STATE OF GEORGIA
BEFORE THE PUBLIC SERVICE COMMISSION

In Re:	)	
	)	
Generic Proceeding to Implement House Bill 168;	)	**Docket No. 32235**
	)	

REPLY BRIEF OF GTBA—GEORGIA'S RURAL TELEPHONE AND BROADBAND ASSOCIATION

Georgia Telephone Association d/b/a GTBA-Georgia's Rural Telephone and Broadband Association ("GTBA"), by and through the undersigned counsel and pursuant to the August 1, 2023 "Procedural and Scheduling Order on Universal Access Fund Contribution Methodology," files this reply brief on the three issues noticed in the above captioned proceeding. GTBA replies to the comments filed by BellSouth Telecommunications, LLC d/b/a AT&T Georgia (AT&T).[1] GTBA recommends the Commission not adopt AT&T's framework that would exclude affiliate revenues from the Universal Access Fund (UAF) contribution base. GTBA submits these reply comments in support of this recommendation.

AT&T argues that allowing it and others to eliminate affiliate transactions that are subject to UAF assessments is supported by Generally Accepted Accounting Principles (GAAP) and Federal Communications Commission (FCC) accounting practices. GTBA disagrees.

1. GAAP guidance and AT&T's own practice do not support eliminating transactions for purposes of determining Georgia's UAF contribution base.

The Commission does not need to accept AT&T's interpretation of GAAP and FCC accounting practices. AT&T argues that the Commission is directed to have accounting practices that are "as far as practicable, in conformity with the system of accounts prescribed by [ ] analogous

[1] AT&T Georgia's Initial Brief Supporting Exclusion of Affiliate Transaction Revenues from Revenues that are Subject to Contributions to the Universal Access Fund, Docket No. 32235, September 5, 2023 (AT&T Brief).

federal authorities."[2] AT&T implies that GAAP should be used for UAF purposes since such guidance is given for ratemaking purposes.[3] As is evident in this proceeding, allowing certificated entities to eliminate telecommunications revenues from affiliates for determining UAF contribution base is not practical. This one interpretation changes the Commission's long-standing procedure and greatly increases the assessment factor—thereby disrupting the Commission's carefully crafted public policy.

AT&T does not argue that it does not know (or cannot readily determine) the revenues associated with its affiliate transactions. Instead, at the holding company level, AT&T engages in eliminations and consolidations of ledger entries to generate consolidated financial statements.[4] AT&T reports to investors that it analyzes its "segments based on segment operating contribution … and equity in net income (loss) of affiliates for investments managed within each segment."[5] It is clear AT&T knows the revenue it receives from affiliates for the delivery of telecommunications services.

2. FCC accounting practice does not support AT&T's interpretation to eliminate affiliate transactions for purposes of calculating the revenue base subject to UAF assessment.

AT&T argues incorrectly that FCC practice supports its claim. AT&T states generally and without citation that "excluding revenues from affiliate transactions from AT&T Georgia revenues that are subject to the UAF contribution factor is consistent with the treatment of revenues from affiliate transactions at the analogous federal level. Specifically, interstate affiliate revenues are

[2] AT&T Brief, pages 2-3.
[3] Id. page 3.
[4] Id.
[5] AT&T Inc., 10K Filing, Securities and Exchange Commission, 2022, page 71, note 4. See generally pages 72-77 where AT&T reports revenues associated with affiliate eliminations and consolidations.

not subject to contributions to the Federal USF."[6] When the FCC examines transactions that are wholesale in nature between two companies it considers whether the receiving company does or does not in turn use the telecommunications service for its own telecommunications service offering. The FCC uses Form 499-A to determine the contribution base and federal universal service assessment for interstate and international telecommunications revenues. The FCC uses two categories of revenue: revenues from resellers of telecommunications services and all other revenue. The Form 499-A instructions define "reseller" as "a telecommunications carrier or telecommunications provider that (1) incorporates purchased telecommunications into its own offerings; *and* (2) can reasonably be expected to contribute to federal universal service support mechanisms based on revenues from those offerings. Specifically, a customer is a reseller if it incorporates purchased wholesale service into an offering that is, at least in part, assessable telecommunications and can be reasonably expected to contribute to the federal universal service support mechanisms for that portion of the offering."[7] In this scenario, if AT&T's affiliate offers services that are at least in part assessable telecommunications and can be reasonably expected to contribute to the federal universal service support mechanisms for that portion of the offering, then the affiliate reseller would be assessed based on its telecommunications revenues.

Stating that the FCC's approach is consistent with AT&T's advocacy in this proceeding is misleading. Drawing from the Form 499 example, if AT&T were to provide telecommunications services to an affiliate one of four results would occur. First, an affiliate uses the telecommunications service within the delivery of an end-user telecommunications service and is expected to contribute on the associated revenues. In this scenario, the affiliate would be treated as a reseller and report end-user telecommunications revenue for assessment purposes. Second, an

[6] AT&T Brief, page 4.
[7] Federal Communications Commission, Form 499 Instructions, 2023, page 38 (footnotes omitted).

affiliate uses the telecommunications service within the delivery of an end-user telecommunications service but is not expected to contribute on the associated revenues, i.e., a non-contributing affiliate. In this scenario, the affiliate would not be treated as a reseller, but an end-user, and AT&T would report its revenue as non-reseller telecommunications revenue for assessment purposes. Third, an affiliate uses the telecommunications service as a component of a non-telecommunications service it offers to customers. In this case, the affiliate would not be considered a reseller, rather the end-user of the telecommunications services, and the transaction would be reported by AT&T as assessable non-reseller revenue. And lastly, an affiliate consumes the telecommunications service for its own purpose. In this case, the affiliate is inarguably the end-user of the telecommunications service, and the revenue would be reported by AT&T as assessable non-reseller revenue. From this analysis, the blanket statement that affiliate revenues are not included in federal assessments is incorrect. The Commission should not adopt AT&T's advocacy on this point.

3. Georgia Statute defines the term "end user" that gives guidance to the Commission.

GTBA recommends the Commission not accept AT&T's analysis for the term end-user. AT&T takes exception to the application of the term "end user" that appears in the Chapter 5 – Telephone Service since it appears in Article 6 – Disclosure of Telephone Records.[8] AT&T states that in the absence of a definition of the term in Article 4 – Telecommunications and Competition Development, the Commission may exclude revenues from affiliate transactions. AT&T correctly cited the definition in Article 6, yet provides no discussion of why, in the absence of a definition

[8] O.C.G.A. § 46-5-210(a)(2). ("*"End user" means any person, corporation, partnership, firm, municipality, cooperative, organization, governmental agency, building owner, or other entity provided with a telecommunications service for its own consumption and not for resale.")*

of end-user in Article 4, the Commission may not clarify that the term "end-user" is intended to include any person, corporation, partnership, firm, municipality, cooperative, organization, governmental agency, building owner, or other entity provided with a telecommunications service for its own consumption and not for resale. To define the term resale or reseller, the FCC's Form 499-A application is practical and would be consistent with Georgia's direction for the Commission to follow the applicable federal agencies when practical. The Georgia term for reseller would be "a telecommunications carrier [holding a certificate of authority issued by the Commission to provide services within Georgia] that (1) incorporates purchased telecommunications into its own offerings; *and* (2) can reasonably be expected to contribute to [Georgia] universal [access fund] support mechanisms based on revenues from those offerings."[9] In applying this definition, the Commission would exclude affiliate transactions for telecommunications services provided to an affiliate if the affiliate were a reseller of those same services. In all other cases, it is appropriate for the Commission to assess affiliate transaction revenue for telecommunication services.

4. If the foregoing is unworkable or impractical, GTBA recommends the Commission determine the contribution based on working telephone numbers.

The Georgia Legislature provides two methods to assess certificated telecommunications companies.[10] The Commission has the authority to determine the manner of contribution using either working telephone numbers or intrastate revenues, or a combination of both. GTBA believes all tools available to the Commission should be considered to ensure that the UAF is sufficiently funded by a broad contribution base.

[9] FCC Form 499-A Instructions, page 38.
[10] O.C.G.A. § 46-5-167(b)

5. Conclusion

Georgia's UAF is an important tool used by the Commission to ensure that its universal service goals are met. AT&T's affiliate transaction claims are unavailing. The U.S. Supreme Court has noted that "GAAP does not necessarily parallel economic reality"[11] and states that "financial accounting is not a science."[12] The Commission should not abandon its practical procedures for determining the contribution base for UAF assessment by adopting AT&T's interpretation.

GTBA thanks the Commission for the opportunity to present this brief in this proceeding.

Respectfully submitted, this 19th day of September, 2023.

OLIVER MANER LLP

/s/ **AMELIA C. STEVENS**

J. RYAN BEASLEY
Georgia Bar No. 981236
AMELIA C. STEVENS
Georgia Bar No. 758771

Counsel for GTBA

218 West State Street
P.O. Box 10186
Savannah, Georgia 31412
(912) 236-3311
rbeasley@olivermaner.com
astevens@olivermaner.com

[11] Shalala v. Guernsey Memorial Hosp., 514 U.S. 87, 89 (1995).
[12] Id. at 100.

CERTIFICATE OF SERVICE

I certify that the foregoing **Reply Brief of GTBA—Georgia's Rural Telephone and Broadband Association** in Docket No. 32235 was filed with the Public Service Commission by electronic and hand delivery on this date. An electronic copy of the same was served upon all parties listed below by electronic mail as follows:

Sallie Tanner
Executive Secretary
Georgia Public Service Commission
244 Washington Street S.W.
Atlanta, GA 30334-5701
Via email stanner@psc.ga.gov *and hand delivery*

Mr. Patrick Turner
AVP-Senior Legal Counsel
AT&T Georgia, South Carolina, and Tennessee
One CNN Center, SW1424B
Atlanta, Georgia 30303
Via email pt1285@att.com

Patrick Reinhardt
Georgia Public Service Commission
244 Washington Street, S.W.
Atlanta, GA 30334
Via email patrickr@psc.state.ga.us

Rhonda Chatham
Executive Director, Georgia Telephone Association d/b/a GTBA-Georgia's Rural Telephone and Broadband Association
P.O. Box 1613
Ellijay, GA 30540
Via email rchatham@gta.org

Respectfully submitted this 19th day of September, 2023.

OLIVER MANER LLP

/s/ **AMELIA C. STEVENS**
J. RYAN BEASLEY
Georgia Bar No. 981236
AMELIA C. STEVENS
Georgia Bar No. 758771

Counsel for GTBA

218 West State Street
P.O. Box 10186
Savannah, Georgia 31412
(912) 236-3311
rbeasley@olivermaner.com
astevens@olivermaner.com