

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. EC-23, SUB 50

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of	)	
Blue Ridge Electric Membership	)	
Corporation,	)	
	)	
Petitioner,	)	ORDER ESTABLISHING
	)	PROCEDURAL SCHEDULE
v.	)	
	)	
Charter Communications Properties, LLC,	)	
	)	
Respondent	)	

BY THE CHAIRMAN: On November 30, 2016, Blue Ridge Electric Membership Corporation (BREMC) filed a Verified Petition for Relief (Petition) against Charter Communications Properties, LLC, (Charter) in the above-captioned docket pursuant to G.S. 62-350 seeking to resolve certain issues in dispute between BREMC and Charter.

On February 1, 2017, Charter filed its Answer to Complaint and Counterclaims. Pursuant to the Certificate of Service, a copy of the Answer and Counterclaims were served on BREMC on January 31, 2017.

On March 1, 2017, BREMC filed its Answer to Charter's Counterclaims.

On May 26, 2017, BREMC filed a Motion for Procedural Schedule. In the Motion, BREMC states that it is aware of and sensitive to the needs of opposing counsel in the ongoing pole attachment disputes before the Commission in Docket Nos. EC-43, Sub 88, EC-49, Sub 55, EC-55, Sub 70 and EC-39, Sub 44, respectively, and that, in the interest of judicial economy and efficiency, BREMC proposes that the Commission adopt a modified version of the procedural schedule adopted in the December 22, 2016 Procedural Order issued in those dockets. More specifically, BREMC proposes that the discovery period should be modified and shortened to permit discovery over a two month period instead of three. BREMC thereafter stated that to avoid the time and expense of litigating discovery disputes, it would agree to comply with the discovery guidelines established by the Commission in the aforementioned dockets as well as the rulings issued by the Commission on discovery objections raised in those dockets. BREMC thereafter proposed that the Commission adopt the following schedule:

Discovery: Discovery shall be regulated as set forth in the December 22, 2016 Procedural Order with the exception that discovery shall run for two months instead of three.

Hearing: The matter shall be scheduled for hearing during the week of September 18, 2017, subject to the Commission's availability.

Prefiling of Testimony:

- i. Direct testimony shall be filed by BREMC by no later than August 16, 2017;
- ii. Responsive testimony shall be filed by Charter by no later than August 30, 2017; and
- iii. Rebuttal testimony shall be filed by BREMC by no later than September 13, 2017.

On May 31, 2017, Charter filed its Response to BREMC's Motion for a Procedural Schedule. In its Response, Charter states that, in light of the imminent hearings scheduled in the Dockets mentioned above (which are being handled by Charter's counsel), there is no pressing need to kick-start the proceeding in this docket; and, that, given the discreet issues raised in this proceeding, the abbreviated two month discovery scheduled proposed by BREMC would not allow sufficient time for the parties to complete necessary factual discovery in this docket. Charter thereafter proposed that the Commission adopt the following schedule:

Discovery: Discovery shall be regulated as set forth in the December 22, 2016 Procedural Order and modified herein. In accordance therewith, discovery shall begin on July 5, 2017. No new discovery requests shall be propounded after October 3, 2017.

Hearing: The matter shall be scheduled for hearing during the week of November 6, 2017, subject to the Commission's availability.

Prefiling of Testimony:

- i. Direct testimony shall be filed by BREMC by no later than October 11, 2017
- ii. Responsive testimony shall be filed by Charter by no later than October 25, 2017; and
- iii. Rebuttal testimony shall be filed by BREMC by no later than November 1, 2017.

After carefully considering the pleadings, the record proper, the details of each proposal, and the needs and staffing levels of the Commission, the Chairman, in his discretion, finds and concludes that good cause exists to adopt the following hearing and procedural schedule:

1. Discovery shall be regulated according to the following provisions:
  - a. Discovery shall begin on July 5, 2017. No new discovery requests shall be propounded after October 3, 2017.
  - b. Parties shall meet and confer (via conference call) within 6 calendar days of receiving discovery requests to minimize the number of objections filed with the Commission.
  - c. Parties shall have up to 10 calendar days to file with the Commission objections to discovery requests on an item-by-item basis. The party objecting to discovery shall e-mail a copy of its objections to the party seeking discovery contemporaneously with its filing.
  - d. If the party seeking discovery intends to pursue requests which are the subject of objection, it must file responses to the objections on an item-by-item basis. The party seeking discovery shall e-mail a copy of its responses to the other contemporaneously with its filing.
  - e. The Commission will resolve the objections raised by the parties based on the arguments presented in the objections and responses, or such further documents or arguments as it may request.
  - f. Parties receiving discovery requests shall serve answers to requests to which they have not objected on the party seeking the discovery within 21 calendar days of the service of such requests.
  - g. If the Commission orders a party to answer discovery requests to which it has objected, the party shall have 10 calendar days from the date of such order to serve answers to such discovery requests.
  - h. No party shall direct more than an overall total of 75 data requests (in one or more sets) to any other party, except upon leave of the Commission for good cause shown or by agreement with the other party. Parts and subparts shall be counted as separate data requests.
  - i. Depositions are allowed on at least seven days written notice prior to the taking of the deposition; provided however, all depositions (except for expert depositions) must be taken by the close of discovery. Expert depositions must be taken by the close of expert discovery.

- j. Any motion for subpoena of a witness to appear and/or produce documents in this proceeding shall be filed with the Commission and served by hand delivery or facsimile to the person sought to subpoenaed at or before filing with the Commission and shall make a reasonable showing that the evidence of such person will be relevant and material to an issue in the proceeding. G.S. 62-62. A party seeking such subpoena shall certify that the motion for subpoena has been served on the person to be subpoenaed and that the person sought to be subpoenaed has been notified in writing that: (1) the motion has been filed; and, (2) unless an objection is filed, the Chief Clerk shall issue the requested subpoena 24 hours after such motion is filed.
- k. A party may file a motion (or motions) for summary judgment and request for oral argument at any time after discovery has commenced by providing ten days written notice to the opposing party.

2. The matter shall be scheduled for purposes of hearing and that a hearing shall begin on November 8, 2017, at 9:30 a.m., in Commission Hearing Room 2115, Dobbs Building, 430 North Salisbury Street, Raleigh, North Carolina;

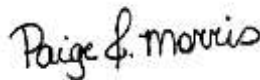
- a. Complainant BREMC shall prefile direct testimony by October 11, 2017;
- b. Respondent Charter shall prefile responsive testimony by no later than October 25, 2017; and
- c. Complainant BREMC shall prefile rebuttal testimony by no later than November 1, 2017.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 7<sup>th</sup> day of June, 2017.

NORTH CAROLINA UTILITIES COMMISSION



Paige J. Morris, Deputy Clerk