BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Ohio Edison Company for Approval of a Tariff Change.	**)** **)** **)**	**Case No. 18-564-EL-ATA**

THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION'S MOTION TO STRIKE THE RESPONSE FILED BY OHIO EDISON COMPANY

Pursuant to Rule 4901-1-12 of the Ohio Administrative Code, the Ohio Cable Telecommunications Association ("OCTA") respectfully moves to strike the June 22, 2018 response filed by Ohio Edison Company ("Ohio Edison") in this matter. The utility's June 22, 2018 response is an untimely reply to the OCTA's objections. It was filed three weeks late and Ohio Edison did not appropriately seek leave to file a late reply or obtain an extension for a reply. Ohio Edison also failed to explain why its reply was late or to present good cause. Ohio Edison should not be allowed to unfairly build a record for its pole attachment adjustment at this juncture. For these reasons and as explained further in the attached Memorandum in Support, the Commission should strike Ohio Edison's June 22, 2018 response, in addition to suspending the application as explained previously by the OCTA in its objections.

Respectfully Submitted,

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MEMORANDUM IN SUPPORT OF
THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION'S
MOTION TO STRIKE THE RESPONSE FILED BY
OHIO EDISON COMPANY

On June 22, 2018, Ohio Edison filed a document titled "Response of Ohio Edison Company to Objections of the Ohio Cable Telecommunications Association." The response is clearly a reply to the OCTA objections as Ohio Edison is attempting to build the record for its pole attachment adjustment application and it addresses the points previously raised by the OCTA. The Commission should strike Ohio Edison's response in its entirety.

Ohio Edison's response is untimely. The Commission established a procedural process for pole attachment tariff amendments several years ago. *In the Matter of the Adoption of Chapter 4901:1-3, Ohio Administrative Code, concerning Access to Poles, Ducts, Conduits and Rights-of-Way by Public Utilities*, Case No. 13-579-TP-ORD, Entry (November 30, 2016). Under that process, pole attachment/conduit tariff adjustments follow a 60-day automatic approval process, under the following process:

Steps in the Process	Filing Deadline
Objections to an application	21 days after the application is filed
Replies to objections	10 days after the objections are filed
Suspension of the automatic approval	No later than the 60th day after the application's filing (otherwise automatically approved on the 61st day)

Id. at ¶17. Multiple pole attachment/conduit tariff adjustment cases have followed this process since it was adopted by the Commission, including an application filed by Ohio Edison. *See, In the Matter of the Application of The Cleveland Electric Illuminating Company to Update its Pole Attachment Rate*, Case No. 17-2005-EL-ATA; *In the Matter of the Application of Ohio Edison Company to Update Its Pole Attachment Rate*, Case No. 17-2006-EL-ATA; *In the Matter of the*

Application of The Toledo Edison Company to Update Its Pole Attachment Rate, Case No. 17-2007-EL-ATA; *In the Matter of the Application of AT&T Ohio to Update its Pole Attachment and Conduit Rates*, Case No. 16-2117-TP-ATA; and *In the Matter of the Application of AT&T Ohio to Update its Pole Attachment and Conduit Rates*, Case No. 17-2090-TP-ATA.

Ohio Edison filed this application to adjust its pole attachment tariff on May 1, 2018. The OCTA timely filed its objections to the application on May 22, 2018. Ohio Edison's reply was due 10 days later – by June 1, 2018. Ohio Edison did not file a reply (or anything) within that 10-day period. Instead, Ohio Edison filed its untimely response weeks after the deadline. Ohio Edison's response should be stricken as untimely.

Additionally, Ohio Edison filed its response without appropriately seeking permission to file late, either by properly asking for leave or by asking for an extension of time. Ohio Edison's response included one sentence buried in the first paragraph of its response: "[t]he Company respectfully requests the Commission granted it leave to file and accept this Response to OCTA's Objections." This sentence falls short of what is required and necessary for due consideration of the request. Ohio Edison failed to present any grounds or good cause and the Commission has no basis for allowing the response. Ohio Edison also did not ask in advance for an extension to file after the 10-day deadline. Rule 4901-1-13 of the Ohio Administrative Code allows a party to request an extension of time, and allows the Commission to grant such a request upon a showing of good cause. Ohio Edison did not ask for an extension or present good cause. Ohio Edison's response should be stricken for failing to follow the Commission's procedural rules and for being deficient.

Regardless of whether approval is suspended (which it should be), Ohio Edison should not be allowed to build the record at this point in the proceeding. Ohio Edison was untimely,

failed to follow the Commission's rules and failed to present good cause, and the Commission should strike Ohio Edison's June 22 response immediately and not consider it.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document is also being served (via electronic mail) on the 28th day of June 2018 upon the persons listed below.

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/s/ Gretchen L. Petrucci
Gretchen L. Petrucci

Summary: Motion To Strike The Response Filed By Ohio Edison Company electronically filed by Mrs. Gretchen L. Petrucci on behalf of Ohio Cable Telelcommunications Association