

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Complaint and)	
Investigation of Staff of the Public)	
Utilities Commission of Ohio,)	
)	
Complainant,)	Case No. 19-1582-TP-COC
)	
v.)	
)	
Frontier North Inc.,)	
)	
Respondent.)	

**MOTION TO EXTEND PROCEDURAL SCHEDULE
AND
REQUEST FOR EXPEDITED RULING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Public Utilities Commission of Ohio (“PUCO”) initiated a complaint against Frontier North telephone company because of “Frontier’s failure to provide available, adequate, and reliable [basic local exchange service (“BLES”)] to its customers across the entire state of Ohio.”¹ Under the current procedural schedule, all testimony and settlements in this case are to be filed by March 25, 2020. The hearing is to begin a week later on April 1, 2020.

The Office of the Ohio Consumers’ Counsel (“OCC”) moves² the PUCO for a minimal extension of time in this case to allow for testimony to be filed three weeks after the filing of any settlement, instead of being filed contemporaneously with any

¹ PUCO Complaint, ¶ 8 (August 14, 2019).

² Under O.A.C. 4901-1-13.

settlement. Good cause exists to grant the requested extension as it would allow testimony in response to the settlement to be filed by April 15, 2020. The hearing would be rescheduled to April 22, 2020. This extension is necessary to address an unavoidable scheduling conflict and to allow parties sufficient time to develop, if necessary, testimony responding to the settlement.

The reasons for this request are set forth more fully in the accompanying memorandum in support. In addition, because testimony is currently due on March 25, 2020, OCC requests an expedited ruling on this Motion, under Ohio Adm. Code 4901-1-12(C). OCC contacted the parties regarding this Motion, and the PUCO Staff does not object to an expedited ruling. While OCC cannot certify whether Frontier objects to an expedited ruling, counsel for Frontier has represented to OCC that Frontier would agree to a testimony filing due date of April 8, 2020 and a hearing date of April 15, 2020.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Angela D. O'Brien
Angela D. O'Brien (0097579)
Counsel of Record
David Bergmann (0009991)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215-4213
Telephone [O'Brien]: (614) 466-9531
Telephone [Bergmann]: (614) 466-9569
angela.obrien@occ.ohio.gov
david.bergmann@occ.ohio.gov
(willing to accept service by e-mail)

Kimberly W. Bojko (0069402)
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 N. High Street
Columbus, Ohio 43215
Telephone: (614) 365-4124
bojko@carpenterlipps.com
(willing to accept service by e-mail)
*Attorney for the Office of the Ohio
Consumers' Counsel*

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

This case involves the PUCO Staff’s complaint against Frontier North, Inc. (“Frontier”) regarding Frontier’s failure to provide adequate and reliable BLES service to consumers in Ohio by, among other things, failing to repair BLES outages and service-affecting problems within the time required by the PUCO’s rules. OCC commends the PUCO for taking this regulatory action in the public interest because Ohio consumers depend on reliable phone service for their safety and personal and business use. The complaint filing allows parties to explore more comprehensive remedies for customers beyond the issuance of monthly customer credits for failure to restore basic service in a timely manner.³ That limited remedy is little consolation to consumers if their health and well-being are endangered because they lack adequate phone service.

³ Ohio Adm. Code 4901:1-6-12(C)(5).

On January 14, 2020, the attorney examiner issued the procedural schedule for this case and granted OCC's motion to intervene.⁴ The procedural schedule requires that any settlement agreement be filed by March 25, 2020 and requires testimony to be filed by March 25, 2020 as well.⁵ The attorney examiner also ordered that a hearing be held in this proceeding a week later on April 1, 2020.⁶

II. RECOMMENDATION

Under Ohio Adm. Code 4901-1-13(A) extensions of time “may be granted upon motion of any party for good cause shown.” There is good cause to extend the current testimony filing date and hearing by three weeks, which would change the testimony due date to April 15, 2020 and the hearing date to April 22, 2020. Under the current procedural schedule, both the settlement and the testimony are due on March 25, 2020.

OCC has been actively engaging in settlement discussions with Frontier and the PUCO Staff. OCC will continue to work toward reaching a settlement in this case. However, if the parties are unable to reach a unanimous settlement, any non-settling party should be allowed an opportunity to file testimony in response to the settlement in accordance with Ohio Adm. Code 4901-1-30(D)⁷ and PUCO precedent.⁸

⁴ Entry (January 14, 2020) at ¶10.

⁵ *Id.* at ¶8.

⁶ *Id.* at ¶7.

⁷ Ohio Adm. Code 4901-1-30(D) states that “[p]arties that do not join the stipulation may offer evidence and/or argument in opposition.”

⁸ See e.g. *In the Matter of the Commission's Investigation into the Policies and Procedures of Ohio Power Company, et al.*, Case No. 01-2708-EL-COI, Entry at ¶4 (May 17, 2002) (Attorney Examiner revised and extended the procedural schedule to permit the filing of testimony responsive to the filed settlement); and *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO, Entry at ¶12 (December 9, 2015) (revising the procedural schedule to permit the filing of testimony responsive to the filed settlement).

The brief three-week extension OCC proposes for testimony and the hearing will allow the parties to continue their settlement discussions and, in the event a settlement is not unanimous, the additional time for responsive testimony will assist the PUCO in having a full and complete record.

In addition, the brief extension of the hearing date is necessary due to conflicts in the schedules of OCC's counsel that were previously arranged prior to the procedural schedule being established in this case. Specifically, counsel for OCC will be travelling out of the state and out of the country the weeks of March 22, 2020 and March 29, 2020 and will be unavailable to participate in the hearing currently scheduled for April 1, 2020. The PUCO has previously granted extensions due to the unavailability of counsel.⁹

III. CONCLUSION

For these reasons, OCC respectfully requests that the PUCO grant the Motion to Extend the Procedural Schedule, moving testimony and hearing dates to April 15, 2020 and April 22, 2020, respectively. This will allow parties to focus on continuing settlement discussions and, if necessary, to file testimony responding to any settlement after it is filed on March 25, 2020. Because the deadline for the testimony and hearing are quickly approaching, OCC asks the PUCO for an expedited ruling on this Motion. OCC has

“in order to provide the parties sufficient time and opportunity to present evidence related to the [settlement]”).

⁹ See e.g. *In the Matter of the Application of Duke Energy Ohio, Inc. for Approval of its 2010 Advanced and Renewable Energy Baseline and Benchmarks Pursuant to Section 4928.64(B) of the Ohio Revised Code*, Case No. 11-2515-EL-ACP, Entry at ¶¶5-6 (granting a three week extension of the hearing date due to unavailability of counsel); *In the Matter of the Application of Icebreaker Windpower, Inc. for a Certificate to Construct a Wind-Powered Electric Generation Facility in Cuyahoga County, Ohio*, Case No. 16-1871-EL-BGN, Entry at ¶¶6-7 (granting an extension to submit a settlement or revised briefing schedule to allow for the parties' travel plans during the holiday season); and *In the Matter of the Investigation into the Development of the Significantly Excessive Earnings Test Pursuant to S.B. 221 for Electric Utilities*, Case No. 09-786-EL-UNC, Entry at ¶¶2-3 (granting an extension to file reply comments due to holiday travel plans of those responsible for preparing the comments).

contacted the parties regarding this Motion and the PUCO Staff does not object to an expedited ruling. While OCC cannot certify whether Frontier objects to an expedited ruling, counsel for Frontier has represented to OCC that Frontier would agree to a testimony filing due date of April 8, 2020 and a hearing date of April 15, 2020.

Respectfully submitted,

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/s/ Angela D. O'Brien
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Office of the Ohio Consumers' Counsel
65 East State Street, 7th Floor
Columbus, Ohio 43215-4213
Telephone [O'Brien]: (614) 466-9531
Telephone [Bergmann] (614) 466-9569
angela.obrien@occ.ohio.gov
david.bergmann@occ.ohio.gov
(willing to accept service by e-mail)

Kimberly W. Bojko (0069402)
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 N. High Street
Columbus, Ohio 43215
Telephone: (614) 365-4124
bojko@carpenterlipps.com
(willing to accept service by e-mail)
*Attorney for the Office of the Ohio
Consumers' Counsel*

CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing Motion to Extend Procedural Schedule and Request for Expedited Ruling has been served upon the following parties via electronic transmission this 28th day of February 2020.

/s/ Angela D. O'Brien
Angela D. O'Brien
Assistant Consumers' Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

SERVICE LIST

Andrew.shaffer@ohioattorneygeneral.gov

Michele.noble@squirepb.com

Attorney Examiners:

Jay.agranoff@puco.ohio.gov

Anna.sanyal@puco.ohio.gov

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Summary: Motion Motion to Extend Procedural Schedule and Request for Expedited Ruling
by The Office of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on
behalf of O'Brien, Angela D