

May 31, 2007

By Electronic Filing

Reneé J. Jenkins, Director
Office of Administration & Commission Secretary
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215

RE: In the Matter of the Amendment of Rules 4901-1-01 through 4901-1-05 of the Ohio Administrative Code to Permit the Electronic Filing of Documents; PUCO Case No. 07-535-AU-ORD

Dear Ms. Jenkins:

The Ohio Telecom Association submits their Comments for electronic filing in the above-referenced matter.

Thank you for your assistance. If you have any questions, please do not hesitate to call.

Very truly yours,

/s/ Carolyn S. Flahive

Enclosure

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

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| In the Matter of the Amendment of Rules |) | |
| 4901-1-01 through 4901-1-05 of the Ohio |) | Case No. 07-535-AU-ORD |
| Administrative Code to Permit the Electronic |) | |
| Filing of Documents |) | |

COMMENTS OF THE OHIO TELECOM ASSOCIATION

THE OHIO TELECOM ASSOCIATION, for and on behalf of its members (“OTA”), hereby submits its Comments in accordance with the Commission’s Entry of May 9, 2007.

The OTA supports the Staff’s initiative in moving forward with full electronic filing of documents with the Commission. These comments address the rules proposed by the Staff as well as the issue of whether E-filers, which include the Commission, should be required to submit the source document in addition to the required .pdf format when an E-filing is made.

Source Documents

OTA first addresses the proposal to require the submission of a “source document” along with the .pdf document that is filed. OTA objects to providing these source documents because this adds an unnecessary step to what should be a streamlined process and increases the possibility of errors. Specifically, providing source files:

- 1) Ignores that source documents are available from the E-filer upon request, just as they are in today’s paper filing environment. Providing the source files would only be a benefit in the small number of cases where the Commission Staff needs source documents to assist in the preparation of a specific entry or order.

Providing source files in all cases is an unnecessary burden to all E-filers and should not be required.

- 2) Ignores the current availability of software that can create writable/searchable .pdf files. Some OTA members have experience with electronic filings in other states, some of which require searchable .pdf files for any document filed on-line, including tariffs, letters, and support materials. No source documents are required. Additionally, all parties to the case benefit from using a standard searchable format.
- 3) Increases the possibility of submitting the wrong source file and creates the opportunity for document modifications that will not be reflected in the .pdf document, resulting in potential inconsistencies.
4. Ignores the fact that in some situations source documents simply may not be available, such as a signed document that is scanned to create the .pdf file.

Rules

Rule 4901-1-02 Filing of Pleading and Other Papers

The OTA seeks clarification of the changes found in Paragraph (B), which replace “party” with “person.” The change does not appear to be consistent throughout the proposed rules.

Paragraph (F) (2)

OTA supports Staff’s efforts to expand the use of the electronic filing process and, in fact, suggests that the Commission go a step further and re-evaluate the E-filing exclusions delineated in (F)(2) (A)-(E). The Staff provided no rationale for creating the exceptions. Although the E-filing of confidential documents might require some modifications to the E-filing system and process, such modifications should be minor. Further, allowing confidential documents to be electronically filed is not unprecedented. Other systems, such as

the FCC's electronic filing system, accommodate the filing of confidential documents. Ohio's system should be modified to allow all confidential documents to be filed electronically.

Paragraph (F) (4)

Paragraph (F) (6)

Ideally, the Commission will develop an electronic filing system that is designed to accept filings automatically and to record the date and time of receipt by the Commission without manual intervention. The automatic date stamp generated by the electronic filing system should be used to determine if a filing has been made in a timely manner. Such a system will also alert electronic subscribers that the filing has been made shortly after it has been accepted by the system. If such a system is used, it is no longer necessary to tie the filing deadline to the Commission's 5:30 p.m. docketing schedule. The Commission should, therefore, under this ideal system, revise this proposed rule to allow documents to be considered timely filed until 11:59 p.m. on the date that such filing is due. If, however, the Commission does not develop a fully automated electronic filing system as described above and manual intervention by Staff continues to be required, the Commission should retain the 5:30 filing deadline in place today.

Regardless, OTA urges the Commission to work with the utilities to ensure that the appropriate file formats and supported software are identified and communicated to E-filers to minimize the rejection of E-filed documents that could result in untimely filings.

Paragraph (F) (5)

See comments to Rule 4901-1-05.

Paragraph (F) (7)

This paragraph places the burden upon the E-filer when equipment failure and incompatible technology and rejection prevent the filing of documents. However, by placing all risk of failure on the filing party, the rule as proposed does not address those instances when the

Commission system may be unavailable to accept an electronic filing. There will inevitably be times when, through no fault of the filer, the system will not accept a filing due to Commission system failures. When the Commission system has rejected a filing due to Commission equipment failure, the rejected document should be considered timely filed if the E-filer files the document the next business day, either manually or electronically. Notably, other regulatory bodies, including the FCC, recognize such risks inherent with electronic filings and, as a result, permit filings to be considered timely when filed the next business day due to the system's inability to accept the filing. OTA is seeking such a modification to the proposed rules.

Paragraph (F) (9)

This rule requires the E-filer to maintain a copy of the E-filed document as well as the notice from Docketing Division that the document has been filed and to retain both until the case has passed through any appeal period. As the Commission's DIS systems maintains the "official" version of the filing along with the confirmation that it has been E-filed, OTA questions the need for the E-filer to maintain a copy of the document and the notice. Once a document is electronically filed and is available on the DIS system, there is no need for the filing party to maintain a copy of the filed document or the confirmation notice for any specified period of time. The maintenance of such records should be at the discretion of the filing party. OTA recommends that this rule be omitted.

Paragraph (G)

The OTA supports the Staff's approach to administration of case determination. It has long been recognized that numerous cases have remained in "open" status long after they should have been "closed." Further, the proposed additional designation of "Archived Case" and "Related Case" will benefit all who access the DIS files.

Rule 4901-1-03 Filing of Pleading and Other Papers

The OTA seeks clarification of the changes found in Paragraph (A) which replaces “party” with “person.” The change does not appear to be consistent throughout the proposed rules.

Rule 4901-1-05 Service of Pleading and Other Papers

Paragraph (C) should be clarified to ensure that current facsimile and email addresses are supplied by attorneys or parties as part of the service process. Furthermore, paragraph (C)(4) as proposed requires any person who wishes to consent to receive service by e-mail to provide such consent by stating on the cover page of any document filed in a case that he or she agrees to accept service by e-mail. OTA suggests that the Commission modify its system, and this proposed rule, to allow attorneys and parties to consent to such service at the time she/he subscribes to electronic filing in a particular case. The option to provide consent to receive service electronically should be included as a field when subscribing to electronic notification of a case.

Rule 4901-1-24 Motions for Protective Orders

OTA seeks clarification of paragraph (G) of this rule to ensure that nothing in these rules changes the existing practice regarding the treatment of confidential documents. Under current rules, unredacted copies of allegedly confidential information are filed under seal, along with a motion for protective order. The proposed rules should clearly allow redacted versions of the documents to be filed electronically. Moreover, many state commissions have on-line filing processes for documents that are asserted to be proprietary or confidential – the files are “locked” and inaccessible to the public. (All the public sees is that a confidential filing was made – they cannot access it.) The Commission should reconsider excluding proprietary/confidential documents from the E-filing process.

Conclusion

The OTA applauds the Commission's decision to re-organize and modernize the outdated paper filing processes. Doing so is incumbent upon all of us, especially with the need to conserve resources. It is OTA's hope that the Commission will find its proposals acceptable and modify the Staff's proposal to include these recommendations.

Respectfully submitted,

OHIO TELECOM ASSOCIATION

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Summary: Comments electronically filed by Carolyn S Flahive on behalf of Ohio Telecom Association