BEFORE THE

GEORGIA PUBLIC SERVICE COMMISSION

In Re:	)	
	)	
Capacity and Energy Payments	)	**Docket No. 4822**
to Cogenerators Under PURPA	)	

GEORGIA POWER COMPANY'S RESPONSE TO RGP BOWMAN SOLAR, LLC'S SUPPLEMENT AND ERRATA TO MOTION FOR RECONSIDERATION

COMES NOW Georgia Power Company ("Georgia Power" or the "Company") and hereby responds to RGP Bowman Solar, LLC's ("Bowman") Supplement and Errata to Motion for Reconsideration (the "Supplement") filed December 23, 2024. The Supplement introduces a new legal argument as it attempts to build upon the previously filed Motion for Reconsideration (the "Motion") of the Georgia Public Service Commission's (the "Commission") Order Denying RGP Bowman Solar, LLC's Request to Initiate a Procedural and Schedule Order to Determine the Reasonableness of Interconnection Costs (the "Order") dated November 26, 2024. Yet again, the Supplement relies on inapplicable Commission precedent and misapplies the relevant law in a misguided attempt to relitigate settled interconnection cost allocation policy. For the reasons set forth herein, the Commission should deny the Motion.

I. ARGUMENT

Bowman's last-ditch effort to reclassify its motion as a contested case amounts to nothing more than an exercise in futility, contradicting the plain terms of its own Petition and lacking any credible legal foundation.

A. *Bowman's Supplement Raises a New Legal Argument Beyond the Deadline for Filing a Motion for Reconsideration.*

For the first time, in its "Supplement," Bowman argues that a hearing on Bowman's Petition is required by O.C.G.A. § 50-13-13. Notwithstanding that the argument is legally incorrect, it was not previously raised in Bowman's Motion for Reconsideration and is therefore untimely. Raising a new argument under the guise of a "supplement" does not render the argument timely, and it should be rejected as it was filed beyond the deadline for motions for reconsideration.

B. *Bowman has No Right to an Evidentiary Hearing on a Motion for a Declaratory Ruling.*

Georgia's Administrative Procedure Act clearly differentiates between a contested case and a declaratory ruling.[1] This is not a contested case. A contested case is defined as "a proceeding, including, but not restricted to, rate making, price fixing, and licensing, in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after an opportunity for hearing."[2] There is no rule or law that gives parties the right to a hearing on the reasonableness of assigned interconnection costs. As such, Bowman's request for Commission review and relief is not, by definition, a contested case.

Instead, Bowman's request is a request for a Declaratory Ruling. In giving declaratory rulings "the same status as agency decisions or orders in contested cases," the final line of O.C.G.A § 50-13-11 distinguishes declaratory rulings from other agency proceedings, specifically delimiting contested cases as discrete matters before agencies. While the General Assembly

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[1] *Compare* O.C.G.A. § 50-13-11 (requiring agencies to provide rules for the filing and prompt disposition of declaratory rulings) *with* O.C.G.A. § 50-13-13 (establishing additional procedural guidelines for hearings in contested cases).

[2] O.C.G.A. § 50-13-2(2).

provided certain procedural guidelines for contested cases, it explicitly cedes to the agency all authority to dispose of petitions for declaratory rulings at its discretion.[3]

In promulgating Commission Rule 515-2-1-.12, the Commission complied with the mandate of O.C.G.A. § 50-13-11, establishing clear standards for the form of, service of, and proceedings on such petitions for declaratory judgment. The Rule explicitly states that "[i]f there is no dispute with respect to any material fact, **and unless the Commission so orders**, no evidentiary hearings shall be held."[4] Because the General Assembly authorized the Commission to establish this Rule, and the plain text grants the Commission discretion over the necessity of evidentiary hearings, there can be no doubt that no statutory right to an evidentiary hearing on a petition for declaratory ruling exists. Further, the Commission has specifically denied Bowman's request for evidentiary hearing.

Bowman's intention to file a petition for declaratory ruling is readily apparent from the Petition's title, its opening line, its statement of jurisdiction, and the eight instances where it describes the relief it seeks.[5] The Petition as originally filed makes no mention of a "contested case," nor does it invoke the statutory authority of O.C.G.A. § 50-13-13. Simply re-framing Bowman's relief sought as a "contested case" does not change the fact that the Petition plainly seeks a declaratory ruling pursuant to O.C.G.A. § 50-13-11 and Commission Rule 515-2-1-.12, rather than initiating a contested case under Georgia law. Bowman's dissatisfaction with the

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[3] O.C.G.A. § 50-13-11.

[4] GA. COMP. R. & REGS. 515-2-1-.12(c) (emphasis added).

[5] Emergency Petition of RGP Bowman Solar, LLC for Extension of Time and Petition for Declaratory Ruling on Interconnection Costs for a Qualifying Facility, *In re: Capacity and Energy Payments to Cogenerators Under PURPA*; Docket No. 4822 (April 26, 2024).

Commission's Order does not grant it license to reclassify the Petition as something it is not and was never intended to be. For this reason, the Commission should deny the Motion.

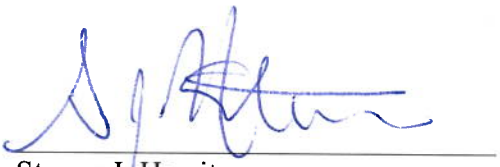
C. *The Existence of Alleged Precedent Interpreting an Unrelated Statute in an Unconnected Proceeding Cannot Transform a Petition for Declaratory Ruling into a Contested Case.*

In support of its argument, the Supplement relies on procedural language from two previous telecommunications disputes before the Commission with no apparent connection to the present matter. The precedents cited, Docket Nos. 20942 and 27830, involve proceedings under the Telecommunications Act of 1996, an entirely different statutory and regulatory framework, and the exercise of wholly different authority of this Commission than the matters at issue in this case. Significantly, the Telecommunications Act of 1996 specifically authorizes state utility commissions to decide the issues presented in petitions for arbitration of interconnection agreements. As such, unlike Bowman's request for declaratory ruling, these telecommunication cases meet the definition of a contested case. Each of the referenced telecommunication cases has a nexus to a law that requires the legal rights, duties, or privileges of a party to be determined by an agency after an opportunity for hearing. The same is not true for Bowman's request for declaratory relief, and the mere use of the term "interconnection" in both contexts does not create a substantive link between otherwise unrelated statutes or proceedings, nor does it create legal rights not otherwise afforded under the law. For this reason, the Commission should deny the Motion.

II. CONCLUSION

For the reasons set forth above, the Commission should reject the "Supplement" and deny Bowman's Motion for Reconsideration.

Respectfully submitted, this 6th day of January, 2025.



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