

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Delivery Capital	)	
Recovery Rider Contained in the Tariffs of	)	
Ohio Edison Company, The Cleveland	)	Case No. 19-1887-EL-RDR
Electric Illuminating Company and The	)	
Toledo Edison Company	)	

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**REPLY COMMENTS**

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The Ohio Cable Telecommunications Association supports the auditor’s recommendation in this proceeding to reverse adjustments made by Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (collectively, “the FirstEnergy utilities”) regarding the excess accumulated deferred income tax (“EDIT”) values used in the calculation of its Delivery Capital Recovery Rider (“Rider DCR”) rates. The FirstEnergy utilities’ adjusted the EDIT balances downward and used those adjusted values inconsistent with the terms of the stipulation in the FirstEnergy utilities’ Tax Cuts and Jobs Act proceeding<sup>1</sup> to which the OCTA was a signatory party. The utilities’ adjustments to their EDIT balances also would result in improperly inflated net bare pole costs and unjust and unreasonable pole rates when those rates are adjusted in the future. For these reasons, the Commission should reject the FirstEnergy utilities’ EDIT adjustments in the calculation of the DCR or for future pole rates.

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<sup>1</sup> *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company to Implement Matters Related to the Tax Cuts and Jobs Act of 2017*, Case No. 18-1604-EL-UNC, Stipulation (November 9, 2018) and Supplemental Stipulation (January 25, 2019) (collectively, the “TCJA Stipulation”).

The Commission has instructed the FirstEnergy utilities and other pole owners on how EDIT must be handled for the pole attachment rate calculations.<sup>2</sup> The Commission also approved the TCJA stipulation that specified the EDIT balances<sup>3</sup> and the auditor verified that they were the final, audited balances.<sup>4</sup> The FirstEnergy utilities, however, used adjusted EDIT balances in calculating the rider rates. The FirstEnergy utilities claim their adjusted balances are the final, audit balances.<sup>5</sup> Both the auditor<sup>6</sup> and Staff remain unconvinced (Staff supports the auditor's recommendation on this point).<sup>7</sup> The Commission should express similar skepticism and reject the FirstEnergy's claim.

The impact of the adjusted EDIT balances is an additional reason for the Commission to reject the FirstEnergy utilities' position. The Commission should not allow another harmful, unilateral adjustment to EDIT. It would also undermine a goal of the TCJA Stipulation of avoiding the perverse impact of increasing pole attachment rates through inappropriate EDIT values in the calculations and contravene the Commission's own prior directive for properly including EDIT values in the future pole rate cases. Restoring the EDIT balances back to the levels in the TCJA Stipulation for Rider DCR, as the Auditor has recommended, is necessary for Rider DCR and for future pole rate proceedings.

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<sup>2</sup> *In the Matter of the Commission's Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI, Finding and Order at ¶ 30 (October 24, 2018) ("...the Commission directs pole owners filing future pole attachment rate adjustment application to deduct, in addition to ADIT and depreciation reserves, any unamortized excess ADIT resulting from the TCJA from total gross plant and gross pole investment in their pole attachment rate calculations").

<sup>3</sup> TCJA Supplemental Stipulation at Supplemental Attachment A.

<sup>4</sup> Audit Report at 103.

<sup>5</sup> FirstEnergy utilities' Comments at 3.

<sup>6</sup> Audit Report at 104-105.

<sup>7</sup> Staff Comment at 3.

In light of the FirstEnergy's utilities' unilateral actions and unconvincing *post hoc* explanation, the Staff and future auditors should review the utilities' EDIT balances closely. To ensure that occurs, the Commission should direct the Staff to confirm that the restoration adjustment in this case is made and the proper EDIT value is incorporated into the FirstEnergy utilities' future pole attachment rate calculations. Lastly, the Commission should instruct its Staff and other auditors to examine the EDIT values in future proceedings, including the pole attachment rate proceedings, to ensure that the appropriate EDIT values are consistently used.

Respectfully submitted,

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Summary: Reply Comments electronically filed by Mrs. Gretchen L. Petrucci on behalf of Ohio Cable Telecommunications Association