

June 7, 2021

VIA ETARIFF

Ms. Kimberly D. Bose
Secretary
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426

Re: *Alabama Power Co., Docket No. ER21-1111-000*
Dominion Energy South Carolina, Inc., Docket No. ER21-1112-000
Louisville Gas & Elec. Co., Docket No. ER21-1114-000
Duke Energy Progress, LLC, Duke Energy Carolinas, LLC, Docket No. ER21-1115-000
Duke Energy Carolinas, LLC, Docket No. ER21-1116-000
Duke Energy Progress, LLC, Docket No. ER21-1117-000
Louisville Gas & Elec. Co., Docket No. ER21-1118-000
Georgia Power Co., Docket No. ER21-1119-000
Kentucky Utilities Co., Docket No. ER21-1120-000
Mississippi Power Co., Docket No. ER21-1121-000
Alabama Power Co., Docket No. ER21-1125-000
Dominion Energy South Carolina, Inc., Docket No. ER21-1128-000
(not consolidated)

Response to Deficiency Letter

Dear Secretary Bose:

The Members of the Southeast Energy Exchange Market (“Southeast EEM”) hereby respond to the Deficiency Letter issued by the Staff of the Federal Energy Regulatory Commission (“Commission” or “FERC”) on May 4, 2021.¹

The Southeast EEM Members² appreciate the opportunity to respond to the questions

¹ *Ala. Power Co.*, Deficiency Letter, Docket Nos. ER21-1111-000, ER21-1112-000, ER21-1114-000, ER21-1115-000, ER21-1116-000, ER21-1117-000, ER21-1118-000, ER21-1119-000, ER21-1120-000, ER21-1121-000, ER21-1125-000 ER21-1128-000 (May 4, 2021) (“Deficiency Letter”). Because the Deficiency Letter was issued in each Southeast EEM Filing docket, the Southeast EEM Members are filing this Response in each docket. The only difference is the tariff record accompanying each eTariff submission, which correspond to the company making the filing.

² For purposes of this Filing, the Southeast EEM Members are: Alabama Power Company, Georgia

posed by Commission Staff. The Southeast EEM Members continue to believe that the Southeast EEM Proposal will materially benefit customers throughout the southeastern United States by enhancing opportunities for competition in the bilateral market and increasing access to lower cost energy from across the large footprint of the Southeast EEM.

The Southeast EEM Members welcome the opportunity presented by the thoughtful questions in the Deficiency Letter to further demonstrate that the Southeast EEM Proposal is just, reasonable, and not unduly discriminatory, and more simply, a good outcome for customers in the Southeast. Notably, and as explained in detail below, the Southeast EEM Members are committing to make certain changes to the Southeast EEM Agreement intended to increase transparency and provide the Commission, Participants, and other stakeholders with the same confidence as the Southeast EEM Members that the Southeast EEM will operate to the benefit of all concerned.

Executive Summary

It is apparent from many of the Deficiency Letter's questions that Commission Staff is interested in issues related to market power, market manipulation, and market oversight—as should be expected given the Commission's mission and objectives. To support the Commission's continued vigilance to ensure that proposals it approves do not result in abuses of market power, the Responses to the Deficiency Letter further explain how—by building upon the existing bilateral market where any market power has been mitigated and designing the Southeast EEM to be a voluntary, residual market with individually-priced bilateral transactions, the Southeast EEM provides no new opportunities to exercise market power. In addition, in recognition of the Commission Staff's and other stakeholders' interest in greater transparency about the Southeast EEM's operation, the Southeast EEM Members, in this response, make several commitments to provide additional information to the Commission on a confidential basis and to provide other information to the public on the Southeast EEM Website. This information will provide the Commission and others with confidence that there are not and will not be market power abuses and hopefully allay any Commission or intervenor concerns with the proposal, allowing for expeditious approval so that market implementation may proceed and customers may realize the benefits as soon as possible.

Power Company, and Mississippi Power Company (collectively, "Southern Companies"); Associated Electric Cooperative, Inc. ("AECI"); Dalton Utilities ("Dalton"); Dominion Energy South Carolina, Inc. ("Dominion Energy SC"); Duke Energy Carolinas, LLC ("DEC") and Duke Energy Progress, LLC ("DEP") (together with DEC, "Duke"); Louisville Gas & Electric Company ("LG&E") and Kentucky Utilities Company ("KU") (and LG&E and KU Services Company and LG&E and KU Energy LLC, when acting as the agent or representative of LG&E/KU) (collectively, "LG&E/KU"); North Carolina Municipal Power Agency Number 1 ("NCMPA Number 1"); PowerSouth Energy Cooperative ("PowerSouth"); North Carolina Electric Membership Corporation ("NCEMC"); and Tennessee Valley Authority ("TVA") (each a "Member" and collectively, the "Members"). In addition, the following entities have participated in the creation of the Southeast EEM and are in the process of or are contemplating seeking the necessary approvals to execute the Southeast EEM Agreement and become Members: Georgia System Operations Corporation ("GSOC"); Georgia Transmission Corporation ("GTC"); Municipal Electric Authority of Georgia ("MEAG Power"); Oglethorpe Power Corporation (An Electric Membership Corporation) ("Oglethorpe"); and South Carolina Public Service Authority ("Santee Cooper").

The Southeast EEM Members intend to implement these commitments to additional transparency through revisions to the Southeast EEM Agreement. The Southeast EEM Members also offer a few revisions to the Southeast EEM Agreement to clarify the intent and operation of certain provisions. Collectively, these changes further ensure that the Southeast EEM will operate efficiently, effectively, and transparently for the benefit of the entire region. Specifically, and as detailed further below, the Southeast EEM Members propose changes to the Southeast EEM Agreement that can be summarized as follows:

- **Weekly, Confidential Submission of Market Data to the Commission:** Under the proposed revisions to the Southeast EEM Agreement, the Administrator would provide substantial data, on a confidential basis, to the Commission and the Market Auditor, comparable to the data provided by Regional Transmission Organizations (“RTOs”) under Order No. 760 (taking into account differences in market design). This will include all of the information identified by Commission Staff in Question 4.b, and more. A complete list is provided in response to Question 4. This newly proposed weekly flow of electronic data directly from the Administrator to the Commission and the Market Auditor will allow Commission Staff to monitor for anomalies or evidence of the exercise of market power, or market manipulation, and will aid the Auditor in discharging its appointed task of ensuring that the market is functioning properly.
- **Posting of Market Auditor Reports and Responses to Regulator Inquiries:** The proposed revisions to the Southeast EEM Agreement also clarify and increase the transparency of the Administrator’s and the Market Auditor’s functions and roles, establishing concrete rules for access to information by the Commission and other regulators, and rules requiring disclosure of regulators’ questions and answers, as well as Market Auditor reports, to Participants, subject to restrictions on access to confidential information by marketing function employees. Southeast EEM Members will access information in the same way and subject to the same restrictions as other Participants. These revisions are intended to facilitate informed decision-making by regulators and market participants, providing them with access to the Market Auditor’s evaluations and, thus, the means to determine for themselves if the market is operating according to the Market Rules and raise issues or concerns where and when appropriate.
- **Protections for Neighboring Transmission Systems:** The proposed revisions to the Southeast EEM Agreement clarify that Available Transfer Capability (“ATC”) calculated by Participating Transmission Providers in accordance with the requirements of their Tariff (or equivalent) must be provided to the Administrator and must be used in the Algorithm for each leg of any Contract Path, thereby ensuring that transmission across an ATC limit will not exceed the available capability of the limit. This proposed change should fully allay any concerns of intentional unauthorized use of the transmission facilities of any neighboring transmission system.
- **Revised Mobile-Sierra Protections:** The proposed revisions to the Southeast EEM

Agreement modify the application of *Mobile-Sierra* protections such that the just and reasonable standard will be the default, and the *Mobile-Sierra* public interest standard will apply to a narrow set of enumerated provisions that expressly govern only the rights and obligations of the Southeast EEM Members. For example, the entirety of Appendix B (the Market Rules) will be subject to the just and reasonable standard, while provisions for allocating costs among only the Southeast EEM Members, or giving broad latitude for Southeast EEM Members to withdraw from the Southeast EEM Agreement, can only be changed if the public interest requires it. With these changes, in the event that a problem with the Market Rules is identified and (against expectation) the Southeast EEM Members do not themselves propose a fix under Section 205, changes proposed under Section 206 by the Commission and other market participants will be judged based on the just and reasonable standard and will not have to overcome the public interest standard.

While the Southeast EEM Members do not believe these changes are needed here to ensure that the proposed market enhancements are just, reasonable, and not unduly discriminatory or preferential, the changes are offered to respect and heed the message suggested by the Staff questions and the intervenor concerns some of those questions echo. Collectively, these revisions and the explanations offered below weave together to augment, in belt and suspender fashion, the protections that the existing bilateral market and the initial Southeast EEM Proposal already provided to all market participants. Specifically:

- As detailed in the Southeast EEM Initial Filings, the existing bilateral market already has a set of rules for sales of power at wholesale and sales of transmission in interstate commerce, and the Southeast EEM Proposal fully complies with those rules.³ This is borne out by the Commission’s approval of constructs in the West that have similar key features.⁴ Non-Firm Energy Exchange Transmission Service

³ See Southeast EEM Filings, Transmittal at 7 (“The Commission has numerous tools available to monitor [Market-Based Rate (“MBR”)] sellers. All MBR sellers that own or are affiliated with more than 500 MW of generation must update their market power analyses every three years to show that they continue to meet the requirements (including any necessary mitigation) for MBR authority. MBR sellers must submit [Electric Quarterly Reports (“EQRs”)], and must file notices of change in status for any material changes in facts. Furthermore, the Commission has ongoing audit rights for all jurisdictional sellers. The implementation of the Southeast EEM will not affect these existing tools for monitoring bilateral transactions.”) (citations omitted); *id.* at 38-39 (describing the current market power mitigation in place); *id.* at 41-42 (describing the existing auditing and monitoring tools available to the Commission); *id.*, Econ. Aff. at P 89 (noting that “[n]o other new avenues for possible market manipulation are apparent” to Dr. Pope at this time); see also *California ex rel. Lockyer v. FERC*, 383 F.3d 1006, 1013 (9th Cir. 2004) (finding market-based rates to be consistent with the statutory scheme in a competitive market where the absence of market power was coupled with transparency in the form of reporting requirements, such as Electric Quarterly Reports).

⁴ See, e.g., *Pub. Serv. Co. of Colo.*, 154 FERC ¶ 61,107 at PP 81-89 (2016) (approving similar construct built around zero charge lowest priority transmission that would allow parties to utilize unused transmission capacity without requiring a market power analysis or market monitor, and rejecting claims that such charges were inconsistent with cost causation); *Sw. Power Pool, Inc.*, 173 FERC ¶ 61,267 at PP

(“NFEETS”) will follow all rules of applicable tariffs, including rules for calculation of ATC⁵ and OASIS posting.⁶

- Existing market power mitigation is already sufficient to prevent exercise of market power by jurisdictional Southeast EEM Market participants.⁷ These existing mitigation measures apply to Southeast EEM transactions because the Southeast EEM is merely an enhancement to the existing bilateral market. Therefore, the existing Commission-approved mitigation measures that prevent market power abuses will continue to work as designed for Southeast EEM transactions and no additional measures are necessary.
- The Southeast EEM Members also have no incentive to behave in an exclusionary fashion toward other sellers of generation. As discussed further below, Southeast EEM Members transact today with each other, with Independent Power Producers, and with others, and the Southeast EEM, as an extension of the existing bilateral market, will only enhance those opportunities. Rather than an entirely new market, the Southeast EEM is expressly intended to increase opportunities to expand interactions with third parties by facilitating new transactions in the existing market.⁸
- The Proposal can only result in lower power costs for customers—this is so because Southeast EEM transactions will only occur when a seller has lower cost energy available to meet those 15-minute non-firm increments than the buyer has available from its owned or controlled firm generation. Therefore, there is no potential for the

124-26 (2020) (establishing that rules for coordinating with neighbors are met so long as transmission for the new service is limited to ATC of the participants).

⁵ See Attachment A, Proposed Revisions to Southeast EEM Agreement, Market Rules, IV.A.2; *see also* Response to Question 8.a.

⁶ See, e.g., Southeast EEM Agreement, Market Rules, IV.C.8.iv (requiring “[a]ppropriate OASIS information [to] be provided to the relevant Participating Transmission Service Providers” after a match is made).

⁷ See Southeast EEM Filings, Transmittal at 39 & n.147 (describing the existing mitigation in place for each Southeast EEM Member and noting that “[t]he Commission has imposed mitigation where needed to assure that there can be no such exercise of market power, and has done so for each of the FERC Jurisdictional Members. The Southeast EEM transactions are bilateral energy transactions under existing MBR authority that will be subject to such existing mitigation.”) (citations omitted); *id.*, Econ. Aff. at P 72 (“The Southeast EEM will enable application of market power mitigation measures required today for bilateral trades in the Southeast, per the MBRs of jurisdictional Participants. Taking the current bilateral market as a starting point, the Southeast EEM is designed to eliminate barriers to increased competition for 15-minute trades. Additionally, the Southeast EEM is a voluntary, residual market, in effect ruling out the possibility of one or more Participants exercising horizontal market power.”).

⁸ See Southeast EEM Answer to Protests at 35-37 (refuting arguments on excluding Participants using the “toggle” feature or the three-counter-party rule and noting that “benefits [from the Southeast EEM] will be at their greatest with counterparties maximized”).

Southeast EEM to be used as a tool to increase prices through the exercise of market power.

- The Southeast EEM is distinct from other market initiatives and does not have the same design features that give rise to market power concerns. Unlike other recent market initiatives, such as the Western Energy Imbalance Market (“EIM”), the Southeast EEM is not transforming the existing bilateral market into a new market. It will not function as an imbalance market – balancing services will continue to be provided by the relevant balancing authorities.⁹ So while “EIM” and “EEM” may sound similar, the difference between the “I” (imbalance) and “E” (exchange) is significant. The “EEM”, unlike the “EIM”, will have no market clearing imbalance price that could be driven up through an exercise of market power to favor a related position – each Southeast EEM “exchange” will be individually priced, just like the other bilateral transactions for which existing market power mitigation measures are already sufficient.¹⁰
- It should also be self-evident from the composition and diversity of interests represented in the Southeast EEM Membership that the proposal is designed to be pro-competitive and beneficial to customers.¹¹ The Southeast EEM Members are comprised of a federal agency that is already subject to robust independent oversight by an Inspector General, franchised public utilities that must answer to state and federal regulators, and cooperatives and municipalities accountable to their customer-owners. The Southeast EEM Proposal is a delicate compromise designed to satisfy the requirements of this diverse group and bring benefits to each Participant across this large region.
- The new measures proposed here will be additive: the Commission and Participants will have more information with which to spot any flaws in the market, and increased capability to do something about it, due to the change in the *Mobile-Sierra* provision.

In sum, the benefits of the Southeast EEM Proposal’s enhancement to the existing bilateral energy market are real and important,¹² and the increased information access for the

⁹ Attachment D, Supplemental Affidavit of Dr. Susan Pope (“Pope Aff.”) at PP 27-50.

¹⁰ *Id.* at PP 40-48.

¹¹ See Southeast EEM Filings, Transmittal at 8 (describing the list of core principles shared by all of the diverse Southeast EEM Members).

¹² See Southeast EEM Filings, Overview Aff. at P 6 (“The Southeast EEM is an enhancement of the existing bilateral market in the Southeast that is intended to reduce customer costs across the region by providing additional opportunities for bilateral trades . . .”); *id.*, Ops. Aff. at P 34 (“One of the Southeast EEM’s biggest enhancements to the bilateral market is the ability to compress the timeline for bilateral trading to facilitate intra-hour trading availability on a wide scale. . . . Introducing technology to automatically find buyers and sellers, set the price based on their parameters, and tag energy transactions, combined with the new zero-cost, as-available NFEETS that will reduce hurdle rates, will make intra-

Commission, other regulators, and Participants back up that belief. Because the evidence demonstrates that the Southeast EEM, as proposed to be modified here, will benefit customers, the Southeast EEM Members request that the Commission approve the Southeast EEM as soon as reasonably possible, but no later than August 6, 2021.¹³

If the Commission finds these proposed changes acceptable and otherwise accepts the Southeast EEM Proposal as submitted, the Southeast EEM Members commit to subsequently submit a compliance filing to effectuate the proposed revisions to the Southeast EEM Agreement within 30 days of acceptance.¹⁴

Having provided the foregoing summary, the Southeast EEM Members next respond in turn to each question posed by the Commission.

Responses to Each Deficiency Letter Question

The Deficiency Letter contained twelve questions, each of which are answered below.

1. *Filing Parties state that Southern Companies anticipate submitting a maximum energy exchange price that will be no more than the mitigated price cap that is set forth in their Market-Based Rate (MBR) Tariff (MBR Tariff). Filing Parties explain that “[i]f the match price is above the ‘maximum Energy Exchange Price’ for buyers in mitigated [balancing authority areas], the match price will be adjusted down to the ‘Energy Exchange Price.’”*
 - a. *When Filing Parties state that the match price will be adjusted down to the “Energy Exchange Price,” do they mean adjusted down to the “maximum Energy Exchange Price”?*

hour trading more practical, beneficial, and economic on a large scale.”); *id.*, Econ. Aff. at P 47 (“The expectation is that there will be broad participation in the Southeast EEM, due to its low costs for participation and zero-cost transmission. The intention is to enable robust competition among multiple sellers submitting multiple offers and multiple buyers submitting multiple bids.”); *id.* at PP 69-72 (explaining why the Southeast EEM will not facilitate the exercise of market power and stating that “[t]aking the current bilateral market as a starting point, the Southeast EEM is designed to eliminate barriers to increased competition for 15-minute trades. Additionally, the Southeast EEM is a voluntary, residual market, in effect ruling out the possibility of one or more Participants exercising horizontal market power.”).

¹³ As explained in the Initial Filings, the regulatory certainty of Commission approval is a prerequisite to further significant investment in this venture. Southeast EEM Filings, Transmittal at 42 (“Although the Southeast EEM is not anticipated to go live until the first quarter of 2022, an earlier effective date for the Southeast EEM Agreement is necessary to provide Members with regulatory certainty before spending significant additional capital and time to develop the Southeast EEM System. The Southeast EEM Agreement must be binding on the Members before further significant financial commitments are made, meaning, under the terms of the Southeast EEM Agreement, that it must be accepted and effective.”).

¹⁴ See, e.g., *PacifiCorp*, 171 FERC ¶ 61,112 at P 102 (2020) (accepting PacifiCorp’s offer in its deficiency response to submit a compliance filing with tariff revisions); *Sw. Power Pool, Inc.*, 154 FERC ¶ 61,121 at P 30 (2016) (accepting Southwest Power Pool, Inc.’s (“SPP”) proposal and directing a compliance filing to implement proposed tariff revisions).

Response:

Yes, if the Southern Companies' match price for an energy sale is above the maximum Energy Exchange Price, then the Energy Exchange Price used for settlements will be the "maximum Energy Exchange Price;" the match price is, in effect, adjusted down.

- i. If the answer is no, when the final match price is above the maximum Energy Exchange Price, what will the final price be?*

Response:

See above response.

- ii. If the Energy Exchange Price is below the maximum Energy Exchange Price, will the final price be the maximum Energy Exchange Price or the Energy Exchange Price?*

Response:

If the matched price is below the maximum Energy Exchange Price, the final Energy Exchange Price used for settlements will be the match price.

- b. To help explain the mechanics of how the Southeast EEM, including the Energy Exchange Price, will interact with existing market power mitigation in certain balancing authority areas and for specific participants, please address the following:*
 - i. Please provide further explanation, with examples, on how the "maximum Energy Exchange Price," "match price," and "Energy Exchange Price" will be used in the bidding process.*

Response:

The "maximum Energy Exchange Price" is a price submitted by a Participant that will be no more than the mitigated price cap applicable under the seller's MBR tariff.

The "match price" is the price that results from applying the "split the savings" process. If it is higher than the "maximum Energy Exchange Price", the process will automatically apply the "maximum Energy Exchange Price" for the seller to determine the Energy Exchange Price used to settle the match.

The "Energy Exchange Price" is the price that is ultimately used in the transaction, in \$/MWh, calculated by the Southeast EEM Algorithm for a specific Energy Exchange. This price will be subject to the existing Commission-approved mitigation and will not exceed the maximum Energy Exchange Price. The chart attached as Attachment B provides an example of applying the mitigated price cap for a Southeast EEM transaction.

- ii. Please explain what the mitigated price cap is, how it works, and provide examples. Please also explain whether the mitigated price cap refers to the cost-based cap associated with the average variable cost, or to the incremental variable cost, within the Southern*

Companies' Energy Auction in mitigated balancing authority areas.

Response:

The mitigated price cap is the cap included in Southern Companies' MBR tariff that is applied to bilateral transactions consistent with its cost-based tariff.¹⁵ This price cap is the cost-based cap associated with the anticipated variable cost as outlined in Southern Companies' cost-based tariff on file at FERC. As outlined in the Southern Companies' MBR tariff, "all sales of less than one year made outside of the Auction in mitigated balancing authority areas will be capped at the relevant Commission-approved cost-based tariff that Southern Companies have (or may have) on file for that product."¹⁶ Please see the chart attached as Attachment B for an example of applying the mitigated price cap for a Southeast EEM transaction.

iii. Please explain why it is just and reasonable to use the mitigated price cap for non-intra hour trading as a cap for real-time, 15-minute energy trading.

Response:

The mitigated price cap currently applies to bilateral transactions of less than one year under Southern Companies' MBR authority that has been approved by the Commission, which therefore applies to potential 15-minute transactions. In FERC's order on Southern Companies' MBR authority, the Commission found that Southern Companies' MBR authority was just and reasonable, provided the tariff included the mitigation that is currently in its tariff:

Thus, we accept Southern Companies' filing subject to the condition that Southern Companies submit a revised market-based rate tariff, within 30 days of the date of this order, revising the limitations and exemptions section of the tariff to reflect that all sales of less than one year made outside of the Auction in mitigated balancing authority areas will be capped at the relevant Commission-approved cost-based tariff that Southern Companies have (or may have) on file for that product. We find that this price cap, combined with the Auction revisions and other proffered changes, will provide adequate alternative mitigation for Southern Companies' market power in the mitigated balancing authority areas, **ensuring just and reasonable rates.**¹⁷

The Southeastern EEM concerns 15-minute bilateral energy transactions. So the same mitigated price cap would apply, and thus would be just and reasonable, consistent with FERC's previous orders on Southern Companies' MBR authority. Moreover, as described more generally below in response to Question 3, mitigation that is sufficient to prevent exercise of market power in markets where firm hourly or longer products are traded is also sufficient to prevent exercise of market power for Southeast EEM transactions.

¹⁵ See *Ala. Power Co.*, 158 FERC ¶ 61,131 at P 21 (2017).

¹⁶ *Id.*

¹⁷ *Id.* (emphasis added).

2. *Under Southern Companies' MBR Tariff, Southern Companies are required to offer all available and uncommitted thermal generating capacity (the must offer requirement) into the Energy Auction in (1) firm Energy that is subject to liquidated damages and recallable in 50-megawatt (MW) blocks of day-ahead energy and (2) in non-firm 1 MW blocks of hour-ahead energy.*
 - a. *Southern Companies' existing MBR Tariff states that all "available capacity" is offered into the Energy Auction. Please explain how the Energy Auction and the Southeast EEM will work together. As part of your explanation, please address whether "available capacity" would be offered first to the Energy Auction and then to the Southeast EEM, or whether "available capacity" would be offered to the Southeast EEM before the Energy Auction in the mitigated balancing authority areas.*

Response:

The Southeast EEM will not interfere with the Energy Auction, as the Southeast EEM transaction process does not begin until after the hour-ahead and day-ahead Southern Energy Auction process has completed. The Day-Ahead Energy Auction clears the day before the transaction occurs, and the Hour-Ahead Energy Auction clears 65 minutes before the transaction occurs. For transactions created during both the Day-Ahead and Hour-Ahead Energy Auctions, successful market participants are notified immediately upon clearing of that auction. In the Southeast EEM, the bid and offer are matched 10 minutes before the transaction occurs and the deadline for submitting or modifying bids and offers is 15 minutes before the transactions occurs. Therefore, all of the auction transactions will have occurred prior to the Southeast EEM transactions occurring. Thus, all "available capacity" would be offered into the Energy Auction prior to the intra-hour time period in which the Southeast EEM will be operating.

- b. *Please confirm that the Southeast EEM proposal would not change the definition of available capacity in Southern Companies' MBR Tariff.*

Response:

Confirmed: the Southeast EEM Proposal will not change the definition of "available capacity" under the Southern Companies MBR Tariff.

3. *Filing Parties assert that the Southeast EEM will enhance bilateral, intra-hour (15-minute increment) trading of a non-firm energy product. Please clarify how the Southeast EEM will interact with or replace transactions that would occur under other bilateral agreements or any other aspects of existing markets by addressing the following:*

General/Overarching Response:

Energy transactions can already occur on a 15-minute basis in the Southeast,¹⁸ so 15-minute blocks of energy are not a new product. However, today such transactions are rare.¹⁹

¹⁸ Southeast EEM Filings, Ops. Aff. at P 41.

¹⁹ *Id.*

The Southeast EEM therefore is a platform for additional 15-minute bilateral transactions to occur under bilateral Enabling Agreements that exist today or will be newly entered to take advantage of the expanded reach that the Southeast EEM provides to the bilateral market. Just as parties to existing Enabling Agreements today have the ability to enter into a 15-minute transaction (subject to applicable Commission-approved mitigation), they can enter into such a transaction under the Southeast EEM. The Southeast EEM merely enhances the existing bilateral market in the Southeast by providing an automated means to match buyers and sellers of energy for 15-minute increments using non-firm excess capacity on the transmission grid at a zero charge transmission rate, with the resulting sales to be consummated through existing bilateral agreements.

Southeast EEM transactions will not replace firmly deliverable resources or firm transactions that are being used to maintain resource adequacy, though they may from time to time replace the energy component of such a transaction. In the context of this discussion, “resource adequacy” refers to the need of a load serving entity (“LSE”) to maintain owned or contracted firm resources sufficient to ensure that the LSE can serve its load. NFEETS is lowest priority transmission service, and so does not meet the criteria of firmness necessary to serve most load (i.e., all load that is not interruptible). Accordingly, power sourced through Energy Exchanges, which can only be delivered using NFEETS, likewise lacks the firmness requisite for resource adequacy.

In other words, instead of replacing firm resources or transactions needed to serve load in their entirety, an Energy Exchange can be used to replace the energy *portion* of that transaction, if it makes economic sense to make such a replacement – i.e., if the LSE’s purchase price for the Southeast EEM Energy Exchange is lower than the marginal energy cost of the LSE’s existing firm resource or firm transaction. The part of the firm transaction used to maintain resource adequacy, i.e., the firm right to *call* upon the resource if the resource is needed to provide energy, *would not be replaced* by such an Energy Exchange, because again, the Energy Exchange is not firm, and the LSE will need the firm right to call upon the firm resource in order to maintain its ability to serve load.²⁰

This has a direct and important effect when it comes to market power. Because each LSE will maintain the firm rights to *call* on resources sufficient to serve its load, even while seeking to decrease energy costs through Energy Exchanges, the LSE would have no reason to enter into a Southeast EEM Energy Exchange above its cost of calling on its existing resource.

This is a crucial feature of the Southeast EEM that distinguishes it from balancing markets in which participants do more than buy and sell non-firm energy: buyers in balancing

²⁰ None of this is entirely new. Bilateral markets have long had both firm transactions and non-firm transactions. It also has long been the case that firm transactions are used to provide resource adequacy sufficient to serve an LSE’s load, while non-firm transactions can be used to shave the energy cost of serving that load, without sacrificing reliability, because the LSE maintains the firm capability to serve its load in the event that the non-firm resource is not delivered. NFEETS is just another form of non-firm service.

markets are required to purchase energy if necessary to serve their firm load and sellers must sell energy they will be injecting in excess of their firm contractual commitments made prior to the balancing market. Participants in such markets, such as the Western EIM, are required to settle imbalances on their firm commitments. In the Southeast EEM, *the buyer can specify its maximum purchase price, and choose not to transact through the Southeast EEM at a price above that maximum, even if the buyer has an imbalance.* In the Southeast EEM, the LSE specifies its Bid Price, and the rules expressly provide that the LSE will not be matched at a price above its Bid Price, minus net Losses.²¹ A rational resource-adequate LSE will tend to specify a maximum bid price at a level that is at or near its marginal cost of energy for its firm resource. Accordingly, the marginal energy costs for firm resources used by LSEs to maintain resource adequacy will be *de facto* price caps for matches for LSEs in the Southeast EEM, meaning that suppliers will not be able to raise Southeast EEM prices above the marginal energy costs of the purchasing LSEs.

Because Offerors will not be able to raise energy prices above the marginal energy cost of the Bidder, the only question remaining is whether Offerors could first influence the marginal energy cost of the Bidders, and thereby create an opportunity to raise prices in the Southeast EEM Market. And the answer to that question is no, due to the Commission's existing market power mitigation measures, which have already been applied to each jurisdictional Member.²² Thus, the Southeast EEM Market will interact with the existing bilateral market, from a market power perspective, in that already-mitigated prices of hourly or longer firm transactions will also serve to mitigate prices for Southeast EEM Energy Exchanges.

The Southeast EEM is not a balancing market.²³ Nor will the Southeast EEM replace the balancing service provided by the ten balancing authorities across the Southeast EEM footprint.²⁴ Again, this underscores the differences between the "EEM" approach on the table here, and the "EIM" approach used in the West. Balancing markets have clearing prices for imbalances that cannot be avoided, while in the EEM, because it is not a Balancing Authority and does not

²¹ Southeast EEM Agreement, Market Rules, IV.C.6.b.ii.c.

²² See *S.C. Elec. & Gas Co.*, 121 FERC ¶ 61,263 at P 6 (2007) (finding that Dominion Energy SC's (f/k/a South Carolina Electric and Gas Company) "proposal not to make sales within its balancing authority area under its market-based rate tariff adequately addressed [Dominion Energy SC's] failure of the market share screen in its balancing authority area"); *LG&E Energy Mktg., Inc.*, Docket Nos. ER06-1046-000, *et al.* (letter order issued July 6, 2006) (accepting "revised market-based rate tariff sheets that would, among other things, restrict the LG&E Parties' authority to make sales at market-based rates in the LG&E/KU control area" upon LG&E/KU's exit from the Midwest Independent System Operator, Inc.); *Ala. Power Co.*, 163 FERC ¶ 61,090 at P 32 (2018) (finding that the price cap and auction process established in each of the Southern Companies' MBR tariffs "serve as adequate mitigation for the Southern, SCEG, Tallahassee, and Santee Cooper balancing authority areas"); *Duke Power*, 111 FERC ¶ 61,506 at P 61 (2005) (Commission prohibiting Duke sales within the DEC balancing authority to "mitigate the potential for the exercise of generation market power"); *Fla. Power Corp.*, 113 FERC ¶ 61,131 (2016) (prohibiting Duke sales in the DEP BA).

²³ Attachment D, Pope Aff. at PP 27-50.

²⁴ *Id.* at P 27.

balance supply and demand in real-time, buyers and sellers may simply decline to transact if an Energy Exchange is not available at a beneficial match price.

For all of these reasons, Southeast EEM transactions will only decrease customer costs. This is so because a Southeast EEM Participant will only enter into an Energy Exchange as a buyer if doing so will decrease its energy costs, as just explained, and will not enter into or be forced into a transaction at a price it is unwilling to pay.

- a. *Please identify what product(s) currently available in the bilateral wholesale energy market could reasonably be a substitute for the 15-minute residual energy Southeast EEM product.*

Response:

As discussed above, a purchasing LSE must be independently resource adequate, meaning that Southeast EEM Energy Exchanges may replace the “energy” component of a firm transaction (if the firm transaction provides that flexibility), but will not replace the “capacity” component of the transaction. Instead, each LSE will retain its firm rights to call upon its firm resources, in quantities sufficient to serve its load, even when it buys replacement energy through a non-firm Energy Exchange.²⁵

This means that the product currently available in the bilateral wholesale market that could reasonably be a substitute for the 15-minute residual energy Southeast EEM product is the energy that can be called upon by an LSE from the firm resource it backed down (i.e., dispatched down) in favor of the energy from a Southeast EEM Energy Exchange. As also explained above, and by Dr. Pope, the availability of this callable firm energy, coupled with existing market power mitigation, will prevent any effort to exercise market power through the Southeast EEM.²⁶

- b. *What is the supply in MWs of 15-minute residual energy expected to be offered, in terms of the number of companies offering to sell energy and the size of their offers, in a typical peak and off-peak period? What is the expected demand, in terms of the number of companies offering to purchase energy and their size, in a typical peak and off-peak period?*

Response:

Before market launch, forward looking estimates of the level of supply and demand in this voluntary residual market are difficult to make with any precision or certainty.²⁷ However, Dr. Pope expects that the market will attract robust participation by buyers and sellers in the Southeast.²⁸

²⁵ Similarly, non-firm energy sales or purchases could be replaced with Southeast EEM Energy Exchanges if the Energy Exchanges are more economic.

²⁶ See Exhibit D, Pope Aff. at PP 37-39, 44-48.

²⁷ See Southeast EEM Filings, Benefits Analysis at 19.

²⁸ *Id.*, Econ. Aff. at P 70 (“The Proposal is expected to attract robust participation by buyers and sellers in the Southeast, due to its low transaction cost and the provision of zero-cost, non-pancaked

In any event, with the commitments made herein the Commission will receive significant data on supply and demand conditions once the Southeast EEM is in operation, if approved. Specifically, the Administrator will provide the following actual data on supply conditions: (1) MWs of 15-minute residual energy offered, (2) the entities offering to sell energy, (3) the price and quantity information in the offer, and (4) any restrictions on the identity or location of counterparties with whom each offer can be matched. The Administrator will also provide the follow data on demand conditions: (1) price and quantity information of bids in each 15-minute increment, (2) the entities bidding to purchase energy, (3) the price and quantity information in the bid, and (4) any restrictions on the identity or location of counterparties with whom each bid can be matched. This will provide sufficient detail for the Commission to evaluate peak and off-peak periods.

If there are periods of low transaction volumes, there will still be incremental benefits relative to a paradigm in which the Southeast EEM is not implemented, because (as described above at the start of the response to Question 3) each incremental transaction in the Southeast EEM will be at a lower price than the marginal cost of the energy being replaced, and the purchases that establish such marginal energy costs are already subject to market power mitigation. In other words, whether the volume of transactions in the Southeast EEM is low or high, customers will benefit. And because of the split-the-savings pricing, generators will benefit as well, including IPPs that elect to participate.

Additionally, because the Southeast EEM Members commit below to reporting data to the Commission that is comparable to what is required under Order No. 760 (although different in nature due to the differing market designs),²⁹ the Commission will have more than sufficient data to conduct analysis and oversight.

- c. Do you expect trades for 15-minute residual energy will expand across the whole Southeast EEM Territory? Do you expect to have areas where some sellers are unlikely to find a match?*

Response:

Yes, the Southeast EEM Members anticipate that it is possible, and even likely, that Energy Exchanges will expand across the whole Southeast EEM Territory.³⁰ That is certainly the goal. This is an important aspect of the enhancement of the existing bilateral market.

Whether there are areas where some sellers are unlikely to find a match will depend on residual available transmission capacity. Transmission may or may not be available, just as is

NFEETS. Also, the Southeast EEM System will arrange these zero-cost bilateral trades using the available transmission of multiple Participating Transmission Providers spanning the broad Southeast EEM Territory, further encouraging competition. The Southeast EEM's pairing of zero-cost, non-pancaked transmission service with automated 15-minute trading is intended to engage willing buyers and sellers in the market, thereby fostering competition.”).

²⁹ See Response to Question 4.a.

³⁰ See Southeast EEM Filings, Benefits Analysis at 17 (projecting between 40-45 15-minute trades (or wheel-throughs) in the Southeast EEM in a typical hour, with an average of 41 trades projected within each hour at 130 MW per trade in 2022).

the case today. Additionally, there will likely be times during which sellers may be unable to find a match, just as there are today. With the advent of the Southeast EEM there should be more transactions than there currently are. This is because the role of the Southeast EEM is to create opportunities for transactions that would not occur otherwise – or to put it in the terms used in the question--to help sellers find matches they could not find today. And the underlying intent behind one of the purposes of the Southeast EEM is to maximize efficiency by fully utilizing the transmission system. So as Dr. Pope points out. “[i]f and when all residual ATC on one or more ATC limits is scheduled, it will indicate that the Southeast EEM Algorithm is functioning as intended.”³¹ Because Southeast EEM transactions will occur only on the basis of ATC that is available after all other uses of the transmission system are taken into account, there is no potential for Southeast EEM transactions to cause congestion that could preclude other transactions using other forms of OATT service.³² And even if residual ATC is fully utilized for NFEETS supporting Energy Exchanges, there will still be no opportunity to exercise market power.³³

- d. Do you expect congestion, as in frequently binding constraints, would affect how trades are distributed across the Southeast EEM Territory in any time period? Do you expect that there will be frequent times when one area may not be able to trade with another because of congestion? If so, how would you expect to measure congestion in the Southeast EEM?*

Response:

In the Southeast, congestion can manifest as unavailability of transmission with which to conduct a transaction, or, in rare instances, cutting of a transaction through transmission loading relief (“TLR”). As noted above, it is a goal of the Southeast EEM to fully utilize otherwise unutilized transmission to enhance the efficient use of the system, such that any resulting unavailability of transmission will represent fulfillment of a goal of the Southeast EEM. As further noted above, this will not create congestion applicable to other types of transactions.

It is important to note that such full utilization of available residual transmission will not create “congestion” applicable to other transactions, such as firm transactions used to maintain resource adequacy, or even transactions supported by ordinary non-firm transmission. There are two safeguards against this, each independently sufficient. First, NFEETS will only be granted if there is residual ATC available along every leg of the Contract Path after all other non-NFEETS transmission schedules are taken into account.³⁴ This safeguard will work because NFEETS is only available after the time window to obtain other forms of transmission has closed. Second,

³¹ Attachment D, Pope Aff. at P 52.

³² *Id.* at P 53.

³³ *Id.* at P 54.

³⁴ To make this more clear, the Southeast EEM Members propose to amend Section IV.C.6.B.i of the Southeast EEM Agreement to read “In matching Bids and Offers, the Southeast EEM Algorithm shall not make any Energy Exchanges that would cause the ATC of any Participating Transmission Provider on any given Contract Path to be exceeded.”

in the unlikely event that a TLR is called resulting in curtailment, NFEETS has lowest priority, and will be curtailed first.

Moreover, neither un-availability of transmission or TLRs will create opportunities to exercise market power, for the reasons already explained in more detail above in the response to Question 3; specifically, the 15-minute bilateral transactions for residual energy are not a substitute for obligations to maintain resource adequacy for LSEs to serve their load obligations, such that existing mitigation applicable to firm purchases made to meet those existing obligations will also suffice for Southeast EEM Energy Exchanges.

Finally, the Southeast EEM Members do not propose to measure congestion, *per se*. However, the Southeast EEM Members are proposing, as part of the data provided confidentially to the Commission every seven days, to provide (if feasible) information on the Implied Marginal Benefit of foregone transactions over each ATC limit, as explained in Dr. Pope's affidavit.³⁵ This information will be information about the benefit (the difference between the Bid and Offer) that is not realized for the next Energy Exchange that would have been scheduled over a constrained transmission facility if there had been sufficient transmission for an additional transaction.³⁶ Dr. Pope believes that the Commission could find this information helpful in monitoring for any attempts at market manipulation or to exercise market power.³⁷ As discussed in response to the next question, the revised Southeast EEM Agreement provides for this information to be provided confidentially to the Commission "to the extent such information can reasonably be produced by the Southeast EEM Algorithm."³⁸ The Southeast EEM Members commit to report to the Commission, in the notification filing that will be provided ahead of market launch, whether such information will be provided, and if not, what difficulties were encountered that made the effort to produce the information unreasonable.

4. *Filing Parties state that the Southeast EEM will not create new opportunities for market manipulation, such that the Commission's existing auditing and monitoring tools for bilateral markets will remain sufficient. Specifically, Filing Parties explain that the Commission will have access to individual trades via the Electronic Quarterly Reports (EQR) that 13 of the Southeast EEM Members are required to submit, representing approximately 98% of the total net energy for load of the Members. Filing Parties further explain that the Commission will continue to have access to e-Tag data submitted pursuant to Order No. 771. Filing Parties assert that Southeast EEM transactions will be easily identifiable in EQR and e-Tag data given the 15-minute duration of the schedule and use of NFEETS. Filing Parties also note that the Commission will have access to the aggregated Southeast EEM data in the informational reports that the Southeast EEM Administrator (Administrator) will post publicly. Lastly, Filing Parties state that the "three-eligible-counterparty rule," i.e., the requirement that all Participants have "toggled on" at least three unaffiliated potential counterparties each time they bid or offer, will protect against opportunities*

³⁵ Attachment D, Pope Aff. at PP 16-26.

³⁶ *Id.* at P 21.

³⁷ *Id.* at PP 16, 24.

³⁸ *See* Attachment A, Proposed Revisions to the Southeast EEM Agreement, at App'x D.

for market manipulation.

- a. *Please explain what, if any, information will routinely be available to the Commission to detect and address potential market manipulation in a near real-time manner (e.g., less than 30 days) in the Southeast EEM.*

Response:

The Southeast EEM Members commit to providing information comparable to what RTOs provide under Order No. 760, but adjusted for the different market design of the Southeast EEM. The list here includes all of the types of data identified by Commission Staff below in Question 4.b, plus additional information identified by Dr. Pope and the Southeast EEM Members as being potentially helpful. Specifically, the Southeast EEM Members propose to amend the Southeast EEM Agreement to require the Southeast EEM Administrator to confidentially provide the following information to the Commission, and to the Market Auditor, every seven days:

- Participant, bid/offer price, quantity, location, and All or Nothing information for each bid and offer in each interval;
- Specific parameter data for each Participant for all 15-minute intervals, including counterparties the Participant has elected to not be matched with for an interval and Balancing areas for which the Participant has elected not to be matched with a counterparty during an interval;
- Enabling Agreement counterparties for each Participant;
- The Network Map, updated as necessary;
- For each interval, ATC made available to the Southeast EEM by each Participating Transmission Provider, as well as the amounts of such ATC that are not used by the Southeast EEM;
- Price caps, as relevant for each Participant;
- Matched bids and offers with their associated scheduled MWh quantity and Energy Exchange Price;
- Implied marginal benefit information for each ATC limit for each interval, to the extent such information can reasonably be produced by the Southeast EEM Algorithm; and
- Descriptive information, such as market participant names and unique identifiers.³⁹

The Southeast EEM Members propose to provide this information with respect to all transactions within the Southeast EEM, regardless of whether the parties to the transaction are jurisdictional. However, submission of this data with respect to non-jurisdictional entities is voluntary in conjunction only with the participation of such entities in the Southeast EEM, and the Southeast EEM Members request that the Commission expressly confirm that submission

³⁹ See Attachment A, Proposed Revisions to Southeast EEM Agreement, App'x D.

and receipt of such data does not and will not affect the jurisdictional status of non-jurisdictional Members in any way. Also, with respect to the confidentiality of the information submitted, the Southeast EEM Members request that the Commission affirm that, like the information submitted by RTOs in response to Order No. 760, the data submitted by the Southeast EEM to FERC will remain non-public, and subject to FOIA Exemption 4.⁴⁰

To implement this commitment, the Southeast EEM Members propose to add a new Section 2.5 to the Southeast EEM Agreement, which will state as follows:

The Southeast EEM Administrator shall provide the information set forth in Appendix D to FERC in accordance with FERC’s secure file transfer protocol, and to the Market Auditor, every seven (7) days for the immediately preceding seven (7)-day period and shall answer any follow-up questions from FERC regarding such information, which questions and answers shall be posted on the Southeast EEM Website in the same manner as the reports of the Market Auditor, including the same requirements for confidential treatment of transmission information and commercially sensitive information.⁴¹

- b. *Please explain whether the Administrator, Southeast EEM Market Auditor, or Membership Board will have the authority to respond to requests from the Commission for the following information for any and all Participants: specific parameter data for all 15-minute intervals, including toggled counterparty choices; Enabling Agreement counterparties; toggled balancing authority area choices; Available Transfer Capability made available to the Southeast EEM; bid/offer curves with price and quantity information; price caps; and/or matched bids with their associated price information.*

Response:

As described above, the Southeast EEM Members propose that the Administrator will confidentially provide this information to the Commission and the Market Auditor every seven days. The Southeast EEM Members believe that this will ensure that the Commission has access to meaningful information that will help detect any market concerns in near real-time. To the extent that the Commission has follow-up information requests, it may make such requests to the Administrator, in writing, or if specific to a particular Participant, to the Participant itself. For requests directed to the Administrator, the Administrator will follow the posting process outlined below in Response to Question 7.d.ii, and notify the Membership Board of such posting.

- c. *Please explain whether the Administrator, Southeast EEM Market Auditor, or Membership Board will be required to inform the Commission of potential violations of the Southeast EEM Market Rules or the Commission’s statutes, regulations, or orders when and if they are identified.*

⁴⁰ See Enhancement of Elec. Mkt. Surveillance & Analysis through Ongoing Elec. Delivery of Data from Reg’l Transmission Orgs. & Indep. Sys. Operators, Order No. 760, 139 FERC ¶ 61,053 at PP 34-36 (2012) (“Order No. 760”).

⁴¹ See Attachment A, Proposed Revisions to Southeast EEM Agreement, Section 2.5.

Response:

With the new commitments to provide data to the Commission and increase the transparency of Market Auditor reports to Participants, there will be significant transparency and ability to identify any violations of the Southeast EEM Market Rules or the Commission's statutes, regulations, or orders. The Commission can act upon such information *sua sponte*, and a Participant could file a complaint. With these safeguards, the Southeast EEM Members do not believe it is necessary to amend the Southeast EEM Agreement to require the Administrator or Membership Board to inform the Commission of potential violations; however, individual Southeast EEM Members or Participants may do so under the current Southeast EEM Agreement and Market Rules.

As discussed further below, the transparency of Market Auditor reports is being increased, such that Participants, including the Southeast EEM Members and all others transacting in the Southeast EEM Market, and the Commission if it wishes, can access that information. This ensures that Participants can bring any such matters to the attention of the Commission or the Commission can raise them on its own motion. Furthermore, having access to the additional data mentioned above, including the Market Auditor reports, allows the Commission and Participants to identify and pursue any potential violations if they occur. Also, as explained below, the Southeast EEM Members are proposing to revise the *Mobile-Sierra* language in the Southeast EEM Agreement so that the just and reasonable standard would apply to provisions of general applicability. That said, it is the intent of the Southeast EEM Members to be proactive in addressing any unexpected problems with the functioning of the Southeast EEM, potentially through market rules changes that would be filed and subject to notice and comment and Commission review and approval. The Southeast EEM Members will also work to ensure compliance with the filed agreement, as they would any other filed tariff. None of the Southeast EEM Members want a market that does not work to design.

5. *To become a Participant in the Southeast EEM, a prospective Participant must, among other requirements, have or enter into an Enabling Agreement with at least three or more Participants. The Southeast EEM Agreement defines an Enabling Agreement as "a bilateral agreement for the purchase and sale of Energy that provides for Energy Exchanges between a Seller and a Buyer and that, for Sellers that are Public Utilities and require authorization to engage in sales for resale of electric energy, capacity or ancillary services at market-based rates under Section 205 of the FPA, has been entered into pursuant to such Seller's market-based rate authority." Filing Parties state that all transactions in the Southeast EEM will be consummated under Enabling Agreements instead of being consummated within the Southeast EEM itself.*

- a. *Are there any limitations on a Participant's ability to refuse to enter into an Enabling Agreement with a prospective or current Participant?*

Response:

As a starting point, it is important to recognize that Enabling Agreements are used today in the Southeast bilateral market. These are typically standardized agreements that parties have in-place to facilitate regular bilateral energy transactions. These same Enabling Agreements, as well as new Enabling Agreements Participants may enter into, will be used for making bilateral

transaction as part of the Southeast EEM. In the current bilateral market, there are no prescribed limitations on a party's ability to refuse to enter into an Enabling Agreement with a prospective or current party.

Likewise, the Southeast EEM Agreement does not contain any such limitations, but it does require Participants to have an Enabling Agreement with three or more other Participants. This is purely a safeguard against market manipulation, as explained by Dr. Pope.⁴²

As noted above, the Enabling Agreements are not unique to Southeast EEM participation; many are already in place to facilitate bilateral transactions today. The Southeast EEM Members are providing a list of the entities with which they have entered into Enabling Agreements, thereby demonstrating the diversity of such agreements already. These Enabling Agreements would apply to Southeast EEM transactions, so where one exists a new one would not be necessary. The list is attached as Attachment C.⁴³ Collectively between the Southeast EEM Members, there are at least 180 counterparties to existing Enabling Agreements today. The list is provided to demonstrate that, in the current bilateral market, entities are already incentivized to have a robust, diverse network of trading partners. With the expanded reach of the Southeast EEM, such diversity is only expected to increase; every Participant, Southeast EEM Members included, has the incentive to enter into numerous Enabling Agreements to maximize potential matches, and thereby potential benefits. Moreover, as noted, Enabling Agreement data used by the Algorithm will be reported to the Commission.

The Southeast EEM Members reiterate that they have no incentive to block trading in the Southeast EEM, and in fact, have every incentive to encourage robust trading. It would not have made sense for the Southeast EEM Members to propose the Southeast EEM if that were not the case. Nor is it credible that such a diverse group of Southeast EEM Members (including an agency of the Federal Government) would have come together around such a goal.

With that being said, the Southeast EEM Members are providing additional transparency both to the Commission and Participants.⁴⁴ This will allow the Commission and all market participants visibility into the process and if there are any concerns going forward they can be resolved under the Federal Power Act ("FPA") if and when they arise.

b. Are Participants required to provide any reason for refusing to sign an Enabling Agreement with a prospective or current Participant?

⁴² See Southeast EEM Filings, Econ. Aff. at PP 77-83 (describing the conduct the Rule was created to address and how the rule prevents such conduct).

⁴³ This list, which is a composite list of the counterparties to Enabling Agreements of the Southeast EEM Members today, does not include Enabling Agreements of those entities that have not yet executed the Southeast EEM Agreement. This list includes Enabling Agreements to buy and to sell, and each counterparty is listed only once, even if that entity has Enabling Agreements with more than one Southeast EEM Member (as many do). The Southeast EEM Members note that this list includes Enabling Agreements with entities outside the Southeast EEM footprint, as well as a diverse array of entities that could, upon satisfying the criteria for participation and assuming they have Points of Receipt and Points of Delivery within the Southeast EEM footprint, sell through the Southeast EEM.

⁴⁴ In particular, see Responses to Question 4.a and Question 7.d.i.

Response:

As Enabling Agreements are currently used in the Southeast, buyers and sellers are not required to state any explicit reason for choosing not to enter into an Enabling Agreement with another participant. Likewise, the Southeast EEM Agreement does not require a Participant to state any explicit reason for choosing not to enter into an Enabling Agreement with another Participant. In other words, the Southeast EEM will not change the existing framework and requirements for entering into an Enabling Agreement, or for choosing not to do so. The data provided in response to Question 5.a demonstrates that in the existing bilateral market, there is already a robust and diverse network of Enabling Agreements, which should address any concern that Participants have an incentive or will act to restrict the number of Enabling Agreements with prospective or current Participants.

As a practical matter, it makes sense for Participants to maintain their autonomy to decide whether to enter into an Enabling Agreement—Enabling Agreements are bilateral agreements between parties. Enabling Agreements require negotiation and mutual agreement, particularly on commercial terms like credit requirements, and it is not the role of the Southeast EEM to mandate entering into agreements.

The Southeast EEM is an extension of the existing just and reasonable bilateral market, and the very term “bilateral” connotes that agreements in the Southeast are freely negotiated between the two parties to such agreements. Moreover, the foundational premise of market-based rate authority is to provide entities the freedom to enter into such freely negotiated bilateral contracts in lieu of pre-approved rates, terms and conditions.⁴⁵ Importantly, restrictions on such contracting necessary to prevent exercise of market power have already been addressed through market power mitigation measures.⁴⁶ However, additional transparency measures the Southeast EEM Members are offering to provide will provide increased visibility to the Commission and Participants,⁴⁷ and if there are any concerns, they can be resolved, hopefully on

⁴⁵ *Mkt.-Based Rates for Wholesale Sales of Energy, Capacity & Ancillary Servs. by Pub. Utils.*, Order No. 697, 119 FERC ¶ 61,295 at PP 943-54 (2007), *order on reh'g*, Order No. 697-A, 123 FERC ¶ 61,055 (2008) (explaining the reasoning behind not requiring all negotiated MBR-based contracts to be filed with the Commission).

⁴⁶ *See S.C. Elec. & Gas Co.*, 121 FERC ¶ 61,263 at P 6 (2007) (finding that Dominion Energy SC's (f/k/a South Carolina Electric and Gas Company) “proposal not to make sales within its balancing authority area under its market-based rate tariff adequately addressed [Dominion Energy SC's] failure of the market share screen in its balancing authority area”); *LG&E Energy Mktg., Inc.*, Docket Nos. ER06-1046-000, *et al.* (letter order issued July 6, 2006) (accepting “revised market-based rate tariff sheets that would, among other things, restrict the LG&E Parties' authority to make sales at market-based rates in the LG&E/KU control area” upon LG&E/KU's exit from the Midwest Independent System Operator, Inc.); *Ala. Power Co.*, 163 FERC ¶ 61,090 at P 32 (2018) (finding that the price cap and auction process established in each of the Southern Companies' MBR tariffs “serve as adequate mitigation for the Southern, SCEG, Tallahassee, and Santee Cooper balancing authority areas”); *Duke Power*, 111 FERC ¶ 61,506 at P 61 (2005) (Commission prohibiting Duke sales within the DEC balancing authority to “mitigate the potential for the exercise of generation market power”); *Fla. Power Corp.*, 113 FERC ¶ 61,131 (2016) (prohibiting Duke sales in the DEP BA).

⁴⁷ *See Responses to Question 4.a and Question 7.d.i.*

a consensual basis, but if not, then through a complaint or investigation.

- c. *What are the options for prospective or current Participants to challenge refusals by Participants to enter into an Enabling Agreement?*

Response

Southeast EEM Participants can submit complaints to the Market Auditor, which will be referred to the Membership Board.⁴⁸ In addition, if a prospective or current Participant wants to challenge the refusal by another Jurisdictional Participant to enter into an Enabling Agreement, it may file a complaint with the Commission under Section 206 of the FPA, just as it could today. Moreover, as noted, the Southeast EEM Members are proposing to provide additional transparency both to the Commission and Participants, including transparency around the treatment of complaints made to the Market Auditor.

6. *Filing Parties propose that the Administrator will create and maintain informational reports, including a monthly report of the weighted average match prices and daily reports containing the weighted average exchange price. According to Filing Parties' affiant, manipulation of the average exchange price is unlikely because the weighted average Southeast EEM prices are not well-suited for settling related contracts that would be susceptible to manipulation and, further, it would be difficult for participants to materially change the weighted-average prices. Additionally, Filing Parties' affiants clarify that any party that does not consummate its Southeast EEM transactions—either by dispatching up its cleared supply or dispatching down its current supplies to reflect its cleared demand—will face imbalance charges.*
 - a. *Please explain how access to e-Tag data, EQRs, and any other data provided by the Administrator or Southeast EEM Market Auditor (Auditor) could be used to detect potential exchanges that are cleared by the Southeast EEM but not physically consummated.*

Response:

The Algorithm will output information on matches, not physically consummated transactions. Financial consummation of transactions will be a matter of private contracting between the parties to the matched transaction. Consummation of transmission scheduling will occur via the e-Tagging process. If a transaction is not physically consummated, in whole or in part, imbalances may occur and, for point-to-point transmission customers, imbalance charges could result.⁴⁹ Unfortunately, however, data on physical imbalances for specific bilateral

⁴⁸ Southeast EEM Agreement, Market Rules, VI.D.5.

⁴⁹ See Southeast EEM Filings, Ops. Aff. at P 47 (“Matches made through the Southeast EEM System are for non-firm energy and will be consummated in accordance with the underlying Enabling Agreement for the matched Energy Exchange. Each such Enabling Agreement will be entered into separately between the Participants, under terms and conditions of their choosing – the Southeast EEM will have no role in that. If an Offeror is matched with a Bidder but does not alter its dispatch to effectuate the match, its under-generation will be treated as imbalance, just as it would with bilateral physical transactions today. The same is true if a load fails to dispatch its owned or contracted generation down to reflect a Southeast EEM purchase. As the Ops Team says, “submitted is committed” in terms of Bids and

transactions energy is not metered and cannot otherwise be calculated, and so cannot be isolated to Southeast EEM transactions. The Southeast EEM Members have spent considerable time and energy, working with subject matter experts across the Southeast EEM Member companies, to attempt to devise a means to provide Southeast EEM-specific data to the Commission with respect to physically unconsummated transactions, and have not been able to devise a means to do so. We do note, however, that any pattern of unconsummated transactions could very well trigger complaints by Participants to the Market Auditor, or directly to FERC. Moreover, as noted, a Participant that matches but does not perform remains financially committed, which protects the other party to the transaction, and serves as a disincentive to such behavior. Dr. Pope believes that Participants are very unlikely to have any incentive to deliberately and systematically enter into transactions that they do not intend to physically consummate.⁵⁰ Among other things, there is no clearing price in the Southeast EEM to attempt to manipulate through such behavior.

b. Please explain the reasoning for including unconsummated transactions in the calculation of the weighted average exchange price.

Response:

All transactions are included in calculating the Weighted Average Match Price⁵¹ because they represent a binding financial commitment between the parties. The Southeast EEM matches buyers and sellers, and matched buyers and sellers are committed to transact, under their bilateral Enabling Agreement, at the price set by the Algorithm. Whether a transaction is then physically consummated by energy actually being delivered is a private matter of contractual performance between the buyer and the seller. Put differently, the Weighted Average Match Price includes all transactions because whether a transaction is physically consummated is not a factor in determining which parties match with one another. Thus, calculating in this fashion provides the best representation of the matching performed by the Algorithm.

c. Please describe what, if any, data or information on unconsummated Southeast EEM transactions will be made available to the Commission, either in reports provided by the Southeast EEM Administrator or elsewhere.

Response:

See response to Question 6.a.

7. The Southeast EEM Agreement states that the Administrator will be responsible for, among other things, (1) the on-going functions of the Southeast EEM System and overseeing and/or performing the operation and maintenance services necessary to allow the Southeast EEM System to operate in a reliable manner, and (2) maintaining open communications by and among the Southeast EEM Administrator, Participants

Offers. This is necessary to make the Southeast EEM System function properly and will also help ensure that participants submit only bona fide Bids and Offers they are able and willing to physically perform on if matched.”).

⁵⁰ Attachment D, Pope Aff. at PP 58-62.

⁵¹ Weighted Average Match Price is the term used by the Southeast EEM Agreement, and we have assumed for purposes of answering the question that this is the term to which the question refers.

and the Southeast EEM Agent. The proposed Southeast EEM Market Rules state that the Auditor will perform its functions at the direction of the Membership Board. The Auditor will report its conclusions and provide any supporting data in the event that problems are identified to the Membership Board on an after-the-fact, periodic basis. The Membership Board will maintain sole responsibility for determining whether to share the information any further.

- a. What authority does the Administrator have to report concerns with the functionality, correct operations, and accordance with Market Rules of the Southeast EEM, or to recommend improvements to the Southeast EEM, to the Membership Board or to any other entities? Must the Administrator wait for an auditing interval to report such concerns to the Auditor, or does the Administrator have other means of sharing concerns with the Membership Board or other parties?*

Response:

The Administrator role was intentionally designed to be purely ministerial with circumscribed responsibilities focused on the day-to-day operation of the Southeast EEM System. However, the Administrator is expected to work closely with the Market Auditor, who is empowered with several responsibilities, including verifying that the Southeast EEM operates in accordance with the Market Rules and reporting to the Membership Board any operational concerns. To further equip the Market Auditor for these responsibilities and in addition to the coordination already permitted and required within the Southeast EEM Agreement,⁵² the Southeast EEM Members are proposing to have the Administrator provide the same information it provides to the Commission every seven days to the Market Auditor. Thus, the Market Auditor, whose role is aimed at ensuring that the Southeast EEM functions as intended, will have the information needed to do that job, and the role of the Administrator need not be expanded to duplicate that responsibility. Moreover, the Southeast EEM Members also are proposing to increase transparency to both the Commission and to Participants, who can then request changes under Section 206, subject, of course, to making the requisite showings.⁵³ Finally, the Southeast EEM Members expect to be proactive in addressing any legitimate concerns raised by the Market Auditor (or anyone else), such that protections provided by Section 206, while available, should prove unnecessary. The Southeast EEM Members want this market to work, and work well.

- b. The proposed Southeast EEM Market Rules describe one of the Auditor's auditing functions as to "[p]rovide evaluation regarding the proper function of the Southeast EEM System, and the effectiveness of any Southeast EEM System specific controls in place related to the operation of the Southeast EEM System."*
 - i. Please explain the process that the Auditor will use to ensure that the Southeast EEM system is functioning properly.*

⁵² See Southeast EEM Agreement, Sections 2.4, 10.1.2, 10.2.2; *id.*, Market Rules, VI.D.

⁵³ As discussed below, Southeast EEM Agreement provisions of general applicability now will be subject to the just and reasonable standard.

Response:

The integrity of Southeast EEM will be protected by two lines of defense: (1) the selected software platform implementing the Algorithm; and (2) the Market Auditor, who will provide “checks” on the system functioning. The Southeast EEM Members are currently seeking a platform developer that will provide a responsible, automated approach to testing the Southeast EEM System that helps ensure that output of the Algorithm is high quality and free of errors and regressions. Section IV.C.6 of the Market Rules provide several rules that the Algorithm must follow for all matches.⁵⁴ For instance, the Market Rules provide that the Algorithm shall not make any Energy Exchanges that would cause the available transmission capacity reported to the Southeast EEM System to be exceeded on any ATC limit in the Southeast EEM Territory.⁵⁵

As part of the second line of defense, every month the Market Auditor will check, through testing, to ensure that ATC is not being exceeded, including verification that the Network Map is accurate. The Auditor will similarly test to ensure that each of the Generally Applicable Constraints listed in the Market Rules are being followed by the Algorithm on a monthly basis.⁵⁶ Examples include confirming that a Buyer does not purchase more MW than the amount set forth in its Bid;⁵⁷ that a Participant’s Bid is not matched with an Offer made by the same Participant;⁵⁸ or that an offsetting Energy Exchange, whereby Participant 1 sells to Participant 2 while Participant 2 sells to Participant 1 during the same interval at the same location, does not occur.⁵⁹

The Market Auditor will also review data to ensure that Participant-Specific Constraints,⁶⁰ as communicated by the Participant, are properly implemented by the Algorithm once a month. For instance, if a Participant “toggles” off another Participant, the Market Auditor will confirm whether the Algorithm properly accounted for that toggle in its optimization.

Finally, the Market Auditor will ensure that the Algorithm properly implements the information submitted with Bids and Offers.⁶¹ For instance, every month the Market Auditor will review to determine whether all Offers properly include a Source and all Bids properly

⁵⁴ Southeast EEM Filings, Ops. Aff. at P 38.

⁵⁵ Southeast EEM Agreement, Market Rules, IV.C.6.b.i.

⁵⁶ Clarified Southeast EEM Agreement language covering this point is discussed in the Response to Question 7.b.ii.

⁵⁷ See Southeast EEM Agreement, Market Rules, IV.C.6.b.ii.(a).

⁵⁸ See *id.*, IV.C.6.b.v.

⁵⁹ See *id.*, IV.C.6.b.vi.

⁶⁰ See *id.*, IV.A.1.b

⁶¹ See *id.*, IV.B.3.

include a Sink,⁶² that a Delivery Interval is included,⁶³ and that the 4 MW rule is being properly implemented.⁶⁴

- ii. *Please describe what is meant by “any Southeast EEM System specific controls in place related to the operation of the Southeast EEM System.”*

Response:

The Southeast EEM Members agree that the term “specific controls” was unduly vague. It was meant to connote Generally Applicable Constraints and Participant-Specific Constraints, and accordingly the Southeast EEM Members propose to change the provision as follows:

Provide evaluation regarding the proper functioning of the Southeast EEM System, ~~and including verifying the effectiveness~~ **compliance of any the Southeast EEM System specific controls with the Participant-Specific Constraints and Generally Applicable Constraints identified in place Section IV.B.6** related to the operation of the Southeast EEM System.⁶⁵

- c. *The proposed Southeast EEM Market Rules describe one of the Auditor’s auditing functions as to “[r]efer any complaints received to the Membership Board, and investigate further at the Membership Board’s direction.”*
- i. *Please explain whether the Membership Board is required to respond to the Auditor’s reports and referred complaints.*

Response:

The Southeast EEM Members expect to be proactive to address any identified problems, although there is no requirement for the Membership Board to respond to the Market Auditor’s reports and reported complaints. Moreover, the Market Rules will be filed rates of the FERC-jurisdictional Members, and they will work to ensure compliance with the Market Rules as they do with all of their Tariffs.

Moreover, as explained below,⁶⁶ Auditor reports, including complaints referred to the Membership Board, will now be available to the Commission and Participants, such that the Commission can address them *sua sponte*, or a Participant can bring the issues addressed in a report to the Commission’s attention (including through a complaint under Section 206 of the FPA) if they are not satisfied with the approach taken by the Membership Board, subject of course to making the requisite showings.

⁶² *Id.*, IV.B.3.a.v.

⁶³ *Id.*, IV.B.3.a.vi.

⁶⁴ *Id.*, IV.B.3.a.iii.

⁶⁵ Attachment A, Proposed Revisions to the Southeast EEM Agreement, Market Rules, Section VI.D.4.

⁶⁶ *See* Response to Question 7.d.ii.

- ii. *Please explain the criteria that the Membership Board will use to evaluate the Auditor's reports and referred complaints and to determine whether further action is necessary.*

Response:

There are no specific criteria; instead, the Membership Board will appropriately address any such reports or complaints on a case-by-case basis. This is necessary in order to retain flexibility to react to unforeseen circumstances.

- d. *Filing Parties' affiants state that the Auditor will be responsible for responding to questions from Participants and/or regulators regarding the integrity of the matching process.*
 - i. *Please clarify to which regulators the Auditor will be required to respond. Please also clarify on what timeline the Auditor will respond to questions from regulators or Participants.*

Response:

In addition to the Commission and NERC, the Market Auditor will be required to respond to the state Commissions in the region, which currently include Alabama, South Carolina, Mississippi, Virginia, Tennessee, Georgia, North Carolina, and portions of Kentucky, Oklahoma and Florida. In the case of TVA, the Auditor will respond to questions from its Inspector General. The Market Auditor will also be required to respond to any other regulators that oversee the operations of any Member. The Market Auditor will use reasonable efforts to respond within 30 days.

- ii. *Please clarify whether the Auditor will be required to send its response to a question from a regulator or Participant to the Membership Board for review, prior to responding.*

Response:

The Market Auditor's response to a regulator's or Participant's question will be provided to the Membership Board simultaneously with the Market Auditor's submission of the response to the regulator or Participant. This will be accomplished via postings on the Southeast EEM Website. Specifically, the Market Auditor will provide any information request to the Administrator, which will post the request to the Southeast EEM Website. The Market Auditor then will provide its response to the Administrator, which will post the response as well. To achieve this additional transparency, the Southeast EEM Members propose that all requests to the Market Auditor be in writing. To the extent that such information (whether the question or the response) is confidential, it will be posted to a confidential section of the Southeast EEM Website. At the end of the answer to this question there are two flowcharts showing how information access will be provided, and transparency increased.

In order to effectuate this revision, the Southeast EEM Members propose the following language be added to the Market Rules' description of the Market Auditor's functions:

Respond to written questions from Participants, FERC, NERC, applicable state commissions in the region, Tennessee Valley Authority's Inspector General, and any other applicable regulators that oversee the electric

operations of any Member regarding the integrity of the matching process. Such information requests and Market Auditor responses (which will be provided, where reasonable, within 30 days), along with any reports generated by the Market Auditor in accordance with these Market Rules, will be provided to the Administrator, which will post such documents to the Southeast EEM website. To the extent that such information (whether the question or the response or other document) is Transmission Function Information or Commercially Sensitive Information, it will be posted to a confidential section of the Southeast EEM website, and access by Participants shall be governed pursuant to the confidentiality provision of the Participant Agreement. Access by regulators shall be subject to a standing request that such regulators treat such information with the highest degree of confidentiality permissible under law applicable to each such regulator. “Transmission Function Information” shall have the meaning provided at 18 C.F.R. Sections 358.3(j), or the successor to that provision. Commercially Sensitive Information shall include any information that could confer a competitive advantage on the recipient, or whose disclosure could harm or commercially disadvantage an entity associated with the information, including, but not limited to, any Participant-specific information, such as the bid and offer information provided to FERC and the Market Auditor every seven days. The entity providing the information for the Administrator to post to the Website (i.e., typically the Market Auditor) shall be responsible for determining which information posted to the Website should be placed in the confidential section of the Website, and shall resolve any uncertainty in favor of treating the information confidentially. In no event shall the Market Auditor or Administrator cause Commercially Sensitive Information that is identifiable to a particular Participant or Critical Energy/Electric Infrastructure Information to be posted to the Southeast EEM Website. Southeast EEM Members shall have access to information posted on the website at the same time and subject to the same restrictions as other Participants. To the extent that the Market Auditor is required to provide a report or document to the Membership Board, it will do so by notifying the Membership Board when the report or document has been posted to the website.⁶⁷

While the general thrust of this requirement is to increase transparency, Participant-specific information and Critical Energy Infrastructure Information (“CEII”) will not be posted. Such information will be redacted from any document or information that is posted. Unredacted copies will be confidentially provided to the Commission or other applicable regulator upon request.

The Southeast EEM Members also propose to delete the following sentence in the Market Rules, at Section VI.D: “The Membership Board will maintain sole responsibility for

⁶⁷ See Attachment A, Proposed Revisions to Southeast EEM Agreement, Market Rules, VI.D.6. As noted below, this is a new provision that will cause the former Section IV.D.6 to become VI.D.7.

determining whether to share the information any further.” Doing so will avoid conflict with the transparency revisions proposed herein. In its place, the Southeast EEM Members propose to add the following sentence to that section (bolded and underlined):

Auditing Process. Auditing functions will be performed by the Market Auditor at the direction of the Membership Board. The Market Auditor will report its conclusions, and provide any supporting data in the event that problems are identified to the Membership Board on an after-the-fact, periodic basis. **This will be accomplished through the Website posting process identified in Section VI.D.6, thereby ensuring that access to these reports by the Members and others will be simultaneous, subject to any applicable confidentiality restrictions. . .**

The Southeast EEM Members also propose to revise the complaints provision in Section VI.D.5 of the Market Rules to ensure that both complaints submitted by Participants, as well as any subsequent investigation, are subject to the new Website posting requirement:

Refer Report any complaints received to the Membership Board, and investigate **and report** further at the Membership Board’s direction.

To accommodate the new targeted 30-day deadline for responding to regulators, the Southeast EEM Members propose to revise the Market Rules to state as follows:

Except as otherwise specified herein, the Membership Board will be responsible for defining the time interval(s) for the auditing function to be performed and **for the Auditor to** report back to the governing body. Such interval(s) will be published in the Southeast EEM Manuals.⁶⁸

The Southeast EEM Agreement contains restrictions on access to non-public transmission function information and competitively sensitive information by marketing function personnel of the Southeast EEM Members or their affiliates.⁶⁹ Additionally, in light of the proposed availability of this information to Participants, and the potential commercial sensitivity of some such information, the Southeast EEM Members are proposing that Participants (including Members) be subject to an enhanced restriction – i.e., that they commit that information posted by the Administrator in the confidential section of the Southeast EEM Website will not be provided to marketing function employees.⁷⁰ To this end, the Southeast EEM Members are proposing changes to the Participant Agreement. Specifically, the Southeast EEM Members propose to add the following to the Participant Agreement:

The Participant shall supply the Southeast EEM Administrator with any and all information deemed reasonably necessary for the administration of the Southeast EEM System. **The Participant acknowledges and agrees that it will not**

⁶⁸ Under the as-filed Southeast EEM Agreement, the revision at issue was Section VI.B.6, but under the proposed revisions will be Section VI.B.7.

⁶⁹ See Southeast EEM Agreement, Section 3.5 (Member Standard of Conduct).

⁷⁰ See Attachment A, Proposed Revisions to Southeast EEM Agreement, Participant Agreement, Section 6.0.

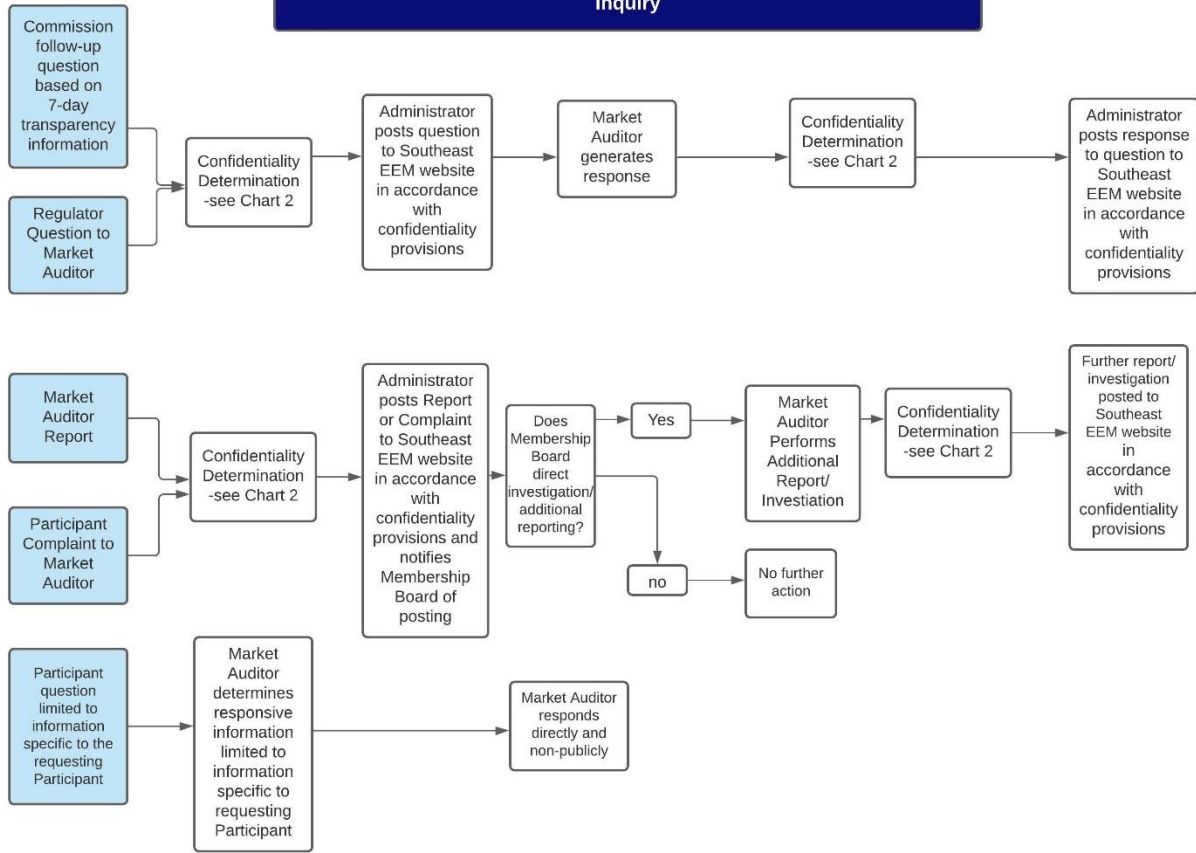
provide information posted in the confidential section of the Southeast EEM Website to any employee of itself or an affiliate engaged in Marketing Functions, where Marketing Functions shall be those meeting the definition found at 18 C.F.R. Section 358.3(d), except that for purposes of this Agreement Marketing Functions shall also refer to the functions described in that provision even if the entity performing those functions is not a public utility subject to FERC jurisdiction. The Participant shall identify to the Southeast EEM Administrator all employees who may access the confidential portion of the Southeast EEM website, and certify that such employees are not engaged in Marketing Functions, and the Southeast EEM Administrator will grant access to the confidential portion of the Southeast EEM Website only to such employees. The Participant shall be responsible to ensure that the Southeast EEM Administrator is notified before any such employee commences engagement in Marketing Functions such that access to the confidential section of the Southeast EEM Website can be revoked.⁷¹

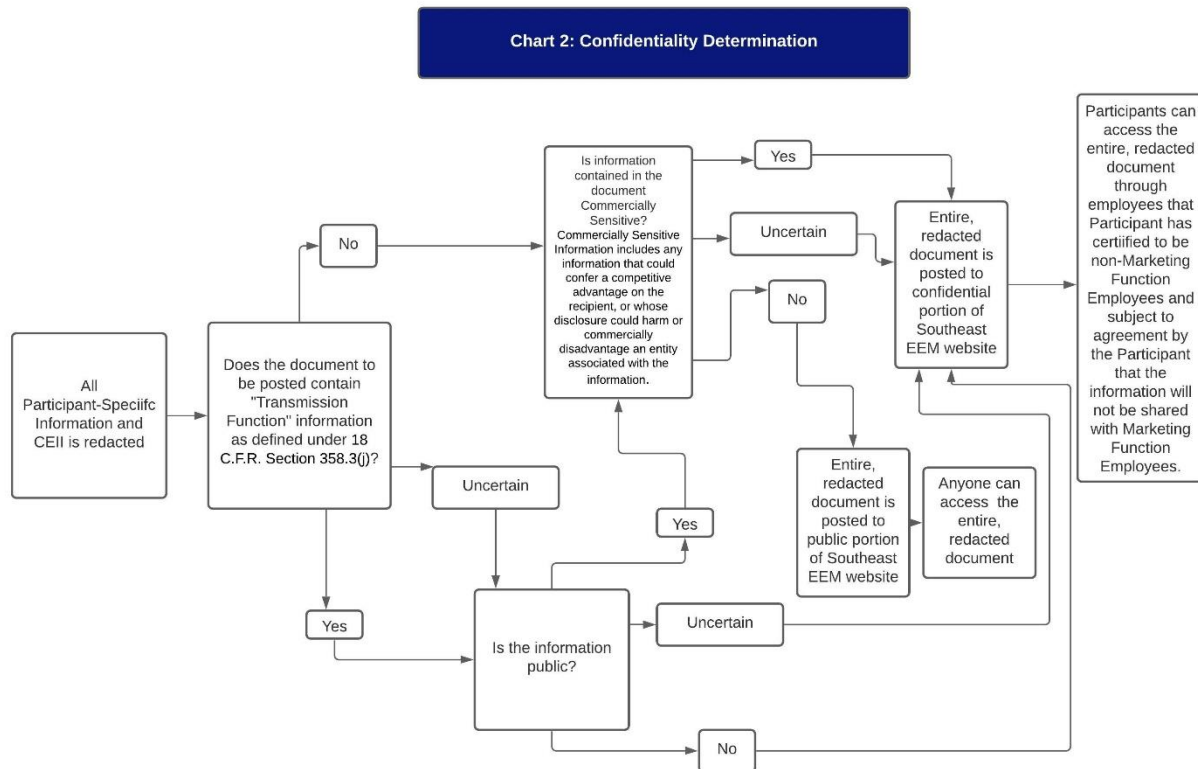
We note that these changes to restrict access to confidential information are not a barrier to entry – they apply *only* if the Participant *elects* to obtain such confidential information. The Participant does not need to make such an election in order to transact in the Southeast EEM.

The flowcharts below provide a visual of how information will flow between the Market Auditor, the Administrator, and Participants depending on the type of inquiry – the first chart reflects how information will flow under the various transparency requirements, while the second chart provides the decision tree for determining what information to post, and how it may be accessed, each time there is a posting determination to be made:

⁷¹ See *id.* (new language bolded and underlined).

Chart 1: Administrator/ Market Auditor Flow of Information by Type of Inquiry





iii. Please explain what information the Auditor will have access to on its own to answer questions about the integrity of the matching process, or whether it will need to rely upon the Administrator to provide such information.

Response:

The Market Auditor will receive the same reports (as discussed above) every seven days as FERC,⁷² and have the same ability to ask follow up questions as necessary to fulfill its appointed role. The Administrator will follow the posting process described in Response to Question 7.d.ii in responding to Market Auditor questions, just as it will in responding to questions from FERC. The Southeast EEM Agreement also allows for the Market Auditor and Administrator to share information on a confidential and reciprocal basis to support the Market Auditor’s responsibilities.⁷³

8. *The Southeast EEM Territory shares borders with the Midcontinent Independent System Operator, Inc. (MISO), PJM Interconnection, L.L.C. (PJM), and Southwest Power Pool, Inc. (SPP). Filing Parties state that the Southeast EEM proposes to observe all physical and contractual limits on the transmission system of the Southeast EEM Members. Filing Parties explain that an Energy Exchange*

⁷² See *id.*, Section 2.5.

⁷³ Southeast EEM Agreement, Section 10.2.2.

transaction under the Southeast EEM would not be matched if that transaction needed to rely on a neighboring transmission system.

- a. Please explain how the Southeast EEM will interact at the seams with MISO, PJM, and SPP. Please explain how SEEM will manage loop flow, including an explanation of whether such loop flow would require additional interregional coordination, beyond that which exists today and how such coordination would work to respect contractual circumstances such as the MISO Settlement.*

Response:

The Southeast EEM will respect other systems and abide by all existing agreements on seams issues, including contractual limits. However, to address any remaining concerns over unauthorized use of neighboring systems, the Southeast EEM Members propose certain clarifying changes to the Southeast EEM Agreement and Market Rules.

The terms of the Southeast EEM Agreement already require Participating Transmission Providers providing NFEETS to provide information required by the Market Rules, including “sufficient information to permit the Southeast EEM Administrator to create a Network Map . . . for purposes of confirming available capacity for NFEETS along Contract Paths for all potential Energy Exchanges.”⁷⁴ Each Southeast EEM Transmission Provider already posts on its OASIS (or equivalent) its methodology for calculating ATC. To clarify the intent that a precondition for any match will be sufficient ATC on each system along the Contract Path, the Southeast EEM Members propose the following modifications to the Southeast EEM Agreement to require each Transmission Provider to commit to following its posted methodology in making its reports of ATC to the Southeast EEM System. This, in turn, will ensure that there is no match that exceeds the most limiting element along the Contract Path for that transaction.

Specifically, the language the Southeast EEM Members propose states as follows (with proposed changes bolded and underlined):

Prior to being permitted to provide Non-Firm Energy Exchange Transmission Service, Participating Transmission Providers shall provide sufficient information to permit the Southeast EEM Administrator to create a Network Map of the Southeast EEM Territory for purposes of confirming available capacity for NFEETS along Contract Paths for all potential Energy Exchanges. **On an ongoing basis, consistent with the timing requirements of Section IV.B.2.a, each Participating Transmission Provider shall provide the Administrator with the Available Transfer Capability (“ATC”) as calculated by the Participating Transmission Provider per the methodology for calculating**

⁷⁴ See Southeast EEM Agreement, Market Rules, IV.A.2; *id.*, Market Rules, Definition of “Non-Firm Energy Exchange Transmission” (requiring the Participating Transmission Provider to provide “the information specified in and as required by Section IV.A.2 of the Southeast EEM Market Rules to the Southeast EEM System”).

ATC that each Participating Transmission Provider already specifies in its OATT (or equivalent) and posts on its OASIS (or equivalent), as that ATC may change from time to time.⁷⁵

In Section IV.B.1.2, the Southeast EEM Members propose to revise the language on timing of providing ATC information to clarify that it will be ATC information. The proposed revision will read as follows (with proposed language bolded and underlined):

For each Clock Hour, every Participating Transmission Provider's ~~available capacity for NFEETS~~ **ATC** must be available as an input to the Southeast EEM Algorithm no later than fifteen (15) minutes before the start of such next Clock Hour. To the extent a Participating Transmission Provider can update its ~~available capacity for NFEETS~~ **ATC** within a Clock Hour, such updated information must be available as an input to the Southeast EEM Algorithm no later than fifteen (15) minutes before the start of the applicable Delivery Interval.

Additionally, in Section IV.C.1, the Southeast EEM Members propose to broaden the "requirements" that must be honored when the Algorithm produces matches. Instead of referring only to those requirements in Section IV.A.1, the provision will now encompass all requirements in Section IV.A in order to encompass the ATC reporting provision. Specifically, the Southeast EEM Members propose Section IV.C.1 to read as follows:

...
The Southeast EEM Algorithm will match Bids and Offers so as to result in Energy Exchanges that maximize the Southeast Energy Exchange Market total benefit for the applicable Delivery Interval while simultaneously honoring all the requirements identified in Section ~~IV.A.1~~ **IV.A** and the constraints identified in Section IV.C.6. The total benefit shall be calculated by aggregating the benefits from each Energy Exchange for the applicable Delivery Interval

Finally, the Southeast EEM Members propose to revise the Southeast EEM Agreement to more clearly require the Algorithm to respect ATC limits by removing the reference to "available capacity for NFEETS" and instead tying the provision to ATC calculated by the Participating Transmission Provider. The Southeast EEM Members propose to revise Section IV.C.6.b.i as follows:

In matching Bids and Offers, the Southeast EEM Algorithm shall not make any Energy Exchanges that would cause the ~~available capacity for NFEETS~~ **ATC of any Participating Transmission Provider** on any given Contract Path to be exceeded.

⁷⁵ See Attachment A, Proposed Revisions to Southeast EEM Agreement, Market Rules, IV.A.2 (proposed language bolded and underlined).

- b. *Filing Parties state that the Southeast EEM does not alter how transmission availability is calculated for bilateral transactions today and will not adversely affect the MISO Settlement, which provides for the contractual rights to transfer up to 1,000 MWs of energy between MISO South and MISO Midwest via transmission facilities operated by MISO.*
- i. *Please explain how the operation of the Southeast EEM (i.e., matching bids and offers and consummation of Energy Exchange transactions) and the Southeast EEM's preclusion against transactions occurring over neighboring transmission systems will respect the 1,000 MWs of contractual rights under the MISO Settlement.*

Response:

As part of the ATC calculation, the 1,000 MW is taken into consideration as firm service on the MISO system, just like other firm service on the MISO system is taken into account in calculating ATC. Therefore, when calculating whether Energy Exchanges can occur using NFEETS, the Southeast EEM will take into account the firm service under the MISO Settlement. As discussed above, NFEETS will not be utilized in a transaction unless there is sufficient ATC to accommodate the transaction on the systems of all Participating Transmission Providers along the Contract Path.

- ii. *Please explain which service—NFEETS or non-firm service under the MISO Settlement—would get priority on the systems of Southeast EEM Participating Transmission Providers.*

Response:

NFEETS is lowest priority transmission. MISO Settlement flows will be higher priority, and treated as such by the Interchange Distribution Calculator and the relevant Reliability Coordinators.

9. *Filing Parties state that since the Southeast EEM “will only use transmission that is not otherwise being used, [NFEETS] will not result in underfunding of transmission.” At the same time, Filing Parties indicate that availability of NFEETS may result in “some slight decrease in Point-to-Point revenues, which in turn would lessen revenue credits used to offset” charges to network service transmission customers. According to Filing Parties, any increase in network transmission service rates would be “roughly balanced” by expected benefits from decreased energy costs resulting from the Southeast EEM.*
- a. *Please explain how the statement that NFEETS will only use transmission that would not otherwise be used is consistent with the potential for a reduction in point-to-point transmission service reservations as a result of NFEETS. To the extent the increase in network service transmission rates due to an erosion of point-to-point transmission service reservations exceeds benefits to network service transmission customers resulting from the Southeast EEM, please explain how the zero-rate for NFEETS is consistent with cost causation.*

Response:

The statement that NFEETS will only use transmission that would not otherwise be used is consistent with the potential effect on point-to-point transmission because NFEETS will only be scheduled after scheduling deadlines for other types of transmission service have passed and there is still remaining transmission available. But it is certainly true, as the question correctly implies, that a decision that could lead to erosion of non-firm point to point revenues – i.e., a decision to forego a transaction using a different form of non-firm service in favor of seeking a match using NFEETS – could contribute to the amount of residual ATC available for NFEETS.

As explained in response to Question 3 above, NFEETS is unlikely to be used as a substitute for firm transactions, because firm transmission provides resource adequacy, while NFEETS does not. As to non-firm transactions, today, any point-to-point revenue credits from such transactions are already minimal in the existing bilateral market. This is established by Mr. Melda and Mr. Bellar, who explained that the current “revenues from short-term wheeling transactions of the type that could be replaced by Southeast EEM transactions are minimal.”⁷⁶

The slight reduction in point-to-point revenues that could result from customers voluntarily opting to transact via the Southeast EEM is consistent with cost causation because the costs (in the form of potentially higher network service or firm Point-to-Point transmission rates from reduced credits for point-to-point transmission revenues) will be borne by those who benefit from the lower cost energy alternatives enabled by the Southeast EEM. As Dr. Pope explains, “the Southeast EEM **is expected to** reduce energy costs for native load customers, so any increase in network service transmission rates would be roughly balanced by expected benefits from decreases in their energy costs.”⁷⁷ And indeed, the Commission has stated that cost allocation need not be made with “exacting precision,”⁷⁸ but must be only “roughly commensurate” with the anticipated benefits.⁷⁹ The Southeast EEM meets that requirement, notwithstanding the slight reduction in point-to-point revenues that is anticipated to occur.

This conclusion is consistent with the similar conclusion with respect to the Western EIM. There, the Commission found that “elimination of the seam between California Independent System Operator, Corp. (“CAISO”) and the EIM Entity [Balancing Area Authorities (“BAAs”)] promotes more efficient and competitive electricity markets, provides customers in the EIM and in CAISO access to additional energy supplies, decreases the number of transactions that must pay pancaked rates, and therefore enhances competitive electricity markets in the region.”⁸⁰ The Commission also found the elimination of pancaked rates within the EIM would “result in downward pressure on market prices, resulting in lower energy costs overall and thus benefitting native load customers in CAISO and in an EIM Entity BAA who

⁷⁶ Southeast EEM Filings, Overview Aff. at P 23.

⁷⁷ See Southeast EEM Filings, Econ. Aff. at P 67.⁷⁸ *Sithe/Indep. Power Partners, L.P. v. FERC*, 285 F.3d 1, 5 (D.C. Cir. 2002).

⁷⁸ *Sithe/Indep. Power Partners, L.P. v. FERC*, 285 F.3d 1, 5 (D.C. Cir. 2002).

⁷⁹ See *Ill. Commerce Comm’n v. FERC*, 576 F.3d 470, 477 (7th Cir. 2009).

⁸⁰ *Cal. Indep. Sys. Operator Corp.*, 147 FERC ¶ 61,231 at P 156.

largely bear transmission costs[,]” and therefore fulfill cost causation principles.⁸¹ The same logic applies here. Network load and firm point-to-point load will receive the benefits of the Southeast EEM, so it is fair and consistent with principles of cost causation to ask such load to shoulder any incremental transmission system revenue requirements network load is exposed to as a result of any erosion of non-firm point-to-point revenues, which is not expected to be significant.⁸² Therefore, any increase in network service transmission rates or firm Point to Point rates due to an erosion of non-firm point-to-point transmission service reservations is not expected to exceed Southeast EEM benefits to network service transmission customers.

- b. Please explain how the availability of NFEETS may impact rates for firm point-to-point transmission charged by each prospective Southeast EEM Member that is a transmission service provider.*

Response:

The impact on rates for firm Point-to-Point service is likely to be minimal and out weighed by Southeast EEM benefits for the reasons explained in response to Question 9.a.

- c. Please explain how the information Filing Parties propose to have posted regarding NFEETS meets the Commission’s OASIS requirements.*

Response:

The Southeast EEM will interact with OASIS the same as occurs today in the bilateral market, which complies with OASIS requirements. The Southeast EEM simply automates the process of providing information to OASIS.⁸³

10. Filing Parties state that the Southeast EEM Market Rules present the mathematical equation for how Energy Exchange prices will be calculated. Filing Parties also state that certain other implementation details are the type of information that the Commission regularly finds are best left to unfiled business practice manuals. Further, Filing Parties explain that the Southeast EEM Members commit to posting any applicable business practice manuals and meeting minutes on the Southeast EEM Website.

- a. Please clarify what implementation details related to the functioning of the Southeast EEM Algorithm—such as the conditional logic, iterations, or other computational processes that will be used by the Southeast EEM Algorithm—you propose to include in the business practice manuals.*

⁸¹ *Id.*

⁸² *See* Response to Question 9.b.

⁸³ Southeast EEM Agreement, Market Rules, IV.C.8.a.iv (explaining that the Southeast EEM will provide “appropriate OASIS information . . . to the relevant Participating Transmission Service Provider”); Southeast EEM Filings, Transmittal at 10 (chart explaining that in the existing Market, Buyers and sellers locate one another and schedule delivery of energy with e-Tags; with the addition of the Southeast EEM, Buyers and Sellers are matched through the Southeast EEM, and the Southeast EEM submits transmission service reservations and e-Tags to the applicable BA(s)/Transmission Service Providers/Participants)

Response:

In addition to the items identified in the Initial Filings, the Southeast EEM Members anticipate that Southeast EEM Manuals will include concrete examples of different scenarios that the Algorithm will solve. The Southeast EEM Manuals will not include a mathematical statement of the optimization problem solved by the Algorithm (i.e., the software platform implementing the Southeast EEM), because this could be a significant undertaking and possibly an additional material Southeast EEM Member expense in addition to the planned cost of hiring a software vendor. Further expense and administrative burden also would be incurred to check the mathematical specification and modify it, if needed, with every change to the Market Rules, if and when these occurred and even if the change appeared to be minor.

However, we note that, like other Business Practice Manuals, it is likely the contents of the Southeast EEM Manuals will evolve over time, and those changes are not presently foreseeable. Consistent with FERC practice, the Southeast EEM will follow the rule of reason,⁸⁴ and any Participant is free to challenge the Southeast EEM's adherence to that rule, subject to making the necessary showing.

- b. Please clarify whether the Southeast EEM business practice manuals will be posted to a publicly viewable portion of the Southeast EEM website, i.e., whether the manuals will be publicly accessible. If not, please clarify which entities will be able to access the manuals.*

Response:

The Southeast EEM Manuals will be publicly available and posted to the Southeast EEM Website.⁸⁵

- c. In addition to the posting of the business practice manuals on the Southeast EEM website, please describe any data about the Southeast EEM Algorithm's operation that will be posted to the Southeast EEM website, aside from the data that will be published in hourly, daily, and monthly ex-post reporting.*

Response:

As detailed above, the Southeast EEM Members propose to provide a wide variety of information confidentially to the Commission. However, much of the data to be provided to the Commission is competitively sensitive, and the Southeast EEM Members are concerned that such data if publicly posted could be used in anti-competitive fashion. Therefore, they do not propose to post any additional market data publicly.

11. Filing Parties state that prior to being permitted to provide NFEETS, Participating

⁸⁴ See, e.g., *City of Cleveland v. FERC*, 773 F.2d 1368, 1376 (D.C. Cir. 1985) (Section 205(c) of the FPA “must reasonably be read to require recitation of only those practices that affect rates and service significantly, that are realistically susceptible of specification, and that are not so generally understood in any contractual arrangement as to render recitation superfluous.”) (emphasis in original).

⁸⁵ See Southeast EEM Answer to Protests at n.140 (“[T]he Southeast EEM Members commit to posting any applicable business practice manuals and meeting minutes on the Southeast EEM Website, <https://southeastenergymarket.com/>.”).

Transmission Providers shall provide sufficient information to permit the Administrator to create a Network Map of the Southeast EEM Territory for the purpose of confirming available capacity for NFEETS along Contract Paths for all potential Energy Exchanges. Filing Parties define “Network Map” as the computer-based representation of all Participating Transmission Provider service territories, Balancing Authorities, valid transmission paths (Point of Receipt – Point of Delivery combinations), Sources, and Sinks.

- a. Please describe what information will be sufficient to permit the Administrator to create a Network Map, including how that information would be updated to reflect the 15-minute intervals.*

Response:

The Network Map itself will be updated as needed, based on any changes in transmission topography relevant to the Network Map. Such changes are not expected to occur every 15 minutes, so the Network Map will not necessarily be updated every 15 minutes. ATC, which is not included in the Network Map, will be updated every 15 minutes, and that data, along with the Network Map, will be provided to the Commission, as detailed above in response to Question 4.

The Point of Receipt, Point of Delivery, and NAESB WebRegistry information will be used in creating the Network Map.

- b. Please explain how the Southeast EEM Algorithm will ensure that transmission capacity submitted by Participants as available for NFEETS is consistent with Available Transfer Capacity on the relevant transmission lines.*

Response:

The *pro forma* Tariff language for each of the jurisdictional entities notes that “Non-Firm Energy Exchange Transmission Service will be made available for Energy Exchanges from posted ATC after procurement and scheduling deadlines have passed for the next operating hour, taking into account other higher priority uses and the limitations of the Transmission System of the Transmission Provider.”

Additionally, as noted above, the Southeast EEM Members offer to revise the Agreement to state that each Participating Transmission Provider will post its ATC methodology online, and commits to using that methodology here, and that the output of those calculations will be utilized in the Algorithm in determining matches.⁸⁶

- 12. The Southeast EEM Agreement states that the standard of review for any changes to the Agreement proposed by a non-party or by the Commission shall be no lower than the “public interest” standard of review set forth in United Gas Pipe Line Co. v. Mobile Sierra Gas Service Corp., 350 U.S. 332 (1956) and Federal Power Commission v. Sierra Pacific Power Co., 350 U.S. 348 (1956).*

⁸⁶

See Response to Question 8.a.

- a. *Please provide further justification for the application of the Mobile-Sierra “public interest” standard of review to any changes to the Southeast EEM Agreement proposed by a non-party or the Commission.*

Response:

The Southeast EEM Members believe that there are certain portions of the Southeast EEM Agreement that may be perceived as being generally applicable in nature. The general standard of review therefore has been changed to “just and reasonable.” However, other sections are more bilateral in nature, govern key rights and obligations among the Southeast EEM Members (such as cost allocation provisions and exit provisions, among others), and were therefore central to the negotiated terms the Members agreed upon in developing the Southeast EEM.⁸⁷ In other words, it is crucial to the development and implementation of the Southeast EEM that these provisions in particular provide for contractual certainty to Members. As the Commission has said in similar circumstances, it is appropriate to “balance the needs of the Transmission Owners for contractual certainty with the interests properly represented by [a market].”⁸⁸ Therefore the Southeast EEM Members are proposing to subject these provisions to the more stringent “public interest” standard. Those provisions are as follows:

- The following defined terms under Article 1:
 - Interest Rate
 - Investor Owned Utilities
 - Governmental Utilities
 - Market Auditor
 - Material Vendor Contract
 - Member
 - Member Net Energy for Load
 - Net Energy for Load
 - Operating Costs
 - Record Date
 - Sector
 - Significant Matters
 - Southeast EEM Administrator
 - Southeast EEM Agent

⁸⁷ See *Texaco Inc. v. FERC*, 148 F.3d 1091, 1095 (D.C. Cir. 1998) (“[W]here parties have negotiated a . . . contract that sets firm prices . . . and that denies either party the right to change such prices or charges unilaterally, [the Commission] may abrogate or modify the contract only if the public interest so requires.”); *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 at P 184 (2013), *reh’g denied*, 147 FERC ¶ 61,128 (2014) (“On one hand, all such provisions in bilateral power sales contracts freely negotiated at arm’s length between sophisticated parties generally would establish contract rates and would come within the [*Mobile-Sierra*] presumption [of justness and reasonableness]. On the other hand, where the terms of an agreement would, if approved, be incorporated into the service agreements of all present and future customers, those terms are properly classified as tariff rates and the *Mobile-Sierra* presumption would not apply.”).

⁸⁸ *ISO New England Inc.*, 106 FERC ¶ 61,280 at P 128 (2004), *reh’g granted in part, denied in part*, 109 FERC ¶ 61,147 (2004).

- Territory
- Section 3.2 (Member Criteria);
- Article 4 (Governance);
- Sections 6.1 and 6.2 (Appointment of Southeast EEM Agent);
- Article 7 (Budgeting and Cost Responsibility)
- Sections 8.6 and 8.7 (Inter-related Inter-dependent provisions and Withdrawal);
- Article 9 (Release and Liability; No Fiduciary Duties);
- Section 10.3 (Equitable Relief);
- Section 11.2 (Reliability Obligations);
- Article 12 (Dispute Resolution);
- Article 14 (Defaults);
- Article 15 (Confidentiality);
- Section 16.1 (“Public Utility” Status of Members);
- Section 16.4.1 (No Reliance Interest on Non-Firm Energy Exchange Transmission Service);
- Section 16.5 (No Dedication of Facilities);
- Section 16.9 (Amendments);
- Exhibit B (Form of Joinder Agreement to add new Members); and
- Appendix C (Southeast EEM Agent Scope).⁸⁹

The Southeast EEM Members believe that subjecting these select provisions to a higher standard of review is appropriate, and consistent with Commission precedent regarding similarly complex agreements that defy classification in their entirety.⁹⁰

- b. Please explain why the Southeast EEM Agreement establishes contract rates that qualify for the Mobile-Sierra presumption. Alternatively, please explain why the Commission should apply Mobile-Sierra to the Southeast EEM Agreement if it is not classified as a contract rate.*

Response:

Most of the Southeast EEM Agreement will be subject to the just and reasonable standard, including the entirety of the Market Rules. As discussed in the Response to Question 12.a, the remaining limited number of provisions that are now proposed to be subject to the public interest standard are bilateral in nature and govern key rights and obligations among the Southeast EEM Members, or establish important limitations on the nature of the services being provided by the Members. All provisions of general applicability have been designated as subject to the just and reasonable standards, including the entirety of the Market Rules.

⁸⁹ See Attachment A, Proposed Revisions to the Southeast EEM Agreement, Section 16.9 (Amendments).

⁹⁰ *PJM Interconnection, L.L.C.*, 142 FERC ¶ 61,214 at P 185 (permitting the Consolidated Transmission Owner Agreement (“CTOA”) to be subject to differing standards of review because it could not “be classified in its entirety as containing contract rates or tariff rates” and noting that the differing standards would “recognize the distinctions among its provisions”).

- c. *What standard of review will apply to amendments to the Southeast EEM Agreement proposed by the Members?*

Response:

A Southeast EEM Member acting unilaterally or without the requisite vote would be subject to the rules outlined above, because such action would occur under Section 206. The just and reasonable standard will apply to any modifications proposed by the Southeast EEM Members upon approval consistent with the rules on governance,⁹¹ because such modifications would be submitted to the Commission by the Southeast EEM Members under Section 205.

Additional Changes to the Agreement

The review of the Southeast EEM Agreement caused by the Deficiency Letter led to the identification of a handful of clarifying changes to the Southeast EEM Agreement. Specifically, the Southeast EEM Members propose the following additional modifications:

- (1) The Southeast EEM Members propose to revise Section IV.C.7.a of the Market Rules to state that randomization will be used if a heuristic is required to resolve ties or ambiguities. This is a clarification to the agreement to track a statement previously made in the Operations Affidavit.⁹² As revised, the Section will read as follows:

In the event that multiple Bids or Offers that are at the same price at a Source or Sink are identical which create the same benefit for the Southeast EEM, a randomized preference will be assigned to the Bid(s) or Offer(s). **Additionally, randomization will be employed in the algorithm in all other situations if a heuristic is required to resolve ties or ambiguities.**

- (2) The Southeast EEM Members propose to revise Section VI.B.2 of the Market Rules to correct a scribenor's error that resulted in the omission of an important limitation on a Participant's administrator who is authorized to run and review reports available in the Southeast EEM. That provision will now state as follows:

Each Participant will be required to identify an administrator that is authorized by the Participant to run and review all of the reports available in the Southeast EEM System that are redacted to ~~all~~ **only** show the information related to the Participant it represents (the "Company System Administrator"). The Southeast EEM System will provide each Company System Administrator with the right to grant access to certain reports and related data to identified delegates within the Participant's organization. Each Company System Administrator (and any delegate identified by the Company System Administrator) shall be able to run all of the reports

⁹¹ See Southeast EEM Agreement, § 4.1.9.

⁹² Southeast EEM Filings, Ops. Aff. at P 44.

available in the system but receive only the data that belong to the Participant it represents.

- (3) The Southeast EEM Members propose to revise Section VI.E.1 of the Market Rules to clarify the Administrator's authority to maintain configuration parameters, and to avoid confusion about whether the Administrator is permitted to change those parameters (it is not). Specifically, the Southeast EEM Members propose the following revision to Section IV.E.1 of the Market Rules:

Parameters. The Southeast EEM Administrator shall ~~set and~~ maintain the following Southeast EEM System configuration parameters, which shall be posted for access by all Members . . .

List of Documents Provided with this Filing

Following is a list of documents included with this eTariff⁹³ filing:

<u>Attachment A</u>	Proposed Revisions to Southeast EEM Agreement;
<u>Attachment B</u>	Chart of Example Mitigated Price Cap for SEEM Transaction;
<u>Attachment C</u>	List of Enabling Agreements; and
<u>Attachment D</u>	Pope Affidavit.

Conclusion

The Southeast EEM Members respectfully request that the Commission accept the Southeast EEM Agreement, and the related filings in these unconsolidated dockets, subject to the modifications proposed herein, to become effective on August 6, 2021. If the Commission finds these proposed changes acceptable and otherwise accepts the Southeast EEM Proposal as submitted, the Southeast EEM Members commit to subsequently submit a compliance filing to effectuate the proposed revisions within 30 days of acceptance.

⁹³ Additionally, and as noted above, each Southeast EEM Member is submitting unrevised tariff records through eTariff that correspond to the original filing in that docket.

Respectfully Submitted,

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Dated: June 7, 2021

CERTIFICATE OF SERVICE

I hereby certify that I have on this day caused to be served a copy of the foregoing upon all parties on the service list in these proceedings in accordance with the requirements of Rule 2010 of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 385.2010 (2020).

Dated at Washington, D.C. this 7th day of June, 2021.

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