

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of The)
Cleveland Electric Illuminating Company) Case No. 22-934-EL-ATA
for Approval of a Tariff Change)**

**MOTION TO INTERVENE OF
THE OHIO CABLE TELECOMMUNICATIONS ASSOCIATION**

The Ohio Cable Telecommunications Association (“OCTA”) – Ohio’s broadband and cable association – moves for intervention in this proceeding as a full party of record pursuant to R.C. 4903.221 and Ohio Adm.Code 4901-1-11. The OCTA, representing the interests of Ohio’s cable telecommunications industry, has members who attach to the poles owned by The Cleveland Electric Illuminating Company and they will be directly affected by the outcome of this proceeding. 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**

R.C. 4903.221 and Ohio Adm.Code 4901-1-11 establish the standard for intervention in the above-styled proceeding. R.C. 4903.221(B) states that any person who may be adversely affected by a Public Utilities Commission of Ohio (“Commission”) proceeding may seek to intervene by filing a motion. Similarly, 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.

In addition to establishment of a direct interest, the factors that the Commission considers 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* R.C. 4903.221(B) and Ohio Adm.Code 4901-1-11. A review of these factors in light of the following facts supports granting the OCTA’s intervention in this matter.

The Cleveland Electric Illuminating Company (“CEI”) filed an application on October 21, 2022, in Case No. 22-934-EL-ATA to modify the rate it charges for pole attachments. Included in the application is a proposed refund, which is based on a pending recommendation in Case No. 20-1629-EL-RDR. CEI’s application is subject to the Commission-established automatic approval process. Ohio Adm.Code 4901:1-3-04(A).

The OCTA represents the cable telecommunications industry in Ohio. The OCTA members have existing and potential business interests in the State and, in particular, in CEI’s

service territory, which will be directly and substantially affected by the outcome of this proceeding. Access to the poles, conduits and rights-of-way of Ohio's public utilities is a vitally important aspect of the OCTA members' provision of their own services in Ohio. More specifically, pole access is essential for the OCTA members to provide a variety of communications services, including video, voice, and broadband/Internet access services in CEI's service territory. The OCTA and its members, therefore, have a direct and significant stake in ensuring that CEI's pole attachment rate fully complies with the Commission's adopted administrative rules in Ohio Adm.Code Chapter 4901:1-3 and is just and reasonable. The Commission's decision in this matter could affect not only CEI's tariffs, but also have a bearing on what is considered appropriate for other utility pole owners in Ohio. The OCTA seeks to intervene in this case to protect those interests of its members.

In addition, because CEI proposes in this proceeding to include a refund in its pole rate calculation (which refund is based on a pending recommendation in Case No. 20-1629-EL-RDR), the OCTA files this motion to intervene to protect its rights and interests in other Commission matters. The OCTA wants to ensure that consideration of this proceeding will not prejudice the OCTA's interests in the issues pending before the Commission in other pending proceedings, including Case No. 20-1629-EL-RDR and other DCR-related proceedings.¹

The OCTA is a knowledgeable association with extensive experience in Ohio and in previous proceedings involving pole attachment and conduit occupancy rates. For example, the OCTA intervened and participated in the Commission's pole attachment rule reviews (Case Nos.

¹ *In the Matter of the 2020 Review of the Delivery Capital Recovery Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 20-1629-EL-RDR; and *In the Matter of the Delivery Capital Recovery Rider Contained in the Tariffs of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 19-1887-EL-RDR, which has been consolidated with *In the Matter of the 2018 Review of the Delivery Capital Recovery Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 18-1542-EL-RDR.

13-579-AU-ORD, 19-834-AU-ORD and 22-827-AU-ORD) and in prior similar pole attachment tariff cases of CEI (Case Nos. 20, 1644-EL-ATA, 19-1038-EL-ATA, 18-563-EL-ATA, 17-2005-EL-ATA, and 15-975-EL-ATA). The OCTA will contribute to a just and expeditious resolution of the issues involved in this proceeding. The OCTA's motion is timely filed and, therefore, 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.

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 hereby certifies that a copy of the foregoing document is also being served (via electronic mail) on November 14, 2022, upon the persons listed below.

The Cleveland Electric Illuminating Company kfling@firstenergycorp.com

Staff of the Public Utilities Commission of Ohio john.jones@OhioAGO.gov

/s/ Gretchen L. Petrucci

Gretchen L. Petrucci

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