

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio)	
Edison Company for Approval of a Tariff)	Case No. 20-1643-EL-ATA
Change)	

**MOTION FOR LEAVE 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 leave to intervene in the above-styled proceeding as a full party of record pursuant to Revised Code Section 4903.221 and Ohio Administrative Code 4901-1-11. The OCTA was a party of record in prior pole attachment proceedings of Ohio Edison Company (“OE”). The purpose of the intervention in this proceeding is for the OCTA to express its opposition regarding the automatically approved pole attachment rate, which was based on a change OE made to its rate calculation, which was first presented in this proceeding in its amended application filed on December 23, 2020 (after the objection deadline). OE estimated the number of its non-unitized poles incorrectly and then used that number to propose a new pole attachment rate. That revised rate was approved automatically. Good cause exists to grant the OCTA leave to intervene under these extraordinary circumstances.

WHEREFORE, the OCTA respectfully requests that the Public Utilities Commission of Ohio grant this motion for leave to intervene and make the OCTA a full party of record. Contemporaneous to the filing of this motion for leave to intervene, the OCTA is filing a motion for leave to file an application for rehearing and an application for rehearing showing that the erroneous approach should be reviewed and the pole attachment rate should be revised.

Respectfully submitted,

/s/ Gretchen L. Petrucci

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**MEMORANDUM IN SUPPORT OF
THE MOTION FOR LEAVE TO INTERVENE OF
THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION**

Revised Code (“R.C.”) Section 4903.221 and Ohio Administrative Code (“Ohio Adm.Code”) 4901-1-11 establish the standard for intervention in the above-styled proceeding. Ohio Adm.Code 4901-1-11 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.

Also, a motion to intervene that is not timely is granted under extraordinary circumstances, per Ohio Adm.Code 4901-1-11.

The OCTA represents the cable telecommunications industry in Ohio. The OCTA members have existing and potential business interests in OE’s service territory, which will be directly and substantially affected by the outcome of this proceeding. Pole access is essential for the OCTA members to provide a variety of communications services, including video, voice, and Internet access services in OE’s service territory.

OE amended its original application a few days prior to the automatic approval date, and during the holidays. The amended application contained, for the first time, a new pole count based on the addition of an estimate of non-unitized poles. The amended application contained no supporting detail about the estimate. OE followed the same approach to estimating the number of

non-unitized poles as was done by its other Ohio affiliates in their pole attachment proceedings.¹ As the OCTA has shown in those other cases, there were errors in the approach used, which was not anticipated. Moreover, the OCTA could not comment on the amended application and new calculations because they were filed after the deadline for third parties to file their objections.² Therefore, this situation involves extraordinary circumstances.

As the trade association that represents the cable telecommunications industry in Ohio whose members attach to OE's poles and pay its pole attachment rate, a properly calculated pole attachment rate is of direct interest to the OCTA and its members. The OCTA's interest is unique and not represented by any other party. The OCTA strongly believes that its intervention in this proceeding will assist in approval of a pole attachment rate that follows the Commission's adopted administrative rules in Ohio Adm.Code Chapter 4901:1-3 and is just and reasonable.

WHEREFORE, for all of the foregoing reasons, the OCTA respectfully requests that the Commission grant this motion for leave to intervene and that the OCTA be made a full party of record.

¹ See the OCTA's applications for rehearing filed this same date in *In the Matter of the Application of The Cleveland Electric Illuminating Company to Update its Pole Attachment Rate*, Case No. 20-1644-EL-ATA, and *In the Matter of the Application of The Toledo Edison Company to Update its Pole Attachment Rate*, Case No. 20-1645-EL-ATA.

² The Commission's process allows intervenors only the opportunity to object, which must be filed within 20 days of the filing of the initial application. The amended application was filed well past that deadline. In the past, the Commission has denied OCTA's request for leave to file further comments after the objections and responses were filed. See *In the Matter of the Application of The Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company to Change Their Pole Attachment Tariffs*, Case No. 15-975-EL-ATA, Finding and Order at ¶ 11 (September 7, 2016).

Respectfully submitted,

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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 hereby certifies that a copy of the foregoing document is also being served (via electronic mail) on the 28th day of January 2021 upon the persons listed below.

Ohio Edison Company

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Staff of the Public Utilities Commission of Ohio

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/s/ Gretchen L. Petrucci

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