

A RESOLUTION SUPPORTING THE OHIO MUNICIPAL LEAGUE'S CHALLENGE TO AT&T'S TARIFF APPLICATION AT THE PUBLIC UTILITIES COMMISSION OF OHIO AND DECLARING AN EMERGENCY.

WHEREAS, on December 18, 2024, the Ohio Bell Telephone Company, dba AT&T Ohio ("AT&T"), filed a Telecommunications Form related to a change in its tariff for "Construction Charges, Relocation of Facilities" with the Public Utilities Commission of Ohio (the "PUCO") in PUCO Case Nos. 24-1123-TP-ATA and 90-5032-TP-TRF (collectively referred to as "AT&T's Tariff Application"); and

WHEREAS, AT&T's Tariff Application proposes tariff changes which will require any municipality in which AT&T is located in the municipality's public right-of-way to pay the full cost of any relocation or undergrounding of AT&T's facilities, regardless of the reason for the relocation. This is in direct contradiction of current Ohio law; and

WHEREAS, AT&T's Tariff Application is subject to a thirty- (30) day auto-approval process, meaning that if the PUCO does not rule on the application, then the application is automatically approved, and the tariff change becomes effective on the thirty-first day (31st) after the filing of the application; and

WHEREAS, if AT&T's Tariff Application goes unchallenged and becomes automatically effective, municipalities throughout Ohio (and, subsequently, constituents who may or may not be AT&T customers) would be required to pay for any relocation of AT&T facilities in the public rights-of-way, even if the relocation or undergrounding is required for health, safety, or public welfare purposes; and

WHEREAS, any challenges to AT&T's application must be filed by January 17, 2025, to allow the PUCO to pause the automatic approval process, allow challengers to be heard through an evidentiary hearing, and consider legal arguments. To challenge AT&T's Tariff Application, an interested stakeholder must file a motion to intervene with the PUCO showing that it has a real and substantial interest in AT&T's Tariff Application and the intervener is so situated that the disposition of the proceeding may, as a practical matter, impair or impede its ability to protect that interest; and

WHEREAS, the Ohio Municipal League has engaged counsel to challenge AT&T's Tariff Application; and

WHEREAS, although AT&T withdrew its application on January 15, 2025, AT&T may refile the AT&T Tariff Application, and any other utility company doing business in Avon Lake may file their own tariff applications to propose similar changes in the future.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF
THE CITY OF AVON LAKE, STATE OF OHIO:

Section No. 1: That Council finds AT&T's Tariff Application directly changes and significantly impacts, to the detriment of the City, how this City manages and administers its public rights-of-way.

Section No. 2: That Council hereby authorizes and agrees to participate in and to intervene in the proceeding at the PUCO in order to challenge AT&T's Tariff Application and any subsequent and/or necessary legal, administrative, and legislative efforts; and

Section No. 3: That Council has been advised by the Ohio Municipal League that future financial and/or other support from the City may be necessary for the success of a challenge to AT&T's Tariff Application and any related legal, administrative, or legislative efforts. The City may take into consideration the specific amount or form of such financial and/or other support from the City at a subsequent meeting of Council.

Section No. 4: That it is found and determined that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees which resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section No. 5: That this Resolution is hereby declared to be an emergency measure, the emergency being the immediate necessity of the preservation of the public health, safety, and welfare of the citizens of the City and the immediate necessity to support The Ohio Municipal League's challenge to AT&T's Tariff Application at the Public Utilities Commission of Ohio. Therefore, this Resolution shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: 1/27/2025

/s/ Jennifer J. Fenderbosch
Council President

POSTED: 1/31/2025

APPROVED: 1/28/2025

ATTEST: */s/ Valeria E. Rosmarin*
Clerk of Council

/s/ Mark A. Spatzel
Mayor