

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of The)	
Dayton Power and Light Company's)	
Implementation of Certain Matters)	Case No. 19-572-EL-UNC
Relating to the Tax Cuts and Jobs Act of)	
2017)	

In the Matter of the Application of The)	
Dayton Power and Light Company to)	Case No. 19-568-EL-ATA
Establish the Tax Savings Credit Rider)	

**MOTION TO INTERVENE OF
THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION**

The Ohio Cable Telecommunications Association ("OCTA"), representing the interests of Ohio's cable telecommunications industry, moves to intervene in the above-styled proceedings as a full party of record pursuant to Section 4903.221, Revised Code and Rule 4901-1-11, Ohio Administrative Code. Supporting reasons are set forth in the accompanying Memorandum in Support.

WHEREFORE, the OCTA respectfully requests that the Public Utilities Commission of Ohio grant this motion to intervene and make the OCTA a full party of record.

Respectfully Submitted,

/s/ Gretchen L. Petrucci

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**MEMORANDUM IN SUPPORT OF
THE MOTION TO INTERVENE OF
THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION**

Section 4903.221, Revised Code, and Rule 4901-1-11, Ohio Administrative Code, establish the standard for intervention in the above-styled proceedings. Rule 4901-1-11, Ohio Administrative Code, states in part:

Upon timely motion, any person shall be permitted to intervene in a proceeding upon a showing that:

* * *

(2) The person has a real and substantial interest in the proceeding, and the person is so situated that the disposition of the proceeding may, as a practical matter, impair or impede his or her ability to protect that interest, unless the person's interest is adequately represented by existing parties.

In addition to establishment of a direct interest, the factors that the Public Utilities Commission of Ohio ("Commission") considers in implementing the above rule are the nature of the intervenor's interest, the extent that interest is represented by existing parties, the intervenor's potential contribution to a just and expeditious resolution of the issues involved, and whether intervention would result in an undue delay of the proceeding. *See*, Section 4903.221(B), Revised Code, upon which the above rule is authorized. A review of these factors in light of the following facts supports granting the OCTA's intervention in these proceedings.

The Dayton Power and Light Company ("DP&L") initiated these proceedings in March 2019, to establish the Tax Savings Cost Rider (Rider TSC), claiming that its proposed Rider TSC will return certain benefits associated with the Tax Cuts and Jobs Act of 2017 (TCJA) to DP&L's customers. Because the proposal will address how the TCJA benefits are returned, it will impact DP&L's pole attachment rates because taxes are a component of the pole attachment rate-setting formula approved by the Commission and how the TCJA-related changes are addressed here will impact pole attachment rates. Like other Commission dockets, the

Commission's decision in these proceedings could affect the pole attachers' interests and the OCTA seeks to intervene in these cases to protect the interests of its members.

The OCTA represents the cable telecommunications industry in Ohio. The OCTA membership pays DP&L's pole attachment rates, and could be directly and substantially affected by the outcome of these proceedings. Access to the poles is a vitally important aspect of the membership's provision of a variety of communications services, including video, voice, and Internet access services in DP&L's service territory. The OCTA and its membership, therefore, have a direct and significant stake in ensuring that the benefits of the TCJA are addressed appropriately now and then can be recognized appropriately in those pole attachment rates.

The Commission has recognized the substantial interest of pole attachers in TCJA-related proceedings, and granted the OCTA intervention each time it requested in order to protect that interest. The Commission has agreed with the OCTA's positions as well. For example, in the Commission's TCJA-related investigation, the Commission not only ruled that the utility-specific TCJA proceedings should address specific concerns of the OCTA and the effect of the TCJA on pole attachment rates, it agreed with the fundamental argument presented by the OCTA – that a onetime, lump-sum removal of the excess accumulated deferred income taxes from the pole rate calculation would be inappropriate. *See, In the Matter of the Commission's Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017*, Case No. 18-47-AU-COI, Finding and Order at ¶ 30 (October 24, 2018). Additionally, in Ohio Power Company's TCJA case, the OCTA was granted intervention and the Commission relied upon the testimony presented by the OCTA in finding the proposed stipulation, which addressed in part the calculation of future pole rates, will benefit customers and the public interest. *See, In the Matter of the Application of Ohio Power Company's Implementation of the Tax Cuts and Jobs Action of 2017*, Case No. 18-1007-EL-UNC, Finding and Order at ¶17 (October 3, 2018). The

Commission granted intervention to the OCTA in the TCJA-related proceedings of the FirstEnergy utilities and Duke Energy Ohio, Inc. *See In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and Toledo Edison Company to Implement Matters relating to the Tax Cuts and Jobs Act of 2017, etc.*, Case Nos. 18-1604-EL-UNC, et al., Entry at ¶ 7-8 (January 29, 2019); and *In the Matter of the Application of Duke Energy Ohio, Inc., for Implementation of the Tax Cuts and Jobs Act of 2017, etc.*, Case Nos. 18-1185-EL-UNC et al., Finding and Order at ¶ 12 (February 20, 2019).

In addition, the OCTA's motion to intervene in these proceedings is timely – no intervention deadline has been established. The OCTA has unique knowledge and perspective that will contribute to a just and expeditious resolution of the issues involved in these proceedings, particularly as to the TCJA-related changes and their impact on pole attachment rates/tariffs, which are established under a special formula and process apart from the other electric rates of DP&L. The OCTA's intervention will not result in an undue delay of the proceedings. Finally, the OCTA's interests are not represented by any other party in these proceedings.

WHEREFORE, for all of the foregoing reasons, the OCTA respectfully requests that the Commission grant this motion to intervene and that the OCTA be made a full party of record.

Respectfully Submitted,

/s/ Gretchen L. Petrucci

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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 17th day of July 2019 upon the entities and persons listed below.

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Summary: Motion Motion to Intervene electronically filed by Mrs. Gretchen L. Petrucci on behalf of Ohio Cable Telecommunications Association