UNITED STATES OF AMERICA

BEFORE THE

FEDERAL ENERGY REGULATORY COMMISSION

Alabama Power Company Docket Nos. ER21-1111

Dominion Energy South Carolina, Inc. ER21-1112

Louisville Gas and Electric Company ER21-1114

Duke Energy Progress, LLC, Duke Energy Carolinas, LLC ER21-1115

Duke Energy Carolinas, LLC ER21-1116

Duke Energy Progress, LLC ER21-1117

Louisville Gas and Electric Company ER21-1118

Georgia Power Company ER21-1119

Kentucky Utilities Company ER21-1120

Mississippi Power Company ER21-1121

Alabama Power Company ER21-1125

Dominion Energy South Carolina, Inc. ER21-1128

**Motion to Consolidate and Protest of Public Citizen, Inc.**

Fourteen different electric utilities filed at least twelve separately docketed filings seeking permission from the Federal Energy Regulatory Commission to create a Southeast Energy Exchange Market Agreement under Section 205 of the Federal Power Act. Public Citizen requests the Commission to consolidate the twelve dockets. In addition, we protest the filing because the failure to include any non-utility stakeholders as voting members of the new Energy Exchange Market is unjust and unreasonable.

**About Public Citizen, Inc.**

Established in 1971, Public Citizen is a national, not-for-profit, non-partisan, research and advocacy organization representing the interests of household consumers. Public Citizen is active before FERC promoting just and reasonable rates, and supporting efforts for utilities to be accountable to the public interest. Our financial details are located on our web site.[[1]](#footnote-1)

**Motion to Consolidate**

The Commission can consolidate dockets to resolve common issues of law and fact in order to promote greater administrative efficiency, but typically does so only if a trial-type evidentiary hearing is required.[[2]](#footnote-2) It is important to note that FERC is not prevented from consolidating dockets that do not feature an evidentiary hearing, such as the case here.

Applicants argue against consolidation: “While the consolidation of dockets is not appropriate because the dockets involve different filings by different parties, the issues in the dockets are related, such that use of a single pleading across all dockets will allow all concerned to focus on substance, rather than the process of preparing multiple documents in parallel.”[[3]](#footnote-3)

But Applicants do not appreciate the administrative burden public interest intervenors face with participating in all of these separate dockets. There was no uniformity to the names of the filings, rendering eLibrary searches useless. We had to go docket-by-docket, as though looking for a needle in a haystack, to determine which filings were related to the new SEEM proposal. Forcing the various public interest intervenors—most of whom lack access to paralegals and other administrative legal staff to assist with tracking and preparing filings for twelve separate yet “related” proceedings—is difficult. Applicants have not demonstrated any harm that would occur from consolidating the SEEM dockets, while the benefits for administrative efficiency are great. We therefore urge the Commission to consolidate the twelve SEEM proceedings, since they involve factual circumstances that are identical in all material respects.

**Public Citizen Protest**

The fourteen utilities seeking to create a Southeast Energy Exchange Market have reserved all powers of administrative voting rights only among themselves. All other stakeholders, including consumer advocates, are shunted to the sidelines, with no voting rights and no opportunity to directly influence decision making within the Energy Exchange Market. Concentrating all management authority for the new market only among utilities is unjust and unreasonable, as the lack of balanced decision-making will lead to uncompetitive outcomes. The Commission should require a balanced voting membership that includes representatives of bona-fide consumer advocates, environmental organizations, and other public interest perspectives.

The Applicants detail how only utilities will have a say in how the market is run: only members have voting rights; members are limited to load serving utilities, and only members can serve on the membership board:

*The Members of the Southeast EEM will make all decisions through a Membership Board that is responsible for all significant issues and an Operating Committee that is responsible for day-to-day functioning of the Southeast EEM System.*[[4]](#footnote-4)

While the Energy Exchange Market features an “Administrator” to “implement, manage, and oversee operation of the Southeast EEM System”, the Administrator is selected by the voting Members, and serves at the pleasure of the voting Members.[[5]](#footnote-5) Other stakeholders—including consumer advocates—play no role whatsoever in selecting the Southeast EEM Administrator.

The Operating Committee, which “will handle day-to-day operations”, is “comprised of four representatives from the Members.”[[6]](#footnote-6) Again, no other stakeholders, including consumer advocates, have any representation on the Operating Committee.

The Applications describe a completely useless stakeholder engagement process that allows consumer groups and other critical stakeholders an opportunity **once a year** to provide non-binding feedback.[[7]](#footnote-7) The utilities have zero obligation to be responsive to these stakeholder comments. Because non-utility stakeholders have no voting rights whatsoever, the likely scenario is that the utility members will simply ignore whatever it is that consumer groups have to say at these annual events. This SEEM proposal will institutionalize the disenfranchisement of consumer groups, environmental groups and all non-member stakeholders in any and all Energy Exchange Market operations.

Respectfully submitted,

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1. [www.citizen.org/about/annual-report/](http://www.citizen.org/about/annual-report/) [↑](#footnote-ref-1)
2. *Startrans IO, L.L.C.*, 122 FERC ¶ 61,253, at 25 (2008). [↑](#footnote-ref-2)
3. Docket No. ER21-1111, at page 3. [↑](#footnote-ref-3)
4. Docket No. ER21-1111, at page 21. [↑](#footnote-ref-4)
5. Docket No. ER21-1111, at page 16. [↑](#footnote-ref-5)
6. Docket No. ER21-1111, at page 18. [↑](#footnote-ref-6)
7. Docket No. ER21-1111, at page 23. [↑](#footnote-ref-7)