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Docket No. 43453

In Re: Generic Proceeding to Implement House Bill 244

PROCEDURAL AND SCHEDULING ORDER

DOCKET# 43453
DOCUMENT# 182407

I. BACKGROUND

Under Georgia House Bill 244, the Georgia Public Service Commission shall 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 ("EMC") on and after July 1, 2021, provided that an EMC and communication service provider may enter into a mutual agreement that varies from what the Commission ordered¹. O.C.G.A. § 46-3-200.4(b) and (e). On September 8, 2020, consistent with O.C.G.A. § 46-3-200.4(b), the Commission adopted rules prescribing the process for making this determination that provides all interested parties the opportunity to be heard and to present evidence. The schedule contained herein will enable the Commission to meet the statutory deadline to publish the pole attachment rates, fees, terms conditions and specifications by January 1, 2021. O.C.G.A. § 46-3-200.4(b).

An original and fifteen copies of all filings shall be accompanied by an electronic version of the filing that shall be made on a CD using Microsoft Word ® format for text documents and Microsoft Excel ® for spread sheets. Under no circumstances should any electronic filing consist of more than four (4) files, including attachments. This filing shall be made at the office of the Executive Secretary, Georgia Public Service Commission, 244 Washington St., SW, Atlanta, Georgia 30334-5701.

II. PROCEDURAL SCHEDULE

September 9, 2020

The Commission Staff will issue its first set of data requests to parties. This does not preclude the Commission Staff from issuing additional data requests at a later date, or engaging in additional forms of discovery, if appropriate.

¹ This determination does not include those cooperatives serving as Tennessee Valley Authority distributors in this state.

September 23, 2020

Parties responding to discovery shall notify the Staff of any objections to its discovery.

October 9, 2020

Parties shall provide responses to Staff data requests that were issued on September 9th.

October 21, 2020

Interested parties shall file direct testimony with the Commission on October 21st by 4:00 p.m.

November 9, 2020

Interested parties shall file rebuttal testimony with the Commission on November 9th by 4:00 p.m.

November 17-20, 2020

Following the Commission's Administrative session at 9:30 AM on November 17th, the Commission will hear applications to intervene and any objections thereto, and any appropriate motions concerning any of the pre-filed testimony. Following these motions, the Commission will conduct hearings on the direct and rebuttal testimony. The Commission will receive the testimony of any public witnesses pursuant to O.C.G.A. § 46-2-59(g). Hearings will continue starting at 9:30 a.m. on November 18th, 19th, and 20th.

December 7, 2020

All briefs and proposed Orders are to be filed with the Commission on December 7th by 4:00 p.m.

December 15, 2020

At 9:30 a.m. on December 15th, a final decision in this proceeding will be rendered at the Commission's regularly scheduled Administrative Session.

III. LEGAL AUTHORITY AND JURISDICTION

The Commission is charged with determining the rates, fees, terms, conditions and specifications in any pole attachment agreement entered into by a communications service provider and an EMC on and after July 1, 2021, provided that an EMC and communication service provider may enter into a mutual agreement that varies from what the Commission ordered. O.C.G.A. § 46-3-200.4(b) and (e).

IV. STATUTES INVOLVED

Georgia Statutes

This proceeding will involve House Bill 244.

Commission Utility Rules

515-2-1-.06 Parties of Record

- (1) At the hearing on all applications, petitions and complaints, the Chairman of the Commission shall call for and enter the names of all parties desiring to become a party of record, either for or against the docketed case being heard. In the discretion of the Commission, parties having made written intervention prior to the hearing may be entered as a party of record.
- (2) The Commission may, in its discretion and for good cause shown, authorize the late filing, or entering, of a notice of intervention.
- (3) The Commission may, in its discretion, permit any person to present a statement of his position and views in sworn form, but such person shall not be entitled to receive copies of notices, motions, Orders or other pleadings and documents, filed or issued in the proceeding, unless otherwise directed by the Commission on good cause shown.

V. ISSUES INVOLVED

The following issues shall be addressed in this proceeding:

1. After considering what is just, reasonable, nondiscriminatory, and commercially reasonable, what rates, fees, terms, conditions, and specifications should be set by the Commission for pole attachment agreements entered into on and after July 1, 2021?
2. What methodology or methodologies should the Commission adopt in the determination of pole attachment rates, fees, terms, conditions and specifications?
3. What terms and conditions should be included in pole attachment agreements?
4. Are EMC pole-owner costs, such as actual net investment, associated expenses and plant-in-service data relevant to the determination of rates, fees, terms, conditions and specifications? If so, how much are these costs, and how should they be considered for purposes of making this determination?
5. In setting rates, fees, terms, conditions, and specifications, should the Commission consider whether they will promote the deployment of broadband services in this state? If so, how should such consideration be factored into the rates, fees, terms, conditions, and specifications?

6. In setting rates, fees, terms, conditions, and specifications, should the Commission consider whether they will promote the deployment of broadband services in unserved or underserved areas, such as the areas identified as unserved in the Georgia Department of Community Affairs' [Georgia Broadband Deployment Initiative](#) Georgia Broadband Map? If so:
- a) How should such consideration be factored into the rates, fees, terms, conditions, and specifications?
 - b) Should the Commission set different rates, fees, terms, conditions, or specifications for unserved or underserved areas in order to promote the deployment of broadband in such areas? If so, how should they be determined?
 - c) Can the Georgia Broadband Map be incorporated into the cost model or methodology approved by the Commission and, if so, how?
 - d) Can the rates and fees set for areas identified as served be used, indirectly or directly, to offset rates and fees for areas identified as unserved or underserved? If so, how should this be done?

VI. INTERVENTION AND HEARING PROCEDURES

The following are certain procedures to which the parties should adhere with respect to this docket.

A. Intervention

Intervention Period

(1) Any person or party that is not automatically a party to this case as set forth above, or any party on whom a statute does not confer an unconditional right to intervene, must file an application for leave to intervene not later than thirty (30) days after the issuance of this Procedural and Scheduling Order regardless of whether such party has submitted comments previously in this docket.

Application Requirements

(2) Applications must clearly specify the docket in which the applicant seeks to intervene. In addition to the requirements prescribed by O.C.G.A. § 46-2-59 for applications for leave to intervene, the applicant must:

- a. identify other intervening parties or intervening party applicants whose interest is similar to that of the applicant, along with an explanation of why the identified intervening parties or intervening party will not adequately represent the applicant's interest; and

b. state the applicant's present intention to submit testimony and by whom and on what subject. The requirements identified herein shall constitute obligation of the applicant or intervening party. Any objections to applications must be filed in conformance with O.C.G.A. § 46-2-59(d).

Late Applications for Intervention

(3) Any application for leave to intervene that is filed late must state the reason why such application was not timely submitted. Objections to late intervention application must be filed in conformance with the requirements of O.C.G.A. § 46-2-59(d).

Rulings on Intervention Applications

(4) If there is no objection by the date that the Commission rules upon an application, then the application will be deemed approved. If a party does object, then the Commission will consider the objection at the appropriate time.

B. Service

It shall be the responsibility of each party to serve copies of any documents filed with the Commission upon each party's representative, intervenor, and intervenor applicant. Furthermore, in the case of documents filed prior to the deadline for intervention established above, copies shall also be served upon each party of record recognized in Commission Docket No. 42774 according to the service list established in this docket.

C. Applications to intervene and Commission approval thereof are covered by O.C.G.A. § 46-2-59 and Commission Utility Rule 515-2-1-.06. Each applicant shall submit fifteen (15) copies of its application to intervene to the Commission along with an electronic version, addressed to:

Mr. Reece McAlister
Executive Secretary
Georgia Public Service Commission
244 Washington Street, SW
Atlanta, GA 30334-9052

D. Witnesses' Testimony

(1) Summations of testimony will take no longer than 15 minutes or, at the discretion of the Commission, no longer than 30 minutes.

(2) Summations should be limited to testimony and exhibits in the pre-filed testimony.

(3) Demonstrative handouts intended to be used during summations of the pre-filed testimony or in opening or closing statements, if applicable, must be pre-filed at least five (5) days prior

to the hearing and must be limited to the scope of the testimony and exhibits in the pre-filed testimony.

(4) Except for good cause shown, corrections to testimony must be pre-filed at least five (5) days prior to the hearing.

(5) In the absence of a valid objection made and sustained to prefiled testimony, the prefiled testimony and exhibits, with corrections, will be admitted into the record as if orally given prior to the witness' summation, subject to a motion to strike after admission or other relevant objection.

(6) Where the testimony of a panel of witnesses is presented, cross-examination may either be addressed to the panel, in which case any member of the panel may answer, or cross-examination may be addressed to an individual panel member, in which case that panel member shall give the answer.

(7) Motions to strike any portion of pre-filed testimony must be filed at least two days prior to the hearing.

E. Hearing Exhibits

For the record in all hearings, it shall be the responsibility of the party sponsoring any exhibits to see that the Hearing Reporter and all parties of record, plus the Commissioners, receive copies of the hearing exhibits at the time of introducing the exhibits at the hearings.

VII. DISCOVERY

This proceeding also shall be deemed "complex litigation" as that phrase is used in O.C.G.A. § 9-11-33(a). Discovery procedures shall accordingly apply. The Commission authorizes the Staff to issue discovery pursuant to O.C.G.A. 46-2-57(a). The Staff may conduct depositions and use any other methods of formal and informal discovery in this docket. The use of any informal discovery methods shall not augment or abridge existing discovery rights and responsibilities. Responses to Staff discovery should be provided contemporaneously to all parties. To the extent that such responses include information that an applicant deems trade secret, any disclosure of that information to other interested parties should be handled consistent with the Commission's trade secret rule and any confidentiality agreements that the applicant may have with the interested parties.

VIII. RIGHTS OF PARTIES

The parties have the following rights in connection with this hearing:

- (1) To respond to the matters asserted in this document and to present evidence on any relevant issue;
- (2) To be represented by counsel at its expense;
- (3) To subpoena witnesses through the Commission by filing requests with the Executive Secretary of the Commission; and
- (4) Such other rights as are conferred by law and the rules and regulations of the Commission.

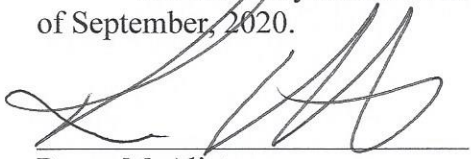
WHEREFORE IT IS ORDERED, that the Commission initiates this proceeding, subject to the conditions and procedures set forth herein.

ORDERED FURTHER, that all findings, conclusions and decisions contained within the preceding sections of this Order are adopted as findings of fact, conclusions of law, and decisions of regulatory policy of this Commission.

ORDERED FURTHER, that any motion for reconsideration, rehearing or oral argument shall not stay the effectiveness of this Order unless expressly so ordered by the Commission.

ORDERED FURTHER, that jurisdiction over this proceeding 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 Special Administrative Session on the 8th day of September, 2020.



Reece McAlister
Executive Secretary



Chuck Eaton
Chairman

9-8-20
Date

9/8/20
Date