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LOCAL

AT&T of Ohio wants to shift cost of utility relocation to municipalities, taxpayers



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AT&T moves and buries thousands of its transmission lines every year, bearing the cost to do so for most projects when the work occurs along streets or roadways in the public right-of-way.

But seven days before Christmas, the cable and phone company proposed shifting the cost for that work to the municipalities. In a filing with the Public Utilities Commission of Ohio, AT&T of Ohio's proposal states: "When a governmental entity requests the relocation and undergrounding of communications facilities existing in a public way, as defined in section 4939.01 of the Ohio Revised Code, the governmental entity shall be required to pay the cost incurred by the Company for such relocation and undergrounding of the facilities."

That means that cities — and their residents — would now be on the hook for excavating, trenching, paving and other work, costs borne historically by AT&T. The company says the filing applies only to burial of lines, not those strung on poles.

The Ohio Municipal League on Tuesday will file a notice with the PUCO to intervene on behalf of its more than 700 member communities in Ohio, demanding the AT&T plan be rejected.

"The financial exposure is significant for every governmental subdivision in Ohio, including the state," said Kent Scarrett, OML executive director. "If AT&T is granted this authority, then all the other utility providers that are regulated by the PUCO will be granted the authority to claw back their expenses too."

Some thought this had occurred 13 years ago.

A 2012 Ohio Supreme Court ruling sided with the PUCO and Columbus Southern Power, a subsidiary of Ohio Electric Power, in denying the city of Reynoldsburg the right to charge the power company for underground utility burial on a major reconstruction of Main Street in the city.

Doing so would impose a burden that would be "unjust, unreasonable, discriminatory, and/or unlawful," the court ruled in the case that some saw as a precedent for all utilities. But AT&T never updated its tariff, or pricing schedule, until now.

Asked why the cable and phone company would risk the goodwill of its customers, Scarrett responded, "I don't think it's a stretch to say that this is corporate welfare — it will fall on the backs of the government and, ultimately, the taxpayers," he said, calling the move "plain and simply a tax."

Molly Kocour Boyle, president of AT&T of Ohio, said that the utility is worried that utility burial for beautification could hamper the company's ability to keep consumer prices low.

"We're worried about scope creep," Kocour Boyle said. "We're trying to deploy broadband to many communities. And (cost to bury lines) are dollars we have to pull away for these projects." She said costs for a single city project could run to the "millions of dollars."

Worthington has several projects a year, such as road widenings, that require relocating utilities, said City Manager Robyn Stewart.

"Utilities have the option to obtain their own easements and when our projects impact the facilities in those easements, we pay for the relocation. When utilities opt to utilize the City's right of way rather than obtaining their own easement, the arrangement has involved them paying the cost," Stewart said in an email to The Dispatch. She said the city tried to be considerate, provide advance notice and work together with a utility company.

Relocating utilities in public spaces could be pricey. Upper Arlington's public services director Gary Wilfong told city council Monday evening that moving 21 utility poles in public areas during the first phase of reworking Fishinger Road could have cost the city an additional \$380,000, he estimated. The city already had to pay to move 15 poles that were not in the public right of way.

"Anytime we want (to) widen a road, we would have to cover those costs that today we don't have to cover," Wilfong said.

Dana McDaniel, former Dublin City Manager, who now is a consultant at Management Advisory Group, said he was surprised by the proposal and its timing, especially by a company that he said works well with governments.

"I don't understand why the change all of a sudden," he said. "It's often suspect when (regulatory change) happens at the end of the year and you don't have time to react."

Neither AT&T nor the PUCO were required to hold hearings on the matter. The municipal league discovered the plan through the PUCO filings. Had no one noticed the proposal would have automatically taken effect this coming Saturday.

"I think they got caught," said McDaniel.

Kocour Boyle said the pre-Christmas timing of the PUCO filing created "time before the holidays and after the holidays to respond. I don't think we were going to sneak it by."

So far, more than 100 member communities have either publicly spoken against the change, or have passed resolutions in opposition, including Dublin, Gahanna, Reynoldsburg and Worthington.

Some are concerned about new costs they'd bear with new development. Others say it is a public safety issue, "with the volume of utility lines above ground, it impedes the sight lines of motorists," said Scarrett, describing the "visual impairment" that utilities should be liable for.

"We really hope that the PUCO acts to protect the taxpayers," Scarrett said. "Either way, the tariff approach is not the way to handle this. We'll be resisting this either way."

McDaniel agrees. "Sometimes we need to remember that utility users are also taxpayers."

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Dispatch reporter Anna Lynn Winfrey contributed to this article.

