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NOTICE OF PROPOSED RULEMAKING

DOCKET# 43423
DOCUMENT# 182132

TO:

- (a) Legislative Counsel – State of Georgia
- (b) Parties of Record in Docket No. 42744
- (c) Affected Commission Staff
- (d) All Parties on the Commission's Telecommunications, Energy and Utility Rulemaking Mailing Lists

FROM: Georgia Public Service Commission
244 Washington St., S.W.
Atlanta, Georgia 30334

IN RE: **Docket No. 43423: Notice of Proposed Rulemaking to Adopt Rule 515-12-1-.36, Pole Attachment Agreements**

All interested parties are hereby notified pursuant to Ga. Laws 1964, pp. 338, 342, as amended (Official Code of Georgia Annotated ("O.C.G.A.") § 50-13-4) that the Georgia Public Service Commission ("Commission") intends to consider adopting rule 515-12-1-.36.

BY THE COMMISSION:

At its specially scheduled August 6, 2020 Administrative Session, the Commission issued this Notice of Proposed Rulemaking ("NOPR"). The rules proposed in this NOPR for Utility Rule 515-12-1-.36 shall be considered for adoption at the Commission's specially scheduled **Administrative Session on September 8, 2020, at 9:30 a.m.**, which will be held either virtually or at the Commission's offices located at 244 Washington Street, S.W., Atlanta, Georgia 30334.

If adopted, this rule shall become effective as provided for by law twenty (20) days after their adoption by the Commission and subsequent filing with the Secretary of State.

I. NOTICE OF PROPOSED RULEMAKING

A. Introduction and Jurisdiction

The Commission is governed by the Administrative Procedure Act, O.C.G.A. § 50-13-1 *et seq.* The Commission is authorized to promulgate rules for procedure and for taking evidence in all matters that come before it. O.C.G.A. § 46-2-51.

B. Synopsis and Explanation of Proposed Rules

The proposed Commission Rule 515-12-1-.36 would prescribe the process for making a determination of the rate, fees, terms, conditions, and specifications in any pole attachment agreement entered into by a communications service provider and an electric membership corporation, except as provided for in O.C.G.A. § 46-5-200.4(e). The proposed rule would provide all interested parties the opportunity to be heard and to present evidence.

II. PROPOSED RULE

Pursuant to the requirements of the Georgia Administrative Procedures Act at O.C.G.A. § 50-13-4(a)(1), the Commission intends to consider the proposed rule 515-12-1-.36. The full text of the proposed Rule 515-12-1-.36 of the Utility Rules of the Commission is set forth below.

RULES OF GEORGIA PUBLIC SERVICE COMMISSION 515-12 TELEPHONE SERVICE CHAPTER 515-12-1-.36 Pole Attachment Agreements

- (a) The Commission has the authority to determine the rates, fees, terms, conditions, and specifications in any pole attachment agreement entered into by a communications service provider and an electric membership corporation, except as provided in O.C.G.A. § 46-5-200.4(e).
- (b) Prior to making any determination under subsection (a), the Commission shall afford interested parties the opportunity to be heard and to present evidence.
- (c) The Commission will provide notice of the proceeding that conforms with the requirements of O.C.G.A. § 50-13-13(a).
- (d) Parties will have the opportunity to submit pre-filed testimony in accordance with the terms and conditions of the procedural and scheduling order or orders issued by the Commission.

- (e) The Commission will hold an in-person or virtual hearing, unless the parties consent to the submission of evidence without such a hearing or the Commission makes a determination under O.C.G.A. § 50-13-15(1) that the hearing will be expedited and the interest of the parties will not be prejudiced substantially by receiving evidence in written form.
- (f) The process described in this rule may be supplemented by order of the Commission.

Authority O.C.G.A. §§ 46-5-200.4, 46-2-30, 46-2-51, 50-13-13, 50-13-15

The Commission shall consider adopting this proposed rule at its specially scheduled Administrative Session held at 9:30 a.m. on September 8, 2020, at its offices located at 244 Washington Street, S.W., Atlanta, Georgia 30334.

All interested parties who desire to do so may submit comments, data, views, arguments, or any other relevant matters in writing to the Commission concerning the proposed Rules. Such written material must be delivered to the Commission no later than August 20, 2020. The Commission requests that, where possible, comments include specific proposed edits to the Rules.

Any written materials are to be filed with:

Reece McAlister
Executive Secretary
Georgia Public Service Commission
244 Washington St., S.W.
Atlanta, Georgia 30334

All persons interested in presenting views or arguments orally should present a written request for an oral hearing by August 24, 2020. If no request for oral hearing is made, the Commission shall consider only those written comments filed in accordance with the provisions of this notice. If oral hearing is requested, then the Commission shall hold oral hearings either virtually or in its First Floor Hearing Room at its offices located at 244 Washington Street, S.W., Atlanta, Georgia 30334 immediately following the 9:30 a.m. Energy Committee on August 27, 2020.

The general authority for adoption of this Rule is found in O.C.G.A. § 46-2-30. Upon request by any interested parties either prior to the exception of the Rule or within thirty (30) days thereafter, pursuant to O.C.G.A. § 50-13-4(a)(2), the Commission shall issue a concise statement of the principal reasons for and against adoption of this Rule and incorporating the reasons for overruling the consideration, if any, urged against its adoption.

* * * * *

WHEREFORE IT IS ORDERED, that the Commission hereby issues this Notice of Proposed Rulemaking for consideration of adopting Utility Rule Chapter 515-12-1-.36.

ORDERED FURTHER, that this Notice of Proposed Rulemaking shall be published in conformity with the requirements of the Administrative Procedure Act as provided in O.C.G.A. § 50-13-4.

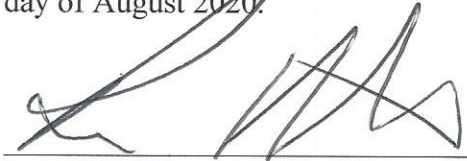
ORDERED FURTHER, that all interested parties shall file comments and proposed edits no later than 4:00 p.m. on August 20, 2020.

ORDERED FURTHER, that all persons interested in presenting views or arguments orally should present a written request for an oral hearing by August 24, 2020. If requested, the Commission will hold a hearing to receive oral comments immediately following the 9:30 a.m. Energy Committee on August 27, 2020.

ORDERED FURTHER, that any 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 its Special Administrative Session on the 6th day of August 2020.



Reece McAlister
Executive Secretary



Chuck Eaton
Chairman

8/6/20
Date

8-6-20
Date