

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the 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 the Ohio Adm. Code)	
Chapter 4901:1-37.)	

**JOINT DISCOVERY STATUS REPORT
BY
OFFICE OF THE OHIO CONSUMERS' COUNSEL
NORTHEAST OHIO PUBLIC ENERGY COUNCIL
AND OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

In accordance with the Attorney Examiners' April 7, 2022 Entry, the Office of the Ohio Consumers' Counsel ("OCC"), the Northeast Ohio Public Energy Council ("NOPEC") and the Ohio Manufacturers' Association Energy Group ("OMAEG") (collectively, the "Consumer Parties") respectfully file this discovery status update.

Written Discovery

The Public Utilities Commission of Ohio ("PUCO") previously established a written discovery cut-off date of November 24, 2021.¹ The PUCO also scheduled a February 10, 2022 hearing date at that time.² Since that time, FirstEnergy Corp. and the FirstEnergy Ohio Utilities ("FirstEnergy Utilities") have produced several hundred thousand pages of documents, which have created a need for the parties to conduct additional discovery. The Consumer Parties have challenged this extraordinarily premature written discovery cut-off date of November 24, 2021, in an interlocutory

¹ Entry at ¶ 24 (Oct. 12, 2021).

² *Id.*

appeal that remains pending.³ The Consumer Parties request that the PUCO grant the interlocutory appeal and extend the cut-off date to the date of the hearing. The PUCO should enable parties to serve additional written discovery in order to properly prepare our case for hearing.

In Case No. 20-1502-EL-UNC, the PUCO ordered the FirstEnergy Utilities to complete the production of FERC documents by May 20, 2022.⁴ A discovery dispute has arisen in the same case which will impede the Consumer Parties' preparation for a hearing in this case. The discovery dispute concerns documents FirstEnergy produced to FERC related to an audit in Docket FA19-01-000, which also dealt with corporate separation and code of conduct issues. The discovery seeks documents FirstEnergy included in its response to the FERC audit. If resolution of the discovery dispute cannot be reached, OCC may file a motion to compel.

Depositions

Since the parties' last discovery status update on May 10, 2022, OCC took, and NOPEC and OMAEG participated in, the depositions of FirstEnergy employees Mr. Robert Mattiuz and Mr. Olenger Pannell. Other pending depositions have yet to occur.⁵ In this regard, OCC intended to take the depositions of Ms. Ebony Yeboah-Amankwah, Mr. Antonio Fernandez and Mr. Jason Lisowski. But these depositions are subject to pending FirstEnergy and other motions to quash OCC's subpoenas and await PUCO

³ Interlocutory Appeal (Apr. 12, 2022).

⁴ Transcript of Prehearing Conference held on April 20, 2022 at 17 (May 3, 2022).

⁵ However, OCC and NOPEC reserve all rights to obtain sufficient responses to their existing interrogatories.

rulings. As more discovery responses from FirstEnergy are reviewed, additional depositions will be sought.

As a result of the depositions of Messrs. Mattiuz and Pannell, there may not be a need to depose Mr. Fernandez at this time. However, OCC reserves the right to seek a deposition from Mr. Fernandez at a later date if it becomes necessary to obtain information from him.

In addition, OCC filed a motion for subpoena on March 10, 2022 to take the deposition of a FirstEnergy witness on certain topics. FirstEnergy Corp. filed a motion to quash on April 6, 2022 and this matter is still pending.

Procedural Schedule

The PUCO's April 7, 2022 Entry established a new procedural schedule to provide the parties with adequate time to review the documents that FirstEnergy had produced in discovery. Since the date of this Entry, FirstEnergy Utilities have produced approximately 187,785 additional pages of documents as follows:

Table: Additional Documents Since 4/7/22⁶

Date	Description	Approximate Number of Pages
4/11	FE_CIV_SEC__PROD 11	90,255
4/11	FE_CIV_SEC__PROD 12	74,337
4/15	FE_PUCO_VOL 9	115
4/27	FE_PUCO_VOL 10	3,338
5/6	FE_PUCO_VOL 11	9,033
5/20	FE_PUCO_VOL 12	1,573
6/10	FE_CIV_SEC__PROD 13	9,134
Total Pages:		187,785

When the PUCO issued the April 7, 2022 Entry, it revised the procedural schedule due to the large volume of documents that the FirstEnergy Utilities produced as of that date. As shown above, the FirstEnergy Utilities have now produced an additional approximately 187,785 pages of documents since the current procedural schedule was issued.

As a result of additional productions of documents and FirstEnergy's tactics of delay, the Consumer Parties believe that additional time is necessary to review the additional documents and that a new procedural schedule is warranted. There is a massive amount of new information produced by FirstEnergy since November 2021. And there thus is a need to serve follow-up discovery for consumer justice.

⁶ The discovery listed as FE_PUCO_VOL 9 through 11 was produced in Case No. 20-1502-EL-UNC, but these documents relate to the FERC audit of FirstEnergy Corp. and its affiliates in Docket No. FA19-1-001 and are equally relevant to this case because this case involves cost misallocation issues.

Respectfully submitted,

/s/ Dane Stinson

Dane Stinson (0019101)

Bricker & Eckler LLP

100 South Third Street

Columbus, Ohio 43215

Telephone: (614) 227-2300

dstinson@bricker.com

(willing to accept service by email)

Glenn S. Krassen (0007610)

General Counsel

Northeast Ohio Public Energy Council

31360 Solon Road, Suite 33

Solon, Ohio 44139

Telephone: (440) 249-7831

gkrassen@nopec.org

(willing to accept service by e-mail)

*Counsel for Northeast Ohio Public
Energy Council*

/s/ Kimberly W. Bojko

Kimberly W. Bojko (0069402)

Counsel of Record

Jonathan Wygonski (100060)

Carpenter Lipps & Leland LLP

280 North High Street, Suite 1300

Columbus, Ohio 43215

Telephone: (614) 365-4124

bojio@carpenterlipps.com

wygonski@carpenterlipps.com

(willing to accept service by email)

*Counsel for the Ohio Manufacturers'
Association Energy Group*

Bruce Weston (0016973)

Ohio Consumers' Counsel

/s/ Maureen R. Willis

Maureen R. Willis (0020847)

Counsel of Record

John Finnigan (0018689)

Connor D. Semple (0101102)

Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

65 East State Street, Suite 700

Columbus, Ohio 43215

Telephone [Willis]: (614) 466-9567

Telephone [Finnigan]: (614) 466-9585

Telephone [Semple]: (614) 466-9565

maureen.willis@occ.ohio.gov

john.finnigan@occ.ohio.gov

connor.semples@occ.ohio.gov

(willing to accept service by email)

Isaac Wiles & Burkholder, LLC

Brian M. Zets (0066544)

Two Miranova Place, Suite 700

Columbus, Ohio 43215

Telephone: (614) 221-2121

bzets@isaacwiles.com

(willing to accept service by e-mail)

*Counsel for Office of the Ohio
Consumers' Counsel*

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Joint Discovery Status Report was served on the persons stated below via electric transmission this 13th day of June 2022.

/s/ Maureen R. Willis
Assistant Consumers' Counsel

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

SERVICE LIST

thomas.lindgren@ohioAGO.gov
werner.margard@ohioAGO.gov
joliker@igsenergy.com
Mnugent@igsenergy.com
bethany.allen@igs.com
evan.betterton@igs.com
gkrassen@bricker.com
dstinson@bricker.com
whitt@whitt-sturtevant.com
fykes@whitt-sturtevant.com
trent@hubaydougherty.com
mwise@mcdonaldhopkins.com
mkurtz@BKLawfirm.com
kboehm@BKLawfirm.com
jkylercohn@BKLawfirm.com
tallexander@beneschlaw.com
khehmeyer@beneschlaw.com

Attorney Examiners:

megan.addison@puco.ohio.gov
jacqueline.st.john@puco.ohio.gov

edanford@firstenergycorp.com
cwatchorn@firstenergycorp.com
bknipe@firstenergycorp.com
mrgladman@jonesday.com
mdengler@jonesday.com
radoringo@jonesday.com
marcie.lape@skadden.com
iavalon@taftlaw.com
kverhalen@taftlaw.com
mpritchard@mcneeslaw.com
rdove@keglerbrown.com
bojko@carpenterlipps.com
tdougherty@theOEC.org
ctavenor@theOEC.org
jweber@elpc.org
trhayslaw@gmail.com
leslie.kovacik@toledo.oh.gov
sgoyal@jonesday.com
calee@jonesday.com
dparram@bricker.com
rmains@bricker.com

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Summary: Report Joint Discovery Status Report by Office of the Ohio Consumers' Counsel, Northeast Ohio Public Energy Council and Ohio Manufacturers' Association Energy Group electronically filed by Ms. Alana M. Noward on behalf of Willis, Maureen R.