

**BEFORE THE  
PUBLIC UTILITIES COMMISSION OF OHIO**

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

---

**OHIO POWER COMPANY’S MEMORANDUM CONTRA TO MOTION FOR LEAVE  
OF THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION**

---

**Introduction**

Ohio Cable Telecommunications Association (OCTA) seeks to add even more time and process into this proceeding, beyond the time already provided by the Commission, because “...AEP did not accept all of OCTA’s objections. Thus there are issues remaining for Commission resolution.” (OCTA Motion at 3.) The Commission should respect the process already established and deny the request for leave and the associated unauthorized response.

**Background**

The issues in this case cover the calendar year to date. On February 25, 2015, the Commission issued an entry in Case No. 13-579-AU-ORD directing “electric distribution utility pole owners to each file the appropriate company-specific tariff amendment application, including the applicable calculations based on 2014 data, on or before May 1, 2015.” On April 22, 2015, the Commission issued an entry in Case No. 13-579-AU-ORD extending the filing date for the tariff amendment application to May 15, 2015. On May 15, 2015, Ohio Power Company (AEP Ohio) complied and filed its Application to Amend its Pole Attachment Tariff in Case No. 15-974-EL-ATA. On August 3, 2015, the OCTA filed objections to the AEP Ohio’s Application to Amend its Pole Attachment Tariff. On August 7, 2015 the Attorney Examiner in

this case issued an Entry granting certain pole owners the opportunity to file responses to objections on or before August 24, 2015. Additionally, this Entry suspended the automatic approval set to take place on September 1, 2015 and instituted approval upon a separate Commission Order. AEP Ohio responded to OCTA objections on August 24, 2015 in Case No. 15-974-EL-ATA requesting they be rejected due to a lack merit.

### **Argument**

OCTA seeks to extend the procedural schedule even further than the accommodations already provided by the Commission, seeking another round of substantive comments abandoning the Commission's procedure so it can continue to argue the issues, assumedly until AEP Ohio accept all of OCTA's objections. Commission procedure is not set up so that OCTA can extend the schedule in every case until all of its viewpoints are accepted. Proceedings would never end if this were the standard. If there were universal agreement on an agreed tariff or application then a settlement could have been filed. That was not done here. This case involves the processing of a tariff filed by AEP Ohio. That tariff was filed and interested parties had the opportunity to intervene and raise objections. Then the Company that filed the tariff was able to respond to those objections and the matter provided to the Commission for decision.

The standard practice is for this tariff to automatically be approved at a certain point. That process was already interrupted to allow for more consideration. Further delay for OCTA to raise further arguments, and then assumedly a time for AEP Ohio to claim its right to respond, is not justified nor is it needed and should be denied.

OCTA's claim that its response is not out of line with general motion practice under the administrative code rule is also without merit. (OCTA's Motion at 4.) OCTA provides a table asserting the normal process to address its objections would be to allow it the opportunity to

reply to any memorandum contra the objections it files. (Id.) However, OCTA leaves out that the genesis of the debate was the application and tariff filed by AEP Ohio. This discussion did not start with OCTA's objections. This case is about considering the application and tariff of AEP Ohio. The objections were in reply to that filing and the response by AEP Ohio provided the reply contemplated by the rule OCTA provided. If OCTA wants to analogize this process to the motions rule, then such an analogy supports denial of its request. In this case AEP Ohio is the moving party and with the burden is entitled to the final word before decision. A proper presentation of the table on page 4 of OCTA's motion should read to reflect the exact actions properly followed by the Commission in this case.

<b>Motion Cycle</b>	<b>Procedure Set Forth in this Case</b>
Motion	Pole Owner Application and Tariff: May 15, 2015
Memoranda Contra	OCTA Objections: August 3, 2015
Reply Memorandum	Pole Owner Responses: August 24, 2015

OCTA asks for leave for an action out of the ordinary without justifying the need as unique beyond its concern that AEP Ohio did not accept all of its objections. Even that concern is not unique to this case, in fact nothing is unique about its request other than the company's name it is focused on and the case the motion was filed. OCTA filed similar requests for special relief in the dockets of other pole owners. In fact, OCTA filed a nearly identical document in nine other dockets asserting the same need. OCTA even repeated its concern on page three of each filing that the pole owners did not accept all of OCTA's objections, leading to the need for more process. Those nearly identical motions can be viewed at the following links:

**United Telephone/Century Tel:** 15-889-TP-ATA/15-890-EL-ATA:  
<http://dis.puc.state.oh.us/TiffToPDF/A1001001A15I10B61504J01970.pdf>

**AT&T:** 15-920-TP-ATA:  
<http://dis.puc.state.oh.us/TiffToPDF/A1001001A15I10B61626E01972.pdf>

**Windstream/Windtream Western Reserve:** 15-950-TP-ATA/15-951-TP-ATA:  
<http://dis.puc.state.oh.us/TiffToPDF/A1001001A15I10B61158H01762.pdf>

**Duke:** 15-965-EL-ATA:  
<http://dis.puc.state.oh.us/TiffToPDF/A1001001A15I18B63222I00684.pdf>

**Cincinnati Bell Telephone:** 15-973-TP-ATA:  
<http://dis.puc.state.oh.us/TiffToPDF/A1001001A15I10B61328G01764.pdf>

**FE Companies:** 15-975-EL-ATA:  
<http://dis.puc.state.oh.us/TiffToPDF/A1001001A15I18B65845E00694.pdf>

**Dayton Power and Light Company:** 15-971-EL-ATA:  
<http://dis.puc.state.oh.us/TiffToPDF/A1001001A15I18B62838F00682.pdf>

The OCTA request is nothing more than a legal strategy seeking to subvert the Commission's established procedure in this case and not a unique situation that would give rise to the need for the Commission to entertain another round of discussion. It should be difficult for the Commission to rely on OCTA's claims that AEP's response raised claims for the first time in its reply (OCTA's Motion at 3) when OCTA includes a similar line in the other apparent form filings it provided the Commission. The Commission should deny this strategic attempt by OCTA to take another bite at the apple

## **Conclusion**

Based on the foregoing comments, the Commission should avoid the further delay that would be caused by OCTA's request, reject OCTA's motion for leave and grant AEP Ohio's Application in this case without further delay.

Respectfully submitted,

/s/ Steven T. Nourse

Steven T. Nourse

Matthew J. Satterwhite

American Electric Power Service  
Corporation

1 Riverside Plaza, 29th Floor

Columbus, Ohio 43215

Telephone: (614) 715-1608

Fax: (614) 716-2950

stnourse@aep.com

mjsatterwhite@aep.com

*Counsel for Ohio Power Company*

## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of Ohio Power Company's *Responses to Objections of the Ohio Cable Telecommunications Association* have been served upon the below-named counsel and Attorney Examiners by electronic mail to all Parties this 25<sup>th</sup> day of September, 2015.

/s/ Matthew J. Satterwhite  
Matthew J. Satterwhite

### **EMAIL SERVICE LIST**

[glpetrucci@vorys.com](mailto:glpetrucci@vorys.com);  
[smhoward@vorys.com](mailto:smhoward@vorys.com);  
[bakahn@vorys.com](mailto:bakahn@vorys.com);

Attorney Examiner  
[jay.agranoff@puc.state.oh.us](mailto:jay.agranoff@puc.state.oh.us)

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**9/25/2015 2:23:20 PM**

**in**

**Case No(s). 15-0974-EL-ATA**

Summary: Memorandum Contra to Motion for Leave of the Ohio Cable Telecommunications Association electronically filed by Mr. Matthew J Satterwhite on behalf of Ohio Power Company