

THE PUBLIC UTILITIES COMMISSION OF OHIO

**IN THE MATTER OF THE COMPLAINT OF
THE OHIO BELL TELEPHONE COMPANY
D/B/A AT&T OHIO,**

COMPLAINANT,

v.

CASE No. 17-291-AU-PWC

CITY OF SPRINGFIELD, OHIO,

RESPONDENT.

ENTRY

Entered in the Journal on March 30, 2017

{¶ 1} R.C. 4939.06(A) provides that, if a public utility does not accept a public way fee levied against it pursuant to the enactment of an ordinance by a municipal corporation, the public utility may appeal the public way fee to the Commission. The appeal shall be made by filing a complaint that the amount of a public way fee, any related classification of public way occupants or users, or the assignment or allocation of costs to the public way fee is unreasonable, unjust, unjustly discriminatory, or unlawful. The complaint must be filed not later than 30 days after the date the public utility first becomes subject to the ordinance.

{¶ 2} On February 2, 2017, the Ohio Bell Telephone Company d/b/a AT&T Ohio (AT&T Ohio) filed a complaint pursuant to R.C. 4939.06 and 4905.26 stating that the ordinance embodied in Chapter 901 by the city of Springfield, Ohio (Springfield), with respect to public way fees, is unlawful. According to the complaint, the ordinance was adopted on December 6, 2016.

{¶ 3} On February 21, 2017, Springfield filed an answer that denied the material allegations of the complaint. Springfield believes that its ordinance is lawful and that the

Commission lacks jurisdiction. Springfield, therefore, urges the Commission to dismiss the complaint.

{¶ 4} By Entry issued on March 29, 2017, the Commission determined that AT&T Ohio had provided reasonable grounds for complaint and suspended the public way ordinance as to AT&T Ohio for the duration of the Commission's consideration of the complaint.

{¶ 5} R.C. 4939.06(A) requires that the Commission act to resolve the complaint by issuance of a final order within 120 days after the filing of the complaint. Therefore, in order to proceed with the instant case on a timely basis, the attorney examiner finds that a hearing in this matter should be scheduled for April 21, 2017, at 10:00 a.m. at the offices of the Commission, 180 East Broad Street, 11th Floor, Hearing Room 11-C, Columbus, Ohio 43215-3793.

{¶ 6} The parties are encouraged to work toward resolving this matter. A telephonic status/prehearing conference is scheduled for April 3, 2017, at 10:00 a.m. At that time, the parties to this proceeding should call the Commission at 866-209-2820 and enter conference code 7585920846. The purposes of the conference include confirming discovery status, readiness for hearing, need for rebuttal testimony, and other matters as needed.

{¶ 7} Any party intending to present direct testimony (expert or otherwise) should file that testimony in writing with the Commission and serve it upon all parties, no later than seven days prior to the commencement of the hearing.

{¶ 8} In the event that any motions are made in this case, any memoranda contra shall be required to be filed within seven calendar days after the service of such motions, and any reply memoranda within four calendar days after the service of memoranda contra. Ohio Adm.Code 4901-1-07(B), which permits three additional days to take action if service is made by mail, shall not apply. The parties are encouraged to take advantage of

Ohio Adm.Code 4901-1-05(D), which provides that service of pleadings may occur by facsimile transmission or electronic message.

{¶ 9} In addition, the parties are reminded that, pursuant to Ohio Adm.Code 4901-1-17, discovery may begin immediately after a proceeding is commenced and should be completed as expeditiously as possible. The attorney examiner finds that the response time for discovery shall be shortened to ten calendar days. Unless otherwise agreed to by the parties, discovery requests and replies shall be served by hand delivery, facsimile transmission, or electronic message. An attorney serving a discovery request shall attempt to contact the attorney upon whom the discovery request will be served in advance to advise him/her that a request will be forthcoming.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That the parties comply with the directives set forth in paragraphs (8) and (9). It is, further,

{¶ 12} ORDERED, That a telephonic prehearing conference be held on April 3, 2017 at 10:00 a.m. It is, further,

{¶ 13} ORDERED, That all direct testimony be served and filed two days prior to the scheduled hearing. It is, further,

{¶ 14} ORDERED, That a hearing be scheduled for April 21, 2017, at 10:00 a.m. at the offices of the Commission, 180 East Broad Street, 11th Floor, Hearing Room 11-C, Columbus, Ohio 43215-3793. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served upon all parties and interest persons of record

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ L. Douglas Jennings

By: L. Douglas Jennings
Attorney Examiner

jrj/vrm

This foregoing document was electronically filed with the Public Utilities

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Case No(s). 17-0291-AU-PWC

Summary: Attorney Examiner Entry scheduling a hearing for April 21, 2017, at 10:00 a.m.; electronically filed by Vesta R Miller on behalf of L. Douglas Jennings, Attorney Examiner, Public Utilities Commission of Ohio