BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of The Cleveland Electric Illuminating Company for Approval of a Tariff Change	**)** **)** **)**	**Case No. 19-1038-EL-ATA**

RESPONSE OF THE CLEVELAND ELECTRIC ILLUMINATING COMPANY TO OBJECTIONS OF THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION

Once again the Ohio Cable and Telecommunications Association ("OCTA") has come before the Public Utilities Commission of Ohio ("Commission") with an objection to the formula rate process that it advocated for in the underlying rulemaking, Case No. 13-579-AU-ORD. This time, OCTA asserts that the treatment of non-unitized costs in the calculation of the appurtenance factor of The Cleveland Electric Illuminating Company ("CEI") somehow distorts the rate. OCTA's Objection is conjecture that does not amount to a reasonable basis for objection. The Commission previously rejected an OCTA challenge to the Ohio Edison Company's and The Toledo Edison Company's appurtenance factor, and this latest challenge should also be rejected. For the reasons stated below, the Commission should allow the tariff update process to proceed as normal.

I. ARGUMENT

A. The Commission previously rejected OCTA's challenge to appurtenance factor calculations.

This objection is essentially a repeat of an earlier OCTA objection that was lodged against CEI's affiliates Ohio Edison Company ("Ohio Edison") and The Toledo Edison Company ("Toledo Edison"). In Case No. 15-975-EL-ATA, the first tariff filing in compliance with the Commission's Order in the underlying rulemaking proceeding, OCTA challenged Ohio Edison's and Toledo Edison's use of its calculated appurtenance factor to determine the appropriate

investment amount in the new rate formula that had been adopted by the Commission.[1] In that case, OCTA challenged the appurtenance factor that was "calculated by dividing the total book dollars represented in the wood pole retirement unit by the total book dollars of all retirement units associated to wood pole construction."[2] The Commission reviewed all of the relevant information and concluded that the appurtenance factor calculation was appropriate:

> The Commission has reviewed information contained in the Companies' continuing property records that were provided in response to OCTA's interrogatories and finds that the documentation provides enough detail to determine the actual percentage of appurtenance investment contained in FERC Account 364. As such, Ohio Edison and Toledo Edison have provided probative, direct evidence on the actual investment in non-pole-related appurtenances and are permitted to use the proposed company-specific appurtenance factors in their calculations.[3]

CEI's appurtenance factor calculation follows exactly the same methodology that Ohio Edison and Toledo Edison followed. Here, OCTA has presented no evidence nor even an allegation that CEI has done anything different to the manner in which the appurtenance factor is calculated. OCTA simply speculates as to the possibility of an adverse impact, and demands that all non-unitized pole investment be excluded from the calculation. However, the Commission has already thoroughly reviewed detailed records supporting appurtenance factor calculations and permitted their use in the formula rates. For this reason alone, the Commission should again reject OCTA's objection to CEI's appurtenance factor.

Moreover, OCTA's proposed remedy regarding the amount of the non-unitized[4] account 364 pole investment is unreasonable. OCTA proposes to exclude 100% of the non-unitized

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[1] Objections of Ohio Cable Telecommunications Association, Case No. 15-975-EL-ATA, August 3, 2015, p. 5-6. Notably, OCTA did not challenge CEI's appurtenance factor calculation which is more favorable to OCTA's members than the FCC presumption.
[2] *Id*.
[3] Finding and Order, Case No. 15-975-EL-ATA, September 7, 2016, p. 5.
[4] Although OCTA notes that some prior years are included, the overwhelming majority of not-yet-unitized costs are related to the current year of the FERC Form 1 (2018).

amount, which incorrectly assumes that all of the investment is appurtenance-related and none of it is pole-related. OCTA further speculates that the investment might have nothing to do with poles at all. This speculation, however, ignores the fact that these are the amounts reflected in CEI's FERC Form 1 data that the Commission has ordered be used for the pole rental rate calculation formula. OCTA overlooks that pole appurtenance costs are removed from the non-unitized amounts via the calculation in line 16 of Exhibit C, where the total net pole cost is multiplied by the appurtenance factor. Further, while increased pole investment can come from replacing poles or making them more resilient, OCTA speculates that the rate has been improperly affected because it cannot tell whether the number of poles has commensurately increased.[5]

Conversely, CEI's approach is reasonable because it has the effect of treating the not-yet-unitized account 364 investment amount in exactly the same proportion as the remaining 96% of the account 364 investment that has been unitized. Until the unitization process is completed, the most reasonable estimate of the proportion representing appurtenances is the appurtenance factor characterized by the overwhelming majority of the overall investment. In other words, CEI *prevents* non-unitization from distorting the appurtenance factor. Any other estimate of the proportion is speculative and has no basis in fact. Notably, CEI in this case used exactly the same approach approved by the Commission in the 2015 case.

B. CEI's tariff language regarding the effective date for its rate update is consistent with CEI's approved tariff.

OCTA objects to CEI's tariff language stating that rates will become automatically effective within sixty days unless otherwise ordered by the Commission. OCTA claims that the current process is for rate updates to become effective on the 61st day and cites the Commission's

[5] OCTA Objection at p. 2. However, a comparison of the 2019 and 2018 updates shows an increase of 420 poles. *See* Case No. 18-563-EL-ATA, Application, Exhibit C; and Exhibit C in this proceeding (393,982 – 393,462 = 420).

November 30, 2016 Entry in Case No. 13-579-AU-ORD at ¶17. However, ¶17 of that Entry states "At this time, the Commission determines that all such tariff amendment applications, including that of AT&T Ohio in 16-2117, should be subject to a 60-day automatic approval process." CEI's proposed language is consistent with the cited Entry.

Moreover, this proposed revision is consistent with the Commission's August 28, 2019 Entry on Rehearing in Case No. 18-563-EL-ATA, which ordered CEI to implement the Stipulation by removing language from its tariff regarding filing updates no later than May 1 of each year. That Entry said nothing about rates becoming effective on the 61st day after application. Further, any objection based on OCTA's speculation that the pending rule amendment proceeding in Case No. 19-834-AU-ORD might change the process is premature.

C. CEI has properly accounted for jointly-owned poles.

OCTA complains that the records it has reviewed do not demonstrate to its satisfaction how jointly-owned poles are treated. It states without attribution, "Utilities count jointly-owned poles differently."[6] Claiming that CEI *might* lack "economic justification" is insufficient grounds to delay updating a formula rate that the Commission specifically adopted to streamline the process. In fact, OCTA fails to allege what it believes is the proper treatment under the Commission's pole attachment rules, which should be a prerequisite to suspending an automatic update. For the record, however, CEI's count of 393,982 poles includes all of its jointly owned poles in line 17 of Exhibit C consistent with the pole counts in prior Commission-approved tariff update filings.

Further, to the extent that OCTA believes that proper treatment of jointly-owned poles should be as a partial pole corresponding with CEI's partial investment cost in such poles, then the

[6] OCTA Objections at p. 4.

correction would result in an *increase* in the annual rental rate. In addition, OCTA's members attaching pursuant to CEI's tariff are also subject to attachment rates from CEI's joint-ownership counterpart, and OCTA has not alleged any discrepancies between the two pole owners' rate calculations.

II. CONCLUSION

CEI's treatment of non-unitized account 364 pole plant investment is reasonable and has not changed since the Commission approved the Company's appurtenance factor in Case No. 15-975-EL-ATA. Similarly, CEI's proposed language revision regarding the effective date of annual updates is consistent with prior Commission orders. Any corrections related to joint ownership will likely increase rates, not decrease them. The Commission should reject OCTA's Objections and allow the automatic approval process to proceed.

Respectfully submitted,

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On behalf of The Cleveland Electric Illuminating Company

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Response was served via electronic mail to the following person on this 2nd day of December 2019.

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/s/ *Robert M. Endris*
An Attorney for The Cleveland Electric Illuminating Company

Summary: Response Response of The Cleveland Electric Illuminating Company electronically filed by Mr Robert M Endris on behalf of The Cleveland Electric Illuminating Company