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BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO

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2009 JAN -9 PM 2: 56

PUCO

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 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. 08-711-EL-AAM
	)	

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MOTION TO INTERVENE  
OF  
tw telecom of ohio, llc

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tw telecom of ohio, llc ("TWTC") hereby moves, pursuant to Ohio Revised Code ("R.C.") Section 4903.221 and Ohio Administrative Code ("OAC") Rule 4901-1-11, to intervene in the above-captioned proceedings. As set forth in the Memorandum in Support, TWTC submits that it has a real and substantial interest in these proceedings, that it is so situated that the disposition of these proceedings without TWTC's participation may impair or impede its ability to protect that interest, and that its participation in these proceedings will contribute to a just result. TWTC further submits that no existing party represents its interest in these proceedings and that granting its motion to intervene will not unduly delay these proceedings or unjustly prejudice any existing party.

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## MEMORANDUM IN SUPPORT

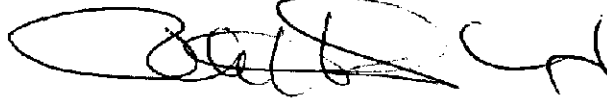
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TWTC has a pole attachment agreement with Duke Energy Ohio, Inc. (Cincinnati Gas & Electric) ("DE - Ohio") that charges a rate for pole attachments based on the Federal Communications Commission's telecom pole attachment formula. TWTC has a significant number of attachments to DE - Ohio poles. The pole attachment rate applications filed by DE - Ohio in this case, if granted by the Commission, could significantly impact the price paid and terms of use by TWTC for such pole attachments and conduit occupancy once its current pole attachment agreement expires if that rate applies in a nondiscriminatory fashion regardless of the underlying technology used by the entity who is attaching to the pole.

Consistent with the requirements of R.C. Section 4903.221 and OAC Rule 4901-1-11, TWTC is a real party in interest herein, whose interest is not now represented, who can make a contribution to these proceedings and who will not unduly delay these proceedings or prejudice any existing party. TWTC submits that its interest is not represented by existing parties; that it will contribute to the just and expeditious resolution of the issues and concerns set forth in these proceedings; and that its participation in these proceedings will not cause undue delay or unjustly prejudice any existing party.

WHEREFORE, TWTC respectfully requests that its motion to intervene in the above-captioned proceedings be granted.

Respectfully submitted on behalf of  
**tw telecom of ohio, llc**



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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing Motion to Intervene was served upon the parties of record listed below this 9<sup>th</sup> day of January 2009 *via* regular mail.



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