

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

_____)
In the Matter of the Complaint of:)
FRONTIER NORTH INC.,)
Complainant,) Case No. 14-0759-AU-CSS
v.)
OHIO POWER COMPANY,)
Respondent.)
_____)

AFFIDAVIT OF MICHELE L. NOBLE

STATE OF OHIO)
) SS
COUNTY OF FRANKLIN)

I, Michele L. Noble, being first duly sworn, depose and state as follows:

1. I am competent to testify to the matters set forth herein based upon my personal knowledge.

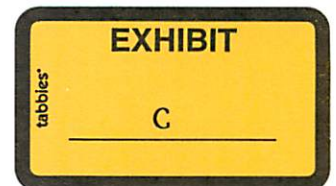
2. I make this affidavit in support of Frontier North Inc.'s ("Frontier") Opposition to Motion for Protective Order and Motion to Compel Discovery.

3. I am counsel of record for Frontier in the above-captioned proceeding.

4. Frontier served discovery requests on Ohio Power Company ("AEP Ohio") on June 6, 2014 in accordance with the Commission's rules.

5. AEP Ohio's response was due twenty days later on June 26.

6. On June 18, counsel for AEP Ohio requested an extension of the due date until after the settlement conference scheduled by the Commission for August 12.



7. Frontier agreed to provide a three-week extension, making AEP Ohio's discovery due on July 17. Frontier further offered to postpone the response deadline until after the August 12 settlement conference expressly conditioned on AEP Ohio providing by July 17 two categories of information, specifically:

- 1) AEP's joint use and pole attachment agreements with other companies in Ohio; and
- 2) A detailed rate calculation for each of the 2011, 2012 and 2013 rental years showing the calculation methodology of AEP's per pole rental rate using the FCC's new telecom methodology. Include in each rate calculation each and every input used in the calculation and identify their source.

(See June 24, 2014 email correspondence between Michele Noble and Christen Blend, attached as Ex. 1.)

8. On June 24, 2014, I emphasized that these documents "are needed in order for the parties to engage in a meaningful settlement conference." *Id.*

9. AEP Ohio responded that it was "willing to provide the documents identified in item 2" – meaning the rate calculations – but that it was "not willing to provide the documents identified in item 1" – meaning the pole attachment agreements. (See June 26, 2014 email correspondence from Christen Blend to Michele Noble, Ex. 1.)

10. After AEP Ohio refused to provide pole attachment agreements with other companies in Ohio, Frontier requested "the basis for AEP Ohio's refusal to provide joint use and pole attachment agreements with other companies in Ohio," since the "documents (along with the detailed rate calculations AEP has agreed to produce) are discoverable and necessary for a meaningful settlement conference." (See July 14, 2014 email correspondence from Michele Noble to Christen Blend, Ex. 1.)

11. I further clarified that, under the parties' prior agreement, AEP Ohio's refusal to produce pole attachment agreements meant that complete discovery responses would be due on July 17. (*Id.*)


12. AEP Ohio's counsel did not respond to my July 14, 2014 email correspondence that requested the basis for AEP Ohio's refusal to provide the pole attachment agreements with other companies.

13. AEP Ohio has not provided answers to any interrogatories or produced any documents.

FURTHER AFFIANT SAYETH NAUGHT.


Michele L. Noble

Sworn to and subscribed before me in my presence, this 31st day of July, 2014.


Notary Public

774866.1



LINDA IACOBONI
NOTARY PUBLIC
STATE OF OHIO
My Comm. Expires December 7, 2016

Noble, Michele

From: Noble, Michele
Sent: Monday, July 14, 2014 4:38 PM
To: cblend@porterwright.com
Cc: Starsick, Joseph (Joseph.Starsick@ftr.com); 'Huther, Christopher' (CHuther@wileyrein.com) (CHuther@wileyrein.com); Evans, Claire (CEvans@wileyrein.com) (CEvans@wileyrein.com)
Subject: Frontier / AEP Ohio - PUCO discovery extension

Christen,

Please provide the basis for AEP Ohio's refusal to provide joint use and pole attachment agreements with other companies in Ohio. These documents (along with the detailed rate calculations AEP has agreed to produce) are discoverable and necessary for a meaningful settlement conference.

If AEP is unwilling to provide these agreements, Frontier will not agree to stay the balance of discovery.

Thank you,
Michele

From: Blend, Christen M. [<mailto:cblend@porterwright.com>]
Sent: Thursday, June 26, 2014 2:34 PM
To: Noble, Michele
Cc: Starsick, Joseph (Joseph.Starsick@ftr.com); 'Huther, Christopher' (CHuther@wileyrein.com) (CHuther@wileyrein.com); Conway, Daniel R.; stnourse@aep.com
Subject: RE: Frontier / AEP Ohio - PUCO discovery extension

Michele,

AEP Ohio is willing to provide the documents identified in item 2 below if Frontier will agree to provide the same. AEP Ohio is not willing to provide the documents identified in item 1 below.

Please let us know whether Frontier will agree to stay all discovery other than the parties' mutual production of the documents identified in item 2 below until after the August 12 settlement conference.

Thank you,

Christen

Christen M. Blend | [Porter Wright Morris & Arthur LLP](#) | 41 S High St Suites 2800-3200 | Columbus, OH 43215
Direct: 614-227-2086 | Fax: 614-227-2100 | Toll Free: 800-533-2794 | cblend@porterwright.com

porterwright

From: Noble, Michele [<mailto:Michele.Noble@thompsonhine.com>]
Sent: Tuesday, June 24, 2014 9:39 AM
To: Blend, Christen M.
Cc: Starsick, Joseph (Joseph.Starsick@ftr.com); 'Huther, Christopher' (CHuther@wileyrein.com) (CHuther@wileyrein.com)
Subject: Frontier / AEP Ohio - PUCO discovery extension



Christen,

As we just discussed, Frontier is agreeable to a three-week extension on AEP Ohio's discovery responses, making the discovery due on July 17.

However, Frontier asserts that the following documents are needed in order for the parties to engage in a meaningful settlement conference on August 12:

- 1) AEP's joint use and pole attachment agreements with other companies in Ohio; and
- 2) A detailed rate calculation for each of the 2011, 2012 and 2013 rental years showing the calculation methodology of AEP's per pole rental rate using the FCC's new telecom methodology. Include in each rate calculation each and every input used in the calculation and identify their source.

If AEP Ohio is willing to provide these documents by July 17, Frontier will agree to stay all discovery until after the August 12 settlement conference.

Thank you,
Michele

Michele L. Noble | Partner | **Thompson Hine LLP**
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Fax: 614.469.3361 | **Email:** Michele.Noble@ThompsonHine.com
Web: <http://www.ThompsonHine.com>

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