

**BEFORE**  
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the )  
Political and Charitable Spending by Ohio ) Case No. 20-1502-EL-UNC  
Edison Company, The Cleveland Electric )  
Illuminating Company, and the Toledo )  
Edison Company. )

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**REVISED MOTION TO COMPEL RESPONSES TO DISCOVERY**  
**BY**  
**OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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November 10, 2020

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This is a case that *should* be about whether FirstEnergy used funds collected from FirstEnergy Utility customers for alleged illegal activities to support H.B. 6, the \$1.5 billion bailout bill for its two, uneconomic nuclear units. In fact, when the PUCO opened this proceeding, it described its purpose that way: “to review the political and charitable *spending* by First Energy in support of H.B.6.”<sup>1</sup> (emphasis added).

But when OCC sought to learn the truth about whether FirstEnergy *spent* or *used* funds collected from Ohio utility customers for HB 6 (instead of for providing utility service) the FirstEnergy Utilities refused to answer a single question. The backdrop for this regulatory dispute includes the extraordinary<sup>2</sup> events alleged in the U.S. Government's criminal complaint, apparently involving FirstEnergy, regarding corruption

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<sup>1</sup> *In the Matter of the Review of the Political and Charitable Spending by Ohio Edison, the Cleveland Electric Illuminating Company and the Toledo Edison Company*, Case No. 20-1502-EL-UNC, Entry at ¶5 (Sept. 15, 2020).

<sup>2</sup> On October 29, 2020, FirstEnergy Corp. announced the termination of its Chief Executive Officer (Charles E. Jones), its Senior Vice President of Product Development, Marketing and Branding (Dennis Chack), and its Senior Vice President of External Affairs (Michael Dowling). FirstEnergy announced that the Independent Review Committee of its Board of Directors determined that these executives violated certain FirstEnergy policies and its code of conduct.

in the passage of House Bill 6. Far from extraordinary, the discovery that OCC seeks from FirstEnergy Utilities is the type of discovery ordinarily permitted and encouraged under PUCO rule and Ohio law. The OCC files this motion to compel to get answers about what FirstEnergy did for H.B. 6 and who paid for it.

Under Ohio Administrative Code (“Ohio Admin. Code”) 4901-1-12 and 4901-1-23,<sup>3</sup> OCC moves the Public Utilities Commission of Ohio (“PUCO”), the legal director, the deputy legal director, or an attorney examiner for an order compelling FirstEnergy Utilities to expeditiously respond to OCC’s First and Second Sets of Discovery.(Attachments 1,2).

Specifically, OCC requests that the PUCO compel FirstEnergy Utilities to fully respond to almost the entire set of OCC’s First Set of discovery, consisting of OCC Interrogatories No. 2, 5, 11, 12, 13, 14, 19-21; OCC’s Requests for Production of Documents Nos. 4, 5, 7, 8, 9, 12, 13, 14, 19, 20, and Requests for Admissions 5, 6, 16, and 18. These discovery requests and FirstEnergy Utilities’ non-responses are attached as OCC Attachment 1.

OCC also requests that the PUCO compel FirstEnergy Utilities to fully respond to OCC’s Second Set of Discovery, specifically OCC Interrogatories 2-001 through 2-009; and Request for Production 2-001.

The OCC has detailed in the attached affidavit<sup>4</sup> the efforts which it undertook to resolve differences between it and FirstEnergy Utilities, consistent with Rule 4901-1-

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<sup>3</sup> See Ohio Admin. Code 4901-1-12 and 4901-1-23.

<sup>4</sup> OCC Attachment 3.

23(C)(3). At this moment, FirstEnergy Utilities and OCC have failed to reach a mutually satisfactory solution to their differences.

OCC files this Motion to Compel, with the reasons supporting this motion set forth in the attached Memorandum in Support. OCC also requests an expedited ruling on its motion to compel, consistent with Ohio Adm. Code 4901-1-12(C). This is intended to allow resolution of the discovery conflict prior to OCC filing comments and reply comments in this proceeding. OCC is unable to certify that no party objects to the issuance of an expedited ruling.

Respectfully submitted,

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## I. INTRODUCTION

In the First Set of OCC discovery OCC sought information on a number of issues including whether FirstEnergy spent money collected from customers on HB 6 activities (OCC Int. 2 (a-f), 5(a-g), 11, 12, 13, 14; RFA 5, 6; RFP 4, 5-7). OCC also sought information reported on 2018 FERC Form 1s by the FirstEnergy Utilities related to expenses that appeared to be lobbying expenses incurred during 2017 (the beginning of the alleged HB 6 activities). (OCC Int. 19-21).

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Chack, Senior V.P. Product Development, Marketing and Branding.<sup>5</sup> And OCC asked for information about the structure of the External Affairs organization that would be involved in lobbying efforts. (RPD 19, 20). Additionally, OCC sought information about whether FirstEnergy had used the distribution modernization rider charges collected from customers for HB 6 activities. (RFA 16,18).

OCC's discovery was focused on FirstEnergy's political and charitable spending, consistent with the words chosen by the PUCO when it opened this case to review "the political and charitable spending" by FirstEnergy in support of HB 6. As noted in the PUCO Entry, the PUCO has jurisdiction to conduct this review of the political and charitable spending of FirstEnergy in support of HB 6.

In the Second set of OCC discovery, the focus was on whether FirstEnergy *used* any of the funds collected from consumers on H.B 6 activities. OCC's discovery sought information on use of funds collected from consumers in the various charges, rates, and riders that Mr. Fanelli referred to in his affidavit, attached to FirstEnergy Utilities' Response to the PUCO show cause order.

On October 19, 2020, FirstEnergy Utilities served their response to OCC's First Set of discovery. (Attachment 1). FirstEnergy Utilities' responses to OCC's discovery were nearly identical at every turn. They objected to OCC's discovery as not being reasonably calculated to lead to the discovery of relevant and admissible evidence, based on their reading of the show cause order. Additionally, they alleged that "expenditures

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<sup>5</sup> Mackinnon, J., Akron Beacon Journal, "FirstEnergy fires CEO Chuck Jones after 2 plead guilty in Householder bribery scheme" (Oct. 29, 2020). <https://www.beaconjournal.com/story/news/2020/10/29/householder-scandal-firstenergy-fires-ceo-chuck-joes-plead-guilty-bribery-scheme/6078931002/>

made by the Companies are outside OCC's jurisdiction and thus, unlawful for OCC to investigate." And FirstEnergy Utilities complained that OCC's discovery is "overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense."<sup>6</sup>

On October 20, 2020, FirstEnergy Utilities provided a response to OCC's Second Set of discovery. (Attachment 2). Again, although a bit more information was provided in this set, the Utilities failed to answer most of the questions. Their objections were largely consistent with those they posed in response to OCC's First Set of Discovery. FirstEnergy Utilities objected on grounds that the information sought is "irrelevant to the subject matter involved in the proceeding;" and "not reasonably calculated to lead to the discovery of relevant or admissible evidence." In this regard, FirstEnergy Utilities explained that OCC's discovery "involves the Companies possible expenditures" instead of whether the costs of any political or charitable spending in support to HB 6 were included in rates or charges paid by customers. FirstEnergy Utilities also objected that OCC's discovery was "overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense." (There was no objection, however, that OCC lacked jurisdiction in this matter, as previously asserted in response to OCC's First Set of discovery).

Predictably, the FirstEnergy Utilities seek to limit the PUCO's review to a much smaller scope that shields it from answering and fails to protect customers. FirstEnergy Utilities believe the scope of the proceeding should be whether FirstEnergy Utilities charged customers in rates for political and charitable spending on H.B. 6. While this is

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<sup>6</sup> Attachment 1 at 5.

important to know, as explained in OCC’s interlocutory appeal, that more limited review and the reliance on self-reporting by FirstEnergy are inadequate to protect the Utilities’ two million customers.<sup>7</sup> Even if there is not a designated rate component for political and charitable spending, that does not mean that they did not use customer charges (supposed to be used for providing electric service) for political and charitable contributions that funded the illegal activities alleged by federal prosecutors.

On or around October 15, 2020, OCC spoke with the FirstEnergy Utilities’ Counsel concerning the deposition of Mr. Fanelli. During that discussion it became clear that there is a fundamental disagreement between OCC and FirstEnergy Utilities about the scope of this proceeding. On November 3, 2020, OCC contacted FirstEnergy Utilities Counsel specifically about the discovery responses OCC received to its First and Second Set of Discovery. OCC and FirstEnergy Utilities Counsel spoke about the scope of discovery. OCC and FirstEnergy Utilities were unable again to reach agreement on the scope of discovery. There being an impasse, OCC has exhausted all reasonable means of resolving any differences, leading to the filing of this motion to compel.

## **II. PARTIES’ RIGHT TO DISCOVERY**

According to the PUCO “the policy of discovery is to allow the parties to prepare cases and to encourage them to prepare thoroughly without taking undue advantage of the other side’s industry or efforts.”<sup>8</sup> The PUCO’s rules on discovery “*do not create an additional field of combat to delay trials or to appropriate the Commission’s time and*

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<sup>7</sup> *In the Matter of the Review of the Political and Charitable Spending by Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company*, Case No. 20-1502-EL-UNC, Interlocutory Appeal, Request for Certification, and Application for Review and Memorandum in Support (Sept. 21, 2020).

<sup>8</sup> *In the Matter of the Investigation into the Perry Nuclear Power Plant*, Case No. 85-521-EL-COI, Entry at 23 (Mar. 17, 1987).

*resources*; they are designed to confine discovery procedures to counsel and to expedite the administration of the Commission proceedings.”<sup>9</sup> The rules are also intended to “minimize commission intervention in the discovery process.”<sup>10</sup> These rules are intended to facilitate full and reasonable discovery, consistent with the statutory discovery rights parties are afforded under R.C. 4903.082.

R.C. 4903.082 states that “[a]ll parties and intervenors shall be granted ample rights of discovery.” *See OCC v. PUC*, 111 Ohio St.3d 300, 2006-Ohio-5789. The discovery statute was effective in 1983 as part of a more comprehensive regulatory reform. R.C. 4903.082 was intended to protect discovery rights for parties in PUCO cases. Yet all these years later, FirstEnergy is impeding OCC’s discovery efforts. The PUCO should not allow FirstEnergy’s obstructionist tactics being used to deny OCC the ample discovery rights allowed under Ohio law and PUCO rules. OCC, as a party in this proceeding, is entitled to timely and complete responses to its discovery inquiries. Additionally, R.C. 4903.082 directs the PUCO to ensure that parties are allowed “full and reasonable discovery” under its rules.

Under its rules, the PUCO has established that “discovery may begin immediately after a proceeding is commenced.”<sup>11</sup> This proceeding was commenced when the PUCO

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<sup>9</sup> *Id.*, citing *Penn Central Transportation Co. v. Armco Steel Corp.* (C.P. 1971), 27 Ohio Misc. 76. (emphasis added).

<sup>10</sup> Ohio Admin. Code 4901-1-16(A).

<sup>11</sup> Ohio Admin. Code 4901-1-17 (A). *Accord*, Ohio Civ. R. 33 (A) (interrogatories may be served by any party without leave on the plaintiff “after commencement of the action.”).

opened the docket to “*review the political and charitable spending by FirstEnergy in support of H.B.6 and the subsequent referendum effort.*”<sup>12</sup>

The PUCO has also adopted rules that specifically define the scope of discovery. Ohio Adm. Code 4901-1-16(B) provides:

any party to a commission proceeding may obtain discovery of any matter, not privileged, which is relevant to the subject matter of the proceeding. It is not a ground for objection that the information sought would be inadmissible at the hearing, if the information sought *appears* reasonably calculated to lead to the discovery of admissible evidence. (Emphasis added.)

The PUCO’s rule is similar to Ohio Civ. R. 26 (B)(1), which governs the scope of discovery in civil cases. Civ. R. 26(B) has been liberally construed to allow for broad discovery of any unprivileged matter relevant to the subject matter of the pending proceeding.<sup>13</sup>

This scope of discovery is applicable to requests for production. Requests for production may elicit documents within the possession, custody, or control, of the party upon whom the discovery is served, under Ohio Adm. Code 4901-1-20.

OCC’s right to discovery is assured by law, rule and Supreme Court of Ohio (“Court”) precedent.<sup>14</sup> OCC is entitled to timely and complete responses to its discovery inquiries. OCC seeks responses to its discovery requests and is unable to obtain the responses without the PUCO compelling FirstEnergy Utilities to respond.

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<sup>12</sup> *In the Matter of the Review of the Political and Charitable Spending by Ohio Edison, the Cleveland Electric Illuminating Company and the Toledo Edison Company*, Case No. 20-1502-EL-UNC, Entry at ¶5 (Sept. 15, 2020).

<sup>13</sup> *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 300, 2006-Ohio-5789, citing to *Moskovitz v. Mt. Sinai Med. Ctr.* (1994), 69 Ohio St.3d 638, 661 and *Disciplinary Counsel v. O’Neill* (1996), 75 Ohio St.3d 1479.

<sup>14</sup> *OCC v. PUC*, 111 Ohio St.3d 300, 2006-Ohio-5789, 856 N.E.2d 213.

In Ohio Adm. Code 4901-1-23, the PUCO provided the procedure for parties to obtain the enforcement of these discovery rights, guaranteed by law and rule. Ohio Adm. Code 4901-1-23(A) and (B) provide a means for the PUCO to compel a party to answer discovery when the party has failed to do so, including when answers are evasive or incomplete. Ohio Adm. Code 4901-1-23(C) details the technical requirements for a motion to compel, all of which are met by OCC in this pleading.

The motion to compel is to be accompanied by a memorandum in support setting forth the basis of the motion and authorities relied upon; a brief explanation of how the information sought is relevant; and responses to objections raised by the party from whom the discovery is sought.<sup>15</sup> Copies of the discovery requests and the responses are to be attached.<sup>16</sup> Finally, Ohio Adm. Code 4901-1-23(C) also requires the party seeking discovery to file an affidavit explaining how it has exhausted all other reasonable means of resolving the differences with the party from whom the discovery is sought.

OCC has detailed in the attached affidavit, consistent with Ohio Adm. Code 4901-1-23(C)(3), the efforts that it undertook to resolve differences between it and FirstEnergy Utilities. At this point without PUCO intervention there is no resolution of this discovery dispute. OCC seeks responses to its discovery from FirstEnergy Utilities and is unable to obtain the response without the PUCO compelling such a result.

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<sup>15</sup> Ohio Admin. Code 4901-1-23(C)(1).

<sup>16</sup> Ohio Admin. Code 4901-1-23(C)(2).

### III. ARGUMENT

#### A. The information OCC seeks is reasonably calculated to lead to the discovery of admissible evidence.

This case emanates from the PUCO Order that set up to a “*review the political and charitable spending* by FirstEnergy in support of H.B.6 and the subsequent referendum effort.”<sup>17</sup> Consistent with the PUCO’s determination that the subject matter of the proceeding concerns a review of *spending* by FirstEnergy on HB 6 activities, OCC served its First Set of Discovery on September 21, 2020. OCC served its Second Set of Discovery on October 2, 2020.

In its First Set of Discovery, OCC sought information, records and admissions related to whether FirstEnergy Utilities *spent* money collected from customers on HB 6 activities (OCC Int. 2 (a-f), 5(a-g), 11, 12, 13, 14; RFA 5, 7; RFP 5, 6;). This discovery is reasonably calculated to lead to the discovery of admissible evidence that is focused on and consistent with the subject matter of this proceeding: a review of “the *political and charitable spending* by FirstEnergy in support of HB 6 and the subsequent referendum effort.”

OCC also sought information reported on 2018 FERC Form 1s by the FirstEnergy Utilities related to expense/accounts (*spending*) that appeared to be connected to lobbying efforts during 2017 (Int 19-21). 2017 is the beginning of the three-year period in which the alleged \$60 million “in secret payments” were made by Company A “in exchange for the billion-dollar bailout” of Company A-1’s two nuclear

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<sup>17</sup> *In the Matter of the Review of the Political and Charitable Spending by Ohio Edison, the Cleveland Electric Illuminating Company and the Toledo Edison Company*, Case No. 20-1502-EL-UNC, Entry at ¶5 (Sept. 15, 2020). (emphasis added).

units.<sup>18</sup> The “secret payments” began in March of 2017, following former Ohio House Speaker’s January 2017 trip on Company A’s private jet.<sup>19</sup> This information is reasonably calculated to lead to the discovery of admissible evidence on FirstEnergy Utilities spending on HB 6 activities as well.

OCC asked for documents about the structure of FirstEnergy’s External Affairs organization that apparently would be in charge of political and charitable spending (lobbying) efforts for activities including HB 6 activities. (RPD 19, 20). This information is reasonably calculated to lead to the discovery of admissible evidence on the subject matter of this proceeding: a review of FirstEnergy’s *spending* on HB 6 activities. The information sought will help connect the dots to people working for FirstEnergy that would have been involved with or aware of the HB 6 activities. That will enable OCC to further discover other information and may form the basis for identifying potential deponents with specific knowledge of HB 6 spending by FirstEnergy.

OCC also asked for documents associated with the various proceedings that are ongoing with respect to HB 6 activities involving FirstEnergy Corp. (RPD 9, 1012,13,14,), including documents related to the internal investigation conducted by independent members of FirstEnergy Corp.’s Board.<sup>20</sup> These document requests are

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<sup>18</sup> *United States v. Larry Householder, Jeffrey Longstreth, Neil Clark, Matthew Borges, Juan Cespedes, and Generation Now*, Case No. 1:20-MJ-00526 (I.S. Dist. S.D.) at ¶17 (July 17, 2020).

<sup>19</sup> *Id.* at ¶13.

<sup>20</sup> The internal investigation led to the recent firing of three FirstEnergy executives, Charles Jones, CEO, Mike Dowling, Senior V.P. External Affairs, and Dennis Check, Senior V.P. Product Development, Marketing and Branding. Mackinnon, J., Akron Beacon Journal, “FirstEnergy fires CEO Chuck Jones after 2 plead guilty in Householder bribery scheme” (Oct. 29, 2020).

<https://www.beaconjournal.com/story/news/2020/10/29/householder-scandal-firstenergy-fires-ceo-chuck-joes-plead-guilty-bribery-scheme/6078931002/>

reasonably calculated to lead to the discovery of admissible evidence related to the subject matter of this proceeding: FirstEnergy's spending on HB 6. They will assist OCC and the PUCO in its review of FirstEnergy's HB 6 *spending* because the documents obtained from those proceedings and investigations are related to FirstEnergy's *spending* on HB 6. Those proceedings are being undertaken by various third parties with significant resources—resources beyond OCC and beyond what the PUCO can harness.

Additionally, OCC sought admissions on whether FirstEnergy Utilities had used any of the distribution modernization rider charges collected from customers on HB 6 activities. (RFA 16,18). This information is reasonably calculated to lead to the discovery of admissible evidence on FirstEnergy's spending on HB 6, the subject matter of this proceeding. The distribution and modernization rider charges were collected from customers during the same three-year period when the \$60 million of secret payments were being made from Company A to the Householder Enterprise. It may be that the distribution modernization funds collected from monopoly customers were spent on HB 6 activities, which would have benefitted FirstEnergy Solutions (the nuclear plant owner at the time). That would potentially violate Ohio law (4928.17, 4928.02(H)) and PUCO Order (precluding DMR funds from benefitting FirstEnergy's affiliates). The information is reasonably calculated to lead to the discovery of admissible evidence.

OCC's Second Set of discovery focused on whether FirstEnergy used the money collected from customers for purposes of HB 6 activities. The discovery sought information on whether funds collected from customers through various riders, rates, and charges that Mr. Fanelli mentioned in his affidavit were used in the HB 6 efforts. This information is related to a review of FirstEnergy's spending and consistent with the

PUCO's scope of review, set forth in its Entry. It is reasonably calculated to lead to the discovery of admissible evidence.

**B. FirstEnergy has failed to show that information sought is not reasonably calculated to lead to the discovery of admissible evidence.**

The party opposing the discovery request has the burden to establish that the requested information would not reasonably lead to the discovery of admissible evidence.<sup>21</sup> In this regard, FirstEnergy argues that the information, documents, and admissions sought by OCC are not reasonably calculated to lead to the discovery of relevant or admissible evidence.<sup>22</sup> The Utilities claim that OCC's discovery involves "the Companies' possible *expenditures* instead of whether the costs of any H.B.6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers."<sup>23</sup>

FirstEnergy has thus, redefined the subject matter of this proceeding, restricting it to rate impacts and not utility expenditures. This mirrors the PUCO's directive to "show cause, by September 30, 2020, demonstrating that the costs of any political or charitable spending in support of Am. Sub. H.B. 6, or the subsequent referendum effort, were not included, directly or indirectly, in any rates or charges paid by ratepayers in this state."<sup>24</sup>

But there are sufficient reasons for the PUCO to reject FirstEnergy's approach. First, as mentioned it is not consistent with the broader subject matter of this proceeding,

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<sup>21</sup> *State ex rel. Fisher v. Rose Chevrolet, Inc.*, (C.A. 1992), 82 Ohio App.3d 520, 523.

<sup>22</sup> Attachment 2, response to OCC INT-2-002.

<sup>23</sup> *Id.*

<sup>24</sup> Entry at ¶5.

which the PUCO defined as a review of FirstEnergy's *spending*. The PUCO's focus on FirstEnergy's *spending* (not just what might have been included in customers' charges) is evident when read within the context of the PUCO's Entry opening the docket.

In paragraphs 2 and 3 of the Entry, preceding the PUCO's determination that a proceeding should be opened, the PUCO acknowledges its statutory jurisdiction extends way beyond rate issues. Citing to R.C. 4905.06, the PUCO notes its general supervisory authority over all public utilities within its jurisdiction and its ability to examine those public utilities and keep informed as to numerous matters, including "their general condition, capitalization, and franchises, and as to the manner in which their properties are leased, operated, managed, and conducted with respect to adequacy or accommodation afforded by their service, the safety and security of the public and their employees, and their compliance with all laws, order of the commission, franchises, and charter requirements." The PUCO also cites to R.C. 4905.05, stating that its jurisdiction, supervision, powers and duties extend, among other things, "to persons or companies owning or leasing, or operating such public utilities;" and to "the records and accounts of the business thereof done within the state."

These statutes, which the PUCO cited in its Entry, make clear that the PUCO's jurisdiction extends beyond checking utility rates to determine if they include illegal expenses. One would wonder why the PUCO would go to the length of quoting these statutes if it just wanted to conduct the limited rate review that FirstEnergy urges.

Additionally, the mere fact that FirstEnergy claims it has no rate or rider that collects the distinct political and charitable charges from customers for political and charitable spending is beside the point. Even if there is not a designated rate component

for political and charitable spending, that does not mean that FirstEnergy did not use customer charges (supposed to be used for providing electric service to customers) for political and charitable contributions that funded the illegal activities alleged by federal prosecutors. FirstEnergy should be held accountable to OCC, the PUCO, and ultimately their customers if they **spent** money collected from customers on illegal activities (and not on providing utility service to customers). If it did so that would be unjust and unreasonable.

The limited review under the show cause order and the reliance on self-reporting by FirstEnergy Utilities is inadequate for consumer protection. The OCC has, by interlocutory appeal, requested that the PUCO, among other things, broaden the show cause order to require FirstEnergy, including owners and affiliates, to demonstrate that they did not violate any utility regulations, laws, rules, or orders regarding activities that were undertaken with respect to HB 6.<sup>25</sup> The PUCO should rule that the show cause order should be broadened to allow parties to discover matters related to the Utilities' spending, not just whether there were specific charges in rates for these activities.

The PUCO has jurisdiction, on behalf of FirstEnergy's consumers, to review FirstEnergy's HB 6 spending as it acknowledged in its Entry when it opened a review of First Energy's spending. To conclude (as does FirstEnergy)<sup>26</sup> that the PUCO has no jurisdiction over illegal use of customers funds collected for the provision of utility service but not used for that purpose is contrary to public integrity and public policy and Ohio law. *See, e.g., In the Matter of the Complaint of the Manchester Group v.*

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<sup>25</sup> OCC Interlocutory Appeal (Sept. 21, 2020).

<sup>26</sup> *See, e.g.,* Ohio Edison Company, The Cleveland Electric Illuminating Company and the Toledo Edison Company's Motion for Protective Order, Memorandum in Support at 6 (Oct. 16, 2020).

*Columbia*, Case No. 08-360-GA-CSS, Entry, (June 3, 2009) (finding that the PUCO had jurisdiction over a complaint against Columbia alleging unfair practices related to an unregulated service offering (warranty service) by the utility).

The PUCO should find that its broad authority to review FirstEnergy's *spending* provides OCC broader discovery rights than those drawn from the show cause order. It should do so and compel FirstEnergy to respond to OCC's discovery that is the subject of this motion to compel.

**C. FirstEnergy has failed to prove that the discovery is outside of OCC's jurisdiction and thus unlawful for OCC to investigate.**

In many of the responses to OCC's discovery, FirstEnergy claims that the "expenditures made by the Utilities are outside OCC's jurisdiction and thus, unlawful for OCC to investigate." Per statements that FirstEnergy has made in other pleadings, FirstEnergy claims that OCC has no authority to represent residential customers in this case, because OCC statutes (4911.14, 4911.15) limit OCC to a case that he or another party brings before the PUCO; where an application is made by a utility; or when a complaint has been filed.<sup>27</sup>

This strained reading of two of OCC's enabling statutes fails to consider that OCC's "powers and duties" are more broadly defined under a preceding and controlling enabling statute, R.C. 4911.02(B)(2). There OCC's authority is described as "[w]ithout limitation because of enumeration." The PUCO has conceded that this phrase in OCC's enabling statute "conveys the intent of the legislators that the provisions of Section 4911.02 should be construed as broadly as possible." *In the Matter of the Complaint of*

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<sup>27</sup> See, e.g., FirstEnergy Utilities' Motion for Protective Order, Memorandum in Support at 6 (Oct. 16, 2020).

*the Office of Consumers' Counsel on Behalf of the Residents of Copley Village*

*Condominium Association v. Ohio Edison Company*, Case No. 89-1032-EL-CSS, Entry at ¶11 (Oct. 6, 1989).

And the PUCO has correctly determined that when a statute includes a listing, preceded by words such as “including” or “without limitation” the list that follows does not create an exhaustive list.<sup>28</sup> When that rule of statutory interpretation is applied to OCC’s general statutory grant of authority under R.C. 4911.02, FirstEnergy’s argument fails once again. OCC’s general statutory authority under R.C. 4911.02 is described as “without limitation because of enumeration” so the conditions that follow ((a) through (d)) must be construed as examples of matters that OCC may participate in, not limits on matters that OCC can participate in. For this very reason, the PUCO has in several cases rejected parties’ attempts to limit OCC’s participation in PUCO hearings, using the same arguments FirstEnergy now offers.<sup>29</sup>

Additionally, under the general grant of statutory authority to OCC, there is also a more specific grant of authority allowing OCC to represent residential customers in this proceeding: R.C. 4911.02(B)(2)(b). There, the Ohio General Assembly gave OCC the power to “take appropriate action with respect to residential customer complaints concerning quality of service, service charges, and the operation of the public utilities commission.” Here, where the PUCO is operating in a manner that does not serve the

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<sup>28</sup> *In the Matter of the Application of Aqua Ohio, Inc. for Authority to Assess a System Improvement Charge*, Case No. 18-337-WW-SIC, Entry at ¶33 (Feb. 6, 2019).

<sup>29</sup> *In the Matter of the Commission Investigation Into the Operations and Services of Ohio Utilities Company*, Case No. 92-550-WS-COI, Entry (June 2, 1992). *See also*, *In the Matter of the Complaint of the Office of the Consumers' Counsel on Behalf of the Residents of Copley Village Condominium Association I and Copley Village Condominium Association v. Ohio Edison Company*, Case No. 89-1031-EL-CSS, Entry (Oct. 6, 1989).

public's interest (by failing to take the action urged in OCC's motions (subject to OCC's interlocutory appeal)), OCC has discrete authority to act.

OCC's intervention and participation in this proceeding is also permitted under other provisions of Ohio law (and PUCO rules).<sup>30</sup> Under R.C. 4911.02, OCC "shall have the rights and powers of any party and interest appearing before the public utilities commission." R.C. 4903.221 allows any person who may be adversely affected by a public utilities commission proceeding to intervene provided certain conditions are met. OCC filed its motion to intervene explaining how it met these conditions. In fact, OCC is one of few parties in this proceeding whose intervention has not been opposed by FirstEnergy. FirstEnergy's failure to object to OCC's intervention should be considered a late-filed memorandum contra OCC's intervention, which should be denied as untimely filed (and filed without leave of the PUCO).

Moreover, this proceeding was initiated to allow a PUCO "review" of FirstEnergy's HB 6 spending. The review is akin to a PUCO investigation. OCC has been permitted to intervene in numerous cases where the PUCO has initiated a review or investigation of utilities' activities. *See, e.g., In the Matter of the Commission Investigation of the Suburban Fuel Gas Inc., Relating to the Establishment of Rates*, Case No. 90-1285-GA-COI, Entry (Sept. 5, 1991); *In the Matter of the Commission's Investigation of Services Provided by Columbia Gas of Ohio, Inc.*, Case No. 89-1586-GA-COI, Entry (Apr. 5, 1990); and *In the Matter of the Investigation into the Management Practices and Policies of GTE North Inc.*, Case No. 85-1969-TP-COI, Entry (Oct. 28, 1988).

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<sup>30</sup> See Ohio Admin. Code 4901-1-11.

**D. First Energy has failed to show how OCC's requests are overly broad and or unduly burdensome.**

OCC's requests for production seek documents related to FirstEnergy's HB 6 spending. As explained earlier, its requests do not go beyond the scope of this proceeding which the PUCO set as a review of "*the political and charitable spending*" of FirstEnergy on HB 6 activities.

FirstEnergy Utilities' objection that it is overly burdensome to respond to OCC's discovery has never been adequately explained to OCC. Such statements appear to be conclusory at best. FirstEnergy Utilities must do more than simply repeat the familiar litany that the discovery is burdensome. Federal case law<sup>31</sup> has held that, when a party objects to an interrogatory based on oppressiveness or undue burden, that party must show specifically how, despite the broad and liberal construction afforded discovery rules, each interrogatory is overly broad, burdensome, or oppressive.<sup>32</sup> In objecting, the party must submit affidavits or offer evidence revealing the nature of the burden.<sup>33</sup> General objections without specific support may result in waiver of the objection.<sup>34</sup>

Here FirstEnergy has failed to show how the requests for production of information are unduly burdensome. Because the burden falls upon the party resisting

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<sup>31</sup> Although federal case law is not binding upon the PUCO with regard to interpreting the Ohio Civil Rules of Practice (upon which the PUCO discovery rules are based), it is instructive where, as here, Ohio's rule is similar to the federal rules. Ohio Adm. Code 4901-1-24 allows a protective order to limit discovery to protect against "undue burden and expense." C.R. 26(c) similarly allows a protective order to limit discovery "to protect against undue burden and expense." *Cf. In the Matter of the Investigation into Perry Nuclear Power Station*, Case No. 85-521-EL-COI, Entry at 14-15 (Mar. 17, 1987), where the Commission opined that a motion for protective order on discovery must be "specific and detailed as to the reasons why providing the responses to matters\*\*\*will be unduly burdensome."

<sup>32</sup> *Trabon Engineering Corp. v. Eaton Manufacturing Co.*, (N.D. Ohio 1964), 37 F.R.D. 51, 54.

<sup>33</sup> *Rosenberg v. Johns-Manville*, (M.D.Pa 1980), 85 RR.D. 292, 297.

<sup>34</sup> *Id.*, citing *In re Folding Carton Anti-Trust Litigation*, (N.D. HI. 1978), 83 F.R.D. 251, 264.

discovery to clarify and explain its objections and to provide support<sup>35</sup> and FirstEnergy Utilities have failed to do so, the PUCO should overrule this objection.

**E. OCC undertook reasonable efforts to resolve the discovery dispute.**

As detailed in the attached affidavit, OCC undertook efforts to resolve this discovery dispute. On or around October 15, 2020, OCC Counsel spoke with FirstEnergy Utilities' Counsel with respect to the Notice of Deposition for Mr. Fanelli. During that discussion the scope of the proceeding was discussed. OCC and FirstEnergy Utilities Counsel view the scope of this proceeding differently and concluded that there was an agreement to disagree on this matter. Subsequently, on November 3, 2020, before the filing of this motion to compel, OCC contacted FirstEnergy Utilities' Counsel with respect to responses OCC had received to the written discovery served in its First and Second Set of Discovery. Once again, there was no resolution of matters reached in that discussion primarily because of the disagreement on the scope of this proceeding. OCC advised FirstEnergy's Counsel that it would be following up with a motion to compel. OCC has exhausted all other reasonable means to resolve differences between it and FirstEnergy Utilities.

**IV. CONCLUSION**

FirstEnergy has failed to bear the burden of providing that OCC's discovery will not lead to the discovery of admissible evidence. Nor has FirstEnergy provided anything but conclusory statements as to the "burden" that will be imposed on it to answer OCC's discovery.

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<sup>35</sup> *Gulf Oil Corp. v Schlesinger*, (E.D.Pa. 1979), 465 F.Supp. 913, 916-917.

As such, it is appropriate and fitting that the PUCO, consistent with its rules and Ohio law, grant OCC's Motion to Compel. Granting OCC's motion to compel will further the interests of consumers by assisting OCC and other parties in preparing comments and reply comments in this proceeding. It will also better inform the PUCO's review of the political and charitable spending of FirstEnergy related to HB 6 in this case, by providing it with a complete record upon which to base its decision. OCC's Motion to Compel should be granted and FirstEnergy should be ordered to respond to OCC's discovery in the very near term.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Maureen R. Willis

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Revised Motion to Compel was served on the persons stated below via electronic transmission, this 10<sup>th</sup> day of November 2020.

/s/ Maureen R. Willis  
Maureen R. Willis  
Senior Regulatory Counsel

The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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# BEFORE

In the Matter of the Review of the )  
Political and Charitable Spending by Ohio ) Case No. 20-1502-EL-UNC  
Edison Company, The Cleveland Electric )  
Illuminating Company, and the Toledo )  
Edison Company. )

**RESPONSE TO FIRST SET OF INTERROGATORIES, REQUESTS FOR ADMISSIONS  
AND REQUESTS FOR PRODUCTION OF DOCUMENTS PROPOUNDED UPON  
FIRSTENERGY UTILITIES BY THE OFFICE OF THE OHIO CONSUMERS'  
COUNSEL**

Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (the “Companies”), pursuant to O.A.C. 4901-1-19, -20 and -22, hereby submits these Objections and Responses to the First Set of Interrogatories, Requests for Admissions and Requests for Production of Documents (collectively, the “Requests”) served by the Office of the Ohio Consumers Counsel.

## GENERAL OBJECTIONS

The Companies assert the following general objections (the “General Objections”). The General Objections are incorporated into each response by the Companies in the Specific Objections and Responses (the “Responses”) set forth below and, therefore, any failure to repeat the General Objections in any of the Responses shall not be deemed a waiver.

1. The Companies object to OCC’s “Instructions for Answering,” “Definitions,” and to the Requests as improper to the extent they purport to impose obligations beyond those required or permitted by the Ohio Rules of Civil Procedure, the procedural rules of the Commission, or any other applicable law or rule (the “Applicable Laws”).

2. Any Response to the Requests is made by the Companies solely for the purpose of this action and without waiving or intending to waive, but, on the contrary, preserving and intending to preserve:
  - a. the right to object, on the grounds of propriety, competency, privilege, relevancy, materiality, confidentiality, authenticity, admissibility or any other proper grounds, to the use of the Responses, documents, or information provided by the Companies as evidence for any purpose, in whole or in part, in any subsequent proceeding, or in any trial in this or any other action;
  - b. the right to object on any grounds, at any time, to other discovery requests involving or relating to the subject of the Requests to which the Companies have responded herein; and
  - c. the right at any time to revise, correct, supplement or clarify these Responses, General Objections, and other objections propounded herein.
3. The Companies object to the Requests as overly broad and unduly burdensome to the extent they are not reasonably limited in time and, in particular, to the extent the Instructions require Requests to include the period from January 1, 2008 through the present.
4. The Companies object to each Request to the extent that it seeks production of information that is confidential business, commercial, financial, or proprietary information belonging to the Companies or third parties.
5. The Companies object to the Requests to the extent the Requests demand that the Companies do anything other than conduct a reasonably diligent search of centralized files and electronic records reasonably likely to contain requested documents. To the extent the Companies agree to produce documents responsive to a Request, the Companies are not

stating, agreeing, or representing that any such documents in fact exist or that, if such documents do exist, they are within the Companies' possession, custody or control. Neither the fact that an objection is interposed nor the fact that no objection is interposed necessarily means that responsive documents or information exist.

6. The General Objections and Specific Objections and Responses set forth herein are based upon information now available to the Companies, and the Companies reserve the right at any time to amend, revise, correct, add to, or clarify any of the General Objections, other objections and/or Responses set forth herein.

### **INTERROGATORIES**

**INT-01-001.** Please identify each person that FirstEnergy Utilities expect to call as a witness at any hearing conducted in this proceeding.

**RESPONSE:**

The Companies object to this Interrogatory because discovery in this matter is premature and not authorized. The Companies further object to this Interrogatory as irrelevant given that the procedural schedule calls for comments and reply comments. The Companies also object to this Interrogatory to the extent it seeks information protected from disclosure by the attorney-client privilege, the work-product doctrine, or any other applicable statutory or common law privilege, prohibition, limitation or immunity from disclosure. The Companies also object to this Interrogatory to the extent it seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

**INT-01-002.** Please identify all payments made by FirstEnergy Utilities to Generation Now. For each payment, identify:

- a. The date the payment was made;
- b. The amount of the payment(s);
- c. The name and position of the person(s) that authorized the payment;
- d. The person the individual(s) identified in (c) directly reports to;
- e. All persons, committees, departments, boards that approved each of the payments;
- f. All persons within FirstEnergy Utilities that had knowledge of each payment;

- g. Identify the account(s) including any FERC sub-account(s) with description(s) of account(s) sub-account(s) the payment(s) were booked to; and

**RESPONSE:**

The Companies object to this Interrogatory and its sub-parts on the grounds that they seek information irrelevant to the subject matter involved in the proceeding and are not reasonably calculated to lead to the discovery of relevant or admissible evidence because they involve the Companies' possible expenditures instead of whether the costs of any political or charitable spending in support of Am. H.B. 6 – either supporting enactment of the bill or opposing the subsequent referendum effort (hereinafter, "H.B. 6 Spending"), were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory and its sub-parts because expenditures made by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory and its sub-parts because they are overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seek to impose an undue expense. The Companies further object to the sub-parts of this Interrogatory because the payment detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to the sub-parts of this Interrogatory to the extent they seek disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

- h. Whether any of these payments were included, either directly or indirectly, in rates or charges paid by Ohio electric utility customers. And if so, how was that payment charged to Ohio electric utility customers?

**RESPONSE:**

The Companies object to this Interrogatory sub-part to the extent it seeks information irrelevant to the question of H.B. 6 Spending and not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to this Interrogatory sub-part because expenditures made by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory sub-part because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

Subject to and without waiving the foregoing objections, the Companies have not included, directly or indirectly, the costs of any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio.

**INT-01-003.** Please identify all payments made by FirstEnergy Service Co. to Generation Now.

For each payment, identify:

- a. The date(s) the payment(s) was/were made;
- b. The amount of the payment(s);
- c. The name and position of the person(s) that authorized the payment(s);
- d. The person(s) the individual(s) identified in (c) directly reports to;
- e. All persons, committees, departments, boards that approved each of the payments;

- f. All persons within FirstEnergy Service Co. that had knowledge of each payment;
- g. Identify the account(s) including any FERC sub-account(s) with description(s) of account(s) or sub-account(s) the payment(s) were booked to;
- h. Whether those payments (or portions thereof) were charged to FirstEnergy Utilities either directly or indirectly;
- i. Whether those payments (or portions thereof) were allocated to FirstEnergy Utilities; and

**RESPONSE:**

The Companies object to this Interrogatory and its sub-parts on the grounds that they seek information irrelevant to the subject matter involved in the proceeding and are not reasonably calculated to lead to the discovery of relevant or admissible evidence because they involve FirstEnergy Service Co.'s possible expenditures instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory and its sub-parts because expenditures made by FirstEnergy Service Co. are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory and its sub-parts because they are overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seek to impose an undue expense. The Companies further object to the sub-parts of this Interrogatory because the payment detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to the sub-parts of this Interrogatory to the extent they

seek disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

- j. Whether those payments (expensed or capitalized) were included either directly or indirectly in rates or charges paid by Ohio electric utility consumers.

**RESPONSE:**

The Companies object to this Interrogatory sub-part to the extent it seeks information irrelevant to the question of H.B. 6 Spending and not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to this Interrogatory sub-part because expenditures made by FirstEnergy Service Co. are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory sub-part because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

Subject to and without waiving the foregoing objections, the Companies have not included, directly or indirectly, the costs of any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio.

**INT-01-004.** Please identify all political and charitable spending<sup>1</sup> by or on behalf of FirstEnergy Utilities since January 1, 2017. For each instance of political and charitable spending, please identify:

- a. The date of the political or charitable spending;

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<sup>1</sup> Definition of political and charitable spending is "expenditures . . . to support the enactment or repeal of legislation, . . . ."

- b. The payor and payee;
- c. The name and position of the person who authorized the spending;
- d. The amount of money spent;
- e. The person(s) the individual identified in (c) directly reports to;
- f. All persons within FirstEnergy Utilities that had knowledge of each political and charitable spending;
- g. The FERC sub-account(s) with sub-account(s) description(s) the political/charitable spending was charged to;
- h. All persons, committees, departments, boards that approved each of the instances of political and charitable spending; and

**RESPONSE:**

The Companies object to this Interrogatory and its sub-parts on the grounds that they seek information irrelevant to the subject matter involved in the proceeding and are not reasonably calculated to lead to the discovery of relevant or admissible evidence because they involve any and all of the Companies' possible expenditures over an extended period of time to support or repeal legislation instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory and its sub-parts because expenditures made by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory and its sub-parts because they are overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seek to impose an undue expense. The Companies further object to the sub-parts of this Interrogatory because the payment detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead

to the discovery of relevant or admissible evidence. The Companies further object to the sub-parts of this Interrogatory to the extent they seek disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

- i. Whether this spending was reflected in expenses or capitalized and charged either directly or indirectly in the rates and charges paid by Ohio electric utility consumers.

**RESPONSE:**

The Companies object to this Interrogatory sub-part to the extent it seeks information irrelevant to the question of H.B. 6 Spending and not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to this Interrogatory sub-part because expenditures made by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory sub-part because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

Subject to and without waiving the foregoing objections, the Companies have not included, directly or indirectly, the costs of any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio.

**INT-01-005.** Please identify all political and charitable spending by or behalf of FirstEnergy Utilities, regarding House Bill 6 activities. For each act of political and charitable spending, please identify:

- a. The payee and payor;
- b. The date the spending occurred;

- c. The account(s) and sub accounts the political/charitable spending was charged to;
- d. The name and position of the person(s) who authorized the spending;
- e. The amount of money paid per instance of spending;
- f. The person(s) the individual(s) identified in (d) directly reports to;
- g. All persons within FirstEnergy Utilities that had knowledge of each instance of political and charitable spending identified above; and

**RESPONSE:**

The Companies object to this Interrogatory and its sub-parts on the grounds that they seek information irrelevant to the subject matter involved in the proceeding and are not reasonably calculated to lead to the discovery of relevant or admissible evidence because they involve the possible expenditures by the Companies and potentially others instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory and its sub-parts because expenditures made by the Companies and potentially others are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory and its sub-parts because they are overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seek to impose an undue expense. The Companies further object to the sub-parts of this Interrogatory because the payment detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to the sub-parts of this Interrogatory to the extent they seek disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

- h. Whether the spending was reflected in expenses or capitalized and charged either directly or indirectly in the rates and charges paid by Ohio electric utility consumers.

**RESPONSE:**

The Companies object to this Interrogatory sub-part to the extent it seeks information irrelevant to the question of H.B. 6 Spending and not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to this Interrogatory sub-part because expenditures made by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory sub-part because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

Subject to and without waiving the foregoing objections, the Companies have not included, directly or indirectly, the costs of any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio.

**INT-01-006.** Please identify all political and charitable spending by or on behalf of the FirstEnergy Foundation since January 1, 2017 associated with regulatory and legislative activities that affect the FirstEnergy Utilities. For each instance of political and charitable spending, please identify:

- a. The date the spending occurred;
- b. The payor and the payee and whether the payee was involved with a communication to a government official of a position on a regulatory or legislative matter that affected FirstEnergy Utilities;

- c. The organization the payee was associated with;
- d. Whether the payee was affiliated with a government official or a sponsor of legislation affecting FirstEnergy Utilities;
- e. The name and position of the person(s) who authorized the spending;
- f. The amount of money paid;
- g. The person(s) the individual(s) identified in (c) directly reports to;
- h. All persons within FirstEnergy Utilities that had knowledge of each instance of political and charitable spending;
- i. The sub-account(s) including description(s) of the political/charitable spending was charged to;
- j. All persons, committees, departments, boards that approved each of the instances of spending;
- k. Whether these expenses or capitalized amounts were charged either directly or indirectly in the rates and charges paid by Ohio electric utility consumers; and
- l. Contributions made to FirstEnergy Foundation by each of the FirstEnergy Utilities since January 1, 2017, identified on a yearly basis.

**RESPONSE:**

The Companies object to this Interrogatory and its sub-parts on the grounds that they seek information irrelevant to the subject matter involved in the proceeding and are not reasonably calculated to lead to the discovery of relevant or admissible evidence because they involve FirstEnergy Foundation's possible expenditures instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies'

ratepayers in Ohio. The Companies further object to this Interrogatory and its sub-parts because expenditures made by the FirstEnergy Foundation cannot be “charged” to the Companies or their customers, and are outside OCC’s jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory and its sub-parts because they are overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seek to impose an undue expense. The Companies further object to the sub-parts of this Interrogatory because the payment detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to the sub-parts of this Interrogatory to the extent they seek disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies’ counsel or other representatives.

**INT-01-007.** Please identify all charitable contributions made by or on behalf of FirstEnergy Utilities since January 1, 2017. Please segregate the contributions by year, by month, by FERC sub-account(s) with sub-account(s) description(s) by utility, and recipient, including but not limited to contributions made to persons, organizations, charitable foundations and grantees. For each charitable contribution, please identify:

- a. The date the contribution was made;
- b. The payor and payee and whether the payee was involved with a communication to a government official of a position on a regulatory or legislative matter that affected FirstEnergy Utilities;
- c. The organization the payee was associated with;

- d. Whether the payee was affiliated with a government official or a sponsor of legislation affecting FirstEnergy Utilities;
- e. The name and position of the person(s) who authorized the contribution;
- f. The amount of the contribution;
- g. The person(s) the individual(s) identified in (e) directly reports to;
- h. All persons within FirstEnergy Utilities that had knowledge of each charitable contribution;
- i. The FERC sub-account(s) and sub-account(s) description(s) the charitable contribution(s) was charged to;
- j. All persons, committees, departments, boards that approved each of the charitable contributions; and

**RESPONSE:**

The Companies object to this Interrogatory and its sub-parts on the grounds that they seek information irrelevant to the subject matter involved in the proceeding and are not reasonably calculated to lead to the discovery of relevant or admissible evidence because they involve the Companies' charitable contributions instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory and its sub-parts because charitable contributions made by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory and its sub-parts because they are overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seek to impose an undue expense. The Companies further object to the sub-parts of this Interrogatory because the payment detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies

further object to the sub-parts of this Interrogatory to the extent they seek disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

- k. Whether these charitable contributions were charged to expenses or capitalized either directly or indirectly in the rates and charges paid by Ohio electric utility consumers.

**RESPONSE:**

The Companies object to this Interrogatory sub-part to the extent it seeks information irrelevant to the question of H.B. 6 Spending and not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to this Interrogatory sub-part because charitable contributions made by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory sub-part because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

Subject to and without waiving the foregoing objections, the costs of the Companies' charitable contributions are recorded in accounts that are not used to calculate the Companies' riders and charges and, thus, were not included, directly or indirectly, in rates or charges paid by the Companies' retail customers.

**INT-01-008.** Please identify "Company A" as referred to in the Criminal Complaint.

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to

the discovery of relevant or admissible evidence. The Companies further object to this Interrogatory as outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is harassing and oppressive. The Companies further object to this Interrogatory because the Companies neither authored the Criminal Complaint nor chose the terms used therein.

**INT-01-009.** Please identify "Company A-1" as referred to in the Criminal Complaint.

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to this Interrogatory as outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is harassing and oppressive. The Companies further object to this Interrogatory because the Companies neither authored the Criminal Complaint nor chose the terms used therein.

**INT-01-010.** Please identify "Company A Service Co." as referred to in the Criminal Complaint.

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to this Interrogatory as outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is harassing and oppressive. The

Companies further object to this Interrogatory because the Companies neither authored the Criminal Complaint nor chose the terms used therein.

**INT-01-011.** For the period January 1, 2017 through present, please identify the actual monthly amounts by FERC sub-account with sub-account descriptions attributed to House Bill 6 activities and every political action organization which FirstEnergy Utilities made contributions to related to House Bill 6 activities, broken down by date of payment, payee, political action organization and each specific contribution to that political action organization.

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because expenditures made by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Interrogatory because the payment detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead to the discovery of relevant or admissible evidence.

**INT-01-012.** Please identify all travel and entertainment expenses incurred by or on behalf of FirstEnergy Utilities, related to House Bill 6 activities. Please identify these expenses by FERC sub-account(s) with sub-account(s) descriptions and amounts, and describe the person involved, job title, and reason/explanation for the expense. Were these expenses or capitalized amounts charged either directly or indirectly in the rates and charges paid by Ohio electric utility customers?

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because expenditures made by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Interrogatory because the payment detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead to the discovery of relevant or admissible evidence.

Subject to and without waiving the foregoing objections, the Companies have not included, directly or indirectly, the costs of any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio.

**INT-01-013.** For the period January 1, 2017 through present, please identify for FirstEnergy Utilities, the actual monthly amounts by year booked to FERC sub-account(s) with sub-account(s) description(s) attributed to contributions and payments related to House Bill 6 activities to:

- a. Any 501(c)3 non-profit religious, charitable, or educational organization;
- b. Any 501(c)4 social welfare group that can engage in advocacy and lobbying activities; and
- c. Any 527 organization.

Please identify and describe each organization (by type a-c), and include a description of each contribution, identifying each specific amount attributed to that organization, the date of the payment and the payor.

**RESPONSE:**

The Companies object to this Interrogatory and its sub-parts on the grounds that they seek information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because they involve the possible expenditures by the Companies instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory and its sub-parts because expenditures made by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory and its sub-parts because they are overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seek to impose an undue expense. The Companies further object to this Interrogatory and its sub-parts because the

accounting detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead to the discovery of relevant or admissible evidence.

**INT-01-014.** Please identify all expense and capital accounts and cost code elements with cost code element descriptions associated with providing electric service to FirstEnergy Utilities' customers in Ohio that contain expenses or capitalized items pertaining to:

- a. Charitable contributions;
- b. Lobbying expenses;
- c. Charitable and political spending;
- d. Governmental affairs;
- e. State affairs support;
- f. Economic development support; and
- g. FirstEnergy Foundation

**RESPONSE:**

The Companies object to this Interrogatory and its sub-parts on the grounds that they seek information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because they are unrelated to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory and its sub-parts because expenditures made by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this

Interrogatory and its sub-parts because they are overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seek to impose an undue expense by, among other things, not defining how these types of expenses would be associated with providing electric service. The Companies further object to this Interrogatory and its sub-parts because the accounting detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead to the discovery of relevant or admissible evidence.

Subject to and without waiving the foregoing objections, the costs of the Companies' political and charitable spending are recorded in FERC Accounts 426.1 and 426.4, which are not used to calculate the Companies' rates or charges.

**INT-01-015.** Please identify whether, for the period of January 1, 2017, through present, FirstEnergy Utilities were charged (or are being charged) for political and charitable spending undertaken by or on behalf FirstEnergy Solutions (or its successor Energy Harbor), including but not limited to charges from FirstEnergy Solutions/Energy Harbor for POLR and default services. If so, please identify the amount(s), by month, by FERC sub-account(s) with sub-account(s) description(s), by cost code element(s), the charges are found in, and identify the mechanism for collecting these charges from FirstEnergy Utilities' Ohio electric customers.

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the

Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because charges for political and charitable spending are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense by, among other things, assuming that charges for SSO auction supply could constitute political or charitable spending. The Companies further object to this Interrogatory because the accounting detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead to the discovery of relevant or admissible evidence.

Subject to and without waiving the foregoing objections, the Companies have no mechanism for collecting from their customers any costs of charges to support or repeal legislation.

**INT-01-016.** Please identify whether, for the period of January 1, 2017, through present, FirstEnergy Utilities were charged (or are being charged) for political and charitable spending undertaken by or on behalf FirstEnergy Corp. If so, please identify the amount(s), by month, by sub-account(s) or FERC sub-account(s) with account(s) or FERC sub-account(s) description(s), the charges are found in, and identify the mechanism for collecting these charges from FirstEnergy Utilities' Ohio electric customers.

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the

Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because charges for political and charitable spending are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Interrogatory because the accounting detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead to the discovery of relevant or admissible evidence.

Subject to and without waiving the foregoing objections, the Companies have no mechanism for collecting from their customers any costs of charges to support or repeal legislation.

**INT-01-017.** Please identify whether, for the period of January 1, 2017, through present, FirstEnergy Utilities were charged (or are being charged) for political and charitable spending undertaken by or on behalf FirstEnergy Service Company. If so, please identify the amount(s), by month, by sub-account(s) or FERC sub-account(s) with sub-account(s) or FERC sub-account(s) description(s), the charges are found in, and identify the mechanism for collecting these charges from FirstEnergy Utilities' Ohio electric customers.

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because charges for political and charitable spending are outside OCC's jurisdiction and, thus, unlawful

for OCC to investigate. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Interrogatory because the accounting detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead to the discovery of relevant or admissible evidence.

Subject to and without waiving the foregoing objections, the Companies have no mechanism for collecting from their customers any costs of charges to support or repeal legislation.

**INT-01-018.** Please identify whether, for the period of January 1, 2017, through present, FirstEnergy Utilities were charged (or are being charged) for political and charitable spending associated with House Bill 6. If so, please identify the source of the charges, the amount(s), by month, by sub-account(s) or FERC sub-account(s) with sub-account(s) or FERC sub-account(s) description(s), the charges are found in, and identify the mechanism for collecting these charges from FirstEnergy Utilities' Ohio electric customers.

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because expenditures for political and charitable spending are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is

overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Interrogatory because the accounting detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead to the discovery of relevant or admissible evidence.

Subject to and without waiving the foregoing objections, the Companies have no mechanism for collecting from their customers any costs of charges to support or repeal H.B. 6.

**INT-01-019.** Referring to Ohio Edison's 2018 FERC Form 1,

- a. Please describe the "charitable contribution carryforward" that is shown on Schedule Page 261, line 10 as \$15,000,000. Is that amount incorporated into the rates Ohio electric customers paid or will pay for electric service from Ohio Edison?
- b. Please describe the "charitable contribution carryforward" that is shown on Schedule Page 234 with a beginning balance of \$71,177 and an end of year balance of \$3,312,220. Is that amount incorporated into the rates Ohio electric customers paid or will pay for electric service from Ohio Edison?
- c. Please identify if any of the amounts listed in FERC Sub-Account 930.2 "miscellaneous general" on page 335 relate to political and charitable spending? If so, which if any of the line items are incorporated into the rates Ohio electric customers paid or will pay for electric service from Ohio Edison?
  - i. please describe "economic development" shown on line 14 and identify the charges that make up the \$-661,217 amount shown there.

- d. Referring to the “Transactions with Associated (Affiliated Companies)” shown on page 429 and 429.1, please identify if any of the amounts charged or credited relate to political or charitable spending? If so, which if any of the line items are incorporated into the rates Ohio electric customers paid or will pay for electric service from Ohio Edison?
  - i. Please describe the nature of the services provided by FirstEnergy Service Co. to Ohio Edison described as “Provide Local Affairs & Economic Development Support.”
  - ii. Please describe the nature of services FirstEnergy Service Co. provided to Ohio Edison described as “Provide State Affairs Support.”

**RESPONSE:**

The Companies object to this Interrogatory and its sub-parts on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because is unrelated to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies’ ratepayers in Ohio. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

**INT-01-020.** Referring to Toledo Edison’s 2018 FERC Form 1 and the “Transactions with Associated (Affiliated Companies)” shown on page 429 and 429.1, please identify if any of the amounts charged or credited relate to political or charitable spending.

If so, which if any of these amounts related to political or charitable spending are incorporated into the rates Ohio electric customers paid or will pay for electric service from Toledo Edison?

- a. Describe the nature of services provided by FirstEnergy Service Co. to Toledo Edison and listed as “Provide Environmental Support.”;
- b. Describe the nature of services provided by FirstEnergy Service Co. to Toledo Edison listed as “Provide Compliance and Regulated Service Support”;
- c. Describe the nature of services provided by FirstEnergy Service Co. to Toledo Edison listed as “Provide Rates & Regulatory Affairs Support”;
- d. Describe the nature of services provided by FirstEnergy Service Co. to Toledo Edison listed as “Provide Local Affairs & Economic Development Support”;
- e. Describe the nature of services provided by FirstEnergy Service Co. to Toledo Edison listed as “Provide State Affairs Support”; and
- f. Describe the nature of services provided by FirstEnergy Service Co. to Toledo Edison listed as “Provide FE Generation Support”.

**RESPONSE:**

The Companies object to this Interrogatory and its sub-parts on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because is unrelated to

whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

**INT-01-021.** Referring to Cleveland Electric Illuminating Company's 2018 FERC Form 1,

- a. Please describe the nature of the item listed on page 450.2 as "Ohio Economic Development.";
- b. Please describe the nature of the "Ohio Economic Development Contribution" listed on line 5-6 of page 269 and explain the debit to the account shown to "Contra Account 242.";
- c. Please identify all items that make up the "Charitable Contribution State & Local RTA" listed on page 450.1;
- d. Referring to page 429.1, "Transaction with Associated (Affiliated) Companies" please describe the nature of the services provided by FirstEnergy Service Co. to The Companies that make up the "Non-Power Good or Service" Line items labelled:
  - i. "Provide Rates & Regulatory Affairs Support" \$784,904;
  - ii. "Provide State Affairs Support" \$115,638; and
  - iii. "Provide Local Affairs & Economic Development Support" \$1,479,989.

- e. Please explain what caused the difference between 4<sup>th</sup> Quarter 2017 “Miscellaneous and General Expenses” (930.2) of \$22,891,423 to the “current year” amount for that item of \$680,078.

**RESPONSE:**

The Companies object to this Interrogatory and its sub-parts on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because is unrelated to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies’ ratepayers in Ohio. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

**INT-01-022.** Please identify the monthly Regulated Money Pool balances in 2017 through 2020.

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies’ ratepayers in Ohio. The Companies further object to this Interrogatory because expenditures made by the Companies are outside OCC’s jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this

Interrogatory because the payment detail requested is not relevant to the subject matter involved in the proceeding and is not reasonably calculated to lead to the discovery of relevant or admissible evidence.

### **REQUESTS FOR ADMISSIONS**

\* In accordance with Ohio Administrative Code 4901-1-16(D)(5), OCC requests that all responses be supplemented with subsequently-acquired information at the time such information is available.

RFA-01-001. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

FirstEnergy Corp. is the “Company A” identified in the Criminal Complaint.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to this Request as outside OCC’s jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is harassing and oppressive. The Companies further object to this Request because the Companies neither authored the Criminal Complaint nor chose the terms used therein.

RFA-01-002. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

FirstEnergy Solutions is the “Company A-1” identified in the Criminal Complaint.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to this Request as

outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is harassing and oppressive. The Companies further object to this Request because the Companies neither authored the Criminal Complaint nor chose the terms used therein.

RFA-01-003. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

FirstEnergy Service Co. is the "Company A Service Co." identified in the Criminal Complaint.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to this Request as outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is harassing and oppressive. The Companies further object to this Request because the Companies neither authored the Criminal Complaint nor chose the terms used therein.

RFA-01-004. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

FirstEnergy Service Co. made money payments to Generation Now.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by FirstEnergy Service Co. instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because expenditures made by FirstEnergy Service Co. are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

RFA-01-005. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

FirstEnergy Utilities made money payments to Generation Now.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because expenditures made by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

RFA-01-006. Please admit or deny that FirstEnergy Utilities engaged in political and charitable spending to support the enactment of House Bill 6.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because expenditures made by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

RFA-01-007. Please admit or deny that FirstEnergy Service Co. engaged in political and charitable spending on behalf of FirstEnergy Utilities to support the enactment of House Bill 6.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by FirstEnergy Service Co. instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because expenditures made by FirstEnergy Service Co.

are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

RFA-01-008. Please admit or deny that FirstEnergy Utilities included in the electric security plan rates and charges to Ohio customers expenses (actual and/or budgeted) associated with political and charitable spending.

**ADMIT/DENY:**

The Companies object to this Request to the extent it seeks information irrelevant to the question of H.B. 6 Spending and not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

Subject to and without waiving the foregoing objections, the Companies deny that they have included, directly or indirectly, the costs of any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio.

RFA-01-009. Please admit or deny that FirstEnergy Utilities included in the current distribution rates charged to Ohio customers expenses (actual and/or budgeted) associated with charitable and political spending.

**ADMIT/DENY:**

The Companies object to this Request to the extent it seeks information irrelevant to the question of H.B. 6 Spending and not reasonably calculated to lead to the discovery of relevant or

admissible evidence. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

Subject to and without waiving the foregoing objections, the Companies deny that they have included, directly or indirectly, the costs of any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio.

RFA-01-010. Please admit or deny that FirstEnergy Utilities included in rider rates charged Ohio customers for the period January 1, 2017 to present, expenses (actual and/or budgeted) associated with charitable and political spending.

**ADMIT/DENY:**

The Companies object to this Request to the extent it seeks information irrelevant to the question of H.B. 6 Spending and not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

Subject to and without waiving the foregoing objections, the Companies deny that they have included, directly or indirectly, the costs any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio.

RFA-01-011. Please admit or deny that the costs of any political and charitable spending in support of House Bill 6 activities were included, either directly or indirectly, in rates or charges paid by FirstEnergy's Utilities' customers.

**ADMIT/DENY:**

The Companies object to this Request to the extent it seeks information irrelevant to the question of H.B. 6 Spending and not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

Subject to and without waiving the foregoing objections, the Companies deny that they have included, directly or indirectly, the costs of any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio.

RFA-01-012. Please admit or deny that all funds the FirstEnergy Utilities received from Rider DMR were placed into the Regulated Utility Money Pool.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the use by the Companies of funds from a terminated rider instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because the information requested by the Companies is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

RFA-01-013. Please admit or deny that non-OHIO regulated subsidiaries of FirstEnergy Corp. have borrowing access to Rider DMR funds through the Regulated Money pool.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the use by the Companies of funds from a terminated rider instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because the information requested by the Companies is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

RFA-01-014. Please admit or deny that FirstEnergy utilities can borrow from the Regulated Money Pool to fund their expenditures.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the use of funds by the Companies instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because expenditures by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly

broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

RFA-01-015. Please admit or deny that from January 1, 2017 forward, funds in the Regulated Money Pool have been used to pay dividends to FirstEnergy Corp.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the use of funds by the Companies instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because the information requested by the Companies is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

RFA-01-016. Please admit or deny that FirstEnergy Utilities borrowed from the Regulated Money Pool to fund House Bill 6 activities.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the use of funds by the Companies instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any

rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because expenditures by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

RFA-01-017. Please admit or deny that FirstEnergy Utilities from January 1, 2017 forward, borrowed from the Regulated Money Pool to fund charitable and political spending.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the use of funds by the Companies for any charitable or political spending over many years instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because expenditures by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

RFA-01-018. Please admit or deny that no FirstEnergy affiliate borrowed from the Regulated Money Pool to fund House Bill 6 activities.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the use of funds by affiliates of the Companies instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because expenditures by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

RFA-01-019. Please admit or deny that non-OHIO regulated subsidiaries borrowed money from the Regulated Money Pool from January 1, 2017 forward.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves borrowing over an extended period of time by utilities not subject to Commission jurisdiction instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because the borrowing of funds by utilities not subject to Commission jurisdiction is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

**REQUESTS FOR PRODUCTION OF DOCUMENTS**

RPD-01-001. Please provide a copy of all formal and informal requests (e.g., interrogatories, requests for production of documents, data requests) made to the FirstEnergy Utilities by the Commission in this proceeding and the FirstEnergy Utilities' response to those requests.

**RESPONSE:**

The Companies have provided OCC with all responses sent to date and will continue to provide to OCC copies of discovery requests submitted by any party to this proceeding sent after the date of their motion to intervene, as well as the Companies' responses thereto, with information designated confidential or competitively sensitive confidential only being released to parties with properly executed non-disclosure agreements.

RPD-01-002. Please provide a copy of all formal and informal requests (e.g., interrogatories, requests for production of documents, data requests) made to the FirstEnergy Utilities by any other party in this proceeding and the FirstEnergy Utilities' responses to those requests.

**RESPONSE:**

The Companies have provided OCC with all responses sent to date and will continue to provide to OCC copies of discovery requests submitted by any party to this proceeding sent after the date of their motion to intervene, as well as the Companies' responses thereto, with information designated confidential or competitively sensitive confidential only being released to parties with properly executed non-disclosure agreements.

RPD-01-003. Please provide a copy of all communications made by or on behalf of FirstEnergy Utilities with the Commission regarding this proceeding and the political and charitable spending for House Bill 6 activities undertaken by or on behalf of the FirstEnergy Utilities. This would include, but not be limited to, communications that occurred before the docket was opened on September 15, 2020.

**RESPONSE:**

The Companies object to this Request to the extent it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence. The Companies further object to this Request because it is vague and ambiguous as to what is requested.

Subject to and without waiving the foregoing objections, the Companies have not identified any responsive documents other than those available on the Commission's docket or that are already in OCC's possession.

RPD-01-004. Provide any documents that you relied upon or that otherwise support your responses to OCC INT-01-002 through 01-007, and 01-011 through 01-022.

**RESPONSE:**

The Companies object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives. The Companies further object to this Request as vague and ambiguous. The Companies further object to this Request because it is overly broad, unduly burdensome, vague and ambiguous. The Companies incorporate their objections to OCC INT-01-002 through 01-007, and 01-011 through 01-022 into this response.

Subject to and without waiving the foregoing objections, see OCC RPD 01-004 Attachment 1 and the Companies' tariffs.

RPD-01-005. Provide a complete copy of all documents reflecting payments made by or on behalf of FirstEnergy Utilities to any political action committee or organization since January 1, 2017 to date, related to House Bill 6 activities.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because political and charitable spending are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-006. Provide a complete copy of all invoices in the custody and control of FirstEnergy Utilities that are associated with Ohio lobbying efforts on matters affecting FirstEnergy Utilities for years 2017 through present.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because political and charitable spending are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-007. Provide a copy of employee time and expense reports and invoices documenting expenses that were asked to be identified in OCC Interrogatory 01-012.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because political and charitable spending are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies

further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-008. Please provide a copy of all records produced by FirstEnergy Utilities and FirstEnergy Service Co. in response to the subpoenas issued by the U.S. Attorney's Office for the Southern District of Ohio (as reported in FirstEnergy's Form 10Q (June 30, 2020)).

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because OCC has no jurisdiction in a criminal investigation. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-009. Please provide a copy of all documents related to the shareholder lawsuits against FirstEnergy and current and former directors, officers and other employees (as identified in FirstEnergy's Form 10Q at 32 (June 30, 2020)) relating to House Bill 6 activities.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request to the extent it is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-010. Please provide a copy of all documents related to the internal investigation into the matters raised in the Criminal Complaint that has been undertaken at the direction of the independent members of the FirstEnergy Board of Directors.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request to the extent it is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-011. Please provide a copy of all documents relating to the internal investigation into the matters raised in the Criminal Complaint that has been undertaken at the direction of the independent members of the FirstEnergy Board of Directors.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request to the extent it is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague,

ambiguous and seeks to impose an undue expense. The Companies further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-012. Please provide a copy of all documents related to the Securities Exchange Commission investigation into matters related to House Bill 6 activities.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request to the extent it is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-013. Please provide a copy of all documents related to the Attorney General's lawsuit, filed in the Franklin County Court of Common Pleas related to House Bill 6 activities.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request to the extent it is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-014. Please provide a copy of the letter dated July 24, 2020 from the Ohio Attorney General notifying FE of its duty to not destroy documents in its custody or control regarding Ohio House Bill 6. (as reported in FirstEnergy's Form 10Q at 32).

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request to the extent it is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague,

ambiguous and seeks to impose an undue expense. The Companies further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-015. Please provide a copy of the regulated money pool agreement between FirstEnergy Corp. and its regulated subsidiaries, including FirstEnergy Utilities.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request to the extent it is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-016. Please provide copies of reports submitted to the Commission regarding the FirstEnergy Ohio utilities participation in the FirstEnergy Regulated Money Pool for the period of January 1, 2017 through present.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request to the extent it is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-017. Please provide copies of PUCO documents approving or disapproving FirstEnergy Utilities' participation and lending limits in the FirstEnergy Regulated Money Pool since January 1, 2017.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request to the extent it is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Request

to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-018. Please provide for 2017 through 2020, copies of IRS Form 990s related to FirstEnergy Utilities' charitable contributions and the FirstEnergy Foundation.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request to the extent it is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-019. Please provide a copy of any policy, procedure, job description or other document that states that the Director of State Affairs for Ohio does not represent FirstEnergy Solutions and/or only represents the three FirstEnergy Ohio Utilities.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request to the extent it is outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

RPD-01-020. Please provide the current organization chart for the FirstEnergy "External Affairs" organization" structure, showing all positions, the reporting relationships (superior and subordinates), the titles of the positions, department or unit name, and the person in those positions from January 1, 2017 to date. Please identify as part of this response, persons who provide external affairs services (in whole or part) for the FirstEnergy Ohio utilities.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it is not related to whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request to the extent it is

outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense. The Companies further object to this Request to the extent it seeks information that is protected by the attorney client and work product privileges or otherwise seeks disclosure of opinions, mental impressions, conclusions, or legal theories of the Companies' counsel or other representatives.

AS TO OBJECTIONS,<sup>2</sup>

/s/ James F. Lang

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<sup>2</sup> Answers to interrogatories were prepared by Santino Fanelli.

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the )  
Political and Charitable Spending by Ohio ) Case No. 20-1502-EL-UNC  
Edison Company, The Cleveland Electric )  
Illuminating Company, and the Toledo )  
Edison Company. )

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**RESPONSE TO SECOND SET OF INTERROGATORIES, REQUESTS FOR  
ADMISSIONS AND REQUESTS FOR PRODUCTION OF DOCUMENTS PROPOUNDED  
UPON FIRSTENERGY UTILITIES BY THE OFFICE OF THE OHIO CONSUMERS'  
COUNSEL**

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Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company (the “Companies”), pursuant to O.A.C. 4901-1-19, -20 and -22, hereby submit these Objections and Responses to the First Set of Interrogatories, Requests for Admissions and Requests for Production of Documents (collectively, the “Requests”) served by the Office of the Ohio Consumers’ Counsel.

**GENERAL OBJECTIONS**

The Companies assert the following general objections (the “General Objections”). The General Objections are incorporated into each response by the Companies in the Specific Objections and Responses (the “Responses”) set forth below and, therefore, any failure to repeat the General Objections in any of the Responses shall not be deemed a waiver.

1. The Companies object to OCC’s “Instructions for Answering,” “Definitions,” and to the Requests as improper to the extent they purport to impose obligations beyond those required or permitted by the Ohio Rules of Civil Procedure, the procedural rules of the Commission, or any other applicable law or rule (the “Applicable Laws”).

2. Any Response to the Requests is made by the Companies solely for the purpose of this action and without waiving or intending to waive, but, on the contrary, preserving and intending to preserve:
  - a. the right to object, on the grounds of propriety, competency, privilege, relevancy, materiality, confidentiality, authenticity, admissibility or any other proper grounds, to the use of the Responses, documents, or information provided by the Companies as evidence for any purpose, in whole or in part, in any subsequent proceeding, or in any trial in this or any other action;
  - b. the right to object on any grounds, at any time, to other discovery requests involving or relating to the subject of the Requests to which the Companies have responded herein; and
  - c. the right at any time to revise, correct, supplement or clarify these Responses, General Objections, and other objections propounded herein.
3. The Companies object to the Requests as overly broad and unduly burdensome to the extent they are not reasonably limited in time and, in particular, to the extent the Instructions require Requests to include the period from January 1, 2008 through the present.
4. The Companies object to each Request to the extent that it seeks production of information that is confidential business, commercial, financial, or proprietary information belonging to the Companies or third parties.
5. The Companies object to the Requests to the extent the Requests demand that the Companies do anything other than conduct a reasonably diligent search of centralized files and electronic records reasonably likely to contain requested documents. To the extent the Companies agree to produce documents responsive to a Request, the Companies are not

stating, agreeing, or representing that any such documents in fact exist or that, if such documents do exist, they are within the Companies' possession, custody or control. Neither the fact that an objection is interposed nor the fact that no objection is interposed necessarily means that responsive documents or information exist.

6. The General Objections and Specific Objections and Responses set forth herein are based upon information now available to the Companies, and the Companies reserve the right at any time to amend, revise, correct, add to, or clarify any of the General Objections, other objections and/or Responses set forth herein.

### **INTERROGATORIES**

**INT-02-001.** In 2007, Charles E. Jones (the current CEO) was the president of FirstEnergy Solution and his salary was not part of the 2007 test year expenses. Does this mean the current base distribution rates of the three EDUs, set in 2007, do not include the millions of compensation dollars earned by Charles E. Jones?

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it does not involve whether the costs of any political or charitable spending in support of Am. H.B. 6 – either supporting enactment of the bill or opposing the subsequent referendum effort (hereinafter, “H.B. 6 Spending”), were included, directly or indirectly, in any rates or charges paid by the Companies’ ratepayers in Ohio. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, misstates the facts of Case No. 07-551-EL-AIR, *et al.*, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense.

Subject to and without waiving the foregoing objections, labor costs associated with FirstEnergy Solutions would not have been included in base distribution rates. *See* Case No. 07-551-EL-AIR.

**INT-02-002.** Did the FirstEnergy Utilities (or any FirstEnergy Utilities’ affiliates) use any of the money collected from Ohio electric customers under distribution rates set in the FirstEnergy Utilities’ last base rate case for political and charitable spending?

If so, please identify on a yearly basis how much was used for that purpose since the approval of base rates.

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies (and their affiliates) instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because expenditures made by the Companies and their affiliates are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense by, among other things, requesting all information related to any political or charitable spending dating from the effective date of the last base rate case to the present.

**INT-02-003.** Did the FirstEnergy Utilities (or any FirstEnergy Utilities' affiliates) use any of the money collected from Ohioans under FirstEnergy Utilities' "riders or other charges in their approved tariffs" (see affidavit of Santino Fanelli) for political and charitable spending? If so, please identify on a yearly basis how much was used for that purpose, and which riders and charges were the source of the political and charitable spending?

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies (and their affiliates) instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because expenditures made by the Companies and their affiliates are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense by, among other things, requesting all information related to any political or charitable spending dating from January 1, 2008 to the present.

**INT-02-004.** Did the FirstEnergy Utilities (or any FirstEnergy Utilities' affiliates) use any of the money collected from Ohio electric customers under FirstEnergy Utilities' distribution rates set in their last base rate case for House Bill 6 activities? If so, please identify on a yearly basis how much was used for that purpose since the approval of base rates.

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies (and their affiliates) instead of whether the costs of any H.B. 6 Spending were

included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because expenditures made by the Companies and their affiliates are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense by, among other things, requesting all information related to any H.B. 6 Spending.

**INT-02-005.** Did the FirstEnergy Utilities (or any FirstEnergy Utilities affiliates') use any of the money collected from Ohioans under "riders and charges" (see affidavit of Santino Fanelli) under FirstEnergy Utilities' tariffs for House Bill 6 activities? If so, please identify on a yearly basis how much was used for that purpose, and which riders and charges were the source of the House Bill 6 activities funds?

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies (and their affiliates) instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because expenditures made by the Companies and their affiliates are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome,

harassing, oppressive, vague, ambiguous and seeks to impose an undue expense by, among other things, requesting all information related to any H.B. 6 Spending.

**INT-02-006.** Did the FirstEnergy Utilities (or any FirstEnergy Utilities' affiliates) use any of the money collected from Ohioans under "riders and charges" (see affidavit of Santino Fanelli) under FirstEnergy Utilities' tariffs for House Bill 6 activities? If so, please identify on a yearly basis how much was used for that purpose, and which riders and charges were the source of the House Bill 6 activities funds?

**RESPONSE:**

*See Objections to INT-02-005.*

**INT-02-007.** Did the FirstEnergy Utilities (or any FirstEnergy Utilities' affiliates) use any of the money collected from Ohioans under "riders and charges" (see affidavit of Santino Fanelli) approved in FirstEnergy Utilities latest electric security plan in PUCO Case No. 14-1297-EL-SSO, et al. for House Bill 6 activities? If so, please identify on a yearly basis how much was used for that purpose, and which electric security plan riders and charges were the source of the House Bill 6 activities funds?

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies (and their affiliates) instead of whether the costs of any H.B. 6 Spending were

included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because expenditures made by the Companies and their affiliates are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense by, among other things, requesting all information related to any H.B. 6 spending associated with riders and charges approved in the Companies' ESP4 proceeding.

**INT-02-008.** Did the FirstEnergy Utilities (or any FirstEnergy Utilities' affiliates) use any of the money collected from Ohioans under FirstEnergy Utilities' "riders and charges" (see affidavit of Santino Fanelli) approved in FirstEnergy's latest electric security plan, in PUCO Case No. 14-1297-EL-SSO, et al, for political and charitable spending? If so, please identify on a yearly basis how much was used for that purpose, and which electric security plan riders and charges were the source of the political and charitable spending?

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies (and their affiliates) instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because expenditures made by the Companies and their affiliates are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The

Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense by, among other things, requesting all information related to any political or charitable spending associated with riders and charges approved in the Companies' ESP4 proceeding.

**INT-02-009.** How do FirstEnergy Utilities fund political and charitable spending? Please identify the specific source of the funding.

**RESPONSE:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because expenditures made by the Companies are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous, assumes facts, and seeks to impose an undue expense by, among other things, requesting all information related to any political or charitable spending dating from January 1, 2008 to the present.

**REQUESTS FOR PRODUCTION OF DOCUMENTS**

RPD-02-001. Referencing 2020 Proxy Statement and Notice of Annual Shareholder Meeting May 19, 2020, Section 1. Corporate Governance and Board of Directors: Under Section 1 Corporate Governance it states: “Based on feedback from our shareholder engagement and outreach, we expanded our website disclosure to include reports on federal and state level lobbying, as well as, the lobbying portion of certain trade association dues.”

- a. please provide all reports on federal and state level lobbying for the period 2017 through 2020.
- b. please provide all reports on lobbying pertaining to trade association dues for the period 2017 through 2020.

**RESPONSE:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies and their affiliates instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies’ ratepayers in Ohio. The Companies further object to this Request because expenditures made by the Companies and their affiliates are outside OCC’s jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous, and seeks to impose an undue expense by, among other things, potentially requesting all information related to any political or charitable spending for the period 2017 through 2020.

Subject to and without waiving the foregoing objections, see OCC RPD-02-001  
Attachment 1.

### **REQUESTS FOR ADMISSIONS**

RFA-02-001. Admit or deny that FirstEnergy Utilities (or any FirstEnergy Utilities' affiliates) used any of the money collected from Ohio electric customers under distribution rates set in the FirstEnergy Utilities' last base rate case for political and charitable spending.

#### **ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies (and their affiliates) instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because expenditures made by the Companies and their affiliates are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense by, among other things, requesting all information related to any political or charitable spending dating from the effective date of the last base rate case to the present.

Subject to and without waiving the foregoing objections, the Companies deny that they included, directly or indirectly, the costs of any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio. Further, following a reasonable inquiry, the Companies lack information sufficient to either admit or deny this Request because funds received from base distribution rates are not differentiated from funds received by the Companies from other revenues or sources.

RFA-02-002. Admit or deny that FirstEnergy Utilities (or any FirstEnergy Utilities affiliates) used any of the money collected from Ohioans under FirstEnergy Utilities' "riders and charges" (see Santino Fanelli affidavit) in their tariffs for political and charitable spending.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies (and their affiliates) instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because expenditures made by the Companies and their affiliates are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense by, among other things, requesting all information related to any political or charitable spending dating from January 1, 2008 to the present.

Subject to and without waiving the foregoing objections, the Companies deny that they included, directly or indirectly, the costs of any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio. Further, following a reasonable inquiry, the Companies lack information sufficient to either admit or deny this Request because funds received from riders and charges are not differentiated from funds received by the Companies from other revenues or sources.

RFA-02-003. Admit or deny that FirstEnergy Utilities (or any FirstEnergy Utilities affiliates) used any of the money collected from Ohio electric customers under FirstEnergy Utilities' distribution rates set in their last base rate case for House Bill 6 activities.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies (and their affiliates) instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Request because expenditures made by the Companies and their affiliates are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense by, among other things, requesting all information related to any H.B. 6 Spending.

Subject to and without waiving the foregoing objections, the Companies deny that they included, directly or indirectly, the costs of any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio. Further, following a reasonable inquiry, the Companies lack information sufficient to either admit or deny this Request because funds received from base distribution rates are not differentiated from funds received by the Companies from other revenues or sources.

RFA-02-004. Admit or deny that FirstEnergy Utilities (or any FirstEnergy Utilities affiliates) used any of the money collected from Ohioans under “riders and charges” (see affidavit of Santino Fanelli) under FirstEnergy Utilities’ tariffs for House Bill 6 activities.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies (and their affiliates) instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies’ ratepayers in Ohio. The Companies further object to this Request because expenditures made by the Companies and their affiliates are outside OCC’s jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing, oppressive, vague, ambiguous and seeks to impose an undue expense by, among other things, requesting all information related to any H.B. 6 Spending.

Subject to and without waiving the foregoing objections, the Companies deny that they included, directly or indirectly, the costs of any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio. Further, following a reasonable inquiry, the Companies lack information sufficient to either admit or deny this Request because funds received from riders and charges in the Companies’ tariffs are not differentiated from funds received by the Companies from other revenues or sources.

RFA-02-005. Admit or deny that FirstEnergy Utilities (or any of the FirstEnergy Utilities affiliates) used any of the money collected from Ohioans under “riders and charges” (see affidavit of Santino Fanelli) under FirstEnergy Utilities’ tariffs for House Bill 6 activities.

**ADMIT/DENY:**

*See Objections and Response to RFA-02-004.*

RFA-02-006. Admit or deny that FirstEnergy Utilities (or any FirstEnergy Utilities’ affiliates) used any of the money collected from Ohioans under “riders and charges” (see affidavit of Santino Fanelli) approved in FirstEnergy Utilities latest electric security plan (Case No. 14-1297-EL-SSO) for House Bill 6 activities.

**ADMIT/DENY:**

The Companies object to this Request on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies (and their affiliates) instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies’ ratepayers in Ohio. The Companies further object to this Request because expenditures made by the Companies and their affiliates are outside OCC’s jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Request because it is overly broad, unduly burdensome, harassing,

oppressive, vague, ambiguous and seeks to impose an undue expense by, among other things, requesting all information related to any H.B. 6 Spending.

Subject to and without waiving the foregoing objections, the Companies deny that they included, directly or indirectly, the costs of any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio. Further, following a reasonable inquiry, the Companies lack information sufficient to either admit or deny this Request because funds received from riders and charges approved in Case No. 14-1297-EL-SSO are not differentiated from funds received by the Companies from other revenues or sources.

RFA-02-007. Admit or deny that FirstEnergy Utilities (or any FirstEnergy Utilities affiliates) used any of the money collected from Ohioans under FirstEnergy Utilities' "riders and charges" (see affidavit of Santino Fanelli) approved in FirstEnergy's latest electric security plan (Case No. 14-1297-EL-SSO) for political and charitable spending.

**ADMIT/DENY:**

The Companies object to this Interrogatory on the grounds that it seeks information irrelevant to the subject matter involved in the proceeding and not reasonably calculated to lead to the discovery of relevant or admissible evidence because it involves the possible expenditures by the Companies (and their affiliates) instead of whether the costs of any H.B. 6 Spending were included, directly or indirectly, in any rates or charges paid by the Companies' ratepayers in Ohio. The Companies further object to this Interrogatory because expenditures made by the Companies and their affiliates are outside OCC's jurisdiction and, thus, unlawful for OCC to investigate. The Companies further object to this Interrogatory because it is overly broad, unduly burdensome,

harassing, oppressive, vague, ambiguous and seeks to impose an undue expense by, among other things, requesting all information related to any political or charitable spending associated with riders and charges approved in the Companies' ESP4 proceeding.

Subject to and without waiving the foregoing objections, the Companies deny that they included, directly or indirectly, the costs of any H.B. 6 Spending in any rates or charges paid by ratepayers in Ohio. Further, following a reasonable inquiry, the Companies lack information sufficient to either admit or deny this Request because funds received from riders and charges approved in Case No. 14-1297-EL-SSO are not differentiated from funds received by the Companies from other revenues or sources.

AS TO OBJECTIONS,<sup>1</sup>

/s/ James F. Lang

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*Attorneys for Ohio Edison Company, The Cleveland  
Electric Illuminating Company, and The Toledo  
Edison Company*

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<sup>1</sup> Answers to interrogatories were prepared by Santino Fanelli.

## BEFORE

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the )  
Political and Charitable Spending by Ohio ) Case No. 20-1502-EL-UNC  
Edison Company, The Cleveland Electric )  
Illuminating Company, and the Toledo )  
Edison Company. )

**AFFIDAVIT OF MAUREEN R. WILLIS IN SUPPORT OF MOTION TO COMPEL  
RESPONSES TO DISCOVERY**

I, Maureen R. Willis, attorney for the Ohio Consumers' Counsel ("OCC") in the above-captioned case, submit this affidavit in support of OCC's Motion to Compel Responses to Discovery.

1. On or around October 15, 2020, OCC and Counsel for FirstEnergy discussed OCC's Notice to take Deposition of Mr. Fanelli. During that conversation there was a discussion of the scope of the proceeding. It became clear then that OCC and the FirstEnergy Utilities fundamentally disagree on the scope of the proceeding.

2. On November 3, 2020, OCC contacted FirstEnergy's Counsel to discuss the FirstEnergy Utilities' responses to OCC's First and Second Set of Discovery. Our conversation centered upon the scope of the proceeding. Again, like the conversation two weeks earlier (Oct. 15, 2020), OCC and FirstEnergy Utilities could not agree on the scope of the proceeding as it relates to discovery. OCC advised FirstEnergy Utilities' Counsel that it would be filing a motion to compel, responses to OCC's discovery. There have been no further communications with FirstEnergy on this matter.

STATE OF OHIO                    )  
  ) SS:  
COUNTY OF FRANKLIN        )

The undersigned, being of lawful age and duly sworn on oath, hereby certifies, deposes and states the following:

I have caused to be prepared the attached written affidavit for OCC in the above referenced docket. This affidavit is true and correct to the best of my knowledge, information and belief.

  
Maureen R. Willis, Affiant

Subscribed and sworn to before me this 4<sup>th</sup> day of Nov. 2020.



DEBRA JO BINGHAM  
Notary Public  
State of Ohio  
My Comm. Expires  
June 13, 2025

  
Notary Public

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**11/10/2020 4:57:10 PM**

**in**

**Case No(s). 20-1502-EL-UNC**

Summary: Motion Revised Motion to Compel Responses to Discovery by Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Willis, Maureen R Mrs.