

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**REPLY COMMENTS
OF
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

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TABLE OF CONTENTS

I.	INTRODUCTION.....	3
II.	REPLY COMMENTS	6
	A. The Commission Should Clarify that the Scope of the Proceeding Encompasses a Review of the FirstEnergy Utilities’ Internal Labor Costs. ...	6
	B. The Commission Should Further Investigate the Circumstances Surrounding the \$4.3 million Payment from the Parent Company of the FirstEnergy Utilities to the Former Chair of the Commission’s Consulting Company.	9
	C. The Commission Should Require the FirstEnergy Utilities to Reform their Accounting Practices and Procedures.....	11
	D. The Commission Should Expand its Audit and Require the FirstEnergy Utilities to Produce Additional Information as Necessary.....	12
	E. The Commission Should Adopt Stakeholders’ Recommendations and Set the Above-Captioned Proceeding for an Evidentiary Hearing.....	15
III.	CONCLUSION	16

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I. INTRODUCTION

The Public Utilities Commission of Ohio (Commission) initiated the above-captioned proceeding approximately one year and three months ago to evaluate the political and charitable spending of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the FirstEnergy Utilities) in support of the scandal-ridden Am. Sub. H.B. 6 (H.B. 6) and to determine the potential impact on customers' rates.¹ While many questions remain unanswered, it is now known that the FirstEnergy Utilities were used as vehicles for public corruption and bribery schemes to enrich FirstEnergy Corp.'s shareholders at customers' expense.

On November 29, 2021, the Ohio Manufacturers' Association Energy Group (OMAEG), the Office of the Ohio Consumers' Counsel (OCC), and Citizens' Utility Board of Ohio (CUB) (collectively or individually, Stakeholder(s)) filed initial comments advocating that the FirstEnergy Utilities failed to demonstrate that customers were not directly or indirectly charged

¹ Entry at ¶ 5 (September 15, 2020).

for political or charitable spending in support of H.B. 6.² Stakeholders further urged the Commission to expand the scope of its review,³ set the above-captioned matter for an evidentiary hearing,⁴ and require the FirstEnergy Utilities to produce additional information related to costs allocated to the FirstEnergy Utilities during the general timeframe of the H.B. 6 bribery scheme.⁵ In accordance with the Commission's September 15, 2020 Entry, as modified on October 28, 2021,⁶ OMAEG hereby files in its reply comments.

OMAEG appreciates the actions taken by the Commission thus far in this proceeding, including issuing the September 15, 2020 Show Cause Entry and affording stakeholders an opportunity to submit comments on a topic of great importance.⁷ However without additional action, there is little to no assurance for customers that the rates and charges that they have paid the FirstEnergy Utilities are just, reasonable, and lawful and have not been used in furtherance of H.B. 6 or other self-serving, unlawful schemes. Accordingly, OMAEG respectfully requests that the Commission adopt its recommendations set forth herein in order to adequately protect customers and restore trust in Ohio's regulatory processes.

More specifically, the Commission risks overlooking pertinent information by limiting its review solely to the FirstEnergy Utilities' external H.B. 6 spending.⁸ It would be unconscionable

² See OMAEG's Comments at 11-17 (November 29, 2021); OCC's Comments at 9-12 (November 29, 2021); CUB's Comments at 2-6 (November 29, 2021).

³ See OMAEG's Comments at 17-20 (November 29, 2021); OCC's Comments at 6-9 (November 29, 2021).

⁴ See OMAEG's Comments at 22-24 (November 29, 2021); CUB's Comments at 8-10 (November 29, 2021).

⁵ See OCC's Comments at 17-21 (November 29, 2021); CUB's Comments at 7-8 (November 29, 2021).

⁶ Entry at ¶ 20 (October 28, 2021).

⁷ Entry at ¶ 5 (September 15, 2020); Entry at ¶ 20 (October 28, 2021).

⁸ See Deposition of Mr. Santino L. Fanelli at 257-260 (March 10, 2021) (Attorney Examiner ruling that parties could not seek discovery about internal services and costs related to H.B. 6).

to require customers to pay for any internal costs of shared service employees' activities in furtherance of H.B. 6 or any other unlawful scheme.

Furthermore, the Commission should expand its inquiry by investigating the circumstances surrounding FirstEnergy Corp.'s \$4.3 million payment to the former Commission Chair's consulting company in exchange for favorable regulatory treatment.⁹ While it is known that the costs associated with this payment were allocated to the FirstEnergy Utilities,¹⁰ the full rate impact on customers' remains unknown. The Commission should also determine when the FirstEnergy Utilities and/or their affiliate, FirstEnergy Service Company (FESC), first learned of the payment and allocated costs.

Clearly, regulated electric distribution utilities (EDUs) can become rife with corruption without proper safeguards in place. OMAEG supports the Stakeholders' recommendations that would require EDUs to revamp their accounting practices and procedures and provide more transparency in regards to external political spending.¹¹ Doing so may help prevent the next "H.B. 6" from being perpetrated against Ohio's utility customers.

Stakeholders also identified various deficiencies in the ongoing review of the FirstEnergy Utilities' political and charitable spending in support of H.B. 6. Existing circumstances warrant the disclosure of additional information, such as FirstEnergy Corp.'s internal H.B. 6 investigation report, and call into question the relatively limited temporal scope of the proceeding.¹²

⁹ See FirstEnergy Corp. Deferred Prosecution Agreement, Case No. 1:21-CR-86 (S.D. Ohio July 20, 2021) (DPA).

¹⁰ See the FirstEnergy Utilities' Supplemental Response to the Show Cause Entry at 1-2 (August 6, 2021).

¹¹ See CUB's Comments at 10-12 (November 29, 2021).

¹² See, e.g., OMAEG's Comments at 22 (November 29, 2021); OCC's Comments at 13-14 (November 29, 2021).

Finally, OMAEG urges the Commission to adopt its and other Stakeholders' recommendations to set the issues in the above-captioned proceeding for an evidentiary hearing.¹³ Setting the case for hearing will ensure fairness by providing customers of the FirstEnergy Utilities a meaningful opportunity to be heard on issues related to Ohio's largest public corruption scandal to date and the resulting impact on the rates and charges that they pay.¹⁴

II. REPLY COMMENTS

A. The Commission Should Clarify that the Scope of the Proceeding Encompasses a Review of the FirstEnergy Utilities' Internal Labor Costs.

As articulated in OCC's and CUB's respective initial comments, it is imperative that the Commission thoroughly review any of the FirstEnergy Utilities' internal labor and the associated costs that were used to support H.B. 6-related activities.¹⁵ On March 10, 2021, an Attorney Examiner determined that parties could only depose the FirstEnergy Utilities' affiant, Mr. Santino Fanelli, about *external* services in support of H.B. 6 and the subsequent referendum effort.¹⁶ The stated rationale for this determination was that the Corporate Separation Audit of the FirstEnergy Utilities in Case No. 17-974-EL-UNC would include an examination of internal costs allocated to the FirstEnergy Utilities that may have been used to further the H.B. 6 bribery scheme.¹⁷ Although this distinction between internal and external costs may seem inconsequential at first, limiting the scope of the proceeding to external costs and services in support of H.B. 6 circumscribes the

¹³ See OMAEG's Comments at 22-24 (November 29, 2021); CUB's Comments at 8-10 (November 29, 2021).

¹⁴ The former United States Attorney for the Southern District of Ohio characterized the Am. Sub. H.B. 6 (H.B. 6) scandal as "likely the largest bribery, money laundering scheme ever perpetrated against the people of the state of Ohio". WSYX ABC 6, *U.S. Attorney Update on Arrest of Ohio House Speaker Larry Householder and Four Associates*, YOUTUBE (Streamed live on July 21, 2020) (statement starting at 00:48), <https://www.youtube.com/watch?v=mYTY9GUnHMM>.

¹⁵ See OCC's Comments at 15-17 (November 29, 2021); CUB's Comments at 8-10 (November 29, 2021).

¹⁶ Deposition of Mr. Santino L. Fanelli at 257-260 (March 10, 2021).

¹⁷ See *id.*

Commission’s review and does not provide customers adequate protections as the fallout from H.B. 6 continues to unfold.

Additionally, as Stakeholders explained in their initial comments, the presumption that the FirstEnergy Utilities’ H.B. 6-related internal costs would be scrutinized in Case No. 17-974-EL-UNC never actually occurred.¹⁸ In fact, the Corporate Separation Audit Report filed on September 13, 2021, explicitly disclaims that it reviewed *any* H.B. 6-related information by stating:

It should be recognized that during the course of this audit, several other reviews of FirstEnergy were underway. The findings in this audit are based solely on the information and documents produced by FirstEnergy for Daymark via data requests and interviews associated with this audit. While other information or documents produced in response to other audits or investigations may be relevant to evaluating whether FirstEnergy’s conduct in a particular situation was a violation of the laws and rules governing corporate separation, they were not evaluated as part of this audit.¹⁹

It is now known that Daymark Energy Advisors, the auditor in Case No. 17-974-EL-UNC, was specifically instructed to not include in the Corporate Separation Audit Report H.B. 6-related issues and matters addressed in other H.B. 6-investigations,²⁰ despite directives from the Commission otherwise.²¹ Consequently, there is no indication that the Commission, Staff, or any auditor acting on behalf of Staff, is evaluating how customers may have been impacted by costs associated with internal labor and other services as they relate to H.B. 6 spending by the FirstEnergy Utilities. As phrased by one Stakeholder, overlooking this area of spending would be a “gaping loophole” in the Commission’s review because there is reason to believe that customers

¹⁸ See OCC’s Comments at 15-17 (November 29, 2021).

¹⁹ See Case No. 17-974-EL-UNC, “Compliance Audit of the FirstEnergy Operating Companies” (Corporate Separation Audit Report) at 1 (September 13, 2021).

²⁰ See Case No. 17-974-EL-UNC, OMAEG’s Comments at Attachment A (November 22, 2021).

²¹ See *id.* at 24 (citing Case No. 17-974-EL-UNC, Entry at ¶ 1 (November 4, 2020)).

may have paid at least for the time (or a portion thereof) the employees of FirstEnergy Services Company (FESC) engaged in activities supporting H.B. 6.²²

By virtue of the Deferred Prosecution Agreement (DPA) between the federal government and FirstEnergy Corp. and the Delivery Capital Recovery Rider Audit Report filed in Case No. 20-1629-EL-RDR, it is now known that shared service employees played a substantial role in the H.B. 6 bribery scheme and lobbying the Commission for favorable regulatory treatment of various FirstEnergy entities.²³ FirstEnergy Corp.'s shared service employees that are employed by FESC, acting in part on behalf of the FirstEnergy Utilities pursuant to their Commission-approved shared services agreement, made vendor payments to secure the approval of a H.B. 6 decoupling mechanism and the elimination of the requirement to file a new distribution rate case in 2024.²⁴ Similarly, FirstEnergy Corp.'s shared service employees, acting in part on behalf of the FirstEnergy Utilities pursuant to their Commission-approved shared services agreement, engaged in H.B. 6 lobbying activities.²⁵ Without Commission intervention, it is possible that the internal costs associated with these political or regulatory activities will be passed onto customers of the FirstEnergy Utilities through base distribution rates. It would be patently unfair for customers to pay (through rates) the compensation of the very same employees who carried out schemes designed to enrich FirstEnergy Corp.'s shareholders and/or affiliates at their expense.

The H.B. 6 bribery scheme occurred over several years and there is no reason to believe that the FirstEnergy Utilities considered internal costs when drafting their barebones responses to

²² See CUB's Comments at 8 (November 29, 2021).

²³ See DPA.

²⁴ See CUB's Comments at 7 (November 29, 2021).

²⁵ *Id.*

the Show Cause Entry (which they have already had to materially modify once for inaccuracy).²⁶ Nor is there any reason to believe that Mr. Fanelli adequately considered internal costs when drafting his affidavit filed with the Commission.²⁷ Accordingly, the Commission should clarify that the internal costs related to H.B. 6 activities and conduct are in fact a part of its proceeding and further direct the FirstEnergy Utilities to update their response to the Show Cause Entry to demonstrate that such costs were not incurred and did not impact customers.

B. The Commission Should Further Investigate the Circumstances Surrounding the \$4.3 million Payment from the Parent Company of the FirstEnergy Utilities to the Former Chair of the Commission’s Consulting Company.

Stakeholders’ initial comments universally expressed concern over a \$4.3 million payment made from the FirstEnergy Utilities’ parent company, FirstEnergy Corp., to the consulting company of the former Chair of the Commission in exchange for favorable regulatory treatment.²⁸ It is now clear that the costs of the payment were allocated to the FirstEnergy Utilities and constituted political and charitable spending in support of H.B. 6.²⁹

What remains unclear, however, is whether the FirstEnergy Utilities were aware of the \$4.3 million payment when they responded to the Show Cause Entry on September 30, 2020. As CUB noted, the FirstEnergy Utilities’ Supplemental Response to the Show Cause Entry merely stated, “the Companies and their representatives were unaware that the \$4.3 million payment in part *constituted political spending in support of HB 6.*”³⁰ The phrasing of the statement leaves open

²⁶ OCC’s Comments at 17 (November 29, 2021); see the FirstEnergy Utilities’ Supplemental Response to the Show Cause Entry (August 6, 2021).

²⁷ OCC’s Comments at 17 (November 29, 2021).

²⁸ See OMAEG’s Comments at 12 (November 29, 2021); OCC’s Comments at 7-9 (November 29, 2021); CUB’s Comments at 9-10 (November 29, 2021).

²⁹ See the FirstEnergy Utilities’ Supplemental Response to the Show Cause Entry at 1-2 (August 6, 2021).

³⁰ See CUB’s Comments at 9 (November 29, 2021) (citing the FirstEnergy Utilities’ Supplemental Response to the Show Cause Entry at 1-2, 3 (August 6, 2021)). (Emphasis added).

the possibility that the FirstEnergy Utilities were previously aware of the \$4.3 million payment but did not disclose the information to the Commission simply because they did not believe such costs were related to or “constituted political spending in support” of H.B. 6.³¹

As CUB further explained, if true, then this would constitute a material misstatement and in direct violation of the Commission’s Show Cause Entry because in their initial response to the Show Cause Entry, the FirstEnergy Utilities stated they would not have recorded “[a]ny costs of political or charitable spending in support of Am. Sub. H.B. 6, or the subsequent referendum effort . . . in accounts that are used to calculate the Companies’ riders and charges” pursuant to the Commission’s prior determinations that “political expenses and charitable contributions are not a proper operating expense to include in utility rates to the extent they are not a cost of rendering public utility service.”³²

Accordingly, OMAEG supports Stakeholders’ calls for additional Commission action regarding the \$4.3 million payment, including potentially assessing the FirstEnergy Utilities forfeitures for non-compliance with the Show Cause Entry,³³ as well as ordering an independent auditor to investigate the potential rate impact on customers resulting from the FirstEnergy Utilities’ and/or FirstEnergy Corp.’s improper arrangement with the former Commission Chair.³⁴

³¹ *Id.*

³² *Id.* at 9-10 (citing Supplemental Response, Ex. 1, DPA at 11).

³³ CUB’s Comments at 10 (November 29, 2021).

³⁴ *See* OCC’s Comments at 7-9 (November 29, 2021);

C. The Commission Should Require the FirstEnergy Utilities to Reform their Accounting Practices and Procedures.

Without the diligent work of the United States Attorney's Office for the Southern District of Ohio, H.B. 6 and other unlawful schemes would likely have gone undetected. As the H.B. 6 bribery scheme continues to unfold, other states, including Florida and Illinois, are dealing with their own eerily similar public utility scandals.³⁵ These cases are illustrative that without adequate oversight, regulated monopolies can become perfect vehicles for public corruption. Ohio should enhance its oversight of public utilities to eliminate public corruption.³⁶

CUB's initial comments explained how political payments from FirstEnergy Corp. and/or other FirstEnergy entities were included in Federal Energy Regulatory Commission (FERC) accounts chargeable to customers in Ohio and other states.³⁷ And as a general matter, federal utility accounting disclosures do not require detailed line items related to outside vendor payments.³⁸ Compounding this lack of transparency regarding political spending is the fact that

³⁵ See Jason Garcia and Annie Martin, *Florida Power & Light Execs worked Closely with Consultants Behind 'Ghost' Candidate Scheme, Records Reveal*, ORLANDO SENTINEL (December 2, 2021) <https://www.orlandosentinel.com/politics/os-ne-florida-power-and-light-senate-ghost-candidates-20211202-szjhv7ox6vcmpm6pgd437y52i-htmlstory.html> ("Top executives at utility giant Florida Power & Light worked closely with the political consultants who orchestrated a scheme to promote spoiler candidates in three key state Senate elections last year, according to documents obtained by the Orlando Sentinel"); See Jason Meisner and Ray Long, *ComEd Scheme to Influence Madigan was Not Legal Lobbying- It was Bribery Prosecutors Say*, Chicago Tribune, (August 24, 2021) <https://www.chicagotribune.com/news/criminal-justice/ct-comed-bribery-scheme-michael-madigan-prosecutors-response-20210824-h5gvozhcxzghlrwjujj7qyuwm-story.html>. ("[a]n alleged scheme to lavish benefits on longtime [Illinois] House Speaker Madigan in exchange for his influence on Commonwealth Edison legislation in Springfield clearly meets the criteria of the bribery statute even if there was no explicit agreement between the parties, federal prosecutors argued in a motion this week.").

³⁶ Laura A. Bischoff, *'In a League of its Own': Ohio is No. 1 State When it Comes to Public Corruption, Experts Say*, THE COLUMBUS DISPATCH (May 10, 2021), <https://www.dispatch.com/story/news/2021/05/10/ohio-householder-prosecution-top-state-political-corruption-hb-6/4922865001/>.

³⁷ See, e.g., CUB's Comments at 11 (November 29, 2021) (citing New Jersey Board of Public Utilities Docket No. ER21010083, In the Matter of the Verified Petition of Jersey Central Power & Light Company Constituting Its Annual Filing With Respect to the Non-Utility Generation Charge Clause of Its Filed Tariff, Jersey Central Power & Light Correspondence (April. 27, 2021)).

³⁸ *Id.* (referencing FERC Form 1).

the FirstEnergy Utilities have not filed a rate case in approximately fifteen years³⁹ and EDUs in general are unlikely to be responsive to discovery requests regarding costs incurred for activities outside of the respective test period.

For these reasons, OMAEG supports CUB's recommendation that the Commission should require the FirstEnergy Utilities, as well as other EDUs, to proactively disclose outside vendor payments included in FERC accounts that are for administrative and general "overhead" expenses that are chargeable to customers.⁴⁰ This proposal and similar reforms to accounting practices and procedures are sorely needed and may help prevent future political schemes from being perpetrated against Ohio's utility customers.

D. The Commission Should Expand its Audit and Require the FirstEnergy Utilities to Produce Additional Information as Necessary.

OMAEG and other Stakeholders' initial comments noted several deficiencies with the current scope of the review mandated in this proceeding.⁴¹ For example, FirstEnergy Corp. and FESC have been allowed to shield the internal investigation report on H.B. 6 from disclosure under the guise of privilege.⁴² The information in this document may provide answers to critical questions that the Commission will have to answer in the above-captioned proceeding and its other related H.B. 6 proceedings.⁴³ Notably, the Maryland Public Service Commission has already

³⁹ See *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Authority to Increase Rates for Distribution Service, Modify Certain Accounting Practices and For Tariff Approvals*. Case Nos. 07-551-EL-AIR, et al., Opinion and Order (January 21, 2009).

⁴⁰ CUB's Comments at 12 (November 22, 2021)

⁴¹ See, e.g., OMAEG's Comments at 22 (November 29, 2021); OCC's Comments at 19-20 (November 29, 2021); CUB's Comments at 10 (November 29, 2021).

⁴² In the Matter of the 2020 Review of the Delivery Capital Recovery Rider of Ohio Edison Company, *The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 20-1629-EL-RDR, Entry at ¶ 20 (October 12, 2021).

⁴³ See Case No. 17-974-EL-UNC (concerning the FirstEnergy Utilities and their affiliates' compliance with Ohio corporate separation laws and regulations ; Case No. 20-1629-EL-RDR (concerning unsupported transactions and misallocations through the Delivery Capital Recovery Rider, base rates, and other recovery mechanisms,

granted a consumer advocate’s motion to compel Potomac Edison, an affiliate of the FirstEnergy Utilities, to produce the internal investigation report,⁴⁴ which suggests that the initial decision to withhold such an important document in the above-captioned proceeding requires further review as there is reason to believe that the report should not be afforded confidential protection and the document may be made public in the near future.⁴⁵ .

Moreover, to the extent the document itself constitutes privileged communications, that does not mean the underlying facts or information is protected from disclosure⁴⁶ or that the privileged portions of the document could not be redacted and otherwise released. The Commission has already deemed that the report is relevant to its H.B. 6-related investigations by using it as a basis to initiate the corporate separation audit in Case No. 17-974-EL-UNC.⁴⁷

R.C. 4905.05 provides, in pertinent part, that:

The jurisdiction, supervision, powers, and duties of the public utilities commission extend to every public utility and railroad, the plant or property of which lies wholly within this state and when the property of a public utility or railroad lies partly within and partly without this state to that part of such plant or property which lies within this state; to the persons or companies owning, leasing, or operating such public utilities and railroads; to the records and accounts of the business thereof done within this state; and to the records and accounts of any companies which are part of an electric utility holding company system exempt under section 3(a)(1) or

resulting in \$6.6 million in unlawful charges to the FirstEnergy Utilities’ customers); and Case No. 17-2474-EL-UNC (concerning whether the Distribution Modernization Rider was only used for purposes established in the FirstEnergy Utilities’ Fourth Electric Security Plan and a supplemental audit of whether customers’ rates were impacted by expenses associated with the naming rights of FirstEnergy Stadium.).

⁴⁴ See OMAEG’s Comments at 22 (November 29, 2021) (citing Petition of the Maryland Office of People’s Counsel to Investigate the Future of FirstEnergy’s Relationship with Potomac Edison in Light of Recent Events. MD. PUC Case No. 9667, Order No. 89990 (November 18, 2021). Order No. 89990.

⁴⁵ Case No. 9667, The Potomac Edison Company – Notice of Appeal and Memorandum in Support of its Appeal, at 31 (Md. Public Service Commission Nov. 29, 2021) (“Potomac Edison Appeal”), available at <https://www.psc.state.md.us/search-results/?q=9667&x.x=22&x.y=7&search=all&search=case>

⁴⁶ See *Plogger v. Myers*, 2017-Ohio-8229, ¶ 9, 100 N.E.3d 104, 106 (citing *Upjohn Co. v. United States*, 449 U.S. 383, 395, 101 S. Ct. 677, 685, 66 L. Ed. 2d 584 (1981)).

⁴⁷ See Case No. 17-974-EL-UNC, Entry at ¶ 17 (November 4, 2020) (“The information supplied by FirstEnergy Corp. in the Form 8-K requires that we take additional action 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.”⁴⁷

(2) of the "Public Utility Holding Company Act of 1935," 49 Stat. 803, 15 U.S.C. 79c, and the rules and regulations promulgated thereunder, insofar as such records and accounts may in any way affect or relate to the costs associated with the provision of electric utility service by any public utility operating in this state and part of such holding company system.

Consequently, the Commission should use its authority under R.C. 4905.05 to compel disclosure of the report and related records and investigate whether Ohio's public utility customers were harmed as a result of the actions described therein.

OCC also raised concerns regarding the temporal scope of the above-captioned proceeding which was limited to the period of January 1, 2017 through January 22, 2020.⁴⁸ This timeframe was based roughly on the timeframe when H.B. 6 was drafted and subsequently introduced in the Ohio General Assembly and when an organization seeking to overturn H.B. 6 via a referendum ceased litigating whether it could receive an extension of time to collect the requisite signatures to place the referendum on the ballot.⁴⁹ It is now known that FirstEnergy Corp.'s \$4.3 million payment to the former Commission Chair's consulting company constituted H.B. 6 spending⁵⁰ and that the former Commission Chair resigned in late November of 2020.⁵¹

Accordingly, OMAEG also respectfully requests that the Commission clarify that the scope of the above-captioned proceeding extends, at a minimum, from January 1, 2017 to at least December 31, 2020.⁵²

⁴⁸ See OCC's Comments at 13 (November 29, 2021).

⁴⁹ Jeremy Pelzer, *House Bill 6 Referendum Effort is Dead after Group Drops Lawsuit Appeal*, CLEVELAND.COM (January 22, 2020), <https://www.cleveland.com/open/2020/01/house-bill-6-referendum-effort-is-dead-after-group-drops-lawsuit-appeal.html>.

⁵⁰ See the FirstEnergy Utilities' Supplemental Response to the Show Cause Entry at 1-2 (August 6, 2021).

⁵¹ See Resignation Letter of the Former Commission Chair (November 20, 2020), https://content.govdelivery.com/attachments/OHOOD/2020/11/20/file_attachments/1607093/Resignation.pdf.

⁵² See OCC's Comments at 14 (November 29, 2021).

E. The Commission Should Adopt Stakeholders' Recommendations and Set the Above-Captioned Proceeding for an Evidentiary Hearing.

OMAEG and other Stakeholders have urged the Commission to set the above-captioned proceeding for an evidentiary hearing.⁵³ An evidentiary hearing is consistent with the Commission's stated approach in initiating the various H.B. 6-related proceedings to "act in a deliberate manner," focusing "upon facts rather than speculation."⁵⁴ Indeed, the Commission has already set the related Case No. 17-974-EL-UNC for a February 2022 evidentiary hearing.⁵⁵ Most importantly, an evidentiary hearing will help ensure fairness and that the FirstEnergy Utilities' customers only pay just, reasonable, and lawful charges that are not tainted by H.B. 6 or any other political scheme.

⁵³ See OMAEG's Comments at 22-24 (November 29, 2021); CUB's Comments at 8-10 (November 29, 2021).

⁵⁴ *In the Matter of the Review of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company's Compliance with R.C. 4928.17 and the Ohio Adm. Code Chapter 4901:1-37*, Case No. 17- 0974-EL-UNC, Entry at ¶ 17 (November 4, 2020)

⁵⁵ *In the Matter of the Review of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company's Compliance with R.C. 4928.17 and the Ohio Adm. Code Chapter 4901:1-37* (October 12, 2021).

III. CONCLUSION

For the foregoing reasons, OMAEG respectfully requests that the Commission adopt its recommendations articulated in its initial comments filed on November 29, 2021 and herein.

Respectfully submitted,

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/s/ Kimberly W. Bojko

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