

MINUTES OF A MEETING  
OF THE  
ALABAMA PUBLIC SERVICE COMMISSION  
HELD TUESDAY, May 3, 2022

The May 2022 meeting of the Alabama Public Service Commission was held on Tuesday, May 3, 2022, in the Carl L. Evans Chief Administrative Law Judge Hearing Room Complex, 100 North Union Street, Montgomery, Alabama. Commission President Twinkle Andress Cavanaugh called the meeting to order at 10:06 a.m. with Commissioner Jeremy H. Oden and Commissioner Chris "Chip" Beeker, Jr., present. The following staff members were also present: John A. Garner, Chief Administrative Law Judge; Luke Bentley and Suellen Young, Administrative Law Judges; Jeff Johnston, Utility Services Division Director; John Free, Electricity Policy Division Director; Donald Powell and Patricia Smith, Public Utility Analyst Managers; Aquilla Spivey, Consumer Service Manager; Amanda Shehane, Transportation Manager; Tanya Champion and Jennifer Mattox, Public Utility Analysts; Debbie Williams, Executive Assistant to Commissioner Cavanaugh; Mary Caitlyn Montgomery, Technical Assistant to Commissioner Beeker; Greg Poole Technical Assistant to Commissioner Oden; Kay Oswalt, Information Systems Manager; Chalandra Tolliver, IT Technician; Jerry Delancey, Administrative Assistant; Walter L. Thomas, Jr., Secretary of the Commission.

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Commissioner Cavanaugh noted that the public was informed of today's Commission meeting by notice dated March 30, 2022.

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Commissioner Beeker introduced Pat Browning, who opened the meeting with prayer and led the audience in the Pledge of Allegiance.

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Commissioner Cavanaugh then open the floor for a motion to approve the minutes of the April 5, 2022 Commission Meeting.

Upon being motioned by Commissioner Oden and seconded by Commissioner Beeker, the Commissioners voted unanimously to approve the minutes.

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UTILITY SERVICES DIVISION

Mr. Johnston reported for the Utility Service Division on Consumer Service Complaint Inquires for the period April 2022 was as follows: Alabama Power Company had eleven residential inquires

and one business inquire, Spire Alabama had three residential and Spire Gulf had none. There was a total of fifteen telecommunication inquires consisting of two under Public Service Commission jurisdiction, nine referred back to the companies since the companies waived jurisdiction and four which were not under PSC jurisdiction.

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Mr. Johnston reported on RSE for Spire Alabama Inc., stating that as of March 31, 2022, the projected RSE return on average common equity for the rate year ending September 30, 2022, was 9.65 percent. The authorized return on average common equity is 10.15 percent to 10.65 percent.

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Mr. Johnston reported on RSE for Spire Gulf Inc., stating that as of March 31, 2022, the projected RSE return on average common equity for the rate year ending September 30, 2022, was 7.65 percent. The authorized return on average common equity is 9.70 percent to 10.30 percent.

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Mr. Johnston then reported on the following dockets for approval of Interconnection Agreements pursuant to Sections 251 and 252 of the Telecommunications Act of 1996, and recommended approval of the Agreements as follows:

Informal Docket U-4841, BellSouth Telecommunications, LLC d/b/a AT&T Alabama or AT&T Southeast and Bright House Networks Information Services (BHN);

Informal Docket U-5419, Frontier Communications of the South, LLC and Windstream Communications, LLC;

Informal Docket U-5420, Charter FiberLink-Alabama, LLC and National Telephone of Alabama, Inc.; and

Informal Docket U-5421, Farmers Telecommunications Cooperative, Inc., and Onvoy, LLC.

Upon motion by Commissioner Beeker and seconded by Commissioner Oden, the Commissioners voted unanimously to accept these recommendations.

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Mr. Johnston then reported from the Utility Service Division Off Agenda on Formal Dockets 31802 and 31803, Arbor Utility Management, LLC ("Arbor") Request to transfer the Cottages at

Bethune Lake Subdivision WWTP and the Fieldstown Crossing On-Site System to Integrated Wastewater Management, Inc., ("IWMI") and to terminate certificate of financial viability upon transfer, and recommended granting approval of the request.

Upon motion by Commissioner Cavanaugh and seconded by Commissioner Oden, the Commissioners voted unanimously to accept the recommendation.

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GAS PIPELINE SAFETY DIVISION

In the absence of Mr. Wallace Jones, Judge Garner reported for the Gas Pipeline Safety (GPS) Division on major activities during the month of March 2022.

Standard Inspection	Construction	IMP/DIMP	Operator Qualification	Incident	Damage Prevention	Section 114	Control Room	Follow-Up	Total Inspections
15	7	3	5	1		5		10	46

From the forty-six (46) inspections shown above, seven (7) enforcement letters of notification were issued, noting nineteen (19) non-compliance issues. Eleven (11) non-compliance items were corrected during the month of March.

Incidents/Accidents

One (1) state-reportable incident was reported during the month of March:

- 3/19/2022 - Southeast Gas (Central Division) - Vehicle ran off road and damaged a regulator station; no leaks, fire, or explosion

Training

One (1) operator/contractor training session on Polyethylene (PE) plastic fusion was conducted during the month of March:

- 3/15/2022 - Leak City (Athens) 23 Personnel Qualified

Miscellaneous

The Gas Pipeline Safety (GPS) staff participated in the Alabama Natural Gas Association's (ANGA) Spring Seminar held on March 8<sup>th</sup> - 11<sup>th</sup> at the Embassy Suites in Hoover, Alabama. Staff attended sessions for the Engineering Roundtable, Operations Roundtable and Safety Roundtables. The keynote speaker on Friday was Patrick Nix, former Auburn University quarterback and current football coach at Central of Phenix City High School.

The annual Pipeline and Hazardous Materials Safety Administration (PHMSA) audit of the Alabama Pipeline Safety Program began on the week of March 14<sup>th</sup> - 17<sup>th</sup>. Mr. David Appelbaum of PHMSA observed natural gas inspection activities at the Athens Utilities Department and the Huntsville Utilities Department. He will return in April to conduct a hazardous liquid inspection in south Alabama and the financial audit and records review at the Montgomery offices of GPS.

Mr. Wallace Jones, GPS Director and Mr. Randall Hand, Gas Pipeline Safety Investigator, Senior met with the staff at the Embassy Suites in Montgomery on March 22<sup>nd</sup> to discuss plans for the 35<sup>th</sup> Annual Pipeline Safety Seminar which is set for December 6<sup>th</sup> - 9<sup>th</sup> this year.

Mr. Hand conducted training for the Alcohol, Tobacco and Firearms (ATF) Agency on pipeline safety on March 30<sup>th</sup> and 31<sup>st</sup> at Leak City in Athens. Based on the response from this federal agency, Mr. Hand should be called upon to conduct additional training in the future.

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UTILITY ENFORCEMENT DIVISION

In the absence of Scott Morris, Amanda Shehane reported for the Utility Enforcement Division on major activities during the month of March 2022.

RAILWAY SAFETY

The track inspection results below reflect activity by our Railway Safety (RWS) Staff in the field.

Rail Carriers Visited	Regular Track Inspections	Track Defects Identified	Violations Recommended	Track Miles Inspected	Track Turnouts Inspected
8	28	98	0	269	119

The table below reflects track safety observations made in which no non-compliant conditions were identified. Seventeen roadway workers, bridge workers, and practices were observed.

Railroad Bridge Observations	Roadway Worker Protection	Roadway Maintenance Machines	Bridge Worker Safety
27	20	9	0

The data in the table shown below was collected from Motive Power & Equipment (MP&E) inspections that were performed on locomotives, freight cars, tank cars and other railroad

equipment.

Rail Carriers Visited	Regular Eqpt. Inspections	Defects Identified	Violations Recommended	Number of Units Inspected
8	12	108	3	619

The table below shows observations completed by the MP&E Inspector in which no non-compliant condition was identified.

Air Brake Tests	Blue Flag Protection	End of Train Devices
0	1	0

There were five incidents reported by the National Response Center in March:

1. A vehicle fell from an overpass and was struck causing two fatalities in Athens on CSX
2. A small sodium hydroxide release in Birmingham on NS
3. A 100-gallon transformer oil release in Birmingham on NS
4. A two-car derailment with unknown cause in Birmingham on NS
5. A tractor-trailer was struck by Amtrak with no injuries reported in York on NS

RWS Staff received and responded to one rail safety complaint in March. The complaint concerned a drainage issue at a grade crossing in Eutaw. Upon investigation, a blocked culvert was discovered that was causing water to back up against the ballast line and flood an adjacent property. The railroad was notified and the culvert was cleared which corrected the issue.

The RWS MP&E inspector completed the required annual FRA recurrent training during March.

MOTOR CARRIER SERVICES

The Motor Carrier Services (MCS) Staff accomplished the following matters regarding state authority to operate as a motor carrier in Alabama with proof of insurance coverage:

Vehicle Registration Numbers	Intrastate Applications		NOL Processed/ Closed Intra Applications	Under Legal Division Review	New Authority Approved	Motor Carrier Authority Inquiries		
	Processed	Returned				Phone	E-mails	Others
27	15	3	1	12	14	73	82	39

MCS staff members handled the tasks shown below regarding

insurance coverage, prepared correspondence that challenged incorrect filings and addressed related inquiries:

Insurance Filings Received	Revocation Orders	Reinstatement Orders	Miscellaneous Actions	Letters Sent	Insurance Inquiries	
					Phone	E-mails
397	26	13	1	32	30	314

The Section addressed the following Unified Carrier Registration (UCR) responsibilities:

UCR Applications		UCR Mail outs for 2022	UCR Audit Correspondence	UCR Inquiries	
Received	Returned			Phone	E-mail
9	4	216	5	115	24

As of March 31, there were 9,194 Alabama carriers (76%) registered for 2022 UCR with 2,907 that remain unregistered. Our office received funds from the UCR Depository for February online payments processed through the National Registration System (NRS) that came from 999 carriers that were domiciled in Alabama and some that were in non-participating states.

During March, the staff mailed two pending payment letters to carriers that created a voucher several weeks prior where payment had not been received for the 2022 UCR registration year.

In March, \$2,097 was collected for Focused Anomaly Reviews (FARs) audits for the 2022 UCR registration year.

The staff also assisted motor carriers in making necessary changes to their operating status with the Federal Motor Carrier Safety Administration (FMCSA). There were 14 MCS-150 forms processed indicating that seven motor carriers' USDOT numbers were deactivated and seven forms contained updates to carriers' USDOT number data.

MCS staff attended the UCR Board call, the UCR Board Education & Training Subcommittee call and the UCR Board Finance Subcommittee call that were held in March.

There was a show cause hearing for Energy Systems Southeast LLC that staff participated in during the month.

The staff received one For Non-Profit (FNP) quarterly report from an FNP carrier for the fourth quarter of 2021. Also, staff sent out 72 FNP quarterly reports for the first quarter of 2022 by mail and e-mail.

There were 12 annual reports for 2021 received in March.

In March, there was one passenger tariff for July Enterprises, Inc d/b/a Coastal Express Shuttle (C4130) and three passenger supplement tariffs for Crown Limousine & Sedan Service, L.L.C.

d/b/a Crown Limousine Service (C3652), WHC AL, LLC d/b/a Ztrip (C3104) and Rush Hour Transit, Inc. (C4095) that were accepted. Also, two taxi tariffs for WHC AL, LLC d/b/a Ztrip (C726) and S & M, L.L.C. d/b/a Huntsville Cab Company (C3871) and one contract with rates for July Enterprises, Inc d/b/a Coastal Express Shuttle (P652) (P651) that were also accepted.

The staff completed an on-site compliance audit for the following company:

- Elderride, Inc. (C4007) - Carrier must submit a new tariff and abide by the rates of its current tariff until the new one becomes effective.

The MCS staff conducted the annual records inspection review with Lyft, Inc. on March 15. The staff did not find any major issues.

There was a complaint received from a Birmingham police officer related to a TNC driver at the Birmingham-Shuttlesworth airport. The complaint was immediately reported to the regulated TNCs and one of them confirmed that the driver was removed from their platform.

Staff responded to nine transportation network company (TNC) related e-mails.

#### FIELD SERVICES

The Field Services Section (FSS) staff met with personnel from Community Utilities to inspect The Village, an 89-home subdivision in Dadeville. No discrepancies were noted at the time of this inspection.

A re-inspection of Water Works Inc. was also performed to verify the completion of discrepancies listed in Docket 22682. All items identified were repaired or replaced with no other visible defects noted at the time of the inspection.

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#### ELECTRICITY POLICY DIVISION

Mrs. Smith reported for the Electricity Policy Division on RSE for Alabama Power Company stating that the Weighted Retail Return on Average Common Equity Forecast as of December 31, 2022, is 6.15 percent. The authorized Weighted Retail Return on Average Common Equity Range is 5.75-6.15 percent. Mrs. Smith also reported for the month of January 2022 energy cost applicable to Rate ECR was under-recovered by \$36,059,350.

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LEGAL DIVISION

Judge Young reported from the Legal Division Agenda on the following dockets:

Formal Docket 26928, Petition of Executive Connection, Inc., of Huntsville, Alabama, for cancellation of motor carrier certificate 3387, and recommended granting cancellation as requested; and

Formal Docket 30834, Petition of Dirk Mims Trucking Company, Inc., of Clanton, Alabama, for cancellation of motor carrier certificate F4035, and recommended granting cancellation as requested.

Upon motion by Commissioner Beeker and seconded by Commissioner Oden, the Commissioners voted unanimously to accept these recommendations.

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Judge Bentley reported from the Legal Division Agenda on the following Dockets:

Informal Docket C-20289, Petition of KPJones Group LLC K&M Hauling, of Hazel Green, Alabama for approval of cargo self-insurance, and recommended granting approval of petition;

Formal Docket 33072, Petition of Leslie M. Stone d/b/a K3C Transportation (Provisional Permit 650) for approval of permanent operating authority, and recommended granting approval of petition;

Informal Docket C-20261, Petition of Hampton Trucking, L.L.C. of Jasper, Tennessee, for reinstatement of motor carrier certificate F1463 which was revoked due to Petitioner's failure to maintain proper proof of liability insurance coverage, and recommended granting reinstatement of petition; and

Informal Docket C-20271 and Formal Docket 30786, Petition of S & D Trucking, LLC of Vernon, Alabama for cancellation of motor carrier certificate F4002 (Docket 30786). Motor Carrier certificate F4002 was revoked by Commission order dated April 5, 2022, due to Petitioner's failure to maintain proper proof of liability and cargo insurance coverage (Informal Docket C-20271), and granting reinstatement of motor carrier certificate F4002 (Informal Docket C-20271) for the sole purpose of cancelling. Motor carrier certificate F4002 in good standing. Grant cancellation as requested (Docket 30786).

Upon motion by Commissioner Cavanaugh and seconded by



Commissioner Oden, the Commissioners voted unanimously to accept these recommendations.

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Judge Bentley reported from the Legal Division Agenda on Formal Docket 30494, Application of Central Water Works, Inc., a Florida corporation for approval to increase water minimum rates and additional rates for each subsequent usage bracket per thousand gallons used. A hearing was held in this matter. The Attorney General of Alabama intervened and participated in the hearing. The Attorney General of Alabama intervened and participated in the hearing. Commission Staff also participated in the hearing, and recommended granting approval of application.

Upon motion by Commissioner Beeker and seconded by Commissioner Oden, the Commissioners voted unanimously to accept the recommendation.

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Judge Bentley then reported from the Legal Division Agenda on Formal Docket 33192, Commission staff identified several unregulated water providers that potentially meet the statutory definition of "utility," subject them to Commission regulation. Some of the identified water providers were incorporated as nonprofit companies pursuant to Ala. Code § 10A-20-9.01. To determine whether these and other water service providers are subject to regulation, on December 14, 2021, the Commission initiated this generic proceeding. The Commission received comments from six water service providers and the Alabama Rural Water Association. The comments addressed several legal issues and the commenting water providers submitted corporate governance documents, and recommended issuing an order finding that:

- 1) A nonprofit water company that only serves its own members and has formal provisions for members to select leadership is presumed to not be a public utility;
- 2) A water provider may be deemed to serve the general public even if its customers are limited to a single development or subdivision;
- 3) A water providers may be deemed to serve the general public even if it chooses to charge its retail customers the same rates it pays wholesale water provider;
- 4) Based on provided documents and comments, certain identified water providers are not public utilities; and
- 5) Within 30 days from the effective date of the order, each

identified water providers which failed to submit sufficient documentation during this proceeding shall either file for a certificate of convenience and necessity as a public utility or submit evidence that it is not a public utility.

Upon motion by Commissioner Cavanaugh and seconded by Commissioner Beeker, the Commissioners voted unanimously to accept the recommendation.

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Judge Garner reported from the Legal Division Off Agenda on Formal Docket 18046 & 18328, Spire Alabama, Inc., (Spire) RSE renewal. The office of the Attorney General of Alabama (AG) filed correspondence of April 28, 2022 advising the Commission that the AG and Spire have reached an agreement regarding the terms and conditions for the extension of Spire RSE mechanism. The parties advised the Commission on May 2, 2022 that there had been a minor modification to the April 28<sup>th</sup> agreement. The terms of the proposed settlement as revised on May 2, 2022 are as follows:

- ROE Range: Adjusting point will be 9.70% with a range of 9.50%-9.90%
- Capital Structure: 55.5% common equity cap
- Term: 3 years, and the order will specify a timeframe for the renewal in Spire Alabama that will be separate and distinct from the renewal in Spire Gulf, both to be held in the same year.
- Points-of-test: Three points-of-test completed annually in March, June, and September.
- 13 Month Average Common Equity Growth - 13 Month Average Common Equity Growth shall be limited at 6% growth annually.
- Cost Control Measurement: The current CCM mechanism will be updated in the following ways:
  - The Base Year will be computed by averaging the actual O&M expenses for the previous three years. The Base CPI-U will be computed by averaging the August CPI-U for the previous three years.
  - The Base Year and Base CPI-U will remain constant for duration of the term unless a CCM benefit is achieved. When a benefit is achieved, the Base Year and the Base CPI-U for the next year will each be reset to an average of the three most recent years.
  - Annually, the completed rate year's O&M shall be the Base Year adjusted for inflation by taking the difference between the current years August CPI-U and

the Base CPI-U, minus a 1.5% productivity factor.

Judge Garner stated that the Staff from the Legal Division and the Utility Service Division recommend approval of the proposed settlement terms and cancellation of the scheduled hearing in this matter.

Upon motion by Commissioner Cavanaugh and seconded by Commissioner Beeker, the Commissioners voted unanimously to accept the recommendation.

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Judge Garner recommended approval of the administrative item.

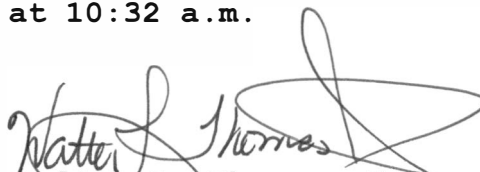
Upon motion by Commissioner Beeker and seconded by Commissioner Cavanaugh, the Commissioners voted unanimously to accept the recommendation.

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Commissioner Cavanaugh concluded with stating that the next Commission meeting is scheduled for Tuesday, June 14, 2022.

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There being no further business, Commissioner Cavanaugh adjourned the meeting at 10:32 a.m.

  
Walter L. Thomas, Jr.  
Secretary