

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
AT&T OHIO TO UPDATE ITS POLE  
ATTACHMENT AND CONDUIT RATES.

CASE NO. 16-2117-TP-ATA

IN THE MATTER OF THE ADOPTION OF  
CHAPTER 4901:1-3, OHIO ADMINISTRATIVE  
CODE, CONCERNING ACCESS TO POLES,  
DUCTS, CONDUITS, AND RIGHTS-OF-WAY  
BY PUBLIC UTILITIES.

CASE NO. 13-579-AU-ORD

### ENTRY

Entered in the Journal on November 30, 2016

#### I. SUMMARY

{¶ 1} In this Entry, the Commission sets forth the automatic approval process for tariff amendment applications to amend rates, terms, and conditions for nondiscriminatory assess to poles, ducts, conduits, and rights-of-way.

#### II. DISCUSSION

##### A. *Applicable Law*

{¶ 2} AT&T Ohio is a public utility as defined in R.C. 4905.02 and, as such, is subject to the jurisdiction of the Commission.

{¶ 3} R.C. 4905.71 authorizes the Commission to determine the reasonable terms, conditions, and charges that a telephone or electric light company may impose upon a person or entity seeking to attach any wire, cable, facility, or apparatus to a public utility's pole, pedestal, conduit space, or right-of-way. Every telephone or electric light company shall file tariffs with the Commission containing the charges, terms, and conditions established for such use.

**B. Procedural History**

{¶ 4} On July 30, 2014, as revised on October 15, 2014, the Commission, in Case No. 13-579-TP-ORD (*Pole Attachment Rules Case*), *In re the Adoption of Chapter 4901:1-3, Ohio Administrative Code, Concerning Access to Poles, Ducts, Conduits, and Rights-of-Way by Public Utilities*, adopted new administrative rules regarding access to poles, ducts, conduits, and rights-of-way of public utilities. The new rules became effective January 8, 2015. On February 25, 2015, as revised on April 22, 2015, the Commission, in the *Pole Attachment Rules Case*, ordered all public utility pole owners in Ohio to file the appropriate company-specific tariff amendment application, including the applicable calculations based on 2014 data.

{¶ 5} On May 15, 2015, as amended on May 21, 2015, AT&T Ohio filed its tariff amendment application in Case No. 15-920-TP-ATA (15-920), *In re the Application of AT&T Ohio to Update its Pole Attachment Tariff*.

{¶ 6} On May 18, 2016, the Commission issued its Finding and Order establishing the rates, terms, and conditions to be incorporated into AT&T Ohio's pole attachment and conduit occupancy tariff. Consistent with the determinations set forth in its Finding and Order, AT&T Ohio was directed to file a final tariff on or before June 20, 2016.

{¶ 7} On May 25, 2016, AT&T Ohio filed its revised pole attachment and conduit occupancy tariff.

{¶ 8} On June 17, 2016, the Ohio Cable Telecommunications Association (OCTA) filed an application for rehearing regarding the Commission's Finding and Order of May 18, 2016.

{¶ 9} On July 13, 2016, the Commission issued its Entry on Rehearing denying OCTA's application for rehearing.

{¶ 10} On October 12, 2016, the Commission issued its Entry approving AT&T Ohio's revised pole attachment and conduit occupancy tariff.

{¶ 11} On November 1, 2016, as amended on November 10, 2016, AT&T Ohio filed an application in Case No. 16-2117-TP-ATA (16-2117) to update its pole attachment and conduit rates. AT&T Ohio explains that consistent with its annual 21-state pole and conduit rate calculation review it seeks to revise its Ohio pole attachment and conduit occupancy rates for 2017 consistent with the FCC rate calculation formulas and the Commission's rules approved in the *Pole Attachment Rules Case*. AT&T Ohio proposes to add an "Incremental Foot" rate element to its pole attachment rate structure. Consistent with its application, an attacher will be charged for each foot of space it occupies on the usable portion of the pole through the assessment of an initial foot rate for the first foot or fraction thereof, and an "Incremental Foot Rate" for each additional foot or fraction thereof occupied.

{¶ 12} Specifically, effective January 1, 2017, AT&T Ohio seeks to decrease its pole fee from \$2.48 to \$2.44 per foot per year and apply this rate to both the initial foot and each incremental foot. Additionally, AT&T Ohio seeks to increase its conduit attachment fee per foot of innerduct occupied from \$0.51 to \$0.55. AT&T Ohio also seeks to increase its conduit attachment fee per foot where there is no innerduct installed from \$0.77 to \$0.83.

{¶ 13} Pursuant to the attorney examiner Entry of November 8, 2016, motions to intervene and any corresponding objections were due on or before November 21, 2016. Responsive pleadings will be filed on or before December 2, 2016.

{¶ 14} On November 15, 2016, the Ohio Cable Telecommunications Association (OCTA) filed a motion to intervene in 16-2117.

{¶ 15} On November 21, 2016, OCTA filed objections to AT&T Ohio's application.

{¶ 16} Pursuant to Ohio Adm.Code 4901:1-3-04(A), subsequent changes to rates, terms, and conditions for nondiscriminatory access to poles, ducts, conduits, and rights-of-way are to be filed in the appropriate proceeding. In the July 30, 2014 Finding and Order in the *Pole Attachment Rules Case*, the Commission stated that it would address in a future entry the filing of tariffs consistent with the adopted rule. In the Entry of February 25, 2015, the Commission stated that the respective companies should file the appropriate tariff amendment application. While the Commission set forth automatic approval dates for the initial round of tariff amendment applications, the Commission did not address a process for the automatic approval of subsequent tariff amendment applications.

{¶ 17} At this time, the Commission determines that all such tariff amendment applications, including that of AT&T Ohio in 16-2117, should be subject to a 60-day automatic approval process. Any objections to such application should be filed within twenty-one days of its filing. The applicant shall have ten days to file its reply to the stated objections. To the extent that it deems it necessary, the Commission may suspend such applications, resulting in the need for the Commission to issue the applicable Order.


### III. ORDER

{¶ 18} It is, therefore,

{¶ 19} ORDERED, That the automatic approval process set forth in paragraph (17) be established for tariff amendment applications discussed in this Entry. It is, further,

{¶ 20} ORDERED, That a copy of this Entry be served upon all parties and interested persons of record in Case Nos. 13-579-AU-ORD and 16-2117-TP-ATA.

THE PUBLIC UTILITIES COMMISSION OF OHIO

  
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Asim Z. Haque, Chairman

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Lynn Slaby

  
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M. Beth Trombold

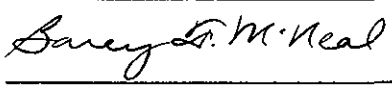
  
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JSA/dah

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Barcy F. McNeal  
Secretary