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August 23, 2024

Ms. Sallie Tanner
Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334-5701

Re: Proposed Implementation of the Commission's August 21, 2024 Order Granting Southern Environmental Law Center's Motion for Reconsideration regarding BESS Requirements for Georgia Power RFPs; Docket Nos. 45084, 55268, 55763

Dear Ms. Tanner:

Georgia Power Company ("Georgia Power" or "Company") makes this compliance filing with the Georgia Public Service Commission ("Commission") for approval of its proposed plan to implement the Commission's August 21, 2024 Order Granting Southern Environmental Law Center's Motion for Reconsideration. The Commission's Order makes certain revisions to the Company's Battery Energy Storage Systems ("BESS") Requirements for all active and future requests for proposals ("RFP") soliciting BESS, which include but are not limited to the CARES 2023 Utility Scale RFP, All-Source RFP, and Winter 2027_2028 BESS RFP. Thus, the Company files its proposed implementation plan and impacted RFP documents as revised.

At its administrative session on August 6, 2024, the Commission considered Southern Environmental Law Center's Motion for Reconsideration of the Commission's June 13, 2024, Order approving Georgia Power's revised BESS Requirements in Docket No. 45084.[1] Chairman Shaw made a motion to remove the Netherlands from the list of restricted countries included in the revised BESS requirements language, which was approved. As such, the final "BESS Requirements" for the CARES 2023 US RFP will read as follows and similar language will be included in each active and future RFP seeking BESS resources:

> 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,

[1] *Order Approving Request for a Bid Refresh and Rule Waiver, Revised Battery Requirements, and Accompanying Modifications to the CARES 2023 US RFP*, Georgia Public Service Commission, Docket No. 45084 (June 13, 2024).

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.

In addition, the Commission also approved an amendment to the motion that in the event of any terrorist action, cyber security, or mechanical failure as a result of sourcing equipment from the Netherlands, that the supplier of the material or part will be responsible for any and all cost to Georgia Power and their customers. Given the context of the underlying motion, Georgia Power interprets this amendment to require that if any cost is caused by a terrorist act, cyber security incident, or mechanical failure that results from any programmable electronic component of a Battery Management System, BESS Controller, or Site Controller sourced from the Netherlands, the counterparty with whom GPC is contracting under the applicable RFP will be responsible for all damages allowed under Georgia law to Georgia Power or its customers.

To implement this requirement, Georgia Power proposes to amend each impacted pro forma BESS contract in the CARES 2023 Utility Scale RFP, All-Source RFP, and Winter 2027_2028 BESS RFP[2] as follows:

- The Schedule of Defined Terms will be revised to include:
  - **Restricted Equipment**[3]: Any programmable electronic component of a BMS, BESS Controller, or Site Controller sourced from the Netherlands.

[2] The pro forma contracts that will be modified are as follows:

- CARES 2023 Utility Scale Request for Proposals for Renewable Generation:
  - Energy with Storage Power Purchase Agreement
  - Carbon-Free Energy Around-the-Clock (CFE-ATC) Power Purchase Agreement
- All-Source Capacity Request for Proposals for 2029-2031:
  - Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from a Standalone Energy Storage System
  - Power Purchase Agreement for Firm Capacity, Associated Energy, and Ancillary Services from an Energy Storage System with Renewable Resource
  - Build Transfer Agreement
- Winter 2027_2028 Battery Energy Storage System Request for Proposals:
  - Power Purchase Agreement for Firm Capacity, Energy Storage Services, and Ancillary Services from a Battery Energy Storage System
  - Build Transfer Agreement

[3] Defined as "Restricted BESS Equipment" in the pro forma BTA.

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- **Restricted Equipment Claim**[4]: Any Claim arising from a terrorist act, Cyber Security Incident, or mechanical failure resulting from Restricted Equipment.

- The pro forma contract section titled *Force Majeure Exclusions* will be revised to include a new subpart that excludes any terrorist act, Cyber Security Incident, or mechanical failure resulting from Restricted Equipment.
- The pro forma contract section titled *Waiver of Consequential Damages* will be revised to except any Restricted Equipment Claim from the waiver.
- The pro forma contract section titled *Remedies for Events of Default* or *Remedies on Default*, as applicable, will be revised to confirm that any amount owed for Restricted Equipment Claims will be in addition to any Termination Payment.
- Pro forma BTA section titled *No Breaches* will be revised to create an inline definition for "Cyber Security Incident."

A revised version of each impacted RFP and pro forma contract has been included as an Attachment to this filing.

The Company will take commercially reasonable efforts to enforce these provisions as stated herein and within the contracts certified by the Commission. The Company will consult with the Commission and Staff as necessary regarding the recovery of costs from the counterparty with whom GPC is contracting under the applicable RFP. Georgia Power may seek Commission approval to recover in rates any prudently incurred cost to serve retail customers that the Company is unable to recover from the contract counterparty.

Georgia Power requests Commission (i) confirmation that the above modifications as proposed comply with the Commission's August 21, 2024 Order, and (ii) approval of the revised pro forma contracts as modified.

Best regards,

Allison W. Pryor

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[4] Defined as "Restricted BESS Equipment Claim" in the pro forma BTA.