



# Georgia Public Service Commission Electric Vehicles & the Territorial Act

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EV JOINT STUDY COMMITTEE

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CHAIRMAN TRICIA PRIDEMORE

# Regulatory Framework for the EV Ecosystem

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## FEDERAL

### Federal Regulation

- FERC regulates wholesale energy sales and **not** retail electric service, and as such, is **not involved** in the regulation of Georgia's provision of retail electric service to EV charging service providers
- FERC also does not regulate the provision of EV charging services



## STATE

### State Legislature Regulation

- **Title 46 of the Georgia Code**
  - » Electric service rates (tariff schedules and rates of the cost of service associated with EV infrastructure)
  - » Territorial Act

### State Regulators

- Georgia Public Service Commission (GPSC) jurisdiction and oversight

# GA PSC

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- Five elected Commissioners
  - Staff organized
    - Administrative – supports operations of GA PSC
    - Adversary – presents litigation position on cases
    - Advisory – policy assistance to commissioners
- The PSC regulates rates, territory, and oversees the IRP for Georgia Power and the 2.7M Georgians they serve
- The PSC regulates territory and financing for the EMCs
- The PSC regulates territory for municipal electric providers
- The PSC hears Territorial Act cases and adjudicates

# Territorial Act History

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## Overview:

- The Territorial Act (*O.C.G.A. §§ 46-3-1 – 46-3-15*) was adopted in 1973 to (1) assure the efficient provision of retail electric service, (2) inhibit duplication of power lines, (3) foster the extension of power lines so as to preserve the environment, and (4) protect lines lawfully constructed. *O.C.G.A. § 46-3-2*.
- The Act implements a plan whereby every area in the state is either assigned to an electric supplier or declared to be unassigned. It subjects all electric suppliers in Georgia to the requirements of the Act and grants the Commission the power to regulate and enforce the Act.

## Key Concepts Under the Territorial Act:

- Other key concepts under the Territorial Act are:
  1. An exception to territorial service rights that gives new customers with a load of 900 kW or greater the right to choose an electric supplier, (i.e. big box store)
  2. A “grandfather clause” that allows electric suppliers to continue serving premises they have previously served, regardless of their location, and
  3. The prohibition of discriminatory rates and tying arrangements.

## Application of the Territorial Act to the sale of electricity by those who are not electric suppliers:

- “Electric supplier” means any electric light and power company subject to regulation by the Commission, any electric membership corporation furnishing retail service in this state, and any municipality which furnishes such service within this state. *O.C.G.A. § 46-3-3(a)*.
- Some might argue that the exclusive rights conferred by the Territorial Act extend only against other “electric suppliers.” However, no court or Commission decision supports such a limited construction.

# Territorial Act Application for EV Charging Services

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- The Act specifically addresses the provision of retail electric service to “Premises,” and defines Premises as the **building, structure, or facility** to which electricity is furnished.
- A motor vehicle, which is inherently mobile and **not** attached to a fixed service point within an assigned service area, has never been characterized as a Premises.
- Accordingly, because **EV charging service** is not provided to a Premises, but rather, to a transient motor vehicle, EV charging service does not constitute the provision of retail electric service. **Nor has any court ever found the provision of EV charging service to constitute the provision of retail electric service.**
- Georgia Power has provided retail electric service to EV charging service providers (e.g., Tesla, Electrify America) for **many years** and **never claimed** that their provision of EV charging services violates the Territorial Act. We believe this interpretation is consistent with other Georgia electric suppliers’ positions.
- EV charging service providers exist across the country, and we are not aware of *any* PSC that has determined that the provision of EV charging services constitutes the provision of retail electric service.

# Territorial Act Benefits to State of Georgia

## Regulated Market Structure

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Lower Rates

Increased Reliability

Economic Development

# Lower Rates

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- **Regulated vs Unregulated Market Price Comparison (Based on 2020 EIA Data):**

- 18 states (including Washington, DC) have deregulated residential electric service markets
- Nationwide, the price per kWh is 27% higher in deregulated states (44% higher in investor-owned utilities)
- In the region that includes Georgia, deregulated states are 5% higher in their cost per kWh for residential customers than regulated states in the same area. (Deregulated states: Delaware, Virginia, Maryland, and D.C.)
  - In Texas, the most deregulated state, the price per kWh is 18% higher than other regulated states in the region

- **Regulated Market Benefits:**

- In a regulated market, the utility commission is responsible for considering the public good, which includes fair allocation of cost recovery, safety, reliability, and energy conservation – objectives which may be in conflict with a competitive market.
  - In a fully deregulated system, such as Texas, there is no reward for reserve capacity, leading to a thin margin of error that can be overwhelmed in a crisis. With this market structure, utilities are not incentivized to prepare for the worst-case scenarios and reliability can suffer.
- Regulated markets work to keep prices stable:
  - Deregulated states where utilities are required to divest their generating assets and rely on the wholesale market, customers have experienced wild price swings and market manipulation.
  - Deregulated states that also do not require utilities to divest generating assets, providers often control their prices instead of responding to competition.
- There does not appear to be tangible benefits to deregulation where utilities experience constructive regulation, rates are affordable, and innovative solutions such as renewable energy growth are being pursued with the regulating body's encouragement.

# Lower Rates cont.

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## •TOU-RD-6

- Basic Service Charge: \$0.4603 per day
- On-Peak kWh: \$9.6052 per kWh
- Off-Peak kWh: \$1.0268 per kWh
- Demand Charge
  - Maximum kWh: \$8.21 per kW

## •TOU-REO-13

- Basic Service Charge: \$0.4603 per day
- On-Peak kWh: 20.3217¢ per kWh
- Off-Peak kWh: 5.1638¢ per kWh

## •TOU-PEV-9

- Basic Service Charge: \$0.4603 per day
- On-Peak kWh: 20.3217¢ per kWh
- Off-Peak kWh: 6.9728¢ per kWh
- Super Off-Peak kWh: 1.4993¢ per kWh



# Increased Reliability

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- **Reliability Market Comparison:**

- Compared to other markets, in 2021 the average Power Quality and Reliability satisfaction score of utilities in the Southeast region ranked first in the residential and first in the business segment as measured by the J.D. Power 2021 Electric Utility Residential Satisfaction Study<sup>SM</sup> and J.D. Power 2021 Electric Utility Business Satisfaction Study<sup>SM</sup>. (Study participants included MISO, PJM, Southwest Power Pool, ERCOT, etc.)
  - Power Quality & Reliability is a measure of providing quality electric power (in terms of spikes, drops, or surges), supplying electricity during extreme temperatures, avoiding brief and lengthy outages and, when an outage occurs, promptly restoring power all while keeping customers informed about the outage.

- **Reliability Focus:**

- Georgia Power Company considers both reliability and economics in its reliability (reserve margin) studies often resulting in a higher level of reliability or target reserve margin than other areas.
  - The Territorial Act enables Georgia's electric suppliers, using its defined territory, to be able to plan for future economic growth.
- The Georgia PSC has a “line of sight” over all aspects of reliability for Georgia Power Company
  - Georgia Power Company is a vertically integrated utility meaning the GA PSC has purview and jurisdiction over all aspects of reliable service to customers: Generation, Transmission, Distribution.

- **PSC cases in 2016 and 2019 laid the ground work for successful EV generation and transmission needs.**

# Increased Reliability cont.

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- In 2019 EV program costs were included in retail rate base and operating income for Georgia Power
- The Commission Order in the 2019 Georgia Power Rate Case (for the years 2020-2022) approved what is now referred to as “EV Make-Ready” - *“provides that funds for electric vehicle infrastructure will be allowed as proposed by the Company with an additional \$6 million per year to be invested in support of wire and transformer upgrades for customer sited charging stations.”*
- “EV Make Ready” gives priority to “desert charging”
- Georgia Power and Southern Company can make EV investments outside of the rate base in competitive markets without Commission approval
- Georgia Power’s 2022 Rate Case is ongoing with a decision by the GA PSC to be rendered in December
  - At the filing, 69 public charging stations
  - At the filing, 187 Georgians prepared for EV “make ready” charging, 512 applications = 45.21 mW

# Economic Development

- In Georgia, electric suppliers (municipal's, EMCs and Georgia Power) work together with the state Department of Economic Development to attract business across the entire state of Georgia.
- The Territorial Act and specifically the Customer Choice provision of the Act has been an important tool for economic development in the state.
  - Having the one-time choice of electric supplier is a valuable consideration for large companies that want to ensure they are getting the most value and best reliability for their energy dollar.
- Georgia has been voted “**Top State for Doing Business**” for the last 8 years running.
  - Large Corporation's that have utilized the Customer Choice provision of the Territorial Act and invested in Georgia include:
    - Hyundai - \$5.54 billion investment - 8,100 jobs
    - Rivian - \$5 billion investment - 7,500 jobs
    - Microsoft - \$1.3 billion investment - 2,000+ jobs
    - Jack Links - \$450 million investment - 800 jobs
    - Amazon - \$260 million investment - 1,000 jobs

