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DOCKET# 44703
DOCUMENT# 191951

NOTICE OF PROPOSED RULEMAKING

TO: (a) Legislative Counsel – State of Georgia
(b) Affected Commission Staff
(c) All Parties on the Commission's Rulemaking Mailing Lists

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

Docket No. 44703: Notice of Proposed Rulemaking to Adopt Rule 515-12-1-.39 Universal Access Fund

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-.39.

BY THE COMMISSION:

At its regularly scheduled October 18, 2022 Administrative Session, the Commission issued this Notice of Proposed Rulemaking ("NOPR"). This proposed Commission Rule 515-12-1-.39 shall be considered for adoption at the Commission's regularly scheduled **Administrative Session on December 6, 2022 at 9:30 a.m.,** which will be held 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. § 46-2-30.

B. Synopsis and Explanation of Proposed Rules

The proposed rule codifies existing requirements in state law and Commission orders in Docket Nos. 32235 and 36116 related to the Universal Access Fund. The proposed rule requires carriers to remit funds on a quarterly basis to support the Universal Access Fund, specifies billing language for carriers that choose to include a surcharge on customer, and establishes minimum filing requirements and a deadline for the filing of applications for disbursements. Finally, the proposed rule would eliminate the existing Track 1/Track 2 process.

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-.39. The full text of the proposed rule 515-12-1-.39 of the Commission Rules is set forth below.

RULES OF GEORGIA PUBLIC SERVICE COMMISSION

Rule 515-12-1-.39. Universal Access Fund

(1) **Quarterly Contributions.** All telecommunications companies holding a certificate of authority issued by the Commission to provide services within Georgia shall contribute quarterly to the Universal Access Fund. The contribution is calculated by multiplying a company's gross intrastate revenues from the provision of telecommunications services to end users by a factor set by order of the Commission.

(2) **Universal Access Fund Surcharge.** A telecommunications company holding a certificate of authority issued by the Commission may add a surcharge to customer bills after filing a letter providing notice to the Commission of its intent to do so. Customers shall be given at least 30 days' notice prior to implementation of the surcharge. The surcharge shall appear on customer bills as "Georgia Universal Access Fund Surcharge." If the number of characters in "Georgia Universal Access Fund Surcharge" exceeds the number of characters allowed in the company's billing software or if the full text will not fit on one line, "Georgia UAF Surcharge" or "GA UAF Surcharge" may be used instead.

(3) **Quarterly Reports and Remission of Funds.** Each telecommunications company that is required to contribute to the Universal Access Fund shall submit quarterly via email a report to the Commission Staff calculating the required contribution for each quarter. The report shall be submitted to the Staff and the contribution shall be remitted to the fund designated for the Universal Access Fund no later than the thirtieth calendar day following the close of each quarter.

(4) **Applications for Distributions from the Universal Access Fund.** The Commission shall determine any such distributions upon application, demonstration, and good cause shown that the reasonable actual costs to provide basic local exchange services exceed the maximum fixed price permitted for such basic local exchange services. Applications for distributions from the Universal Access Fund shall be limited to local exchange carriers subject to rate of return regulation.

(a) **Filing Deadline.** Applications shall be filed no later than December 15 of each year.

(b) **General Filing Requirements.** Applications shall be made based on losses incurred from July 1 of the prior year through June 30 of the filing year, excluding non-regulated costs, and shall include, in fully-functional Excel format, the following:

1. Publicly-disclosed earnings report (Tab 1)
2. Form M (Tab 2)
3. Separations-based cost study (Tab 3)
4. Cost study workpapers (Tab 4)
5. Subjective support for regulated and non-regulated costs (Tab 5)
6. Information related to affiliated transactions (Tab 6)

(c) **Enhanced Filing Requirements.**

1. Trial Balance reports for June 30 of the preceding year, December 31 of the preceding year and June 30 of the filing year (these trial balances may be redacted as needed to remove names and CPNI information).
2. The most recent un-redacted audited financial reports with accompanying notes for each company and its parent company (if applicable).
3. Identification of the depreciation rates applicable to each plant account during the fiscal year.
4. A copy of the company's current Cost Allocation Manual or equivalent documentation that identifies the company's organizational structure and procedures for segregating costs between regulated and nonregulated operations.
5. Documents demonstrating that basic residential local rates are set at the top of the limits allowed by the GPSC or that foregone revenues are imputed.

6. Documents demonstrating the impact of HB168-related changes to intrastate access rates are not being double recovered.
7. All information necessary to demonstrate that National Broadband stimulus grant funded assets and related expenses are excluded from the UAF request.

(d) **Executive Compensation and Corporate Operations Expense.** Allowable costs for executive compensation and/or corporate operations expense shall be constrained based upon the greater disallowance calculated based upon the following limits:

1. Executive Costs (USOA Account 6711 or 6710 as indicated by company accounting practice) shall be limited to the lesser of actual cost or $200,000 plus $78 times the number of access lines reported on Form 5322 as of December 31 of the preceding year.
2. The overall corporate operations expenses (USOA accounts 6711 through 6728 or 6710 and 6720 as indicated by company accounting practice) shall be equal to the lesser of the average monthly per loop corporate operations expense cap provisions of Sections 36.621(a)(4)(i) and 36.621(a)(4)(ii) of the FCC's rules and regulations (USF Corporate Operations Expense capping mechanism as of December 31, 2010) times the number of access lines reported on Federal USF cost reporting (Data Line 070, total loops) as of December 31 of the preceding year and annualized.

(e) **Reactive Engagements.** Each application for reimbursement from the Universal Access Fund will undergo a reactive engagement conducted by a contractor chosen by the Commission. The procedures employed by the contractor will be determined by the Commission. The cost of the reactive engagement will be borne by the party that filed the application. At the conclusion of the reactive engagement, the Staff will file a report containing the findings, if any, of the contractor.

(f) **Hearing Requests.** Any interested party may file a request for a hearing on any individual application within 14 calendar days of the date of filing of the Reactive Engagement report.

Statutory Authority: O.C.G.A. §§ 46-2-20, 46-5-167.

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The Commission shall consider adopting this proposed rule at its regularly scheduled **Administrative Session on December 6, 2022 at 9:30 a.m.**, 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 **November 1, 2022**. The Commission requests that, where possible, comments include specific proposed edits to the Rules.

Any written materials are to be filed with:

Sallie Tanner
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 **November 1, 2022**. 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 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. committee meetings on **December 1, 2022.**

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 amendments to Commission Rule 515-12-1-.39.

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 **November 1, 2022**.

ORDERED FURTHER, that all persons interested in presenting views or arguments orally should present a written request for an oral hearing by **November 1, 2022**. If requested, the Commission will hold a hearing to receive oral comments immediately following the 9:30 a.m. committee meetings on **December 1, 2022**.

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 Administrative Session on the 18th day of October 2022.

Sallie Tanner
Executive Secretary

10-28-22
Date

Tricia Pridemore
Chairman

10-28-22
Date