

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
The Toledo Edison Company) Case No. 20-1645-EL-ATA
for Approval of a Tariff Change)

**APPLICATION FOR REHEARING OF
THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION**

The Ohio Cable Telecommunications Association (“OCTA”) respectfully requests rehearing of the decision of the Public Utilities Commission of Ohio (“Commission”) to approve automatically on December 29, 2020, the pole attachment rate of \$10.45, as contained in the amended application filed on December 23, 2020, by The Toledo Edison Company (“TE”). The OCTA requests that the Commission reverse its decision, and requests that the estimated number of non-unitized poles used for the pole attachment rate calculation be revised and the pole attachment rate be revised. The Commission’s decision was unlawful and unreasonable for the following reasons:

Assignment of Error 1: It was unjust and unreasonable for the Commission to automatically approve a pole attachment rate of \$10.45 based on inputs used to calculate an estimate of the number of non-unitized poles that do not match the company’s records and cannot be verified.

Assignment of Error 2: It was unjust and unreasonable for the Commission to automatically approve a pole attachment rate of \$10.45 based on a revised number of poles without evidence in the record to demonstrate that the revised number of poles is just and reasonable.

Respectfully submitted,

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MEMORANDUM IN SUPPORT**I. Introduction**

The pole attachment rate approved in this matter was based on a pole count in TE's amended application that included an estimate for poles associated with non-unitized investment in FERC Account 364. The OCTA agrees that the pole count should include non-unitized poles. However, the record and TE's own data do not substantiate the estimated non-unitized poles used in the amended application. For this reason, the estimated number of non-unitized poles used for the pole attachment rate calculation should be revised consistent with TE's data and, using that number, a revised pole attachment rate should be approved as reflected in Confidential Attachment A.

II. Argument

Assignment of Error 1: It was unjust and unreasonable for the Commission to automatically approve a pole attachment rate of \$10.45 based on inputs used to calculate an estimate of the number of non-unitized poles that do not match the company's records and cannot be verified.

Assignment of Error 2: It was unjust and unreasonable for the Commission to automatically approve a pole attachment rate of \$10.45 based on a revised number of poles without evidence in the record to demonstrate that the revised number of poles is just and reasonable.

TE filed an amended application in this matter on December 23, 2020. In its amendment, TE changed only the number of its poles for 2019 from 220,203 to 221,541 – an increase of 1,338 poles.¹ TE explained in a footnote that the revised number of poles “[i]ncludes an estimate for the number of poles associated with non-unitized plant balances in FERC account 364, based on historical average costs per pole.”² No further information was presented with the filing.

¹ Compare lines 17 of Exhibit C in the October 30, 2020 Application with the December 23, 2020 Amended Application.

² See footnote on Exhibit C of the December 23, 2020 Amended Application.

Staff described in its Review and Recommendation the company's methodology for calculating the estimated non-unitized poles as follows: the non-unitized pole investment in Account 364 divided by the actual, average cost of a pole placed in 2019.

In confidential discovery responses served at the time of the amended application, TE identified the inputs used for calculating the estimate for the number of poles associated with non-unitized plant balances in FERC account 364, based on historical average costs per pole. TE also served relevant company records and data.

Importantly, the OCTA does not take issue with TE's methodology (formula) for calculating the non-unitized pole estimate and the OCTA agrees that the resulting estimate should be added to the number of poles listed in TE's original application to ultimately calculate the pole attachment rate. The OCTA, however, was not able to verify the value that TE actually used for one input. The input was not identified in the amended application filing and TE provided no further explanation even though, as the applicant, it has the burden of proof. TE's confidential discovery responses (served concurrent with the amended application) list a different value than what TE used, and no explanation was presented. Therefore, validation of the input used could not be made. Rather, TE's records reflect that another value should have been input into the estimate calculation and, if done, a lower pole attachment rate would result.

Further details regarding the input and the company's records are contained in the Confidential Attachment A to this Application for Rehearing.

The OCTA does not take a position in this pleading on the confidentiality of the values used in calculating the estimated non-unitized poles or the confidentiality of TE's records. In accordance with the protective agreement that the OCTA and TE executed for this proceeding and until the Commission rules otherwise, the OCTA submits further detail under seal to

demonstrate the inconsistency between TE's own records and the value it used in calculating the estimate for the number of non-unitized poles.

III. Conclusion

Neither the record nor TE's own data as served in discovery supports the revised pole attachment rate. It was, therefore, an error for the Commission to automatically approve TE's revised pole attachment rate of \$10.45. As identified in the Confidential Attachment A, the estimated number of non-unitized poles used for the pole attachment rate calculation should be revised based on the data in TE's records and, using that number, a revised pole attachment rate should be approved.

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 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.

The Toledo Edison Company

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Staff of the Public Utilities Commission of Ohio

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/s/ Gretchen L. Petrucci _____

Gretchen L. Petrucci

CONFIDENTIAL ATTACHMENT A



The Toledo Edison Company

| Column | [REDACTED] |
|------------------------|------------|------------|------------|------------|------------|------------|------------|
| Description of column | [REDACTED] |
| Values used by CEI [1] | [REDACTED] |
| Values in CEI records | [REDACTED] |



[Remainder omitted and submitted under seal]

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Summary: App for Rehearing PUBLIC Version - Application for Rehearing electronically filed by Mrs. Gretchen L. Petrucci on behalf of Ohio Cable Telecommunications Association