

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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

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PREHEARING CONFERENCE

before Ms. Megan Addison and Ms. Jacky St. John,  
Attorney Examiners, at the Public Utilities  
Commission of Ohio, 180 East Broad Street, Room 11-C,  
Columbus, Ohio, called at 11:00 a.m. on Monday,  
April 11, 2022.

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ARMSTRONG & OKEY, INC.  
222 East Town Street, Second Floor  
Columbus, Ohio 43215-5201  
(614) 224-9481

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APPEARANCES:

Jones Day  
By Mr. Michael R. Gladman  
and Ms. Shalini B. Goyal  
325 John H. McConnell Boulevard, Suite 600  
Columbus, Ohio 43215

On behalf of the Ohio Edison Company, The  
Cleveland Electric Illuminating Company,  
and The Toledo Edison Company.

Bruce J. Weston, Ohio Consumers' Counsel  
By Ms. Maureen R. Willis,  
Senior Counsel  
and Mr. John Finnigan,  
Assistant Consumers' Counsel  
65 East State Street, Suite 700  
Columbus, Ohio 43215

On behalf of the Residential Customers of  
the Ohio Edison Company, The Cleveland  
Electric Illuminating Company, and The  
Toledo Edison Company.

Interstate Gas Supply, Inc.  
By Mr. Evan Betterton,  
Mr. Joseph Oliker,  
and Mr. Michael Nugent  
6100 Emerald Parkway  
Dublin, Ohio 43016

On behalf of the Interstate Gas Supply,  
Inc.

Kegler, Brown, Hill & Ritter Co., LPA  
By Mr. Robert Dove  
65 East State Street, Suite 1800  
Columbus, Ohio 43215

On behalf of the Natural Resources  
Defense Council and Ohio Partners for  
Affordable Energy.

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APPEARANCES: (Continued)

Carpenter Lipps & Leland LLP  
By Ms. Kimberly W. Bojko  
280 North High Street, Suite 1300  
Columbus, Ohio 43215

On behalf of the Ohio Manufacturers'  
Association Energy Group.

McNees, Wallace & Nurick LLC  
By Mr. Bryce McKenney  
and Mr. Matthew R. Pritchard  
21 East State Street, 17th Floor  
Columbus, Ohio 43215

On behalf of the Industrial Energy Users  
of Ohio.

Dave Yost, Ohio Attorney General  
Mr. John Jones, Section Chief  
By Mr. Werner L. Margard, III,  
Mr. Thomas Lindgren,  
and Ms. Sarah Feldkamp  
Assistant Attorneys General  
Public Utilities Section  
30 East Broad Street, 26th Floor  
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

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Monday Morning Session,  
April 11, 2022.

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EXAMINER ADDISON: Let's go ahead and go  
on the record.

The Public Utilities Commission of Ohio  
calls for a prehearing conference at this time and  
place in Case No. 20-1502-EL-UNC, being in the Matter  
of the Review of the Political and Charitable  
Spending by Ohio Edison Company, The Cleveland  
Electric Illuminating Company, and the Toledo Edison  
Company.

We will begin by taking appearances.  
Ms. Bojko, we will just go around the tables, if we  
could. It may help expedite things a little bit.

MS. BOJKO: Sure. Thank you, your Honor.  
On behalf of the Ohio Manufacturers' Association  
Energy Group, Kimberly W. Bojko, with the law firm  
Carpenter Lipps & Leland, 280 North High Street,  
Suite 1300, Columbus, Ohio 43215.

MS. WILLIS: Thank you, your Honor. On  
behalf of the Ohio Consumers Counsel, Bruce Weston,  
Consumers' Counsel, Maureen Willis and John Finnigan,  
65 East State Street, Suite 700, Columbus, Ohio  
43215. Thank you.

1 MR. GLADMAN: Good morning, your Honors.  
2 On behalf of the Companies, Michael Gladman from  
3 Jones Day, 325 John H. McConnell Boulevard, Suite  
4 600, Columbus, Ohio 43215. And with me this morning  
5 is Ms. Shali Goyal.

6 MS. FELDKAMP: Sorry. On behalf of the  
7 Attorney General Dave Yost's Office, Section Chief  
8 John Jones, Werner Margard, Tom Lindgren, and Sarah  
9 Feldkamp.

10 MR. DOVE: On behalf of the Ohio Partners  
11 for Affordable Energy and National Resources Defense  
12 Council, Robert Dove with the law firm Kegler, Brown,  
13 Hill & Ritter, 65 East State Street, Suite 1800,  
14 Columbus, Ohio 43215.

15 MR. BETTERTON: Good morning, your  
16 Honors. On behalf of Interstate Gas Supply, Inc.,  
17 myself, Evan Betterton. We are located at 6100  
18 Emerald Parkway, Dublin, Ohio 432 -- 43016.

19 MR. MCKENNEY: Good morning, your Honors.  
20 On behalf of Industrial Energy Users-Ohio, Bryce  
21 McKenney and Matthew Pritchard from the law firm  
22 McNees, Wallace & Nurick, 21 East State Street,  
23 Columbus, Ohio 43215.

24 EXAMINER ADDISON: Thank you. I don't  
25 believe we have any additional parties sitting on the

wings so thank you all for going through that this morning.

This may be a little repetitive of the entry that went out on Friday, but just to provide a quick overview of what brings us here today, on March 11, 2022, a prehearing conference was held to discuss, among other matters, the reconsideration of OCC's June 29, 2021, motion to compel regarding the production of documents used in the Federal Energy Regulatory Commission's recently completed audit of FirstEnergy Corp. and its subsidiaries.

At the prehearing conference the Attorney Examiners granted OCC's motion to compel, subject to certain relevant parameters, and directed FirstEnergy to -- FirstEnergy utilities to produce all documents and communications provided to FERC during the course of its audit within 30 days, adding that any necessary adjustments to the timing of the production could be determined at a later date.

On March 16, 2022, the Companies filed an interlocutory appeal of the Attorney Examiners granting of OCC's motion to compel. On March 21, 2022, OCC filed a memorandum contra to the Companies' interlocutory appeal.

On April 6, 2022, the Commission issued

an entry denying the Companies' interlocutory appeal. The Commission also clarified that the motion to compel would be granted as to the period from January 1, 2017, through December 31, 2019.

Furthermore, the Commission ordered that the Companies would be required to produce the responsive materials within 30 days of the March 11, 2022, prehearing conference unless otherwise ordered.

On April 6, 2022, the Companies contacted the Attorney Examiners and parties via e-mail to request an extended production deadline allowing the Companies to produce responsive documents on a rolling basis.

While the Attorney Examiners instructed the parties to work among themselves to determine a reasonable time frame to propose to the Attorney Examiners by the following day, the parties notified the Attorney Examiners that they were unable to come to an agreement which led to the scheduling of this prehearing conference.

So with that, do we have any status updates from last Friday as to whether there has been a reasonable time frame agreed upon by the parties?

MS. GOYAL: Your Honor, no. At this point, consistent with the e-mail I sent out which

1 was just in advance of this prehearing conference, we  
2 have been working, you know, on Friday and then  
3 throughout the weekend to try and ask for a  
4 counterproposal from OCC. The last we heard this  
5 morning at about 10 o'clock they said that they would  
6 be presenting a counterproposal for us at this  
7 prehearing conference. That's the last that we've  
8 heard.

9 EXAMINER ADDISON: Thank you.

10 Ms. Willis; is that correct?

11 MS. WILLIS: That's correct, your Honor.  
12 We did -- if I may, we did have a conference call on  
13 Friday to discuss and try to resolve. OCC went back  
14 to its management with proposals and ideas. And it  
15 took a while, and so this morning we are now ready to  
16 present our proposal.

17 EXAMINER ADDISON: Thank you.

18 I will quickly note there's no question  
19 that these documents are going to be produced. The  
20 Attorney Examiners and the Commission have been quite  
21 clear about that. This, rather, comes down to a  
22 matter of timing and logistics for the production of  
23 thousands of documents to occur.

24 These types of disputes are routinely  
25 settled among the parties without intervention from



1 the Attorney Examiners. The fact that the parties  
2 have failed to come up with an amicable solution or,  
3 worse, failed to discuss the issue in good faith  
4 flies directly in the face of the spirit of our  
5 discovery rules. If this is the way the parties are  
6 going to conduct themselves in this already  
7 contentious proceeding, then we will certainly have a  
8 very long road ahead of us.

9 With that, we are going to take a brief  
10 45-minute recess to allow the parties to negotiate in  
11 good faith a potential resolution to this issue.

12 Ms. Willis, I suggest that you offer that  
13 proposal to the Companies and the rest of the parties  
14 here today. We strongly encourage the parties to  
15 have an agreed upon proposal ready for our  
16 consideration by the time we return from that recess.

17 All right. With that we are off the  
18 record.

19 (Recess taken.)

20 EXAMINER ADDISON: All right. We will go  
21 ahead and go back on the record.

22 Any updates from the parties regarding  
23 negotiations? Ms. Willis?

24 MS. WILLIS: Thank you, your Honor. We  
25 received a counterproposal from the Company this

1 morning. We have discussed that; John and I have  
2 discussed it. We have a counterproposal that we have  
3 provided to our management. We were able to reach  
4 the Deputy Consumers' Counsel. We have not spoken to  
5 the Consumers' Counsel about a proposed OCC  
6 counterproposal, so we are waiting to hear from the  
7 Consumers' Counsel.

8 EXAMINER ADDISON: Thank you.

9 Anything to add, anyone else?

10 MS. GOYAL: Yeah. I guess if it makes  
11 sense to put the -- you know, just to put out there  
12 that, you know, I think we have been working  
13 diligently. We hope that we can come to a resolution  
14 with OCC, and we are willing to hear a proposal when  
15 they are able to put forth one.

16 EXAMINER ADDISON: Thank you.

17 Anyone else?

18 Okay. While we were hoping all of the  
19 parties in attendance today would have the authority  
20 to speak on this issue, we acknowledge the parties'  
21 good faith negotiations and efforts to come to a  
22 resolution on this, so we do appreciate that. Thank  
23 you.

24 However, as I noted before, I don't want  
25 to keep everyone in the room waiting to hear back on

1 whether a proposal has been accepted. So I do  
2 believe we have an alternative course in the event we  
3 do not hear back or a proposal is not accepted. The  
4 parties will be instructed to inform the Attorney  
5 Examiners as well as the other parties by noon  
6 tomorrow, which I believe is April 12, 2022, whether  
7 an agreement has been reached. We will plan to issue  
8 an entry regardless of whether a settlement is  
9 reached.

10 In the event that a settlement is not  
11 reached, we will be ordering additional memoranda  
12 regarding the production issue with initial memoranda  
13 to be due this Friday, April 15, and reply memoranda  
14 to be due next Tuesday, April 19, at noon. We will  
15 then plan to schedule another prehearing conference  
16 on April 20 to issue our rulings.

17 So I believe we have two alternative  
18 options available to us. Parties will let us know  
19 which course we are to take.

20 Are there any questions from the parties  
21 at this point?

22 MS. BOJKO: Your Honor, if there is a  
23 Settlement Agreement, will you just memorialize that  
24 by an entry?

25 EXAMINER ADDISON: Okay. Yes. Thank

you, Ms. Bojko. I was hoping to make that clear, and I obviously did not. We plan to issue an entry regardless of whether an agreement is reached and one way to consider the proposed settlement, and the alternative option is to set out this scheduling of memoranda.

Any other questions?

All right. Then we are adjourned. Thank you all.

(Thereupon, at 12:16 p.m., the prehearing conference was adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is  
a true and correct transcript of the proceedings  
taken by me in this matter on Monday, April 11, 2022,  
and carefully compared with my original stenographic  
notes.

\_\_\_\_\_  
Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-7265)

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**This foregoing document was electronically filed with the Public Utilities  
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**Case No(s). 20-1502-EL-UNC**

Summary: Transcript April 11th, 2022 In the Matter of the Review of the Political and Charitable Spending by Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.