

**UNITED STATES OF AMERICA  
BEFORE THE  
FEDERAL ENERGY REGULATORY COMMISSION**

In the Matter of  
Atlanta Gas Light Company

Docket No. RP98-206-000

**GEORGIA PUBLIC SERVICE COMMISSION'S COMMENTS  
REGARDING MOTION OF SCANA ENERGY MARKETING, INC. FOR  
SUMMARY DISPOSITION**

The Georgia Public Service Commission ("GPSC") appreciates this opportunity to provide general and clarifying comments regarding the Motion Of SCANA Energy Marketing, Inc. For Summary Disposition ("SCANA Motion").

In its Motion SCANA requests that FERC order Atlanta Gas Light Company ("AGLC") to cease all dealings with its affiliates in connection with the Upstream Resources, and require Transco to adopt certain limited Part 284 interstate transportation/storage services that would permit the transition to Certificated marketer control of the Upstream Resources. This would enable AGLC to subscribe to the Part 284 service and to release them to the Certificated Marketers, without further waivers or special authorization from FERC.

SCANA's assertion that Upstream Resources are needed by SCANA and other marketers to serve retail load in the restructured natural gas market in Georgia is misleading. Marketers in Georgia are either allocated or directly assigned the necessary

interstate capacity assets to serve the firm load in Georgia. This allocation and assignment is based on the marketer's market share.

At page 1 of its Motion, SCANA requests that FERC take two immediate steps “..to help remedy the systemic problem with AGL's management of Upstream Resources that continues to undercut competition”.

The GPSC has not seen evidence which demonstrates that there is a systematic problem with AGLC's management of Upstream Resources. Additionally, there is no evidence that the Georgia market is not competitive.

AGLC's management of Upstream Resources is regulated by the GPSC. The GPSC approves a capacity supply plan at least every three years and any capacity supply plan approved or adopted by the GPSC must:

- (A) Specify the range of the requirements to be supplied by interstate capacity assets;
  - (B) Describe the array of interstate capacity assets selected by the electing distribution company to meet such requirements;
  - (C) Describe the criteria of the electing distribution company for entering into contracts under such array of interstate capacity assets from time to time to meet such requirements; provided, however, that a capacity supply plan approved or adopted by the commission shall not prescribe the individual contracts to be executed by the electing distribution company in order to implement such plan, and
  - (D) Specify the portion of the interstate capacity assets which must be retained and utilized by the electing distribution company in order to manage and operate its system.”
- O.C.G.A. 46-4-155 (e)(6)

If FERC orders Transco to adopt a limited Part 284 interstate storage service, the conversion would restrict Atlanta Gas Light Company's ability to provide adequate balancing services. By placing a portion of the assets contained in AGLC's Retained Storage into the hands of the marketers, AGLC would no longer have the ability to ensure system integrity, especially on a peak day. Of greater concern to the GPSC, there is no

guarantee that the marketers would utilize these assets in a competitive manner which would be beneficial to Georgia consumers. Thus, Georgia consumers could end up paying additional costs for these Upstream Resources while receiving no additional benefits.

In fact, the GPSC issued an order in Docket No. 16193-U whereby AGLC or its agent must deposit 50% of any sales from other transactions into the Universal Service Fund (“USF”). Accordingly, Georgia consumers are experiencing the benefit of Sequent Energy Management’s performance as AGLC’s Asset Manager.

In footnote 2 of its Motion, SCANA has misstated the statute (Georgia’s restructuring law). The Georgia statute states that the GPSC must have a hearing on or before July 1, 2003 and the GPSC may adopt a plan of assignment for interstate capacity assets. In addition the statute requires that the capacity must follow the customer in the event of permanent assignment to the certificated marketers.

The intent of the statute was not to immediately compel AGL to assign the Upstream Resources permanently to marketers. Rather, the intent of the legislation was to promote competition in the natural gas industry<sup>1</sup>.

SCANA’s Motion states on page 8 that “... AGL has made no showing that additional RS is needed”. The GPSC did not approve additional retained storage since the assets were placed in MARS on a temporary basis. The intent was not to increase the MARS, but to put the assets in MARS until a feasible solution for the location of these assets could be reached.

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<sup>1</sup> See O.C.G.A. 46-4-151 (b)

At page 10 of the of the Motion, SCANA states that “Effective May 1, 2001, AGLC entered into a “Bailment Agreement” with its corporate affiliate, Sequent Energy Marketing, LLC (Sequent), which is not a Certificated Marketer.” The GPSC did deny the bailment agreement, however, AGLC filed notification that they did cancel the agreement. The GPSC’s concern was that there was a potential conflict of interest as stated in the GPSC’s Final Order in Docket No. 14060-U, Atlanta Gas Light Company’s 2001-2004 Capacity Supply Plan dated September 15, 2001 at page 21:

M. The Commission expressly denies the AGLC/Sequent Bailment Agreement contract. The management of regulated assets is the responsibility of the regulated utility. The Company cannot bail regulated assets to the same entity that advises it as to how much capacity it needs to meet system requirements as that creates a conflict of interest.

One of the most troubling misrepresentations in the SCANA Motion is found at page 14 where SCANA’s claim that the GPSC through its letters and orders relinquished its jurisdiction over the interstate transportation aspect of Georgia restructuring to FERC. In its Motion SCANA states, “GPSC letters and orders that address the matter make clear the GPSC’s understanding that FERC has jurisdiction over interstate transportation aspects of the Georgia Restructuring.” As justification for this claim SCANA refers to two documents originating from the GPSC. The first document is a letter addressed to Chairman Wood and signed by a former Commissioner, and the other document is an Order filed in GPSC Docket No. 8390-U relating to ANR storage assets.

In the letter, a GPSC Commissioner makes an appeal to FERC to take action to grant waivers or authorize the release to marketers of certain upstream assets. The Commissioner’s appeal is undoubtedly premised upon AGLC’s willingness to seek this

approval from FERC and was not based upon any factual or legal findings by the Georgia Public Service Commission. A unilateral letter originating from a former Commissioner of the GPSC to Chairman Wood does not suffice as evidence of the GPSC's acquiescence to the jurisdiction of FERC on all interstate capacity issues relating to Georgia's restructuring.

Additionally, the Order cited by SCANA in Docket No.8390-U does little to justify their broad claim that the GPSC has endorsed the jurisdiction of FERC on all issues involving interstate capacity assets and Georgia restructuring. In fact, that Order does nothing more than recite the history of the asset at issue in that Order. Specifically, in the Background section of the two page Order, it states, "waivers obtained from the Federal Energy Regulatory Commission for the IBSS services expired on March 31, 2001." This statement is substantive only as background for a proceeding before the GPSC and nothing more. Therefore, it should not be misinterpreted as either a legal conclusion as to AGLC's obligation to seek waivers, nor can it be interpreted to mean that the Commission acquiescence to the jurisdiction of FERC on all interstate capacity issues in Georgia's restructuring.

Finally, at page 17 of its Motion, SCANA states that "...AGLC purchased peaking service from its unregulated affiliate Sequent, and all costs of that contract were borne by the Certificated Marketers." The GPSC approved the additional capacity in its Order on Reconsideration in Docket No. 14060-U, Atlanta Gas Light Company's 2001-2004 Capacity Supply Plan dated November 15, 2001 at pages 3-4:

However, the Commission, in abundance of caution, finds that it is appropriate to approve an increased level of interstate peaking capacity to provide additional assurance against the shortage of natural gas on a colder than peak day forecast.

Ordered Further, that the Commission approves an additional level of interstate peaking capacity of 68,000 Dth/day. AGLC shall immediately implement the RFP process on an expedited basis to fill the additional capacity using the RFP process as approved in the Order of September 14, 2001.

The GPSC deemed this action appropriate to ensure that Georgia consumers would be protected from a shortage of natural gas at a time when it would be most needed. Moreover, the costs borne by marketers were most certainly passed to end users by the marketers, and those consumers in turn received the benefit of an adequate supply of natural gas.

The Georgia Public Service Commission appreciates the consideration given these comments.