

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
OHIO EDISON COMPANY FOR APPROVAL
OF AN UPDATE TO ITS POLE
ATTACHMENT TARIFF.

CASE NO. 20-1643-EL-ATA

IN THE MATTER OF THE APPLICATION OF
THE CLEVELAND ILLUMINATING
COMPANY FOR APPROVAL OF AN
UPDATE TO ITS POLE ATTACHMENT
TARIFF.

CASE NO. 20-1644-EL-ATA

IN THE MATTER OF THE APPLICATION OF
THE TOLEDO EDISON COMPANY FOR
APPROVAL OF AN UPDATE TO ITS POLE
ATTACHMENT TARIFF.

CASE NO. 20-1645-EL-ATA

ENTRY ON REHEARING

Entered in the Journal on February 24, 2021

I. SUMMARY

{¶ 1} The Commission grants the applications for rehearing filed by The Ohio Cable Telecommunications Association for the purpose of further consideration of the matters specified in the applications for rehearing.

II. DISCUSSION

{¶ 2} The Cleveland Electric Illuminating Company (CEI), Ohio Edison Company (Ohio Edison), and The Toledo Edison Company (Toledo Edison) are each an electric light company as defined in R.C. 4905.03 and a public utility as defined in R.C. 4905.02, and, as such, are subject to the jurisdiction of the Commission.

{¶ 3} On October 30, 2020, Ohio Edison filed an application in Case No. 20-1643-EL-ATA seeking to revise its pole attachment rates as a result of utilizing 2019 Federal Energy Regulatory Commission (FERC) data.

{¶ 4} On October 30, 2020, CEI filed an application in Case No. 20-1644-EL-ATA (20-1644) seeking to revise its pole attachment rates as a result of utilizing 2019 FERC data.

{¶ 5} On October 30, 2020, Toledo Edison filed an application in Case No. 20-1645-EL-ATA (20-1645) seeking to revise its pole attachment rates as a result of utilizing 2019 FERC data.

{¶ 6} On November 20, 2020, The Ohio Cable Telecommunications Association (OCTA) filed objections to the applications filed in 20-1644 and 20-1645.

{¶ 7} On November 30, 2020, CEI and Toledo Edison filed joint responses to OCTA's objections in Case Nos. 20-1644 and 20-1645.

{¶ 8} Consistent with the approval process established in the November 30, 2016 Entry in Case No. 13-579-AU-ORD (13-579), these cases were automatically approved on December 29, 2020, with an effective date of January 1, 2021.

{¶ 9} On November 20, 2020, OCTA filed a motion to intervene in Case Nos. 20-1644 and 20-1645. In support of its motions to intervene, OCTA submits that it has members who have existing and potential business interests in the service territories of CEI and Toledo Edison. Specifically, OCTA asserts that pole and conduit access is essential for its members to provide a variety of communications services, including video, voice, and Internet access services in CEI and Toledo Edison's service territory. Therefore, OCTA avers that it and its members have a direct and significant stake in ensuring that the new proposed rates fully comply with the Commission's pole attachment and conduit occupancy rules set forth in Ohio Adm.Code Chapter 4901:1-3 and are just and reasonable. OCTA asserts that the Commission's decision in Case Nos. 20-1644 and 20-1645 could not only affect CEI's and Toledo Edison's tariffs, but also have a bearing on what is considered appropriate for other utility pole owners in Ohio. According to OCTA, its interests are not represented by any other party in this proceeding. OCTA states that its intervention will contribute to a just

and expeditious resolution of the issues involved in this proceeding and will not result in an undue delay.

{¶ 10} On January 28, 2021, OCTA filed a motion for leave to intervene in Case No. 20-1643. In support of its motion, OCTA states that the purpose for its requested intervention is to express its opposition regarding the automatically approved pole attachment rate, which was based on a change that Ohio Edison made to its rate calculation. OCTA asserts that this change was first presented in the amended application filed on December 23, 2020, following the objection deadline. According to OCTA, while the amended application contained, for the first time, a new pole count based on the addition of an estimate of non-unitized poles, it contained no supporting detail about the estimate.

{¶ 11} OCTA avers that pole access is essential for OCTA members to provide a variety of communications services, including video, voice, and Internet access services in Ohio Edison's service territory. OCTA submits that its members will have existing and potential business interests in Ohio Edison's service territory, which will be directly and substantially affected by the outcome of Case No. 20-1643.

{¶ 12} No memoranda contra were filed in response to OCTA's motions to intervene or motion for leave to intervene.

{¶ 13} OCTA's motions to intervene and motion for leave to intervene are reasonable and should be granted.

{¶ 14} R.C. 4903.10 states that any party who has entered an appearance in a Commission proceeding may apply for rehearing with respect to any matters determined in that proceeding, by filing an application within 30 days after the entry of the order upon the journal of the Commission.

{¶ 15} On January 28, 2021, OCTA filed an application for rehearing in each of the respective cases. OCTA also filed a motion for leave to file an application for rehearing in Case No. 20-1643. In support of its applications for rehearing, OCTA contends that it was

unjust and unreasonable for the Commission to automatically approve the pole attachment rates proposed by CEI, Ohio Edison, and Toledo Edison based on inputs used to calculate an estimate of the number of non-unitized poles that do not match the respective company's records and cannot be verified. OCTA also contends that it was unjust and unreasonable for the Commission to automatically approve the proposed pole attachment rates without evidence in the record to demonstrate that the revised number of poles is just and reasonable.

{¶ 16} On February 8, 2021, CEI, Ohio Edison, and Toledo Edison jointly filed a memorandum contra the respective applications for rehearing.

{¶ 17} The Commission finds that the applications for rehearing filed by OCTA should be granted for further consideration of the matters specified in the applications for rehearing.

III. ORDER

{¶ 18} It is, therefore,

{¶ 19} ORDERED, That OCTA's motions for intervention and leave for intervention be granted in the respective cases. It is, further,

{¶ 20} ORDERED, That the motion for leave to file an application for rehearing in Case No. 20-1643 be granted. It is, further,

{¶ 21} ORDERED, That the applications for rehearing be granted for further consideration of the matters specified in the respective applications for rehearing. It is, further,

{¶ 22} ORDERED, That a copy of this Entry on Rehearing be served upon each party of record.

COMMISSIONERS:

Approving:

M. Beth Trombold

Lawrence K. Friedeman

Daniel R. Conway

Dennis P. Deters

JSA/kck

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Case No(s). 20-1643-EL-ATA, 20-1644-EL-ATA, 20-1645-EL-ATA

Summary: Entry granting the applications for rehearing filed by The Ohio Cable Telecommunications Association for the purpose of further consideration of the matters specified in the applications for rehearing. electronically filed by Kelli C. King on behalf of The Public Utilities Commission of Ohio