey C. Rozier.⁷

On May 25, 2004, the Commission Staff presented a panel of witnesses setting forth its positions in these dockets. This panel consisted of Mr. Mark W. Crisp, Mr. Jerry W. Smith, Mr. Evan D. Evans, Ms. Kathleen F. Best, Mr. Daniel R. Cearfoss, Jr. and Mr. Phil M. Hayet. GIG and GTMA co-sponsored two witnesses, Mr. Jeffry Pollock and Mr. John A. Mallinckrodt, who testified on this same date, with Mr. Timothy Eves testifying on behalf of Calpine in between the presentations of the two GIG/GNG witnesses.

A witness panel comprised of Mr. Richard F. Spellman and Mr. Harry Misuriello also testified on behalf of ASE on May 25, 2004, and on May 26, 2004, as well, followed by a panel of three witnesses for SACE that consisted of Mr. James Presswood⁸, Ms. Rita Kilpatrick, Mr. William

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4. In the Georgia Power IRP docket, an Amended Application for Leave to Intervene was filed by SACE on May 20, 2004.
 5. Also on May 20, 2004, an Amended Application for Leave to Intervene was filed by SACE in the Savannah Electric IRP docket.
 6. Although Mr. John S. Ellis intervened on behalf of Live Oaks Company, LLC, no appearance at the hearings was made by Mr. Ellis on behalf of this party.
 7. Both Mr. Burleson and Mr. Larry R. White are employed directly by Georgia Power. Mr. Richard A. White is employed by Savannah Electric. Mr. Rozier is employed by Southern Company Services. See Pre-filed direct testimony of the Companies’ panel of witnesses, page 1.

Prindle.⁹ This second phase of the hearings concluded after the testimony on behalf of a witness sponsored by GIPL, Ms. Melissa Heath, was provided.

Thereafter, during the third and final phase of the hearing that was held on June 28, 2004, the Companies presented rebuttal testimony through the same panel of witnesses that previously testified to support their direct cases.

At the conclusion of the hearings in these dockets, closing arguments and/or proposed final orders were filed by the Companies, ASE, Calpine, RSM, Staff, and the CUCD on July 1, 2004, or on July 2, 2004, as permitted by the Commission.

On July 9, 2004, at a Special Administrative Session, the Commission considered the positions of the various parties and rendered decisions on the Companies' respective IRPs.

In conjunction with doing so, the Commission hereby adopts in this Final Order, with modifications and further directives, the IRPs filed by Georgia Power and Savannah Electric. In doing so, the Commission sets forth in this Order further direction to Georgia Power and Savannah Electric for further reporting and analysis to be performed and provided to the Commission prior to or in conjunction with their next IRP filings, amendments or applications for de-certification. Finally, this Order issues directives by the Commission that are to be followed by its Staff in order to facilitate a Demand Side Management Working Group and initiate the process required for amending the agency's existing Utility Rule 515-3-4-.04(3), Request for Proposals Procedure for Long-Term New Supply–Side Options.

II. JURISDICTION AND AUTHORITY

Georgia Power and Savannah Electric are public electric utilities serving retail customers within the State of Georgia. Georgia Power and Savannah Electric are two of the five retail operating companies of which the Southern Company system is comprised. This Commission has jurisdiction over Georgia Power's and Savannah Electric's IRPs pursuant to O.C.G.A. § 46-2-1 et seq., generally, and the IRP Act in particular.

The IRP Act requires the Companies to file Integrated Resource Plans at least every three years.¹⁰ The Companies' obligations with respect to the information that is filed is set forth pursuant to criteria identified in the Commission's IRP Rules. A "plan" is defined in the Act as an Integrated Resource Plan that contains the utility's: electric demand and energy forecast for at least a 20-year period; program for meeting the requirements shown in its forecast in an economical and reliable manner; the analysis of all capacity resource options, including both

8. Mr. Presswood testified as a subject matter expert during the hearings and also served as SACE's counsel in this proceeding.

9. Although Ms. Sara Barczak was identified on the pre-filed direct testimony as a witness who would be testifying on behalf of SACE, she was unavailable to appear at the hearing to answer questions about the panel testimony. As such, the panel was permitted to proceed with its testimony in her absence.

10. O.C.G.A. § 46-3A-2.

demand-side and supply-side options; and the assumptions used and the conclusions reached with respect to the effect of each capacity resource option on the future cost and reliability of electric service. The Plan also must:

- (A) Contain the size and type of facilities which are expected to be owned or operated in whole or in part by such utility and the construction of which is expected to commence during the ensuing ten years or such longer period as the Commission deems necessary and shall identify all existing facilities intended to be removed from service during such period or upon completion of such construction;
- (B) Contain practical alternatives to the fuel type and method of generation of the proposed electric generating facilities and set forth in detail the reasons for selecting the fuel type and method of generation;
- (C) Contain a statement of the estimated impact of proposed and alternative generating plants on the environment and the means by which potential adverse impacts will be avoided or minimized;
- (D) Indicate, in detail, the projected demand for electric energy for a 20-year period and the basis for determining the projected demand;
- (E) Describe the utility's relationship to other utilities in regional associations, power pools, and networks;
- (F) Identify and describe all major research projects and programs which will continue or commence in the succeeding three years and set forth the reasons for selecting specific areas of research;
- (G) Identify and describe existing and planned programs and policies to discourage inefficient and excessive power use; and
- (H) Provide any other information as may be required by the Commission.¹¹

The Commission is required under O.C.G.A. § 46-3A-2 to make determinations as to the adequacy of the IRPs and to ensure that the utilities' Plans have appropriately addressed numerous matters. There must be a determination that the forecast requirements contained in the Plan are based on substantially accurate data and an adequate method of forecasting.¹² The Commission must also find that the Plans identify and take into account any present and projected reductions in the demand for energy that may result from measures to improve energy efficiency in the industrial, commercial, residential, and energy-producing sectors of the state.¹³

11. O.C.G.A. § 46-3A-1(7).

12. O.C.G.A. § 46-3A-2(b)(1).

13. O.C.G.A. § 46-3A-2(b)(2).

Further, the Commission must determine whether the Plans adequately demonstrate the economic, environmental, and other benefits to the state and to customers of the utilities, associated with the following possible measures and sources of supply:

- (A) Improvements in energy efficiency;
- (B) Pooling of power;
- (C) Purchases of power from neighboring states;
- (D) Facilities that operate on alternative sources of energy;
- (E) Facilities that operate on the principle of cogeneration or hydro-generation;
and
- (F) Other generation facilities and demand-side options.¹⁴

After hearings have been conducted on a Plan, the Commission may approve the IRP; approve it subject to stated conditions; approve it with modifications; approve it in part and reject it in part; reject the plan as filed; or provide an alternate plan, upon determining that this is in the public interest.¹⁵

With regard to its rule-making authority to enact or modify regulations regarding the manner in which new supply-side resources are to be attained for the Companies' retail customers, the Georgia Legislature conferred upon the Commission a general blanket of authority under which it may enact those rules necessary to execute the functions that it has been delegated.¹⁶ Along this avenue of authority, the Commission included in the Procedural and Scheduling Order a request for information from parties in order to determine whether its existing Utility Rule 515-3-4-.04(3), Request for Proposals Procedure for Long-Term New Supply-Side Options, should be enhanced and, if so, in what manner. In furtherance of this purpose, the agency's stated areas of interest included:

- (a) The procedures for the issuance of any Request for Proposals (RFP)
- (b) The contents of the RFP
- (c) The need for and role of an Independent Evaluator to oversee the RFP process
- (d) Evaluation Criteria and Procedures including selection process for a competitive tier and/or short list of bidders
- (e) Codes of conduct for participation in an RFP
- (f) The manner in which Information will be made available to bidders
- (g) Exceptions, if any, to the RFP procedures
- (h) The inclusion of a "Self-build" option by a Georgia-regulated utility, in the RFP process; and
- (i) A description of, and the use that is to be made of, a "Target Price" in the RFP evaluation process.¹⁷

14. O.C.G.A. § 46-3A-2 (b)(3).

15. GPSC Utility Rule 515-3-4-.01(2).

16. O.C.G.A. § 46-2-30.

III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

To ensure that the competing interests of all parties were properly considered, the Commission has carefully analyzed all evidence of record including the testimony given and the various exhibits entered by all the parties. As set forth hereinafter, the Commission makes findings of fact and conclusions of law¹⁸ based on the evidentiary record created, taking into consideration any joint proposals for a resolution to an issue raised by this agency.

A) REVIEW AND EVALUATION OF THE INTEGRATED RESOURCE PLANS FILED BY GEORGIA POWER COMPANY AND SAVANNAH ELECTRIC AND POWER COMPANY¹⁹

1) LOAD FORECAST

In Volume 1A, Table 4.2, on page 9 of the Technical Appendix²⁰ to Georgia Power Company's 2004 IRP filing, the load forecast for the years 2004 through 2023 is set forth as it pertains to the Companies' service areas as well as the Southern System as a whole. With regard to the demand and energy forecasts that are used to project load for the Companies, the Staff panel of witnesses was the only one to comment on each of them. A review of the testimony provided by Staff regarding the adequacy of the forecasts filed by Georgia Power and Savannah Electric is relevant to this Commission making a determination whether they should be approved as filed.

a) Sufficiency of Load Forecasts

Georgia Power Company

In conducting its analysis, Staff noted that Georgia Power used econometric models developed in-house for the short-term forecasts (2004–2006), and a set of EPRI end-use models (REEPS, COMMEND and INFORM) for the longer-term forecasts (2007-2023). Georgia Power also used the EPRI model, HELM, to produce the demand forecast. The long-term models used are well accepted industry-wide, and Georgia Power performed an appropriate analysis of data input and calibration for each of these load forecast models. Staff acknowledged that some judgment was necessary in the selection of variables for all models, and that Georgia Power appeared to have

17. *Procedural and Scheduling Order*, March 5, 2004, p. 6.

18. The areas of discussion included in the body of the Order in terms of Findings of Fact and Conclusions of Law speaks only to the areas of the Plans filed that were contested. Matters that were not disputed or previously were decided by the Commission in these dockets are referenced in the ordering paragraphs only.

19. Due to the way the transcripts of the three phases of the hearing were prepared in these dockets, there is no way to identify specific pages in the transcripts when pre-filed testimony of any witness(es) is(are) referenced. As a consequence, all statements referenced as an authority in this Final Order will be cited from a party's pre-filed testimony, which, at the hearing, was accepted into the record as evidence.

20. This information is contained in the Trade Secret version of the Georgia Power's filing.

made reasonable decisions for the Budget 2004 forecast, which was prepared during the spring of 2003.²¹ The energy forecast is dependent on the input variables provided by Economy.com.

In its analysis of load, Georgia Power provided data that indicated a recent tendency for this company to over-forecast total company demand, with the errors ranging from approximately 1% to 7% on a weather adjusted basis²². However, the more recent interim forecasts appeared to have improved and were in the range of 1% to 4% error. Staff determined that these percentages of errors are in the range of what is acceptable.

A similar review of the weather adjusted comparisons for total company energy²³ revealed that on a total company basis, Georgia Power systematically also has over-forecasted energy usage. However, the forecast errors are within acceptable ranges of 3% to 5%, with more recent forecasts indicating improved accuracy with variances of approximately 1% to 3%.

Staff evaluated the weather adjusted energy forecasts by customer class²⁴ and concluded that forecast accuracy is within acceptable limits, with the potential exception of the industrial class. (Pre-filed Panel Testimony of Staff, p. 49). The industrial class energy forecast errors from the Budget 1999 through the Budget 2001 forecasts are in the range of 15% over-forecasted. The Budget 2002 forecast improved accuracy considerably to the 3% to 7% range. Georgia Power lost industrial customers from 1990 through 2003. Over the period, the number of industrial customers declined at the average annual rate of 2.9%. Georgia Power forecasted an average annual rate of decline for industrial customers of 1.6% for the period of 2004 through 2023. The industrial class represented approximately 24% of the total Georgia Power demand in 2003. A ratio has been projected by the Company to decline to about 20% in 2023. On an energy basis, the industrial class represented about 35% in 2003, a ratio is projected to decline to 30% in 2023.²⁵

Staff observed that Georgia Power estimated and adjusted the industrial class to account for a trade secret concern that has the potential to be realized in the upcoming years. Id. at 50. Minor adjustments start in 2007 and major adjustments occur in 2008 and beyond. It is likely these estimates will change when trade secret concerns had by the Company are decided one way or another. Secondary economic effects of these trade secret concerns were included in the residential and commercial classes also.

In looking at Georgia Power's forecast, which was prepared in the spring of 2003, Staff concluded that there have been potential signs of some economic recovery in the southeastern United States, which make it prudent to examine a case where some growth in the industrial

21. Georgia Power performed weather-normalization for both energy and demand data in order to provide historically appropriate comparisons of forecasts to actual energy and demand.

22. *Georgia Power's 2004 IRP Filing* Technical Appendix Volume 2, Section 9, pages 189- 190.

23. *Georgia Power's 2004 IRP Filing* Technical Appendix Volume 2, Section 9, page 185.

24. *Georgia Power's 2004 IRP Filing* Technical Appendix Volume 2, Section 9, pages 185-188.

25. Georgia Power Company's Technical Appendix, Vol. 2, Section 2, page 22.

class resumes before 2008. In order to examine this scenario, Staff recommended a sensitivity case to be performed, that in addition to other data changes, increased the total system load and demand by 1% over the Georgia Power Budget 2004 forecasts. Id. at 51. This case represents the possibility that some economic recovery is now in progress but had not yet been picked up in the Georgia Power forecasting models.

Necessity for Update to Georgia Power's Existing Load Forecast

When doing cross-examination of the Companies' direct testimony, Staff inquired as to whether there would be an updated load forecast filed with the Commission by Georgia Power for use in the upcoming 2004 rate cases. (Transcript (Tr.) 47.) Witness Jeffrey Burleson indicated that one had not been prepared and there was no intention to file one. (Tr.48.) During the rebuttal phase of the hearing, Staff made additional inquiries during cross-examination through which the genuine need for the Commission to obtain a new or updated load forecast from Georgia Power was explored. (Tr.984-997.) Among the points made by Staff that would support a more current load forecast being filed by Georgia Power included the fact that some of the data underlying the one in the IRP was from at least January 2003, maybe earlier (Tr.991-992); the growth predicted in the forecast for the various retail customer sectors may have far exceeded actual growth as per recent Company pronouncements (Tr.986-991); and the significant role that a load forecast plays in a rate case, which Georgia Power filed on July 1, 2004, seeking increased rates. (Tr.990-994.)

Through its responses, Georgia Power witness Burleson disputed any need for an updated load forecast to be filed. He indicated that, as per the Final Order in the last IRP case (Docket No. 13305-U), Georgia Power only had to notify the Commission if a new load forecast was developed by the Company. (Tr.980.) Mr. Burleson indicated that information tracking any variances in the load forecast is routinely made available to management of the Company in the form of reports. (Tr.982.)

In furthering his opposition to preparing an updated forecast based on actual data becoming available since it was prepared in early 2003, this witness contended that the actual data, once weather normalized, would result in the forecast being lower than what it is presently. (Tr.994-995.) While there may be actual data that shows higher sales for a customer class, Mr. Burleson seemed to infer that such increases were somehow offset by lower than predicted sales in the forecast for another class. (Tr.986-988)

When asked about the importance of its load forecast in terms of its upcoming rate case, Mr. Burleson did concede that there would be overearnings by a utility if its revenue requirements were to be spread across a customer base that was lower than what was forecasted. (Tr.992-994.) In light of this and other inquiries made by Staff, Mr. Burleson stood firm in his position that a load update was not necessary.

While the Commission understands the position of Georgia Power in this regard, it shares Staff's concern about Georgia Power's decision that a more current load forecast will not be made available for the rate case that is to be decided later this year. While Mr. Burleson possesses a great deal of credibility as a witness, the Commission would be derelict in its duty if it were merely to rely on his representations as to the impact that the availability that actual data has had on the forecast, and not to direct that this updated information be filled with this agency. Since the information necessary to update the existing forecast appears to be readily available to representatives of the Company, it should not be any hardship for the Company to do an update to its load forecast.

It also must be noted that the need for an updated load forecast is compounded by the fact that a cost of service study has been done by rate schedule for the first time in the 2004 rate case. If actual sales data deviates from that which is embedded in the existing load forecast, it could result that certain customer classes will have rates set for them that subsidize rates that will be set for consumers that take service under another class's rates. To eliminate any far-reaching ramifications from this occurring, it is imperative that by no later than August 15, 2004, Georgia Power must file an updated load forecast and budget comparison information with the most up-to-date information as of March 31, 2004.

Savannah Electric and Power Company

Staff noted that Savannah Electric prepared short-term (2004–2006) econometric models for most classes. (Pre-filed Panel Testimony of Staff, p. 53). For its industrial class, the company tabulated individual customer forecasts to obtain the forecast of the entire class. Savannah Electric used a set of EPRI end-use models (REEPS, COMMEND and INFORM) for the longer-term forecasts (2007-2023). The company also used the EPRI model, HELM, to produce the demand forecast. The long-term models are well accepted industry-wide and Savannah Electric has performed the appropriate analysis of data input and calibration for each of these models.

Like its sister company, Georgia Power, Savannah Electric performed weather-normalization for both energy and demand data in order to provide historically accurate comparison of forecasts to actual energy and demand. It provided data indicating forecast errors that are in the range of approximately 1% to 5% on a weather adjusted basis, with the exception of the industrial energy.²⁶ However, a more recent interim Budget 2003 forecast resulted in errors of 1% to 3%. As with Georgia Power, this range of errors is acceptable, and the company's demand forecast is also within standard tolerances. Id.

For the industrial energy forecast comparisons on a weather adjusted basis, Savannah Electric over-projected energy sales by as much as 15% in the most recent forecast.²⁷ Staff noted that it

26. *Savannah Electric's 2004 IRP Filing*, Technical Appendix, Section 1, pages 46-47.

27. Id. at 46.

was advisable to attempt additional econometric or other modeling for the short-term industrial energy sector to see whether any improvement could be achieved since this class represented approximately 20% of the total sales in 2003. Id.

Staff ultimately concluded that Savannah Electric's short-term models fit the historical data and appear to be reasonable and consistent with trends, with the possible exception of the industrial sales forecast, and that the company's demand projections were reasonable. Id. at 54.

Necessity for Update to Savannah Electric's Existing Load Forecast

While Savannah Electric witness Richard White was not asked the same questions about the load forecast as Georgia Power witness Jeffrey Burleson, similar concerns are present about the age of the existing load forecast exist since Savannah Electric also will be filing a rate case later this year. Irrespective of the concern that this utility does not share its sister company's situation in terms of doing a cost of service by individual rate, Savannah Electric likewise is directed to update its load forecast and budget for filing with the Commission based on the relevancy of such information to the rates that will be set next year as a result of its 2004 rate case filing.

b) Recommendations Regarding the Companies' Load Forecast

Based upon the evidence in the record, the Commission finds and concludes that it is appropriate to approve the demand and energy forecasts as filed by Georgia Power and Savannah Electric without modification to any projections to any customer class. In doing so, however, the Commission does find the concerns about the vintage of the forecast information, which is old and can easily be updated by actual data. Providing this more current information is essential because this information will play a critical role in the Company's upcoming rate case. As such, the Commission further finds and concludes that Georgia Power and Savannah Electric shall each update its forecasts utilizing actual data through March 31, 2004. Once updated, these forecasts shall be filed by the Companies on or before August 16, 2004.

2) RELIABILITY—AUTHORIZED TARGET RESERVE MARGIN

In an effort to plan for a reliable system, allowances for capacity resources in excess of a utility's projected peak demand requirement are made for the purpose of recognizing that generating units can fail randomly, and load projections typically have some measure of forecast error. This commitment to have excess capacity provides a reasonable assurance that the utility will always have resources available to serve its load. A system with too large of a reserve margin will tend to have high revenue requirements because it will overbuild capacity on its system. A system with too small of a reserve margin will have to depend on purchases from the wholesale market that can be quite high at times of peak demand, once again resulting in high revenue requirements. The goal of a reserve margin study is to determine the level at which revenue

requirements are the lowest for a given level of reserve margin. This results in a well-planned, reliable, and cost-effective utility system.

In the 2004 IRP, the Companies have proposed that the ultimate system reserve margin should be set at 13.5% for the first 3 years, and then 15% for the years after that. As support underlying this recommendation, Southern Company Services conducted a reserve margin study²⁸ that updated the one that was previously done in 1999. The conclusion reached in both studies was that 15% is the appropriate level of reserve margin for the Southern Company System. In the 2001 IRP, Georgia Power cited to the 1999 study as its basis for relying on 15% as its target reserve margin level for the Southern Company System.²⁹ Also, in the 2001 IRP, Georgia Power proposed a lower System reserve margin level for the short-term, arguing that it was an acceptable level for the first three years of the IRP study period. Ultimately, the Commission accepted these target reserve margin levels for the 2001 IRP.

For purposes of its 2004 IRP reserve margin study, Southern Company Services relied on its Monte Carlo Frequency and Duration Model “MCFRED,” to develop the relationship between system revenue requirement and reliability based on Expected Unserved Energy (EUE). The cost of EUE is the payment which one customer is willing to make to avoid an hour of sudden, unexpected, firm load curtailment on a hot, summer afternoon. The goal of the reserve margin study is to determine the appropriate level of reserve margin such that total system revenue requirement is minimized, considering the cost of generating to serve load, the cost to build new capacity and the cost of expected unserved energy that might result from not having built quite enough capacity to serve load. In the 2004 filing, the reserve margin study explains that several changes were made in the modeling methodology to more closely represent the operational characteristics of the system.

Base on the results of the reserve margin study and the resulting analysis done by Staff, the Commission believes that the Companies’ proposed system reserve margin recommendation, which includes a risk adjustment,³⁰ should be approved in this IRP. Their recommendation appears to be quite reasonable based on a number of facts. These include an acknowledgement that a 15% reserve margin is consistent with what other utilities typically use, that presently there

28. See Technical Appendix Volume 1B of Georgia Power’s filing.

29. *Staff Panel Testimony* filed May 11, 2001, Docket Nos. 13305 and 13306, page 18 at line 5.

30. On page 48 of the Risk Margin study, Southern Company Services reported that the optimal reserve margin for the system is actually lower than the 15% reserve margin that the Companies have recommended. However, through a series of additional analyses, risk factors were derived and added to the lower reserve margin result. The net result of these risk factors is that additional capacity has to be planned for the system to satisfy the higher reserve margin targets. It should be noted that the use of risk adjustments is not unusual when they are applied in such a way that the utility may meet other goals in addition to those required by the basic methodology. Staff determined that planning for a reliable system in an uncertain environment was an adequate reason in these filings to use a risk adjustment.

is considerable excess merchant capacity in the southeast region and that Southern Company as a whole is itself in an over-capacity situation.

As such, the Commission finds and concludes that the Companies' proposed 13.5% target reserve margin for the 2004 – 2006 time frame shall be set at 13.5%, with 15% to be used for the remainder of the study period. It is further directed that, in future reserve margin studies, as with all evaluations that are conducted as part of an IRP, consistent modeling data should be used to the greatest extent possible.

3) **SUPPLY-SIDE MANAGEMENT**

a) **Generation Expansion Plan**

Georgia Power Company's Resource Planning Process

Georgia Power's base case supply-side Resource Plan, which covers the 20-year period from 2004 through 2023, identifies the need for new resources to begin in 2009 and continue every year thereafter through 2023. In each of those years, Georgia Power proposes to add various combinations of gas-fired combustion turbine ("CT") and combined cycle ("CC") units. Between 2004 and 2008, the Companies' have already made commitments to satisfy their resource needs based on prior IRPs, through reduction in the peak demand forecast, and in accordance with Commission certification proceedings that took place in December 2000 and December 2002.

The December 2000 certification allowed Georgia Power to proceed with the following resources:³¹

- 1,800 MW of purchased power coming online in the 2003 and 2004 time period based on purchases from Southern Power Company. (The Franklin and Harris Power Purchase Agreements (PPAs).
- 12 MW upgrades to the Goat Rock Hydro units

The December 2002 certification included:

- 1,660 MW of purchased power coming online in 2005 based on purchases from Duke Energy Southeast Marketing, LLC and Southern Power Company.³²

31. *Georgia Power Company's 2004 IRP* Main Document, pages 1-7.

32. Since both Companies filed their IRPs on January 30, 2004, a joint application was made to the Commission on May 7, 2004, requesting direction to buy the two units, McIntosh 10 and 11, which were the subject of the purchase power agreements that they previously entered with Southern Power Company, and which the Commission certified in December 2002. The Commission issued this directive in an order filed on May 19, 2004, in Dockets 15392-U and 15393-U and will be considering the valuation of them as part of a rate case later this year.

Savannah Electric's Resource Planning Process

Savannah Electric's base case supply-side resource plan also covers the same 20-year time frame and has identified the need for new resources to begin in 2009. Just as in the case of Georgia Power, after 2009, and through the remainder of the planning period, Savannah Electric's resource plan calls for the addition of CT and CC units. Based on decisions made in prior IRPs and approved in Commission certification proceedings (one in March 2000, and another in December 2002), Savannah Electric has already made commitments to satisfy its resource needs covering the period of 2004–2008.

In March 2000, the Commission certification allowed Savannah Electric to proceed with the following resources:³³

- 200 MW of purchased power coming online in June 2002 based on purchases from Southern Power Company, from its Wansley Combined Cycle Plant. This is a 7.5 year PPA covering the period of June 2002 through December 2009.

The December 2002 certification provided approval for:

- 200 MW of purchased power coming online in June 2005 based on purchases from Southern Power Company, from its McIntosh Combined Cycle Plant.³⁴
- The retirement of approximately 100 MW at Plant Riverside on May 31, 2005, based on the purchase of McIntosh unit.

Based upon the information filed by the Companies in their IRPs, the Commission finds and concludes that the Companies' respective Generation Expansion Plans appear to be adequate.

b) Unit Retirement Study

In conjunction with its 2004 IRP filings, the Companies have considered whether it is prudent to consider for retirement any of their electric plants or the individual units located within them. In doing so, Georgia Power has requested that the Commission de-certify the Plant Atkinson CTs 5A and 5B, which total 80 MW of capacity, and which were retired from service on December 31, 2003. (Pre-filed Panel Direct of the Companies, page 7.) Upon examining whether Georgia's plans for the retirement of these two units are reasonable, Staff testified that they were. (Tr.485.) No other party addressed this issue with Georgia Power at the hearing.

A decision to extend the life of a unit at Plant Kraft has been made by Savannah Electric in its IRP filing. This utility previously had been planning for the retirement of the Kraft CT unit, which is a 17 MW combustion turbine that is capable of providing black start service. However, Savannah

33. *Savannah Electric and Power Company's 2004 IRP Main Document*, pages 1-8.

34. See Footnote Number 17.

Electric since has performed further retirement evaluations (Pre-filed Panel Direct of the Companies, page 14) and is now recommending that the life of Kraft CT 17 MW be extended. Neither Staff (Pre-filed Staff Panel Direct Testimony, pages 43-44) nor any other party has opposed Savannah Electric's doing so.

Based on these considerations, the Commission finds and concludes that it is reasonable for Plant Atkinson CT's 5 A and 5B to be de-certified by Georgia Power Company. The Commission further finds and concludes that it is prudent for Savannah Electric to extend the planned life of the 17 MW Kraft CT unit that is capable of providing black starts and to remove it from further consideration for retirement.

c) Fuel Forecast

Staff expressed concern in its direct testimony that natural gas prices have risen sharply in the past year or two and seem to be forecasted to gradually trend lower from the currently high levels for a few years before returning to an upwardly trending pattern over the long term. (Pre-filed Staff Panel Direct Testimony, p. 16.) Unlike past history, as the natural gas prices decline in the next few years, none of the industry experts appear to expect prices to drop back to around \$3.00/mmbtu again over the next 20 years. Id. For purposes of making a proper analysis of the IRP filings, Staff compared the Companies' base and high gas forecast to other forecasts including NYMEX and the Energy Information Administration's ("EIA") forecast. Based on its comparison, Staff concluded that the Companies' reference case forecast may be a little low. Id.

The Staff pointed out that price forecasts currently exhibited large fluctuations associated with many uncertainties in the markets. Id. at 15. The EIA 2003 Energy Outlook forecast of the fuel prices may be low given the more recent developments in the natural gas markets. The EIA revised these price forecasts upward in the EIA 2004 Energy Outlook published in December 2003. The gas price for electric generators for the Middle Atlantic region, as reported in the 2004 EIA Energy Outlook, was revised upward by an average of 10.6% for the period 2004 to 2025. Id. at 54-55. For the short-term period 2004 to 2008, the average increase in the gas price forecast for the electric generators is 18.4%. Id. For the period of 2009 to 2025, the average annual price upward revision is about 8.4%. At the retail level, the EIA forecast for residential gas prices in the Middle Atlantic Region was revised upward by an average of 8.8% for the period of 2004 to 2008, and an average of 3.7% for the period of 2009 to 2023. Id. For commercial customers and industrial customers, the price forecast revisions are higher: commercial users: 2004-2008, 19.3%; 2009-2023, 10.3%; and industrial users: 2004-2008, 13.9%; 2009-2023, 9.8%. Id. Even though there is not full agreement with all of the Companies' data assumptions, none were determined by Staff to be completely unreasonable. (Pre-filed Staff Panel Direct Testimony, p. 15.)

Within the testimony of John Mallinckrodt, the Georgia Industrial Group and Georgia Textile Manufacturers Association expressed concern that GPC is planning to rely totally on natural gas

for future resource additions. (Pre-filed Testimony of John Mallinckrodt, p. 2.) A primary basis for GPC's reliance on natural gas is an assumption that natural gas prices will drop due to increased imports of liquid natural gas ("LNG"). Id. Mr. Mallinckrodt pointed out that domestic supply is declining, as are imports from Canada, and that even assuming that all LNG that is projected to be imported through both existing, expanded and new terminals, LNG will still not significantly increase domestic gas supply. Id. at 5. GIG/GTMA argued that contrary to GPC's projection of declining natural gas prices in 2004 to 2009 timeframe, natural gas prices are not likely to change significantly relative to current high levels. Id. at 7.

The fuel forecasts of Georgia Power and Savannah Electric utilized in various parts of the IRP originated over a range of dates. For example, fuel prices used in some of the forecast models were based on the EIA 2003 Energy Outlook published in December 2002 (*Georgia Power's 2004 IRP Filing* Main Document, page 3-3; *Savannah Electric's 2004 IRP Filing* Technical Appendix, Section 1, page 76), and it appears that other fuel forecasts were derived for other analyses such as the Optimal Resource Mix Study.

Staff recommended that the Companies update and file prospectively their fuel forecasts on June 30th of each year. (Pre-filed Staff Panel Direct Testimony, p. 87.) As per Staff, the updates should include an assessment of how the conclusions and recommendations reached by the Commission in the most recent IRP order may need to be modified as a result of the updated forecasts. These updates should also include a comparison of the forecasts used in the previous IRP with the actual data for the current year. The Staff also recommended that the Commission consider continuing its previous order requiring Georgia Power and Savannah Electric to file load and fuel forecasts, together with detailed supporting information and analyses each year, rather than at the three year IRP intervals, in order to capture significant changes in the region. Id.

With regard to three of Staff's recommendations, the Companies argued that, pursuant to Commission Rule 515-3-4-.06(5), they already are already required to notify the Commission of any major changes in any condition that would impact resource planning. (Pre-filed Panel Rebuttal of the Companies, page 41.) Georgia Power and Savannah Electric also are currently under the obligation to file with the Commission a copy of each load forecast update prepared by the Companies as soon as such update becomes available. Id. Similarly, since the Companies already currently file a copy of the Environmental Compliance Strategy each year, as well as filing a status report of their certified DSM programs, the obligation to make a further in this area would be burdensome and unnecessary. In sum, the Companies argued that Commission already has in place several mechanisms through which it can stay abreast of their resource planning process in between filed IRPs and additional filings to report on same would be redundant. Id.

The Commission is concerned about the volatility in the price of natural gas, the increasing cost of fuel, and the IRPs' long term reliance on natural gas. In order for this agency to adequately monitor the issues surrounding fuel that have developed in recent years and are expected to continue, the Commission finds and concludes that both Companies shall promptly notify the

Commission of any changes in fuel price conditions, including external forecasts that may warrant development of a new utility price forecast. In imparting this information, Georgia Power and Savannah electric also shall advise the Commission of the impacts these changes may have on the long range IRP.

The Commission further finds and concludes that the Companies shall make available any fuel forecast update as soon as it is available. This information shall be provided as appropriate within each 6 month Progress Report to the Commission as required by Utility Rule 515-3-4-.05.

4) DEMAND SIDE MANAGEMENT

a) Demand Side Management Issues Raised by The Companies Proposals

Neither the IRP filing for Georgia Power nor the filing made by Savannah Electric contained any new Demand Side Management (“DSM”) programs because, the Companies contended, none were found to be cost-effective by applying the screening tests specified in the Commission’s rules and prior orders. (Pre-filed Panel Direct of the Companies, page 41.) Georgia Power and Savannah Electric have indicated that it remains appropriate for this Commission to use the Rate Impact Measure (“RIM”) test as the final screening tool to determine whether a DSM measure should be implemented. Id. at 10 and 16. Both Companies also stated their intent to continue the Power Credit program, which was reauthorized by the Commission in its 2001 IRP order. Id. at 9 and 16.

Georgia Power also proposed to maintain its Low Income Weatherization Assistance Program and to continue existing energy information programs that provide customers with cost-effective energy saving options. Id. at 10. Similarly, Savannah Electric has made the same proposal. Id. at 16.

1) Implementation of Additional Measures to Foster Energy Efficiency

a) Partnership with Energy Star®

Georgia Power and Savannah Electric indicated that in April 2004, they entered into a partnership with Energy Star®, through which appliances acknowledged as having a certain level of energy efficiency would be promoted by the Companies in ways such as providing consumers with manufacturers’ coupons for energy efficient appliances with their bills. (Tr.1029.)

The Commission finds and concludes that both GPC and Savannah Electric shall continue to develop the partnership that it has entered into with Energy Star® through which appliances acknowledged as having a certain level of energy efficiencies would be promoted by the Companies in ways such as providing consumers with manufacturers’ coupons for energy efficient appliances with their bills.

b) Desire for Greater Levels of Customer Education

It was apparent to the Commission through comments made by public witnesses that most of them supported additional education regarding efficient use of electricity. Public witness Ms. Peggy Bartlett stated in relevant part that “[w]here I expected some folks to be quite resistant to suggestions that they change their personal habits with regard to lights, computers, small appliance, copy machines, . . . we have found extremely positive response. People want to know what to do. They are grateful for educational specifics of what they should do.” (Tr.428.) Another citizen who made public comments, Ms. Elizabeth Mojica, stated that she was “disappointed in Georgia’s lack of renewable energy sources and the poor education of consumers on energy conservation issues.” (Tr.446.) Mr. John Heavener, also a public witness who gave up his personal time to come to the hearing, commented that “[a] part of that strategy could be encouraging commercial and residential consumers to utilize Energy Star® appliances and building products as well as instituting education campaigns on how to reduce the demand for energy.” (Tr.458.)

The interest among consumers in making efficient use of electric energy also was addressed by Staff witness Evan Evans, who testified that helping people understand how to set programmable thermostats already located in their homes could itself be a program design, and that education along those lines incorporated into the informational program that Georgia Power already has in place would produce benefits. (Tr.521.) In terms of understanding how to exact energy efficiencies from current electric usage, ASE’s witness, Dick Spellman, noted that the existence of market barriers resulted in most people lacking awareness of energy efficient technologies, which is why educational programs like the one provided by Georgia Power through brochure information are greatly needed to educate the public. (Tr.849-850.)

Georgia Power and Savannah Electric stated on rebuttal that “[a]lthough [they] work with customers daily on how to use energy efficiently, the Companies are also willing to engage in additional customer education regarding DSM.” (Company Panel Rebuttal testimony, page 7.) As support for this representation, the Companies noted a number of ways that they proposed to do so. The Companies further stated their willingness to more aggressively promote their willingness to conduct energy audits for customers upon request in an effort to raise customer awareness of the availability of this service. (Tr. 1027-1037.)

Based upon the foregoing, the Commission finds and concludes that the Companies shall initiate customer education programs through which they each will disseminate information to consumers about the efficient use of electricity. Georgia Power and Savannah Electric also shall more aggressively promote the availability of energy audits for interested customers.

c) Funding for Educational Initiatives

In order for Georgia Power and Savannah Electric to properly implement the customer education programs that they have been charged with initiating, the Commission finds and concludes that

Georgia Power shall fund with no more than \$2,000,000 annually an energy efficiency campaign that it shall implement to promote consumer awareness of those energy efficiency measures and practices that produce the greatest economic efficiency and benefit to a participant. Savannah Electric shall support a similar initiative with no more than \$200,000 annually in funding to do so.

All of the funding authorized for these programs shall be directed to promoting education regarding those energy efficiency measures and practices that produce the greatest economic efficiency and benefit for the participant. In terms of outreach to achieve this goal, the Companies may use any recognized medium through which their customers could reasonably be expected to be reached with energy efficiency information, including, but not limited to, television advertisements, radio spots and advertisements in local newspapers and periodicals.

All such advertisements made through these mediums shall be for the exclusive purpose of promoting education in the area of energy efficiency and shall not serve as a forum to promote the Southern brand (or that of its subsidiaries) in any way, or to further other initiatives of the Companies outside of those contemplated herein. Television, radio and/or print ads shall provide as much information about managing electric usage as possible in the time/space allotted. A general understanding of electric energy efficiency and conservation should be able to be derived by the average viewer after viewing/listening to any advertisements. The theme of all advertisements should be strictly education-based. Any advertisements that the Commission, in its sole discretion, finds not to be adequate for its intended purpose shall not be financed with monies allocated in this order for consumer education.

Copies of television ads, radio scripts and print advertisements containing information that is to be disseminated to the public shall first be provided to the Commission's Consumer Affairs Office, the Commission's Public Information Office and the Commission's Electric Staff in advance of being published. Upon their receipt of same, Staff will immediately give other interested parties five (5) business days to review the content of what the Companies seek to publish in order to raise any objection as to the content of the ads. The Commission shall be the ultimate decision maker as to whether an advertisement shall be approved.

In order for Staff to monitor the spending that the Companies will be doing in providing energy efficiency education, the Companies shall file quarterly reports with the Commission detailing with specificity the expenditures made through this education program. None of the funds allocated shall be used for any expenditure not expressly contemplated by this order.

d) DSM Working Group

The Integrated Resource Planning statute requires this Commission to consider both demand side and supply-side options. In doing so, this Commission must evaluate "the economic, environmental, and other benefits to the state and to consumers of the utility" associated with these various options. O.C.G.A. §§ 46-3A-1(7) and 46-3A-2(b)(3).

In the early 1990's, the Commission embraced numerous DSM programs that ultimately proved costly to non-participants and provided little system-wide benefit. The primary reason for this failure was that there was no real focus or targeted objectives in approving those DSM options. As a result of this failure, in its 1995 IRP Order the Commission adopted the RIM test, which virtually eliminated implementation of any DSM initiative. As it has turned out, the Commission went from one extreme to another.

Since 1995, much has changed in the electric industry that now may impact this Commission's opinion about the need for more DSM. Among other things, many states have found ways to improve and refine these DSM programs. The move towards retail electric deregulation has all but ended, and many regulators are once again considering the public service obligations of utilities that have been granted monopoly rights. These factors, coupled with a dramatic increase in fuel costs to generate energy over the past few years, make the issue of energy efficiency one that must be more closely examined to see whether the position that this agency supported in 1995 regarding the RIM test should be revisited.

In light of these factors, the Commission seeks to find a solution that will strike a balance between economic efficiency and fairness and equity when considering implementation of DSM programs. Regrettably, the record that was created in these dockets has not been not adequately developed in this area for the Commission to be able to find that balance. The positions of the parties on DSM were very far apart and, for most of the hearing, the parties seemed to be talking past each other and not attempting to reach any middle ground.

As such, rather than returning to the hearing process at this time to further develop the record, the Commission believes that a more productive way to proceed would be to form a DSM Working Group that shall meet to develop a proposed DSM initiative for this Commission to consider. Instead of the all-or-nothing approaches that were presented at the hearing, it is the sincere desire of this agency that the Working Group will develop a reasonable and credible DSM initiative.

Based on the foregoing, the Commission finds and concludes that a Working Group of interested stakeholders to develop a proposed DSM Plan for residential and commercial customers for the Commission's consideration. The Commission Staff shall organize and act as the facilitator of the Working Group, which shall consist of the parties in the IRP cases. The Companies shall not be required to pay the cost of retaining a consultant as requested by ASE during the hearing.

The Working Group shall convene for the first time no later than August 15, 2004, and meet as often as needed thereafter. Within 10 days after each of its meetings, the Working Group shall file reports with the Commission in these IRP dockets. These reports shall detail the minutes of the meeting and provide status information regarding the project, including milestones reached and a timetable for completion of remaining milestones. The Commission does not find it appropriate to require the Companies to provide \$300,000 as requested by ASE to pay costs that may be incurred by the group in executing and fulfilling its mission.

The Companies will provide to the Working Group such data as may be reasonably necessary for the Working Group to perform its tasks and develop its proposed DSM Plan. To the extent that the Companies contend that any such information is proprietary, it shall be filed with the Commission and be made available to members of the group pursuant to the Commission's Trade Secret rules.

The proposed DSM Plan shall be a comprehensive proposal consisting of 1) a mix of DSM initiatives to be recommended to the Commission for approval, including detailed information regarding how each of the initiatives would be implemented; 2) a recommended process for the selection of DSM initiatives in the future; and 3) recommendations regarding the need for changes to the Commission's IRP rules regarding DSM or for proposed legislation.

The recommended mix of DSM initiatives in the DSM Plan shall be selected by the Working Group using the following criteria:

- (a) The proposed DSM Plan should minimize upward pressure on rates and maximize economic efficiency. This directive is extremely critical given Georgia Power Company's \$328 million pending rate increase request and Savannah Electric and Power Company's scheduled rate filing.
- (b) The cost/benefit analysis results of each initiative using all 3 tests (RIM, Total Resource Cost test and Participants test) shall be considered by the Working Group and shall balance between economic efficiency and fairness and equity.
- (c) An examination of where growth is occurring on the system shall be performed by the Working Group, which shall attempt to concentrate its recommended initiatives there. Consideration shall also be given to initiatives that encourage participation by low-income customers.
- (d) In addition to traditional DSM programs, the Working Group shall consider rate design initiatives. In considering such initiatives, the Working Group should consider the cost/benefit analysis of such initiatives and the time periods that such initiatives would be available to a customer.
- (e) Every effort should be made by the parties to develop innovative programs and market approaches that will prevent upward pressure on rates and subsidies between participants and non-participants.
- (f) Where appropriate, the Working Group should consider the development of pilot initiatives (limited enrollment, limited terms) as a tool to gauge initiatives.

- (g) The Working Group shall also provide input to the utilities in the development of the energy efficiency educational efforts approved by the Commission.

By no later than February 15, 2005, the Working Group shall conclude its mission by submitting a proposed DSM Plan to the Commission.

After the Working Group has tendered its recommendation to the Commission, this agency will consider any further action to be taken regarding the appropriate mix of DSM initiatives to be adopted and the process for the selection of DSM initiatives in the future.

e) Increased Weatherization Program Funding

In their rebuttal testimony, the Companies acknowledged the Commission's concerns regarding low-income customers and expressed a continued commitment to the low-income weatherization assistance programs that have been established for these customers. (Tr.1025-1026.) Under cross examination by the Staff during the rebuttal phase of the hearing, the Companies indicated that they were amenable to increasing the existing level of funding for their respective low-income weatherization programs. Id. Georgia Power proposed raising its funding level by \$300,000 annually (Tr.1025), while Savannah Electric indicated that it believed a \$30,000 per year funding increase of its program was appropriate. (Tr.1026.)

During the Special Administrative Session held on July 9, 2004, to issue a decision in this matter, the Commission Chairman read a letter (that also was made part of the record) from Georgia Power in which it was stated this utility, and not its ratepayers, would provide this extra funding. Savannah Electric, he noted, was working toward doing the same thing.³⁵

As such, the Commission finds and concludes that the low-income weatherization program of Georgia Power Company shall be continued. Its level of funding, now set at \$1,000,000, shall be increased by \$300,000, thereby making \$1,300,000 the total sum of money that shall be dedicated to the program annually for the next three years. Georgia Power Company has agreed that this additional \$300,000 in annual funding shall not be recoverable from ratepayers.

Savannah Electric's low-income weatherization program also shall be continued. Its level of funding, now set at \$100,000, shall be increased by \$30,000, thereby making \$130,000 the total sum of money that shall be dedicated to the program annually for the next three years. Savannah Electric shall work toward supplying the additional funding so that the \$30,000 will not be paid by ratepayers. After doing so, Savannah Electric shall report back to the Commission with information as to whether this is possible.

In terms of executing their weatherization programs, both Companies shall offer programmable thermostats to customers with central heat and air who wish to have them installed. Education

35. Transcript of Special Administrative Session, July 9, 2004, pages 4-5.

regarding the use of these thermostats also shall be provided to the participants in these programs.

f) Staff's Programmable Thermostat Recommendation

During its direct case, Staff recommended that Georgia Power and Savannah Electric should be required to develop and implement pilot programs that provide customers an incentive to install programmable thermostats (Energy Star®) in existing residences, and that pilot programs be initiated by both Companies. (Pre-filed Direct Testimony of Staff Panel, page 58.) Initially, it was proposed by Staff that Georgia Power's program should be limited to 25,000 participants, while Savannah Electric's program should have up to 2,000 participants Id.

In the rebuttal testimony of Georgia Power and Savannah Electric, the Companies expressed support for all of Staff's DSM recommendations except for this one. (Pre-filed Panel Rebuttal Testimony of Companies, page 19.) This lack of support stemmed from Georgia Power's further examination of this measure³⁶ in which programmable thermostats were represented as having passed the RIM test by only \$1.00 before any rebate was considered. Id. After the \$25 rebate recommended by Staff was added to the cost of the program, Georgia Power noted that the programmable thermostat program failed the RIM test by at least \$24 per thermostat. (Tr. 545.) It also was represented that additional program costs would only serve to worsen this disparity, and that the specifics for Savannah Electric regarding this measure's implementation would be similar. Id.

In light of the Commission's decision to create a Working Group to further consider DSM initiatives, the Commission declines to adopt the Staff recommendation on the development of pilot programmable thermostat program at this time.

2) Continuation of Power Credit Program

As proposed by the Companies, the Commission finds and concludes that Power Credit program should be continued. However, as recommended by Staff (Pre-filed Panel Direct of the Staff, page 60), the program shall be further evaluated by the Georgia Power and Savannah Electric based upon the marginal costs that result from this filing and be included with the updated evaluation of other DSM measures within 3 months of the issuance of the Commission's final order in these dockets. Furthermore, until such time that the Companies project that they will begin activating the programs to reduce peak loads, these programs only should be evaluated as providing reliability benefits.

36. This examination centers on use of such a thermostat in a home heated by natural gas.

3) Request for Updated DSM Data Made By Staff

With regard to the “consistency of data” issue discussed elsewhere in this order, Georgia Power and Savannah Electric agreed during cross examination by Staff to file the demand side management evaluation, just as it has always done, with what would be the most current data available at the time of the filing. (Tr.1039.) The Companies did, however, indicate the need to come back with a supplemental filing, probably in the late March/early April time frame, which would show the results of the DSM evaluation using all of those new cost assumptions that were developed in the IRP process. Id. Georgia Power Company and Savannah Electric noted that it would be their intent to try and have that data available prior to the presentation of the Companies’ direct cases for the next IRPs filed. As a consequence, Georgia Power and Savannah Electric would be providing updated evaluations for all of those measures with the exact same cost data used in the IRP process itself. (Tr.1037.)

To move towards consistency of data in all analysis performed, the Commission finds and concludes that it is appropriate for the utilities to update the DSM evaluation as described herein during the next IRP filing.

5) USE MADE OF REAL TIME PRICING TARIFFS

In reviewing the Companies’ various pricing options, Staff pointed out a number of short-comings with Georgia Power’s Real Time Pricing (“RTP”) tariffs in terms of it being viewed as a load management tool. Staff argued that due to the way this tariff has been administered, RTP has not resulted in a sizable reduction of load during peak periods. (Pre-filed Direct Testimony of Staff Panel, page 60.) Rather, Staff contended that since it appears that RTP is being used to compete for new loads, the Company’s claims of peak load reduction benefits to its system really do not exist. Id. Staff did not dispute that RTP can be a tool for economically adjusting the load shapes of participants in a manner that can benefit not only them but non-participants as well. It did take the position, however, that in order to be effective and beneficial, the hourly price signals must be adequate to encourage participants to change their hourly load shapes. Id. at 60-61. Prices charged of participants on these tariffs must be set to ensure that these customers are supporting the marginal costs incurred to serve them, plus provide a reasonable contribution toward fixed costs. Id. If they are not set to recover these costs, then non-participating customers would be subsidizing the customers on these rates.

The Staff also expressed a concern that the tariff does not contain sufficient requirements for establishing a firm Customer Baseline Load (CBL) below the actual projected load for new load. Id. at 61. The RTP tariff automatically permits an industrial customer to establish its CBL at 60% of the forecasted load for new load, without proof that it can actually operate at 60% of the forecasted load. In addition, the CBL for new loads can be further reduced by reducing load on a one-time basis for only two (2) consecutive hours, with a day-ahead notice. RTP customers have significant economic incentive to reduce their loads for these two hours, considering the fact that

they can achieve significant potential savings on all additional load reductions.³⁷ Staff was concerned that, while RTP tariffs provide significant incentive for customers to temporarily reduce loads to obtain lower RTP prices, reductions may not materialize when the need for significant, sustained load to be shed in the future. Id. at 62. This concern is supported by the fact that estimated RTP reductions for 2003 were such a small fraction of the total RTP load above CBL on Georgia Power's system. If a customer's CBL is set artificially low, then that customer would not be making an appropriate contribution towards fixed costs and those costs would have to be shifted to the remaining non-participating customers.

Staff testified at the hearings that Georgia Power's RTP tariff, as presently administered, has not achieved an appreciable level of load reduction relative to total load above the CBL. Id. at 63. As such, it should be subject to revisions in the upcoming rate case to achieve this goal, if the Commission regards the purpose of RTP to be a load management tool. Id. In addition, the Staff recommended that in its next IRP filing, Georgia Power provide an updated study of the peak load reduction benefits and costs of RTP. Id.

In rebuttal testimony Georgia Power argued that the Staff recommendations do not recognize the primary purposes of the RTP tariffs, which are to provide marginal cost based rates to customers in Georgia that represent market conditions while fully covering cost and making a contribution to fixed costs of customers. (Pre-filed Panel Rebuttal of the Companies, page 21-22.) Georgia Power further argued that its RTP tariffs helped it to compete in the customer-choice market, which results in downward pressure on rates to all of its customers. It was further noted that load management also was a benefit derived from RTP tariffs, through which customers could compare the value of electricity to their cost and make a decision whether or not to purchase energy. Id. Georgia Power testified that it has seen RTP load reduction of over 800 MW in previous years when constrained capacity resources forced the RTP price to extremely high levels. Id.

The Commission finds and concludes that the RTP tariffs shall be further evaluated during the Georgia Power 2004 rate case. If it is found to be appropriate in that case for modifications to the RTP tariffs to be made, the Commission will consider doing so in conjunction with issuing its final order in that docket. For purposes of this case, however, from a system reliability standpoint, it is extremely important to have the best information available to evaluate the load impact of RTP tariffs on the system. Therefore, the Commission finds and concludes that, in its next IRP filing, Georgia Power shall provide an updated study of the peak load reduction benefits from its RTP tariffs.

37. This information was derived from the Staff Report filed with the Commission in Docket No. 16896-U, Proceeding to Examine Alleged Discrimination in the Application of Georgia Power Company's Real Time Pricing Tariff, filed on November 14, 2003, p. 8-9.

6) GREEN POWER PROGRAMS

Georgia Power Company's 2004 IRP filing includes a stated intention to pursue Green Energy contracts that will provide renewable resources to meet customer requirements.³⁸ Savannah Electric stated in its IRP filing³⁹ that it will participate in the Green Power Program approved in Docket No. 16574-U. These programs will not provide capacity resources but will allow willing customers to purchase green energy at zero-cost to non-participants. Both are designed so that they are voluntary for the participants and will have no adverse impact on non-participants. The green portfolio as contemplated will likely include solar, wind, and landfill gas resources.

In the summer of 2003, the Commission approved for each company a Green Energy tariff that authorizes it to sell renewable energy under certain terms and conditions. Despite obtaining this approval, however, the Companies have represented that they are having difficulty in finding local viable sources for their Green Power Programs (Tr.89), which presently are not active. In its testimony, the Staff Panel recommended that the Companies increase their efforts to locate and contract for green energy resources. (Pre-filed testimony of Staff Witness Panel, p. 71.)

In conjunction with their doing so, Staff also recommended that a target date of one year be established for them to identify a source or sources of green energy, to secure these resources, to establish the availability of the option and to initiate subscriptions with their customers. Id. If, however, within the one year period from August 1, 2004, the Companies remain unable to establish a contractual relationship renewable energy despite employing their best efforts, they should be required to return to the Commission with an explanation and request that their Green Power Programs be re-evaluated. Id. The Companies indicated that they agreed with this recommendation in their rebuttal testimony. (Pre-filed testimony of Companies' Rebuttal Panel, pages 2-3.)

As a consequence of the foregoing, the Commission finds and concludes that the Companies shall increase their efforts to locate and contract for green energy resources. A target date of one year from the date of this final order shall be established at which time the Companies shall identify a green energy source or sources; contract to secure the resources; confirm the availability of the tariff with interested consumers, as well as commence their pre-planned advertising campaigns; and to initiate subscriptions with their customers. If, by August 1, 2005, the Companies remain unable to successfully execute these functions despite employing their best efforts, Georgia Power and Savannah Electric shall file notification of the underlying circumstances with the Commission by September 1, 2005, so that the agency can re-evaluate their Green Power Programs.

38. See pages 1-7.

39. See page 9.

7) TRANSMISSION

The Staff Panel was the only set of witnesses that provided any type of examination of the Companies' transmission system planning, the results of which will be set forth generally hereinafter. In doing so, Staff found that the Companies made an assessment of the adequacy and reliability of their transmission system by using the Guidelines for Planning the Southern Company Transmission System (the "Southern Guidelines"), the Guidelines for Planning the Georgia Integrated Transmission System ("ITS Guidelines"), the North American Electric Reliability Council ("NERC") Planning Standards, and the Southeastern Electric Reliability Council ("SERC") Supplements to the NERC Planning Standards. The Companies used two basic criteria for determining its reliability of the transmission grid: (1) overloads on line conductors (based on their thermal limits), and (2) under-voltage on transmission busses.⁴⁰ (Pre-filed Panel Testimony of Staff, pages 66-67.)

Staff observed that these criteria were applied first to the "base case" where all generation and loading conditions are at levels that are expected to be "normal." Subsequently, the criteria were applied to contingency cases (in particular to first-contingency failure situations), where a generation unit or a transmission line (or transformer) is removed from service. Id. at 67. Under these contingency conditions, the Companies would be able to determine where trouble spots are given likely operating conditions which would allow them to determine whether operating solutions exist to solve the problem, or whether new transmission facilities must be built to solve it. Insofar as their planning procedures are concerned, the Companies took a typical approach to identifying and proposing various solutions to problem areas on the transmission system, eliminating solutions that do not work, and selecting the most cost-effective solution for the long-term.

Staff's analysis resulted in a finding that three basic types of transmission projects existed: 1) projects related to general improvements to the transmission grid; 2) projects related to the addition of new generation to the transmission grid; and 3) projects related to the increase in interface transfer capacity (imports or exports) between the Southern Company (Georgia Power and Savannah Electric in particular) and adjacent utility systems. Although Staff's review was limited to only 12 projects, each of them appeared to be justifiable.⁴¹ Id. at 68-69. The Companies were believed to have identified projects in the ten-year transmission plan that presently are or will be necessary to provide adequate and reliable electric service to their respective customers. Id. Of course, the Commission does not certify transmission projects in the IRP, and decisions on the inclusion of transmission costs in base rates is a decision that is made in rate cases.

40. There are other planning criteria such as transient stability but the criteria mentioned above are the main ones.

41. Despite making this statement, Staff noted that it could not be stated with certainty that every other project is absolutely necessary, nor could it be said definitively that there might not be other alternatives to some of the projects that the Companies are proposing.

In terms of recommendations, Staff had just one. In future IRP filings, Staff would like the Companies to provide the most inclusive and detailed data available for the first half of its 10-year plan. For the remaining half of its plan, the data provided could contain less in-depth information. Id. at 91. In considering Staff's request in this regard, the Companies have indicated in their rebuttal that they are not opposed to doing so. (Pre-filed Panel Rebuttal Testimony of the Companies, page 3.)

As such, the Commission finds and concludes that future IRP filings should provide specific, comprehensive, detailed data for the first 5 years of the 10-year transmission plan, and less detailed data for the remaining 5 years of the plan.

8) ENVIRONMENTAL COMPLIANCE STRATEGY

In analyzing the Companies' IRP filings, Staff reviewed the 2002/2003 Environmental Compliance Strategy Report contained in the Technical Appendix, Volume 1B of Georgia Power's IRP filing. In doing so, the Environmental Compliance Strategy Report was examined to determine if the many environmental issues impacting electric utility operations were adequately analyzed and properly incorporated into the IRPs. Staff also evaluated the environmental issues and assumptions utilized in the Unit Retirement Study, which is also found in Technical Appendix, Volume 1B.

As a result of conducting its review, Staff made three recommendations to the Commission in which it sought additional information to what had been filed in the IRPs. Its first recommendation was that, within 60 days of a final order in these dockets, a comprehensive assessment be filed by the Companies detailing all of the possible impacts of all pending environmental regulations that may take effect in the next twelve months. This assessment should provide the Commission with an annual update of the impact of newly promulgated environmental regulations or proposed legislation that may modify the Companies' most recently completed IRP process. It also should include a high and low range of potential capital cost requirements if a particular regulation is promulgated or legislation is enacted, and state whether compliance with the enactment will materially change the recommendations made in the 2004 IRPs. Staff further proposed that the Companies be directed to provide the Commission with an annual update of their Environmental Compliance Strategy along with an analysis of how the updated strategy will impact the Companies' planning processes for the addition of generation and transmission. (Pre-filed Panel Testimony of Staff, pages 91-92.)

A second recommendation made by Staff was for the Companies to use in future IRP filings the same environmental scenarios from their Unit Retirement Study as they do in the Resource Planning Model (IRP Base Case). Id. at 92. This request was made based on a belief that in the 2004 filings, the Unit Retirement Study used included two additional cases recognizing the potential for increased levels of compliance, including Regional Particulate, Regional Haze, State NOx 8-hour Ozone SIPs, Mercury MACT, Clear Skies Act, Clean Power Act and Clean Air

Planning Act. Id. The scenarios used in the Resource Planning Model Base Case, however, appeared to Staff to only include previous Acid Rain provisions, the 1-hour ozone requirements and the Regional NOx SIP Call for Georgia beginning in 2007. Using the same scenarios in both the IRP base case and the Unit Retirement Study was promoted by Staff as providing for greater homogeneity.

Staff's third recommendation was for Georgia Power to prepare and file an assessment of the potential impact of increased environmental costs due to hydropower re-licensing. Id. at 92-93. The assessment sought should include the potential impact of increased environmental costs due to hydropower relicensing, reflecting not only the costs of re-licensing but also the potential for lost capacity due to operational modifications to mitigate environmental concerns and the potential increased capacity as a result of unit rehabilitation. In addition thereto, Staff recommended that Georgia Power be directed to provide an assessment of the impact of lost hydropower generation on the existing IRP resource mix if, during relicensing, capacity loss occurs due to environmental mitigation.

With respect to its first recommendation, it should be noted that the Company filed on May 21, 2004, Southern Company's 2003/2004 Environmental Compliance Strategy Review, which is an annual filing that is made on behalf of Georgia Power and Savannah Electric. This 2004 environmental filing, which was made one week after Staff's panel testimony was filed, contains much of the information that Staff recommended be filed, although perhaps not to the level of detail that was identified in the panel testimony. (Pre-filed Panel Rebuttal of the Companies, page 43.)

As it pertains to Staff's second recommendation, the Companies indicated that there was no objection with compliance but noted that it appeared to be the product of Staff's confusion that the environmental scenarios from the IRP base case were different from those used in the Unit Study when this was not the case. (Pre-filed Panel Rebuttal of the Companies, pages 49-50).

Regarding the third recommendation, however, Georgia Power has expressed concerns in its panel rebuttal testimony regarding Staff's request as it relates to the preparation and filing of an assessment of potential impacts of increased environmental costs due to Hydropower Re-licensing. In doing so, Georgia Power noted that such an analysis was done in compliance with the 2001 IRP order in which it was noted that cost and other issues related to facility upgrades were largely unknown some 5 years before the first facility was to be relicensed.⁴² (Pre-filed Panel Rebuttal of the Companies, page 53.)

Based upon the foregoing, the Commission finds and concludes that the Companies shall continue to file their Environmental Compliance Strategy Review on an annual basis; provided, however, that the scope of this filing shall be supplemented to include: 1) a high and low range of

42. The hydropower facilities to be relicensed within the next 20 years include Morgan Falls (2009), Bartletts Ferry (2014) and Wallace Dam (2020).

potential capital cost requirements if a particular regulation is promulgated or legislation is enacted, and information whether compliance with the enactment will materially change the recommendations made in the 2004 IRPs; and 2) an analysis of how the updated strategy will impact the Companies' planning processes for the addition of generation and transmission.

The Commission further finds and concludes that it is appropriate for Georgia Power to keep this agency and its Staff abreast of any developments that will result in more concrete information becoming available regarding cost estimates and facility upgrades for the hydropower facilities that are to be relicensed. Information that should be provided to the Commission on this issue, when available, shall include the potential impact of increased environmental costs due to hydropower relicensing, reflecting not only the costs of re-licensing but also the potential for lost capacity due to operational modifications to mitigate environmental concerns and the potential increased capacity as a result of unit rehabilitation. In addition thereto, Georgia Power shall provide in its Environmental Compliance Strategy Review an assessment of the impact of lost Hydropower generation on the existing IRP resource mix if, during relicensing, capacity loss occurs due to environmental mitigation.

9) GENERAL RECOMMENDATIONS

a) Anticipated Impacts of Resource Plans on Rates

In its rebuttal testimony, the Companies opposed providing more detailed information regarding individual company rate impacts resulting from the underlying resource selections. (Companies' Pre-filed Rebuttal Panel Testimony, p. 48.) The panel indicated that more detailed information regarding rate impacts of resource selections was not the purpose of the IRP hearing, which was held to examine the development of resource plans and not project rates. (Tr. 1013-1014.) However, when pressed as to what type of hearing would take place at which the Commission would have the opportunity to examine the potential rate impacts, given that gas prices are high, environmental costs are growing and the company plans to do nothing but build gas-fired units, no forum could be identified. Id. It was also noted during rebuttal that what information had been provided about rate analyses in Exhibit A-1 to Georgia Power's Technical Appendix 1-A pertained to the Southern Company foot print as a whole, and not to each of the individual operating companies. (Tr. 1004-1005.) _

Based upon the absence of company-specific details regarding rate-analyses for the resources identified in the plan, the Commission finds and concludes that the Companies must more fully communicate in future IRP filings information regarding the anticipated impacts their resource plans have on their forecasted rates. The nature of the Companies' resource mix clearly is changing. Operating companies' rates are vulnerable to such things as fuel spikes, environmental actions and technology advancements. As the resource mix changes from one that primarily uses coal and nuclear energy to one that more heavily relies on natural gas, the vulnerabilities and rate impacts that accompany such change must be clearly and accurately

articulated within the IRP filings. Furthermore, at such time as the ultimate decision is to be made as to selecting one technology type over another, the knowledge of forecasted rate impacts should provide additional guidance in selecting the appropriate resource type. The IRP review, with its focus on a long-term evaluation of resource plans would be the ideal proceeding to also evaluate the resulting impacts on individual operating company customer rates.

b) Filing of Information in Integrated Resource Plans

In future IRP filings, the Companies are encouraged to use consistent data in evaluating all aspects of the IRP. Again, this includes transmission analyses, DSM modeling, retirement studies, as well as the load forecast, etc.

B) DIRECTIVES PERTAINING TO THE IRP RULES REGARDING THE PROCESS FOR ISSUING AND EVALUATING REQUESTS FOR PROPOSALS

As previously stated in this Order, the Commission invited interested parties to provide testimony during the hearings on various topics related to the manner in which bids for purchase power contracts are solicited and evaluated on behalf of the Companies. The purpose of seeking this information was to consider amending Utility Rule 515-3-4-.04(3), Request for Proposals Procedure for Long-Term New Supply–Side Options, to state with greater specificity the steps that were to be followed when a competitive solicitation was to be issued for purchase power to fill a designated supply-side need. Recommendations were made that pertain to the timing issues related to the bidding process to be considered in future solicitations.

a) Modifications Proposed to Existing Utility Rule 515-3-4-.04(3)

The Staff, Calpine, and GTMA/GIG pre-filed testimony⁴³ that responded to the issues identified by the Commission on this subject, all of which was supportive of having some form of an independent evaluator involved in the RFP process. Each of the witnesses testifying on this topic, however, had different ideas regarding the details that would need to be laid out regarding the manner in which the RFP was to be issued, how they were to be evaluated, and how the winning solicitations were to be selected and presented to the Commission for certification. The Companies, while not as adamant as the other responding parties as to the need to have an independent entity perform these functions, offered testimony as to what they believed would be a fair process through which an independent monitor could assist in the RFP.⁴⁴

43. Staff's initial view on the RFP related issues can be found on pages 76 through 87 of its pre-filed panel testimony. Calpine's preliminary position on these issues was provided by Mr. Timothy Eves on pages 8 through 20 of his pre-filed testimony. GTMA/GIG's stance on this subject matter was provided by Mr. Jeffry Pollock on pages 5 through 10 of his pre-filed testimony.

44. The positions taken by the Companies on the contemplated RFP process changed throughout the hearings and can be found on pages 17 through 27 of their pre-filed direct testimony, as well as later in their proposal modifying this initial position found on pages 22 to 40 of their rebuttal.

As the hearing progressed, representatives of Staff, Calpine, GTMA/GIG, the CUC and the Companies met to discuss this issue to see if a joint solution could be reached. During the rebuttal phase of the hearings, the Companies, on behalf of all of the aforementioned parties, entered into evidence as “Joint Parties Exhibit 1” a Stipulation endorsing the acceptance of measures to be applied in future supply-side solicitations over which a Commission-selected Independent Evaluator would preside. The structure proposed therein represents principles and procedures the sponsoring entities believe should be captured and embodied in a rulemaking by the Commission to modify existing Rule 515-3-4-.04(3) in order to adopt an Independent Evaluator (“IE”) for use in all future RFPs. To make the changes called for by the Stipulation, it was further recommended that a rulemaking be commenced by the Commission.⁴⁵

Based on the agency’s review of the Joint Stipulation, which is attached and incorporated by reference herein, the Commission finds and concludes that it is appropriate to approve and accept its terms and provisions as part of the Final Order in these dockets. In order to properly further the enhancements that have been authorized, the Commission finds and concludes that a rulemaking proceeding shall be initiated before the end of August 2004, in which the Commission shall accept and incorporate the proposed amendments to the RFP Rule in accordance with the RFP/IE structure endorsed by the stipulation.

b) Detailed Code of Conduct To Be Prepared by the Companies

The Commission also finds and concludes that the Companies shall prepare and file for the agency’s approval no later than August 31, 2004, a detailed code of ethics regarding affiliate communications, particularly as they relate to the preparation and evaluation of competitive solicitations. The depth and breadth of the code of conduct that is to be proposed by Georgia Power and Savannah Electric shall be extended to cover those individuals that are directly or indirectly in the employ of any of its affiliates or parent company and shall be executed in the manner contemplated by the Joint Stipulation.

c) Status Of The 70/30 Directive Regarding The Ownership Percentage Of And The Purchased Power Percentage Of Capacity Called For In the 2001 IRP Order

In his pre-filed testimony, Calpine witness Tim Eves argued that the directive calling for at least 70% ownership of capacity by the Companies and not more than 30% purchased power⁴⁶ should be regarded as a flexible Commission “guideline” and not a “hard cap.”⁴⁷ (Pre-filed testimony of Calpine, p. 21-22.) However, the manner in which the limitations on the percentage of purchased power works is now governed by the terms of the Joint Stipulation. The only remaining question

45. On transcript pages 962-966, Companies’ witness Garey C. Rozier provided a good summary of the contents of the Stipulation, which will not be recited again in this Order, but rather, will be made an attachment to and be incorporated by reference.

46. This 70/30 directive is contained in the *Final Order* issued in IRP Docket Nos. 13305-U and 13306-U.
47.

is whether the Commission, at this time, should modify those percentages. Having considered doing so, the Commission expressly declines to make any such modification at this time. In opting not to change the percentages, the Commission notes that the Companies are not and will not be in the next 3 years in a situation in which the issue the 30% cap will be reached. Consistent with the terms of the Joint Stipulation, the Commission will revisit the issue in the 2007 IRP.

d) Directives Pertaining to the Contemplated Solicitation for 2009 Capacity Needs

1) Inclusion of Life of Unit Solicitations in Future IRPs

During the hearing, Staff made a recommendation that future capacity solicitations should include requests for consideration of proposals for “life-of-unit” proposals. (Pre-filed Direct Staff Panel Testimony, page 90.) As understood by the Commission, these bids effectively permit a merchant unit owner to sell the capacity and energy to the Companies for the same time period that the Companies themselves would operate a self-build option. On rebuttal, the Companies indicated that it was opposed to seeking life-of-unit proposals on the grounds that it would cause a loss in operating flexibility, was unnecessary since the existing 7 to 15 year solicitations have yielded good results, and would cause confusion as to what is actually meant in by the phrase “life-of-unit” in submitting and evaluating such a bid. (Tr. 1014-1016.)

The Commission disagrees with the Company in part, and would like to see such bids solicited in order to foster competitive bidding in Georgia. In seeking life-of-unit bids, however, the Commission does agree that there exists a potential for confusion as to what exactly is being sought in terms of a supply side resource.

Based on these concerns, the Commission finds and concludes that in the 2009 RFP, the Companies shall seek 30-year contracts for purchased power in addition to the 7- and 15-year contracts that it has been soliciting in recent time. In the event that this directive would conflict with the Commission’s 30% limit on total supply-side purchased power resources, the life-of-unit purchases could then be structured as an actual sale of the unit(s) to the Companies.

2) Schedule of Actions for the Next RFP to be Issued

In furtherance of the objectives set forth in the Joint Stipulation regarding the competitive bidding process referenced above, the Commission finds and concludes that the a schedule of events for the release of an RPF shall be adhered to in conjunction with seeking the most economical supply-side capacity assets in the immediate future. On or before July 15, 2005, the Companies will file for approval with the Commission a proposed schedule of events for the release of RFPs for the time period 2009 through 2012. This filing shall also include target dates for submitting proposed IE’s, RFP Service Dates, dates for notification of bid and evaluation team members,

dates for filing of draft RFP's and standard purchase power agreements and capacity to be sought in each RFP.

Once approved by the Commission, any deviations, planned or unintended, from the established schedule must be authorized by this agency before they are made by the Companies.

IV. ORDERING PARAGRAPHS

WHEREFORE IT IS ORDERED that the Commission adopts the Integrated Resource Plans developed by Georgia Power and Savannah Electric with the augmentations and/or modifications set out below.

ORDERED FURTHER, that the demand and energy forecasts filed by Georgia Power and Savannah Electric be approved without modification to any projections to any customer class.

ORDERED FURTHER, that Georgia Power and Savannah Electric shall update their demand and energy forecasts and budget comparison information through March 31, 2004, in order to reflect actual usage that has occurred since these forecasts were finalized in the spring of 2003. Once updated through this time frame, these forecasts shall be filed with the Commission by no later than August 16, 2004.

ORDERED FURTHER, that in conducting future reserve margin studies, as with all evaluations that are conducted as part of an IRP, consistent modeling data should be used to the greatest extent possible.

ORDERED FURTHER, that the Companies' target reserve margin for the 2004–2006 timeframe shall be set at 13.5%, with 15% to be used for the remainder of the study period.

ORDERED FURTHER, that the Companies' Generation Expansion Plans shall be regarded as adequate based upon the information that has been made available to the Commission .

ORDERED FURTHER, that Plant Atkinson CT's 5 A and 5B shall be de-certified by Georgia Power Company.

ORDERED FURTHER, that Savannah Electric shall extend the planned life of the 17 MW Kraft CT unit capable of providing black starts and remove it from further consideration for retirement until such time when such action is shown to be warranted.

ORDERED FURTHER, that Georgia Power and Savannah Electric shall inform the Commission in a filing of any changes in fuel price conditions, including external forecasts that may warrant development of a new utility price forecast and advise the Commission on the impacts these changes may have on the long range IRP. The Companies also shall make available any fuel forecast update as soon as it is available within each 6 month Progress Report to the Commission called for by Utility Rule 515-3-4-.05.

ORDERED FURTHER, that both GPC and Savannah Electric shall further develop the partnership that it has entered into with Energy Star® through which appliances acknowledged as having a certain level of energy efficiencies would be promoted by the Companies in ways such as providing consumers with manufacturers' coupons for energy efficient appliances with their bills.

ORDERED FURTHER, that Georgia Power and Savannah Electric also shall more aggressively promote the availability of energy audits for interested customers.

ORDERED FURTHER, that the Companies shall offer as part of their low-income weatherization programs the option of having programmable thermostats installed to those customers with central heat and air that wish to have the thermostat installed. Education as to how to use the thermostat shall also be provided.

ORDERED FURTHER, that a Working Group be created of interested stakeholders to develop a proposed DSM Plan for residential and commercial customers for the Commission's consideration. The Commission Staff shall organize and act as the facilitator of the Working Group, which shall consist of the parties in the IRP cases.

ORDERED FURTHER, that the recommendation by ASE and supported by SACE and GIPL for the Companies to be required to fund a consultant for a working group is rejected in its entirety.

ORDERED FURTHER, that the Working Group shall convene for the first time no later than August 15, 2004, and meet as often as needed thereafter.

ORDERED FURTHER, that within 10 days after each of its meetings, the Working Group shall file reports with the Commission in these IRP dockets. These reports shall detail the minutes of the meeting and provide status information regarding the project, including milestones achieved and a timetable for completing those that remain.

ORDERED FURTHER, that the Companies will provide to the Working Group such data as may be reasonably necessary for the Working Group to perform its tasks and develop its proposed DSM Plan. To the extent that the Companies contend that any such information is proprietary, it shall be filed with the Commission and be made available to members of the group pursuant to the Commission's Trade Secret rule.

ORDERED FURTHER, that the proposed DSM Plan shall be a comprehensive proposal consisting of 1) a mix of DSM initiatives to be recommended to the Commission for approval, including detailed information regarding how each of the initiatives would be implemented; 2) a recommended process for the selection of DSM initiatives in the future; and 3) recommendations regarding the need for changes to the Commission's IRP rules regarding DSM or for proposed legislation.

ORDERED FURTHER, that the recommended mix of DSM initiatives in the DSM Plan shall be selected by the Working Group using the following criteria:

- (a) The proposed DSM Plan should minimize upward pressure on rates and maximize economic efficiency. This directive is extremely critical given Georgia Power Company's \$328 million pending rate increase request and Savannah Electric and Power Company's scheduled rate filing.
- (b) The cost/benefit analysis results of each initiative using all 3 tests (RIM, Total resource Sot test and Participants test) shall be considered by the Working Group and shall balance between economic efficiency and fairness and equity.
- (c) An examination of where growth is occurring on the system shall be performed by the Working Group, which shall attempt to concentrate its recommended initiatives there. Consideration shall also be given to initiatives that encourage participation by low-income customers.
- (d) In addition to traditional DSM programs, the Working Group shall consider rate design initiatives. In considering such initiatives, the Working Group should consider the cost/benefit analysis of such initiatives and the time periods that such initiatives would be available to a customer.
- (e) Every effort should be made by the parties to develop innovative programs and market approaches that will prevent upward pressure on rates and subsidies between participants and non-participants.
- (f) Where appropriate, the Working Group should consider the development of Pilot Initiatives (limited enrollment, limited terms) as a tool to gauge initiatives.
- (g) The working group shall also provide input to the utilities in the development of the energy efficiency educational efforts approved by the Commission.

ORDERED FURTHER, that by no later than February 15, 2005, it shall conclude by submitting a proposed DSM Plan to the Commission.

ORDERED FURTHER, that the Commission does not find it appropriate to require the Companies to provide \$300,000 as requested by ASE to pay costs that may be incurred by the group in executing and fulfilling its mission.

ORDERED FURTHER, that after the Working Group has tendered its recommendation to the Commission, this agency will consider any further action to be taken regarding the appropriate mix of DSM initiatives to be adopted and the process for the selection of DSM initiatives in the future

ORDERED FURTHER, that given the Commission decision to create a Working Group to consider DSM programs, the Staff recommendation that the Companies develop a pilot programmable thermostat DSM program is not adopted by the Commission at this time.

ORDERED FURTHER, that the low income weatherization program of Georgia Power Company shall be continued. Its level of funding, now set at \$1,000,000, shall be increased by \$300,000, thereby making \$1,300,000 the total sum of money that shall be dedicated to the

program annually for the next three years. Georgia Power Company has agreed that this additional \$300,000 in annual funding shall not be recoverable from ratepayers.

ORDERED FURTHER, that Savannah Electric's low-income weatherization program also shall be continued. Its level of funding, now set at \$100,000, shall be increased by \$30,000, thereby making \$130,000 the total sum of money that shall be dedicated to the program annually for the next three years. Savannah Electric shall work toward supplying the additional funding so that the \$30,000 will not be paid by ratepayers. After doing so, Savannah Electric shall report back to the Commission with information as to whether it can do so.

ORDERED FURTHER, that additional education on the efficient use of electricity shall be made available by the Companies.

ORDERED FURTHER, that Georgia Power shall fund with no more than \$2,000,000 an energy efficiency campaign that it shall implement to promote consumer awareness of those energy efficiency measures and practices that produce the greatest economic efficiency and benefit to a participant.

ORDERED FURTHER, that Savannah Electric shall fund with no more than \$200,000 an energy efficiency campaign that it shall implement to promote consumer awareness of those energy efficiency measures and practices that produce the greatest economic efficiency and benefit to a participant.

ORDERED FURTHER, that in order to further their respective energy efficiency educational campaigns, the Companies may use any recognized medium through which their customers could reasonably be expected to be exposed, including, but not limited to, television advertisements, radio spots and advertisements in local newspapers and periodicals.

ORDERED FURTHER, that all information disseminated through the media shall be for the exclusive purpose of promoting education in the area of energy efficiency and shall not serve as a forum to promote the Southern brand (or that of its subsidiaries) in any way, or to further other initiatives of the Companies outside of those contemplated herein. Television, radio and/or print ads shall provide as much information about managing electric usage as possible in the time/space allotted. A general understanding of electric energy efficiency and conservation should be able to be derived by the average viewer after seeing/listening to any advertisements. The theme of all advertisements should be strictly education-based. Any advertisements that the Commission, in its sole discretion, finds not to be adequate for its intended purpose shall not be financed with monies allocated in this order for consumer education.

ORDERED FURTHER, that copies of television ads, radio scripts and print advertisements containing information that is to be disseminated to the public as part of the energy efficiency programs shall first be provided to the Commission's Consumer Affairs Office, the Commission's Public Information Office and the Commission's Electric Staff in advance of being published. Upon their receipt of same, Staff will immediately give other interested parties

five (5) business days to review the content of what the Companies seek to publish in order to raise any objection thereto. The Commission shall be the ultimate decision maker as to whether an advertisement shall be approved.

ORDERED FURTHER that the Companies shall file quarterly reports at the Commission detailing with specificity the expenditures made through this education program. None of the funds allocated shall be used for any expenditure not expressly contemplated by this order.

ORDERED FURTHER, that to move towards consistency of data in all analyses performed, the Commission finds that it is appropriate for the utilities to update the DSM evaluation as described herein during the next IRP filing.

ORDERED FURTHER, that the Companies shall continue their implementation of the Power Credit Program;

ORDERED FURTHER, that the Power Credit program shall be further evaluated by the Companies based upon the marginal costs that result from this filing and be included with the updated evaluation of other DSM measures within 3 months of the issuance of the Commission's Final Order in these dockets.

ORDERED FURTHER, that with regard to the "consistency of data" issue discussed elsewhere in this order, as it relates to the DSM screening analysis, Georgia Power and Savannah Electric shall file the demand side management evaluation with what would be the most current data available at the time of the filing, but then come back with a supplemental filing, in the late March, early April time frame, that would show the results of the DSM evaluation using all of those new cost assumptions that were developed in the IRP process.

ORDERED FURTHER, the Companies shall update their DSM evaluation in the manner described in this order for use in their 2007 IRP filings.

ORDERED FURTHER, that the Commission shall evaluate the RTP tariffs during the Georgia Power 2004 rate case and make any appropriate tariff revisions at that time as it sees fit.

ORDERED FURTHER, that, in its next IRP filing, Georgia Power shall include an updated study of the peak load reduction benefits from RTP tariffs.

ORDERED FURTHER, that the Companies shall increase their efforts to locate and contract for green energy resources for their Green Energy Programs.

ORDERED FURTHER, that a target date of one year from the date of this Final Order shall be established during which the Companies shall identify a green energy source or sources; contract to secure the resources; confirm the availability of the tariff with interested consumers, as well commence their pre-planned advertising campaigns; and to initiate subscriptions with their customers.

ORDERED FURTHER, that if, by August 1, 2005, the Companies remain unable to successfully execute these functions relating to renewable resources despite employing their

best efforts, Georgia Power and Savannah Electric shall file a notification of the underlying circumstances with the Commission by September 1, 2005, so that the agency can re-evaluate their Green Power Programs.

ORDERED FURTHER, that in future IRP filings, the Companies provide the most comprehensive, detailed data available for the first half of their 10-year transmission plan. For the remaining half of its plan, less detailed data may be filed

ORDERED FURTHER, that the Companies shall continue to file their Environmental Compliance Strategy Review on an annual basis; provided, however, that the scope of this filing shall be supplemented to include: 1) a high and low range of potential capital cost requirements if a particular regulation is promulgated or legislation is enacted, and information whether compliance with the enactment will materially change the recommendations made in the 2004 IRPs; and 2) an analysis of how the updated strategy will impact the Companies' planning processes for the addition of generation and transmission.

ORDERED FURTHER, that Georgia Power shall keep this agency and its Staff abreast of any developments that will result in more concrete information becoming available regarding cost estimates and facility upgrades for the hydropower facilities that are to be relicensed. Information that should be provided to the Commission on this issue, when available, shall include the potential impact of increased environmental costs due to hydropower relicensing, reflecting not only the costs of re-licensing but also the potential for lost capacity due to operational modifications to mitigate environmental concerns and the potential increased capacity as a result of unit rehabilitation.

ORDERED FURTHER, that Georgia Power shall provide in its Environmental Compliance Strategy Review an assessment of the impact of lost Hydropower generation on the existing IRP resource mix if, during relicensing, capacity loss occurs due to environmental mitigation.

ORDERED FURTHER, that the Companies must more fully communicate to the Commission in future IRP filings information regarding the anticipated impacts their resource plans have on their forecasted rates. The vulnerabilities and rate impacts that accompany the resource mix change being planned for must be clearly and accurately articulated within the IRP filings.

ORDERED FURTHER, that in conducting IRP studies the Companies should to the greatest extent possible, set as an objective to use consistent data throughout all analyses conducted as part of the IRP.

ORDERED FURTHER, that the Joint Stipulation regarding the RFP/IE rule enhancements agreed to by interested parties in these dockets is approved as part of the Final Order in the dockets, a copy of which is attached and incorporated by reference herein.

ORDERED FURTHER, that a rulemaking proceeding shall be initiated by Staff before the end of August 2004, in which the Commission shall promulgate as rule amendments the RFP/IE structure endorsed by the Joint Stipulation.

ORDERED FURTHER, that the Companies shall prepare and file for the agency's approval no later than August 31, 2004, a detailed code of conduct regarding affiliate communications, particularly as they relate to the preparation and evaluation of competitive solicitations.

ORDERED FURTHER, that the depth and breadth of the code of conduct that is to be proposed by Georgia Power and Savannah Electric shall be extended to cover those individuals that are directly or indirectly in the employ of any of its affiliates or parent company and shall be executed in the manner contemplated by the Joint Stipulation.

ORDERED FURTHER, that consistent with the IRP Final Order issued July 5, 2001, the Commission shall limit the amount of supply-side capacity provided through purchased power contracts to 30 percent of total supply-side resources. A determination of whether this cap should be increased, decreased or eliminated in its entirety is an issue that this Commission will not have the need to contemplate until the 2007 IRP.

ORDERED FURTHER, that in the 2009 RFP, the Companies shall seek 30-year contracts for purchase power in addition to the 7- and 15-year contracts that it has been soliciting in recent time. In the event that this directive would conflict with the Commission's 30% limit on total supply-side purchase power resources, the life-of-unit purchases could then be structured as an actual sale of the unit(s) to the Companies.

ORDERED FURTHER, that on or before July 15, 2004, the Companies will file for approval with the Commission a proposed schedule of events for the release of RFPs for the time period 2009 through 2012. This filing also shall include target dates for submitting proposed IE's, RFP Service Dates, dates for notification of bid and evaluation team members, dates for filing of draft RFP's and standard purchase power agreements and capacity to be sought in each RFP.

ORDERED FURTHER, that once approved by the Commission, any deviations, planned or unintended, from the established schedule of events must be authorized by the agency before they are made by the Companies.

ORDERED FURTHER, that no determinations are made as to the need, effectiveness or reasonability of any rates, tariffs and pricing strategies filed in conjunction with the IRPs in this Order. The feasibility and determination of the appropriate level of these rates, tariffs and pricing strategies shall be made in the general rate cases that have been or will be filed by the Companies in 2004.

ORDERED FURTHER, that all findings of fact and conclusions of law contained within the preceding sections of this Order are hereby adopted as findings and conclusions of this Commission.

ORDERED FURTHER, that a motion for reconsideration, rehearing or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

ORDERED FURTHER, that jurisdiction over this matter is expressly retained for the purpose of entering such further Order or Orders as this Commission may deem just and proper.

The above by action of the Commission during a Special Administrative Session held on July 9, 2004.

REECE MCALISTER
EXECUTIVE SECRETARY

H. DOUG EVERETT
CHAIRMAN

DATE

DATE

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ATTACHMENT A

PROCEDURES AND PRINCIPLES FOR AN RFP STRUCTURE UTILIZING AN INDEPENDENT EVALUATOR ("PROPOSED RFP/IE STRUCTURE")

Definitions:

"Commission" means the Georgia Public Service Commission.

Independent Evaluator" or "IE" means the entity or entities selected pursuant to the RFP Rule to conduct a RFP Process.

IRP" means the filing made by the utility in which it proposes a specific integrated resource plan for adoption/approval by the GPSC.

IRP Plan" means the specific integrated resource plan adopted by the GPSC for a utility, as may be modified from time to time, and which identifies specific supply-side resource blocks to be added by the utility at specific periods in time.

"PPA Execution Date" means the date on which a power purchase agreement between the soliciting utility and the winning bidder is executed pursuant to a RFP Process.

"RFP" means the notice of a request for proposals distributed to the marketplace by the IE under the RFP Rule identifying the needed resources and the time for providing those resources as set out in the IRP Plan, or any amendment thereto.

"RFP Document" shall mean the collection of materials identified in part IV.4 and distributed to interested bidders and pursuant to which the bids shall be submitted and evaluated during the RFP Process.

RFP Process" means the preparation and issuance of a RFP and all the activities subsequently associated therewith that are expected to terminate in the execution of a PPA between the soliciting utility and the winning bidder, and in which an Independent Evaluator is selected pursuant to and performs the functions described in this Proposed RFP/IE Structure.

RFP Rule" means GPSC Rule 515-3-4-.04(3) as amended from time to time, including specifically as amended to adopt the procedures and principles contained in this Proposed RFP/IE Structure.

“RFP Service Date” means that date six months in advance of the date the RFP is expected to be issued, as further described in paragraph II.3.

“Staff” means the Commission Staff assigned to participate in the RFP Process.

I. Requirement to use an RFP Process

- 1. For each block of required new supply-side resources identified in the IRP, the utility shall propose a schedule for conducting a RFP Process, including specifically the expected date upon which the RFP shall be issued that solicits each such new supply-side resource along with the amount of capacity required. This information shall be considered public information and made available to all potential bidders.**
2. The RFP Process shall be utilized for every block of required new supply-side resource identified in the IRP Plan, except as provided in Rule 515-3-4-.04(3)(i). Rule 515-3-4-.04(3)(i) shall be amended to add after the last stand-alone paragraph two additional paragraphs, numbered six (6) and seven (7), which shall read, as follows:
 6. The Commission shall expressly consider in each IRP, and make a determination in each IRP Plan, whether to exclude from the RFP Process any new supply-side resources identified in the soliciting entity's approved IRP Plan.
 7. It is Commission policy that investor-owned electric utilities under its regulation shall maintain a minimum percentage of their capacity as “self-owned” rate-based assets. Such percentage shall be set by Commission order and may be changed from time to time. In those situations in which the soliciting utility is nearing or finds that it would fall below this minimum percentage level, the soliciting utility shall inform the Commission of this eventuality in advance of the RFP Process at which time the Commission, in its discretion, may suspend these rules and provide guidance to the soliciting utility as to how it should proceed.

II. Role and Selection of an Independent Evaluator

1. The IE will be retained by the soliciting entity under a contract that is acceptable to the Commission and which is consistent with the RFP Rule. In order to help assure independence, the IE shall be selected by and report to the Commission. The soliciting entity (i.e., Georgia Power Company or Savannah Electric and Power Company), the Staff and potential bidders may recommend persons or entities to serve as the IE. The Commission shall establish the minimum qualifications and requirements for an IE and

shall select the IE pursuant to the selection process described herein. The role and function of the IE in the RFP Process shall be as set forth herein.

2. Any IE considered by the Commission shall be required to disclose any financial or personal interest involving any soliciting entity or any potential bidder, including but not limited to all substantive assignments for any Southern Company affiliate or any other potential bidder during the preceding five (5) years. The Commission may consider this interest in selecting the IE. The Commission will post on its web site the list of all IE candidates being considered and their statements of interest. The Commission will invite and consider any comments from the soliciting entity and potential bidders concerning the IE candidates prior to the selection of the IE. No IE selected by the Commission may perform services for the soliciting entity or any bidder for a period of two (2) years after the completion of an RFP Process in which the IE served.
3. The IE shall be retained in time to begin service at least six months prior to the expected issuance of the RFP ("RFP Service Date"). Consequently, the IE selection process identified in paragraphs II.2 and II.3 shall be concluded in time for the IE to begin service as of the RFP Service Date. From the date the IE is selected, no bidder or potential bidder shall have any communication with the IE, Staff, or the soliciting entity pertaining to the RFP, the RFP documents, the RFP process, the evaluation or the evaluation process or any related subjects except as those communications are specifically allowed by this proposed RFP/IE structure or as are made publicly through the IE's website.
4. The IE will report to the Commission and the Staff. In carrying out its duties, the IE will work in coordination with the Staff and the soliciting entity with regard to the RFP Process as further described herein.
5. If the IE becomes aware of a violation of any requirements of the RFP Process as contained in the RFP Rule, the IE shall immediately report that violation, together with any recommended remedy, to the Commission.
6. The IE's fees shall be funded through reasonable bid fees collected by the soliciting entity. The soliciting entity shall be authorized to collect bid fees up to \$10,000 per bid to defray its costs of evaluating the bids and, in addition, the soliciting entity may charge each bid an amount which shall be equal to the estimated total cost of the IE divided by the anticipated number of bids. To the extent that insufficient funds are collected through this method to pay all of the IE's fees, the soliciting entity shall pay the outstanding cost. Invoices for services rendered by the IE should be sent directly to the Commission for its review. After they are reviewed and approved, the invoices will be forwarded to the soliciting entity for payment, which will be made directly to the IE.

III. Affiliate Communications

1. Any affiliate of the soliciting entity that intends to submit a bid in response to the RFP, as well as any other persons acting for that affiliate or on its behalf in support of the development and submission of such bid, shall be known collectively as the "Bid Team".
2. The representatives of the soliciting entity that will be evaluating the bids submitted in response to the RFP, as well as any other persons acting for or on behalf of the soliciting entity regarding any aspect of the RFP Process, shall be known collectively as the "Evaluation Team."
3. No later than the RFP Service Date, the Bid Team shall be separately identified and physically segregated from the Evaluation Team for purposes of all activities that are part of the RFP Process. The names and complete titles of each member of the Bid Team and the Evaluation Team shall be reduced to writing and filed with the Commission for use by the IE.
4. There shall be no communications, either directly or indirectly, between the Bid Team and Evaluation Team from the RFP Service Date through the PPA Execution Date regarding any aspect of the RFP Process, except (i) necessary communications as may be made through the IE and (ii) negotiations between the Bid Team and the Evaluation Team for a final PPA in the event and then only after the Bid Team has been selected by the soliciting entity as the winning bid. The Evaluation Team will have no direct or indirect contact or communications with any bidder other than through the IE as described further herein, until such time as a winning bid is selected by the soliciting entity and negotiations for a final PPA have begun.
5. At no time shall any information regarding the RFP Process be shared with any bidder, including the Bid Team, unless the precise same information is shared with all bidders in the same manner and at the same time.
6. On or before the RFP Service Date, each member of the Bid Team shall execute an acknowledgement that he or she agrees to abide by the restrictions and conditions contained in paragraphs III.3 through III.5 above. At the PPA Execution Date, each member of the Bid Team shall execute an acknowledgement that he or she has met the restrictions and conditions contained in paragraph III.3 through III.5 above. These acknowledgements shall be filed with the Commission by the Bid Team within 10 days of their execution.
7. Should any bidder, including the Bid Team, attempt to contact a member of the Evaluation Team directly, such bidder shall be directed to the IE for all information and such communication shall be reported to the IE by the Evaluation Team member. At the RFP Service Date, each Evaluation Team member shall execute an acknowledgement that he or she agrees to abide by the and conditions contained in paragraphs III.3 through III.5 above

and, as of the PPA Execution Date, shall execute an acknowledgement that he or she has met the restrictions and conditions contained in paragraphs III.3 through III.5 above. These acknowledgements shall be filed with the Commission by the Evaluation Team within 10 days of their execution.

IV. RFP Structure and Process

Stage One: Identification of Bidders and Design of RFP

1. The soliciting entity will provide the Staff and the IE with a list of the companies that have submitted proposals in the three most recent solicitations conducted on behalf of the soliciting entity, as well as a list of all potential bidders to whom notice of those prior solicitations was sent. The soliciting entity shall be responsible for preparation of the final list of potential bidders to whom notice of the upcoming solicitation will be sent.
2. The soliciting entity will be responsible for preparing an initial draft of the RFP Document, including RFP procedures, evaluation factors, credit and security obligations, a pro forma power purchase agreement, the inclusion of any "proxy price" agreed to by the Staff and the IE against which the soliciting entity wishes to have the RFP bids tested, and a solicitation schedule. No later than one hundred twenty (120) days prior to the planned issue date of the RFP, the soliciting entity will supply the draft of the RFP Document to the Staff and the IE. These drafts shall be posted on the Commission's website and be accessible through a link established for the use of the IE (the "IE website").
3. If the soliciting entity wishes to consider an option for full or partial ownership of a self-build option, the utility must submit its construction proposal ("Self-build Proposal") to provide all or part of the capacity requested in the RFP to the IE at the time all other bids are due. Once submitted, the Self-build Proposal may not be modified by the soliciting entity. Provided, however, that in the event that the soliciting entity demonstrates to the satisfaction of the Staff and the IE that the Self-build Proposal contains an error and that correction of the error is in the best interest of customers and will not be harmful to the RFP Process, the soliciting entity may correct the error. Persons who have participated or assisted in the preparation of the Self-build Proposal in any way may not be a member of the Bid Team, nor communicate with the Bid Team during the RFP Process about any aspect of the RFP Process. The soliciting entity's Self-build Proposal must consist of the entire cost to complete the project including the "overnight cost," project capital additions, the Allowance for Funds Used During Construction (AFUDC) and the non-fuel operating and maintenance cost of the proposed self-build facility. The "overnight cost" is the cost to build the plant all at once, or "overnight," without consideration of financing costs. The

utility thus may choose to make no commitment to the structure of the construction organization, to the timing of the project, or to its financing costs.

4. The RFP and RFP Document together shall identify all factors to be considered in the evaluation of bids. In addition to the matters specified in Commission Rule 515-3-4-.04(3)(b), the following materials or matters shall be included in either the RFP or RFP Document, as appropriate:
 - i. a pro forma power purchase agreement containing all expected material terms and conditions;
 - ii. information on the Southern Company OASIS that will permit each prospective bidder to identify any native load growth transmission service reservation made by or on behalf of the soliciting entity; and
 - iii. the solicitation schedule.

With respect to item 4i above, the Commission shall conduct a process beginning at the conclusion of this IRP case, to be concluded within the shortest time practicable, in which all interested parties may participate to develop a pro forma power purchase agreement that will become part of the RFP Document. It is anticipated that the pro-forma power purchase agreement that is part of the RFP Document may be modified from time to time with the consent of both contracting parties in a manner that does not depart from the terms upon which the winning bid was selected.

5. The Staff and the IE will critique the initial draft RFP and RFP Document and provide their input to the soliciting entity. The soliciting entity may incorporate changes based on this critique if it so chooses. The initial draft RFP and RFP Document, plus the Staff/IE critique thereof, will be posted on the IE website.
6. The IE and Staff, plus the soliciting entity, may conduct at least one public bidders conference to discuss the draft RFP and RFP Document with interested parties, including but not limited to potential bidders. Potential bidders may submit written questions or recommendations to the IE regarding the draft RFP and RFP Document in advance of the bidders' conference. All such questions and recommendations shall be posted on the IE website. The IE shall have no private communication with any potential bidders regarding any aspect of the draft RFP and RFP Document.
7. Based on the input received from potential bidders and other interested parties, and based on their own review of the draft RFP and RFP Document, the Staff and the IE will submit a report to the soliciting entity detailing suggested recommendations for changes to the RFP and RFP Document prior to its issuance. This report shall be provided to the Commission and posted on the IE website for review by potential bidders.

8. The soliciting entity shall submit its final version of the RFP and RFP Document to the Commission for approval or modification. Once approved by the Commission, the final RFP and RFP Document shall be posted on the IE website. At any time after the RFP is issued, through the time the winning bid is selected by the soliciting entity, the schedule for the solicitation may be modified upon mutual agreement among the soliciting entity, the IE and the Staff, or upon approval by the Commission.
9. At the time the content of the RFP is considered for approval, the Commission may determine whether there will be a single round of bidding, or whether a “competitive tier and refreshed bid” process will be used. The Commission will consider comments and views of the soliciting entity and any interested party, including potential bidders, on this issue. In the event that the Commission does not expressly determine that a “competitive tier and refreshed bid” process shall be used, there will be only one round of bidding.
10. Notwithstanding the foregoing, there shall be a single round of bidding to obtain the next supply-side resource identified in the current IRP case and that block of supply-side resource shall be procured through the RFP Process.

Stage Two: Issuance of RFP and Bidder Communications

11. The IE will transmit the final RFP and RFP Document to the bidder list via the IE's website, pursuant to the solicitation schedule contained in the RFP and RFP Document.
12. The only bidder communications permitted prior to submission of bids shall be conducted through the IE. Bidder questions and IE responses shall be posted on the IE website. To the extent such questions and responses contain competitively sensitive information for a particular bidder, this information may be redacted.
13. The soliciting entity may not communicate with any bidder regarding the RFP Process, the content of the RFP and RFP Document, or the substance of any potential response by a bidder to the RFP; provided, however, the soliciting entity shall provide timely, accurate responses to an IE request for information regarding any aspect of the RFP and RFP Document or the RFP Process.
14. Bidders shall submit bids pursuant to the solicitation schedule contained in the RFP and RFP Document. The soliciting entity, Staff, and the IE shall have access to all bids and all supporting documentation submitted by bidders in the course of the RFP Process.

15. The soliciting entity shall cause native load growth reservations to be made on the Southern Company OASIS for all bids that are not otherwise capable of using an existing native load growth reservation for evaluation purposes.

Stage Three: Evaluation of Responses to RFP

16. The evaluation stage of the RFP Process will proceed on two tracks. On one track, the soliciting entity will evaluate all bids based on a total cost impact analysis such as was applied in the 2005/2006 Georgia RFP (the "TCI Analysis"). The soliciting entity will conduct this track in an appropriate manner, consistent with the principles and procedures contained in this Proposed RFP/IE Structure.
17. A second track will be conducted by the Staff and the IE. The Staff and IE shall have discretion to utilize whatever they consider the optimum combination of auditing the soliciting entity track and conducting its own independent evaluation in order to evaluate the resource options submitted to the soliciting entity in the RFP Process. The Staff and IE may apply the TCI Analysis as part of conducting their independent evaluation.
18. The soliciting entity, the Staff or the IE may request further information from any bidder regarding its bid. Any communications between the soliciting entity and a bidder in this regard shall be conducted through the IE. The soliciting entity shall be informed of the content of any communications between the Staff/IE and a bidder. Communications will be conducted on a confidential basis between the IE and the bidder, and may include one face-to-face meeting between the IE, the soliciting entity, and each bidder to discuss the proposal, unless a bidder declines such a meeting.
19. In order to conduct both its independent evaluation function and its auditing function, the IE and the Staff shall have access to all information and resources utilized by the soliciting entity in conducting its TCI Analysis. The soliciting entity shall provide complete and open access to all documents and information utilized by the soliciting entity in its TCI Analysis; and the IE and Staff shall be allowed to actively and contemporaneously monitor all aspects of the soliciting entity evaluation process in the manner they deem appropriate. The soliciting entity shall facilitate this access so that the soliciting entity evaluation process is transparent to the Staff and the IE. The soliciting entity shall have an affirmative responsibility to respond to any request for access or information made by the Staff and/or the IE. To the extent the IE determines that the evaluation processes of the two tracks are yielding different results, the IE shall notify the soliciting entity and attempt to identify the reasons for the differences as early as practicable. Where practicable, the soliciting entity and the IE shall attempt to reconcile such differences.

20. The Staff and the IE, as well as the soliciting entity, may rely on the Southern Services Transmission Planning ("SSTP") group to conduct all necessary transmission analyses concerning bids received. SSTP analyses provided to the Staff and the IE shall be equivalent in quality and content as that provided to the soliciting entity. No bidder, including any bidder that is an affiliate of the soliciting entity, shall communicate with the SSTP group during the course of the RFP Process regarding any aspect of the RFP.

Stage Four: Bidding Stages

21. If the Commission has directed that a "competitive tier and refreshed bid" process be used, the IE and the soliciting entity will follow steps 22 through 26 in the evaluation process.
22. The soliciting entity shall perform its evaluation of the bids and shall develop a competitive tier that narrows the bids to a manageable number that the soliciting entity believes are the best competitive options ("soliciting entity Competitive Tier"). The Staff and the IE also shall perform their independent evaluation of the bids and develop their own competitive tier that narrows the bids to a manageable number that the Staff and the IE believe are the best competitive options ("Staff/IE Competitive Tier").
23. The soliciting entity shall provide the soliciting entity Competitive Tier to the Staff and the IE. Simultaneously, the Staff and the IE shall provide the Staff/IE Competitive Tier to the soliciting entity.
24. If the soliciting entity Competitive Tier and the Staff/IE Competitive Tier are identical, the IE shall notify all companies on the Competitive Tier lists that they have the opportunity to better their bids as final best offers. The IE shall post the Competitive Tier list on the IE website showing each bidder's relative rank and the total evaluated cost of each bid. Each bidder on this list will be identified blindly so each bidder knows the identity of the bidder for only its bid but sees its rank compared to those of all other anonymous bidders who made the Competitive Tier.
25. If there are differences between the soliciting entity Competitive Tier and the Staff/IE Competitive Tier, the soliciting entity, the Staff, and the IE shall meet to try to resolve such differences in order to agree on a single Competitive Tier list. To the extent that such agreement cannot be reached, the IE shall notify all parties on each list that they have the opportunity to better their bids as final best offers. The IE shall post the combined Competitive Tier list on the IE website showing each bidder's relative rank and the total evaluated cost of each bid. Each bidder on this list will be identified blindly so each bidder knows the identity of the bidder for only its bid but sees its rank compared to those of all other anonymous bidders who made the Competitive Tier.

26. The refreshed “better” bids/final best offers shall be evaluated independently by: (1) the soliciting entity; and (2) the Staff and the IE, in each case consistent with the process outlined above for initial bids.

Stage Five: Certification of Resource(s)

27. After it has completed its evaluation, and pursuant to the RFP schedule, the soliciting entity shall notify the Staff and the IE of which resource(s) the soliciting entity has selected to win the bid.
28. The Staff and the IE shall notify the soliciting entity whether they agree with the determination by the soliciting entity. The Staff/IE shall also notify the soliciting entity of the results of their independent evaluation.
29. If the Staff and IE do not agree with the selection made by the soliciting entity, they shall meet to discuss the differences in their selections.
30. The soliciting entity is responsible for determining which resource(s) it will submit to the Commission for certification. The soliciting entity may consider the Staff/IE evaluation in making its decision, but the soliciting entity remains ultimately responsible for the selection.
31. Based on the pro-forma PPA included in the RFP Document, the soliciting entity may negotiate a final PPA with the bidder for each resource it has selected so that the Commission may consider the exact terms under which the resource will be certified. Any such PPA shall be expressly conditioned on the final decision of the Commission in the certification proceeding. If the soliciting entity conducts such negotiations, the IE and the Staff shall have the right, but not the obligation, to attend any and all negotiating sessions for the purpose of monitoring them. In the alternative, the soliciting entity may wait until the certification proceedings are complete to begin negotiations with the bidder for each selected resource based on the pro-forma PPA included in the RFP Document.
32. The soliciting entity shall file with the Commission a request for certification of the resource(s) chosen by the soliciting entity.
33. The Staff and the IE shall participate in the certification proceeding and testify regarding: (1) their independent evaluation of whether the resource selected by the soliciting entity should be selected and if not, which resource(s) in their view should be selected as a result of the RFP process; and (2) whether the soliciting entity conducted the RFP process in a fair and impartial manner.
34. The Commission will conduct the certification proceeding and may take any actions it deems appropriate as allowed by law.

35. If the soliciting entity has not yet negotiated a specific PPA prior to the certification, upon approval of PPA award recommendations by the Commission, the soliciting entity will proceed to negotiate or finalize appropriate contractual arrangements consistent with the approved award(s). The IE and the Staff shall have the right, but not the obligation, to attend any and all negotiating sessions for the purpose of monitoring them. The soliciting entity will make a compliance filing once the PPA is executed and the IE and the Staff will report to the Commission their opinion as to whether the PPA as executed complies with the Commission's certification order.
36. The soliciting entity will maintain a complete record of all materials developed for, generated during, or used in the RFP Process for (3) three years beyond the date of certification of the selected proposal(s), including any such materials prepared and/or used by the IE, as well as hard copies or electronically stored copies of all materials and exchanges posted on the IE's website.
37. The IE will enter into an appropriate agreement pertaining to the disclosure and use of any models, analytical tools, data, or other materials of a confidential or proprietary nature that are provided or made available by the soliciting entity in conjunction with the RFP Process.

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