

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Complaint of)	
United Telephone Company of Ohio d/b/a)	
Embarq,)	
)	
Complainant,)	
)	
v.)	Case No. 08-616-TP-PWC
)	
The Village of Jefferson, Ohio,)	
)	
Respondent.)	

ENTRY

The Commission finds:

- (1) On May 22, 2008, United Telephone Company of Ohio d/b/a Embarq (Embarq) filed a complaint pursuant to Sections 4939.05 and 4905.26, Revised Code, stating that it does not accept the village of Jefferson's (village) Ordinance No. 2007-O-2714, relating to rights of way, and that the ordinance is unreasonable, unjust, unjustly discriminatory, and/or unlawful. According to the complaint, the ordinance was passed and was signed on December 17, 2007, and Embarq claims that it was notified of the implementation of the ordinance by a letter dated April 22, 2008. The village filed its answer on July 7, 2008, generally denying the material aspects of the complaint.
- (2) By entry issued July 16, 2008, the Commission, among other things, determined that Embarq had provided reasonable grounds for complaint and suspended the public way ordinance as applied to Embarq for the duration of the Commission's consideration of the complaint.
- (3) Also on July 16, 2008, the attorney examiner issued a procedural entry establishing dates for the filing of testimony, a prehearing conference, and a hearing in order for the Commission to render a decision within 120 days of the filing of the complaint in compliance with Section 4939.06(A), Revised Code.

- (4) On August 1, 2008, the parties jointly filed a motion seeking to vacate dates for the prehearing conference, the filing of testimony, and for the hearing in this matter. In support of the joint motion, the parties explained that they were attempting to negotiate a settlement of this matter; therefore, it would be more efficient and more conducive to settlement to vacate the scheduled dates in this matter. Recognizing the 120-day time frame set forth in Section 4939.06(A), Revised Code, the parties agreed to extend the time by which the Commission could issue a final order in this matter.
- (5) By attorney examiner's entry issued August 5, 2008, the parties' joint motion was granted.
- (6) On June 18, 2009, Embarq filed a notice of dismissal asking the Commission to dismiss its complaint with prejudice.
- (7) On September 25, 2009, counsel for the village docketed a certified copy of a franchise agreement and Ordinance No. 09-O-2777 (ordinance) dated July 20, 2009. This ordinance outlines the terms and conditions under which Embarq is granted a 15-year, non-exclusive franchise to operate the necessary structures to transmit both local and long distance telephone messages, data services, and any other telecommunications services through the public way within the village. The ordinance took effect 30 days after adoption and replaced, in all respects, any prior agreement between the village and Embarq.
- (8) Insofar as the parties have reached agreement on an ordinance to govern Embarq's usage of the public way within the village, Embarq's request to dismiss this matter with prejudice shall be granted.

It is, therefore,

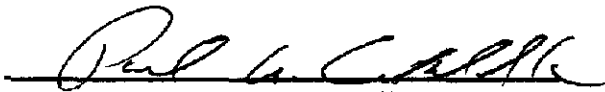
ORDERED, That this matter be dismissed with prejudice. It is, further,

ORDERED, That a copy of this entry be served upon all parties and interested persons of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO



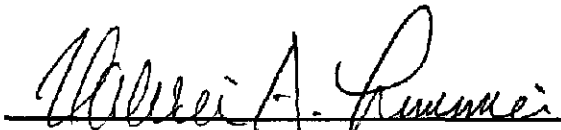
Alan R. Schriber, Chairman



Paul A. Centolella



Ronda Hartman Fergus



Valerie A. Lemmie

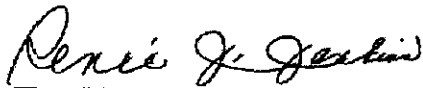


Cheryl L. Roberto

JRJ/vrm

Entered in the Journal

OCT 07 2009



Renee J. Jenkins
Secretary