

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Cleveland)
Electric Illuminating Company to update its)
pole attachment rate) Case No. 22-0934-EL-ATA

**REVIEW AND RECOMMENDATION
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

On October 21, 2022, Cleveland Electric Illuminating Company (CEI) filed an application to revise its pole attachment rate using 2021 FERC Form 1 data initially seeking to decrease the rate from \$13.21 per attachment, per year to \$12.04 per attachment, per year.

This application was filed pursuant to Ohio Adm.Code 4901:1-3-4 as adopted in Case No. 19-0834-AU-ORD. Pursuant to Ohio Adm.Code 4901:1-3-4 the application is subject to a 60-day automatic approval process.

In CEI's previous pole attachment rate application (19-1038-EL-ATA), Staff determined that poles associated with non-unitized investment in Account 364 were not included in the pole count used in the initial rate calculation. The number of poles is a direct input in the pole attachment rate formula. All else equal, the higher the number of poles the lower the pole attachment rate. As a result, CEI amended its previous application to include an estimate of the number of poles associated with non-unitized Account 364 investment based on historical average costs per pole. CEI has used the same methodology in this case and Staff again believes the methodology is reasonable.

In its pole attachment rate calculations submitted with this application, CEI included a new line item, "Rate Adjustment", that reduces the pole attachment rate calculation by \$0.16. The Rate Adjustment is designed to refund overcharges that were made in prior years as a result of the inclusion of expenses from certain vendors that were determined to not be subject to recovery from ratepayers. These findings were contained in the Blue Ridge Compliance Audit Report of the 2020 Delivery Capital Recovery Riders of Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company (Audit Report) filed in Case No. 20-1629-EL-RDR (DCR Audit) on August 3, 2021. The Audit Report found that if the expenses associated with these vendors were not included in the pole attachment rate calculations for

2016-2021, the pole attachment rates for those years would have been between \$.01 and \$.05 lower. When these amounts are multiplied by the number of attachments billed in those years, including interest at the company's cost of debt, the total proposed to be refunded to CEI attachers amounts to \$28,319 which at an estimate of 179,835 attachments in the next billing cycle, results in the \$.16 reduction.

On November 14, 2022, the Ohio Cable Telecommunications Association (OCTA) filed a Motion to Intervene, Memorandum in Support and Objections to the application. In its objections, OCTA argues that including a refund based on Audit Report recommendations should not be construed as fully resolving OCTA's issues in the DCR Audit or those which are at issue in the corresponding audit in Case No. 19-1887-EL-RDR. OCTA therefore recommends that the decision to adopt a new pole attachment rate in this proceeding should be on the condition that the tariff include a provision that the rate is reconcilable and subject to potential further refund base on the outcomes of those other proceedings. OCTA further argues that the interest rate applied to overcharges from 2016-2021 should be at the company's most recently approved rate of return of 8.48% rather than the company's cost of debt of 6.54% as proposed by OE.

On November 25, 2022, CEI filed a Reply to OCTA's Objections (Reply). In its Reply CEI agrees with the OCTA that the pole attachment rate update in this case does not resolve any other proceedings. The company states that if other proceedings necessitate a change to the company's pole attachment rate, the company will reconcile the amounts as appropriate. Though CEI doesn't believe it is necessary, it does not object to the incorporation of OCTA's proposed tariff language.

On August 24, 2022, the Commission, at the request of United States Department of Justice, stayed Case No. 20-1629-EL-RDR and three other cases for a period of six months, unless otherwise ordered by the Commission.

On December 20, 2022, the Attorney Examiner issued an Entry suspending the case due to additional information and investigation being needed in order to complete a review of the application.

Later on the day of December 20, 2022, due to the stay in Case No. 20-1629-EL-RDR and at Staff request, CEI amended their application to remove the Rate Adjustment designed to refund overcharges and interest identified in the Audit Report. CEI states that the refund of overcharges and accumulated interest will be reflected in a future pole attachment rate adjustment proceeding. As such, OCTA's objections in this proceeding are moot and may be revisited in a future pole attachment rate adjustment proceeding where the overcharges will be refunded to attachers. The proposed, amended rate is now \$12.20.

Staff has reviewed the pole attachment rate calculations including the supplemental source of the data used in the calculations provided by CEI and has found them to be consistent with the

formula contained in Ohio Adm.Code 4901:1-3-4(D)(1) and (2). As such, Staff believes that approval of the application will promote public convenience and result in the provision of adequate service for a reasonable rate, rental, toll, or charge.

According to Ohio Adm.Code 4901:1-3-4(A)(2), pending pole attachment tariff amendment applications under full or partial first suspension will be automatically approved thirty days from the date of suspension, December 20, 2022, in this case, if all issues are resolved. Staff therefore recommends automatic approval of the application on January 19, 2023, with an effective date as of the filing of final tariffs but no earlier than January 20, 2023.

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Summary: Staff Review and Recommendation electronically filed by Mrs. Tanika
Hawkins on behalf of PUCO Staff