

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE COMMISSION'S
REVIEW OF CHAPTER 4901:1-3, OHIO
ADMINISTRATIVE CODE, CONCERNING
ACCESS TO POLES, DUCTS, CONDUITS,
AND RIGHT-OF-WAY.

CASE NO. 19-834-AU-ORD

ENTRY

Entered in the Journal on April 11, 2019

{¶ 1} R.C. 111.15(B) and R.C. 106.03(A) require all state agencies to conduct a review of their rules every five years to determine whether the rules should be continued without change, amended, or be rescinded. The Commission has opened this docket to review the rules regarding pole attachments in Ohio Admin.Code Chapter 4901:1-3.

{¶ 2} R.C. 106.03(A) requires that the Commission determine whether the rules:

- (a) Should be continued without amendment, be amended, or be rescinded, taking into consideration the purpose, scope, and intent of the statute under which the rules were adopted;
- (b) Need amendment or rescission to give more flexibility at the local level;
- (c) Need amendment or rescission to eliminate unnecessary paperwork;
- (d) Incorporate a text or other material by reference and, if so, whether the text or other material incorporated by reference is deposited or displayed as required by R.C. 121.74, and whether the incorporation by reference meets the standards stated in R.C. 121.72, 121.75, and 121.76;
- (e) Duplicate, overlap with, or conflict with other rules;

- (f) Have an adverse impact on businesses, as determined under R.C. 107.52;
- (g) Contain words or phrases having meanings that in contemporary usage are understood as being derogatory or offensive; and,
- (h) Require liability insurance, a bond, or any other financial responsibility instrument as a condition of licensure.

{¶ 3} In addition, on January 10, 2011, the governor of the state of Ohio issued Executive Order 2011-01K, entitled “Establishing the Common Sense Initiative,” which sets forth several factors to be considered in the promulgation of rules and the review of existing rules. Among other things, the Commission must review its rules to determine the impact that a rule has on small businesses; attempt to balance the critical objectives of regulation and the cost of compliance by the regulated parties; and, amend or rescind rules that are unnecessary, ineffective, contradictory, redundant, inefficient, or needlessly burdensome, or that have had negative, unintended consequences, or unnecessarily impede business growth.

{¶ 4} Also, in accordance with R.C. 121.82, in the course of developing draft rules, the Commission must evaluate the rules against the business impact analysis (BIA). If there will be an adverse impact on businesses, as defined in R.C. 107.52, the agency is to incorporate features into the draft rules to eliminate or adequately reduce any adverse impact. Furthermore, the Commission is required, pursuant to R.C. 121.82, to provide the Common Sense Initiative office the draft rules and the BIA.

{¶ 5} As part of the rule procedures, prior to issuing proposed rules for comment, it is appropriate for the Commission Staff (Staff) to hold a workshop with interested stakeholders for the purpose of receiving their comments and feedback. Interested stakeholders should come to the workshop prepared with the necessary technical experts to provide appropriate feedback. After Staff has an opportunity to consider the feedback

received at the workshop, it will draft its proposed rule amendments and the Commission will issue Staff's proposal for comments and reply comments by interested entities.

{¶ 6} Possible topics for comment include:

- the potential incorporation of one touch make-ready time frames consistent with 47 C.F.R. Subchapter A, Part 1, Subpart J §§1.1402 and 1.1411(j);
- the incorporation of overlashing requirements consistent with 47 C.F.R. Subchapter A, Part 1, Subpart J §1.1415;
- the addition of tax formula language;
- the addition of procedural rules regarding the process for the filing and approval of revisions to pole attachment tariffs; and,
- the manner in which rate disputes are to be resolved.

{¶ 7} Accordingly, the attorney examiner finds that a workshop should be scheduled for Tuesday, May 21, 2019, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th floor, Hearing Room B, Columbus, Ohio, regarding potential revisions to Ohio Adm.Code Chapter 4901:1-3. The workshop will be transcribed. All persons wanting to participate in the workshop should register at the lobby desk and then proceed to the 11th floor. Any interested stakeholder that does not participate in the workshop may file comments with the Commission once draft rules have been issued.

{¶ 8} It is, therefore,

{¶ 9} ORDERED, That a workshop be scheduled for May 21, 2019, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-B, Columbus, Ohio. It is, further,

{¶ 10} ORDERED, That a copy of this Entry be served upon all certified telephone companies, including all certified commercial mobile radio service providers; regulated electric distribution companies; the Ohio Cable Telecommunications Association; the Ohio Telecom Association; and, all other interested persons of record. It is further,

{¶ 11} ORDERED, That notice of this Entry be sent to the Telephone and Electric list-serves.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Jay S. Agranoff

By: Jay S. Agranoff
Attorney Examiner

JRJ/mef

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Case No(s). 19-0834-AU-ORD

Summary: Attorney Examiner Entry scheduling a workshop for 5/21/19 at 10:00am at the Commission offices electronically filed by Ms. Mary E Fischer on behalf of Jay S. Agranoff, Attorney Examiner, Public Utilities Commission of Ohio