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TRICIA PRIDEMORE



REECE McALISTER
EXECUTIVE DIRECTOR

SALLIE TANNER
EXECUTIVE SECRETARY

Georgia Public Service Commission

(404) 656-4501
(800) 282-5813

244 WASHINGTON STREET, SW
ATLANTA, GEORGIA 30334-5701

FAX: (404) 656-2341
psc.ga.gov

DOCKET NO. 45084

IN RE: GEORGIA POWER COMPANY'S CARES 2023 UTILITY SCALE RENEWABLE REQUEST FOR PROPOSALS

ORDER APPROVING REQUEST FOR A BID REFRESH AND RULE WAIVER, REVISED BATTERY REQUIREMENTS, AND ACCOPMANYING MODIFICATIONS TO THE CARES 2023 US RFP

On May 23, 2024, Georgia Power Company ("Georgia Power" or "Company") filed a request for Georgia Public Service Commission's ("Commission") approval on an expedited basis for a bid refresh process and Commission rule waiver, revised battery requirements, and modifications to the Clean and Renewable Energy Subscription ("CARES") 2023 Utility Scale ("US") Request for Proposals ("RFP"). The Company is seeking these requests to address concerns of unknown industry changes from recently announced tariffs on bifacial solar modules and lithium-ion non-electrical vehicle ("EV") batteries as well as heightened reliability risks associated with foreign-made battery components. The Company's filing included requests for approval of the following items:

1. Waiver of Commission Rules 515-3-4-.04(3)(e)(1)(ix) and 515-3-4-.04(3)(e)(4).
2. Proposed bid refresh process that would allow Competitive Tier bidders who have paid bid security to: (1) extend the commercial operation date ("COD") of a proposed Facility up to November 30, 2029; (2) modify the bid price; or (3) both.
3. Modification to each of the applicable Pro Forma contracts to include revised requirements for Battery Energy Storage Systems ("BESS").

The Commission's December 19, 2023 Order in this docket approved the Final CARES 2023 US RFP and Pro Forma contracts. The CARES 2023 US RFP initially sought to procure 2,875 megawatts ("MW") of renewable resources, with anticipated in-service dates of 2026, 2027, or 2028. Bids were due on February 12, 2024. The Competitive Tier was identified by Georgia Power, Commission Staff ("Staff") and the Independent Evaluator ("IE") and finalized on April 10, 2024. Noncompetitive bids were subsequently released from consideration. On April 29, 2024, due to uncertainty of whether the solar tariffs would be reinstated, Georgia Power, in consultation with Staff and the IE, extended the bid security due date to June 14, 2024, to allow bidders more time to review the potential impact of the tariffs on their bids.

On May 16, 2024, the White House announced that the Biden-Harris Administration will take steps to remove a bifacial solar module exclusion under Section 201 of the U.S. Trade Act of 1974 ("Trade Act"), which previously excluded bifacial solar panels from a 15% tariff on imports from Southeast Asia. This reinstatement comes just one day after the administration announced an increase to tariff rates under Section 301 of the Trade Act, as applied to (i) imported Chinese solar cells and modules, which will increase from 25% to 50% in 2024, and (ii) imported Chinese lithium-ion non-EV batteries, which will increase from 7.5% to 25% in 2026.

While the actual impact of these tariffs on the industry is still unknown, Georgia Power, in its filing, states concern about how these changes in law may impact the CARES 2023 US RFP considering that bids have already been received and the projects remaining in the Competitive Tier are required to post bid security on June 14, 2024. Georgia Power polled bidders participating in the CARES 2023 US RFP seeking feedback on whether the reinstatement of solar tariffs would impact the bids submitted into the CARES 2023 US RFP. Based upon their feedback, approximately 60% of bids could be impacted.

In its May 23, 2024 filing, the Company states to address heightened reliability risks associated with including certain foreign-made battery components within projects connected to the Company's electric system, revised BESS requirements are needed. The Company requested to include the following language in each of the applicable Pro Forma contracts from the CARES 2023 US RFP:

> "For all Battery Energy Storage Systems (BESS) submitted as part of the "CARES 2023 Utility Scale RFP", all components of the Battery Management System (BMS), BESS Controller, and Site Controller (including controls, hardware and software) shall be sourced from and manufactured domestically or by our allied nations and shall not include components sourced from or manufactured by entities affiliated with or located in China, Russia, North Korea, Saudi Arabia, Serbia, Algeria, Venezuela, Iran, Iraq, Belarus, Kazakhstan, Kyrgyzstan, Uzbekistan, Syria, Lebanon, South Sudan, Pakistan, Cuba, and the Netherlands."

The CARES 2023 US RFP document, as originally filed and approved, did not contemplate the use of a refreshed bid process. Therefore, a waiver to Commission Rule 515-3-4-.04(3)(e)(1)(ix) is required. Additionally, Georgia Power requested that as part of the bid refresh, that bidders be permitted to modify their bid prices by either decreasing or increasing their original bid price. Therefore, a waiver to Commission Rule 515-3-4-.04(3)(e)(4) is required to allow bidders to make such modifications.

Staff met with the Company several times to understand the potential impacts of the solar tariffs on the current CARES 2023 US RFP bids and the likelihood that the Company will be able to procure the MWs sought through the CARES 2023 US RFP.

The Company's request to modify the BESS requirements in each of the applicable CARES 2023 US RFP Pro Forma contracts was discussed extensively at the Energy Committee meeting held on May 30, 2024. Advanced Power Alliance ("APA"), Southern Environmental Law Center ("SELC"), Georgia Power and Staff agreed to attempt to resolve any concerns with the proposed BESS requirements prior to the June 6, 2024 Administrative Session. The Company provided revised BESS language to the parties on May 31, 2024. After review of the revised BESS language, there was additional feedback provided to the Company. On June 5, 2024, the Company provided the following BESS requirement language for the parties to consider:

> "For all Battery Energy Storage Systems (BESS) submitted as part of the "CARES 2023 Utility Scale RFP," programmable electronic components of the (i) Battery Management System (BMS), (ii) BESS Controller, and (iii) Site Controller (including controls, hardware and software) shall not be sourced from or manufactured by Foreign Entities of Concern ("FEOC") as defined in 42 U.S.C. § 18741(5) and subsequently interpreted in "Interpretation of Foreign Entity of Concern," 89 Fed. Reg. 37085 (May 6, 2024) or sourced from or manufactured in one of the following countries: China, Russia, North Korea, Saudi Arabia, Serbia, Algeria, Venezuela, Iran, Iraq, Belarus, Kazakhstan, Kyrgyzstan, Uzbekistan, Syria, Lebanon, South Sudan, Pakistan, and Cuba. For purposes of this provision, the terms Battery Management System, BESS Controller, and Site Controller are defined as follows:
>
> - Battery Management System (BMS): A control system used to protect the battery and to provide key parameters, such as state of charge, battery health, and temperature.
> - BESS Controller: A controller used to manage multiple stacks or arrays of batteries. This controller manages the balancing of the batteries.
> - Site Controller: A control system used to manage one or more sources (Photovoltaic solar, batteries, etc.) to achieve facility level control."

Staff recommended approval of Georgia Power's requested Commission Rule waivers and bid refresh process. This process will allow bidders to both increase or decrease their bid price and/or extend their COD of a proposed Facility to November 30, 2029. Although a bidder may be allowed to source its panels or battery components differently, Staff further recommended that all originally submitted production output profiles are not allowed to be modified.

Regarding the revised BESS language provided by the Company on June 5, 2024, in response to the concerns voiced by parties at the Energy Committee held on May 30, 2024, Staff recommended approval of the revised BESS language.

At its June 6, 2024, Administrative Session, the Commission adopted a motion by Commissioner Pridemore to amend Staff's recommendation to include the Netherlands in the list of countries in the first paragraph of the BESS requirement language.

The Commission approved Staff's recommendation as amended at the June 6, 2024, Administrative Session.

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WHEREFORE IT IS ORDERED, that Georgia Power Company's request for a bid refresh process and rule waiver, revised battery requirements as amended by Commission Pridemore's motion, and accompanying modifications to the CARES 2023 US RFP are hereby approved.

ORDERED FURTHER, that all originally submitted production output profiles submitted in the CARES 2023 US RFP are not allowed to be modified.

ORDERED FURTHER, that all findings, conclusions, statements, and directives made by the Commission and contained in the foregoing sections of this Order are hereby adopted as findings of fact, conclusions of law, statements of regulatory policy, and orders of this Commission.

ORDERED FURTHER, that a motion for reconsideration, rehearing, or oral argument or any other motion shall not stay the effective date of this Order, unless otherwise ordered by the Commission.

ORDERED FURTHER, that jurisdiction over this matter is expressly retained for the purpose of entering such further Order or Orders as this Commission may deem just and proper.

The above by action of the Commission in Administrative Session on the 6th day of June, 2024.

Sallie Tanner
Executive Secretary

6-13-24
Date

Jason Shaw
Chairman

6-13-24
Date