

THE PUBLIC UTILITIES COMMISSION OF OHIO

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

CASE NO. 19-834-AU-ORD

ENTRY

Entered in the Journal on May 12, 2021

{¶ 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of their rules every five years to determine whether the rules should be continued without change, amended, or be rescinded.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 Adm.Code Chapter 4901:1-3.

{¶ 2} On May 21, 2019, the Commission held a workshop in this proceeding to afford interested stakeholders an opportunity to propose revisions to the rules in Ohio Adm.Code Chapter 4901:1-3 for the Commission's consideration. The purpose of the workshop was to allow stakeholders to propose their own revisions to the rules for consideration. Approximately 21 interested stakeholders attended the workshop, and representatives from the Ohio Cable Telecommunications Association (OCTA) provided comments.

{¶ 3} Commission Staff (Staff) evaluated the rules contained in Ohio Adm.Code Chapter 4901:1-3 and, following Staff's review, proposed amendments to Ohio Adm.Code 4901:1-3-01, 4901:1-3-02, 4901:1-3-03, 4901:1-3-04, and 4901:1-3-05. The remaining rules in the chapter were, under Staff's proposal, to remain unchanged.

{¶ 4} By Entry issued on July 17, 2019, the Commission requested comments and reply comments on Staff's proposed revisions to Ohio Adm.Code Chapter 4901:1-3, and ordered that comments and reply comments be filed by August 15, 2019, and September 9, 2019, respectively.

{¶ 5} Consistent with the Entry issued on July 17, 2019, written comments were timely filed on August 15, 2019, by Sprint Corporation (Sprint), Crown Castle Fiber LLC (Crown Castle), The Dayton Power and Light Company (DP&L), the Ohio Telecom association (OTA), Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy), the OCTA, and collectively by Duke Energy Ohio, Inc. (Duke) and the Ohio Power Company (AEP), in response to Staff's proposed revision. Reply comments were then timely filed on September 9, 2019, by DP&L, Crown Castle, OTA, AT&T Ohio (AT&T), FirstEnergy, OCTA, and collectively by Duke and AEP.

{¶ 6} On April 7, 2021, the Commission issued a Finding and Order adopting the proposed amendments to Ohio Adm.Code Chapter 4901:1-3 regarding the Commission's rules for access to poles, ducts, conduits, and rights-of-way.

{¶ 7} Applications for rehearing were timely filed by DP&L, OTA, AT&T, and OCTA.

{¶ 8} On May 10, 2021, OTA filed a motion for an extension of time to file memoranda in opposition to applications for rehearing and a request for an expedited ruling. Therein, OTA requests that memorandum in opposition to the applications for rehearing be filed by May 24, 2021. OTA represents that four parties, including OTA, filed applications for rehearing on May 6 and 7, 2021, and in accordance with Ohio Adm.Code 4901-1-35(B), memoranda in opposition may be filed by May 17, 2021. In support of its request, OTA states that, while its members have begun the process of reviewing the applications, securing internal review is more complex and delays are likely given its diverse membership and COVID-19 restrictions. Additionally, counsel for OTA is participating in a Commission hearing that begins on May 12, 2021, and is expected to extend through at least May 16, 2021. OTA believes that it would be useful to secure an additional week for OTA members to review the applications for rehearing, determine if a memorandum in opposition is warranted, and prepare such memorandum if necessary.

OTA states that it contacted counsel by email, and as of the date of this Entry, OCTA and Crown Castle supported the motion and the request for an expedited ruling while counsel for AT&T, FirstEnergy, Duke, and AEP stated that they did not oppose the motion or the request for an expedited ruling. OTA represents that Sprint did not respond by the time its motion was filed; however, if Sprint responds, counsel for OTA will provide the response to the Commission.

{¶ 9} After review of OTA's motion for extension of time to file responsive pleadings to the applications for rehearing filed on May 6 and 7, 2021, and in accordance with Ohio Adm.Code 4901-1-12(C), the attorney examiner finds that OTA's request is reasonable and should be granted. Accordingly, the time for filing memoranda in opposition to the applications for rehearing is extended to May 24, 2021.

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That OTA's motion be granted. It is, further,

{¶ 12} 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,

{¶ 13} ORDERED, That notice of this Entry be sent to the Telephone and Electric listserves.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Lauren L. Augostini

By: Lauren L. Augostini
Attorney Examiner

NJW/hac

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5/12/2021 1:18:49 PM

in

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Summary: Attorney Examiner Entry ordering that OTA's motion be granted electronically filed by Heather A Chilcote on behalf of Lauren L. Augostini, Attorney Examiner, Public Utilities Commission of Ohio