

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
United Telephone Company of Ohio d/b/a)	
Embarq,)	
)	
Complainant,)	
)	
v.)	Case No. 08-616-TP-PWC
)	
The Village of Jefferson, Ohio,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) On May 22, 2008, United Telephone Company of Ohio d/b/a Embarq (Embarq) filed a complaint pursuant to Sections 4939.05 and 4905.26, Revised Code, stating that it does not accept the village of Jefferson's (village) Ordinance 2007-O-2714, relating to rights of way, and that the ordinance is unreasonable, unjust, unjustly discriminatory, and/or unlawful. According to the complaint, the ordinance was passed and was signed on December 17, 2007, and Embarq claims that it was notified of the implementation of the ordinance by a letter dated April 22, 2008.
- (2) On May 23, 2008, the examiner in this case issued an entry ordering the docketing division of the Commission to serve a copy of the complaint on the village and directed the village to file an answer. By entry issued on June 26, 2008, the village was granted an extension of time, until July 7, 2008, to file its answer to the complaint. The village filed its answer on July 7, 2008.
- (3) By entry issued July 16, 2008, the Commission determined that Embarq had provided reasonable grounds for complaint and suspended the public way ordinance as applied to Embarq for the duration of the Commission's consideration of the complaint. The Commission also made clear, however, that the public way ordinance would not be suspended as to any other

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occupancy of the public way, as the complaint had not been filed within 30 days after the ordinance first took effect. The Commission further clarified that it was not now determining whether this complaint had been timely filed and that one of the issues in the case was the date on which Embarq was first subject to the ordinance. Should the Commission conclude, based on the evidence presented, that the complaint was not timely filed, this matter may be dismissed.

- (4) Section 4939.06(A), Revised Code, directs that the Commission "shall act to resolve the complaint . . . within one hundred twenty days after the date of the complaint's filing." Therefore, in order to proceed with the instant case on a timely basis, the attorney examiner finds that a procedural schedule should be established.
- (5) The attorney examiner finds that a hearing in this matter should be scheduled for Tuesday, August 19, 2008, at 10:00 a.m. in Hearing Room 11-G, 11th floor, at the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43215-3793.
- (6) The entry issued on May 23, 2008, reminded the parties that, pursuant to Rule 4901-1-17, Ohio Administrative Code, discovery may begin immediately after a proceeding is commenced and should be completed as expeditiously as possible. It is assumed that the parties have heeded this advice and that discovery is underway.
- (7) The parties are encouraged to work toward resolving this matter. A telephonic status/prehearing conference is scheduled for Tuesday, August 12, 2008, at 10:00 a.m. At that time, parties to this proceeding should call the Commission at 614-644-1080. The purposes of the conference include confirming discovery status, readiness for hearing, need for rebuttal testimony, and other matters as needed.
- (8) Any party intending to present direct testimony (expert or otherwise) should file that testimony in writing with the Commission and serve it upon all parties, no later than seven days prior to the commencement of the hearing.

It is, therefore,

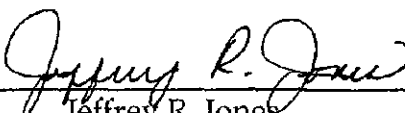
ORDERED, That a telephonic prehearing conference shall be held on Tuesday, August 12, 2008, at 10:00 a.m. It is, further,

ORDERED, That all direct testimony be filed by Tuesday, August 12, 2008. It is, further,

ORDERED, That a hearing be scheduled for Tuesday, August 19, 2008, at 10:00 a.m. in Hearing Room 11-G, 11th floor, at the offices of the Commission, 180 East Broad Street, Columbus, Ohio 43215-3793. It is, further,

ORDERED, That a copy of this entry be served upon all parties and interested persons of record.


THE PUBLIC UTILITIES COMMISSION OF OHIO


By: Jeffrey R. Jones
Attorney Examiner

KRG
/vrn

Entered in the Journal

JUL 16 2008



Renee J. Jenkins
Secretary