

RESOLUTION NO. 5 , 2025

**A RESOLUTION OF THE CITY OF MONTGOMERY, OHIO SUPPORTING  
THE OHIO MUNICIPAL LEAGUE'S CHALLENGE OF AT&T's TARIFF  
APPLICATION AND SIMILAR APPLICATIONS BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**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 proposed tariff changes which will require any municipalities 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, which is in direct contradiction of current Ohio law; and

**WHEREAS**, AT&T's Tariff Application was subject to a thirty-day automatic 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**, AT&T withdrew its Application after growing opposition was filed by the Ohio Municipal League and several Member communities; and

**WHEREAS**, it is believed that AT&T or another utility entity may attempt to re-file a similar Tariff Application; and

**WHEREAS**, if AT&T's Tariff Application or a similar Tariff goes unchallenged and becomes automatically effective, municipalities throughout Ohio would be required to pay for any relocation of 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 such an Application must be filed prior to the thirty-day deadline from the Application filing date to allow the PUCO to pause the automatic approval process, to allow challengers to be heard through an evidentiary hearing, and to consider legal arguments. To challenge such Tariff Application, an interested stakeholder must file a motion to intervene with the PUCO showing that it has a real and substantial interest in the 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 engaged counsel to challenge AT&T's Tariff Application on behalf of its Member Ohio communities which will be substantially impacted by such Tariff approval; and

**WHEREAS**, the City, through the City Manager, did note the City's support of the Ohio Municipal League's challenge, and Council now enacts this legislation to formalize its opposition to the AT&T Tariff Application and any future, similar Application; and

**WHEREAS**, the City Council does desire to note its opposition to such attempt to bypass Ohio law for control of the right-of-way and enable the City Manager, if a same or similar Application is filed in the future, to join the Ohio Municipal League and other Member communities in opposing such Application.

**NOW THEREFORE, BE IT RESOLVED** by the Council of the City of Montgomery, Hamilton County, Ohio, that:

**SECTION 1.** Council of the City of Montgomery, Hamilton County, Ohio ("Council"), finds that AT&T's attempted Tariff Application and any similar Tariff Application directly changes and significantly impacts, to the detriment to the City, how the City of Montgomery manages and administers its public rights-of-way.

**SECTION 2.** Council hereby formally authorizes and agrees to participate in, and to authorize the City Manager to timely intervene in, any proceeding at the PUCO in order to challenge AT&T's Tariff Application or any subsequent similar Tariff Application. Further, the City Manager is authorized to oppose such efforts to limit the City's control of its right-of-way in 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 City may be necessary to the success of a challenge to any future Tariff Application and any related legal, administrative, or legislative efforts. The City may take under consideration the specific amount or form of such financial and/or other support from the City at a subsequent meeting of this Council and appropriate funds as appropriate to continue such challenge.

**SECTION 4.** This Resolution shall be in full force and effect from and after its passage.

PASSED: February 5, 2025

ATTEST: Connie M. Gaylor  
Connie M. Gaylor, Clerk of Council

Ronald G. Messer  
Ronald G. Messer, Mayor

APPROVED AS TO FORM:

Terrence M. Donnellon  
Terrence M. Donnellon, Law Director