

Docket No. 14000-U

ORDER

IN RE: Georgia Power Company's 2001 Rate Case

Record Submitted: December 5, 2001

Decided: December 20, 2001

APPEARANCES

On Behalf of the Georgia Public Service Commission:

DANIEL WALSH, Assistant Attorney General

HELEN O'LEARY, Administrative Procedures Attorney

On Behalf of Georgia Power Company:

KEVIN C. GREENE, Esq.

THOMAS L. PENLAND, JR., Esq.

On Behalf of the Consumers' Utility Counsel:

KRISTY R. HOLLEY, Director

JOHN Z. WU, Esq.

On Behalf of the Cable Television Association Of Georgia:

MARK M. MIDDLETON, Esq.

On Behalf of Dynegy, Inc.:

PETER M. DEGNAN, Esq.

WILLIAM BRADLEY CARVER, Esq.

On Behalf of Enron Corporation:
ROBERT J. FRANK, Esq.

On Behalf of the Georgia Electric Membership Corporation:
ROBERT TYSINGER, SR., Esq.

On Behalf of Georgia Industrial Group:
RANDALL D. QUINTRELL, Esq.

On Behalf of Georgia Textile Manufacturers, Inc.:
PEYTON S. HAWES, Esq.

On Behalf of the Kroger Company:
MICHAEL L. KURTZ, Esq.

On Behalf of the Metropolitan Atlanta Rapid Transit Authority:
BRUCE L. BROMBERG, Esq.

On Behalf of National Federation of Independent Business:
PHILIP J. SMITH, Esq.

On Behalf of Resource Service Ministries, Inc.:
LYNN R. WESTERGAARD

On Behalf of Resource Supply Management, Inc.:
JAMES H. CLARKSON

On Behalf of Service Resources, Inc.:
BERNARD H. REYNOLDS

On Behalf of the United States Department of Defense:
DAVID A. McCORMICK, Esq.

BY THE COMMISSION:

On June 29, 2001, Georgia Power Company (“Company,” “GPC” or “Georgia Power”) filed a traditional electric rate case. This filing was made as a result of an Order Adopting Modified Stipulation issued on December 21, 1998 and later modified January 27, 1999, in Docket No. 9355-U, Georgia Power Company’s 1998 Rate Case and Proposed Alternate Rate Plan. In that docket, the Commission voted to approve and issue an Accounting Order three years in term that was to remain in effect through December 31, 2001. The Commission, in its December 21, 1998 order, provided Georgia Power with specific directions for its next filing as follows:

On July 1, 2001, Georgia Power Company shall file testimony and exhibits required by a general rate case along with all supporting schedules required by the Commission to support a traditional rate case. The Commission shall conduct a formal hearing to determine the Company’s earnings level. Furthermore, during this case the Commission will examine this Accounting Order to determine whether it should continue, be modified, or discontinued. (Docket No. 9355-U, December 21, 1998 Order Adopting Modified Stipulation, Attachment A.)

The filing made by the Company was comprised of three volumes of information. The first volume was made up of an exhibit reflecting information responsive to the Commission’s rule regarding Minimum Filing Requirements (MFRs). The second volume contained a series of exhibits reflecting Georgia Power’s cost of service study, sales and revenue forecast, depreciation rates, cash working capital and nuclear decommissioning funding. The third and final volume of which this filing was comprised of testimony and exhibits, where offered, of Mr. David M. Ratcliffe, Mr. Ron Hinson, Mr. Charles A. Benore, Mr. David M. McClanahan and Mr. Jonathan M. Kubler.

On June 14, 2001, a Procedural and Scheduling Order was issued by the Commission that identified the procedures that were to be followed in this docket along with corresponding dates on which designated events were set to occur with respect to the Company’s filing. In the body of this same order, the Commission, pursuant to O.C.G.A. § 46-2-25, suspended the subject matter of Georgia Power’s filing for a period of five months from the August 2, 2001, effective date of the proposed rates. In addition, the Commission ruled that the proceedings on the Company’s filing constituted complex litigation, as that term is defined in O.C.G.A. § 9-11-33.

In addition to the Advocate Staff of the Commission (“Advocate Staff” or “Staff”) and the Consumers’ Utility Counsel Division (“CUCD”), which have the right by statute to participate in this proceeding, interventions were filed by a number of interested parties. These interested parties included the Cable Television Association of Georgia; Dynegy, Inc.; Enron Corporation (“Enron”); the Georgia Electric Membership Corporation; the Georgia Industrial Group and Georgia Textile Manufacturers Association, Inc. (“GIG/GTMA”); the Kroger

Company (“Kroger”), Metropolitan Atlanta Rapid Transportation Authority; National Federation of Independent Business (“NFIB”); Resource Service Ministries; Resource Supply Management, Inc.; Service Resources, Inc.; and the United States Department of Defense (“DOD”).

Hearings on Georgia Power’s direct case in support of its filing began September 10, 2001, and continued on September 11, 2001, and September 19, 2001. Thereafter, on October 12, 2001, responsive testimony and supporting documentation, where appropriate, were filed by the Advocate Staff; the CUCD; GIG/GTMA; Enron; Kroger; NFIB; Resource Service Ministries; Resource Supply Management, Inc.; and the DOD.

The Commission’s Advocate Staff recommended an annual revenue reduction of \$412,731,000, using the \$102,687,000 deficiency filed by the Company as a starting point. The Advisory Staff recommended a traditional annual revenue reduction of \$228,500,000. This excess revenue amount was predicated, among other things, on a recommended 11.00% Return on Equity as provided by John B. Legler, Ph.D. The CUCD and several of the participating Intervenors did not present traditional cases but, instead, responded to select issues of concern raised by GPC’s filing, including their respective positions about the Company’s over-earnings. Starting with the same deficiency represented by the GPC, the CUCD proposed a revenue reduction of \$157,531,000; GIG/GTMA calculated a \$232,229,000 revenue surplus; and the DOD identified a revenue excess in the amount of \$52,337,000.

The other participating Intervenors, including Enron, Kroger, NFIB, Resource Service Ministries and Resource Supply Management, filed testimony that did not quantify revenue reductions that were deemed appropriate but, instead, addressed specific issues of concern identified as germane by those parties.

Hearings resumed on October 22, 2001, through October 24, 2001, at which time Advocate Staff, CUCD and Intervenors presented their respective direct cases. The Company put on its rebuttal case on November 19, 2001, at which time the hearings in this matter were concluded. On December 5 2001, parties in this matter filed closing arguments and briefs. In addition, on December 14, 2001, GIG/GTMA, NFIB, Kroger and DOD filed a Stipulation on Revenue Allocation and Rate Design (“Stipulation”) setting forth a proposed resolution for Commission consideration with respect to revenue allocation and rate design issues raised in this docket. On December 19, 2001, GIG/GTMA and the Company filed a Stipulation (“Modified Stipulation”) setting forth a proposed resolution of various rate issues raised in this docket.

At the Special Administrative Session on December 20, 2001, the Commission Chairman introduced a motion to encourage the Company to enter into a new Alternative Rate Plan. Specifically, the Chairman recommended that the Company be offered an Alternative Rate Plan under which base rates would be calculated with a return on equity of 12.5%, with an earnings range of 10% to 12.95%. Under the recommended Alternative Rate Plan, the Company would be entitled to retain 1/3 of any earnings above 12.95%, with the remaining 2/3 being returned to the Company’s ratepayers. Following a recess and suspension of the rules, the Company accepted the Consent to Alternative Rate Plan (“Alternative Rate Plan”) attached hereto as Exhibit A and incorporated herein by this reference. The Commission further adopted the proposed resolution of revenue allocation and rate design issues described in the Stipulation, attached hereto as

Exhibit B and incorporated herein by this reference, with one modification. Specifically, the Commission voted to modify Paragraph 11 of the Stipulation so as to increase the existing Senior Discount from \$7.50 to \$10.50 per month, and to provide that such Senior Discount be absorbed within all rate classes. The Commission further adopted the resolution of revenue allocation and rate design issues described in the Modified Stipulation, attached hereto as Exhibit C and incorporated herein by this reference.

FINDINGS OF FACT

1.

The Commission finds that the resolution of this matter as provided in the Alternative Rate Plan is appropriate and is in the best interest of the State of Georgia. It is supported by testimony and other evidence in the record and will result in just and reasonable rates. During each of the three years of the Alternative Rate Plan, customers will receive a minimum aggregate benefit of \$117,722,000. In addition, the Return on Equity (“ROE”) allowed by the Alternative Rate Plan is appropriate in the context of providing the Company with an incentive to voluntarily consent to the terms of the Accounting Order set forth in this order.

2.

The Commission further finds that it is reasonable to adopt the Stipulation, as specifically amended by the Commission, and the Modified Stipulation.

3.

Given that this matter is resolved by means of a three-year Accounting Order with a first year ending December 31, 2002, the Commission finds that it is appropriate to use as a test year the twelve-month period ending December 31, 2002. The date on which the rates pursuant to the Alternative Rate Plan shall become effective is January 1, 2002.

4.

The Commission finds that it is reasonable to require the Company to provide written notification to the Commission regarding any proceeding or case affecting the Company that may require the Company to make an expenditure that the Company may seek to recover from its ratepayers, and to provide that any such expenditures will be disallowed should the Company fail to so notify the Commission.

5.

The Commission finds that it is reasonable to require the Company to conduct and file with the Commission a cost of service study by rate schedule and rate schedule groupings on or before January 1, 2004.

6.

The Commission finds that a three-year term for the Alternative Rate Plan ending December 31, 2004 is reasonable. The Company shall file a general rate case on July 1, 2004. As part of its consideration of that general rate case, the Commission will determine whether to continue, modify or discontinue the Alternative Rate Plan beyond December 31, 2004.

CONCLUSIONS OF LAW

1.

The Georgia Public Service Commission has general ratemaking jurisdiction over Georgia Power Company under O.C.G.A. Ch. 2, T. 46. The Georgia Public Service Commission has general supervision over electric light and power companies. O.C.G.A. §§ 46-2-20(a) and 46-2-21. The Commission has “exclusive power to determine what are just and reasonable rates and charges to be made by any person, firm, or corporation subject to its jurisdiction.” O.C.G.A. § 26-2-23; see also O.C.G.A. §§ 46-1-1(5), 46-2-24, 46-2-25, 46-2-26.1, and 46-2-26.2.

2.

The rates resulting from the Alternative Rate Plan set forth within Exhibit A, incorporated herein by reference, are fair, just and reasonable. By adopting the Alternative Rate Plan, the Commission retains its jurisdiction to ensure that the Company’s rates are fair, just and reasonable.

3.

The remaining terms and conditions of the Alternative Rate Plan set forth within Exhibit A are reasonable and appropriate. By adopting the Alternative Rate Plan, the Commission adopts a reasonable resolution of the remaining issues in this docket.

4.

The terms and conditions set forth in the Stipulation, as specifically amended by the Commission, and Modified Stipulation are reasonable and appropriate. By adopting the Stipulation, as specifically amended by the Commission, and Modified Stipulation, the Commission adopts a reasonable resolution of the revenue allocation and rate design issues addressed in the Stipulation, as amended, and Modified Stipulation.

5.

The Commission retains its jurisdiction to ensure that the Company abides by and implements the rates, terms and conditions set forth in the Alternative Rate Plan, Stipulation and Modified Stipulation adopted herein, and to issue such further order or orders as this Commission may deem proper.

WHEREFORE, IT IS ORDERED, that the Alternative Rate Plan shall be and the same hereby is adopted as shown in Exhibit A, that its terms and conditions are fully incorporated herein, and that Georgia Power shall comply with said terms and conditions. The rates pursuant to the Alternative Rate Plan are just and reasonable, and shall take effect for service rendered from and after January 1, 2002.

ORDERED FURTHER, that the Stipulation shall be and the same hereby is adopted as attached hereto as Exhibits B, that its terms and conditions are fully incorporated herein, and that Georgia Power shall comply with said terms and conditions; provided, however, that Paragraph 11 of the Stipulation shall be and the same hereby is stricken in its entirety, and the following substituted in lieu thereof:

“11. The Senior Discount shall be increased to \$10.50 and shall be absorbed within all rate classes.”

ORDERED FURTHER, that the Modified Stipulation shall be and the same hereby is adopted as attached hereto as Exhibit C, that its terms and conditions are fully incorporated herein, and that Georgia Power shall comply with said terms and conditions.

ORDERED FURTHER, that the terms and conditions set forth in the Stipulation, as specifically amended by the Commission, and the Modified Stipulation, shall take effect for service rendered from and after January 1, 2002.

ORDERED FURTHER, that the tariffs implemented by Georgia Power to implement the aforesaid annual rate reductions of \$117,722,000 in the years 2002, 2003 and 2004, as well as the terms and conditions of the Stipulation and Modified Stipulation shall be subject to review by the Commission to ensure that such tariffs, as implemented, are proper and just.

ORDERED FURTHER, that Georgia Power shall file compliance tariffs within 30 days of the issuance of this Order, reflecting rates to implement the rate reductions ordered herein. These tariffs shall reflect the rate reduction allocations adopted in this Order, and shall be subject to the Commission's review for final approval. Pending the Commission's final approval of these tariffs, the Company shall implement the rate reductions by including a line on each customer's

bill that shows the amount of the reduction for that bill as a reduction to the total bill, and identifies the reduction as due to the Commission's decision in this docket effective for service rendered from and after January 1, 2002.

ORDERED FURTHER, that Georgia Power shall provide written notification to the Commission regarding any proceeding or case affecting the Company that may require the Company to make an expenditure that the Company may seek to recover from its ratepayers. Failure to provide such notification to the Commission shall result in disallowance of recovery of any such expenditures.

ORDERED FURTHER, that Georgia Power shall conduct and file with the Commission a cost of service study by rate schedule and rate schedule groupings on or before January 1, 2004.

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

ORDERED FURTHER, that jurisdiction over this proceeding is expressly retained for the purpose of entering such further order or orders as this Commission may deem proper.

ORDERED FURTHER, any motion for reconsideration, rehearing, or oral argument shall not stay the effectiveness of this order unless expressly ordered by the Commission.

The above by action of the Commission in Special Administrative Session on the 20th of December, 2001.

Reece McAlister
Executive Secretary

David L. Burgess
Chairman

Date

Date