

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Review of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo) Case No. 17-974-EL-UNC
Edison Company's Compliance with R.C.)
4928.17 and Ohio Adm. Code Chapter)
4901:1-37.)**

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY'S
MOTION FOR A PARTIAL PROTECTIVE ORDER ON OCC'S
FOURTH SET OF DISCOVERY REQUESTS**

Pursuant to Ohio Administrative Code 4901-1-24, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the "Companies") move the Commission for an order protecting them from responding to several requests from the Office of the Ohio Consumers' Counsel's ("OCC") Fourth Set of Discovery originally served on December 29, 2020. *See* Exhibit 1. As more fully explained in the accompanying Memorandum in Support, several of OCC's requests are objectionable for several reasons, including that they seek information falling outside the Commission's jurisdiction to regulate the Companies' provision of retail electric service, and are outside the scope of this proceeding.

As required by Ohio Administrative Code ("OAC") 4901-1-24, the Companies have attached OCC's Fourth Set of Discovery as Exhibit A and an affidavit of counsel setting forth the efforts that have been undertaken to resolve this discovery dispute with OCC as Exhibit B.

Accordingly, the Companies request that the Commission grant their Motion for a Partial Protective Order and issue an order stating that the Companies are not required to respond to the outstanding requests.

Dated: May 13, 2021

Respectfully submitted,

/s/ Ryan A. Doringo

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**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY'S MEMORANDUM IN
SUPPORT OF THEIR MOTION FOR A PARTIAL PROTECTIVE ORDER ON OCC'S
FOURTH SET OF DISCOVERY REQUESTS**

I. INTRODUCTION

Some of OCC's request in its Fourth Set of Discovery exceed the permissible bounds of discovery because they seek information beyond the Commission's jurisdiction to investigate and are outside the scope of this proceeding. As a result, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the "Companies") request that the Commission issue an order relieving the Companies from their obligation to respond to **Interrogatories 2 to 9, 10 (only as to subparts a-c, and e), 11 (only as to subparts a-c), 13 (only as to subparts a-c), 15 to 19, 21, and 23 to 25; Requests for Admission 1 to 4 and 13 to 17; and Requests for Production 4, and 7 to 16.** See Exhibit A.

Given the Attorney Examiners' April 8 Ruling in Case No. 17-2474-EL-RDR, the Companies have cooperated in good faith with OCC and committed to supplement their responses to many of OCC's requests, and the Companies are not seeking relief from supplementing their responses to all of the OCC's requests. Specifically, the Companies have agreed to supplement their responses to **Interrogatories 1, 10 (subparts d-f), 11 (subpart d), 12, 13 (subpart d), 14,**

20, 22, 26; Requests for Admission 5 through 12; and Requests for Production 1, 3, 6, and 17 to 26.

But the Companies must continue to object to the remaining requests—and for good reason. These requests (1) call for information falling outside the Commission’s jurisdiction to regulate the Companies’ provision of retail electric service, as well as outside OCC’s own authority to investigate, (2) seek information beyond the scope of the corporate separation proceeding, and (3) are vague, ambiguous, and overbroad. Because of these deficiencies, these requests are not reasonably calculated to lead to the discovery of admissible or relevant evidence and would cause the Companies undue burden and expense.¹

For these reasons and those explained below, the Attorney Examiner should grant the Companies’ Motion for a Partial Protective Order and issue an order stating that the Companies are not required to respond to OCC’s requests listed above.

II. ARGUMENT

A. The Commission Has Broad Authority To Limit Or Deny Discovery.

Under Ohio Administrative Code Section 4901-1-24, a party may seek Commission protection from discovery requests that would impose annoyance, oppression, or undue burden or expense on that party. Paragraph (A) of this rule provides:

(A) Upon motion of any party or person from whom discovery is sought, the commission, the legal director, the deputy legal director, or an attorney examiner may issue any order that is necessary to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. Such a protective order may provide that:

(1) Discovery not be had.²

¹ See Ohio Adm. Code 4901-1-24(A).

² Ohio Adm. Code 4901-1-24(A).

This rule provides the Commission ample authority to limit or deny discovery under the appropriate circumstances, and those circumstances are present here.

In addition, the Companies have complied with the procedural prerequisites for filing a motion for a protective order. Ohio Administrative Code Section 4901-1-24(B) requires that the party seeking the protective order must have exhausted all reasonable means of resolving any differences with the party seeking discovery. The Companies have fulfilled that requirement here. Given the Attorney Examiners' April 8 Ruling in Case No. 17-2474-EL-RDR, the Companies understand they have agreed to submit supplemental responses to OCC's Fourth Set of Discovery and then move for a protective order on the remainder of the requests by May 13. *See* Exhibit B.

B. OCC's Requests Seek Information Falling Outside The Commission's Jurisdiction over the Companies' Provision of Retail Electric Service, as well as Outside OCC's Own Authority.

In **Interrogatories 3, 19, 21, 23, 24, 25, Requests for Admission 1, 13 to 17, and Requests for Production 8 to 16**, OCC seeks to investigate matters falling outside the Commission's jurisdiction to regulate the Companies' provision of retail electric service. The Commission regulates and supervises public utilities when they act as public utilities.³ Yet OCC asks the Commission to exceed that jurisdiction and exercise sweeping investigative powers over FirstEnergy Corp. OCC itself does not have the authority to pursue the questions it poses.⁴

³ *In re Complaint of Direct Energy Business, LLC v. Duke Energy Ohio, Inc.*, 2020-Ohio-4429, ¶ 25 (Sept. 17, 2020).

⁴ *In re Amendment of Certain Rules of the Ohio Administrative Code to Implement Sections 4905.261 and 4911.021, Revised Code*, Case No. 05-1350-AU-ORD, 2006 WL 193640, Opinion and Order and Entry on Rehearing (Jan. 4, 2006) (emphasis added) ("The authority enumerated for OCC is not unlimited; it is linked to rights and powers in the context of a party appearing before the Commission in an official proceeding."); *In the Matter of the Amend. of the Minimum Tel. Serv. Standards As Set Forth in Chapter 4901:1-5 of the Ohio Admin. Code.*, No. 96-1175-TP-ORD, 1997 WL 34878871 (June 26, 1997) ("[T]he General Assembly did not intend or imply that the OCC should monitor or supervise the operations and/or performance of public utilities, only to represent the interest of residential customers in such proceedings before the Commission."); *Tongren v. D&L Gas Mktg., Ltd.*, 149 Ohio App. 3d 508, 511, 2002-Ohio-5006, 778 N.E.2d 76 (10th Dist. 2002).

OCC's authority is not unlimited; rather "it is linked to the rights and powers in the context of a party appearing before the Commission in an official proceeding."⁵ "[T]he General Assembly did not intend or imply that the OCC should monitor or supervise the operations and/or performance of public utilities"—not to mention FirstEnergy Corp.⁶

Despite the statutory limits placed on OCC and Commission proceedings, OCC repeatedly attempts to probe into a privileged internal investigation conducted by the FirstEnergy Corp. Board of Directors. For example, Request for Admission 17 asks the *Companies* to "admit or deny that the internal investigation undertaken at the direction of the *independent members of the FirstEnergy Board of Directors* was undertaken as a result of the Criminal Complaint."⁷ And Request for Production 12 requests "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."⁸ Inquiring into a privileged Board investigation is not relevant to this proceeding nor is it permissible under the Commission's rules and the Commission's jurisdictional authority.

Additionally, OCC's use of discovery attempts to force the Commission into the roles of United States Attorney (which, as has been noted more than once, the Commission is not),⁹ the SEC, and the Ohio Attorney General. *Allstate* does not confer the Commission with jurisdiction over these matters, which do not require the Commission's administrative expertise to resolve. Disregarding the Commission's statutorily defined authority, OCC improperly seeks documents

⁵ *In re Amendment of Certain Rules of the Ohio Administrative Code to Implement Sections 4905.261 and 4911.021, Revised Code*, Case No. 05-1350-AU-ORD, 2006 WL 193640, Opinion and Order and Entry on Rehearing (Jan. 4, 2006).

⁶ *In the Matter of the Amend. of the Minimum Tel. Serv. Standards As Set Forth in Chapter 4901:1-5 of the Ohio Admin. Code.*, No. 96-1175-TP-ORD, 1997 WL 34878871 (June 26, 1997).

⁷ See OCC RFA-04-017 (emphasis added).

⁸ See OCC RPD-04-012.

⁹ See, e.g., Case No. 20-1502-EL-UNC, Hr'g Tr., at 23 (March 25, 2021).

produced to these governmental entities.¹⁰ Indeed, these types of requests have already been ruled out of bounds.¹¹

Because OCC seeks information about the inner workings of FirstEnergy Corp. unrelated to whether that information would lead to the discovery of relevant or admissible evidence about “the rates, tolls, or charges for the commodity or services offered by” the Ohio Companies,¹² these requests are unduly burdensome and the information sought is protected from disclosure in Commission proceedings.¹³

C. OCC’s Requests Seek Information That Is Not Within The Scope Of This Corporate Separation Proceeding.

R.C. 4928.17 does not grant unfettered authority to investigate all aspects of the Companies’ and their affiliates’ business operations. R.C. 4928.17 is directed at ensuring that no affiliate “in the business of providing competitive retail electric service” is unfairly advantaged by its corporate relationship to a regulated utility.¹⁴ For this reason, **Interrogatories 2 to 9, 10 (subparts a-c, and e), 11 (subparts a-c), 13 (subpart d), 15 to 18, Requests for Admission 1 to 4, 17, and Requests for Admission 5, 7 to 16** are outside the scope of this proceeding, not reasonably calculated to lead to the discovery of relevant or admissible evidence, and unduly burdensome.

More to the point, R.C. 4928.17 does not reach either the Companies’ or their affiliates’ political spending, which is unrelated to the provision of competitive or noncompetitive retail

¹⁰ See OCC RPD-04-010, RPD-04-014, and RPD-04-015.

¹¹ Case No. 20-1502-EL-UNC, Hr’g Tr., at 23 (March 25, 2021).

¹² *In the Matter of the Amend. of the Minimum Tel. Serv. Standards As Set Forth in Chapter 4901:1-5 of the Ohio Admin. Code.*, No. 96-1175-TP-ORD, 1997 WL 34878871 (June 26, 1997); see also *In re Complaint of Direct Energy Business, LLC v. Duke Energy Ohio, Inc.*, 2020-Ohio-4429, ¶ 25 (Sept. 17, 2020).

¹³ See, e.g., *In the Matter of the Amend. of the Minimum Tel. Serv. Standards As Set Forth in Chapter 4901:1-5 of the Ohio Admin. Code.*, No. 96-1175-TP-ORD, 1997 WL 34878871 (June 26, 1997).

¹⁴ R.C. 4928.17 (emphasis added).

electric service. The Commission expanded the scope of this proceeding to ensure “compliance by the Companies and its affiliates with the corporate separation provisions of R.C. 4928.17 and with the Companies’ Commission-approved corporate separation plans,” and ordered an “additional corporate separation audit for the period between November 1, 2016 and October 31, 2020.”¹⁵ However, this is one of four investigative proceedings—each one a separate slice of a jurisdictional pie.¹⁶ Existing apart from the corporate separation proceeding is the show cause proceeding, which examines whether “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.”¹⁷ Questions related to the political and charitable spending of the Companies are not within the jurisdictional scope of this corporate separation proceeding.¹⁸ *In re Chapter 4901:1-20, Ohio Adm. Code*, 2004 WL 1950732, Case No. 04-48-EL-ORD, at p. 14.

Notwithstanding that, OCC includes numerous discovery requests related to political and charitable spending—copied almost verbatim from their show cause discovery—in their discovery here. These requests include Interrogatories 2 through 7, 9, and 18 and Requests for Admission 1 through 4. For example, Interrogatory 4 asks the Companies to “identify all political and charitable spending by or [on] behalf of FirstEnergy Utilities, regarding House Bill 6 activities,” and Interrogatory 3 asks the Companies to “identify all payments made by FirstEnergy Service Co. or FirstEnergy Corp. to Generation Now.” These requests do not seek information about the Companies’ compliance with Ohio R.C. 4926.17, O.A.C. 4901:1–37, nor their own Corporate

¹⁵ See Case No. 17-0974-EL-UNC, Entry, at ¶ 17 (Nov. 4, 2020).

¹⁶ See Case No. 20-1502-EL-UNC, Hr’g Tr., at 26:2–10 (Jan. 7, 2021).

¹⁷ Case No. 20-1502-EL-UNC, Entry, at ¶ 5 (Sept. 15, 2020).

¹⁸ The Companies do not concede that the listed requests are proper and within the scope of the show cause proceeding, Case No. 20-1502-EL-UNC. Indeed, some requests are overbroad and outside the Commission’s and OCC’s jurisdiction to investigate altogether. See *supra* Section II.B.

Separation Plan. OCC's duplicative and out-of-bounds requests are not reasonably calculated to lead to the discovery of relevant or admissible evidence and therefore unduly burdensome.

D. OCC's Requests Are Overbroad And Vague.

On top of the deficiencies described above, many of OCC's requests listed above are vague, ambiguous, and overbroad. For example, Interrogatory 8 asks the Companies to "identify all travel and entertainment expenses incurred by or on behalf of FirstEnergy Utilities, related to House Bill 6 activities." OCC's definition of "House Bill 6 activities" is overbroad and vague, leaving the Companies to speculate about the scope of the request. OCC's definition states that "House Bill 6 activities" "include *but are not limited to* those described in the Criminal Complaint that were undertaken to pass House Bill 6 and defeat the referendum effort." Exhibit 1, Definitions, ¶ 18 (emphasis added). First, OCC's definition is facially overbroad as it expressly states that the activities "are not limited to" even those alleged in the Criminal Complaint. Second, the Criminal Complaint contains no allegations of wrongdoing by the Companies. Without a proper limitation, Interrogatory 8 otherwise seeks all information related to "all travel and entertainment expenses incurred by or on behalf of FirstEnergy Utilities." Further, this request is overbroad as it is not tailored to seeking information about the Companies' corporate separation compliance. Similarly, Request for Production 8 asks for 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 *or* a FirstEnergy affiliate for years 2017 through present." This request is entirely overbroad and unduly burdensome, and OCC made no effort to tailor this request so that it could lead to information related to the Ohio Companies' corporate separation compliance. Indeed, parties have well-recognized rights in Commission cases to object to overly broad and

unduly burdensome discovery requests.¹⁹ And the Companies therefore respectfully request a protective order on these overbroad and vague requests.

III. CONCLUSION

The Companies reiterate that they are willing to cooperate with OCC to respond to and supplement discovery in this proceeding. However, the Companies respectfully request, for the foregoing reasons, that this Motion be granted and that the Commission issue an order stating that the Companies are not required to respond to OCC's Discovery Requests listed above.

¹⁹ See, e.g., *In the Matter of the Application of Buckeye Wind LLC for a Certificate to Construct Wind-powered Electric Generation Facilities in Champaign County, Ohio*, Case No. 08-666-EL-BGN, 2009 Ohio PUC LEXIS 931 at *8-12 (Oct. 30, 2009) (denying in part motion to compel because several discovery requests were irrelevant, vague and overly broad); *In the Matter of the Application of Middletown Coke Co.*, Case No. 08-281-EL-BGN, 2008 Ohio PUC LEXIS 821 at *3-4 (Nov. 4, 2008) (denying motion to compel and holding that irrelevant material was not subject to discovery); *In the Matter of the Continuation of the Rate Freeze and Extension of the Market Development Period for The Dayton Power and Light Company*, Case No. 02-2779-EL-ATA, 2003 Ohio PUC LEXIS 392 at *34-35 (Sept. 2, 2003) (acknowledging the general rule that discovery is limited to materials "relevant to the subject matter of the proceeding" and denying motion to compel because "the information sought would not be relevant to the determination of [the present] matter").

Dated: May 13, 2021

Respectfully submitted,

/s/ Ryan A. Doringo

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On behalf of the Companies

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on May 13, 2021. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ Ryan A. Doringo
Attorney for the Companies

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

**FOURTH SET
(DATED DECEMBER 29, 2020)**

The Office of the Ohio Consumers' Counsel, in the above-captioned proceedings before the Public Utilities Commission of Ohio, submits the following Interrogatories, Requests for Admissions and Requests for Production of Documents under sections 4901-1-19, 4901-1-20, 4901-1-22 of the Ohio Administrative Code for response from Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company (collectively, "FirstEnergy Utilities" or the "Utilities") within 20 days or any shorter period of time subsequently established by PUCO Entry or Order. An electronic, non-pdf (*e.g.* Microsoft Excel) response should be provided to the Office of the Ohio Consumers' Counsel at the following addresses:

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Because of the coronavirus pandemic, OCC employees are continuing to work from home for the foreseeable future. If FirstEnergy Utilities intend to send any discovery responses by mail (USPS, FedEx, UPS, courier, etc.) as opposed to email, OCC asks that FirstEnergy Utilities to contact OCC's counsel in advance of mailing to potentially arrange for delivery to a different mailing address.

Additionally, FirstEnergy Utilities must follow the instructions provided herein in responding to the inquiries. Definitions are provided below that are used in the Office of the Ohio Consumers' Counsel's discovery.

DEFINITIONS

As used herein, the following definitions apply:

1. "Document" or "Documentation," when used herein, is used in its customary broad sense and means all originals of any nature whatsoever, identical copies, and all non-identical copies thereof, pertaining to any medium upon which intelligence or information is recorded in your possession, custody, or control, regardless of where located, including any kind of printed, recorded, written, graphic, or photographic matter

and things similar to any of the foregoing, regardless of their author or origin. The term specifically includes, without limiting the generality of the following: punchcards, printout sheets, movie film, slides, PowerPoint slides, phonograph records, photographs, memoranda, ledgers, work sheets, books, magazines, notebooks, diaries, calendars, appointment books, registers, charts, tables, papers, agreements, contracts, purchase orders, checks and drafts, acknowledgments, invoices, authorizations, budgets, analyses, projections, transcripts, minutes of meetings of any kind, telegrams, drafts, instructions, announcements, schedules, price lists, electronic copies, reports, studies, statistics, forecasts, decisions, orders, intra-office and inter-office communications, correspondence, financial data, summaries or records of conversations or interviews, statements, returns, workpapers, maps, graphs, sketches, summaries or reports of investigations or negotiations, opinions or reports of consultants, brochures, bulletins, pamphlets, articles, advertisements, circulars, press releases, graphic records or representations or publications of any kind (including microfilm, videotape and records, however produced or reproduced), electronic (including e-mail), mechanical and electrical records of any kind and computer produced interpretations thereof (including, without limitation, tapes, tape cassettes, disks and records), other data compilations (including, source codes, object codes, program documentation, computer programs, computer printouts, cards, tapes, disks and recordings used in automated data processing together with the programming instructions and other material necessary to translate, understand or use the same), all drafts, prints, issues, alterations, modifications, changes, amendments, and mechanical or electric sound recordings and transcripts to the foregoing. A request for discovery concerning documents addressing, relating or referring

to, or discussing a specified matter encompasses documents having a factual, contextual, or logical nexus to the matter as well as documents making explicit or implicit reference thereto in the body of the documents. Originals and duplicates of the same document need not be separately identified or produced, but drafts of a document or documents differing from one another by initials, interlineations, notations, erasures, file stamps, and the like shall be deemed to be distinct documents requiring separate identification or production. Copies of documents shall be legible.

2. "Communication(s)" shall mean any transmission of information by oral, graphic, written, pictorial, electronic, or otherwise perceptible means, including, but not limited to, telephone conversations, emails, letters, telegrams, and personal conversations. A request seeking the identity of a communication addressing, relating or referring to, or discussing a specified matter encompasses documents having factual, contextual, or logical nexus to the matter, as well as communications in which explicit or implicit reference is made to the matter in the course of the communication.
3. The "substance" of a communication or act includes the essence, purport or meaning of the same, as well as the exact words or actions involved.
4. "And" and "Or" shall be construed conjunctively or disjunctively as necessary to make any request inclusive rather than exclusive.
5. "You," "Your," and "Yourself" refer to the party requested to produce documents and any present or former director, officer, agent, contractor, consultant, advisor, employee, partner, or joint venturer of such party.
6. Each singular shall be construed to include its plural, and vice versa, so as to make the request inclusive rather than exclusive.

7. Words expressing the masculine gender shall be deemed to express the feminine and neuter genders and vice versa. Words expressing the past tense shall be deemed to express the present tense and vice versa.
8. "Person" includes any firm, corporation, partnership, joint venture, association, committee, board, entity, or group of natural individuals, unless the context clearly indicates that only a natural individual is referred to in the discovery request.
9. "Identify," "the identity of," and "identified" mean as follows:
 - A. When used in reference to an individual, to state his full name, his present or last known position and business affiliation, and his position and business affiliation at the time in question;
 - B. When used in reference to a commercial or governmental entity, to state its full name, type of entity (*e.g.*, corporation, partnership, single proprietorship), and its present or last known address;
 - C. When used in reference to a document, to state the date, author, title, type of document (*e.g.*, letter, memorandum, photograph, tape recording, etc.), general subject matter of the document, and its present or last known location and custodian;
 - D. When used in reference to a communication, (i) to state the type of communication (*e.g.*, letter, personal conversation, etc.), the date thereof, and the parties thereto and the parties thereto; and (ii) in the case of a conversation, to state the substance, place, and approximate time thereof and identity of other persons in the presence of each party thereto;

- E. When used in reference to an act, to state the substance of the act, the date, time, and place of performance, and the identity of the actor and all other persons present.
 - F. When used in reference to a place, to state the name of the location and provide the name of a contact person at the location (including that person's telephone number), state the address, and state a defining physical location (*e.g.*, a room number, file cabinet, and/or file designation).
10. The terms "PUCO" and "Commission" refer to the Public Utilities Commission of Ohio, including its Commissioners, personnel (including Persons working for the PUCO Staff as well as in the Public Utilities Section of the Ohio Attorney General's Office), and offices.
 11. The term "*e.g.*" connotes illustration by example, not limitation.
 12. "FirstEnergy Utilities," and the "Companies" mean, collectively, Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company. Each of the Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company may individually be referred to as a "Company" or "Utility."
 13. "FirstEnergy Service Co." means the company that provides services to FirstEnergy Utilities and is an affiliate of FirstEnergy Utilities and is controlled by the Board of Directors of FirstEnergy Corp.
 14. "Political and Charitable Spending" means any expenditures (whether expensed or capitalized) to support the enactment or repeal of legislation, including but not limited to: lobbying expenses, payments to legislators, campaign contributions, attendance at fund-raising events, payments made to political action committees, or other organizations (including 501(C)(3) and (C)(4) organizations), payments to political parties, payments to

persons or organizations submitting testimony on regulatory or legislative matters, contributions to organizations affiliated with sponsors of legislation, contributions to persons and organizations submitting communications to government officials on legislation or regulatory proposals, and - contributions to low-income advocates or representatives of low income customers.

15. “Proceeding” means the above-captioned proceeding, Case No. 20-1502-EL-UNC.
16. “Criminal Complaint” means the criminal complaint and supporting affidavits filed in *United States of America v. Larry Householder, Jeffrey Longstreth, Neil Clark, Matthew Borges, Juan Cespedes, and Generation Now*, Case No. 1:20-MJ-00526 (U.S. Dist. S.D.) (July 17, 2020).
17. “Generation Now” means the 501(C)(4) corporation identified in the Criminal Complaint.
18. “House Bill 6 activities” include but are not limited to those described in the Criminal Complaint that were undertaken to pass House Bill 6 and defeat the referendum effort.

INSTRUCTIONS FOR ANSWERING

1. All information is to be divulged that is in your possession or control or within the possession or control of your attorney, agents, or other representatives of yours or your attorney.
2. Where an interrogatory calls for an answer in more than one part, each part should be separate in the answer so that the answer is clearly understandable.
3. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections are to be signed by the attorney making them.
4. If any answer requires more space than provided, continue the answer on the reverse side of the page or on an added page.
5. Your organization is requested to produce responsive materials and information within its physical control or custody, as well as materials and information physically controlled or possessed by any other person acting or purporting to act on your behalf, whether as an officer, director, employee, agent, independent contractor, attorney, consultant, witness, or otherwise.
6. Where these requests seek quantitative or computational information (*e.g.*, models, analyses, databases, and formulas) stored by your organization(s) or its consultants in computer-readable form, in addition to providing hard copy (if an electronic response is not otherwise provided as requested), you are requested to produce such computer-readable information, in order of preference:
 - A. Microsoft Excel worksheet files on compact disk;

- B. Other Microsoft Windows or Excel compatible worksheet or database diskette files;
 - C. ASCII text diskette files;
 - D. Such other magnetic media files as your organization(s) may use.
7. Conversion from the units of measurement used by your organization(s) in the ordinary course of business need not be made in your response; *e.g.*, data requested in kWh may be provided in mWh or gWh as long as the unit measure is made clear.
 8. Unless otherwise indicated, the following requests shall require you to furnish information and tangible materials pertaining to, in existence, or in effect for the whole or any part of the period from January 1, 2008 through and including the date of your response.
 9. Responses must be complete when made and must be supplemented with subsequently-acquired information at the time such information is available.
 10. In the event that a claim of privilege is invoked as the reason for not responding to discovery, the nature of the information with respect to which privilege is claimed shall be set forth in responses together with the type of privilege claimed and a statement of all circumstances upon which the respondent to discovery will rely to support such a claim of privilege (*i.e.*, provide a privilege log). Respondent to the discovery must (a) identify (see definition) the individual, entity, act, communication, and/or document that is the subject of the withheld information based upon the privilege claim, (b) identify all persons to whom the information has already been revealed, and (c) provide the basis upon which the information is being withheld and the reason that the information is not provided in discovery.

11. To the extent that any interrogatory requests the production of documents, such interrogatory shall be treated as a request for the production of documents, and such documents shall be produced as if the interrogatory were designated a request for the production of documents.
12. To the extent that any request the production of documents seeks an interrogatory response (in addition to, or in place of, a request for a document), such request for the production of a documents shall be treated as an interrogatory, and such request shall be responded to as if it were designated an interrogatory.
13. Capitalized terms not otherwise defined herein shall have the meaning given to them in the Application.

INTERROGATORIES

* 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.

Please see and respond to these discovery requests consistent with the OCC definitions of various discovery terms, including definitions of “communications” “House Bill 6 activities” “political and charitable spending” “Commission”, etc. Thank you.

INT-04-001. Please identify each person that FirstEnergy Utilities expect to call as a witness at any hearing conducted in this proceeding.

RESPONSE:

INT-04-002. 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.

RESPONSE:

INT-04-003. Please identify all payments made by FirstEnergy Service Co. or FirstEnergy Corp. 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. or FirstEnergy Corp. 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.

RESPONSE:

INT-04-004. 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.

RESPONSE:

INT-04-005. 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.

RESPONSE:

INT-04-006. 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.

RESPONSE:

INT-04-007. 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:

INT-04-008. 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.

RESPONSE:

INT-04-009. 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:

INT-04-010. 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:

INT-04-011. 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:

INT-04-012. 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:

INT-04-013. 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 CEI 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 4th Quarter 2017 "Miscellaneous and General Expenses" (930.2) of \$22,891,423 to the "current year" amount for that item of \$680,078.

RESPONSE:

INT-04-014. Please identify the monthly Regulated Money Pool balances in 2017 through 2020.

RESPONSE:

INT-04-015. How do FirstEnergy Utilities (or any of FirstEnergy Utilities' Affiliates) fund political and charitable spending? Please identify the specific source of the funding.

RESPONSE:

INT-04-016. Did the FirstEnergy Utilities (or any FirstEnergy Utilities' affiliates) use any of the money collected from Ohioans under "riders and charges" 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:

INT-04-017. Did the FirstEnergy Utilities (or any FirstEnergy Utilities' affiliates) use any of the money collected from Ohioans under "riders and charges" 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:

INT-04-018. Did the FirstEnergy Utilities (or any FirstEnergy Utilities' affiliates) use any of the money collected from Ohioans under FirstEnergy Utilities' "riders and charges" approved in FirstEnergy's latest electric security plan, in PUCO Case No. 14-1297-EL-SSO, et al, for political and charitable spending since January 1, 2017? 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:

INT-04-019. Please identify the specific corporate policies that former CEO Charles Jones violated that led to his termination on or about October 29, 2020.

RESPONSE:

INT-04-020. Please identify the job duties to hold the position of Senior Vice President of Product Development with FirstEnergy.

RESPONSE:

INT-04-021. Please identify the reasons for terminating former Senior Vice President of Product Development Dennis Chack. If his termination was due to violating corporate policies, please specifically identify those policies.

RESPONSE:

INT-04-022. Please identify the job duties to hold the position of Senior Vice President of External Affairs with FirstEnergy.

RESPONSE:

INT-04-023. Please identify the reasons that at former Senior Vice President of External Affairs Michael Dowling was terminated. If his termination was due to violating corporate policies, please specifically identify those policies.

RESPONSE:

INT-04-024. Please identify the specific corporate policies that were discovered to be violated as part of the independent board of directors' review concerning the Criminal Complaint.

RESPONSE:

INT-04-025. Please identify the specific changes to FirstEnergy's Corporate Separation Plan that were proposed as part of the independent board of directors' review concerning the Criminal Complaint or that were proposed as part of termination of Chuck Jones, Dennis Chack and Michael Dowling.

RESPONSE:

INT-04-026. Please identify the specific changes to FirstEnergy's Corporate Separation Plan that have been proposed since January 1, 2017.

RESPONSE:

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-04-001. 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:

RFA-04-002. 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:

RFA-04-003. Please admit or deny that FirstEnergy Utilities engaged in political and charitable spending to support the enactment of House Bill 6.

ADMIT/DENY:

RFA-04-004. 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:

RFA-04-05. Please admit or deny that all funds the FirstEnergy Utilities received from Rider DMR were placed into the Regulated Utility Money Pool.

ADMIT/DENY:

RFA-04-06. 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:

RFA-04-07. Please admit or deny that FirstEnergy utilities can borrow from the Regulated Money Pool to fund their expenditures.

ADMIT/DENY:

RFA-04-08. 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:

RFA-04-09. Please admit or deny that FirstEnergy Utilities borrowed from the Regulated Money Pool to fund House Bill 6 activities.

ADMIT/DENY:

RFA-04-010. 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:

RFA-04-011. Please admit or deny that no FirstEnergy affiliate borrowed from the Regulated Money Pool to fund House Bill 6 activities.

ADMIT/DENY:

RFA-04-012. Please admit or deny that non-OHIO regulated subsidiaries borrowed money from the Regulated Money Pool from January 1, 2017 forward.

ADMIT/DENY:

RFA-04-013. Please admit or deny that the internal investigation undertaken at the direction of the independent members of the FirstEnergy Board of Directors discovered that FirstEnergy violated its Corporate Separation Plan.

ADMIT/DENY:

RFA-04-014. Please admit or deny that the internal investigation undertaken at the direction of the independent members of the FirstEnergy Board of Directors discovered that former CEO Charles Jones violated FirstEnergy's Corporate Separation Plan.

ADMIT/DENY:

RFA-04-015. Please admit or deny that the internal investigation undertaken at the direction of the independent members of the FirstEnergy Board of Directors discovered that former Senior Vice President of Product Development Dennis Chack violated FirstEnergy's Corporate Separation Plan.

ADMIT/DENY:

RFA-04-016. Please admit or deny that the internal investigation undertaken at the direction of the independent members of the FirstEnergy Board of Directors discovered that former Senior Vice President of External Affairs Michael Dowling violated FirstEnergy's Corporate Separation Plan.

ADMIT/DENY:

RFA-04-017. Please admit or deny that the internal investigation undertaken at the direction of the independent members of the FirstEnergy Board of Directors was undertaken as a result of the Criminal Complaint.

ADMIT/DENY:

REQUESTS FOR PRODUCTION OF DOCUMENTS

* 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.

RPD-04-001. Please provide a privilege log if privilege is asserted in response to any of OCC's discovery requests.

RPD-04-002 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 the Commission in this proceeding and the FirstEnergy Utilities' response to those requests.

RPD-04-003. 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.

RPD-04-004. Please provide a copy of all communications made by or on behalf of FirstEnergy Utilities with the Commission regarding this proceeding.

RPD-04-005. Please provide a copy of all communications related to 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 beginning January 1, 2017 forward.

- RPD-04-006. Provide any documents that you relied upon or that otherwise support your responses to OCC INT-01-002 through 01-006, 01-010, and 01-014 through 01-026.
- RPD-04-007. 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.
- RPD-04-008. 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 or a FirstEnergy affiliate for years 2017 through present.
- RPD-04-009. Provide a copy of employee time and expense reports and invoices documenting expenses that were asked to be identified in OCC Interrogatory 01-08.
- RPD-04-010. 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)). (Publicly filed documents need not be produced). If a privilege is asserted in response to this request, please produce a privilege log to back up the claim of privilege.

- RPD-04-011. Please provide a copy of all documents produced by FirstEnergy Utilities or a FirstEnergy affiliate 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. (Publicly filed documents need not be produced).
- RPD-04-012. 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. (Publicly filed documents need not be produced). If a privilege is asserted in response to this request, please produce a privilege log to back up the claim of privilege.
- RPD-04-013. 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. (Publicly filed documents need not be produced). If a privilege is asserted in response to this request, please produce a privilege log to back up the claim of privilege.
- RPD-04-014. Please provide a copy of all documents related to the Securities Exchange Commission investigation into matters related to House Bill 6 activities. (Publicly filed documents need not be produced). If a privilege is asserted in response to this request, please produce a privilege log to back up the claim of privilege.

- RPD-04-015. 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. (Publicly filed documents need not be produced). If a privilege is asserted in response to this request, please produce a privilege log to back up the claim of privilege.
- RPD-04-016. Please provide a copy of all documents submitted to the New Jersey Board of Public Utilities ("NJBPU") are part of the NJBPU's investigation into FirstEnergy and its New Jersey subsidiary Jersey Central Power & Light. (Publicly filed documents need not be produced). If a privilege is asserted in response to this request, please produce a privilege log to back up the claim of privilege.
- RPD-04-017. Please provide a copy of the regulated money pool agreement between FirstEnergy Corp. and its regulated subsidiaries, including FirstEnergy Utilities.
- RPD-04-018. 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.
- RPD-04-019. 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.
- RPD-01-020. 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.

RPD-01-021. 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.

RPD-01-022. Please provide the current organization chart for the FirstEnergy “Product Development” 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 services (in whole or part) for the FirstEnergy Ohio utilities.

RPD-04-023. Please provide the current organization chart for FirstEnergy’s 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 services (in whole or part) for the FirstEnergy Ohio utilities.

RPD-04-024. Please provide the current organization chart for the FirstEnergy Utilities' 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 services (in whole or part) for the FirstEnergy Ohio utilities.

RPD-04-025. Please provide the current organization chart for the FirstEnergy Service Co.'s 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 services (in whole or part) for the FirstEnergy Ohio utilities.

RPD-04-026. Please provide all drafts of FirstEnergy's Corporate Separation Plan drafted or in operation beginning January 1, 2017 to date.

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Interrogatories, Requests for Admissions and Requests for Production of Documents Propounded Upon FirstEnergy Utilities by the Office of the Ohio Consumers' Counsel, Fourth Set, was served upon the persons listed below via electronic transmission this 29th day of December 2020.

/s/ Maureen R. Willis

Maureen R. Willis

Senior Counsel

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Review of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo) Case No. 17-974-EL-UNC
Edison Company's Compliance with R.C.)
4928.17 and Ohio Adm. Code Chapter)
4901:1-37.)**

**AFFIDAVIT OF MICHAEL R. GLADMAN IN SUPPORT OF
OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY'S
MOTION FOR A PARTIAL PROTECTIVE ORDER**

I, Michael R. Gladman, counsel for Ohio Edison Company, The Toledo Edison Company, and The Cleveland Electric Illuminating Company (the "Companies") in the above-captioned case, submit this affidavit in support of the Companies' Motion for a Partial Protective Order.

1. The Office of the Ohio Consumers' Counsel ("OCC") served its Fourth Set of Discovery ("Set 4") on December 29, 2020.
2. The Companies served their objections to Set 4 on January 19, 2021.
3. The Companies objected on the grounds that OCC's discovery requests were premature, given the final audit report had yet to be submitted.
4. On February 22, 2021, OCC moved to compel discovery responses in this proceeding. The Companies filed a memorandum contra on March 9, 2021, and OCC replied on March 15, 2021.
5. A Prehearing Conference on OCC's Motion to Compel in this proceeding was scheduled for April 29, 2021.

6. On April 8, 2021, in Case No. 17-2474-EL-RDR, the Attorney Examiners held a Prehearing Conference, discussing similar issues, on OCC's motion to compel in that proceeding.
7. Following the Attorney Examiners' guidance from the April 8 Prehearing Conference in Case No. 17-2474-EL-RDR, counsel for the Companies proposed to OCC applying the Attorney Examiners' April 8 ruling to OCC's motion to compel responses to Set 4 in this proceeding.
8. On April 23, counsel for the Companies proposed to OCC's counsel filing a joint letter with the Commission, explaining that (i) the Prehearing Conference scheduled for April 29 was no longer necessary in light of the April 8 ruling in Case No. 17-2474-EL-RDR, and (ii) the Companies would provide supplemental responses to OCC's Set 4 and/or move for a protective order by a certain date (the Companies suggested May 13).
9. On April 28, counsel for OCC agreed to file a joint letter.
10. Counsel for OCC and the Companies filed a joint letter with the Commission, explaining that the Companies agreed to supplement their responses to Set 4 by May 13 and requesting a prehearing conference during the week of May 24 if any disputes remained.
11. On May 7, counsel for the Companies sent an email to OCC's counsel asking whether OCC would be willing to withdraw requests the Companies believed were duplicative of the show cause proceeding, Case No. 20-1502-EL-UNC.
12. On May 12, counsel for OCC responded, noting that OCC was willing to consider not pursuing the discovery requests the Companies had identified, but noting that

13. On May 13, counsel for the Companies responded, stating that the Companies were not willing to concede the duplicative requests were within the bounds of this corporate separation proceeding, and therefore, the Companies were not willing to stipulate that the discovery produced in Case No. 20-1502 could be used by OCC (and deemed part of the record) in this proceeding. Further, counsel for the Companies stated it was the Companies understanding that the parties were in agreement that the Companies would supplement their responses to OCC Set 4 and move for a protective order on the remaining requests on May 13.

14. This motion followed.

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in

Case No(s). 17-0974-EL-UNC

Summary: Motion for Partial Protective Order electronically filed by Ryan A Doringo on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company