

ORDINANCE NO.: 2025-06

FIRST READING January 13, 2025

INTRODUCED BY: MARK PORTER

SECOND READING WAIVED

THIRD READING WAIVED

AN ORDINANCE SUPPORTING THE OHIO MUNICIPAL LEAGUE'S CHALLENGE OF 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-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 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 prior to 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, and 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.

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of South Russell, Geauga County, Ohio that:

Section 1. The Council for the Village of South Russell finds that AT&T's Tariff Application directly changes and significantly impacts, to the detriment of the Village, how the Village manages and administers its public rights-of-way.

Section 2. The Council hereby authorizes and agrees to participate in and intervene in the proceeding at the PUCO in order to challenge AT&T's Tariff Application and any subsequent and/or necessary legal, administrative, legislative efforts.

Section 3. Council has been advised by the Ohio Municipal League that future financial and/or other support from the Village may be necessary to the success of a challenge to AT&T's Tariff Application and any related legal, administrative or legislative efforts. The Village Council may, if required, take under consideration the specific amount or form of such financial and/or other support from the Village of South Russell at a subsequent meeting of this Council.

Section 4. It is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees on or after December 2, 1975, that resulted in formal actions, were in meetings open to the public in compliance with all legal requirements, including Section 121.22, Ohio Revised Code.

Section 5. That this Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health and safety of the inhabitants of the Village and for the further reason that it is necessary for this Ordinance to go into immediate effect so that intervention in proceedings at the PUCO may take place on a timely basis; wherefore, provided it receives the affirmative vote of at least two-thirds (2/3) of all members elected to Council, this Ordinance shall be in full force and effect from and immediately upon its passage by this Council and approval by the Mayor.



Mayor - President of Council

ATTEST:



Fiscal Officer

I certify that Ordinance No. 2025-06 was duly enacted on the 13TH day of JANUARY, 2025, by the Council of the Village of South Russell, and published in accordance with the Codified Ordinances of the Village.



Fiscal Officer