

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>In the Matter of the Filing by Ohio Edison</b>	)	
<b>Company, The Cleveland Electric</b>	)	<b>Case No. 16-481-EL-UNC</b>
<b>Illuminating Company, and The Toledo</b>	)	
<b>Edison Company of a Grid Modernization</b>	)	
<b>Business Plan</b>	)	

<b>In the Matter of the Filing by Ohio Edison</b>	)	
<b>Company, The Cleveland Electric</b>	)	<b>Case No. 17-2436-EL-UNC</b>
<b>Illuminating Company and The Toledo</b>	)	
<b>Edison Company Application for Approval</b>	)	
<b>of a Distribution Platform Modernization</b>	)	
<b>Plan</b>	)	

<b>In the Matter of the Application of Ohio</b>	)	
<b>Edison Company, The Cleveland Electric</b>	)	<b>Case No. 18-1604-EL-UNC</b>
<b>Illuminating Company and The Toledo</b>	)	
<b>Edison Company to Implement Matters</b>	)	
<b>Relating to the Tax Cuts and Jobs Act of</b>	)	
<b>2017</b>	)	

<b>In the Matter of the Application of Ohio</b>	)	
<b>Edison Company, The Cleveland Electric</b>	)	<b>Case No. 18-1656-EL-ATA</b>
<b>Illuminating Company, and The Toledo</b>	)	
<b>Edison Company for Approval of a Tariff</b>	)	
<b>Change</b>	)	

**DIRECT TESTIMONY OF  
JONATHON L. McGEE  
ON BEHALF OF  
THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION**

**December 7, 2018**

1   **Q1.   Please introduce yourself.**

2   A1.   My name is Jonathon L. McGee. I am the Executive Director of the Ohio Cable  
3       Telecommunications Association (“OCTA”). My business address is 172 E. State Street,  
4       Suite 302, Columbus, Ohio 43215.

5  
6   **Q2.   What are your current job responsibilities?**

7   A2.   Representing the Ohio cable industry before the Ohio General Assembly, United States  
8       Congress, and various state and federal regulatory agencies, including the Public Utilities  
9       Commission of Ohio, and managing the day-to-day affairs of the OCTA.

10

11   **Q3.   What is your educational background?**

12   A3.   I earned a Bachelor of Arts degree with high distinction in Political Science from Ohio  
13       Northern University and a Juris Doctor degree with honors from The Ohio State  
14       University College of Law. I am licensed to practice law in the State of Ohio and before  
15       the federal bar, but I am not testifying today as an attorney.

16

17   **Q4.   On whose behalf are you testifying today?**

18   A4.   I am testifying on behalf of the OCTA.

19

20   **Q5.   Please describe briefly the OCTA.**

21   A5.   The OCTA is a trade association for the cable telecommunications industry in Ohio. The  
22       OCTA’s members operate throughout Ohio and they provide a variety of  
23       communications services including video, voice, and high-speed Internet access services

1 in the service territories of Ohio Edison Company, The Cleveland Electric Illuminating  
2 Company and The Toledo Edison Company (collectively, “FirstEnergy”). Members of  
3 the OCTA purchase access to FirstEnergy’s electric poles and attach their facilities to  
4 those poles.

5  
6 **Q6. What is the purpose of your testimony?**

7 A6. My testimony supports the Stipulation and Recommendation (“Stipulation”) filed in these  
8 proceedings on November 9, 2018, specifically Section V.J of the Stipulation related to  
9 pole attachment rates.

10  
11 **Q7. Can you describe Section V.J of the Stipulation?**

12 A7. Section V.J has five parts:

- 13 • In three pending cases in which there is a current dispute regarding FirstEnergy’s  
14 pole attachment rates, FirstEnergy agreed to propose revised pole attachment rates  
15 and, contingent upon the Commission approving those revised rates, the OCTA  
16 will file a notice of withdrawal of its applications for rehearing. FirstEnergy  
17 made those filings on November 29, 2018.
- 18 • FirstEnergy will file revised tariff language with its next pole rate adjustment  
19 filings to reflect that it will file to adjust the pole attachment rates only once in a  
20 given calendar year period unless otherwise required by law.
- 21 • FirstEnergy will (a) serve the OCTA with a copy of its next pole rate adjustment  
22 filings, (b) provide the OCTA with certain information listed in Section V.J.c, and

(c) work with the OCTA regarding other additional information, so that the OCTA can evaluate their next pole attachment applications.

- FirstEnergy will include, when it calculates its future pole attachment rates, two important changes resulting from the Tax Cuts and Jobs Act of 2017 – the amount of excess accumulated deferred income taxes (“EDIT”) that has not yet been returned to customers and the tax expense savings due to the tax law’s lower corporate tax rate. The Stipulation identifies FirstEnergy’s accounts through which the EDIT-related debits and credits are to be recorded.
- Within 60 days of the Commission’s approval of the Stipulation, FirstEnergy will meet with the OCTA and Staff to discuss improvements and clarifications to the process(es) and schedule for its pole attachment rate adjustments.

**Q8. Was the Stipulation, including Section V.J, the product of serious bargaining?**

A8. Yes. The OCTA was an active participant in settlement discussions related to the Stipulation. Parties to Case Nos. 16-481-EL-UNC, 17-2436-EL-UNC and 18-1604-EL-UNC were invited to the discussions related to the Stipulation, which then led to the contemporaneous filing of the application in Case No. 18-1656-EL-ATA. The final language in Section V.J of the Stipulation is the result of those negotiations as well.

**Q9. Does the OCTA see a benefit to Section V.J in the Stipulation?**

A9. Yes, Section V.J provides several benefits. Foremost, Section V.J.d resolves an important concern of the OCTA members related to the EDIT not being included in the calculation of future pole attachment rates (the absence of the EDIT would have the

1       perverse impact of increasing the company's pole attachment rate even though the tax  
2       law did not intend to raise pole attachment rates). The Stipulation resolves that concern  
3       because FirstEnergy's accounting will result in all unamortized EDIT being included in  
4       the future pole rate calculations, as well as the tax expense savings caused by the new tax  
5       law. FirstEnergy's accounting is set forth in the Stipulation, allowing the Staff and the  
6       OCTA the opportunity to analyze and confirm the accounting during the amortization  
7       periods.

8  
9       Section V.J.a will revolve an ongoing debate with respect to FirstEnergy's pole  
10      attachment rates based on year-end 2017 data, which is pending in Case Nos. 18-563-EL-  
11      ATA, 18-564-EL-ATA and 18-565-EL-ATA.

12  
13     Section V.J.b will result in additional language in the terms and conditions of  
14     FirstEnergy's pole tariffs to avoid multiple pole rate adjustments in a given calendar year  
15     period.

16  
17     Section V.J.c provides the OCTA an opportunity to promptly receive FirstEnergy's next  
18     pole attachment filings and review the companies' data, as well as other data. This will  
19     allow the OCTA to start a prompt review and analysis of the pole attachment rate  
20     adjustments that should include amortization of the EDIT, the Commission-ordered  
21     deferred liability, and tax savings from the reduced TCJA tax rate.

1 Lastly, per Section V.J.e, there will be discussions among FirstEnergy, the OCTA and  
2 Staff in a good faith attempt to improve and clarify FirstEnergy's process(es) and  
3 schedule for its pole attachment rate adjustments.  
4

5 **Q10. Do you believe that Section V.J supports a finding that the Stipulation is in the**  
6 **public interest?**

7 A10. Yes. Section V.J is in the public interest. It resolves the OCTA's concern and any debate  
8 related to recognition of the EDIT and tax expense savings in FirstEnergy's pole  
9 attachment rate calculations for years, without protracted litigation. Additionally, Section  
10 V.J is in the public interest because pole attachers will not be harmed from artificially  
11 inflated pole attachment rates based on ignoring or sidestepping the EDIT – a  
12 consequence that the Tax Cuts and Jobs Act of 2017 never intended – and which was  
13 attempted in FirstEnergy's pole attachment adjustment filings in Case Nos. 18-563-EL-  
14 ATA, 18-564-EL-ATA and 18-565-EL-ATA. It, in turn, avoids harmful and inflated  
15 pole attachment rates being passed on to the general public. Lastly, Section V.J is in the  
16 public interest because it supports the principle of utility rates being cost-based.  
17

18 **Q11. Does this conclude your testimony?**

19 A11. Yes, but I reserve the opportunity to 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 cards who have electronically subscribed to the cases. In addition, the undersigned hereby certifies that a copy of the foregoing document is also being served (via electronic mail) on the 7th day of December 2018 upon the entities and persons listed below.

/s/ Gretchen L. Petrucci  
Gretchen L. Petrucci

[paul@carpenterlipps.com](mailto:paul@carpenterlipps.com)  
[bojko@carpenterlipps.com](mailto:bojko@carpenterlipps.com)  
[dressel@carpenterlipps.com](mailto:dressel@carpenterlipps.com)  
[bknipe@firstenergycorp.com](mailto:bknipe@firstenergycorp.com)  
[jeckert@firstenergy.com](mailto:jeckert@firstenergy.com)  
[jlang@calfee.com](mailto:jlang@calfee.com)  
[mkeaney@calfee.com](mailto:mkeaney@calfee.com)  
[william.wright@ohioattorneygeneral.gov](mailto:william.wright@ohioattorneygeneral.gov)  
[thomas.lindgren@ohioattorneygeneral.gov](mailto:thomas.lindgren@ohioattorneygeneral.gov)  
[christopher.healey@occ.ohio.gov](mailto:christopher.healey@occ.ohio.gov)  
[bryce.mckenney@occ.ohio.gov](mailto:bryce.mckenney@occ.ohio.gov)  
[terry.etter@occ.ohio.gov](mailto:terry.etter@occ.ohio.gov)  
[rdove@keglerbrown.com](mailto:rdove@keglerbrown.com)  
[trhayslaw@gmail.com](mailto:trhayslaw@gmail.com)  
[leslie.kovacik@toledo.oh.gov](mailto:leslie.kovacik@toledo.oh.gov)  
[whitt@whitt-sturtevant.com](mailto:whitt@whitt-sturtevant.com)  
[campbell@whitt-sturtevant.com](mailto:campbell@whitt-sturtevant.com)  
[glover@whitt-sturtevant.com](mailto:glover@whitt-sturtevant.com)  
[tdougherty@theOEC.org](mailto:tdougherty@theOEC.org)  
[mleppla@theOEC.org](mailto:mleppla@theOEC.org)

[mdortch@kravitzllc.com](mailto:mdortch@kravitzllc.com)  
[gkrassen@bricker.com](mailto:gkrassen@bricker.com)  
[dstinson@bricker.com](mailto:dstinson@bricker.com)  
[joliker@igsenergy.com](mailto:joliker@igsenergy.com)  
[mnugent@igsenergy.com](mailto:mnugent@igsenergy.com)  
[bethany.allen@igs.com](mailto:bethany.allen@igs.com)  
[cmooney@ohiopartners.org](mailto:cmooney@ohiopartners.org)  
[fdarr@mwncmh.com](mailto:fdarr@mwncmh.com)  
[mpritchard@mwncmh.com](mailto:mpritchard@mwncmh.com)  
[mkurtz@bkllawfirm.com](mailto:mkurtz@bkllawfirm.com)  
[kboehm@bkllawfirm.com](mailto:kboehm@bkllawfirm.com)  
[jkylercohn@bkllawfirm.com](mailto:jkylercohn@bkllawfirm.com)  
[glpetrucci@vorys.com](mailto:glpetrucci@vorys.com)  
[ricks@ohanet.org](mailto:ricks@ohanet.org)  
[mwarnock@bricker.com](mailto:mwarnock@bricker.com)  
[dborchers@bricker.com](mailto:dborchers@bricker.com)  
[dparram@bricker.com](mailto:dparram@bricker.com)  
[nhewell@bricker.com](mailto:nhewell@bricker.com)  
[jfinnigan@edf.org](mailto:jfinnigan@edf.org)  
[mfleisher@elpc.org](mailto:mfleisher@elpc.org)

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Summary: Testimony - Direct Testimony of Jonathon L. McGee electronically filed by Mrs. Gretchen L. Petrucci on behalf of Ohio Cable Telecommunications Association