**BEFORE THE GEORGIA PUBLIC SERVICE COMMISSION**

**STATE OF GEORGIA**

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| In Re: Generic Proceeding to Implement House Bill 244 | :: | Docket No. 43453 |

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| **REBUTTAL TESTIMONY** **AND EXHIBITS** **OF****WILFRED ARNETT** |

**ON BEHALF OF GEMC**

**AND ITS 38 EMC MEMBERS**

**NOVEMBER 9, 2020**

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**BEFORE THE**

**GEORGIA PUBLIC SERVICE COMMISSION**

**PRE-FILED REBUTTAL TESTIMONY AND EXHIBITS OF**

**WILFRED ARNETT**

**ON BEHALF OF**

**GEORGIA ELECTRIC MEMBERSHIP CORPORATION**

**DOCKET NO. 43453**

# INTRODUCTION

1. Please state your name, title and business address.
	1. My name is Wilfred (“Wil”) Arnett. I am currently a Director at TRC Companies, located at 6095 Professional Parkway, Suite 102-B, Douglasville, Georgia 30134.
2. Did you present direct testimony and exhibits on behalf of Georgia Electric Membership Corporation (“GEMC”) and its thirty-eight (38) members subject to the Georgia Broadband Opportunity Act (“Georgia EMC” or “Georgia EMCs”) in this proceeding?
	1. Yes.
3. What is the purpose of your rebuttal testimony?
	1. The purpose of this testimony is to respond to a number of contentions made regarding pole attachment rates by Georgia Cable Association (“GCA”) economist Patricia Kravtin and others witnesses in their direct pre-filed testimony.
4. Please summarize your conclusions.
	1. The Georgia Formula’s rate model is no more “complex” than the FCC Cable rate model and it more appropriately apportions the annual operating costs of poles to attachers based on the benefits derived. In fact, the Georgia Rate is easier to administer because it requires a calculation only every five years.

Despite Ms. Kravtin’s assertions that the FCC Cable rate is widely adopted, only six out of all 50 states and the District of Columbia regulates attachments to electric cooperative poles using the FCC Cable rate, six others adopted rental models that result in multiples of the FCC Cable rate, three have no rental formula specified at all, and the other 35 states and D.C. do not even regulate such attachments. This does not even count TVA, whose rental model also results in a multiple of the FCC Cable rate.

The attempted showing by Ms. Kravtin and Dr. Michelle Connolly that the FCC Cable rate has resulted in greater broadband adoption is erroneous and incomplete. There is no correlation, and the relative population densities among states is far more likely to explain broadband adoption.

Transferring **REDACTED** every year from “not-for-profit” EMCs to “for-profit” mega corporations in areas where those corporations are already meeting their objectives for return-on-investment, would constitute an unneeded subsidy for the communications giants. Of course this figure is a large understatement as it reflects the impact of adopting FCC rate on the pole attachment agreement side only, and ignores what would happen if such rate were adopted for attachments made under joint use agreements too. And the impact on broadband customers compared to Georgia EMC customers is grossly inflated by an erroneous calculation performed by Ms. Kravtin.

As demonstrated using the example of GCA’s own witness of an area with disparate pole attachment rental rates (in Richmond Hill, where my wife and I own a home), the cost of broadband services offered by Comcast is consistently the same without respect to pole attachment rental. And the rates charged by CenturyLink at that same location is less than Comcast’s, even though CenturyLink’s facilities are located underground.

Recognizing that pole attachment rental fees do not impact the costs of broadband services, the Georgia EMCs’ “One Buck Deal” should provide an incentive for communications companies to deploy broadband in “unserved” areas of Georgia. And there is nothing difficult or impractical about offering this deal only for new attachments in unserved areas.

The Georgia Formula for pole attachment rental rates is most appropriate, and is similar to TVA’s formula as well as a number of other states’ formulas. It can be modified in several different ways, however, or other formulas like the Arkansas formula could be modified to address factors more relevant to the Georgia EMCs’ poles, and then adopted.

Any of these formulas can easily be modified to address future attachments by telephone companies. As for joint use agreements, such agreements embody terms and conditions that are significantly more favorable to the telephone companies than pole attachment agreements, and the rental rates and other terms and conditions should be in alignment with the form of agreement. GEMC offered a joint use form of agreement to CTAG in 2007, but CTAG chose a pole attachment agreement instead.

Finally, GCA witnesses are mistaken about a number of other miscellaneous pole attachment rate calculation issues.

# THE GEORGIA FORMULA AND GEORGIA RATE PROPOSED BY GEMC ARE AS SIMPLE AS THE FCC CABLE RATE TO ADMINISTER

1. Please compare your calculations of annual attachment rates to Ms. Kravtin's calculations.
	1. Like Ms. Kravtin, we calculated the Georgia Rate proposed by Georgia EMC by multiplying three factors: (i) net cost of a bare pole; (ii) carrying charge; and (iii) the space allocation percentage (i.e., the percentage share of the total pole costs to be paid for by the attacher).

Regarding calculation of the net cost of a bare pole, our approach differed from Ms. Kravtin's in the following ways: (1) we removed inapplicable costs and units from Account 364 associated with decorative and street light poles which are not subject to attachment, but Ms. Kravtin did not make this adjustment; (2) we calculated the bare pole factor percentage (a/k/a the “appurtenance” factor percentage) for each individual EMC in accordance with FCC rules, while Ms. Kravtin used the FCC’s default percentage of 85%; and (3) we included the costs of pole grounds (“Grounds”) from Account 365 along with the associated accumulated depreciation (since Grounds are necessary and used by all attachers to the pole), while Ms. Kravtin did not include these.

Regarding calculation of the carrying charge, our approach differed from Ms. Kravtin's in the following ways: (1) for the “Depreciation” carrying charge, we included the costs of Grounds from Account 365 along with the associated accumulated depreciation (since Grounds are necessary and used by all attachers to the pole), while Ms. Kravtin did not include these; (2) for the “Maintenance” carrying charge, we adjusted Account 369 “Services” by removing inapplicable costs associated with underground services in order to align with the overhead-only maintenance cost in the ratio, Maintenance of Overhead lines (Account 593). Ms. Kravtin did not make this adjustment; and (3) for the “Rate of Return” carrying charge, we used 8.5%, which is the calculated percentage used by the Tennessee Valley Authority in their rental rate formula. Ms. Kravtin used the FCC default rate of 9.75%.

The biggest difference between our rate calculation and Ms. Kravtin’s is in the Space Allocation Percentage. We used the Georgia Formula allocation, which results in a 31.42% allocation of annual pole costs; Ms. Kravtin used the FCC Cable rate allocation, which results in a 7.41% allocation of annual pole costs.

In short, our calculation of the Georgia Rate proposed by GEMC and the Georgia EMCs is the same as Ms. Kravtin’s calculation of the FCC Cable rate, with the following exceptions: (1) removal of inapplicable costs and units from Account 364; (2) rebuttal of the FCC’s 85% appurtenance factor; (3) inclusion of “pole grounds” in calculating the net cost of a bare pole and depreciation carrying charge; (4) removal of inapplicable underground services in Account 369 when calculating the maintenance carrying charge; (5) utilization of an 8.5% rate of return; and (6) using the Georgia Formula’s 31.42% allocation of annual pole costs. In other words, while the cost calculations are the same, with only minor corrections and an 8.5% rate of return, the way those costs are allocated among the attaching entities differs.

1. Were all of these changes explained in your direct testimony?
	1. Yes they were, with the exception of rebutting the FCC’s appurtenance factor of 85%.
2. Please explain how you rebutted the FCC’s appurtenance factor.
	1. In determining the net cost of a bare pole, pole attachment calculations require the removal from Account 364 pole costs of cross-arms and other so-called “appurtenances” which the FCC and others determined are used only by the utility pole owner. The FCC and other jurisdictions presume that 15% of Account 364 is made up of such appurtenances but permits entities to rebut that percentage using Account 364 continuing property records which separately account for cross-arms and other appurtenances. We rebutted the 15% presumption using the Georgia EMCs’ Account 364 continuing property records.
3. Ms. Kravtin contends that "The FCC Cable Rate formula produces efficient, predictable, easy to administer" rates.[[1]](#footnote-1) Do you believe the FCC Cable rate is more efficient, predictable, or easy to administer than the Georgia Rate?
	1. No, I do not. Actually, the calculation of the Georgia Formula is as simple as the FCC Cable formula. The inputs for the “net cost of a bare pole” and “carrying charge” are nearly identical in both formulas. The primary difference in the two formulas is the “space allocation factor.” which is not at all difficult to calculate. What makes the Georgia Rate much simpler is that it would only need to be calculated for the initial rate period. Thereafter, GEMC and the Georgia EMCs have proposed to use the Handy-Whitman Index as an annual cost adjustment for the subsequent 4 years. Only in the fifth year, and every 5th year anniversary thereafter (under GEMC’s proposal), would the “net cost of a bare pole” and the annual “carrying charge” be reevaluated and applied to the space allocation factor that is already set by this Commission. Detailed calculations of the financial data from 38 EMCs would be avoided for four years out of every five.
4. Ms. Kravtin contends that rate calculations like the Georgia Formula are complex, by claiming: “In particular, by allocating certain costs based on the number of attaching entities, these alternative formulas introduce an artificial construct into the pricing formula that adds a level of complexity and arbitrariness and likely area of contention among the parties.”[[2]](#footnote-2) Similarly, Ms. Kravtin states: “the FCC Cable Rate’s proportionate, occupancy-based cost allocation methodology makes data requirements much easier to satisfy as compared with other “per capita” type approaches that require information on the number of attaching entities to determine the cost allocation component of the formula. The attacher-specific audit data or statistically significant sample data needed to verify the number of attaching entities are often not available or are costly or time consuming to obtain.”[[3]](#footnote-3) And, Ms. Kravtin warns that attachment rates “will fluctuate widely based on the presence or absence of other third-party attachers.”[[4]](#footnote-4) Please respond.
	1. Ms. Kravtin's concern regarding “complexity and arbitrariness and likely area of contention” appears to be the EMCs’ calculation of the “average number of attaching entities.” Calculation of the “average attaching entities” is actually a very simple exercise, once accurate attachment information is available.

Because many attachers use EMC poles without notifying the EMC and receiving permission, EMCs are required to “inventory” their systems. When an EMC undertakes a periodic attachment inventory, all the data necessary to calculate “average attaching entities” is gathered at that time. Upon completion of the attachment inventory, the calculation of “average attaching entities” is very simple and straightforward. As to the inventories themselves, all licensees are invited to participate, and they are provided copies of the results at the conclusion. The results are thereafter utilized for annual attachment rental billing for each licensee, and they are therefore subject to annual review by both the EMC and each licensee. The GEMC-CTAG statewide model Agreement between the Georgia EMCs and the Georgia Cable Association provides for attachment inventories every five years. At the conclusion of the inventory, and after acceptance by the EMC and the licensees, the results of the inventory are transferred to the EMC’s Geographic Information System (“GIS”) database for future tracking of permit activity.

As for Ms. Kravtin’s concerns related to “wide fluctuations,” those concerns do not exist under the Georgia Formula. Because the formula proposed by GEMC uses statewide averages, including a statewide average number of attaching entities, and is adjusted annually by the Handy-Whitman Index, it is not subject to “wide fluctuations.” The statewide average costs, and the use of the Handy-Whitman Index have the overall effect of dampening any surprises on the statewide average rental rate for pole attachments. The actual costs and number of attaching entities are only reassessed once every 5 years.

1. Ms. Kravtin explains the FCC Cable rate formula as follows: “Specifically, the FCC Cable Rate formula calculates a maximum annual pole attachment rent by taking the sum of the actual capital costs and operating expenses of the utility attributable to the entire pole, expressed on an annual basis” and then apportioning those costs to the attacher.[[5]](#footnote-5) Is the Georgia Formula similar?
	1. Yes, that is exactly what the Georgia Formula does.
2. Ms. Kravtin explains the FCC Cable rate formula as follows: “The FCC Cable Rate consists of the following three major components: (1) the net investment per installed bare pole, (2) a carrying charge factor (CCF) comprised of a full range of operating and capital costs, including a return on capital, and (3) a space allocation factor used to attribute to an attacher its share of the total pole costs as derived in the first two components of the formula. The first two components calculate the pool of utility costs associated with the entire pole to be allocated to attachers, whereas the third component provides the basis by which the utility's pole-related costs are allocated to a given attaching entity. These three components are multiplied in a simple straightforward manner.”[[6]](#footnote-6) Is this the way the Georgia Formula calculates pole attachment rates?
	1. That is exactly how the Georgia Formula proposed by the Georgia EMCs calculates pole attachment rates.
3. Dr. Connolly claims that “the FCC rate formula incorporates actual costs.”[[7]](#footnote-7) Does the Georgia Formula also incorporate actual costs?
	1. Yes, it does.
4. Dr. Connolly also makes the following comment: “If a state adopts the FCC cable rate formula then actual pole attachment costs are incorporated into the FCC cable rate formula.”[[8]](#footnote-8) If the Commission adopts the Georgia Formula, will actual pole attachment costs be incorporated into the Georgia Formula?
	1. Yes, they will.
5. Ms. Kravtin states: “Rates produced using such utility industry-driven approaches do not however correspond to the actual incurrence of costs by the pole owner, and add complexity, arbitrariness, and contentiousness to the process. … The FCC Cable Rate provides for the most straightforward, consistent and predictable formula application—qualities of utmost importance to firms in making business decisions to invest in new technology and to roll out new services.”[[9]](#footnote-9) Please respond.
	1. The Georgia Formula and the Georgia Rate proposed by GEMC and the Georgia EMCs both “correspond to the actual incurrence of costs by the pole owner,” without adding any “complexity, arbitrariness or contentiousness.” As previously stated, the primary difference in the FCC Cable rate formula and the Georgia Formula is the “space allocation” percentage, and the average number of attaching entities is not difficult to determine. Therefore, both formulas are “straightforward, consistent and predictable.” The only difference is that the Georgia Formula more accurately reflects the attachers' actual use of the pole and conditions in Georgia.
6. Ms. Kravtin states: “Accordingly, the FCC Rate can be updated annually with a minimum of private, administrative effort, and little, if any, regulatory involvement.”[[10]](#footnote-10) Please respond.
	1. As previously explained, the Georgia Rate is much easier to administer, since it needs to be calculated only once every five years. In the intervening periods, GEMC has proposed the use of the Handy-Whitman Index to adjust the prior year's rate. This would result in a significant reduction in administrative effort.
7. Ms. Kravtin states: “The FCC Rate is not inherently biased or in favor of any one industry or competitor over another.”[[11]](#footnote-11) Please respond.
	1. I believe the FCC Cable rate is biased in favor of communications attachers because it does not allocate to them their fair share of costs associated with the common space on the pole, which includes the six feet underground and 20 feet minimum clearance that all attachers need, and the 40-inch communication worker safety zone necessary to separate communications facilities from electric facilities. The Georgia Formula removes this “inherent bias.”

Comparing only one communications attacher to another, the Georgia Formula is also not inherently biased.

1. Ms. Kravtin also states that, “from a practical perspective, there is a substantial body of federal and state precedent interpreting and applying the FCC Cable Rate which further enhances the ease by which attachers, utilities, and the Commission can rely upon it, thereby minimizing administrative and litigation costs.”[[12]](#footnote-12) Please respond.
	1. I agree that there is a substantial body of federal precedent related to applying portions of the FCC Cable rate methodology. Many of those will likely apply to the Georgia Formula. After all, two-thirds of the Georgia Formula methodology is identical to the FCC Cable formula, with minor corrections and an 8.5% rate of return. Of course, the Commission, not the FCC, will be the arbiter, and issues related to any rate methodology adopted by Georgia will be heard in Georgia – not at the FCC.

# THE FCC CABLE RATE IS NOT WIDELY ADOPTED TO REGULATE ATTACHMENTS TO ELECTRIC COOPERATIVE POLES

1. Ms. Kravtin contends that the great majority of regulatory bodies has adopted the FCC Cable Rate, and she attaches at PDK-2 a list of states regulating attachments.[[13]](#footnote-13) Do you agree most states use the FCC Cable rate formula?
	1. No, I do not as to the regulation of poles owned by electric cooperatives. In fact, it is far from it. Attachments to poles owned by electric cooperatives in more than two-thirds of the states are completely unregulated. In 35 of 50 states, or 70% of the states in the nation, there is no regulation of electric cooperatives with respect to pole attachment rental rates. Of the 15 states that do regulate electric cooperative pole attachments, three of them (New Hampshire, Texas and Washington) have adopted no formula at all for pole attachment rental. Of the remaining 12 “regulating” states, six of them (one-half of the 12) (Arkansas, Delaware, Indiana, Louisiana, Vermont and Virginia) have adopted rental models that result in multiples of the FCC Cable formula (ranging from 1.25 times the rate in Vermont to over 4 times the rate in Delaware). And this analysis does not even count the Tennessee Valley Authority (“TVA”), which also regulates attachment rental rates for over 160 electric cooperatives and municipal power providers on its system, including three of the EMCs in Georgia. The TVA rental formula generates a rental rate that is approximately 4 times the FCC Cable rate. TVA is a corporate agency of the United States that provides electricity for business customers and local power companies serving 10 million people in parts of seven southeastern states (Alabama, Georgia, Kentucky, Mississippi, North Carolina, Tennessee, and Virginia).

In short, when you add them up, there are only 6 states out of 50 which require the FCC Cable rate for attachments to electric cooperative poles. 35 states have no regulation at all, and the remaining 9 states either have no formula at all or use a rate methodology producing multiples of the FCC Cable rate. 2 states are twice the FCC Cable rate, 2 are four times the FCC Cable rate and TVA, in its seven-state area, is 4 times the FCC Cable rate.

1. Ms. Kravtin also states: “Indeed, the EMCs’ own national association, the National Rural Electric Cooperative Association (“NRECA”), has published a pole-owner “Toolkit” that acknowledges the FCC Cable Rate is “unimpeachable.”[[14]](#footnote-14) Please respond.
	1. NRECA's Pole Attachment Toolkit was prepared in response to NRECA Resolution 03-K-1 (2003) titled "Regulation of Pole Attachments and Safeguarding of Electric Cooperative Infrastructure." That document is now 16 years old. I do not know what the authors intended in 2004 when they stated that the FCC Cable rate is "unimpeachable." However, it is more appropriate to look at the current NRECA Fact Sheet titled "Pole Attachment Rate Formulas: An Electric Cooperative Perspective" (September 2020). In that Fact Sheet, NRECA states, with respect to the FCC Cable formula: “The FCC formula is grossly unfair to the cooperative pole owner, fails to reflect the attachers' actual use of the pole, and generates rates far below the value of the attachments.” NRECA continues by stating: “Attaching entities consider it beyond reproach, but only because it unfairly favors them.” A copy of the NRECA Fact Sheet was attached to my direct testimony at **GEMC Ex. 164 (WA-47).**
2. Ms. Kravtin compares broadband adoption rates in Arkansas and North Carolina for the period 2013-2018 and claims that North Carolina’s adoption of the FCC Cable rate is responsible for greater broadband adoption in North Carolina.[[15]](#footnote-15) Dr. Connolly repeats that claim in her direct testimony.[[16]](#footnote-16) Do you agree?
	1. No, I do not. Ms. Kravtin and Dr. Connolly erroneously assert that lower pole attachment rates are responsible for the increased adoption rate of broadband (25/3 Mbps) between 2013 and 2018 in North Carolina above that of Arkansas, but that cannot be true. In the first place, the Arkansas Public Service Commission ruling establishing the Arkansas pole attachment rate formula only became effective in May of 2017.[[17]](#footnote-17) Even more telling, the North Carolina Utilities Commission decisions to adopt the FCC Cable rate were not issued until January of 2018, so those 2018 decisions to adopt the FCC Cable Rate could not contributed in any significant way to the broadband adoption rate in North Carolina that started in 2013, 5 years before the Commission acted.

Dr. Connolly mistakenly assumes a 2014 court case established the FCC Cable rate in North Carolina thereafter.[[18]](#footnote-18) That is incorrect. A 2015 statute in North Carolina eliminated any statewide effect of that court case until the North Carolina Utilities Commission could decide the matter of pole attachment rates, and the first 4 such rulings from the North Carolina Utilities Commission were not made until January 9, 2018. As stated in the first paragraph of each of the four January 9, 2018 decisions: “This is one of the first four pole attachment cases to come before the Commission under the jurisdiction provided in the General Assembly’s 2015 amendments to North Carolina General Statute (G.S.) 62-350.”[[19]](#footnote-19) I also note that Dr. Connolly mistakenly cites 2017 as the release date of one of these four January 9, 2018 decisions.[[20]](#footnote-20)

Equally troubling with Ms. Kravtin’s and Dr. Connolly’s assertions is that they completely omitted any discussion of the broadband adoption rate in Georgia, where this proceeding in Docket No. 43453 is taking place. The pole attachment rental rates the Georgia EMCs currently charge cable companies were established in 2008 by the 2008 GEMC/CTAG agreement, so by the start of this 2013-2018 period, the pole attachment rates that are the subject of this matter would have been in effect already for five years. As explained in the table below, Georgia’s broadband adoption rates in 2013 significantly exceeded either of the other two states in Ms. Kravtin’s comparison, and by 2018, both Georgia and North Carolina were “neck and neck” in adoption rates. It is therefore clear that pole attachment rental rates were no deciding factor for changes in broadband adoption from 2013-2018.

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| --- |
| **Selected Statewide Adoption Rates and Rank** |
| **25/3 Mbps Fixed Terrestrial Broadband** |
| **Change 2013-2018**  |
|   | **2013** | **2018** | **Change 2013-2018**  |
|   | **Adoption %**  | **Rank**  | **Adoption %**  | **Rank**  | **Adoption %**  | **Rank**  |
| Arkansas  | 25% | 28 | 42.40% | 48 | + 17.4% | - 20 |
| North Carolina | 10% | 38 | 62.60% | 21 |  + 52.6% | + 17 |
| Georgia  | 33% |   | 60.90% |   | 27.90% |   |

1. Dr. Connolly notes that Arkansas has one-fourth the population density of North Carolina.[[21]](#footnote-21) Specifically, Dr. Connolly states: "I do not doubt that a correlation between population density and broadband penetration holds."[[22]](#footnote-22) Do you think that the difference in population density between Arkansas and North Carolina might instead help to explain the difference in adoption percentages?

A. Of course it does.

1. Ms. Kravtin contends that Georgia should follow North Carolina and adopt the FCC Cable rate, and explains in footnote 32 that the cooperatives in the North Carolina proceedings “presented no contrary economic evidence” to rebut claims by Ms. Kravtin.[[23]](#footnote-23) Please respond.
	1. I was the cooperatives’ rate witness in those North Carolina proceedings and Ms. Kravtin is correct that I am not an “economist.” I am instead a business person with over 50 years of experience in pole attachment and joint use matters, including outside plant design and inspection and pole attachment and joint use rental rate calculations.

Fortunately, this rulemaking proceeding before the Georgia Commission is different from the one in North Carolina involving only a limited number of electric cooperatives. In North Carolina, the electric cooperatives did not retain an economist as a testifying witness. That is not the case in Georgia. GEMC has retained, as an expert witness, an economist to explain the realities of low attachment rentals and their impact on rates, penetration, and the total costs to the consumer. Further, GEMC, unlike North Carolina, has retained a broadband deployment business model expert witness. In Georgia, the case presented by the EMCs will be more thoroughly vetted and much more in-depth.

# TAKING $8.3 MILLION PER YEAR FROM RURAL GEORGIA AND GIVING IT TO THE CABLE INDUSTRY IS A BAD IDEA

1. Ms. Kravtin contends that EMC attachment rates are too high.[[24]](#footnote-24) Please respond.
	1. In 2020, under the statewide model GEMC-CTAG Agreement that the cable association negotiated with GEMC, the rental rate for a third-party attachment to an EMC pole was $18/attachment. The parties agreed to use the Handy-Whitman Index to annually adjust those rentals. In two years (2015 and 2019), the rental rate was reduced – not increased. For 2016, the attachment rate remained unchanged at the 2015 rate. This year, the rate for an attachment is $20.19, reflecting an annual increase of slightly over 1% over the period (2010 – 2020). The annual increase in attachment rental compares very favorably to the increase in the cost of cable service over the years. During that same period, the annual increase in the cost of CATV Service was 2.83%, or almost three times the cost of GEMC’s attachment rental increase. *See* GEMC Ex. 161 (WA-44), attached hereto, for the relevant reports from the Bureau of Labor Statistics.
2. Ms. Kravtin also claims EMCs seek to exert monopoly power.[[25]](#footnote-25) Please respond.
	1. Ms. Kravtin's claims are baseless. Before negotiating a statewide pole attachment agreement with CTAG in 2013, GEMC offered terms to the CTAG companies that were identical to those embodied in the 2008 GEMC-BellSouth Joint Use Agreement. It was CTAG, not GEMC, that declined the “partnership” relationship characterized by a joint use arrangement. *See* GEMC Ex. 157 (WA-40), attached hereto.
3. Does Ms. Kravtin believe that existing rates reflected in the 2013 GEMC/CTAG agreement should be reduced?
	1. Yes she does.
4. By how much?
	1. By **REDACTED** per year, as she calculates at GCA Exhibit PDK-1. This **REDACTED** per year represents the **REDACTED** difference between what she calculated to be the weighted average existing rate **REDACTED** and the rate using the FCC Cable formula **REDACTED**, times the **REDACTED** attachments Georgia Cable Association members currently pay.
5. Ms. Kravtin contends that this reduction of pole attachment rental rate payments of REDACTED per year should be generated by reducing rates for all existing attachments, and contends that this payment of REDACTED per year from Georgia EMC ratepayers to the cable industry will promote broadband deployment.[[26]](#footnote-26) Do you agree?
	1. No, I do not. "For-profit" corporations are in business to generate a profit, and thereby increase shareholder value/equity. Cable companies only invest their money where they can satisfy their corporate objective for "Return on Investment" or, ROI. As explained on GCA's website, “Cable companies, supported by private investors, not public funding, can only serve areas where they can expect reasonable return on their investment. It costs about $30,000 on average, to construct one mile of fiber optic and coaxial cable plant. So, when a cable operator evaluates whether or not to build out - each project must stand on its own economic merit."” *See* GEMC Ex. 158 (WA-41). Ms. Kravtin proposes that the EMCs reduce their annual rental rates, by more than **REDACTED**, in areas already served, and therefore already profitable (already satisfying the cable companies’ corporate ROI objectives). As clearly stated on GCA’s website, cable companies “only serve areas where they can expect reasonable return on their investment.” Any reduction in pole attachment rental rates in areas already served, and already generating the desired corporate ROI, would clearly be a subsidy. It would represent a transfer of funds from a “not-for-profit” EMC to “for-profit” corporate giants, admittedly already meeting their ROI objectives.
6. Ms. Kravtin explains that the impact on broadband customers of rates higher than the FCC Cable rate is 10 times the impact on EMC customers: “the potential increase on the electric side is quite small as compared with the potential savings that would inure on the broadband side of the equation from lower pole rates, which I have estimated on an average per subscriber basis to be in the range of 10 times the potential increase on the electric side as shown in Figure 1 below.”[[27]](#footnote-27) She performs this calculation in GCA Exhibit PDK-1. Do you agree with her analysis?
	1. No, I do not. Ms. Kravtin’s calculations assume that cable is serving the entire service territory of the EMCs, which is not the case. Her analysis of the disproportionate impact on broadband subscribers compared to EMC ratepayers is based on the erroneous conclusion that it requires **REDACTED** poles to reach a cable company broadband subscriber, which is nowhere near the case because the cable industry does not serve any of the sparsely-populated areas that the Georgia EMCs serve. Therefore, her analysis is extremely misleading.

In fact, it appears instead that the number of poles it takes to reach an existing cable company subscriber is less than one pole per subscriber, which of course is far less than **REDACTED** poles per subscriber. Charter witness Jim Davies indicates that Charter is attached to 320,000 poles in Georgia and has 400,000 Georgia customers.[[28]](#footnote-28) That means that it takes less than one pole to reach an existing Charter customer, not **REDACTED** poles as Ms. Kravtin mistakenly calculates.

A simple, straight forward and correct approach would have been for Ms. Kravtin to provide data showing the number of existing GCA customers, so that this **REDACTED** per year potential windfall the cable industry demands could be divided by this simple number. It is unclear to me why this analysis was not performed instead.

# CABLE COMPANIES’ PRICE FOR BROADBAND SERVICE IS NOT SIGNIFICANTLY IMPACTED BY POLE ATTACHMENT RENTAL RATES

1. GCA witness James Yates, Senior Construction Manager for Comcast, comments about the “irrational pricing of pole attachments by EMCs as compared to Georgia Power,” and attaches GCA Exhibit JY-2 to demonstrate that Georgia EMC Coastal Electric charges $21.47 per pole to attach to poles that are identical to Georgia Power poles with a $6.50 per pole attachment rate.[[29]](#footnote-29) Have you taken the time to review GCA Exhibit JY-2, and do you have any comments related to this claim of “irrational pricing”?
	1. Yes, I have reviewed GCA Exhibit JY-2 and my analysis of the poles at issue demonstrates that pole attachment rental fees have no effect on the broadband rates charged by Comcast. I reach a similar conclusion regarding CenturyLink whose underground plant construction is more costly to reach the same area.

The Exhibit shows a photo of the intersection of Harris Trail and US Highway 17, a/k/a Coastal Highway, in Richmond Hill, Georgia. My wife and I own a home at Richmond Hill, and I am very familiar with that area. The Exhibit shows Georgia Power poles along Harris Trail, and a rental rate of $6.50 paid by Comcast. It also shows Coastal EMC poles along US Highway 17 with a rental rate of $21.47. The obvious message Mr. Yates seeks to convey is that the pole rental charged by Georgia Power, which is subject to the FCC Formula, is significantly less than that charged by Coastal EMC. The implied message is that this pole rental differential adversely affects pricing of communications services and thereby harms subscribers through higher service costs. However, any claim that the broadband fees Comcast charges businesses located in the strip shopping center depicted in GCA Exhibit JY-2 are related to, or driven by, the cost of pole attachments in that area is false. The strip shopping center depicted in GCA Exhibit JY-2 is served by Coastal EMC poles and any pole attachments are subject to Coastal EMC's rental rates. Domino's Pizza is located 3745 Hwy 17, Unit 100 (in the shopping center) and I went on-line to check the cost of Comcast service at the Domino's address. I found that Comcast rates for "broadband service" (35 Mbps) are $80/month for a 1-year contract, or $70/month under a 2-year contract. Directly across the street at 3500 Highway 17 (Food Lion grocery store), in an area served by Georgia Power, Comcast's cost of identical "broadband service," was the same as the rates at the Domino's address.

Equally noteworthy is that CenturyLink also serves both locations, and although CenturyLink’s facilities are located underground, CenturyLink’s price for faster broadband service, with no contracts required, was only $49/month. (*See* GEMC Ex. 163 (WA-46). Where CenturyLink does have attachments on Coastal EMC, those attachments are made under the terms of the 2019 Joint Use Agreement. The terms of that Agreement are identical to the 2004 GEMC-BellSouth Agreement, as far as rental rates are concerned, for the attachments of either party to the other’s poles. That is, CenturyLink currently pays Coastal EMC $30.93 per pole, and Coastal EMC pays CenturyLink $40.93 per pole.

1. Are there other factors that could explain the difference in the cost of service between Comcast and its competitor CenturyLink?
	1. I don’t see any relationship between the cost of pole attachments and the cost charged by communications companies for broadband services. GCA is trying to convey the message that pole attachments are a “barrier to entry” into areas unserved by broadband services, and they repeatedly point to the high cost of underground facilities as opposed to aerial construction. Even GCA witness Mr. Yates, at pg. 6 of his testimony, states that underground construction costs are **REDACTED** per mile more than aerial construction. However, in the Coastal EMC footprint, CenturyLink relies almost totally on underground construction (*See* GEMC Ex. 164 (WA-47)) with less than 2.5% of the number of aerial drop wire and cable attachments to Coastal EMC as Comcast. Where CenturyLink does make attachments to Coastal EMC’s poles, they are done under joint use rental rates that represent as sharing of cost by each party, not at FCC Formula rental rates. The differential in cost of services at the locations discussed along Hwy 17 cannot be explained by pole attachment rental fees, especially when compared to CenturyLink’s underground construction here and in the rest of Coastal EMC’s service territory where essentially all of CenturyLink’s facilities are underground.
2. Are you familiar with how the attachment rental rates charged by Georgia Power and Coastal EMC were derived?
	1. Yes, I am familiar. As stated above, Georgia Power, as an investor-owned utility, is required to charge Comcast the FCC Cable rate for attachments to its poles. Coastal EMC’s rates were determined based on the statewide EMC rates that were negotiated originally between the EMCs and CTAG.

# THE ONE-BUCK DEAL PROVIDES AN INCENTIVE TO ACTUALLY DEPLOY BROADBAND IN UNSERVED AREAS

1. Ms. Kravtin contends that cable companies need more than the One Buck Deal to deploy in unserved areas.[[30]](#footnote-30) Please respond.
	1. This statement is contrary to the arguments of Dr. Connolly, who contends, on pg. 3 of her written testimony, that, “all else equal,” new deployments will occur where pole attachment costs are lower. It is also at odds with Ms. Kravtin’s own statement, at pg. 26 of her written testimony, that: “higher pole rates serve to discourage communications companies from making additional investment in the state and their ability to roll out, or continue to expand advanced broadband service offerings – services increasingly required by Georgia residents, businesses, and government alike.”
2. Ms. Kravtin also claims that having a different rate in served areas than exists in unserved areas, “would be highly impracticable, complex, and costly to administer as it would potentially involve administering pole rates on a census block basis.”[[31]](#footnote-31) Please respond.
	1. I disagree that tracking different rates will be “impracticable, complex, and costly to administer.” We are, after all, discussing new cable attachments on EMC poles in unserved areas. New attachments require an approved permit, an inspection of the poles, and in many cases, rearrangements or additions to the EMC’s facilities to safely accommodate the new attachments. As a part of the pole attachment process, those new attachments are added to the inventory of existing attachments. The new, special rate for the facilities being approved will simply be added to the EMC’s records for the designated attachments. Many EMCs will add a special field to their GIS database to track not only the rate but the date the attachment was installed. Tracking will only be an issue when the subject attachments are made illegally outside the normal “permitting” process.
3. Charter’s Vice President Jim Davies contends that it would be complex and create uncertainty if there were different rate methodologies for served areas versus unserved areas.[[32]](#footnote-32) Please respond.
	1. It is hard for me to understand how Charter could take that position. The national association for cable companies, NCTA — The Internet & Television Association (“NCTA”), filed a petition in July asking the FCC to declare that: (1) only in areas unserved by broadband, pole owners must share in the cost of pole replacements; and (2) pole attachment complaints arising only in unserved areas should be prioritized. *See* FCC Public Notice in WC Docket No. 17-84 (July 20, 2020), attached hereto at GEMC Ex. 165 (WA-48). Charter filed comments and reply comments supporting this requested relief, and so apparently neither the cable industry nor Charter believes that having rules in place in unserved areas that are different from the rules in place for already-served areas is any problem at all.

# THE GEORGIA FORMULA CAN BE MODIFIED IN A NUMBER OF WAYS

1. Please remind us of the number of attaching you calculated for use in the Georgia Formula.
	1. As explained in my direct testimony, we calculated the average number of attaching entities of 2.72 per pole using only the EMC poles with cable attachments on them, and used 2.72 in the Georgia Formula.[[33]](#footnote-33)
2. In your direct testimony you explain that you initially calculated the average number of attaching entities in the traditional manner by including EMC poles with attachments by cable or telephone companies, or both.[[34]](#footnote-34) What was the average number of attaching entities generated using that calculation?
	1. The average number of attaching entities for EMC poles with cable, telecom or both on them is 2.44 attaching entities per pole. This traditional calculation of the number of attaching entities is attached hereto at GEMC Ex. 159 (WA-42).

**Q. If you used the number “3” as the number of attaching entities, how would that change the Georgia Rate calculation?**

* 1. The Georgia Formula space allocation percentage would be reduced from 31.42% to 28.74%, and the Georgia Rate would be reduced from $37.95 to $34.72. (*See* GEMC 166 (WA-49)).
1. Do other regulatory bodies use three as the number of attaching entities?
	1. Yes. The TVA formula presumes three attaching entities, the Arkansas formula presumes three attaching entities, and the FCC Telecom rate presumes three attaching entities for "non-urbanized" areas and five for "urbanized" areas.
2. In order to address Ms. Kravtin’s concerns about complexity, could the Georgia Formula proposed by GEMC and the Georgia EMCs be modified to specify three as the average number of attaching entities?
	1. Yes. Although I do not agree with Ms. Kravtin that this calculation is hard to perform or makes the calculation difficult, that number of three attaching entities per pole could be locked in to the Georgia Formula for five years until the Georgia Rate is recalculated in five years’ time. Although an average of three attaching entities per pole exceeds the current number, the One Buck Deal should encourage additional expansion of broadband and additional attaching entities, so that in the future the average number will be driven up to three.
3. How does this modification of the Georgia Formula compare with the TVA formula?
	1. The TVA formula calculates a space allocation percentage of 28.44% as follows:



The TVA formula allocates the Communication Worker Safety Zone to two communications attachers. The support space is assumed to be 24’ and is shared equally by all parties. One foot of space is allocated to the attacher.

The modified Georgia Formula produces a cost allocation percentage of 28.74%, calculated as follows:

 

The modified Georgia formula allocates the Communication Worker Safety Zone and the support space of 26’ (assuming lowest point of attachment at 20’) equally to all attachers, including the EMC. As in the TVA formula, one foot of space is allocated to the attacher.

1. Would this similarity help to make rental rates uniform for EMCs located in Georgia?
	1. Yes it would. TVA's space allocation percentage of 28.44% is already applicable for three EMCs in North Georgia who are part of the TVA distribution system.
2. Is it also possible for the Commission to adopt a formula like the one applicable in Arkansas?
	1. Yes it is.
3. How does Arkansas calculate pole attachment rental rates?
	1. Although Arkansas did not have a requirement that its formula be "commercially reasonable," and although the Arkansas formula applies to poles owned not only by electric cooperatives, but also to poles owned by investor-owned utilities and incumbent local exchange carriers, the Public Service Commission there adopted the following formula for attachments to those poles, which produces a cost allocation percentage of 18.86%:



The Arkansas formula allocates two thirds of the Communication Worker Safety Zone and the support space of 24’ equally to all attachers, including the EMC. As in the previous formulas, one foot of space is allocated to the attacher. The Arkansas formula reflects conditions unique to Arkansas including a shorter attachment height of 18 feet above ground (not 20 feet above ground as is the case in Georgia) and a reduction of 1/3 of the allocation of the Communication Worker Safety Zone plus the support space; this reduction is not based on actual pole usage and effectively burdens the pole owner with this additional cost.

1. If the Arkansas formula were modified to use Georgia’s attachment height of 20 feet above ground and the actual 2.72 average number of attaching entities, what would the cost allocation percentage be?
	1. The Arkansas formula modified in this way would produce a cost allocation percentage of 21.84%, calculated as follows:



1. If the Arkansas formula were modified to use Georgia's attachment height of 20 foot above ground and three as the average number of attaching entities, and the artificial 2/3 compromise were removed, what would the cost allocation percentage be?
	1. The Arkansas formula modified in this way would produce a cost allocation percentage of 28.74%, which is exactly the same as the Georgia Formula percentage if modified to use three attaching entities, calculated as follows:



1. Can any of these various formulas be modified to account for telephone company attachments to GEMC poles?
	1. Yes, very easily. Since telephone companies generally use two feet of space on poles rather than one foot, the number “1” can be replaced with the number “2” in all of these formulas.
2. How does the rental rate change when two feet of occupancy is used instead of one?
	1. It varies slightly formula to formula, but generally a telephone company occupying two feet of space instead of one would pay a pole attachment rate about ten percent higher than the cable company occupying only one foot of space. For example, using two feet of space occupied in the modified Georgia Formula (modified to use three attaching entities instead of the original 2.72) instead of one foot of space occupied increases the cost allocation percentage approximately nine percent from 28.74% to 31.40%, as follows:



# JOINT USE AGREEMENTS PROVIDE MANY ADVANTAGES TO TELEPHONE COMPANIES ATTACHING TO GEORGIA EMC POLES

1. You indicated that using two feet of occupied space for telephone company attachers instead of the one foot for cable company attachers results in an increase in the attachment rate of about nine percent. Do you agree that telephone companies in a joint use relationship should pay only nine percent more than cable company attachers in a pole attachment agreement?
	1. No I don't, because in joint use agreements in effect in Georgia, the telephone companies are guaranteed the exclusive use of two feet of space at the lowest attachment height, and have enhanced rights and freedoms under the joint use agreement in effect in Georgia that cable companies do not have in pole attachment agreements. These enhanced rights and freedoms include the following: (1) joint use agreements provide for easier access, (2) no fees to process attachment requests, (3) no cost recovery by the pole owner for either “pre” or “post” installation inspections, (4) limited safety violation inspections, (5) no security instruments are required by either party, (6) and other provisions that are not contained in pole attachment agreements. In addition, the fees for delinquent transfers, unauthorized attachments, and terms, conditions, and specifications in a joint use agreement are reciprocal - that is, they apply to access by ILECs to EMC poles and access by EMCs to ILEC poles. Joint use Agreements provide for “normal” space for each party, not just a single attachment space, on the joint use pole. The “adjustment rates”, or rental rates are “per pole” - not “per attachment” as in a pole attachment agreement, thereby benefitting both parties. Joint use agreements contemplate a “parity of ownership” relationship, that is, both parties own sufficient poles to avoid any rental payment between the parties at yearend. And, also significant, in a pole attachment agreement, the pole owner has the right to recover space from the licensee whenever needed by the pole owner - or the joint use partner. That is not the case in a joint use agreement. Joint use agreements contemplate a partnership in providing the pole infrastructure needed by both parties to economically serve their common customers, i.e. the “rate base.”

The pole attachment agreements provide that the Licensee must remove their facilities upon termination. The joint use agreement between the Georgia EMCs and BellSouth (and several other joint users) contains an “evergreen” provision which allows existing attachments to remain on the poles, subject to the terms of the agreement, but the joint user does not have to remove its existing facilities.

Moreover, the cables that a joint user attaches weigh more than cable company facilities and therefore create more sag, requiring everyone’s attachments to be installed higher on the pole. As observed by GCA's witness Jim Davies, "coaxial cables and fiber-optic cables are extremely light, far lighter than the heavy copper lines that traditional telephone companies have on their networks.”[[35]](#footnote-35)

1. Does Ms. Kravtin appear to agree that joint use agreements provide advantages that cable companies do not have with a pole attachment agreement?
	1. Yes she does. In fact, Ms. Kravtin states: “Unlike telephone utility joint users, the third-party communications attacher’s use is one of a mere licensee with decidedly inferior terms and conditions of access.”[[36]](#footnote-36)
2. You refer to the “rental rate” as an “adjustment payment” in the joint use agreements. Can you explain the derivation of the term “adjustment payment” and why that term is used instead of “rental rate”?
	1. Yes, the term “adjustment payment” makes complete sense in the context of a joint use agreement. “Adjustment payment” refers to the annual payment paid by either party when they fail to own/provide their proportionate share of poles. Joint use agreements contemplate that the parties will share “equitably” in the provision of joint use poles. The goal of joint use is not to generate revenue, but rather to share costs. Article V.B of the GEMC-BellSouth Joint Use Agreement contains the following language:

“In any case where the parties hereto shall conclude arrangements for the joint use of any new poles to be erected, and the party proposing to construct the new pole facilities already owns more than its proportionate share of Joint Poles, the parties shall take into consideration the desirability of having the new pole facilities owned by the party owning less than its proportionate share of Joint Poles so as to work towards such a division of ownership of the Joint Poles that neither party shall be obligated to pay to the other any adjustment payments because of their respective use of Joint Poles owned by the other, due regard being given to the desirability of avoiding mixed ownership of poles in a section of line.”

The “proportionate share” of Joint Poles, also known as “parity”, referred to above represents a 57% ownership share for the EMCs and 43% for BellSouth. This ratio is a function of the “Normal Space” assigned to each party, and the “Normal Pole” size specified in the Agreement. It can be determined by adding the annual per pole “adjustment payment,” (a/k/a annual rental rates) for each party, and thereafter dividing the resulting total into the “adjustment payment” rate paid by each joint user. As an example, the original “adjustment payment” rates in the BellSouth-GEMC agreement for 2004 were $21.50/pole paid by the telephone company and $28.50/pole paid by the EMC. The sum of the two adjustment payments is $50. Dividing BellSouth’s original rate ($21.50) by $50 yields 43%. By similarly dividing the EMC’s original adjustment payment rate of $28.50 by $50, the EMC’s proportionate share of 57% is derived. The current rates between BellSouth and GEMC ($30.93 and $40.93, respectively), under the same analysis, yields the same ownership ratio as the 2004 “adjustment rates.” Therefore, the “annual net payment” is $0 when the parties own their proportionate share of poles (57% EMC and 43% BellSouth), which satisfies the contract provision above. When either party fails to own its proportionate share of poles, the annual payment represents an “adjustment payment” to the party owning more than its proportionate share. Again, the goal in joint use is not to generate revenue, but rather to equitably share the burden of ownership of the universe of joint use poles. Notably, there is no definition for “adjustment payment” in the 2004 GEMC-BellSouth Agreement, indicating an understanding of the concept by both parties.

1. The GEMC-CTAG also uses the term “adjustment payment” instead of “rental rate”, and it is a license agreement. Why is the term “adjustment payment” used in that agreement?
	1. As stated in other parts of my testimony, the 2004 BellSouth Agreement was offered to CTAG by GEMC, and thereafter was used as the template in negotiations. The term “adjustment payment” remained unchanged in the final version of the 2008 CTAG Agreement. However, a definition of the term was added in Article 2, second paragraph, which defines Adjustment Payment as follows: “Adjustment Payment” is the annual rental rate paid by the Licensee to the EMC for Attachments to Poles as provided for in Article 11, Adjustment Payments, of this Agreement.”
2. The Georgia Telecommunications Association believes telephone company pole owners should be entitled to the FCC Cable rate. AT&T contends it should be entitled to the “new” FCC Telecom rate. Please respond.
	1. As an initial matter, I should point out that the FCC’s “new” Telecom rate modified the “old” FCC Telecom rate to reduce the attachment rate generated by the formula to bring it in line with the exceedingly low FCC Cable rate. That being said, the existing rates that AT&T and Georgia Telecommunications Association members pay in their joint use agreements are a bargain.

The 2003 rates under the 2004 joint use agreements were $21.50 paid by BellSouth and $28.50 paid by the EMCs. That same year, Jackson EMC's average historical cost of a pole was **REDACTED** (*See* GEMC Ex. 154 (WA-37). At year-end 2019, Jackson EMC's average historical cost of a pole was **REDACTED**, or an increase of 142.4%. If "adjustment rates" (rental rates) had tracked with Jackson EMC's increase in pole costs, BellSouth's 2020 rental rate on an EMC pole would be $52.12 instead of $30.93.

In 2019, BellSouth’s annual operating cost per pole was $76.28. That was the average cost incurred by BellSouth to maintain on of its poles (*See* GEMC Ex. 155 (WA-38). But they can rent space on GEMC poles for $30.93, which saves them $45.35 per pole per year. Under the terms of their statewide contract with GEMC, that rate applies no matter how many attachments they install on an EMC pole - there is no additional pole rental cost for BellSouth to upgrade its facilities to carry broadband.

The GEMC - BellSouth Agreement contemplates a parity relationship under which BellSouth should own 43% of the joint use poles (*See* GEMC Ex. 156 (WA-39), Article V.B of the BellSouth-GEMC Joint Use Agreement). BellSouth currently owns 1.68% (10,057 of 600,183 joint use poles for the 38 EMCs in this proceeding), meaning that BellSouth has not incurred the capital costs on 248,022 poles. The EMCs have instead undertaken that capital cost approaching $115 million - that the agreement contemplates BellSouth should have provided (assuming a historical average installed cost, less fixtures, of $463.33).

# THE GEORGIA CABLE ASSOCIATION IS WRONG ABOUT MISCELLANEOUS OTHER POLE ATTACHMENT RATE CALCULATION ISSUES

1. Ms. Kravtin states: “Second, because, third-party attachers routinely pay their full economic (direct) share of costs associated with this safety space through make-ready charges they pay to the utility in connection with the replacement of poles and/or the rearrangement of space on the pole to ensure compliance with NESC, to shift a higher percentage of cost recovery for this space onto attachers in the recurring rate only compounds the likelihood of double or excess recovery of these costs from third-party attachers.”[[37]](#footnote-37) Please respond.
	1. To begin with, communications attachers have been avoiding quite a lot of make-ready charges over the years because EMCs have routinely been installing larger poles than they need for their own use, consistent with the terms of their statewide Agreements, to pro-actively avoid make-ready delays and expenses.

Second, there is no “double recovery” related to make-ready expenditures when such expenditures are properly accounted for on the EMCs books. Payments for make-ready work (by licensees) are a direct offset to the cost incurred by the EMC. Therefore, the impact on the EMCs books is zero dollars ($0.00). Additionally, it bears repeating that the 40-inch Communication Worker Safety Zone is provided on EMC poles, as required by the NESC (Section 235C4), to protect communications workers.

1. Mr. Frank proposes that the Model Agreement between GCA and GEMC be modified “to ensure that pole owner non-recurring charges, including for application processing, pre-attachment inspections, make-ready work, post construction and periodic safety inspections, and billing inventories are non-discriminatory, cost based and commercially reasonable, and that they are not already recovered through the annual pole attachment rental fees.”[[38]](#footnote-38) Do you believe such charges would already be recovered through the Georgia Formula and the Georgia Rate?
	1. As I just explained with respect to make-ready charges, when properly booked, payments associated with make-ready, pre- and post-inspections, safety audits, etc. is credited to the account in which the related expenditure occurs. This process ensures that this type of cost is not also recovered through the Georgia Formula. When EMCs use consultants for the above-referenced services, the costs are direct-billed to the licensee by the consultant and therefore are never recorded on the EMCs books and are not recoverable in the Georgia Formula.
2. Ms. Kravtin keeps using the term “unusable” space to describe the space below the communications space on the pole. Do you agree that term is appropriate to use?
	1. Absolutely not. The space is not only “usable,” it is also regularly used by the cable operator. That is why GEMC refers to this space as “support” space, instead of “unusable” space. No term (“unusable”) could be more inappropriate. To illustrate, Article 4.D of the GEMC-CTAG statewide model Agreement (*See* GEMC Ex. 160 (WA-43)) not only provides for the use of that space by the cable operator, it authorizes the use of that space "rent-free". Specifically, Article 4.D provides:

"Licensee, without following the Appendix A procedure, may utilize vertical unused space below its Attachment as defined in Article 2, Explanation of Terms, for terminals, risers, power supplies or other vertical Attachments if the existing Attachment on such Pole is authorized, such use does not interfere with the EMC's operations or the operations of other Licensees or Joint Users presently attached to the Pole, and such use complies with the terms of this Agreement (including the provisions of Article 3, Specifications). Any such Attachment and Pole will be subject to all other provisions of this Agreement.”

Not only is the space used for the affixation of hardware, equipment, and cable risers, but also it is used by workmen climbing the pole to access the communications cables and apparatus, and to install and maintain services to subscribers.

1. Ms. Kravtin contends the communication worker safety zone is there because of electric facilities.[[39]](#footnote-39) Please respond.
	1. The communication worker safety zone is only required when a communications attachment is installed on an EMC pole. The typical communications worker is neither properly trained nor equipped to word in the supply space. If they were, there would be no need for the EMC to provide the communication worker safety zone. Therefore, the only purpose of the communication worker safety zone is to protect the unskilled and improperly equipped communications worker from the supply conductors. On EMC poles with no communications attachments, there is no need for the communication worker safety zone – and the EMC does not incur the cost of a larger pole. The communication worker safety zone would not be there “but for” the presence of a communications attachment. The costs related to that space are appropriately charged to the party that it benefits – the communications company.

Perhaps the most clear explanation that the purpose of the communication worker safety zone is to protect communications workers is provided by GCA’s own witness Dr. Slavin, who explains: “In order to protect communications workers, the two spaces are separate by a “Communication Worker Safety Zone” (CWSZ), as defined by NESC Rule 238E and NESC Rule 235C4.”[[40]](#footnote-40)

1. Ms. Kravtin states: “GEMC’s decision to use only a portion of Account 369 net investment in its calculation of the maintenance element is inconsistent with the FCC methodology and results in a higher maintenance CCF than found just and reasonable by the FCC and the majority of states applying the standard formula methodology.”[[41]](#footnote-41) Please respond.
	1. If, in fact, the FCC insists that Underground Services should be included in the calculation of “Overhead Maintenance Expense”, the FCC is simply wrong. This venue is not the FCC. The Commission certainly can instead decide to properly calculate the Overhead Maintenance Carrying Charge percentage by aligning the asset being maintained to the expense. Done any other way, the measurement of overhead Maintenance Expense Carrying Charge is simply incorrect.
2. Ms. Kravtin states: “As explained by the FCC, this is because the identical methodology is applied in the standard formula calculation of the rental rates applicable to conduit, i.e., the corresponding maintenance expense account for conduit (Account 594) is similarly divided by the entirety of Account 369). Accordingly, under the FCC methodology, neither overhead nor underground distribution is allocated a disproportionate share of maintenance expenses associated with that account.”[[42]](#footnote-42) Please respond.
	1. Like the adjustments made to Account 369 to remove underground services in the calculation using Account 593 (“Maintenance of Overhead Lines”), a similar adjustment should be made to determine the underground maintenance carrying charge for conduit rental. Stated another way, Overhead Services should be removed from Account 369 to determine the Maintenance Carrying Charge for Underground Conduit. Including “Overhead Services” in a calculation of the Underground carrying charge rate is simply wrong. After removing the Overhead services, Account 594 (“Maintenance of Underground Lines”) should be divided by the appropriate capital accounts for underground assets. Inclusion of assets not maintained under the expense account results in an erroneous carrying charge rate. Doing both incorrectly does not make either one accurate. The Commission can certainly prefer that any calculations be done accurately.
3. Ms. Kravtin states: “The application of an additional annual cost inflator over and above the FCC’s fully allocated cost-based rate is neither required as an operational matter, nor appropriate from an economic cost-based perspective, as cost increases experienced by the EMC will be built into their actual reported cost values.”[[43]](#footnote-43) Please respond.
	1. The Handy-Whitman Index is not a “cost inflator”. Instead, it calculates the cost trends for different types of utility construction. The Handy-Whitman Index is used by regulatory bodies, operating utilities, service companies, valuation engineers, and insurance companies. In fact, GEMC rental rates, using the Handy-Whitman Index to track costs, were reduced in both 2015 and 2019 from the previous year’s rates. In 2016, rental rates were unchanged from the previous year’s rates. The Handy-Whitman Index was proposed by the EMCs not as a “cost inflator,” but instead as a convenient way for the Commission to avoid constantly revisiting the calculation of rental rates. By using the Handy-Whitman Index, detailed calculations will only be needed once every five years.
4. In numerous places in her direct testimony, Ms. Kravtin contends that cable companies are simply using “surplus” space on a pole when they attach. Dr. Connolly contends that “Pole owners charge the attaching entity an annual rate to cover a share of the costs associated with the surplus pole space occupied by the attachment.”[[44]](#footnote-44) Please respond.
	1. Properly maintained poles, like those owned by the EMCs, have a long potential service life, often in excess of 40 years.[[45]](#footnote-45) Of course, that assumes proper attachment and engineering practices by all attachers throughout its life. Poles taller than what is needed just for the EMC’s initial electric needs are installed with the expectation that additional electric facilities and communications attachers might also use them, so that the poles need not be replaced when the need for additional facilities arises. In that respect, poles are designed to accommodate the “ultimate needs” over the service life of the asset. The availability of existing space on a pole is not an indication that the space is “surplus.” Instead, it is an indication of sound engineering and that the ultimate use of the asset has not yet occurred.
5. Ms. Kravtin suggests that the Commission should not follow the TVA approach to setting pole attachment rates.[[46]](#footnote-46) Please respond.
	1. I disagree. TVA is a corporate agency of the United States operating in seven southeastern state, including Georgia. TVA is the exclusive rate regulator for electric cooperatives that distribute TVA power, and has jurisdiction over three electric coops serving Georgia (Blue Ridge Mountain Electric Membership Corp., Tri-State Membership Corp., and North Georgia Electric Membership Corp.). TVA’s decision regarding pole attachment rates is a federal decision far more relevant than any FCC decision because the FCC has no jurisdiction over attachments to electric cooperative poles and so its decisions do not affect electric cooperatives anywhere, much less in Georgia. Further, TVA’s guidance is consistent with federal Rural Electrification Administration (“REA”) policies originating at the dawn of joint use between electric coops and communications companies. As explained in TVA’s decision and in my direct testimony, TVA’s pole attachment rate formula was approved to ensure electric cooperatives are “appropriately compensated,” and to “better protect the electric ratepayer” so that ratepayers “are not forced to subsidize the business activities of those entities that are utilizing electric system assets.” The TVA decision explains very carefully the formula that it adopted even including a diagram of a pole indicating which space on the pole each attaching entity should pay for. TVA’s decision was reached only after fully analyzing and rejecting the FCC formula that Ms. Kravtin recommends.
6. Ms. Kravtin contends EMCs are asking for an additional attachment fee associated with overlashing.[[47]](#footnote-47) Please respond.
	1. Her statement is not true. The EMCs are not presently, nor have they in the past, advocated for any additional rental associated with overlashing by a cable operator. *See* GEMC Ex. 160 (WA-43), Articles 2.3, 2.4 and 2.20, as well as Article 4 of the GEMC-CTAG statewide Agreement. Because of severe reliability issues caused by cable company overlashing, GEMC insisted on permitting in advance of overlashing, which CTAG recognized and agreed to in 2008.

**Q. Dr. Connolly contends that EMCs often argue that EMC costs are higher than investor-owned utility costs because EMCs are located in rural areas.[[48]](#footnote-48) Are the Georgia EMCs making that argument?**

* 1. No.
1. Ms. Kravtin contends that EMCs beginning to deploy broadband services of their own will discriminate against cable companies.[[49]](#footnote-49) Do you agree?
	1. No, I do not. Senate Bill 2 specifically prohibits any form of cross-subsidization and discrimination and gives the Georgia Public Service Commission oversight. *See* GEMC Ex. 162 (WA-45).
2. Ms. Kravtin contends unauthorized attachment penalties and safety violation penalties are subject to abuse.[[50]](#footnote-50) Please respond.
	1. I disagree. Georgia EMC explained, as those terms were negotiated in the GEMC-CTAG statewide Agreement, that they (GEMC) are not at all interested in collecting fines and penalties. What GEMC expected, and continues to expect, is compliance with applicable regulations and the terms of the agreement – especially those provisions that involve safety of workers and the general public, and the reliability of the electric system. And as I have previously stated, the statewide CTAG agreement was, in large part, derived from the 2004 GEMC BellSouth Joint Use Agreement. That 2004 Agreement embodies many of the penalties (unauthorized attachment fees, late transfer fees, etc.) that are in the 2008 CTAG Agreement. Since the terms of the 2004 Joint Use Agreement are reciprocal, GEMC has itself agreed to the penalty provisions. Penalties do not apply if the negotiated, and agreed to, terms of the Agreement are followed.

# CONCLUSION

1. Does this concluded your rebuttal testimony?
	1. Yes. I thank the Commission and the Staff for considering our rebuttal testimony.
1. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 11. [↑](#footnote-ref-1)
2. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 19-20. [↑](#footnote-ref-2)
3. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 66. [↑](#footnote-ref-3)
4. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 76. [↑](#footnote-ref-4)
5. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 39-40. [↑](#footnote-ref-5)
6. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 42. [↑](#footnote-ref-6)
7. *See* Pre-Filed Direct Testimony of Dr. Michelle Connolly, 7. [↑](#footnote-ref-7)
8. *See* Pre-Filed Direct Testimony of Dr. Michelle Connolly, 9. [↑](#footnote-ref-8)
9. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 65. [↑](#footnote-ref-9)
10. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 65. [↑](#footnote-ref-10)
11. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 59. [↑](#footnote-ref-11)
12. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 67. [↑](#footnote-ref-12)
13. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 66. [↑](#footnote-ref-13)
14. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 12. [↑](#footnote-ref-14)
15. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 75. [↑](#footnote-ref-15)
16. *See* Pre-Filed Direct Testimony of Dr. Michelle Connolly, 11. [↑](#footnote-ref-16)
17. Letter from Dawn R. Kelliher, General Counsel to the Arkansas Public Service Commission to the Secretary of the Arkansas Public Service Commission dated May 19, 2017, explaining that Order No. 5, Docket No.15-019-R, dated June 24, 2016, if effective as of May 19, 2017 (available at: <http://www.apscservices.info/pdf/15/15-019-R_80_1.pdf>). At page 12, footnote 16 of her direct testimony, Dr. Connolly mistakenly states the Arkansas rate was adopted in late 2016 (it was June 2016), and fails to note it was not effective until nearly a year later in May 2017). [↑](#footnote-ref-17)
18. *See* Pre-Filed Direct Testimony of Dr. Michelle Connolly, 12 n. 16. [↑](#footnote-ref-18)
19. *Time Warner Cable Southeast LLC v. Carteret -Craven Electric Membership Corp.*, Docket No. EC–55 SUB 70, January 9, 2018, available at: <https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=6e35842d-b1d6-48b7-83c9-438ecc786494>; *Time Warner Cable Southeast LLC v. Surry-Yadkin Electric Membership Corp.*, Docket No. EC–49 SUB 55, January 9, 2018, available at: <https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=13fbf1e9-b910-42a9-9f9f-c6862eeeb7c9>; *Time Warner Cable Southeast LLC v. Jones-Onslow Electric Membership Corp.*, Docket No. EC–43 SUB 88, January 9, 2018, available at: <https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=ec68070f-4a17-4e85-9e15-75a0ab9f5051>; *Union Electric Membership Corp. v.* *Time Warner Cable Southeast LLC v.* Docket No. EC–39 SUB 44, January 9, 2018, available at: <https://starw1.ncuc.net/NCUC/ViewFile.aspx?Id=245e5ec5-94bc-4b60-9ebe-0a798a9a65aa>. [↑](#footnote-ref-19)
20. *See* Pre-Filed Direct Testimony of Dr. Michelle Connolly, 16. [↑](#footnote-ref-20)
21. *See* Pre-Filed Direct Testimony of Dr. Michelle Connolly, 12. [↑](#footnote-ref-21)
22. *See* Pre-Filed Direct Testimony of Dr. Michelle Connolly, 23. [↑](#footnote-ref-22)
23. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 38-39, n. 32. [↑](#footnote-ref-23)
24. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 9. [↑](#footnote-ref-24)
25. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 8. [↑](#footnote-ref-25)
26. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 28-30. [↑](#footnote-ref-26)
27. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 29-30. [↑](#footnote-ref-27)
28. *See* Pre-Filed Direct Testimony of Jim Davies, 7-8. [↑](#footnote-ref-28)
29. *See* Pre-Filed Direct Testimony of James Yates, 7-8. [↑](#footnote-ref-29)
30. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 27. [↑](#footnote-ref-30)
31. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 27. [↑](#footnote-ref-31)
32. *See* Pre-Filed Direct Testimony of Jim Davies, 25. [↑](#footnote-ref-32)
33. *See* Pre-Filed Direct Testimony of Wilfred Arnett, 33-35. [↑](#footnote-ref-33)
34. *See* Pre-Filed Direct Testimony of Wilfred Arnett, 34. [↑](#footnote-ref-34)
35. *See* Pre-Filed Direct Testimony of Jim Davies, 16. [↑](#footnote-ref-35)
36. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 12. [↑](#footnote-ref-36)
37. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 45. [↑](#footnote-ref-37)
38. *See* Pre-Filed Direct Testimony of Douglas Frank, 25. [↑](#footnote-ref-38)
39. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 44. [↑](#footnote-ref-39)
40. *See* Pre-Filed Direct Testimony of Dr. Lawrence Slavin, 21. [↑](#footnote-ref-40)
41. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 46. [↑](#footnote-ref-41)
42. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 47. [↑](#footnote-ref-42)
43. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 48. [↑](#footnote-ref-43)
44. *See* Pre-Filed Direct Testimony of Dr. Michelle Connolly, 12. [↑](#footnote-ref-44)
45. *See* Pre-Filed Direct Testimony of James Yates, 9. [↑](#footnote-ref-45)
46. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 72. [↑](#footnote-ref-46)
47. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 81-82. [↑](#footnote-ref-47)
48. *See* Pre-Filed Direct Testimony of Dr. Michelle Connolly, 8, 16. [↑](#footnote-ref-48)
49. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 32. [↑](#footnote-ref-49)
50. *See* Pre-Filed Direct Testimony of Patricia Kravtin, 21. [↑](#footnote-ref-50)