

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**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 for intervention in the above-styled proceeding 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 proceeding. 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 this matter.

The Commission initiated this proceeding to audit the delivery capital recovery riders of Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company (collectively, the "FirstEnergy utilities"). As part of the audit, the auditor evaluated the FirstEnergy utilities' implementation of the Tax Cuts and Jobs Act of 2017 ("TCJA") as approved by the Commission in *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, Opinion and

Order (July 17, 2019).

The OCTA was a party to that TCJA proceeding and seeks to ensure that the FirstEnergy utilities comply with the requirements of that proceeding. The OCTA also seeks to intervene because the adjustments that the FirstEnergy utilities made to the excess accumulated deferred income tax (“EDIT”) values used in the calculation of their Delivery Capital Recovery Rider (“Rider DCR”) rates, if approved, would result in improperly inflated net bare pole costs and unjust and unreasonable pole rates when those rates are adjusted in the future.

Access to the poles, conduits and rights-of-way of Ohio’s public utilities is a vitally important aspect of the OCTA’s members’ provision of their own services in Ohio. More specifically, pole access is essential for the OCTA’s members to provide a variety of communications services, including video, voice, and Internet access services in the FirstEnergy utilities’ service territories. The OCTA and its members have a direct and significant stake in ensuring that the FirstEnergy utilities’ EDIT balances are proper and then properly included in the pole attachment rate calculations in full compliance with the Commission’s decisions in the FirstEnergy utilities’ Tax Cuts and Jobs Act proceeding, the Commission’s TCJA investigation,¹ and the adopted administrative rules in Chapter 4901:1-3, Ohio Administrative Code.

The OCTA is a knowledgeable association with extensive experience in Ohio and in previous proceedings involving pole attachment and conduit occupancy rates. The OCTA will contribute to a just and expeditious resolution of the issues involved in this proceeding, and its intervention will not result in an undue delay of the proceeding. Finally, the OCTA’s interests are not represented by any other party in this proceeding.

¹ *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”).

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 certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 11th day of August 2020 upon all persons/entities listed below:

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