

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Eversole Builders, Inc.)	
)	
v.)	Case No. 18-1512-TP-CSS
)	
The Ohio Bell Telephone Company d/b/a AT&T Ohio)	

AT&T OHIO’S ANSWER

The Ohio Bell Telephone Company (“AT&T Ohio”)¹ hereby submits its Answer and Affirmative Defenses in response to the Complaint of Eversole Builders, Inc. (“Complainant”). For its Answer to the Complaint filed against it, AT&T Ohio states as follows:

Allegations Contained in the Letter Dated October 2, 2018

1. AT&T Ohio admits the following allegations contained in the Complaint/Letter filed with the PUCO dated October 2, 2018:
 - a. On October 29, 2014, the Complainant signed an *Authorization to Prepare Quote* with AT&T Ohio requesting the preparation of a cost estimate to relocate 2 pedestals on Complainant’s property. A copy of that agreement is attached to the Complaint/Letter.
 - b. William Green, AT&T Midwest Engineering, was the engineer assigned to the Complainant’s request.
 - c. On March 9, 2015, AT&T Ohio provided Complainant an *Estimate of Cost* in the amount of \$23,052.35, detailing the expenses required to perform the work requested.
 - d. Complainant ultimately decided to leave the pedestals at issue in their original location.
2. AT&T Ohio denies that one of the pedestals to be moved was “out of service”.
3. AT&T Ohio denies the Complainant’s characterization of the work requested as a “small job, with no extra cable needed”.

¹ The Ohio Bell Telephone Company is a public utility in Ohio and provides certain Commission-regulated services and other non-regulated services. The Complainant used the name "AT&T" in its complaint. The Ohio Bell Telephone Company uses the name AT&T Ohio, which is used in this Answer.

4. AT&T Ohio denies that the engineering costs being charged to the Complainant for the preparation of the estimate are excessive. There were multiple site visits to the site location, easement research and multiple phone calls and requests from the Complainant for different options on the proposed design for the work requested resulting in over nineteen hours of engineering time.

5. AT&T Ohio is without sufficient knowledge or information to form a belief as to the truth of the remaining allegations in the Complaint/Letter Dated October 2, 2018.

AFFIRMATIVE DEFENSES

1. The Complaint fails to name a proper party in that “AT&T” is not a legal entity.

2. The Complaint fails to state a claim upon which relief can be granted because, there has been no violation of Ohio law or any rules of the PUCO.

3. The Complaint fails to state reasonable grounds as required by Ohio Revised Code §§ 4905.26 or 4927.21.

4. AT&T Ohio is charging Complainant in accordance with the written agreement and the AT&T Ohio tariffs on file with and approved by the Commission, i.e., PUCO Tariff No. 20, Part 2, Section 5, 3rd Revised Sheet 1 and Sheet 1.1, attached as Exhibit A.

5. The Complaint is subject to the provisions of the signed contract that governs the preparation of the estimate.

WHEREFORE, having fully answered, Respondent AT&T Ohio respectfully requests that the Complaint be dismissed, with prejudice.

Dated: October 24, 2018

Respectfully Submitted,

AT&T Ohio

/s/ Mark R. Ortlieb

Mark R. Ortlieb (0094118)

AT&T Ohio

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing has been served this 24th day of October 2018 by U.S. Mail and/or electronic mail on the parties shown below.

/s/ Mark R. Ortlieb

Mark R. Ortlieb

Steve Eversole

Eversole Builders, Inc.

2495 Election House Road

Lancaster, OH 43130

Steve@EversoleBuilders.com

The Ohio Bell
Telephone Company

AT&T TARIFF

P.U.C.O. NO. 20
Part 2 Section 5

PART 2 - General Terms and Conditions
SECTION 5 - Construction Charges

Original Sheet A

Material formerly located on sheets 1 through 5 now also located in the AT&T Ohio Guidebook, Part 2, (N)
Section 5, for non-residential tier 2 service. (N)

Issued: April 1, 2008

Effective: April 1, 2008

In accordance with an Order issued by the Public Utilities Commission of Ohio, dated June 6, 2007,
Case No. 06-1345-TP-ORD.

By Connie Browning, President, Cleveland, Ohio

TFA No. OH-08-18005

1. SPECIAL SERVICES

A. Construction Charges

1. General Regulations

- a. All rates and charges specified in this tariff contemplate the establishment of service without abnormal or excessive expense to the Company. Under certain conditions, as outlined in this paragraph A, nonrecurring charges, hereinafter referred to as construction charges, will be applied to cover all or a part of the abnormal or excessive expense incurred by the Company in the establishment of service. Payment of construction charges will be required prior to the commencement of the work with which such construction charges are associated.

- b. A one-time *Engineering Work Preparation Fee* of \$500 will apply for the preparation of a quotation for custom work which may require construction charges. This fee is applicable prior to preparation of an estimate for custom work requiring construction charges and will be applied regardless of whether or not the work is ultimately performed for the customer. The Engineering Work Preparation Fee is nonrefundable; however, should the customer proceed with the custom work the fee will be applied against the special construction charges. If work is determined not to be a custom work order after the field visit by the engineer, the fee will be refunded to the customer.

(N)

The Engineering Work Preparation Fee provides for the development and preparation of a detailed estimate of cost including any appropriate engineering costs incurred in the preparation of this quotation. The customer will be advised of this charge and must agree to pay it before development of the quotation will commence. Preparation of the quotation will begin after the Engineering Work Preparation Fee is received by the Company.

Payment of the Engineering Work Preparation Fee does not assign, confer, or transfer title or ownership rights to proposals or equipment, designed or furnished by the Company. Title and ownership rights for any item developed at the customer's request remains with the Company except as specifically provided by an agreement between all parties.

The Company has the right to apply more applicable engineering preparation fees for any large, complex and/or unique projects that will require excessive engineering hours to develop a detailed cost quote.

(N)

- c. Where construction has been started in order to furnish service to an applicant and the application for service is cancelled prior to the establishment of service, the applicant shall be required to reimburse the Company for the estimated loss resulting from such construction.

(T)

- d. Where facilities constructed on private right of way are used as a part of the Company's general distributing plant, the regulations and construction charges to be applied shall be those specified for the construction of facilities on public highways, but when not so used, the regulations and construction charges to be applied shall be those specified for the construction of entrance facilities.

(T)

/1/

/1/ Material now appears on Sheet 1.1.

Issued: May 1, 2014

Effective: June 1, 2014

In accordance with an Order issued by the Public Utilities Commission of Ohio, dated October 27, 2010,
Case No. 10-1010-TP-ORD.

By Adam Grzybicki, President, Cleveland, Ohio

ATT TN OT-14-0005

1. SPECIAL SERVICES (cont'd)

A. Construction Charges (cont'd)

1. General Regulations (cont'd)

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|---|------------|
| e. Such facilities and construction work as may be provided by an applicant, as hereinafter set forth, shall be subject to the approval of the Company. | /1/ (T) |
| f. The customer does not obtain any rights of ownership or otherwise in facilities provided by the Company, whether or not construction charges are applied. All facilities provided by the Company shall be under its exclusive control and, except as hereinafter specifically provided, shall be maintained and replaced by and at the expense of the Company. | (T) |
| g. All facilities provided by the customer shall be owned by the customer, but shall be under the exclusive control of the Company while used for the furnishing of service by the Company. Maintenance and replacement of such facilities shall be at the expense of the customer. | (T) |
| h. Permanent facilities on public highways will be provided by the Company without the application of construction charges. | (T)
/1/ |
| i. A buried wire or buried cable type of facilities will not be provided where, in the judgment of the Company, conditions are unsuitable and the use of such type of facilities may interfere with the furnishing of efficient telephone service. | /2/ (T) |
| j. When an applicant is so located that it is necessary for the Company to obtain right of way to furnish service, the applicant may be required to pay the cost (including rental) of securing and retaining such right of way. | (T) |
| k. Where rearrangement of any facilities provided by the Company on private property is made at the request of or to meet conditions imposed by the customer, the expense incurred by the Company for such rearrangement shall be borne by the customer. | (T)
/2/ |

/1/ Material formerly appeared on Sheet 1.

/2/ Material formerly appeared on Sheet 2.

Issued: May 1, 2014

Effective: June 1, 2014

In accordance with an Order issued by the Public Utilities Commission of Ohio, dated October 27, 2010,
Case No. 10-1010-TP-ORD.

By Adam Grzybicki, President, Cleveland, Ohio

ATT TN OT-14-0005

1. SPECIAL SERVICES (cont'd)

A. Construction Charges (cont'd)

/1/

2. Temporary Facilities

Where the Company constructs temporary facilities, the applicant will be required to pay the expense incurred by the Company for such construction, plus the estimated cost of removal of such facilities, less the estimated salvage value of the material recovered upon removal of such facilities. Temporary facilities are:

- a. facilities constructed in advance of construction of permanent facilities and removed upon completion of the construction of permanent facilities, and
- b. facilities which will probably be used only for a short term and with respect to which there is no immediate prospect of reuse in place for another applicant.

3. Permanent Entrance Facilities

Entrance facilities are those facilities which extend from the point of entrance on private property to the premises in which service is located. The Company will construct permanent entrance facilities subject to a. through c. following.

/1/ Material now appears on Sheet 1.1.

Issued: May 1, 2014

Effective: June 1, 2014

In accordance with an Order issued by the Public Utilities Commission of Ohio, dated October 27, 2010,
Case No. 10-1010-TP-ORD.

By Adam Grzybicki, President, Cleveland, Ohio

ATT TN OT-14-0005

1. SPECIAL SERVICES (cont'd)

A. Construction Charges (cont'd)

3. Permanent Entrance Facilities (cont'd)

a. Pole Lines

- (1) When the Company constructs permanent entrance facilities of a pole line type, the applicant shall be required to pay the expense incurred by the Company for that portion of the pole line as is in excess of 1,000 feet, measured along the proposed path of construction. (T)

- (2) When the Company attaches its entrance facilities to poles of others located on private property, the charges to be applied, where expense is incurred by the Company either for purchase of an interest in or rental of contacts on such poles, are the same as those which would be applicable if a pole line were constructed by the Company. When such poles are used by the Company for attaching its entrance facilities without expense, no construction charges shall apply. All other regulations and requirements of both the owner of such pole lines and the Company with respect to such joint use shall apply. (T)

The decision as to whether poles of others are suitable for the attachment of the Company's facilities rests with the Company. (T)

b. Buried Facilities

- (1) When the Company constructs permanent entrance facilities of a buried wire or buried cable type, the applicant shall be required to pay the expense incurred by the Company for excavation and fill-in for that part of the entrance facilities so constructed as is in excess of 1,000 feet in length, measured along the proposed path of construction, provided that the applicant is located in territory where such type of facilities is used for the Company's general distributing plant, and such type of entrance facilities would normally be provided. (T)

- (2) Except as otherwise provided in (1) preceding, the furnishing of buried entrance facilities is not considered normal, and when buried entrance facilities are provided, the applicant shall be required to pay charges as specified in (1) preceding, plus the additional expense incurred by the Company as described in 5. following. (T)

Where a buried wire or buried cable type of entrance facilities is provided by the Company in cases where such type of facilities is not considered normal, the customer shall be required to pay for all excavation and fill-in in connection with maintenance and replacement of such buried wire or buried cable type of entrance facilities. (T)

Issued: November 30, 2007

Effective: November 30, 2007

In accordance with an Order issued by the Public Utilities Commission of Ohio, dated January 6, 2003, Case No. 02-3069-TP-ALT.

By Connie Browning, President, Cleveland, Ohio

TFA No. OH-07-17820

1. SPECIAL SERVICES (cont'd)

A. Construction Charges (cont'd)

3. Permanent Entrance Facilities (cont'd)

c. Conduit

Where a conduit type of entrance facilities is required, construction charges do not apply; however, the applicant is required to provide, in place, suitable conduit from the point of entrance on his private property to the premises in which service is to be furnished, except where the Company, in its sole discretion, initiates the installation or maintenance of such conduit as part of modernizing the network.

4. Facilities (Other Than Entrance Facilities) Confined to the Same Continuous Property

- a. Except where the Company, in its sole discretion, initiates the installation or maintenance of such conduit as part of modernizing the network, the applicant or customer will be required to provide: (1) poles and fixtures in place where a pole line type of facilities is used; (2) conduit in place where a conduit type of facilities is used; and (3) excavation and fill-in where a buried wire or buried cable type of facilities is used.
- b. The Company will provide wire or cable on such poles, cable in such conduit and buried wire or buried cable in such excavations, in accordance with the regulations and at the rates and charges specified for non-regulated Premises Work and Materials. (T)
- c. Where a buried wire or buried cable type of facilities is provided by the Company on private property, other than for entrance facilities, the customer shall be required to pay for all excavation and fill-in in connection with maintenance and replacement of such buried wire or buried cable type of facilities. (T)

Issued: November 30, 2007

Effective: November 30, 2007

In accordance with an Order issued by the Public Utilities Commission of Ohio, dated January 6, 2003, Case No. 02-3069-TP-ALT.

By Connie Browning, President, Cleveland, Ohio

TFA No. OH-07-17820

1. SPECIAL SERVICES (cont'd)

A. Construction Charges (cont'd)

5. Special Types of Construction or Facilities

a. Outside Construction or Facilities

When an applicant requires a special type of construction or a type of facilities not normally provided, or where the conditions imposed by the applicant, such as the time and place involved, make the installation abnormally or excessively expensive, the applicant shall be required to pay the additional expense incurred by the Company; i.e., the difference between the expense incurred by the Company for such construction, facilities or installation and the expense which would otherwise be incurred for a normal type of construction or facilities or a normal installation. (T) (T)

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Case No(s). 18-1512-TP-CSS

Summary: Answer AT&T Ohio's Answer electronically filed by Mr. Mark R Ortlieb on behalf of AT&T Ohio and Ohio Bell Telephone Company