

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of AT&T Ohio) Case No. 15-920-TP-ATA
to Update its Pole Attachment Provisions.)

In the Matter of the Application of United)
Telephone Company of Ohio d/b/a/) Case No. 15-889-TP-ATA
CenturyLink to Introduce a Pole Attachment)
and Conduit Occupancy Tariff.)

In the Matter of the Application of CenturyTel)
of Ohio, Inc. d/b/a CenturyLink to Introduce) Case No. 15-890-TP-ATA
a Pole Attachment and Conduit Occupancy)
Tariff.)

In the Matter of the Application of Cincinnati)
Bell Telephone Company LLC to Add)
Language and Rates for Access to Poles,) Case No. 15-973-TP-ATA
Conduits, and Rights-of-Way by Public)
Utilities to the Access Tariff.)

In the Matter of the Applications of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo) Case No. 15-975-EL-ATA
Edison Company to Change Their Pole)
Attachment Tariffs.)

In the Matter of the Application of Duke)
Energy Ohio, Inc. to Amend its Pole) Case No. 15-965-EL-ATA
Attachment and Conduit Occupancy Tariff,)
P.U.C.O. No. 1.)

In the Matter of the Application of The Dayton)
Power and Light Company to Amend its Pole) Case No. 15-971-EL-ATA
Attachment Tariffs.)

In the Matter of the Application of Ohio)
Power Company to Amend its Pole) Case No. 15-974-EL-ATA
Attachment Tariffs.)

ENTRY

The attorney examiner finds:

- (1) On July 30, 2014, the Commission issued its Finding and Order in Case No. 13-579-AU-ORD (13-579), *In re Adoption of Chapter*

4901:1-3, Ohio Administrative Code, Concerning Access to Poles, Ducts, Conduits, and Rights-of-Way by Public Utilities, establishing rules for the access to poles, conduits, and rights-way.

- (2) On October 15, 2014, the Commission issued its Entry on Rehearing in 13-579 granting in part and denying in part the applications for rehearing filed regarding the rules.
- (3) On February 25, 2015, the Commission issued an Entry in 13-579 which, among other things, directed utility pole owners to each file the appropriate company-specific tariff amendment application, including the applicable calculations based on 2014 data. Dates were established for the filing of the tariff amendments/applicable calculations and the filing of intervention requests/objections. Pursuant to the Commission's Entry of April 22, 2015, these dates were amended to reflect the filing of the tariff amendments/applicable calculations by May 15, 2015, and the filing of intervention requests/objections by August 1, 2015. The automatic approval date for the pole attachment amendments was extended to September 1, 2015.
- (4) The companies identified in the above captioned cases each filed their tariff amendment applications and applicable calculations on or before May 15, 2015, in their respective dockets.
- (5) On July 1, 2015, the Ohio Cable Telecommunications Association (OCTA) filed a motion in each of the above dockets to expedite discovery schedule and request for expedited ruling. OCTA requests the establishment of an expedited schedule of 10 days for responding to all discovery sought by OCTA in the above cases. In support of its request, OCTA explains that the requested schedule will not be burdensome to the companies in the above cases and will allow OCTA enough time to prepare a second round of discovery and then obtain and analyze important information for the purpose of preparing objections by the established deadline. OCTA asserts that given the number of pole attachment tariff filings and the amount of time required to complete the review process in these cases, shortening the discovery response time to 10 days is essential. OCTA opines that its request should not be burdensome due to the fact that it is the only the only party to seek discovery. Among other things, OCTA notes that counsel for Ohio Power has agreed to the 10-day response time for the first two rounds of OCTA discovery but reserves Ohio Power's rights with respect to any additional discovery.

- (6) On July 8, 2015, Duke Energy filed its memorandum contra OCTA's motion. Duke Energy notes that Ohio Adm.Code 4901-1-19 provides for interrogatory responses within 20 days after service. Duke Energy avers that OCTA has failed to demonstrate good cause for its request and has simply reiterated the same arguments that were previously considered by the Commission in the development of the current schedule. According to Duke Energy, OCTA has contributed to its current timing issue due to the fact that it waited for 46 days prior to starting the discovery process. Duke Energy also submits that its resources are not unlimited and that it should not be forced to be inconvenienced as a result of OCTA's delayed actions.

Finally, Duke Energy expresses concern over OCTA's apparent attempted consolidation of the above captioned cases. Duke Energy submits that the eight cases are unrelated and that the seven other cases have no bearing on the company-specific calculations for Duke Energy. Therefore, Duke Energy requests that OCTA be directed to file any subsequent pleadings independently for each of the eight proceedings included in the header of the motion.

- (7) On July 8, 2015, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy Companies) jointly filed their memorandum contra OCTA's motion to expedite the discovery schedule. FirstEnergy Companies contend that the schedule previously established by the Commission allowed more than sufficient time to conduct all of the discovery which OCTA now seeks special dispensation to accommodate. Further, First Energy Companies do not believe that they should be burdened with an expedited discovery schedule due to OCTA's decision to delay intervention and discovery in this case.

Finally, FirstEnergy Companies reject OCTA's contention that the requested 10-day expedited discovery period will not be burdensome since there is only one intervening entity that has requested intervention and engaged in discovery. In support of their position, FirstEnergy Companies state that many of the same personnel that would be directly impacted by a 10-day discovery response time in this proceeding are also responsible for other matters currently pending before the Commission and must also support restoring service after outages caused by seasonal storms.

- (8) On July 8, 2015, United Telephone Company of Ohio dba CenturyLink and CenturyTel of Ohio, Inc., dba CenturyLink

(CenturyLink) filed its memorandum contra OCTA's motion to expedite discovery.

CenturyLink contends that OCTA has not provided an adequate explanation as to why it waited until such a late date to seek intervention and serve discovery in these proceedings. Additionally, CenturyLink contends that OCTA already has sufficient information to determine whether to object to CenturyLink's tariffs. Finally, CenturyLink asserts that OCTA's motion should be denied because it is impossible for it to evaluate the burden of the discovery that OCTA intends to serve in the future.

- (9) On July 8, 2015, AT&T Ohio filed its memorandum contra OCTA's motion to expedite discovery. Specifically, AT&T Ohio objects to OCTA's request inasmuch as it does not know what additional discovery OCTA may seek in this proceeding and, therefore, cannot assess the amount of time required to respond to such requests.
- (10) Upon a review of the arguments raised by OCTA and the all the memoranda contra, the attorney examiner finds that OCTA's motion for expedited discovery shall be granted in part and denied in part. Specifically, while a shortened discovery period may be warranted, it shall be reduced to 15 days rather than the requested 10 days in order to address the concerns raised in the memoranda contra. Therefore, all OCTA discovery requests in the above captioned matters shall be responded to within 15 days of being served unless otherwise ordered.

It is, therefore,

ORDERED, That OCTA's motion to expedite discovery be granted in part and denied in part in accordance with Finding (10). 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

s/ Jay S. Agranoff

By: Jay S. Agranoff
Attorney Examiner

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in

Case No(s). 15-0920-TP-ATA, 15-0889-TP-ATA, 15-0890-TP-ATA, 15-0973-TP-ATA, 15-0975-EL-ATA,

Summary: Attorney Examiner Entry that OCTA's motion to expedite discovery be granted in part and denied in part in accordance with Finding (10); electronically filed by Debra Hight on behalf of Jay S. Agranoff, Attorney Examiner.