STATE OF GEORGIA

BEFORE THE

GEORGIA PUBLIC SERVICE COMMISSION

Re:

Georgia Power Company's 2025 Integrated Resource Plan and	))	Docket No. 56002
Georgia Power Company's 2025 Application for the Certification, Decertification and Amended Demand Side Management Plan	))))	Docket No. 56003

RESPONSE TO GIPL AND SOUTHFACE'S MOTION CHALLENGING GEORGIA POWER COMPANY'S TRADE SECRET ASSERTIONS

INTRODUCTION

On January 31, 2025, Georgia Power Company ("Georgia Power" or the "Company") filed its 2025 Integrated Resource Plan ("IRP") and Application for the Certification, Decertification, and Amended Demand Side Management Plan ("DSM Application") with the Georgia Public Service Commission (the "Commission") in Docket Nos. 56002 and 56003. Included in the Company's 2025 IRP filing are Technical Appendices 1 through 3, which were filed in both trade secret and public disclosure versions. Accompanying the IRP filing, the Company provided verified trade secret assertions identifying the trade secret information, describing the economic harm to customers and the Company that would potentially result from the disclosure of such information, and the Company's processes for limiting access to such information.

Over three months later, on May 21, 2025, Georgia Interfaith Power and Light and Southface Energy Institute ("GIPL & Southface"), joint intervenors in Docket Nos. 56002 and

56003, filed a Motion Challenging Georgia Power's Company's Trade Secret Assertions (the "Motion"). GIPL & Southface allege that the Company has not met its burden of proof that certain components of the Company's initial filing, as well as the response to Hearing Request ("HR") 1-2, are trade secret pursuant to this Commission's rules.[1] As explained more fully below, the Company's trade secret designations are valid and fully supported by the accompanying assertions, as required by this Commission's rules. Disclosure of the information in question would subject the Company to potential or actual economic harm. After further review, however, the Company has determined that it can release limited trade secret designations related to the documents identified in the Motion as Exhibits 6A and 7A, as set forth below. Accordingly, except for that limited release of information, Georgia Power requests that the Commission deny GIPL & Southface's Motion and preserve the trade secret protections as identified by Georgia Power to protect the Company and its customers from economic harm.

ARGUMENT

A. Legal Standard

Commission Rule 515-3-1-.11(7) governs the filing of trade secretion information with the Commission and requires, at the time of filing, that the utility "provide by written affidavit the legal and factual basis for its assertion that the protected information is a trade secret and should not be disclosed[.]" Rule 515-3-1-.11(7)(c). This requirement includes, for each item claimed to be a trade secret:

> (1) Why the information derives economic value from not being generally known to others;
> (2) How others can obtain economic value from its disclosure; and
> (3) Procedures utilized by the affected party or utility to maintain its secrecy[.]"
>
> *Id.*

[1]These components of the Company's initial filing as well as HR 1-2 are included in public disclosure form as Exhibits 2A, 3A, 4A, 5A, 6A, 7A, and 8A to the Motion.

The Commission broadly defines a trade secret as

> Information . . . which is not commonly known by or available to the public and which information:
>
> > (A) Derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and
> >
> > (B) Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

O.C.G.A. § 10-1-761(4) (as adopted by Commission Rule 515-3-1-.11(1)). Consistent with the spirit of the Commission's rules, the Company has agreed to provide intervening parties in contested cases access to requested trade secret information upon the execution of a confidentiality agreement.[2]

B. Georgia Power Company's trade secret information should remain protected.

When Georgia Power filed its 2025 IRP and supporting Technical Appendices on January 31, 2025, and HR 1-2 on April 3, 2025, it included verified trade secret assertions consistent with this Commission's rules.[3] GIPL & Southface now broadly argue that the Company's trade secret assertions (a) did not demonstrate economic harm, (b) did not identify how and which competitors could obtain economic value from the information, and (c) that the Company did not demonstrate that adequate protections are in place to maintain the secrecy of the information. These allegations are unfounded, as demonstrated in turn below.

1. <u>Georgia Power has established actual or potential economic harm that would result from the disclosure of its trade secret information.</u>

GIPL & Southface's Motion repeats several unsupported arguments regarding each of the challenged exhibits. While the Company responds to the specific allegations in greater detail

[2] Commission Rule 515-3-1-.11(4).
[3] The Company's verified trade secret assertions are included as Motion Exhibits 2B through 8B.

below, Georgia Power addresses certain repeated allegations at the outset. The Company has met its burden of proof to demonstrate why the trade secret information derives economic value from not being generally known to others. The Company is not required to demonstrate *actual* harm. Indeed, trade secret information is defined as that which "is not commonly known by or available to the public and which information . . . [d]erives economic value, *actual or potential*, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use[.]"[4] As demonstrated in the Company's trade secret assertions and detailed in response to specific exhibits identified in the Motion below, Georgia Power has satisfied this burden.

2. Georgia Power faces a number of competitors in Georgia and across the country.

A significant position underpinning GIPL & Southface's Motion is the notion that Georgia Power does not experience competition because the Company is the only regulated electric utility in the state. This argument is entirely misplaced. While Georgia Power is the only rate-regulated public electric utility in Georgia, there are 41 Electrical Membership Corporations and 52 municipalities that supply retail electric service within the state of Georgia. In addition, Georgia Power also competes with and serves alongside separate wholesale power suppliers that operate in the state. The Company directly competes with these entities for the ability to serve customer choice customers—those eligible to choose their electric supplier under the Georgia Territorial Electric Service Act.[5] But that is not all. In the current energy landscape where there is significant load growth across the country, Georgia Power is not only competing in state for customer choice opportunities but is competing with out-of-state electric utilities to bring business to Georgia.

[4] O.C.G.A. § 10-1-761(4) (emphasis added).
[5] *See* O.C.G.A. §§ 46-3-1 – 46-3-15.

These efforts have contributed to Georgia's continued recognition as the Number One state for business.[6] GIPL & Southface incorrectly limit the Company's competition to the state of Georgia with no basis.

In addition to competing against peer and other out-of-state utilities for retail electric customers, Georgia Power is also competing against retail and wholesale electric utilities in RFPs and for equipment, materials, and skilled labor. Certain trade secret information that GIPL & Southface seek to publicly disclose would result in economic harm in the form of higher prices and/or less favorable conditions if leveraged by a competing entity against the Company. In *Vito v. Inman*,[7] as cited in the Motion, the Georgia Court of Appeals held that the economic harm in question had to be related to the field or industry of the party asserting the privilege.[8] That is precisely the type of competitor from which the Company seeks to protect its trade secret information—entities engaged, in part or in full, in the provision of electric service. GIPL & Southface's contention that the Company has no relevant competitors simply because it is a regulated monopoly does not hold water.

3. <u>The Company takes adequate and reasonable efforts to protect its trade secret information.</u>

Finally, the Company maintains reasonable internal protections surrounding its trade secret information. This includes limiting access and providing such information to employees only on a need-to-know basis. These internal protections involve internal employee trainings on records management and data privacy and protection as well as IRP-specific training on confidential

[6] *Georgia Chamber Celebrates Georgia's Unprecedented Eleven-Year Streak as Number One State to Do Business*, Georgia Chamber of Commerce (September 13, 2024), https://www.gachamber.com/news/georgia-chamber-celebrates-georgias-unprecedented-eleven-year-streak-as-number-one-state-to-do-business/.
[7] 286 Ga. App. 646, 650 (2007) (determining that a lawyer and podiatrist were not in the same field and therefore not competitors).
[8] *Id.*

information each IRP filing year. Information stored on Company drives is managed on a departmental basis to prevent unauthorized access and to track any individuals who are granted separate access. The Company also uses both physical and virtual "walls" to keep trade secret information protected internally. For example, resource planning information is physically and virtually separated from Southern Power employees. Information related to Requests for Proposals ("RFPs") is physically and virtually separately from those on Company-Owned Proposal teams. Georgia Power also restricts and monitors access to certain floors and areas where trade secret information is stored by requiring express approval and employee badge swipes. To access trade secret information identified as Critical Energy Infrastructure Information ("CEII"), employees undergo a separate background check and clearance process. CEII information is also physically and virtually separated (e.g., elevators to Transmission Planning areas are badge protected).

When trade secret information is requested and provided to a party in a contested proceeding pursuant to a confidentiality agreement, such as the IRP, it is hosted and shared via a secure, password-protected ShareFile or FTP site that requires individualized credentials to access. The Company clearly identifies trade secret information in its documentation as files are provided to parties and the Commission with "Trade Secret" or "Public Disclosure" in the file name and document headers with trade secret information highlighted in yellow.

The Georgia Code directs that trade secret information be "the subject of efforts that are reasonable under the circumstances to maintain [the trade secret's] secrecy."[9] Georgia Power provides significant amounts of data to Staff and intervening parties through the IRP proceeding and in response to discovery requests pursuant to the reasonable procedures outlined above. It also implements reasonable internal protections to ensure that trade secret information is appropriately

[9] O.C.G.A. § 10-1-761(4).

handled and accessed. The Company has met its burden to demonstrate that the information is subject to reasonable efforts to maintain its secrecy.

C. Georgia Power will risk economic harm if it is forced to release the trade secret portions of Exhibits 2A - 8A.

The Company now responds to the specific allegations for GIPL & Southface's Exhibits 2A through 8A in turn.

Exhibit 2A: *Cost Information in the Company's "2025 IRP Financial Review"*

The Company should not be forced to publicly disclose its revenue requirement information provided in the 2025 IRP Financial Review. GIPL & Southface are seeking public disclosure of the Company's forecasted cost information, including the AFUDC, inflation adjustment, and cost of debt, among other things. The trade secret information provided in the 2025 Financial Review, combined with other publicly available information, would provide competitors with the total production costs of existing assets as well as fixed and variable costs of the Company's assumptions. With this information, competitors could manipulate RFP proposals, seeking a higher price and resulting in increased costs to the Company and customers.

Exhibit 3A: *Table 7.2.1 Budget 2025 External Peak Adjustments for Large Loads from "Load and Energy Forecast"*

Table 7.2.1 contains the output of the Company's proprietary Load Realization Model, which the Company should not be required to release publicly. If the details contained in Table 7.2.1 were publicly disclosed, competitors for customer choice projects would have the Company's proprietary modeling and forecasting data, including its materialization assumptions and project-specific risk adjustments. Competitors could then use the Company's adjustment to better plan for or price their ability to serve potential customer choice loads, thereby undermining the Company's

market position. Competitors may use this information to inform whether or not to bid in or compete for certain customer choice projects based on the information, further disrupting the market. In addition, potential customers could also leverage the information during customer choice negotiations to the detriment of the Company, resulting in lower or no revenue to the Company, which means reduced benefit to Georgia Power and existing customers from winning customer choice projects. Any and all of these outcomes would result in economic harm to the Company and ultimately to its customers.

Exhibit 4A: *Attachment 6.0-2: Winter Coincident Demand with Adjustments MW from "Load and Energy Forecast"*

The Company should not be forced to publicly disclose Attachment 6.0-2. The trade secret class level peak values provided in Attachment 6.0-2, once combined with other publicly available information such as total peak by year, announced loads by year, and other class and segment information, can be used to determine the class-level peak demand information by year to approximate Georgia Power's risk-adjusted load forecast (including by class). As explained in response to **Exhibit 3A** above, competitors could leverage the class-level information to inform and manipulate their offers to potential commercial and industrial customer choice customers, undermining the Company's market position and potentially resulting in Georgia Power's loss of customer choice projects and the resulting revenues and downward pressure on rates they provide.

Exhibit 5A: *Information requested by GIPL & Southface in "HR-1-2" (megawatts by fuel type of the resources that are still in the Competitive Tier of the All-Source RFP)*

The Company cannot publicly disclose the fuel type and megawatts ("MW") provided in HR-1-2 for the competitive tier of the Company's ongoing All-Source RFP. This response provides specific details regarding the All-Source RFP that, if publicly disclosed, would compromise the Company's ability to secure the best cost resources in connection with these or

future proposals and would provide non-public information to participants in the RFP as well. Public disclosure of these details may also lead to an artificial pricing floor in future RFP proposals, which would result in higher prices for both the Company and customers and would compromise the Company's ability to procure the best cost resources in connection with these or future resources. Additionally, the Commission's RFP rules restrict communications between the Company, bidders, and potential bidders during the RFP process.[10] As the All-Source RFP has not yet concluded, it is the Company's position that revealing the trade secret information in HR-1-2 would run afoul of these restrictions and subject the Company to economic harm. The Company does not support providing stakeholders or interested parties, especially those representing participants in Georgia Power's RFPs, with access to active RFP bid information in a contested proceeding that would otherwise be prohibited from being shared with the RFP participants themselves.

Exhibit 6A: *All information in "Table 5: B2025 Technology Cost and Performance Summary" from Georgia Power's 2025 IRP Resource Mix Study*

The Company will remove the trade secret designation from the column providing "winter capacity rating;" however, the Company should not be required to publicly disclose the entirety of Table 5 as requested. The trade secret data included in the remainder of Table 5 contains the Company's projected costs and performance of new entrants to the electricity supply market. If this data were publicly disclosed, RFP participants could tailor their proposals according to the assumptions assumed by the Company to set an artificial floor on bidding. This public cost data could also be used by original equipment manufacturers and other contractors to disrupt the contracting process and increase prices for any Company-owned proposals included in an RFP.

[10] *See* Commission Rule 515-3-4-.04(3)(d), (e)(2).

This could result in the Company paying a price higher than it would have otherwise paid if such information had not been revealed. This would also harm customers by not allowing the Company to conduct a proper solicitation and obtain the overall best mix of supply-side resources. Artificially skewing the price of one resource technology could unnecessarily influence the type and amount of a given resource technology ultimately procured based on incorrect price assumptions. Recently, the Company provided bidders an opportunity to complete a "bid refresh" in RFPs due to market volatility and other considerations. If RFP participants have access to the trade secret information provided in Exhibit 6A, they could modify RFP submissions during an active and ongoing RFP. This would certainly disrupt the fairness of the RFP process and could also result in economic harm to the Company in the form of increased proposals.

Exhibit 7A: *All information except the second column from the left in Georgia Power's "2025 IRP Volume 3 – Outages C2"*

The Company has re-filed a modified C2, removing the trade secret designation from columns titled "Date, "Cause," and "MVA Mins." The "KV" and "Comments" categories are trade secret, should remain protected, and not be disclosed. This information, if publicly disclosed, would result in actual or potential economic harm to Georgia Power. Should the Company disclose the information provided in the "KV" and "Comments" columns, a competitor or contractor could use the details provided to identify areas of the Georgia Integrated Transmission System ("ITS") belonging to Georgia Power and other ITS participants that experience vulnerabilities. The competitor or contractor could then use the trade secret information provided to extort the Company in its attempt to competitively bid out work on repairs and/or upgrades. A similar risk exists for potential bad actors, who may seek to use the information to disrupt the Company's infrastructure or take advantage of perceived vulnerabilities in the transmission system. In addition, certain outage information included in C2 is provided to the Company from fellow

Georgia ITS participants and is not Georgia Power's trade secret designation to waive.

Exhibit 8A: *Estimated cost amounts on pages 7-20 in Georgia Power's "2024 GA ITS Ten-Year Plan (2025-2034)"*

The Company cannot publicly disclose the forecasted cost amounts included on pages 7-20 of the 2024 Georgia ITS Ten-Year Plan (2025-2034). The challenged amounts, which are total cost estimates for specific transmission system projects, are protected as trade secrets in all aspects of the Company's transmission planning process—including at the Southeastern Regional Transmission Planning process. To publicly disclose these costs would put the Company and customers at an economic disadvantage. First, the Company bids out certain components of its transmission work. Revealing these project cost estimates would provide vendors and suppliers with details regarding the amount and timing of the Company's expected costs for the same or substantially similar work, setting a floor for bids and resulting in inflated proposals, which in turn would result in higher costs to the Company and customers. Certain costs included are also the confidential information of other Georgia ITS participants, which the Company cannot release. Finally, cost amounts include costs for specific customer choice projects. To publicly disclose such costs would give the Company's retail competitors insight into its pricing and negotiation strategies with specific large load customers, allowing them to undermine and undercut the Company's market position to the detriment of Georgia Power.

CONCLUSION

The Company has revised Exhibits 6A and 7A as described. For the reasons set forth above and in its filed trade secret assertions, the Company is not willing to—and should not be required to—publicly disclose all of the requested trade secret information. Accordingly, Georgia Power

requests the Commission deny GIPL & Southface's Motion and preserve the trade secret designations for the protection of the Company and ultimately Georgia Power customers.

Respectfully submitted, this 8th day of July 2025.

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