

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Application of The</b>	)	
<b>Commission's Investigation of the</b>	)	
<b>Financial Impact of the Tax Cuts and Jobs</b>	)	<b>Case No. 18-47-AU-COI</b>
<b>Act of 2017 on Regulated Ohio Utility</b>	)	
<b>Companies.</b>	)	

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**DIRECT TESTIMONY  
OF  
PATRICIA D. KRAVTIN  
ON BEHALF OF  
THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION**

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**June 29, 2018**

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1           **I. INTRODUCTION**

2   **Q1.   PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

3   A1.   My name is Patricia D. Kravtin. My business address is 500 Atlantic Avenue, Boston,  
4           Massachusetts.

5   **Q2.   BY WHOM ARE YOU EMPLOYED AND IN WHAT CAPACITY?**

6   A2.   I am a principal and owner of Patricia D. Kravtin Economic Consulting, a private  
7           economic consulting practice specializing in the analysis of telecommunications, cable,  
8           and energy regulation and markets.

9   **Q3.   PLEASE DESCRIBE THE SERVICES PROVIDED BY YOUR CONSULTING**  
10       **FIRM.**

11   A3.   My firm provides economic expert witness services and a full range of economic, policy,  
12           technical analysis and advisory services in the fields of telecommunications, cable, and  
13           energy.

14   **Q4.   ON WHOSE BEHALF ARE YOU TESTIFYING?**

15   A4.   I am testifying on behalf of the Ohio Cable Telecommunications Association, (“OCTA”)  
16           a trade association representing the cable television and telecommunications industry in  
17           the Ohio General Assembly, this Commission, and the United States Congress on issues  
18           of importance to current and future businesses of its member companies.

19   **Qualifications**

20   **Q5.   PLEASE   DESCRIBE   YOUR   EDUCATIONAL   BACKGROUND   AND**  
21       **PROFESSIONAL EXPERIENCE.**

22   A5.   I received a B.A. with Distinction in Economics from the George Washington University.  
23           I studied in the Ph.D. program in Economics under a National Science Foundation

1 Fellowship at the Massachusetts Institute of Technology (“M.I.T.”). My fields of  
2 concentration at M.I.T. were government regulation of industry, industrial organization,  
3 and urban and regional economics. My professional background includes a wide range of  
4 consulting experiences in regulated industries. Between 1982 and 2000, prior to  
5 founding my own economic consulting practice, I was a consultant at the national  
6 economic research and consulting firm of Economics and Technology, Inc. (ETI) in that  
7 firm’s regulatory consulting group, where I held positions of increasing responsibility,  
8 including Senior Vice President/Senior Economist. Over the course of my career, I have  
9 been actively involved in a number of state and federal regulatory commission  
10 proceedings involving rates charged by utilities in exchange for access to poles, ducts,  
11 conduits, and rights-of-way. Many of the proceedings in which I have served as an  
12 expert have involved the calculation of just and reasonable pole attachment rental rates.  
13 Through the course of my involvement in these proceedings, I have substantial  
14 experience in applying regulated rate formulas including pole attachment formulas.

15 I have served as an expert on pole attachment matters in proceedings involving  
16 investor-owned electric utilities (“IOUs”), non-profit consumer-owned utilities  
17 (cooperatives or “Coops”), municipally owned utilities, as well as incumbent local  
18 exchange carriers (“ILECs”). I have testified before various state (and provincial)  
19 regulatory commissions including the North Carolina Utilities Commission, Connecticut  
20 Department of Public Utility Control, New Hampshire Public Utilities Commission,  
21 Kentucky Public Service Commission, the Arkansas Public Service Commission, the  
22 Public Utilities Commission of Texas, the New Jersey Board of Public Utilities, the  
23 Virginia Corporation Commission, the Public Utilities Commission of Ohio, the

1 Massachusetts Department of Telecommunications and Cable, the Wisconsin Public  
2 Service Commission, the Georgia Public Service Commission, the South Carolina Public  
3 Service Commission, the Public Service Commission of the District of Columbia, the  
4 New York Public Service Commission and the Ontario Energy Board. I have also  
5 testified on these and related matters before state and federal courts in Maryland, Florida,  
6 New York, California, Tennessee, Washington, and North Carolina.

7 In addition, I have submitted reports on pole attachment rates, terms and  
8 conditions in numerous proceedings before the Federal Communications Commission  
9 ("FCC"). A detailed resume summarizing my training, previous experience, and prior  
10 testimony and reports is provided as Exhibit PDK-1 to this testimony.

11 **Q6. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE PUBLIC UTILITIES**  
12 **COMMISSION OF OHIO?**

13 A6. Yes. I submitted written pre-filed testimony before the Public Utilities Commission of  
14 Ohio ("PUCO" or "Commission") in February 2009 (in a matter involving Duke Energy  
15 Ohio, Inc.), and also October 2011 (in a matter involving AEP Ohio),<sup>1</sup> each on behalf of  
16 the OCTA. My testimony in these matters addressed issues pertaining to the rental of  
17 space on utility poles and conduit, including the calculation of maximum rental rates and  
18 the data inputs to those calculations pursuant to the rate formula adopted by the PUCO, as  
19 well as terms and conditions relating to those attachments. My prior testimonies also  
20 addressed the importance of the Commission setting rates, terms, and conditions for pole  
21 attachment rentals in a manner that does not allow the public utility, as the monopoly

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<sup>1</sup> See *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates, Case Nos. 08-709-EL-AIR, et al.*; and *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company Individually and, if Their Proposed Merger is Approved, as a Merged Company (collectively, AEP Ohio) for an Increase in Electric Distribution Rates, Case Nos. 11-351-EL-AIR, et al.*

owner of poles, to impose excessive costs or otherwise engage in behavior that serves to competitively disadvantage the pole attachers and/or impede competition.

**Purpose of Testimony**

**Q7. WHAT IS THE PURPOSE OF YOUR TESTIMONY IN THIS PROCEEDING?**

A7. I have been asked by the OCTA to address the matter as designated in the Commission’s Entries dated January 10, March 8, and April 25, 2018 requiring utilities, effective January 1, 2018, to create a deferred tax liability on their books to account for the estimated reduction in federal income tax resulting from the Tax Cuts and Jobs Act of 2017 (“TCJA”), and to respond to the testimony filed by the utilities on June 22, 2018.

My testimony will address, in particular, the Commission’s deferred tax liability requirement from the perspective of how that accounting requirement may impact third-party pole attachers who pay rental rates for access to the utility’s pole facilities based on a unique rate-setting process pursuant to the PUCO’s rules and regulations governing pole attachments as established in Case No. 13-579-TP-ORD (“Pole Attachment Rules Case”). My testimony, as summarized below, also proposes a set of specific recommendations to ensure that the PUCO’s limited accounting directive does not have adverse rate impacts, intentional or unintentional on pole attachers that would be contrary to the Commission’s stated central guiding principle in adopting the accounting requirement, i.e., that “all tax savings resulting from the TCJA should be returned to the ratepayers,”<sup>2</sup> as well as the “well-established” principle espoused by the Commission that “accounting practices do not affect rates.”<sup>3</sup>

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<sup>2</sup> See Case No. 18-47-AU-COI, Second Entry on Rehearing, Issued April 25, 2018 at 8.

<sup>3</sup> See *Id.* at 7.

1           **Recommendations**

2   **Q8.   PLEASE SUMMARIZE YOUR RECOMMENDATIONS.**

3   A8.   The PUCO's directive to the Ohio public utilities to create a deferred tax liability to track  
4       the estimated reduction in federal income tax resulting from the TCJA raises no generic  
5       or specific objection from an economic or public policy objective. Indeed, the PUCO  
6       makes clear its limited accounting directive does not presuppose or mandate any  
7       particular ratemaking treatment; rather, it is intended only to ensure that the necessary  
8       utility data is tracked so as to preserve for itself the widest range of possible ratemaking  
9       solutions for returning the tax savings resulting from the TCJA to the utility's customers.<sup>4</sup>

10           That said, rates applicable to third-party pole attachers are set under a unique rate  
11       setting process pursuant to Ohio Administrative Code Rule 4901:1-3-04(D). That fact  
12       combined with the natural incentive (without controlling regulations) of a pole-owning  
13       public utility to charge attachers excessive monopoly level rates, provide conditions  
14       under which the Commission's accounting directive could produce a number of adverse  
15       rate-setting consequences for third party pole attachers, unless appropriate accounting  
16       safeguard measures are also taken by the PUCO in conjunction with the creation of the  
17       deferred tax liability. Indeed, as described in this testimony, there is evidence that this  
18       may already be occurring in the case of a number of Ohio electric utilities.

19           To ensure against any such adverse impacts (intentional or unintentional) on pole  
20       attachment rates from the PUCO-ordered deferred liability in contravention of the  
21       Commission's clearly stated intentions, a number of safeguard measures should be  
22       implemented. Specifically, I recommend the following safeguard measures be adopted

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<sup>4</sup> See *Id.* at 10.

1 by the Commission, effective the same date as the creation of the deferred tax liability  
2 (January 1, 2018) and consistently applied to all pole-owning public utilities:

- 3 • Recommendation One: That the PUCO recognize as a threshold principle, and to  
4 direct the pole-owning public utilities to do the same, that pole attachment rates  
5 should *not* be adversely affected by the creation of the PUCO-mandated deferred  
6 tax liability or any other transfer account or regulatory asset created by the utility  
7 in connection with the TCJA; in other words, public utilities should be  
8 specifically precluded from using TCJA-related accounting changes as a basis to  
9 extract higher pole attachment rates and to enjoy a windfall gain at the expense of  
10 third-party communications attachers and their customers.
- 11 • Recommendation Two: That the PUCO direct the pole-owning public utilities to  
12 keep track of and preserve for use in their next pole rate calculations the  
13 underlying cost data and associated detail on the estimated reduction in taxes  
14 incorporated in the deferred tax liability, or any other TCJA-related transfer  
15 account or regulatory asset associated with poles, and/or that are required as  
16 inputs to the pole rate formula, and to provide the aforementioned detailed  
17 information as part of any future pole rate tariff amendment application. The  
18 tracking should commence January 1, 2018, and continue up to and including the  
19 time the pole-related deferred tax liability is fully recognized, so as to preclude  
20 utilities from unreasonably denying pole attachers their appropriate share of  
21 TCJA-related benefits that could result from a utility's discretion as to when it  
22 files a pole tariff amendment application.

- 1           • Recommendation Three: That the PUCO adopt these recommended measures  
2           contemporaneously with its accounting directive and apply those measures  
3           proactively to all pole-owning public utilities so as to avoid costly, time-  
4           consuming case by case resolution. A case-by-case approach would not only be  
5           inefficient and burdensome to pole attachers, as well the Commission, it would be  
6           directly contrary to the intended purpose of effective pole rate regulation, i.e., to  
7           provide a uniform, administratively simple, transparent, and largely self-  
8           administering rate-setting process that results in just, reasonable and non-  
9           discriminatory rates and promote access to the essential pole facility.

10           **II. UNIQUE NATURE OF THE POLE ATTACHMENT RATE**  
11           **SETTING PROCESS**

12   **Q9. PLEASE DESCRIBE THE RATE SETTING PROCESS APPLICABLE TO**  
13   **PUBLIC UTILITY POLE ATTACHMENTS HERE IN OHIO?**

14   A9. Rates applicable to communications companies and other third-party pole attachers are  
15   set under a unique rate setting process pursuant to Ohio Administrative Code Rule  
16   4901:1-3-04(D), which is outside of the standard traditional utility base rate proceedings.<sup>5</sup>  
17   The process adopted by the PUCO, similar to that used by the overwhelming majority of  
18   states, applies a simplified, fully allocated cost-based formula established pursuant to  
19   Section 224 of the 1978 Federal Pole Attachment Act, also known as the FCC Cable Rate  
20   Formula (“Cable Rate” or “FCC Formula”).

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<sup>5</sup> See *In Re 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-AU-ORD, Entry issued November 30, 2016; Finding and Order issued July 30, 2014; and Entry on Rehearing issued October 15, 2014.

1 In a nutshell, the FCC Formula consists of the following three major components,  
2 which are multiplied to produce a maximum just and reasonable pole attachment rate  
3 (“PAR”) [Maximum PAR = NBP x CCF x SAF]:

4 (1) Net investment per bare pole (“NBP”), which reflects the underlying pole  
5 investment net of depreciation, accumulated deferred income taxes, and is adjusted to  
6 remove investment in appurtenances unrelated to poles, expressed on a per unit basis;

7 (2) Carrying charge factor (“CCF”) to recover the total annual operating and  
8 capital costs of poles, and consists of the following five elements: maintenance,  
9 administrative and general (A&G), depreciation, rate of return, and taxes; and the

10 (3) Space allocation factor (“SAF”), which is based upon the percentage of usable  
11 space occupied by an attacher, in order to allocate to attachers their appropriate cost-  
12 based share of total pole-related costs.

13 The hallmark of the FCC Formula is its reliance on a specific set of regularly and  
14 uniformly reported FERC Form 1 accounting data in the case of electric utilities and a  
15 similar set of publicly reported uniform accounting data for telephone utilities filed with  
16 the FCC.<sup>6</sup>

17 **Q10. WHAT IS THE BASIS FOR THE PUCO’S UNIQUE RATE SETTING PROCESS**  
18 **FOR THIRD PARTY POLE ATTACHMENT RATES?**

19 A10. The PUCO’s decision to apply the FCC’s rate formula methodology for setting pole  
20 attachment rates, separate from the traditional utility revenue requirement/retail rate  
21 setting process applied to the utility’s core electric services, is consistent with the distinct  
22 purpose of the economic rate regulation of pole attachments. The purpose of the

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<sup>6</sup> See FCC Report 43-01, “ARMIS Annual Summary Report.”

1 traditional utility model is to set rates for the utility's core services such that they  
2 collectively recover the *totality* of the utility's embedded revenue requirements from its  
3 customers from whom the utility's network was originally (and continues to be) built and  
4 maintained. On the other hand, the primary purpose of pole attachment rate regulation is  
5 to protect cable operators and other communications attachers against potential abuse by  
6 pole-owning utilities that control access to the *essential pole facility*, a vital input of  
7 production needed by those attachers for which there is no practical alternative.<sup>7</sup> It is in  
8 this context that the FCC formula rate, relied on in Ohio as in the overwhelming number  
9 of states, was designed, i.e., as a means of protecting third party pole attachers from *per*  
10 *unit attachment rates* far in excess of a cost-based, competitive market level rate, and  
11 other harmful monopoly practices that would impede attachers' ability to compete and  
12 serve their customers in a cost-effective manner.<sup>8</sup>

13 **Q11. IN WHAT OTHER PRACTICAL RESPECTS DOES THE POLE RATE SETTING**  
14 **PROCESS DIFFER FROM THAT APPLIED TO THE UTILITY'S CORE**  
15 **PUBLIC UTILITY SERVICES THAT ARE PERTINENT TO THE PUCO'S**  
16 **CONSIDERATION OF THE DEFERRED TAX LIABILITY MATTER?**

17 A11. In addition to relying on the uniform, well-established FCC formula methodology for the  
18 purposes described above, the rate setting process for pole attachments differs from the  
19 utility's core utility services in other respects. In particular, utilities in Ohio are free to

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<sup>7</sup> See, e.g., *NCTA v. Gulf Power*, 534 U.S. 327, 330 (2002) ("Since the inception of cable television, cable companies have sought the means to run a wire into the home of each subscriber. They have found it convenient, and often essential, to lease space for their cables on telephone and electric utility poles. Utilities, in turn, have found it convenient to charge monopoly rents.")

<sup>8</sup>See, e.g., FCC's Report and Order in its Open Internet Proceeding, GN Docket No. 14-28, FCC 15-24, March 12, 2015 at ¶ 478 ("The Commission has repeatedly recognized the importance of pole attachments to the deployment of communications networks, and we thus conclude that applying these provisions will help ensure just and reasonable rates for broadband Internet access service by continuing pole access and thereby limiting the input costs that broadband providers otherwise would need to incur.")

1 amend pole attachment rates at any time, outside the context of a formal rate proceeding  
2 in which the totality of the utility's revenue requirement and tariffed rates are subject to  
3 review and adjustment. Further, the pole-rate specific tariff amendments are subject to a  
4 60-day automatic approval process, under which those utility tariff amendments  
5 applications automatically go into effect, barring special action by the PUCO to suspend  
6 such applications in response to a formal stated objection filed within twenty-one days of  
7 the application filing. As a result, pole attachers could face having to intervene on an  
8 expedited basis in a large number of pole tariff amendment matters that might arise on a  
9 utility by utility basis in connection with the PUCO's accounting directive in this matter,  
10 at a considerable cost of time and resources.

11 Moreover, unlike the utility's core utility services, pole attachment rates are not  
12 subject, for example, to the kinds of riders identified in the Direct Testimony of Duke  
13 witness William Don Wathen, Jr. or AEP witness William A. Allen that apply to rates for  
14 the utility's core services. Such riders are typically designed to recover costs or refund  
15 money for something that may be temporary, or caused by factors outside of the utility's  
16 control and allowed to vary between formal rate case applications. As described in the  
17 testimonies of Messrs. Wathen and Allen, their companies have "voluntarily" made  
18 adjustments to certain riders that include a return component to reflect the savings  
19 associated with the federal tax rate reduction and updated rates have already gone into  
20 effect.<sup>9</sup>

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<sup>9</sup> See Wathen Direct at 6 ("Beginning April 1, 2018, the Company voluntarily updated four of its riders to reflect the lower FIT rate in the pre-tax return component of the revenue requirement for those riders."); See Allen Direct at 5 ("AEP has certain riders that include a return component and for each of those riders the Company has made adjustments to reflect the savings associated with the reduction in the federal tax rate....The Company has worked with Staff to update these rates charged to customers to reflect tax savings during the pendency of this proceeding.").

**Q12. HOW IS THE UNIQUE RATE SETTING FOR POLE ATTACHMENTS  
RELEVANT TO THE MATTER OF THE DEFERRED TAX LIABILITY?**

A12. The unique rate setting process for pole attachments described above, combined with the underlying natural incentive of a pole owning utility to charge communications attachers monopoly level rates, provide conditions under which the Commission's limited accounting directive requiring a deferred tax liability could - intentionally or unintentionally -- produce adverse rate consequences for pole attachers. The manner in which these adverse impacts on the pole rate may arise is explained below.

**III. ADVERSE IMPACTS ON POLE RATES THAT MAY ARISE IN  
CONNECTION WITH THE PUCO'S DEFERRED TAX LIABILITY  
REQUIREMENT**

**Q13. IN WHAT WAYS DOES THE FEDERAL INCOME TAX REDUCTION IMPACT  
THE POLE RATE FORMULA CALCULATION?**

A13. The federal income tax reduction affects the pole rate formula in a number of ways. As noted in the testimonies submitted by Messrs. Wathen and Allen on behalf of Duke and AEP Ohio in this matter, the reduction in the federal corporate income tax rate from 35% to 21% under the TCJA lowers both the current and deferred income tax expense obligation of the utility, the latter creating what is referred to as "excess ADIT."<sup>10</sup> Both elements enter into the pole rate formula calculation through the specified FERC Accounts (and as noted above, a corresponding set of FCC "ARMIS" accounts in the case of the telephone utilities).

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<sup>10</sup>The latter arises due to the fact that the utility's actual federal tax obligation is generally less than the tax expense the utility is allowed to recover from ratepayers, due to accelerated depreciation provisions in the tax code applicable in the early years of a new asset's life as compared with the typically level depreciation accruals over the asset life recognized for regulatory purposes. A reduction in the deferred income tax expense obligation of the utility creates what is referred to as "excess" ADIT, given that there is now an "excess" of tax prefunded by ratepayers that will never be paid to the federal government under the new tax law.

1           The current income tax expense obligations for electric utilities are booked to  
2       FERC Accounts 408.1, 409.1, 410.1, 411.1, 411.4, while amounts relating to  
3       Accumulated Deferred Income Taxes (“ADIT”) are booked to FERC Accounts 190, 281,  
4       282, and 283. The FCC Formula includes an appropriate fully allocated share of the  
5       current tax expenses booked to these income tax-related FERC accounts in the tax  
6       element of the formula’s Carrying Charge Factor component, which is computed as the  
7       sum of those individual tax accounts divided by total net utility plant.

8           The FCC Formula also takes ADIT into account in the calculation of the various  
9       net investment figures used in the formula, specifically as a reduction along with  
10      accumulated depreciation to booked gross investment [Net investment = gross investment  
11      less accumulated depreciation less ADIT].<sup>11</sup> The various gross investment figures to  
12      which a prorated share of total utility plant ADIT is applied (based on the relative ratio of  
13      gross plant in the individual account to total gross utility plant) include pole investment in  
14      FERC Account 364 for poles (Account 366 for conduit), which enters the formula as the  
15      numerator in the computation of the Net Bare Pole component, and well as the various  
16      other net investment figures used in the computation of the various elements of the  
17      Carrying Charge Factor component of the formula.<sup>12</sup>

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<sup>11</sup> In calculating net investment, gross investment is reduced by accumulated depreciation and accumulated deferred taxes so as to prevent the utility from an effective double recovery of capital, as both accumulated depreciation and ADIT provide effectively zero-cost ratepayer funding of capital recovery for the utility.

<sup>12</sup> The various net investment figures used in the computation of the CCF component of the formula include: the net distribution investment (FERC Accounts 364, 369, and 365 for poles/367 for conduit) used as the denominator in the computation of the maintenance element of the CCF component; the total net electric investment used as the denominator in the computation of the A&G element of the CCF, and the total net utility plant figures used as the denominator in the computation of tax element of the CCF. The ratio of gross pole plant to net pole plant is used in the computation of the depreciation element of the CCF to gross up the depreciation rate applicable to gross investment to apply to a net bare pole cost figure.

**Q14. ARE THERE SPECIAL CONCERNS ABOUT HOW UTILITIES MAY  
LEVERAGE THE PUCO-ORDERED DEFERRED TAX LIABILITY TO  
INCREASE POLE RATES?**

A14. Yes, there are. One prime example is the treatment of ADIT. Since ADIT applies as a *reduction* to gross investment, any TCJA-related reduction in the ADIT that is prorated to pole investment will result in a corresponding *increase* in the Net Bare Pole component of the formula. However, consistent with well-established tax and regulatory principles, any such return of the “excess ADIT” to ratepayers should be spread or amortized over the life of utility assets consistent with manner in which the ADIT arose<sup>13</sup> -- with utility assets being relatively long lived, e.g., as long as twenty to thirty years, and even fifty years in some cases. Indeed, it would be inappropriate from an economic and public policy perspective to remove the excess ADIT for purposes of the FCC Formula in a one-time lump sum adjustment. Any TCJA-related increase in the net bare pole cost component of the formula should be relatively small in relation to the primary impact in the formula, which will be driven by the direct reduction in the tax element of the CCF and combined with the indirect reductions in the other elements due to the resultant larger net plant figures used in the denominator of the calculated CCF expense ratios. The collective impact of the federal tax reduction should unambiguously result in a pole rate reduction, effective with the cost year beginning January 1, 2018, as expected and as intended by the PUCO.

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<sup>13</sup>See Allen Direct at 3. (“The TCJA requires that the protected excess ADFIT be amortized over the ‘remaining life of the property which gave rise to the reserve for deferred taxes.’”). It is my understanding, under the TCJA and prior related IRS statements that the Commission would have the option of using a simplified non-vintage based approach that could provide for a longer amortization period.

1           Given the self-administering nature of the FCC Formula, which as noted in the  
2       *Letter in Lieu of Comments* submitted by the OCTA on March 7, 2018, utilizes  
3       information taken directly from the pole owner’s FERC Form 1, “the expectation [is] that  
4       any impact on pole attachment and conduit occupancy rates associated with the Tax Cuts  
5       and Job Acts of 2017 will be carried through FERC Form No. 1 when adjustment filings  
6       are next made by pole and conduit owners pursuant to the Commission’s rules and the  
7       owners tariffs.”

8           However, given the particular mechanics of the formula whereby any reduction of  
9       ADIT will result in a dollar for dollar increase in the computed net pole investment used  
10      to calculate pole rates, there is an incentive to calculate pole rates based on a lump sum  
11      removal of the excess reduction to the ADIT, rather than apply an appropriately small  
12      percent reduction reflecting a relatively long amortization period commensurate to the  
13      long-lived nature of pole and other distribution assets and *in advance of any actual refund*  
14      of the excess to utility ratepayers. While doing so may be the unintentional consequence  
15      of directed accounting changes such as the PUCO’s and associated transfers into  
16      regulatory assets for possible future return to ratepayers, the resultant artificial increase in  
17      the net bare pole cost component of the FCC Formula and corresponding significant  
18      increases in *current* pole attachment rates is an unjust and unreasonable outcome all the  
19      same.

1 **Q15. IS THERE EVIDENCE THAT UTILITIES IN OHIO MAY BE**  
2 **INAPPROPRIATELY APPLYING A LUMP SUM REDUCTION TO ADIT**  
3 **AMOUNTS USED IN THE POLE FORMULA, THE EFFECT OF WHICH IS TO**  
4 **ARTIFICIALLY INCREASE THE POLE RATE IN EXCESS OF A JUST AND**  
5 **REASONABLE COST BASED LEVEL?**

6 A15. Yes, there is. As stated in OCTA Objections to FirstEnergy dated May 22 2018,<sup>14</sup> there  
7 was an inexplicably dramatic drop in the accumulated deferred taxes (“ADT”)  
8 component of the NBP component of the pole formula as calculated by the FirstEnergy  
9 utilities in their May 1, 2018 tariff adjustment applications, seemingly connected to the  
10 TCJA.<sup>15</sup> Changes in these inputs produced a marked increase in the net bare pole cost,  
11 and a corresponding increase in the annual pole rate – a perverse and indeed punitive  
12 result given the significant tax reductions that will inure to the benefit of FirstEnergy (but  
13 that the PUCO in this matter has stated should benefit the utility’s customers). An  
14 examination of FERC Form 1 filings show similar substantial drops in the ADIT  
15 accounts included in the pole formula for other Ohio utilities, including the two utilities  
16 filing testimony in this matter, Duke Energy and AEP Ohio, as so acknowledged.<sup>16</sup>

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<sup>14</sup>See Objections of the OCTA filed May 22, 2018, in *In the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of a Tariff Change*, Case No. 18-563-EL-ATA; *In the Matter of the Application of Ohio Edison Company for Approval of a Tariff Change*, Case No. 18-564-EL-ATA; and *In the Matter of the Application of The Toledo Edison Company for Approval of a Tariff Change*, Case No. 18-565-EL-ATA.

<sup>15</sup> See *Id.*, Exhibit 1, containing excerpts from FirstEnergy FERC Form 1 Filing (ED. 12-88) at p. 123.1. (“As a result of the Tax Cuts and Jobs Act adopted December 22, 2017 (Tax Act), FirstEnergy Corp...adjusted its deferred tax liabilities at December 31, 2017, for the reduction in the corporate income tax rate from 35% to 21%. The impact of reducing the deferred tax liabilities was offset with a regulatory liability, as appropriate, with the remainder recorded to the deferred income tax expense.”).

<sup>16</sup> See Wathen Direct at 13 acknowledging the utility’s transfer of excess ADIT into regulatory assets in December 2017, and significantly, the unchanged nature of the assets. (“Because the adjustment in December 2017 was simply a transfer from one balance sheet account to another balance sheet account, the ‘deferred’ nature of these deferred liabilities did not change.”).

1 **Q16. ARE THERE OTHER ACTIONS UTILITIES COULD TAKE IN COMPLYING**  
2 **WITH THE PUCO’S ACCOUNTING DIRECTIVE THAT COULD HAVE**  
3 **ADVERSE IMPACTS ON POLE ATTACHERS?**

4 A16. Yes, there are other seemingly “innocuous” accounting changes, transfers or other  
5 recordkeeping procedures that could result in very adverse impacts on pole attachers – an  
6 outcome that would be in direct conflict with the PUCO’s statements both generically  
7 that “changes in accounting practices do not affect rates” and specifically that “the  
8 regulatory liability has no impact on current rates.”<sup>17</sup> For example, the utility’s recording  
9 of excess ADT as a deferred tax liability in compliance with the PUCO’s directive, might  
10 involve the utility’s transfer of ADT out of the FCC Formula-designated FERC accounts  
11 (i.e., Accounts 190, 281-283) used in the formula to offset gross pole investment costs,  
12 and its recording instead in an account not explicitly included in the FCC Formula  
13 pending regulatory resolution.<sup>18</sup> Similarly, utilities may transfer the TCJA income tax  
14 savings out of the FERC income-related accounts 408.1, 409.1, 410.1, 411.1, and 411.4  
15 to which they would normally be booked and that are included in the FCC Formula to  
16 alternative regulatory accounts that are not included in the formula. Doing so would  
17 make it very difficult or even impossible to track over time to ensure pole attachers  
18 receive their appropriate share of the benefits of the tax law reductions at the time utilities  
19 choose to file pole tariff adjustments. And, under Ohio Administrative Code Rule  
20 4901:1-3-04(D), attachers would have a very limited opportunity to evaluate the proposed

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<sup>17</sup> See PUCO Second Entry on Rehearing, Issued April 25, 2018 at 7, 10.

<sup>18</sup> According to Duke Energy’s testimony, an example of such an account would be Account 254 “Other Regulatory Liabilities,” See Wathen Direct at 13 (“At the same time, the Company created a corresponding regulatory liability, in Account 254, to reflect the fact that these “excess” accumulated deferred income taxes are still owed to customers.”).

1 rate and conduct discovery as to whether the tax benefit is appropriately recognized  
2 within the 60-day automatic approval process. This is especially important given that it  
3 may be a number of years before any given utility files to adjust pole attachment rates.  
4 The decision as to when to file for a new pole rate is up to each utility. Thus, combined  
5 with the 60-day automatic approval process, barring special action by the PUCO in this  
6 matter, attachers could be faced with an undue and costly burden in responding to a  
7 potentially large number of utility tariff amendments on an individual utility case-by-case  
8 basis.

9 **IV. RECOMMENDED MEASURES TO INSURE THE PUCO'S ACCOUNTING**  
10 **DIRECTIVE DOES NOT RESULT IN HIGHER POLE RATES OR OTHERWISE**  
11 **PRECLUDE ATTACHERS FROM THEIR APPROPRIATE SHARE OF TCJA-**  
12 **RELATED BENEFITS**

13  
14 **Q17. GIVEN THE POTENTIAL ADVERSE HARM TO POLE ATTACHERS THAT**  
15 **COULD RESULT - INTENTIONALLY OR UNINTENTIONALLY - FROM**  
16 **UTILITY IMPLEMENTATION OF THE COMMISSION'S ACCOUNTING**  
17 **DIRECTIVE, DO YOU HAVE ANY SPECIFIC RECOMMENDATIONS TO THIS**  
18 **COMMISSION?**

19 A17. Yes, I do. Because of the unique circumstances governing the PUCO's regulation of pole  
20 attachments, appropriate accounting safeguard measures are needed, effective January 1,  
21 2018, in conjunction with the PUCO's required creation of the deferred tax liability to  
22 prevent the very real potential of significant harm to pole attachers. Without such  
23 measures, the PUCO's actions would be at direct odds with its stated central guiding  
24 principle in adopting the accounting requirement, i.e., that "all tax savings resulting from

1 the TCJA should be returned to customers,”<sup>19</sup> as its recognition of the “well-established”  
2 principle that “accounting practices do not affect rates.”<sup>20</sup>

3 First and foremost, I recommend that the Commission recognize as a threshold  
4 principle, and to direct the pole-owning utilities to do the same, that third-party pole  
5 attachment rates should *not* be adversely affected by the creation of the PUCO-mandated  
6 deferred tax liability or any other transfer account or regulatory asset created by the  
7 utility in connection with the TCJA. The Commission should specifically preclude  
8 utilities from being able to use TCJA-related accounting changes (e.g., reflecting a  
9 precipitous drop in ADIT in its computation of gross pole investment) as a basis to  
10 extract higher pole attachment rates and to enjoy a windfall at the expense of third-party  
11 communications attachers and their customers.

12 Second, I recommend that the PUCO direct utilities to keep track of and preserve  
13 for use in the next pole rate calculation, the underlying cost data and associated detail on  
14 the estimated reduction in taxes incorporated in the deferred tax liability or any other  
15 TCJA-related transfer account or regulatory asset that are associated with poles and/or  
16 that are required as inputs to the pole rate formula, and to provide this detailed  
17 information as part of any future pole rate tariff application. Unless the data is preserved  
18 commencing January 1, 2018 and continuing through the rate period the utility bases its  
19 first pole rate adjustment, pole attachers could be precluded from enjoying their  
20 appropriate share of benefits to which they are entitled pursuant to the PUCO’s January  
21 2018 entry.

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<sup>19</sup> See Case No. 18-47-AU-COI, Second Entry on Rehearing, Issued April 25, 2018 at 8.

<sup>20</sup> See *Id.* at 7.

1           This tracking should start from January 1, 2018 up to and including the time the  
2 pole-related deferred tax liability is fully recognized. Otherwise, pole attachers could be  
3 unreasonably denied their appropriate sharing of the benefits arising from the TCJA,  
4 given the fact the utility has full discretion as to when to file a pole tariff amendment  
5 application. For example, if a utility does not apply to revise its pole attachment rates  
6 until 2021, then three years' worth of annual savings in tax expenses would have been  
7 foregone as benefits to the attachers. These are savings that would otherwise have been  
8 available to offset other potential increases in pole costs reflected in the formula rate  
9 calculation and that correspondingly increase the annual pole attachment rental revenues  
10 due to be paid to the utility by the third party attacher.

11           Third, I recommend that the PUCO adopt these recommended measures  
12 contemporaneously with its accounting directive and apply those measures proactively to  
13 all pole-owning utilities so as to avoid costly, time consuming case-by-case resolution. A  
14 case-by-case approach would not only be inefficient and burdensome to third-party  
15 attachers as well as the PUCO, it would be directly contrary to the intended purpose of  
16 effective pole rate regulation, i.e., to provide for a uniform, administratively simple,  
17 transparent, and largely self-administering rate setting process that promotes just,  
18 reasonable and non-discriminatory rates for third party access to essential pole facilities.

19 **Q18. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY?**

20 A18. Yes, although I reserve the right to further supplement my testimony.

## **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 29th day of June 2018 upon the person listed below.

/s/ Gretchen L. Petrucci

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## Summary

Consulting economist with specialization in telecommunications, cable, and energy markets. Extensive knowledge of complex economic, policy and technical issues facing incumbents, new entrants, regulators, investors, and consumers in rapidly changing telecommunications, cable, and energy markets.

## Experience

### CONSULTING ECONOMIST

2000–Present      Independent Consulting      Boston, MA

- Providing expert witness services and full range of economic, policy, and technical advisory services in the fields of telecommunications, cable, and energy.

### SENIOR VICE PRESIDENT/SENIOR ECONOMIST

1982–2000      Economics and Technology, Inc.      Boston, MA

- Active participant in regulatory proceedings in over thirty state jurisdictions, before the Federal Communications Commission, Federal Energy Regulatory Commission, Canadian Radio-Television and Telecommunications Commission, Ontario Energy Board, and other international regulatory authorities on telecommunications, cable, and energy matters.
- Provided expert witness and technical advisory services in connection with litigation and arbitration proceedings before state and federal regulatory agencies, and before U.S. district court, on behalf of diverse set of public and private sector clients (see Record of Prior Testimony).
- Extensive cable television regulation expertise in connection with implementation of the Cable Act of 1992 and the Telecommunications Act of 1996 by the Federal Communications Commission and local franchising authorities.
- Led analysis of wide range of issues related to: rates and rate policies; cost methodologies and allocations; productivity; cost benchmarking; business case studies for entry into cable, telephony, and broadband markets; development of competition; electric industry restructuring; incentive or performance based regulation; universal service; access charges; deployment of advanced services and broadband technologies; access to pole attachments, conduit, and other rights-of-way.
- Served as advisor to state regulatory agencies, assisting in negotiations with utilities, non-partial review of record evidence, deliberations and drafting of final decisions.
- Author of industry reports and papers on topics including market structure,

competition, alternative forms of regulation, patterns of investment, telecommunications modernization, and broadband deployment.

- Invited speaker before various national organizations, state legislative committees and participant in industry symposiums.
- Grant Reviewer for the Broadband Technology Opportunities Program (BTOP) administered by National Telecommunications and Information Administration (NTIA), Fall 2009.

## **RESEARCH/POLICY ANALYST**

1978–1980 Various Federal Agencies, Washington, DC

- Prepared economic impact analyses concerning allocation of frequency spectrum (Federal Communications Commission).
- Performed financial and statistical analysis concerning the effect of securities regulations on the acquisition of high-technology firms (Securities and Exchange Commission).
- Prepared analyses and recommendations on national economic policy issues including capital recovery. (U.S. Dept. of Commerce).

## **Education**

1980–1982 Massachusetts Institute of Technology, Boston, MA

- Graduate Study in the Ph.D. program in Economics (Abd). General Examinations passed in fields of Government Regulation of Industry, Industrial Organization, and Urban and Regional Economics.

- National Science Foundation Fellow.

1976–1980 George Washington University, Washington, DC

- B.A. with Distinction in Economics.
- Phi Beta Kappa, Omicron Delta Epsilon in recognition of high scholastic achievement in field of Economics. Recipient of four-year honor scholarship.

## **Prof. Affiliation**

American Economic Association

### **Reports and Studies (authored and co-authored)**

Report on the Ohio Municipal Electric Association Pole Attachment Rate Study, prepared for the Ohio Cable Telecommunications Association, November 9, 2012.

Report on the Financial Viability of the Proposed Greenfield Overbuild in the City of Lincoln, California, prepared for Starstream Communications, August 12, 2003.

“Assessing SBC/Pacific’s Progress in Eliminating Barriers to Entry, The Local Market in California is Not Yet ‘Fully and Irreversibly Open,’” prepared for CALTEL, August 2000.

“Final Report on the Qualifications of Wide Open West-Texas, LLC For a Cable Television Franchise in the City of Dallas,” prepared for the City of Dallas, July 31, 2000.

“Final Report on the Qualifications of Western Integrated Networks of Texas Operating L.P. For a Cable Television Franchise in the City of Dallas,” prepared for the City of Dallas, July 31, 2000.

“Price Cap Plan for USWC: Establishing Appropriate Price and Service Quality Incentives in Utah” prepared for The Division of Public Utilities, March, 2000.

“Building a Broadband America: The Competitive Keys to the Future of the Internet,” prepared for The Competitive Broadband Coalition, May 1999.

“Broken Promises: A Review of Bell Atlantic-Pennsylvania's Performance Under Chapter 30,” prepared for AT&T and MCI Telecommunications, June 1998.

“Analysis of Opportunities for Cross Subsidies Between GTA and GTA Cellular,” prepared for Guam Cellular and Paging, submitted to the Guam Public Utilities Commission, July 11, 1997.

“Reply to Incumbent LEC Claims to Special Revenue Recovery Mechanisms,” submitted in the Matter of Access Charge Reform in CC Docket 96-262, February 14, 1997.

“Assessing Incumbent LEC Claims to Special Revenue Recovery Mechanisms: Revenue opportunities, market assessments, and further empirical analysis of the ‘Gap’ between embedded and forward-looking costs,” FCC CC Docket 96-262, January 29, 1997.

“Analysis of Incumbent LEC Embedded Investment: An Empirical Perspective on the ‘Gap’ between Historical Costs and Forward-looking TSLRIC,” Implementation of the Local Competition Provisions in the Telecommunications Act of 1996, FCC CC 96-98, May 30, 1996.

“Reply to X-Factor Proposals for the FCC Long-Term LEC Price Cap Plan,” prepared for the Ad Hoc Telecommunications User Committee, submitted in FCC CC Docket 94-1, March 1, 1996.

“Establishing the X-Factor for the FCC Long-Terms LEC Price Cap Plan,” prepared for the Ad Hoc Telecommunications User Committee, submitted in FCC CC Docket 94-1, December 1995.

“The Economic Viability of Stentor's ‘Beacon Initiative,’ Exploring the Extent of its Financial Dependency upon Revenues from Services in the Utility Segment,” prepared for Unitel, submitted before the Canadian Radio-television and Telecommunications Commission, March 1995.

“Fostering a Competitive Local Exchange Market in New Jersey: Blueprint for Development of a Fair Playing Field,” prepared for the New Jersey Cable Television Association, January 1995.

“The Enduring Local Bottleneck: Monopoly Power and the Local Exchange Carriers,” Feb. 1994.

“A Note on Facilitating Local Exchange Competition,” prepared for E.P.G., Nov. 1991.

“Testing for Effective Competition in the Local Exchange,” prepared for the E.P.G., October 1991.

“A Public Good/Private Good Framework for Identifying POTS Objectives for the Public Switched Network” prepared for the National Regulatory Research Institute, October 1991.

“Report on the Status of Telecommunications Regulation, Legislation, and modernization in the states of Arkansas, Kansas, Missouri, Nebraska, Oklahoma and Texas,” prepared for the Mid-America Cable-TV Association, December 13, 1990.

“The U S Telecommunications Infrastructure and Economic Development,” presented at the 18th Annual Telecommunications Policy Research Conference, Airlie, Virginia, October 1990.

“An Analysis of Outside Plant Provisioning and Utilization Practices of US West Communications in the State of Washington,” prepared for the Washington Utilities and Transportation Commission, March 1990.

“Sustainability of Competition in Light of New Technologies,” presented at the Twentieth Annual Williamsburg Conference of the Institute of Public Utilities, Williamsburg, VA, December 1988.

“Telecommunications Modernization: Who Pays?,” prepared for the National Regulatory Research Institute, September 1988.

“Industry Structure and Competition in Telecommunications Markets: An Empirical Analysis,” presented at the Seventh International Conference of the International Telecommunications Society at MIT, July 1988.

“Market Structure and Competition in the Michigan Telecommunications Industry,” prepared for the Michigan Divestiture Research Fund Board, April 1988.

“Impact of Interstate Switched Access Charges on Information Service Providers - Analysis of Initial Comments,” submitted in FCC CC Docket No. 87-215, October 26, 1987.

“An Economic Analysis of the Impact of Interstate Switched Access Charge Treatment on Information Service Providers,” submitted in FCC CC Docket No. 87-215, September 24, 1987.

“Regulation and Technological Change: Assessment of the Nature and Extent of Competition from a Natural Industry Structure Perspective and Implications for Regulatory Policy Options,” prepared for the State of New York in collaboration with the City of New York, February 1987.

“BOC Market Power and MFJ Restrictions: A Critical Analysis of the ‘Competitive Market’ Assumption,” submitted to the Department of Justice, July 1986.

“Long-Run Regulation of AT&T: A Key Element of a Competitive Telecommunications Policy,” *Telematics*, August 1984.

“Economic and Policy Considerations Supporting Continued Regulation of AT&T,” submitted in FCC CC Docket No. 83-1147, June 1984.

“Multi-product Transportation Cost Functions,” MIT Working Paper, September 1982.

## Record of Prior Testimony

### 2018

Before the **Louisiana Public Service Commission**, in *Re: Complaint and Petition for Declaratory Ruling on Proper Formula for the Pole Attachment Rental Rate Under Louisiana Public Service Commission Order Dated September 4, 2014*, Docket No. U-34688, Affidavit submitted March 27, 2018.

Before the **Connecticut Department of Public Utility Control**, in *Re: In the Matter of the Application of The Connecticut Light and Power Company d/b/a Eversource Energy, to Amend its Rate Schedule*, Dkt. No. 17-10-46, Direct Prefiled January 26, 2018.

### 2017

Before the **North Carolina Public Utility Commission**, in *Blue Ridge Electric Membership Corporation, Complainant v. Charter Communications Properties LLC, Respondent*, Docket No. EC-23, SUB 50, Responsive Pre-filed October 30, 2017; Cross-examination November 8, 2017, December 18, 2017.

Before the **Kentucky Public Service Commission**, *In the Matter of: Electronic Application of Kentucky Power Company for (1) A General Adjustment of its Rates for Electric Service; (2) An Order Approving its 2017 Environmental Compliance Plan; (3) An Order Approving its Tariffs and Riders; (4) An Order Approving Accounting Practices to Establish Regulatory Assets and Liabilities, and (5) An Order Granting All Other Required Approvals and Relief*, Case No. 2017-00179, Direct Testimony submitted on behalf of The Kentucky Cable Telecommunications Association, October 3, 2017.

Before the **North Carolina Public Utility Commission**, in *Re: In the Matter of Time Warner Cable Southeast LLC, Complainant v. Carteret-Craven Electric Membership Corporation, Respondent*, Docket No. EC-55, SUB 70, Direct Pre-filed May 30, 2017; Rebuttal Pre-filed June 15, 2017; Cross-examination June 20, 2017.

Before the **North Carolina Public Utility Commission**, in *Re: In the Matter of Time Warner Cable Southeast LLC, Complainant v. Jones-Onslow Electric Membership Corporation, Respondent*, Docket No. EC-43, SUB 88, Direct Pre-filed May 30, 2017; Rebuttal Pre-filed June 15, 2017; Cross-examination June 20, 2017.

Before the **North Carolina Public Utility Commission**, in *Re: In the Matter of Time Warner Cable Southeast LLC, Complainant v. Surry-Yadkin Electric Membership Corporation, Respondent*, Docket No. EC-49, SUB 55, Direct Pre-filed May 30, 2017; Rebuttal Pre-filed June 15, 2017; Cross-examination June 20, 2017.

Before the **North Carolina Public Utility Commission**, in *Re: In the Matter of Union Electric Membership Corporation, Complainant v. Time Warner Cable Southeast LLC, Respondent*, Docket No. EC-39, SUB 44, Responsive Pre-filed June 15, 2017; Cross-examination June 20, 2017.

### 2016

Before the **State of Connecticut Department of Public Utility Control**, in *Re: In the Matter of the Application of The United Illuminating Company to Increase Its Rates and Charges*, Docket No. 16-06-04, filed September 9, 2016.

Before the **United States District Court, District of Maryland**, *Zayo Group, LLC, et al., Plaintiffs v. Mayor and City of Council of Baltimore, et al., Defendants*, Civil No. 16-cv-592, Declaration filed March 30, 2016; Cross-ex. May 17, 2016.

### 2015

Before the **Arkansas Public Service Commission**, *In the Matter of a Rulemaking Proceeding to Consider Changes to the Arkansas Public Service Commission's Pole Attachment Rules*, Docket No. 15-019-R, Report filed July 22, 2015, Second Report filed August 19, 2015; Cross-examination October 27, 2015.

Before the **Public Service Commission of Wisconsin**, *Wisconsin Cable Communications Association, Charter Cable Partners, LLC, and Time Warner Cable Midwest LLC, Complainants, v. City of Oconomowoc, Respondent*, Docket No. 4340-El-100, Direct Testimony submitted May 29, 2015; Rebuttal Testimony submitted June 19, 2015; Surrebuttal Testimony submitted July 2, 2015; Cross-examination July 9, 2015.

Before the **Kentucky Public Service Commission**, *In the Matter of: Application of Kentucky Utilities Company for An Adjustment of its Base Rates*, Case No. 2014-00371, submitted March 6, 2015.

Before the **Kentucky Public Service Commission** *In the Matter of: Application of Louisville Gas and Electric Company for An Adjustment of its Electric and Gas Base Rates*, Case No. 2014-00372, submitted March 6, 2015.

## **2013**

Before the **Commonwealth of Virginia State Corporation Commission**, in *Application of Northern Virginia Electric Cooperative, For Approval of pole attachment rates and terms and conditions under § 56-466.1 of the Code of Virginia*, Pre-filed Direct Testimony on behalf of Comcast California/Maryland/Pennsylvania/Virginia/West Virginia LLC, August 29, 2013. Live testimony and cross-examination, November 22/25, 2013.

Before the **General Court of Justice Superior Court Division, State of North Carolina, County of Rutherford**, *Rutherford Electric Membership Corporation, Plaintiff, vs. Time Warner Entertainment– Advance/Newhouse Partnership d/b/a Time Warner Cable, Defendant*, 13 CVS 231, submitted July 10, 2013, Deposition July 22, 2013. Live testimony and cross-examination, September 6, 2013.

Before the **Chancery Court for Davidson County, Tennessee at Nashville**, *The Metropolitan Government of Nashville and Davidson County, Tennessee, Plaintiff v. XO Tennessee, Inc., Defendant*, Docket No. 02-679-IV; *The Metropolitan Government of Nashville and Davidson County, Tennessee, Plaintiff v. TCG Midsouth, Inc., Defendant*, Docket No. 02-749-IV, Affidavit dated January 25, 2013, Reply Affidavit dated February 19, 2013. Live testimony and cross-examination, May 14-15, 2013.

## **2012**

Before the **State of New Hampshire Public Utilities Commission**, in *Time Warner Entertainment Company L.P. d/b/a Time Warner Cable, Petition for Resolution of Dispute with Public Service Company of New Hampshire*, DT 12-084, on behalf of Time Warner Entertainment Company L.P. d/b/a Time Warner Cable, Comcast Cable Communications Management, LLC, Comcast of New Hampshire, Inc., Comcast of Massachusetts/New Hampshire, LLC, and Comcast of Maine/New Hampshire, Inc. Initial Direct Testimony submitted July 20, 2012; Reply Direct Testimony submitted October 31, 2012; Live panel testimony, November 14, 2012.

Before the **Ontario Energy Board**, *In the Matter of the Application by Canadian Distributed Antenna Systems Coalition (“CANDAS”)*, File No. EB-2011-1020, Joint Written Statement (with J. Lemay, M. Starkey, A. Yatchew), filed July 20, 2012.

Before the **Chancery Court for Davidson County, Tennessee at Nashville**, *The Metropolitan Government of Nashville and Davidson County, Tennessee, Plaintiff v. XO Tennessee, Inc., Defendant*, Docket No. 02-679-IV; *The Metropolitan Government of Nashville and Davidson County, Tennessee, Plaintiff v. TCG Midsouth, Inc., Defendant*, Docket No. 02-749-IV, Expert Report submitted May 15, 2012; Supplemental Report dated November 6, 2012.

## **2011**

Before the **Ontario Energy Board**, *in the Matter of the Application by Canadian Distributed Antenna Systems Coalition (“CANDAS”)*, File No. EB-2011-1020, Reply Evidence, filed December 16, 2011.

Before the **Public Utilities Commission of Ohio**, *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company, Individually and, if Their Proposed Merger is Approved, as a Merged Company (collectively, AEP Ohio) for an Increase in Electric Distribution Rates*, Case No. 11-351-EL-AIR, Case No. 11-352-EL-AIR; *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company, Individually and, if Their Proposed Merger is Approved, as a Merged Company (collectively, AEP Ohio) for Tariff Approval*, Case No. 11-353-EL-ATA Case No. 11-354-EL-ATA; *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company, Individually and, if Their Proposed Merger is Approved, as a Merged Company (collectively, AEP Ohio) for Approval to Change Accounting Methods*, Case No. 11-356-EL-AAM, Case No. 11-258-EL-AAM, filed October 24, 2011.

Before the **Virginia State Corporation Commission**, *In the Matter of Determining Appropriate Regulation of Pole Attachments and Cost Sharing in Virginia*, Case No. PUE-2011-00033, Affidavit filed June 22, 2011, Live Testimony given July 13, 2011.

Before the **Public Utility Commission of Texas**, State Office of Administrative Hearings, *Petition of CPS Energy for Enforcement Against AT&T Texas and Time Warner Cable Regarding Pole Attachments*, SOAH Docket No. 473-09-5470, PUC Docket No. 36633, Supplemental Testimony submitted March 17, 2011; Further Supplemental Testimony submitted April 22, 2011, Cross-examination, September 13, 2011.

## **2010**

Before the **General Court of Justice Superior Court Division, State of North Carolina, County of Rowan**, *Time Warner Entertainment– Advance/Newhouse Partnership, Plaintiff, V. Town Of Landis, North Carolina, Defendant*, 10 CVS 1172, submitted October 20, 2010, Deposition December 1, 2010, Live testimony and cross-examination July 20, 2011.

Before the **Federal Communications Commission**, *In the Matter of Implementation of Section 224 of the Act; Amendment of the Commission’s Rules and Policies Governing Pole Attachments*, WC Docket No. 07-245, GN Docket No. 09-51. Report submitted August 16, 2010, Attachment A to Comments filed by the National Cable and Telecommunications Association.

Before the **Public Utility Commission of Texas**, State Office of Administrative Hearings, *Petition of CPS Energy for Enforcement Against AT&T Texas and Time Warner Cable Regarding Pole Attachments*, SOAH Docket No. 473-09-5470, PUC Docket No. 36633, Direct Testimony submitted July 23, 2010.

Before the **Kentucky Public Service Commission**, *In the Matter of: Application of Kentucky Utilities Company for An Adjustment of its Base Rates*, Case No. 2009-00548, submitted April 22, 2010.

Before the **Kentucky Public Service Commission** *In the Matter of: Application of Louisville Gas and Electric Company for An Adjustment of its Electric and Gas Base Rates*, Case No. 2009-00549, submitted April 22, 2010.

Before the **Arkansas Public Service Commission**, *Coxcom, Inc., D/B/A Cox Communications, Complainant V. Arkansas Valley Electric Cooperative Corporation, Respondent*. Docket No. 09-133-C, submitted March 17, 2010.

## **2009**

Before the **Circuit Court of the Thirteenth Judicial Circuit in and for Hillsborough County, State of Florida**, *Tampa Electric Company, Plaintiff, vs. Bright House Networks, LLC, Defendant*, Case No. 06-00819, Division L. Expert Report submitted December 30, 2009, Deposition February 2, 2010, Live testimony and cross-examination, March 24, 2010.

Before the **Superior Court of the State Of Washington for the County of Pacific**, *Pacific Utility District No. 2 Of Pacific County, Plaintiff, V. Comcast of Washington Iv, Inc., Centurytel of Washington, Inc., and Falcon Community Ventures I, L.P. D/B/A Charter Communications, Defendants*, Case No. 07-2-00484-I, Expert Report filed September 18, 2009, Reply Report filed October 16, 2009, Deposition December 21, 2009, Live testimony and cross-examination October 12-13, 2010.

Before the **Public Utilities Commission of Ohio**, *In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates, Case No. 08-709-EL-AIR, In the Matter of the Application of Duke Energy Ohio, Inc., for a Tariff Approval, Case No. 08-710-EL-ATA, In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods, Case No. 08-11-EL-AAM, In the Matter of the Application of Cincinnati Gas & Electric Company for Approval of its Rider BDP, Backup Delivery Point, Case No. 06-718-EL-ATA*, filed February 26, 2009.

## **2008**

Before the **Arkansas Public Service Commission**, *In the Matter of a Rulemaking Proceeding to Establish Pole Attachment Rules In Accordance With Act 740 of 2007*, Docket No. 08-073-R, filed May 13, 2008, reply filed June 3, 2008, Cross-examination June 10, 2008.

Before the **Federal Communications Commission**, *In the Matter of Implementation of Section 224 of the Act; Amendment of the Commission's Rules and Policies Governing Pole Attachments*, WC Docket No. 07-245, RM 11293, RM 11303, filed March 7, 2008, reply filed April 22, 2008.

## **2006**

Before the **State of New Jersey Board of Public Utilities**, Office of Administrative Law, *in the Matter of the Verified Petition of TCG Delaware Valley, Inc. and Teleport Communications New York for an Order Requiring PSE&G Co. to Comply with the Board's Conduit Rental Regulations*, OAL Docket PUC 1191-06, BPU Docket No. EO0511005, filed September 29, 2006; rebuttal filed November 17, 2006.

Before the **Federal Communications Commission**, *In the Matter of Florida Cable Telecommunications Association, Inc., Comcast Cablevision of Panama City, Inc.; Mediacom Southeast, L.L.C.; and Cox Communications Gulf, L.L.C.; Complainants v. Gulf Power Company, Respondent*. EB Docket No. 04-381. Testimony on behalf of Complainants, March 31, 2006, Deposition March 15, 2006, Live Cross April 26-27, 2006.

## **2005**

Before the **United States District Court for the Eastern District of New York**, *Coastal Communication Service, Inc. and Telebeam Telecommunications Corporation, Plaintiffs - against -The City of New York and New York City Department of Information Technology and Telecommunications*, 02 Civ. 2300 (RJD) (SMG), Expert Report filed February 4, 2005; Rebuttal Expert Report, filed August 29, 2005, Deposition December 1, 2005.

## **2004**

Before the **Ontario Energy Board**, *In the Matter of the Ontario Energy Board Act 1998*, S.O.1998, c.15, (Schedule B); and *In the Matter of an Application pursuant to section 74 of the Ontario Energy Board Act, 1998* by the Canadian Cable Television Association for an Order or Orders to amend the licenses of electricity distributors, RP-2003-024, Reply Evidence, filed September 27, 2004 (joint w/ Paul Glist), Cross-examination October 26-27, 2004.

### **2003**

Before the **United States District Court for the Southern District of California**, *Level 3 Communications, LLC v. City of Santee*, Civil Action No. 02-CV-1193, Rebuttal Expert Report, filed July 18, 2003.

### **2002**

Before the **New York State Public Service Commission**, *In the Matter of the Cable Television & Telecommunications Association of New York, Inc., Petitioner, v. Verizon New York, Inc., Respondent*, Case 02-M-1636, Affidavit filed Dec. 19, 2002.

Before the **West Virginia Public Service Commission**, *Community Antenna Service, Inc. v. Charter Communications*, Case No. 01-0646-CTV-C, Live Direct Testimony and Cross-examination, June 12, 2002.

Before the **Public Service Commission of the District of Columbia**, *Comcast Cablevision of the District, L.L.C., Complainant, v. Verizon Communications Inc. – Washington, D.C., Respondent*, Formal Case No. 1006, Direct Testimony filed June 11, 2002; Rebuttal Testimony filed June 24, 2002.

Before the **Federal Communications Commission**, in *Cavalier Telephone, LLC, Complainant, v. Virginia Electric & Power Co., D/b/a Dominion Virginia Power, Respondent*, Case No. EB-02-MD-005, Declaration filed May 21, 2002.

Before the **Puerto Rico Telecommunications Regulatory Board**, in *Re: Petition of Centennial Puerto Rico License Corp. for arbitration pursuant to Sections 252(b) of the Telecommunications Act of 1996 to Establish an Interconnection Agreement with Puerto Rico Telephone Company*, on behalf of Centennial Puerto Rico License Corp., Direct Testimony filed April 16, 2002; Deposition May 7, 2002, May 14, 2002; Reply Testimony, May 20, 2002, Cross-examination May 22, 2002.

Before the **Federal Energy Regulatory Commission**, in *Re: In the Matter of Transcontinental Gas Pipe Line Corporation*, Docket No. RP01-245, on behalf of the University of Maryland-College Park, Johns Hopkins University and Johns Hopkins University Health System, and the North Carolina Utilities Commission, Cross-answering Testimony, January 23, 2002; Rebuttal Testimony, May 31, 2002, Cross-examination July 31, 2002.

### **2001**

Before the **United States District Court for the Northern District of New York**, *TC Systems, Inc. and Teleport Communications-New York vs. Town of Colonie, New York*, Civil Action No. 00-CV-1972, Expert Report filed November 16, 2001; Deposition Dec. 7, 2001, Rebuttal Report December 20, 2001, Deposition Jan. 9, 2002.

Before the **Federal Energy Regulatory Commission**, in *Re: In the Matter of Transcontinental Gas Pipe Line Corporation*, Docket No. RP01-245, on behalf of the University of Maryland-College Park, Johns Hopkins University and Johns Hopkins University Health System, and the North Carolina Utilities Commission, filed November 15, 2001.

Before the **Public Service Commission of the District of Columbia**, *Comcast Cable Communications, Inc. d/b/a/Comcast Cable of Washington, D.C., Complainant, v. Verizon Communications Inc. – Washington, D.C., Respondent*, filed Sept. 21, 2001.

Before the **Public Utility Commission of Texas**, State Office of Administrative Hearings, SOAH Docket No. 473-00-1014, PUC Docket No. 22349, *Application of Texas-New Mexico Power Company for Approval of Unbundled Cost of Service Rate Pursuant to PURA § 39.201 and Public Utility Commission Substantive Rule §25.344*, on behalf of Cities Served by Texas-New Mexico Power, filed January 25, 2001.

### **2000**

Before the **Puerto Rico Telecommunications Regulatory Board**, in *AT&T of Puerto Rico, Inc. et al v. Puerto Rico Telephone Company, Inc., Re: Dialing Parity*, Docket Nos. 97-Q-0008, 98-Q-0002, on behalf of Lambda Communications Inc., Cross-examination October 19-20, 2000.

Before the **Department of Telecommunications and Energy of the Commonwealth of Massachusetts**, Docket No. DTE 98-57 – Phase III, *Re: Bell Atlantic- Massachusetts Tariff No. 17 Digital Subscriber Line Compliance Filing and Line Sharing Filing*, (Panel Testimony with Joseph Riolo, Robert Williams, and Michael Clancy) on behalf of Rhythms Links Inc. and Covad Communications Company, filed July 10, 2000.

Before the **New York State Public Service Commission** in *Re: Proceeding on Motion of the Commission to Examine New York Telephone Company's Rates for Unbundled Network Elements* on behalf of the Cable Television & Telecommunications Association of New York, Inc., Direct Testimony filed June 26, 2000, Supplemental Testimony filed November 29, 2000.

Before the **Maryland Public Service Commission**, on behalf of Rhythms Links Inc. and Covad Communications Company, filed jointly with Terry L. Murray and Richard Cabe, May 5, 2000.

Before the **Public Utility Commission of Texas**, in *Re: Proceeding to Examine Reciprocal Compensation Pursuant to Section 252 of the Federal Telecommunications Act of 1996*, CC Docket No. 21982, on behalf of AT&T Communications of Texas, L.P., TCG Dallas, and Teleport Communications Houston, Inc., filed March 31, 2000.

Before the **Federal Communications Commission**, in *Re: In the Matter of Price Caps Performance Review for Local Exchange Carriers, Access Charge Reform*, CC Dockets 94-1, 96-262, on behalf of Ad Hoc Telecommunications Users Committee, filed January 24, 2000.

Before the **Federal Energy Regulatory Commission**, in *Re: In the Matter of Northern Border Pipeline Company*, on behalf of the Canadian Association of Petroleum Producers and the Alberta Department of Resource Development, filed January 20, 2000.

#### **1999**

Before the **Connecticut Department of Public Utilities**, in *Re: Evaluation and Application to Modify Franchise Agreement by SBC Communications Inc., Southern New England telecommunications Corporation and SNET Personal Vision, Inc.*, Docket No. 99-04-02, on behalf of the Office of Consumer Counsel, filed June 22, 1999; cross-examination July 8, 1999

Before the **Illinois Commerce Commission**, in *Re: Illinois Commerce Commission on its own Motion v. Illinois Bell Telephone Company; et al: Investigation into Non-Cost Based Access Charge Rate Elements in the Intrastate Access Charges of the Incumbent Local Exchange Carriers in Illinois, Illinois Commerce Commission on its own Motion Investigation into Implicit Universal Service Subsidies in Intrastate Access Charges and to Investigate how these Subsidies should be Treated in the Future, Illinois Commerce Commission on its own motion Investigation into the Reasonableness of the LS2 Rate of Illinois Bell Telephone Company*, Docket No. 97-00601, 97-0602, 97-0516, Consolidated, on behalf of City of Chicago, filed January 4, 1999; rebuttal February 17, 1999.

Before the **Puerto Rico Telecommunications Regulatory Board**, in *Re: In the Matter of Arbitration of Interconnection Rates, Terms and Conditions between Centennial Wireless PCS Operations Corp., Lambda Communications Inc., and the Puerto Rico Telephone Company*, behalf of Centennial Wireless PCS Operations Corp. and Lambda Communications Inc., cross-examination February 16, 1999.

#### **1998**

Before the **California Public Utilities Commission**, in *Re: In the Matter of the Application of Pacific Bell (U 1001 C), a Corporation, for Authority for Pricing Flexibility and to Increase Prices of Certain Operator Services, to Reduce the Number of Monthly Assistance Call Allowances, and Adjust Prices for Four Centrex Optional Features*, Application No. 98-05-038, on behalf of County of Los Angeles, filed November 17, 1998, cross-examination, December 9, 1998.

Before the **Puerto Rico Telecommunications Regulatory Board**, in *Re: In the Matter of PRTC's Tariff K-2 (Intra-island access charges)*, Docket no. 97-Q-0001, 97-Q-0003, on behalf of Lambda Communications, Inc., filed and cross-exam. October 9, 1998.

Before the **Connecticut Department of Public Utility Control**, in *Re: Application of the Southern New England Telephone Company*, Docket no. 98-04-03, on behalf of the Connecticut Office of Consumer Counsel, filed August 17, 1998, cross-examination February 18, 1999.

Before the **California Public Utilities Commission**, in *Re: Pacific Gas & Electric General Rate Case*, A.97-12-020, on behalf of Office of Rate Payers Advocates CA PUC, filed June 8, 1998.

#### **1997**

Before the **South Carolina Public Service Commission**, in *Re: Proceeding to Review BellSouth Telecommunications, Inc.'s Cost for Unbundled Network Elements*, Docket no. 97-374-C, on behalf of the South Carolina Cable Television Association, filed November 17, 1997.

Before the **State Corporation Commission of Kansas**, in *Re: In the Matter of and Investigation to Determine whether the Exemption from Interconnection Granted by 47 U.S.C. 251(f) should be Terminated in the Dighton, Ellis, Wakeeney, and Hill City Exchanges*, Docket No. 98-GIMT-162-MIS, on behalf of Classic Telephone, Inc., filed October 23, 1997.

Before the **Georgia Public Services Commission**, in *Re: Review of Cost Studies, Methodologies, and Cost-Based Rates for Interconnection and Unbundling of BellSouth Telecommunications Services*, Docket No. 7061-U, on behalf of the Cable Television Association of Georgia, filed August 29, 1997, cross-examination September 19, 1997.

Before the **Federal Communications Commission**, in *Re: In the Matter of Price Caps Performance Review for Local Exchange Carriers, Access Charge Reform*, CC Dockets 94-1, 96-262, on behalf of Ad Hoc Telecommunications Users Committee, filed July 11, 1997.

Before the **Federal Communications Commission**, in *Re: In the Matter of Amendment of Rules and Policies Governing Pole Attachments*, CS Docket 97-98, on behalf of NCTA, filed June 27, 1997.

Before the **Public Utilities Commission of the State of California**, in *Re: Rulemaking on the Commission's Own Motion to Govern Open Access to Bottleneck Services and Establish a Framework for Network Architecture Development of Dominant Carrier Networks*, R.93-04-003, I.93-04-002AT&T, filed March 19, 1997, reply April 7, 1997.

Before the **Puerto Rico Telecommunications Regulatory Board**, in *Re: In the Matter of Centennial Petition for Arbitration with PRTC*, on behalf of Centennial Cellular Corporation, filed February 14, 1997, supplemental March 10, 1997.

Before the **Federal Communications Commission**, in *Re: In the Matter of Access Charge Reform*, CC Docket 96-262, on behalf of AT&T, filed January 29, 1997, reply February 14, 1997.

#### **1996**

Before the **New Jersey Board of Public Utilities**, in *Re: In the Matter of the Investigation Regarding Local Exchange Competition for Telecommunications Services*, TX95120631, on behalf of New Jersey Cable Television Association, filed on August 30, 1996, reply September 9, 1997, October 20, 1997, cross-examination September 12, 1996, December 20, 1996.

Before the **State Corporation Commission of the State of Kansas**, in *Re: In the Matter of a General Investigation Into Competition Within the Telecommunications Industry in the State of Kansas*, 190, 492-U 94-GIMT-478-GIT, on behalf of Kansas Cable Telecommunications Association, Inc., filed July 15, 1996, cross-examination August 14, 1996.

Before the **Federal Communications Commission**, in *Re: Price Caps Performance Review for Local Exchange Carriers*, CC Docket 94-1, on behalf of Ad Hoc Telecommunications Users Committee, filed July 12, 1996.

Before the **State Corporation Commission of the State of Kansas**, in *Re: In the Matter of a General Investigation Into Competition Within the Telecommunications Industry in the State of Kansas*, 190, 492-U 94-GIMT-478-GIT, on behalf of Kansas Cable Telecommunications Association, Inc., filed June 14, 1996, cross-examination August 14, 1996.

Before the **Federal Communications Commission**, in *Re: In the Matter of Implementation of the Local Competition Provisions of Telecommunications Act of 1996*, CC Docket 96-98, filed May 1996.

Before the **Federal Communications Commission**, in *Re: Puerto Rico Telephone Company (Tariff FCC No. 1)*, Transmittal No. 1, on behalf of Centennial Cellular Corp., filed April 29, 1996.

Before the **United States District Court for the Eastern District of Tennessee at Greeneville**, in *Re: Richard R. Land, Individually and d/b/a The Outer Shell, and on behalf of all others similarly situated, Plaintiffs, vs. United Telephone-Southeast, Inc., Defendant*, CIV 2-93-55, filed December 7, 1996.

#### **1995**

Before the **Federal Communications Commission**, in *Re: Bentleyville Telephone Company Petition and Waiver of Sections 63.54 and 63.55 of the Commission's Rules and Application for Authority to Construct and Operate, Cable Television Facilities in its Telephone Service Area*, W-P-C-6817, on behalf of the Helicon Group, L.P. d/b/a Helicon Cablevision, filed November 2, 1995.

Before the **US District Court for the Eastern District of Tennessee**, in *Re: Richard R. Land, Individually and d/b/a The Outer Shell, and on behalf of all others similarly situated, Plaintiffs, vs. United Telephone-Southeast, Inc., Defendant*, 2-93-55, Class Action, filed June 12, 1995.

Before the **Connecticut Department of Public Utility Control**, in *Re: Application of SNET Company for approval to trial video dial tone transport and switching*, 95-03-10, on behalf of New England Cable TV Association, filed May 8, 1995, cross-examination May 12, 1995.

Before **Canadian Radio-Television and Telecommunications Commission**, in *Re: CRTC Order in Council 1994-1689*, Public Notice CRTC 1994-130 (Information Highway), filed March 10, 1995.

Before the **Federal Communications Commission**, in *Re: GTE Hawaii's Section 214 Application to provide Video Dialtone in Honolulu, Hawaii*, W-P-C- 6958, on behalf of Hawaii Cable TV Association, filed January 17, 1995 (Reply to Amended Applications).

Before the **Federal Communications Commission**, in *Re: GTE Hawaii's Section 214 Application to provide Video Dialtone in Ventura County*, W-P-C 6957, on behalf of the California Cable TV Association, filed January 17, 1995 (Reply to Amended Applications).

Before the **Federal Communications Commission**, in *Re: GTE Florida's Section 214 Application to Provide Video Dialtone in the Pinellas County and Pasco County, Florida areas*, W-P-C 6956, on behalf of Florida Cable TV Association, filed January 17, 1995 (Reply to Amended Applications).

Before the **Federal Communications Commission**, in *Re: GTE Virginia's Section 214 Application to provide Video Dialtone in the Manassas, Virginia area*, W-P-C 6956, on behalf of Virginia Cable TV Association, filed January 17, 1995 (Reply to Amended Applications).

**1994**

Before the **Federal Communications Commission**, in *Re: NET's Section 214 Application to provide Video Dialtone in Rhode Island and Massachusetts*, W-P-C 6982, W-P-C 6983, on behalf of New England Cable TV Association, filed December 22, 1994 (Reply to Supp. Responses).

Before the **State Corporation Commission of the State of Kansas**, in *Re: General Investigation into Competition*, 190, 492-U 94-GIMT-478-GIT, on behalf of Kansas CATV Association, filed November 14, 1994, cross-examination December 1, 1994.

Before the **Federal Communication Commission**, in *Re: Carolina Telephone's Section 214 Application to provide Video Dialtone in areas of North Carolina*, W-P-C 6999, on behalf of North Carolina Cable TV Association, filed October 20, 1994, reply November 8, 1994.

Before the **Federal Communication Commission**, in *Re: NET's Section 214 Application to provide Video Dialtone in Rhode Island and Massachusetts*, W-P-C 6982, W-P-C 6983, on behalf of New England Cable TV Association, filed September 8, 1994, reply October 3, 1994.

Before the **California Public Utilities Commission**, in *Re: Petition of GTE-California to Eliminate the Preapproval Requirement for Fiber Beyond the Feeder*, I.87-11-033, on behalf of California Bankers Clearing House, County of LA, filed August 24, 1994.

Before the **Federal Communications Commission**, in *Re: BellSouth Telecommunications Inc., Section 214 Application to provide Video Dialtone in Chamblee, GA and Dekalb County, GA*, W-P-C 6977, on behalf of Georgia Cable TV Association, filed August 5, 1994.

Before the **Federal Communications Commission**, in *Re: Bell Atlantic Telephone Companies Section 214 Application to provide Video Dialtone within their Telephone Services Areas*, W-P-C 6966, on behalf of Mid Atlantic Cable Coalition, filed July 28, 1994, reply August 22, 1994.

Before the **Federal Communication Commission**, in *Re: GTE Hawaii's 214 Application to provide Video Dialtone in Honolulu, Hawaii*, W-P-C 6958, on behalf of Hawaii Cable TV Association, filed July 1, 1994, and July 29, 1994.

Before the **Federal Communication Commission**, in *Re: GTE California's Section 214 Application to provide Video Dialtone in Ventura County*, W-P-C 6957, on behalf of California Cable TV Association, filed July 1, 1994, and July 29, 1994.

Before the **Federal Communication Commission**, in *Re: GTE Florida's 214 Application to provide Video Dialtone in the Pinellas and Pasco County, Florida areas*, W-P-C 6956, on behalf of Florida Cable TV Association, filed July 1, 1994, and July 29, 1994.

Before the **Federal Communication Commission**, in *Re: GTE Virginia's 214 Application to provide Video Dialtone in the Manassas, Virginia area*, W-P-C 6955, on behalf of the Virginia Cable TV Association, filed July 1, 1994, and July 29, 1994.

Before the **Federal Communications Commission**, in *Re: US WEST's Section 214 Application to provide Video Dialtone in Boise, Idaho and Salt Lake City, Utah*, W-P-C 6944-45, before the Idaho and Utah Cable TV Association, filed May 31, 1994.

Before the **Federal Communication Commission**, in *Re: US WEST's Section 214 Application to provide Video Dialtone in Portland, OR; Minneapolis, St. Paul, MN; and Denver, CO*, W-P-C 6919-22, on behalf of Minnesota & Oregon Cable TV Association, filed March 28, 1994.

Before the **Federal Communications Commission**, in *Re: Ameritech's Section 214 Application to provide Video Dialtone within areas in Illinois, Indiana, Michigan, Ohio, and Wisconsin*, W-P-C-6926-30, on behalf of Great Lakes Cable Coalition, filed March 10, 1994, reply April 4, 1994.

Before the **Federal Communications Commission**, in *Re: Pacific Bell's Section 214 Application to provide Video Dialtone in Los Angeles, Orange County, San Diego, and Southern San Francisco Bay areas*, W-P-C-6913-16, on behalf of Comcast/Cablevision Inc., filed Feb. 11, 1994, reply March 11, 1994.

Before the **Federal Communications Commission**, in *Re: SNET's Section 214 Application to provide Video Dialtone in Connecticut*, W-P-C 6858, on behalf of New England Cable TV Association, filed January 20, 1994, reply February 23, 1994.

### **1993**

Before the **Arkansas Public Service Commission**, in *Re: Earnings Review of Southwestern Bell Telephone Company*, 92-260-U, on behalf of Arkansas Press Association, filed September 2, 1993.

Before the **United States District Court for the Eastern District of Tennessee at Greenville**, in *Re: Cleo Stinnett, et al. Vs. BellSouth Telecommunications, Inc. d/b/a/ South Central Bell Telephone Company, Defendant*, Civil Action No 2-92-207, Class Action, cross-examination May 10, 1993, and Feb. 10, 1994.

Before the **Federal Communications Commission**, in *Re: NJ Bell's Section 214 Application to provide Video Dialtone service within Dover Township, and Ocean County, New Jersey*, W-P-C-6840, on behalf of New Jersey Cable TV Association, filed January 21, 1993.

### **1992**

Before the **New Jersey Board of Regulatory Commissioners**, in *Re: NJ Bell Alternative Regulation*, T092030358, on behalf of NJ Cable TV Association, filed September 21, 1992.

Before the **New Hampshire Public Utilities Commission**, in *Re: Generic competition docket*, DR 90-002, on behalf of Office of the Consumer Advocate, filed May 1, 1992, reply July 10, 1992, Surrebuttal August 21, 1992.

Before the **New Jersey General assembly Transportation, Telecommunications, and Technology Committee, Concerning A-5063**, on behalf of NJ Cable TV Association, filed January 6, 1992.

### **1991**

Before the **New Jersey Senate Transportation and Public Utilities Committee**, in *Re: Concerning Senate Bill S-3617*, on behalf of New Jersey Cable Television Association, filed December 10, 1991.

Before the **119<sup>th</sup> Ohio General Assembly Senate Select Committee on Telecommunications Infrastructure and Technology**, in *Re: Issues Surrounding Telecommunications Network Modernization*, on behalf of the Ohio Cable TV Association, filed March 7, 1991.

Before the **Tennessee Public Service Commission**, in *Re: Master Plan Development and TN Regulatory Reform Plan*, on behalf of TN Cable TV Association, filed February 20, 1991.

### **1990**

Before the **Tennessee Public Service Commission**, in *Re: Earnings Investigation of South Central Bell*, 90-05953, on behalf of the TN Cable Television Association, filed September 28, 1990.

Before the **New York Public Service Commission**, in *Re: NYT Rates, 90-C-0191, on behalf of User Parties NY Clearing House Association*, filed July 13, 1990, Surrebuttal July 30, 1990.

Before the **Louisiana Public Service Commission**, in *Re: South Central Bell Bidirectional Usage Rate Service*, U-18656, on behalf of Answerphone of New Orleans, Inc., Executive Services, Inc., King Telephone Answering Service, et al, filed January 11, 1990.

### **1989**

Before the **Georgia Public Service Commission**, in *Re: Southern Bell Tariff Revision and Bidirectional Usage Rate Service*, 3896-U, on behalf of Atlanta Journal Const./Voice Information Services Company, Inc., GA Association of Telemessaging Services, Prodigy Services, Company, Telnet Communications, Corp., filed November 28, 1989.

Before the **New York State Public Service Commission**, in *Re: NYT Co. - Rate Moratorium Extension - Fifth Stage Filing*, 28961 Fifth Stage, on behalf of User Parties NY Clearing House Association Committee of Corporate Telecommunication Users, filed October 16, 1989.

Before the **Delaware Public Service Commission**, in *Re: Diamond State Telephone Co. Rate Case*, 86-20, on behalf of DE PSC, filed June 16, 1989.

Before the **Arizona Corporation Committee**, in *Re: General Rate Case*, 86-20, on behalf of Arizona Corporation Committee, filed March 6, 1989.

### **1988**

Before **New York State Public Service Commission**, in *Re: NYT Rate Moratorium Extension*, 28961, on behalf of Capital Cities/ABC, Inc., AMEX Co., CBS, Inc., NBC, Inc., filed December 23, 1988.

**1989**

Before **Rhode Island Public Utilities Commission**, in *Re: New England Telephone*, 1475, on behalf of RI Bankers Association, filed August 11, 1987, cross-examination August 21, 1987.

Before the **New York State Public Service Commission**, in *Re: General Rate Case Subject to Competition*, 29469, on behalf of AMEX Co., Capital Cities/ ABNC, Inc., NBC, Inc., filed April 17, 1987, cross-examination May 20, 1987.

Before the **Minnesota Public Utilities Commission**, in *Re: Northwestern Bell*, P-421/ M-86-508, on behalf of MN Bus. Utilities Users Counsel, filed February 10, 1987, cross-examination March 5, 1987.

**1986**

Before the **Kansas Public Utilities Commission**, in *Re: Southwestern Bell*, 127, 140-U, on behalf of Boeing Military, et al., filed August 15, 1986.

**1985**

Before the **Washington Utilities and Transportation Commission**, in *Re: Cost of Service Issues bearing on the Regulation of Telecommunications Company*, on behalf of US Department of Energy, filed November 18, 1985 (Reply Comments).

**1984**

Before the **Maine Public Utilities Commission**, in *Re: New England Telephone*, 83-213, on behalf of Staff, ME PUC, filed February 7, 1984, cross-examination March 16, 1984.

Before the **Kentucky Public Service Commission**, in *Re: South Central Bell*, U-4415, on behalf of MS PSC, filed January 24, 1984, cross-examination February 1984.

**1983**

Before the **Kentucky Public Service Commission**, in *Re: South Central Bell*, 8847, on behalf of KY PSC, filed November 28, 1983, cross-examination December 1983.

Before the **Florida Public Service Commission**, in *Re: Southern Bell Rate Case*, 820294-TP, on behalf of Florida Department of General Services, FL Ad Hoc Telecommunications Users, filed March 21, 1983, cross-examination May 5, 1983.

**1982**

Before the **Maine Public Utilities Commission**, in *Re: New England Telephone*, 82-142, on behalf of Staff, ME PUC, filed November 15, 1982, cross-examination December 9, 1982.

Before the **Kentucky Public Service Commission**, in *Re: South Central Bell*, 8467, on behalf of the Commonwealth of Kentucky, cross-examination August 26, 1982.

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