

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

**In the Matter of the Application of AT&T)
of Ohio to Update Its Pole Attachment) Case No. 15-920-TP-ATA
Tariffs.)**

**In the Matter of the Application of United)
Telephone Company of Ohio d/b/a) Case No. 15-889-TP-ATA
CenturyLink to Introduce a Pole)
Attachment and Conduit Occupancy)
Tariff.)**

**In the Matter of the Application of)
CenturyTel of Ohio, Inc. d/b/a) Case No. 15-890-TP-ATA
CenturyLink to Introduce a Pole)
Attachment and Conduit Occupancy)
Tariff.)**

**In the Matter of the Application of)
Cincinnati Bell Telephone Company LLC)
to Add Language and Rates for Access to) Case No. 15-973-TP-ATA
Poles, Conduits, and Rights-of-Way by)
Public Utilities to the Access Tariff.)**

**In the Matter of the Applications of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo) Case No. 15-975-EL-ATA
Edison Company to Change Their Pole)
Attachment Tariffs.)**

**In the Matter of the Application of Duke)
Energy Ohio, Inc. to Amend Its Pole) Case No. 15-965-EL-ATA
Attachment and Conduit Occupancy)
Tariff, P.U.C.O. No. 1.)**

**In the Matter of the Application of The)
Dayton Power and Light Company to) Case No. 15-971-EL-ATA
Amend Its Pole Attachment Tariffs.)**

**In the Matter of the Application of Ohio)
Power Company to Amend Its Pole) Case No. 15-974-EL-ATA
Attachment Tariffs.)**

**MOTION TO EXPEDITE DISCOVERY SCHEDULE
AND REQUEST FOR EXPEDITED RULING OF THE
OHIO CABLE TELECOMMUNICATIONS ASSOCIATION**

Pursuant to Rule 4901-1-12(C) of the Ohio Administrative Code, the Ohio Cable Telecommunications Associations (“OCTA”) respectfully requests the Public Utilities Commission of Ohio (“Commission”) to establish an expedited schedule of ten days for responding to all discovery sought by OCTA in the above cases. Expediting the discovery responses will allow the OCTA more time to obtain and analyze important information in preparing any objections by the August 1, 2015 deadline.

The OCTA asks for an expedited ruling pursuant to Rule 4901-1-12(C) of the Ohio Administrative Code. Counsel for Ohio Power has agreed to the 10-day response time for the first two rounds of OCTA discovery but reserves Ohio Power’s rights with respect to any additional discovery. Counsel for DP&L has provided a response to OCTA’s first set of discovery but objects to the request for an expedited ruling. Counsel for FirstEnergy indicated that he was not in a position to agree to the request for an expedited ruling. The undersigned was not able to have direct contact with counsel for CenturyLink, Cincinnati Bell Telephone Company, Duke Energy Ohio, or AT&T Ohio.

The reasons supporting the expedited discovery schedule are set forth in the attached Memorandum In Support.

WHEREFORE, the OCTA respectfully requests that the Commission issue an Entry on an expedited basis granting this motion and establishing an expedited discovery response time of 10 days for discovery by the OCTA.

Respectfully Submitted,

Stephen M. Howard

Benita A. Kahn (0018363), Counsel of Record

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MEMORANDUM IN SUPPORT

On July 30, 2014, the Commission issued its Finding and Order in Case No. 13-579-AU-ORD adopting rules concerning access to poles, ducts, conduits, and rights-of-way by public utilities. Pursuant to this Finding and Order, the Commission adopted Rule 4901:1-3-04 of the Ohio Administrative Code requiring that a single pole attachment rate formula be adopted consistent with the Cable Television (“CATV”) rate formula and allocated based on the percentage of useable space occupied by the attachment. The Commission also concluded that the current Federal Communications Commission (“FCC”) presumptive inputs for pole attachments be adopted for the purpose of calculating the single rate formula.

On February 25, 2015, the Commission issued an Entry in Case No. 13-579-AU-ORD which directed public utility pole owners to each file the appropriate company-specific tariff amendment application, including the applicable calculations based on 2014 data, on or before May 1, 2015. Unless otherwise suspended, the tariff revisions were to be automatically effective on July 1, 2015.

On March 27, 2015, the OCTA filed a motion for clarification or, in the alternative, an application for rehearing. The OCTA argued that the February 25, 2014 Entry was unreasonable and unlawful due to the fact that the July 1, 2015 automatic effective date did not provide sufficient time for those entities affected by the tariff amendments to review and comment on the filings. The OCTA recommended that the effective date be extended.

On April 2, 2015, the Ohio Rural Broadband Association filed a motion to extend the tariff amendment filing date to June 1, 2015.

Subsequent to the filing of other memoranda, the Commission issued an Entry on April 22, 2015, directing all public utility pole owners to have until May 15 to file their requisite

tariff applications. With respect to the OCTA's contention that the July 1, 2015 effective date did not provide sufficient time for interested entities to review and comment on the filings, the Commission granted in part and denied in part that motion. The Commission agreed that additional time may be appropriate for the review and comment on the tariff amendment filings but that the deadline for the filing comments must also provide an adequate amount of time for the Commission review of such filings. Therefore, the Commission found that the automatic approval date for the pole attachment amendments should be extended to September 1, 2015, and that all motions to intervene and corresponding objections shall be filed on or before August 1, 2015. Under Rule 4901-1-07(D) of the OAC, because August 1, 2015 is a Saturday and the Commission is closed, the motions to intervene and all corresponding objections will be due on Monday, August 3, 2015.

To date, there have been 47 pole attachment filings made by electric companies and telephone companies ("public utilities"), with almost all of these filings occurring on May 15. The OCTA carefully reviewed the pole attachment rates and tariff language contained in all of these filings and intervened in eight proceedings to date. This review took considerable time due to the number of filings. Because of the considerable increases in rates for the electric utilities, ranging from a 52% to a 165% increase, a more detailed review was necessary. In order to effectively prepare meaningful objections in time for the August 3 filing deadline, the OCTA is conducting discovery. OCTA's first round of discovery is limited to asking if the Staff has submitted any data requests to the public utility in its pending pole attachment tariff matter, whether the Staff has submitted any informal data requests to that public utility in that pole attachment matter and to providing copies of all data requests received from the PUCO Staff, all informal data requests from the PUCO Staff and the responses of the public utility thereto.

The OCTA asks that the response time for responding to all of its discovery requests be shortened to ten days. The responses to the first round of discovery would merely require providing copies of material already provided or responding that no such request(s) from the Staff has been made. Requiring these responses within 10 days will not be unduly burdensome. As to the need for a 10-day response for additional discovery if the 10-day response is granted for the first round of discovery, that is necessary to have time to review the first responses, prepare and serve a second round of discovery and to evaluate the second round responses in time for the preparation of objections.

Moreover, the OCTA notes that only it has filed any intervention request in the eight cases captioned above. Thus, the public utilities have not been subject to discovery from any other party, save perhaps the Staff. For this reason, the OCTA believes that its request for a shortened response time will not be unduly burdensome for the public utilities. By granting the expedited discovery schedule requested by the OCTA for all discovery in these cases, the Commission will afford more time in this rather compressed schedule to the entities affected by the proposed pole attachment tariff to analyze and better understand the proposals and allow development of more direct and meaningful objections by August 3. Given the number of pole attachment tariff filings and the need for the Commission to have meaningful input from those entities affected by the proposed pole attachment tariffs, shortening the discovery response time to 10 days is essential.

The OCTA submits that good cause exists for shortening the response time to discovery requests in these cases.

WHEREFORE, the OCTA respectfully requests that the Commission issue an Entry on an expedited basis granting a 10-day response time for the OCTA's discovery in these matters.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail or by regular U.S. mail) on the 1st day of July, 2015 upon all persons/entities listed below.

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This foregoing document was electronically filed with the Public Utilities

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7/1/2015 4:54:10 PM

in

Case No(s). 15-0920-TP-ATA, 15-0889-TP-ATA, 15-0890-TP-ATA, 15-0973-TP-ATA, 15-0975-EL-ATA,

Summary: Motion to Expedite Discovery electronically filed by Mrs. Gretchen L. Petrucci on behalf of Ohio Cable Telecommunications Association