

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the Adoption :
of Chapter 4901:1-3, Ohio :
Administrative Code, :
Concerning Access to Poles, :Case No. 13-579-AU-ORD
Ducts, Conduits, and :
Rights-of-Way Provided by :
Public Utilities. :

- - -

PROCEEDINGS

before Jeffrey R. Jones, Attorney Examiner, Victor
Gallina, Michael Twiss, Marianne Townsend, Nadia
Soliman, and Jason Well, Commission Staff, at the
Public Utilities Commission of Ohio, 180 East Broad
Street, Room 11-B, Columbus, Ohio, called at 10:00
a.m. on Wednesday, April 17, 2013.

- - -

ARMSTRONG & OKEY, INC.
222 East Town Street, 2nd Floor
Columbus, Ohio 43215
(614) 224-9481 - (800) 223-9481
Fax - (614) 224-5724

- - -

1 Wednesday Morning Session,
2 April 17, 2013.

3 - - -

4 EXAMINER JONES: The Public Utilities
5 Commission of Ohio has assigned for a workshop at
6 this time and place Case No. 13-579-AU-ORD, that
7 being In the Matter of the Adoption of Chapter
8 4901:1-3 of the Ohio Administrative Code concerning
9 Access to Poles, Ducts, Conduits, and Rights-of-Way
10 Provided by Public Utilities.

11 My name is Jeff Jones and I'm the
12 Attorney Examiner presiding here today. I also have
13 with me various members of the staff. I'll start to
14 my left with Vic Gallina, Mick Twiss, Marianne
15 Townsend, and to my right Nadia Soliman, and Jason
16 Well. They're from the Utilities Section of the
17 Public Utilities Commission of Ohio.

18 This workshop is being held in response
19 to issuance of the Common Sense Initiative as well as
20 updates to Section 121.82 of the Revised Code which
21 require the Commission to evaluate it's rules against
22 a business impact analysis and provide such analysis
23 to the Common Sense Initiative Office

24 In incorporating the CSI requirements
25 into our rule review, the Commission has determined

1 that a workshop is appropriate. The purpose of this
2 workshop is to get your feedback on the staff's
3 proposed rules concerning poles, ducts, conduits, and
4 rights-of-way by public utilities.

5 This workshop is your initial opportunity
6 to give your feedback to the staff's proposal and any
7 other recommendations on how these rules could be
8 improved.

9 Nothing said today will be considered
10 binding on the parties in terms of the parties'
11 position on the issues, and while the purpose of
12 today's workshop is merely to open a dialogue among
13 interested parties and staff, this workshop is not
14 intended to serve as a substitute for the formal
15 comment process.

16 The Commission will still issue a set of
17 proposed rules for comment by Commission entry and we
18 expect to issue rules for comment shortly after this
19 workshop. And the same initial and reply comment
20 process that the Commission has traditionally used
21 will apply in this case.

22 At this point I want to reiterate that
23 this is your opportunity to provide the staff your
24 initial informal feedback before the rules are issued
25 for comment. In just a moment I'll have a staff

1 person give you an overview of what those rules look
2 like at the current time.

3 Staff will not engage in a legal
4 discussion of the issues or engage in conversation on
5 the rationale for the adoption of the rules nor in
6 today's workshop, rather those types of issues will
7 be addressed in the Commission's finding and order
8 following written comments submitted by interested
9 stakeholders.

10 I also want to emphasize that anything
11 you hear today from staff or from me is only staff
12 proposal at this point in time and still in the
13 formulation stages.

14 With that I'm going to turn to Nadia
15 Soliman and ask her to give you a brief overview of
16 what the proposed rules look like at this time.

17 MS. SOLIMAN: Good morning, everyone. As
18 Jeff has mentioned that Chapter 4901:1-3 for access
19 to poles, ducts, conduits, and rights-of-way
20 structured as three sections under that part. The
21 first section is definitions where staff is proposing
22 to define many terms used within the rule, like
23 attaching entities and conduits, conduit system,
24 ducts, pole attachments, public utility, and all are
25 pursuant to either the statute in the Ohio statute or

1 the FCC definition and the Acts definition.

2 The second section is about general
3 applicability and in that section we generally
4 address the public utilities' duties under Section
5 224 of the Telecommunications Act of 1996, and also
6 under Section 4905.51 of the Ohio Revised Code and
7 obligations of public utilities under that section.

8 Another section also as Section 4905.71
9 where it speaks about telephone companies' and
10 electric line companies' obligation to offer access
11 to pole attachments. Under that section also is
12 discussed the public utilities' request for waivers
13 and how much the Commission will address such waiver
14 requests.

15 The third section talks about how access
16 to poles, ducts, conduits, and rights-of-way would be
17 addressed, how it will be established; first
18 generally talking about the private rights-of-way and
19 exclusive use arrangements and the prohibition
20 against that, and also the third section we talk
21 about how rates, terms, and conditions for poles,
22 ducts, conduits, and rights-of-way should be
23 established.

24 In the proposal we address that the
25 tariffing requirement under Section 4905.71 of the

Revised Code for entities other than public utilities and we discuss the requirements of the Telecommunications Act for negotiations of rates, terms, and conditions for poles, ducts, conduits, and rights-of-way between public utilities.

Also we discuss how it should be established and refer to FCC rules, formulas, and providing parties the freedom to negotiate different rates, terms, and conditions.

We talk about coordination of public utilities of their activities of constructions and the rights-of-ways.

Another section we talk about complaints filing with the Public Utilities Commission by attaching entities and pursuant to Section 4905.26 or Section 4927.21 of the Ohio Revised Code.

Later we talk about ability to mediate or arbitrate access to poles, ducts, and conduits. The mediation is available to all public utilities and attaching parties; however, arbitration is limited as to attaching to local exchange carrier's poles, ducts, and conduits. And that's pursuant to section 2482.51(B)(4) of the Telecommunications Act and Section 22 -- 252 of the Telecommunications Act.

And actually that's all that we are

1 addressing in those proposed rules.

2 EXAMINER JONES: Thank you, Nadia.

3 At this time we are going to open it up
4 for comments and recommendations or concerns about
5 anything you've heard or about this proceeding
6 itself. If you to want to make a comment, I would
7 ask that you either come up to the podium or come up
8 to the desk here in front of us on this side of the
9 room, to my left, your right, so that the microphones
10 are live and that anyone on the webcast, listening in
11 on the webcast could actually hear your question.

12 And if you are going to make a comment, I
13 would ask that you provide your name and organization
14 affiliation before you provide a comment. So at this
15 time are there any comments?

16 MR. O'BRIEN: I'll lead off. Tom O'Brien
17 here representing TW Telecom.

18 Nadia, I followed your description. Can
19 you highlight any differences between current Rule
20 7-23 that this new draft rule is going to -- I'm
21 speaking substantively in its operation.

22 MS. SOLIMAN: One main difference is that
23 we are expanding this rule. It was one portion of
24 Section 7 under the carrier rules, now it's going to
25 be a rule, a chapter by itself and incorporating

1 different statutory requirements here in Ohio that
2 talks about tariffing for pole attachment for
3 entities other than public utilities versus what was
4 in carrier rules, which is mainly attachments between
5 public utilities. So that's an area where we are
6 expanding.

7 Also, we are expanding in an area of
8 allowing mediation between public utilities if they
9 cannot reach an agreement for pole attachments rates,
10 terms, and conditions, we are making this available.
11 Although it's in the statute but we are just putting
12 it in this rule.

13 Of course, for local exchange carriers it
14 has always been available, the mediation and the
15 arbitration, pursuant to the '96 Act.

16 So those are the main areas here. And
17 including, you know, definitions that was in there,
18 but those are the substantive issues.

19 MR. O'BRIEN: In terms of rate
20 calculation are you going to stick with the FCC
21 rules?

22 MS. SOLIMAN: That's what we are
23 proposing.

24 MR. O'BRIEN: Thanks.

25 EXAMINER JONES: Other comments?

1 MS. BOJKO: Good morning. My name is Kim
2 Bojko, I am with Carpenter, Lipps & Leland, and I
3 represent Fibertech Networks here today, and with me
4 today is Jamie Hoare, deputy general counsel for
5 Fibertech, and we appreciate the staff's overview of
6 the comments that you just provided.

7 Obviously without seeing the details we
8 cannot specifically comment on, but it is very
9 promising that you are expanding including mediation,
10 arbitrations, and complaint proceedings, and we do
11 appreciate those opportunities.

12 We also appreciate expanding the current
13 rules into a complete chapter that hopefully will
14 address some very important issues for attachees.

15 Today we do come prepared with some
16 comments. Fibertech has comments that I will hand
17 out about the workshop, and this is specific to some
18 of the attachee issues such as the pole attachment
19 deadline, timing, things of that nature

20 So at this time I will turn it over to
21 Mr. Hoare and he can present Fibertech's suggestions
22 for those rules. Thank you.

23 MR. HOARE: Good morning. With this
24 rule-making, the Commission has the opportunity to
25 promote the economic interest of Ohio and by

1 expanding the rollout of broadband.

2 There are a few different templates that
3 the Commission could follow; one being the FCC
4 template, another being the New York State template,
5 and the third being the Connecticut template.

6 Fibertech requires timely access to the
7 poles to be able to serve its customers. Our
8 business model is building to specific customers
9 rather than building a ubiquitous network. And by
10 doing that we have an economically stable platform to
11 continue serving more and more customers as that goes
12 on.

13 We've been very successful under the
14 Connecticut timeframes and I'd like to describe those
15 very briefly.

16 In Connecticut an applicant applies for
17 the poles, the pole owner has 45 days to come back
18 with an estimate, and that 45-day period is pretty
19 common across all different timeframe regimes no
20 matter what the jurisdiction. After the make-ready
21 estimate is issued, the pole owner has 45 days to
22 complete the make-ready.

23 The Connecticut PURA, which is equivalent
24 of their Public Utilities Commission, also dictated
25 that smaller applications should have shorter

1 deadlines.

2 There's an industry working group going
3 on that is discussing what the rationale for those or
4 what the timeframes should be for those applications.
5 The rationale for a shorter timeframe is that give
6 long timeframes for building out major rings and
7 network to serve a large customer that is planning
8 far ahead for major upgrade in their communication
9 facilities or the broadband facilities, they're
10 willing to wait a period of time.

11 But smaller customers who can also
12 benefit from the fiber optic technology typically
13 aren't willing to wait more than 30 or 60 days. Now,
14 these customers can be very close to the backbone.
15 In some instances they can see the backbone out their
16 window but there's still some construction that needs
17 to be done to bring the services in to them. And it
18 makes sense that that should be a much shorter
19 timeframe than to build a ring that's comprising many
20 miles.

21 The other aspect of Connecticut is that
22 when timeframes are missed, there's a meaningful way
23 or there's a meaningful remedy for the attacher. And
24 in Connecticut it's the use of temporary attachments.

25 This doesn't result in temporary

1 attachments on every pole; typically it's a difficult
2 pole that's holding up the release of the application
3 and the licensing of the application. And the
4 temporary attachment is done in a way that's
5 consistent with the MESE and in a safe manner.

6 New York also allows use of contractors
7 to complete the make-ready work or the use of
8 temporary attachments. And New York, different from
9 the FCC, allows contractors to perform electrical
10 make-ready work so long as they're utility-approved
11 contractors.

12 And I would also ask that timeframes for
13 access to conduit be considered. It's not dealt with
14 in the FCC rules but conduit is the urban equivalent
15 to poles, and if you want to get broadband into the
16 city centers, you need a way to get underground.

17 My comments are dealt with more fully in
18 the handout that we've given. Thank you.

19 EXAMINER JONES: Thank you.

20 Other comments?

21 MR. ST. PIERRE: Good morning. Tom
22 St. Pierre with AEP. Appreciate the opportunity to
23 address you at this workshop. I've shared some of my
24 thoughts with my colleagues, with the other
25 electricians, and I think we're similarly situated on

1 the issues but I'm sure we may digress on a few
2 points.

3 Our view generally is that the current
4 regulatory scheme is working fine, there's nothing
5 broken, we've seen very few disputes docketed. We
6 worked closely on developing new pole attachment
7 tariffs I think in all of our prior cases.

8 I know in AEP we recently within the last
9 two years put together a new pole attachment tariff,
10 and in that we negotiated closely with the OCTA to
11 put together terms that both parties thought they
12 could live with and it was a settled tariff.

13 Broadband build-outs have been occurring
14 throughout our territory in the past and we have
15 several build-outs today; in fact, we're working
16 closely with Fibertech on a current build-out and we
17 anticipate future build-outs and that's in both urban
18 and rural areas. So we don't think the rules today
19 are hindering any of that development.

20 But if the Commissioner staff feels like
21 they really do need to regulate, then we want a
22 couple of fundamental issues recognized. We don't
23 think it's appropriate to wholesale adopt FCC
24 methodologies both on access and rates. And we take
25 that view because the FCC pretty clearly in their

1 deployment of these rules has addressed that they
2 want broadband built out as expeditiously as possible
3 and as cheap as possible. And we think there are
4 sacrifices that are taken when you take that view.

5 The FCC does not take responsibility over
6 pole reliability or safety. Again, their task is to
7 deploy broadband. The Ohio Commission is much better
8 situated to look at how will joint use affect that
9 pole utility, how will it affect electric
10 reliability, telephone reliability, and address
11 specific issues.

12 And we've done that in the past with some
13 complaint cases before the Commission and the
14 Commission has taken different views than the FCC,
15 and I'll get to that in a minute.

16 But the thing we want, what we'd like to
17 see is, again, Ohio Commission tailor these rules and
18 not wholesale adopt FCC because there are some issues
19 there that could affect pole reliability.

20 There's no doubt that third-party use of
21 electric or phone poles affects safety and
22 reliability. We do an engineering analysis of all
23 our poles prior to attachment to see if the pole
24 would be overloaded by the new attachment, and there
25 are clearly cases of pole overloading, there are

1 unsafe spacing in terms of communication facilities
2 attached too close to the electric space causes
3 worker safety issues.

4 To the extent these poles get cluttered,
5 we're going to have accessibility issues to our
6 facilities which is going to impede our ability to
7 restore in cases of storm.

8 So we urge you to think of those
9 considerations and involve your colleagues with your
10 pole reliability group and some of your electric
11 staff to think about, as we have, this kind of access
12 and if we adopt an FCC view, are we going to
13 sacrifice pole reliability or safety?

14 We see tremendous value to joint use.
15 Any of the costs we recover from joint use are a
16 setoff against our revenue requirements so it acts to
17 lower our rates, and broadband build-out is
18 definitely good for the electrics because we need
19 more fiber capacity and we're using a lot of these
20 facilities that are being built to modernize our
21 systems.

22 And it's good for our customers, so we
23 don't want to impede that development, we just want
24 it done right.

25 One size, what we noticed is one size

1 does not fit all. And our concern is to the extent
2 we develop rules that apply to all, I think you're
3 going to have some unanticipated results.

4 The joint use relationship between the
5 local Bell companies and the electrics is very
6 different than any kind of access or rate
7 methodologies set forth in the FCC model. And
8 there's reasoning behind that.

9 The ILECs still own, at least in our
10 system, roughly 30 percent of the poles. So we're on
11 their poles, they're on our poles, we rely on each
12 other to perform different aspects of make-ready and
13 engineering, and that relationship is very different
14 than where a third party with no poles asks to be on
15 our facilities and we don't feel they have the
16 expertise to do the pole engineering or pole
17 make-ready work and we need to undertake that work.

18 The ILEC relationship is also different
19 in that when we're on their poles we're consuming a
20 significant amount of space and when they're on our
21 poles they're consuming far more space than a cable
22 TV company or SELA (phonetic).

23 And those joint use relationships tend to
24 be, I know our contracts have been from the mid-'80s
25 and our colleagues have even older contracts, they

1 tend to be based on some historical view and the
2 facilities have been built with this history in mind,
3 and I don't think you can just readily just say all
4 right, stop that relationship, we're going to convert
5 it into a pole attachment, FCC view of pole
6 attachment licensing.

7 As such we suggest that in any regs
8 developed, the joint use agreements be excluded,
9 between two public utilities be excluded from those
10 rules and continue to maintain availability in the
11 complaint procedure for any public utility to seek
12 redress with the Commission if there's a denial of
13 access or improper rates between those two parties.

14 Similarly with our pole attachment
15 licensees, tariffs have been developed over the years
16 that also can be quite different from FCC rules. As
17 I mentioned before, we recently developed a tariff,
18 we worked with OCTA and there are terms in that
19 tariff that are different from the FCC tariff.

20 We went through a complaint proceeding in
21 1997 that established the Commission orders over how
22 we were to allow third parties to access our poles,
23 which is again very different than the FCC. It's
24 working and it addresses some of these issues such as
25 boxing and bracketing and overlashing of facilities

1 and it addresses them much more clearly and with
2 greater focus on pole reliability than the FCC has.

3 The FCC gives very little attention to
4 overloading and we believe overloading can cause
5 safety problems and needs to be addressed and was
6 addressed by the Commission in its prior orders from
7 1997.

8 And as we look at tariffs, the tariffs
9 have been tailored to mesh with our reliability
10 standards and they've been drafted to mesh with pole
11 inspection programs. And so they make the most sense
12 to fit in that puzzle of what's the expectation of
13 the Commission and how we operate and how third
14 parties fit into that and when we introduce their
15 attachments into our system what is the Commission's
16 view on the expectations of our pole reliability as
17 those third parties are introduced.

18 The FCC view, again, does not address
19 reliability of an electric system at all. I'm sure
20 it was a concern of theirs, but it's not their task
21 to regulate in that area. The Ohio Commission, it is
22 your task to regulate in that area.

23 And the tariffs have also, our tariffs
24 vary a bit and it's based upon different operating
25 routines of the electric companies. And we think

1 that should be preserved.

2 So I would suggest in the rules that
3 current tariffs and future tariffs supplant any rules
4 in the regs to the extent there are differences in
5 the tariff rules.

6 Finally on rates, at the end of the day
7 joint use is all about how do we apportion the cost
8 of pole plant among the users. And any costs we
9 recover from joint users is a setoff against our
10 revenue requirement.

11 So we're just deciding how do we split
12 this pie, and historically the ILECs and the
13 electrics had an equitable splitting of this pie
14 based upon how they used each other's poles and those
15 agreements have occasionally been challenged with the
16 Commission and we worked out settlements. But it's
17 based upon a full allocation of that pole.

18 In the '70s when cable TV was being
19 built, the FCC developed the Communications Act and
20 the FCC developed some rules that really just looked
21 at, all right, the poles are fully allocated between
22 the electrics and telephone, we now have this third
23 party, we'll develop a marginal cost rate that's
24 substantially lower than what we pay the telephone or
25 the telephone pays us, and our concern is if the view

1 is to drive down all parties to this marginal rate,
2 we leave the electric ratepayer bearing the full load
3 of maintaining these poles. And I think it's going
4 to lead to a cross-subsidization between the two
5 industries.

6 It sounds like you're well developed in
7 your rules. We have passed around some possible
8 changes we'd like to see that we could share we can
9 get to you this week.

10 But again, our first preference is we
11 really -- we really don't think there's a problem
12 here.

13 The only other issue I might mention is
14 there's some confusion I think developing out of the
15 FCC's order on will a state commission be required to
16 certify that they're regulating the joint use
17 relationship between ILECs and electrics, and to the
18 extent you do reregulate, I think the Commission
19 should give consideration to how you originally
20 certify and whether an additional certification is
21 necessary for the FCC, that the Ohio PUCO is indeed
22 regulating that joint use relationship between
23 electrics and ILECs.

24 Thank you.

25 EXAMINER JONES: Thank you.

1 One favor to ask from everybody, if your
2 comments articulate specifically what you would like,
3 like when you mentioned that the FCC rules affect
4 pole reliability, if you point out how we can fix
5 that in our rules, we are a not tied to the FCC rules
6 or each and every rule.

7 We have our own statute and we have our
8 own, you know, situation and it's case specific here
9 in Ohio. So we are open to hear from everybody about
10 what specifically in the FCC rules they think does
11 not work here in Ohio and how we can fix it with
12 specific recommendation. That would help in the
13 process. Thank you.

14 MR. GILLESPIE: Good morning. I'm
15 Gardner Gillespie, Hogan Lovells in Washington.

16 As some of you know, I've spent a
17 lifetime dealing with these issues. Phil Newcome and
18 I handled the first couple of cases dealing with
19 these issues with Columbus Southern and Ohio Edison

20 It is appropriate that I should follow
21 Tom St. Pierre; we go way back on these issues and it
22 will be no surprise to everybody that we have some
23 disagreements.

24 We welcome the PUCO's increased role in
25 this area as we see it in helping to extend broadband

1 and increasing the opportunities for competition and
2 in being sure that competition that occurs is done in
3 a fair and safe basis.

4 We believe that the PUCO's reliance on
5 the FCC's standards is very wise, that this has
6 worked, I think that the parties on both sides of the
7 issue have understood that the Commission will almost
8 always apply the same standards as used by the FCC.

9 And the FCC, as you know, has not only
10 been dealing with these issues now for 30 years or
11 so, but it has literally hundreds of decisions on
12 these matters not only on rates but on terms and
13 conditions and they have dealt with, they deal on a
14 daily basis with the safety issues. They cannot
15 ignore them.

16 And so while the FCC may not have
17 specific responsibilities for safety, believe me that
18 when I've met with people at the FCC talking about
19 these issues, they were very much aware of the safety
20 and reliability implications of it, and it is
21 something that concerns them.

22 So we would strongly suggest that the
23 Commission can avoid myriad issues by recognizing
24 that it will follow the FCC guidance on this. And we
25 support very much the Commission's suggestion that it

1 will mediate these issues.

2 As some of you know, OCTA and its members
3 have brought a number of requests for mediation to
4 the Commission to deal with these issues and the
5 staff has been helpful on those, but it would
6 certainly be better and work better if the Commission
7 were to come out and say yes, we have a policy of
8 mediating these issues and this is how we'll do it.
9 And to do it on a streamline basis so that we can get
10 these issues resolved as quickly as possible.

11 For example, it's not always clear to the
12 attaching parties that the pole owners will
13 participate in a mediation. There's nothing right
14 now that requires them to. So we've been required to
15 make a rather extensive presentation to the staff
16 even to get the staff to consider whether to mediate.
17 So that would be a big help.

18 And in terms of the processes, as
19 Fibertech has indicated, the process for attachment
20 sometimes can be lengthy, and unnecessarily so in our
21 view. That anything the Commission can do to
22 streamline that process would be helpful, and that's
23 certainly what the FCC has tried to do with
24 overloading, for example, to reach a new customer.

25 Cable operators many times need to

1 overlash only a few poles, and if they're required to
2 permit that and that can be a very lengthy process
3 and the customers simply will not stand for it.

4 And one of the things that is at play
5 here I think is that there are the ILECs and the
6 cable companies, for example, are competing for the
7 same customers and if the ILECs who are joint users
8 of the pole do not have to obtain specific consents
9 from the electric company, for example, in order to
10 overlash their facilities, then the cable companies
11 are in a distinct disadvantage.

12 And business today being what it is, it's
13 necessary to be able to overlash at a very short
14 timeframe in order to meet the customers' needs to
15 extend broadband.

16 Make-ready; make-ready timing is an issue
17 because the pole owners, frequently their employees
18 are busy with other projects and so it's hard to get
19 their attention and their priority. And to the
20 extent we can rely on joint contractors, for example,
21 where the cable company and the pole owner each use
22 the same contractor, that can be very, very useful.

23 And, in fact, some of the cable companies
24 have relationships with at least one of the utilities
25 where they have the same contractors and the cable

1 operators are allowed to negotiate with several
2 different joint contractors in order to get the best
3 deals. So it's better financially and also better
4 from a timing perspective.

5 Another matter that I want to raise here,
6 and I don't know if you intend to cover it in your
7 rules but it is a growing concern, and that is the
8 use of antennas for WiFi. The expansion of WiFi for
9 broadband is going on across the country, as some of
10 you may know there are municipal efforts, there's
11 concern especially in downtown areas of
12 municipalities, for example, cities, that there be
13 WiFi, and cable companies are in many cases trying to
14 provide that WiFi service and so they need not only
15 to attach to utility poles, and there is good FCC
16 precedent with respect to that issue attaching
17 wireless antennas to utility poles, but there also is
18 the question of attaching WiFi antennas to the
19 utility's street light poles.

20 And in certain areas, especially some of
21 the downtown areas, there are no of your more
22 traditional distribution poles, although street light
23 poles are part of the utility's distribution network.
24 But they don't -- they don't have aerial-wired
25 facilities that are attached to them keeping them all

1 together.

2 What the WiFi providers need to do and
3 want to do is to be able to attach to those
4 utility -- to the street light poles again for
5 regulated rates. And this is the next step I think
6 of the expansion of broadband is something that we
7 would ask you to consider.

8 In terms of rates, Tom's suggestion that
9 the FCC rates somehow result in some kind of
10 cross-subsidy, that's just not true. Even the
11 supporters recognize that the FCC rate methodology is
12 fully compensatory to utilities, and this Commission
13 has from those early cases that Bill Newcome and I
14 were involved in so many years ago, we think that
15 that has served Ohio very well and we would urge that
16 there not be any efforts to rethink that.

17 And lastly, the suggestion that tariffs
18 should supplant rules, which I understand to be a
19 suggestion that the Commission might have a set of
20 rules but they could be departed from, however, the
21 utility saw fit in proposing a tariff that would be
22 different, and then that issue would be fought out
23 before the Commission every time, we think that would
24 be very unwise.

25 Clearly the tariffs should be expected to

1 be fully consistent with the general rules of the
2 Commission.

3 Thank you.

4 EXAMINER JONES: Thank you.

5 MS. SOLIMAN: To the extent that there is
6 not enough record and the FCC did not address the
7 issue of antennas attachment to street light poles
8 for WiFi and the industry here thinks that it's
9 necessary for them to be in the market, I guess we
10 will be looking forward for some specific
11 recommendations in the comments so other parties can
12 comment on it in their reply comments. Thank you.

13 MR. GILLESPIE: We'd be happy to do that.

14 EXAMINER JONES: Other comments,
15 questions?

16 I don't see anybody jumping up. Getting
17 ready to close so this is your last opportunity.

18 Other questions from staff or comments
19 from staff?

20 I'd like to thank everyone for joining us
21 here today. You've certainly given us some
22 additional food for thought as we ponder what other
23 proposed rules will look like when they go out via
24 Commission entry, hopefully in the next couple weeks
25 that will be coming out. And it certainly sounds

1 like we're going to have some lively comments in the
2 written comment round, so we look forward to those.

3 We'll stick around for a few minutes if
4 you have any questions afterwards, but this will
5 close the formal portion of the workshop and we
6 appreciate your participation today. Thank you very
7 much.

8 (Hearing adjourned at 10:41 a.m.)

9 - - -

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Wednesday, April 17, 2013, and carefully compared with my original stenographic notes.

Julieanna Hennebert, Registered Professional Reporter and RMR and Notary Public in and for the State of Ohio.

My commission expires February 19, 2018.

(72097jul)

- - -

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

5/1/2013 1:38:08 PM

in

Case No(s). 13-0579-AU-ORD

Summary: Transcript in the matter of the Adoption of Chapter 4901:1-3, Ohio Administrative Code, hearing held on 04/17/13 electronically filed by Mrs. Jennifer Duffer on behalf of Armstrong & Okey, Inc. and Hennebert, Julieanna Mrs.