

**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.	)	

---

**APPLICATION FOR REHEARING  
BY  
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

---

Bruce Weston (0016973)  
Ohio Consumers' Counsel

Maureen R. Willis (0020847)  
Senior Counsel  
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](mailto:maureen.willis@occ.ohio.gov)  
[john.finnigan@occ.ohio.gov](mailto:john.finnigan@occ.ohio.gov)  
[connor.semples@occ.ohio.gov](mailto:connor.semples@occ.ohio.gov)  
(willing to accept service by email)

April 7, 2023

**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.	)	

---

**APPLICATION FOR REHEARING  
BY  
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

---

The Office of the Ohio Consumers' Counsel ("OCC") applies for rehearing of the Public Utility Commission of Ohio's ("PUCO") March 8, 2023 Entry staying this case and the three other FirstEnergy investigation cases in their entirety for an additional six months at the request of U.S. Attorney Kenneth Parker.

The PUCO has four investigations, initiated largely at OCC's request, relating to the FirstEnergy scandals. It's time to get back to work for Ohioans regarding the investigations into FirstEnergy. The PUCO's Entry on Rehearing further staying these cases should be reconsidered and the stay lifted.

Here is some background. FirstEnergy Corp. stands charged, by the United States, with a federal corruption-related crime. FirstEnergy Corp. agreed that "the United States would prove the facts set forth below beyond a reasonable doubt...if this case had proceeded to trial" on the charge of conspiracy to commit honest services wire fraud.<sup>1</sup>

---

<sup>1</sup> *United States of America v. FirstEnergy Corp.*, Case No. 1:21-cr-86, Deferred Prosecution Agreement at 14 (Jul. 22, 2021).

Recently, Mr. Larry Householder, the former Ohio House Speaker, and Mr. Matthew Borges, a lobbyist, were convicted for racketeering conspiracy relating to House Bill 6.<sup>2</sup> That bill became a law to bailout FirstEnergy Solutions' nuclear power plants, to bailout two coal plants partly owned by AEP, Duke, and AES, and to do other things (decoupling) at the expense of Ohioans and for the benefit of FirstEnergy, other utilities (AEP, Duke, and AES) and potentially others.

The PUCO's March 8, 2023 Entry staying discovery in these cases should be reheard. The PUCO's March 8, 2023 Entry was unreasonable and unlawful in the following respects:

Assignment of Error No. 1: The PUCO erred, violating the parties' guaranteed rights to due process and discovery, under Ohio law (R.C. 4903.082), the Ohio Constitution and the U.S. Bill of Rights, when it ordered a blanket six-month stay of all four FirstEnergy investigations "in their entirety, including but not limited to, all discovery and motion practice" The scope of the stay was also unreasonably broad ---broader than necessary to avoid interfering with the criminal investigation.

- A. The PUCO erred by not allowing parties the full response time under the PUCO's rules for responding to the U.S. Attorney's request for a stay.
- B. The PUCO should have allowed parties during the stay period to file motions relating to the scope of the PUCO's House Bill 6 investigations, including expanding audits to include what House Bill 6 costs FirstEnergy concealed from FERC during FERC's audit/investigation of FirstEnergy, and whether FirstEnergy also concealed these costs from the PUCO and interested parties in these cases.
- C. The PUCO's Order should have allowed for an *in camera* review of documents produced by FirstEnergy Corp. and the FirstEnergy Utilities under protective agreements. Once a ruling has been received, if parties are successful in obtaining the documents over the assertion of privilege, the documents could be held for distribution until after the stay is lifted.

---

<sup>2</sup> U.S. Attorney News Release, *Jury Convicts Former Ohio House Speaker, former Chair of Ohio Republican Party of participating in racketeering conspiracy* (Mar. 9, 2023), available at: <https://www.justice.gov/usao-sdoh/pr/jury-convicts-former-ohio-house-speaker-former-chair-ohio-republican-party>.

- D. The PUCO should have allowed parties to file motions to compel discovery and obtain rulings. The actual production of information, if a motion to compel is successful, could occur after the stay is lifted.
- E. The PUCO should have provided for publicly filing summaries of any and all communications between the PUCO and the U.S. Attorney's office both before the stay was granted and after it was granted.
- F. The PUCO should have expanded the PUCO investigations to expressly include a management and performance audit examining the relationship between FirstEnergy and former PUCO chair Sam Randazzo.
- G. The PUCO should have ordered FirstEnergy to release its internal reports on the H.B. 6 scandal after the stay is lifted.

Assignment of Error No. 2: The PUCO erred because the rationale underlying the PUCO's stay is no longer applicable, and it should have lifted the stay to protect consumers.

Assignment of Error No. 3: The PUCO erred by failing to order FirstEnergy Corp. to preserve all documents and other records related to these proceedings until the stay has been lifted and the investigations have been completed, including any evidentiary hearings.

Assignment of Error No. 4: To protect consumers, the PUCO's stay order should not have prevented the PUCO from granting the Motion for Supplemental Audit filed on November 5, 2021 by OCC and the Northeast Ohio Public Energy Council. The audit should be conducted during the stay as information gathering can proceed, without interfering with the government's investigation, with disclosure of information precluded under R.C. 4901.16.

Assignment of Error No. 5: To protect consumers, the PUCO should have granted the subpoenas filed on August 4, 2022 in Case No. 17-974-EL-UNC to allow OCC to obtain service, with the depositions to be conducted after the stay is lifted. The PUCO should have also required FirstEnergy ex-CEO Mr. Jones to respond to the subpoena filed on August 4, 2022.

Assignment of Error No. 6: The PUCO should have allowed discovery to be re-opened in Case No. 17-974-EL-UNC after the stay is lifted.

The reasons for granting this Application for Rehearing are set forth in the attached Memorandum in Support.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

/s/ Maureen R. Willis  
Maureen R. Willis (0020847)  
Senior Counsel  
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](mailto:maureen.willis@occ.ohio.gov)  
[john.finnigan@occ.ohio.gov](mailto:john.finnigan@occ.ohio.gov)  
[connor.semple@occ.ohio.gov](mailto:connor.semple@occ.ohio.gov)  
(willing to accept service by email)

## TABLE OF CONTENTS

	<b>PAGE</b>
I. ASSIGNMENTS OF ERROR .....	2
ASSIGNMENT OF ERROR NO. 1: THE PUCO ERRED, VIOLATING THE PARTIES' GUARANTEED RIGHTS TO DUE PROCESS AND DISCOVERY, UNDER OHIO LAW (R.C. 4903.082), THE OHIO CONSTITUTION AND THE U.S. BILL OF RIGHTS, WHEN IT ORDERED A BLANKET SIX-MONTH STAY OF ALL FOUR FIRSTENERGY INVESTIGATIONS "IN THEIR ENTIRETY, INCLUDING BUT NOT LIMITED TO, ALL DISCOVERY AND MOTION PRACTICE" THE SCOPE OF THE STAY WAS ALSO UNREASONABLY BROAD ---BROADER THAN NECESSARY TO AVOID INTERFERING WITH THE CRIMINAL INVESTIGATION. ....	
A. The PUCO erred by not allowing parties the full response time under the PUCO's rules for responding to the U.S. Attorney's request for a stay. ....	3
B. The PUCO should have allowed parties during the stay period to file motions relating to the scope of the PUCO's House Bill 6 investigations, including expanding the scope of the audit to include what House Bill 6 costs FirstEnergy concealed from FERC during FERC's audit/investigation of FirstEnergy, and whether FirstEnergy also concealed these costs from the PUCO and interested parties in these cases. ....	5
C. The PUCO's Order should have allowed for an <i>in camera</i> review of documents produced by FirstEnergy Corp. and the FirstEnergy Utilities under protective agreements. Once a ruling has been received, if parties are successful in obtaining the documents over the assertion of privilege, the documents could be held for distribution until after the stay is lifted. ....	7
D. The PUCO should have allowed parties to file motions to compel discovery and obtain rulings. The actual production of information, if a motion to compel is successful, could occur after the stay is lifted. ....	8
E. The PUCO should have provided for publicly filing summaries of any and all communications between the PUCO and the U.S. Attorney's office both before the stay was granted and after it was granted. ....	9
F. The PUCO should have expanded the PUCO investigations to expressly include a management and performance audit examining the relationship between FirstEnergy and former PUCO chair Sam Randazzo. ....	9

G.	The PUCO should have ordered FirstEnergy to release its internal reports on the H.B. 6 scandal after the stay is lifted. ....	13
	ASSIGNMENT OF ERROR NO. 2: THE PUCO ERRED BECAUSE THE RATIONALE UNDERLYING THE PUCO’S STAY IS NO LONGER APPLICABLE, AND IT SHOULD HAVE LIFTED THE STAY TO PROTECT CONSUMERS. ....	15
	ASSIGNMENT OF ERROR NO. 3: THE PUCO ERRED BY FAILING TO ORDER FIRSTENERGY CORP. TO PRESERVE ALL DOCUMENTS AND OTHER RECORDS RELATED TO THESE PROCEEDINGS UNTIL THE STAY HAS BEEN LIFTED AND THE INVESTIGATIONS HAVE BEEN COMPLETED, INCLUDING ANY EVIDENTIARY HEARINGS. ....	17
	ASSIGNMENT OF ERROR NO. 4: TO PROTECT CONSUMERS, THE PUCO’S STAY ORDER SHOULD NOT HAVE PREVENTED THE PUCO FROM GRANTING THE MOTION FOR SUPPLEMENTAL AUDIT FILED ON NOVEMBER 5, 2021 BY OCC AND THE NORTHEAST OHIO PUBLIC ENERGY COUNCIL. THE AUDIT SHOULD BE CONDUCTED DURING THE STAY AS INFORMATION GATHERING CAN PROCEED, WITHOUT INTERFERING WITH THE GOVERNMENT’S INVESTIGATION, WITH DISCLOSURE OF INFORMATION PRECLUDED UNDER R.C. 4901.16. ....	18
	ASSIGNMENT OF ERROR NO. 5: TO PROTECT CONSUMERS, THE PUCO SHOULD HAVE GRANTED THE SUBPOENAS FILED ON AUGUST 4, 2022 IN CASE NO. 17-974-EL-UNC TO ALLOW OCC TO OBTAIN SERVICE, WITH THE DEPOSITIONS TO BE CONDUCTED AFTER THE STAY IS LIFTED. THE PUCO SHOULD HAVE ALSO REQUIRED FIRSTENERGY EX-CEO MR. JONES TO RESPOND TO THE SUBPOENA FILED ON AUGUST 4, 2022. ....	20
	ASSIGNMENT OF ERROR NO. 6: THE PUCO SHOULD HAVE ALLOWED DISCOVERY TO BE RE-OPENED IN CASE NO. 17-974-EL-UNC AFTER THE STAY IS LIFTED. ....	21
II.	CONCLUSION.....	22

**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.	)	

---

**MEMORANDUM IN SUPPORT**

---

The PUCO violated Ohio law (R.C. 4903.082) and due process rights guaranteed by the Ohio and U.S. Constitution when it ordered another six month stay in all four FirstEnergy investigations. The PUCO unreasonably imposed a very broad stay – on all case activity, which was broader than needed to avoid interference with the criminal investigations. The PUCO also failed to order FirstEnergy Corp. to preserve documents and records that could be destroyed, lost, or become unavailable during the stay period. That ruling exacerbates the potential harm to consumers from the stay.

On rehearing the PUCO should lift the blanket stay and impose only a stay on limited activities to allow important fact finding and audits to go forward.



## **I. ASSIGNMENTS OF ERROR**

**ASSIGNMENT OF ERROR NO. 1: THE PUCO ERRED, VIOLATING THE PARTIES' GUARANTEED RIGHTS TO DUE PROCESS AND DISCOVERY, UNDER OHIO LAW (R.C. 4903.082), THE OHIO CONSTITUTION AND THE U.S. BILL OF RIGHTS, WHEN IT ORDERED A BLANKET SIX-MONTH STAY OF ALL FOUR FIRSTENERGY INVESTIGATIONS "IN THEIR ENTIRETY, INCLUDING BUT NOT LIMITED TO, ALL DISCOVERY AND MOTION PRACTICE" THE SCOPE OF THE STAY WAS ALSO UNREASONABLY BROAD ---BROADER THAN NECESSARY TO AVOID INTERFERING WITH THE CRIMINAL INVESTIGATION.**

By shutting down these cases yet again for six months (or more),<sup>3</sup> the PUCO violated parties' rights to conduct discovery, guaranteed under Ohio law<sup>4</sup> and rule. The PUCO also violated parties' rights to due process guaranteed under Ohio Constitution (Section 16, Article 1) and the Fifth and Fourteenth Amendments to the U.S. Constitution. Such a delay could potentially deny justice where relevant evidence, witnesses or testimony could go missing or no longer be available because of the delay.

The PUCO denied parties' discovery rights and created the substantial likelihood that relevant evidence, witnesses or testimony would be lost, missing or no longer available. This could actually and substantially prejudice the parties who are seeking justice for Ohio consumers. And the stay of these proceedings could delay any potential refunds to consumers, refunds which could be jeopardized with the passage of time.

The potential harm to consumers from staying these cases yet again is great. Parties are substantially prejudiced by the delay. The PUCO should not have continued a blanket stay of all discovery.

---

<sup>3</sup> The PUCO noted that it would allow for requests of reconsideration and/or extension of the stay, as may be appropriate. Entry at ¶ 86. Additionally, the U.S. Attorney reserved its right to request that the stay be extended beyond the six months it requested. Letter at 2 (Aug. 15, 2022).

<sup>4</sup> R.C. 4903.082.

Much could have been accomplished without shutting the cases down completely, precluding all discovery and motion practice. Much could have been done without interfering with the U.S. government's investigation. The PUCO erred by not narrowly structuring any stay, as discussed in more detail below. This would have allowed certain investigatory activities detailed below to continue during the stay.

**A. The PUCO erred by not allowing parties the full response time under the PUCO's rules for responding to the U.S. Attorney's request for a stay.**

The PUCO erred by not allowing parties the full response time under the PUCO's rules for responding to the U.S. Attorney's request for a stay. The U.S. Attorney filed his request for a stay on February 23, 2023.<sup>5</sup> The PUCO granted the stay 14 days later, on March 8, 2023.<sup>6</sup> The PUCO's rules, however, provide that parties may respond to a motion within 15 days.<sup>7</sup>

This shortened response time occurred without prior notice and interfered with the parties' right to present arguments as to why the stay should not be granted. Indeed, there are many reasons not to grant the stay.

The Ohio Attorney General recently persuaded Franklin County Common Pleas Judge Chris Brown to lift a stay in a civil action against FirstEnergy and others.

Arguments raised by the Attorney General<sup>8</sup> included that :

- All federal criminal defendants have had their charges resolved;

---

<sup>5</sup> Request of the U.S. Attorney, Southern District of Ohio, to stay all discovery (Feb. 23, 2023).

<sup>6</sup> Entry (Mar. 8, 2023).

<sup>7</sup> O.A.C. 4901-1-12((B)(1)).

<sup>8</sup> *State of Ohio ex rel. Dave Yost, Ohio Attorney General v. FirstEnergy Corp. et al.*, Case No. 20-CV-6281, Motion to Lift Stay of Proceedings (Mar. 9, 2023).

- FirstEnergy has a deferred prosecution agreement and thus there will not be criminal action against;
- FirstEnergy has settled numerous civil suits;
- In the fraud class action cases, discovery has been ongoing and
- Energy Harbor has been sold –emphasizing the need to preserve documents and ensure that liabilities are not shed by corporate restructuring.<sup>9</sup> These same factors apply to the PUCO’s FirstEnergy investigation cases and OCC and other parties should have had the opportunity to present these arguments. That opportunity was denied by the PUCO.

Additionally, civil litigation plaintiffs have gone forward with discovery even though the PUCO stayed these cases last August.<sup>10</sup> For example, on January 2, 2019, the civil plaintiffs subpoenaed documents from Former Chair Randazzo seeking to “follow the money”<sup>11</sup> Plaintiffs also took the deposition of FirstEnergy employee Joseph Storsin on December 6-7, 2022.<sup>12</sup> Mr. Storsin is a Vice President of Strategy for FirstEnergy and he is significant because FirstEnergy designated him as the person to respond to the plaintiffs’ Rule 30(b)(6) deposition, which required FirstEnergy to produce a witness with knowledge of the matters which FirstEnergy admitted to in the Deferred Prosecution Agreement.<sup>13</sup>

---

<sup>9</sup> *Id.*, Entry (Mar. 15, 2023).

<sup>10</sup> *In re FirstEnergy Corp. Securities Litigation*, Case No. 2:20-cv-3785, Joint Discovery Status Report (S.D. Ohio) (Apr. 3, 2023).

<sup>11</sup> *Id.* at 1.

<sup>12</sup> *Id.* at 3-4.

<sup>13</sup> *Id.*

In summarily granting the U.S. Attorney’s request for a stay, the PUCO did not consider that discovery in House Bill 6 civil case is ongoing in other forums. The PUCO’s ruling should be reheard.

- B. The PUCO should have allowed parties during the stay period to file motions relating to the scope of the PUCO’s House Bill 6 investigations, including expanding the scope of the audit to include what House Bill 6 costs FirstEnergy concealed from FERC during FERC’s audit/investigation of FirstEnergy, and whether FirstEnergy also concealed these costs from the PUCO and interested parties in these cases.**

The PUCO began its House Bill 6 investigations, in response to a request by OCC, with a show cause order issued on September 15, 2020 in a new case docketed as Case No. 20-1502-EL-UNC.<sup>14</sup> The investigations (occurring in four different unconsolidated PUCO dockets) have been in progress for about two-and-one-half years and still have a long way to go.

The scope of the investigations has changed over time. As more information has become available, OCC has filed various motions to change the scope of the cases. For example, OCC filed a motion for an independent audit in Case No. 20-1502-EL-UNC,<sup>15</sup> and the PUCO ordered one on March 9, 2022.<sup>16</sup>

Judge Marbley has noted that the losses caused by FirstEnergy’s “unparalleled corruption” will likely exceed hundreds of millions of dollars.<sup>17</sup> A loss of this magnitude would certainly seem to justify a management and performance audit. To date, FirstEnergy Corp. has blamed the House Bill 6 scandal on failure by its top executives to

---

<sup>14</sup> Case No. 20-1502-EL-UNC, Entry (Sept. 15, 2020).

<sup>15</sup> Case No. 20-1502-EL-UNC, Revised Motion for an Independent Auditor (Oct. 27, 2021).

<sup>16</sup> Case No. 20-1502-EL-UNC, Entry (Mar. 9, 2022).

<sup>17</sup> *Employees Retirement System of the City of St. Louis v. Jones*, Case No. 2:20-cv-4813, Order of Final Settlement Approval at 6 (Aug. 23, 2022).

maintain “an appropriate tone of compliance.”<sup>18</sup> This explanation is wholly inadequate to explain such significant-dollar losses. A full management and performance audit, like the one requested by OCC over two years ago,<sup>19</sup> would be appropriate.

In addition, new information has revealed that, while the bribery scheme was in progress, FirstEnergy paid over \$100 million to the executives who were fired or “separated” for their roles in the bribery scheme.<sup>20</sup> This issue alone begs the question of how much of this executive compensation did Ohio consumers pay in the rates FirstEnergy was charging?

Filings seeking to expand the PUCO’s investigation into these matters would not have interfered with the U.S. Attorney’s criminal investigation. Such filings could occur even while there is a stay on discovery. However, the PUCO imposed a complete shut-down over the next six months, causing consumers to experience additional delay in obtaining discovery and a hearing after the stay expires. The PUCO should have instead fashioned a stay order to allow parties to continue filing motions relating to the scope of the House Bill 6 investigations while the stay is in progress.

The expanded audit scope should include, among other things, what House Bill 6 costs FirstEnergy concealed from FERC during FERC’s audit/investigation of FirstEnergy, and whether FirstEnergy also concealed these costs from the PUCO and interested parties in this case.

As discussed earlier, FirstEnergy admitted in a recent Consent Decree with FERC

---

<sup>18</sup> FirstEnergy Corp. Form 10-K at 125 (Feb. 16, 2022).

<sup>19</sup> Case No. 17-974-EL-UNC, OCC Motion (Sept. 8, 2020).

<sup>20</sup> *Employees Retirement System of the City of St. Louis v. Jones*, Case No. 2:20-cv-4813, Order of Final Settlement Approval at 6 (Aug. 23, 2022).

to violating its duty to “not submit false or misleading information, or omit material information, in any communication with the Commission” regarding the House Bill 6-related lobbying and governmental affairs expenses which FirstEnergy concealed from FERC.<sup>21</sup> It is important to determine whether FirstEnergy concealed the same information from the PUCO and interested parties in these cases.

**C. The PUCO’s Order should have allowed for an *in camera* review of documents produced by FirstEnergy Corp. and the FirstEnergy Utilities under protective agreements. Once a ruling has been received, if parties are successful in obtaining the documents over the assertion of privilege, the documents could be held for distribution until after the stay is lifted.**

From time to time, disputes have arisen under the protective agreements between FirstEnergy Corp. and OCC or the FirstEnergy Utilities and OCC. This has required the Attorney Examiners to perform an *in camera* review of documents to determine whether OCC is entitled to obtain copies of the documents where privilege is asserted.

The PUCO’s prior stay order applies to “these cases in their entirety.”<sup>22</sup> The blanket stay violates parties’ due process discovery rights under R.C. 4903.082 because the stay order prohibits the Attorney Examiners from conducting an *in camera* review of documents produced by FirstEnergy Corp. and the FirstEnergy Utilities where privilege is being asserted to deny discovery.

The PUCO should have fashioned a stay order to allow the Attorney Examiners to continue performing any *in camera* reviews requested by parties where FirstEnergy Corp. or the FirstEnergy Utilities claim privilege as reason to withhold information. FirstEnergy

---

<sup>21</sup> *In re FirstEnergy Corp.*, Docket No. IN23-2-000, Order Approving Stipulation and Consent Agreement at 3 (Dec. 30, 2022).

<sup>22</sup> *Id.*

Corp. has produced about 562,000 pages of documents<sup>23</sup> with redactions and privilege assertions being made. The Attorney Examiners could continue their *in camera* reviews without interfering with the U.S. Attorney's criminal investigation because the *in camera* reviews are conducted outside the public forum and relate to documents already produced by FirstEnergy Corp. and the FirstEnergy Utilities in other proceedings that have not been stayed. The PUCO could have issued rulings on such information and yet ordered the information not to be distributed, if parties had been successful in overcoming privilege, until after the stay is lifted.

**D. The PUCO should have allowed parties to file motions to compel discovery and obtain rulings. The actual production of information, if a motion to compel is successful, could occur after the stay is lifted.**

FirstEnergy' Corp.'s and FirstEnergy Utilities' general lack of cooperation has required OCC to file motions to compel discovery on many occasions. Unfortunately, OCC will be required to file more motions to compel. Typically, about five months elapse from the time that OCC files a motion to compel discovery until the time when the Attorney Examiners make a ruling.

It would not have interfered with the U.S. Attorney's criminal investigation to allow motion practice related to motions to compel to continue so that once the stay is lifted, the documents in dispute could be provided to parties if parties prevail on the motion to compel. Fashioning the stay order as requested would have saved months of needless delay after the stay order expires while the motions to compel are litigated. Such needless delay violates OCC's due process rights and OCC's rights under R.C. 4903.082 because the information sought might not be available.

---

<sup>23</sup> Case No. 17-974-EL-UNC, Joint Discovery Status Report (Aug. 26, 2022).

The PUCO should have therefore fashioned a stay order to allow motions to compel to continue, along with Attorney Examiner rulings, but provided for the stay to prohibit the actual production of information until the stay order expires.

**E. The PUCO should have provided for publicly filing summaries of any and all communications between the PUCO and the U.S. Attorney's office both before the stay was granted and after it was granted.**

The PUCO should have fashioned a stay order requiring that the PUCO would publicly file summaries of any and all communications between the PUCO and the U.S. Attorney's office both before the stay was granted and after it was granted.

All PUCO records are subject to disclosure under the Ohio Public Records Act<sup>24</sup> unless specifically exempted from disclosure under R.C. 149.43. The communications between the PUCO and the U.S. Attorney relating to the stay are not exempted from disclosure under R.C. 149.43. The PUCO should therefore immediately disclose such communications that have transpired to date, and any future communications which might occur.

**F. The PUCO should have expanded the PUCO investigations to expressly include a management and performance audit examining the relationship between FirstEnergy and former PUCO chair Sam Randazzo.**

The PUCO should have expanded the investigations to expressly include a full independent management and performance audit examining the relationship between FirstEnergy and former PUCO chair Sam Randazzo

The PUCO expanded the scope of the audit in Case No. 20-1629-EL-RDR to include FirstEnergy's disclosure of ten years of misallocated costs to the FirstEnergy

---

<sup>24</sup> Ohio Revised Code Chapter 143.



Utilities.<sup>25</sup> The audit subsequently concluded that these “ten years of misallocated costs” include the \$4.3 million Randazzo payment.<sup>26</sup> But the auditor was unable to investigate why FirstEnergy made the payment and charged it to the utilities. The auditor stated:

Blue Ridge understands *how* costs were settled to the Ohio operating companies but not *why* FirstEnergy believed it was appropriate to record these charges to the Ohio operating companies to be possibly included in rates charged to customers. However, determining the reason is beyond the scope of Blue Ridge’s analysis.<sup>27</sup>

FirstEnergy Corp.’s SEC filings provided the initial indication that the Randazzo payment “may have been for purposes other than those represented within the consulting agreement.”<sup>28</sup> In the Deferred Prosecution Agreement, FirstEnergy expressly admitted the illicit nature of the \$4.3 million payment:

FirstEnergy Corp. paid the entire \$4,333,333 to Company 1 for Public Official B’s benefit with the intent and for the purpose that, in return, Public Official B would perform official action in his capacity as PUCO Chairman to further FirstEnergy Corp.’s interests relating to the passage of nuclear legislation and other specific FirstEnergy Corp. legislative and regulatory priorities, as requested and as opportunities arose.<sup>29</sup>

The PUCO’s expanded audit into the “ten years of misallocated costs” was quite narrow. It will only examine “whether funds collected from ratepayers were used to pay these vendors and if so, whether or not the funds associated with those payments should

---

<sup>25</sup> *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 (Mar. 10, 2021).

<sup>26</sup> Case No. 20-1629-EL-UNC, Audit Report Expanded Scope (Aug. 3, 2021).

<sup>27</sup> *Id.* at Expanded Scope, p. 4.

<sup>28</sup> FirstEnergy Corp., Form 8-K (Feb. 16, 2021).

<sup>29</sup> *United States v. FirstEnergy Corp.*, Case No. 1:21-cr-00086-TSB, Deferred Prosecution Agreement at 35 (Jul. 21, 2021).

be returned to ratepayer....”<sup>30</sup> Under the PUCO’s approach, if FirstEnergy used ratepayer funds for the \$4.3 million Randazzo payment, then ratepayers will get their money back – end of story.

But justice demands a more probing examination, such as:

- If the Randazzo payment “may have been for purposes other than those represented within the consulting agreement” then what was the real purpose?
- What information led FirstEnergy to conclude that the real purpose was “purposes other than those represented within the consulting agreement”?
- Were any PUCO rulings affected by this undue influence?
- What communications did Mr. Randazzo and FirstEnergy have regarding FirstEnergy’s expectations for Mr. Randazzo to achieve favorable regulatory treatment for FirstEnergy?
- FirstEnergy disclosed that it fired its CEO Chuck Jones for violating company policies and the FirstEnergy code of conduct.<sup>31</sup> Was this in connection with the Randazzo “consulting agreement?” What led FirstEnergy to conclude this?
- FirstEnergy disclosed that it fired Eileen Mikkelsen for “her inaction regarding the amendment in 2015 of a previously disclosed purported

---

<sup>30</sup> *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, Request to Expand Audit Scope (Mar. 8, 2021).

<sup>31</sup> FirstEnergy Corp. 8-K (Oct. 30, 2020). The firing came the same day that two defendants in the *U.S. v. Householder* criminal case pled guilty. Bischoff, L., *Two defendants in \$60 million public corruption case take plea deals*, Dayton Daily News (Oct. 29, 2020).

consulting agreement.”<sup>32</sup> What did the 2015 amendment say? What should have prompted her to take action?

In sum, there are many more serious issues at stake than the PUCO’s narrow scope of “whether funds collected from ratepayers were used to pay these vendors and if so, whether or not the funds associated with those payments should be returned to ratepayer....”<sup>33</sup> For these reasons, the PUCO should have expanded the scope of its investigation to include a full management and performance audit into FirstEnergy’s dealings with Mr. Randazzo related to the \$4.3 million payment.

The Pennsylvania and New Jersey Public Utilities Commissions both ordered a full management and performance audit into FirstEnergy’s HB 6 activities even though FirstEnergy’s illicit actions harmed consumers in those states to a much lesser degree than FirstEnergy’s Ohio consumers have been harmed.<sup>34</sup> The PUCO should have ordered a full management and performance audit of FirstEnergy’s relationship with Mr. Randazzo to determine the full extent of how FirstEnergy’s admitted acts of honest services wire fraud, including its illicit activities involving Mr. Randazzo, harmed consumers and, importantly, how the PUCO can protect consumers to make sure such harm does not occur again. The PUCO’s Entry failed to do so. Rehearing should be granted.

---

<sup>32</sup> FirstEnergy Corp. 8-K (May 27, 2021).

<sup>33</sup> *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, Request to Expand Audit Scope (Mar. 8, 2021).

<sup>34</sup> *In re FirstEnergy Pennsylvania Companies Management and Performance Audit*, Docket Nos. D-2020-3023106, D-2020-3023107, D-2020-3023108 and D-2020-3023109, Audit Report (Mar. 2022); *In re Audit of Affiliate Transactions Between Jersey Central Power and Light Company, FirstEnergy Corp. and its Affiliates*, Docket No. EA20110733, Order (May 5, 2022).

**G. The PUCO should have ordered FirstEnergy to release its internal reports on the H.B. 6 scandal after the stay is lifted.**

Justice Louis Brandeis famously said: “sunlight is the best disinfectant.” He made this remark to explain the need for more transparency in government.<sup>35</sup> The PUCO could bring much needed transparency by ordering FirstEnergy to release the following documents it refers to in SEC filings:

- The internal investigation report relating to *United States v. Larry Householder*;<sup>36</sup>
- The provisions of the FirstEnergy company policies and code of conduct that Mr. Jones violated;<sup>37</sup>
- The consulting agreement with the firm controlled by Mr. Randazzo;<sup>38</sup>
- The 2015 amendment to the consulting agreement;<sup>39</sup>
- The documents that led FirstEnergy to conclude that the payment to Mr. Randazzo “may have been for purposes other than those represented within the consulting agreement;”<sup>40</sup>
- The documents that led FirstEnergy to conclude that Mr. Randazzo took actions to benefit FirstEnergy while he was PUCO Chair in exchange for the \$4.3 million payment; and<sup>41</sup>

---

<sup>35</sup> *Brandeis and the History of Transparency*, [www.Sunlightfoundation.com](http://www.Sunlightfoundation.com) (May 26, 2009).

<sup>36</sup> FirstEnergy Corp., Form 10-K at 125 (Feb. 18, 2001).

<sup>37</sup> *Id.*

<sup>38</sup> *Id.*

<sup>39</sup> FirstEnergy Corp. 8-K (May 27, 2021).

<sup>40</sup> FirstEnergy Corp., Form 8-K (Feb. 16, 2021).

<sup>41</sup> Energy and Policy Institute, *FirstEnergy attributed Ohio utility regulator’s actions to \$4.3 million payment* (Mar. 3, 2021) (Emphasis in original).

The PUCO has jurisdiction over these matters under R.C. 4905.05, which authorize the PUCO to inspect the records of FirstEnergy Corp. and all its holding company affiliates that “in any way affect or relate to the costs associated with the provision of electric utility service.”<sup>42</sup> The PUCO’s jurisdiction is also authorized by R.C. 4928.18(B).

In addition, the PUCO rules, promulgated to help the PUCO carry out the law, allow extensive access to the “books, accounts, and/or other pertinent records kept by an electric utility *or its affiliates* as they may relate to the businesses for which corporate separation is required.”<sup>43</sup> Further provisions in the corporate separation rules allow the PUCO Staff to “investigate such electric utility *and/or affiliate operations and the interrelationship of those operations*.”<sup>44</sup>

In any event, the PUCO’s stay order should have required FirstEnergy to produce the internal investigation report when the stay is lifted. This would have avoided any interference with the U.S. Attorney’s criminal investigation. The internal investigation related to the FirstEnergy Utilities’ utility service. Chuck Jones was not only CEO of FirstEnergy Corp. but was also the Chief Executive Officer of the FirstEnergy Utilities. The consumers of FirstEnergy Utilities have a right to know the full extent of FirstEnergy’s misdeeds and releasing this information would be a good first step toward identifying how FirstEnergy’s misdeeds impacted consumer rates.

---

<sup>42</sup> R.C. 4905.05.

<sup>43</sup> O.A.C. 4901:1-37-07(A) (Emphasis added).

<sup>44</sup> O.A.C. 4901:1-37-07(B) (Emphasis added).

**ASSIGNMENT OF ERROR NO. 2: THE PUCO ERRED BECAUSE THE RATIONALE UNDERLYING THE PUCO’S STAY IS NO LONGER APPLICABLE, AND IT SHOULD HAVE LIFTED THE STAY TO PROTECT CONSUMERS.**

The rationale underlying the PUCO’s indefinite stay is no longer applicable.

Though the PUCO says that it indefinitely delayed investigation into the FirstEnergy Utilities’ potential violation of Ohio law so as not to “interfere” with other investigations, circumstances have not, and do not, bear that concern out.

The Ohio Attorney General has *not* requested a stay of the PUCO’s investigation. In fact, the Ohio Attorney General requested a *lift of a stay* in his investigation, which was granted on March 15, 2023.<sup>45</sup> Part of the Attorney General’s rationale for seeking to lift the stay, equally applicable here, is the ongoing discovery in a variety of civil matters involving FirstEnergy entities. He wrote:

[A]s is not a surprise, FirstEnergy and other defendants have ongoing federal civil matters premised on a similar set of facts and likely seek similar discovery. Attempts to stay discovery in these federal civil matters have failed. In a recent order denying FirstEnergy’s request to stay discovery, Chief Judge Algenon L Marbley succinctly described the discovery projection for all of the related federal matters.

[D]iscovery is proceeding in parallel cases. FirstEnergy turned over voluminous documents to the government in connection with the deferred prosecution agreement - many of which are now being produced in response to discovery requests in the RICO class action. (ECF No. 127 at 8 (citing docket entries in *Smith v. FirstEnergy Corp.*, No. 2:20-cv-3755 (S.D. Ohio)). Last month, the Northern District of Ohio denied to stay discovery in its derivative action. *Miller [v. Anderson]*, 2021 WL 4220780, at \*1 [(Sept. 16, 2021) (appeal filed)]. And in June, this Court lifted its stay in the securities fraud class action as to

---

<sup>45</sup> *State of Ohio ex rel. Dave Yost, Ohio Attorney General v. FirstEnergy Corp. et al.*, Case No. 20-CV-6281, Entry (Mar. 15, 2023).

documents produced in the other matters. *In re FirstEnergy Corp. Sec. Litig.*, 2021 WL 2414763. Part of the Court's rationale in lifting the stay was that the plaintiff in that case "could suffer a severe disadvantage in formulating its litigation and settlement strategies" and "could find itself in a significantly different position from most of the other litigants related to this matter" *Id.* at \*6. The same considerations counsel in favor of discovery for Plaintiffs here.

*Employee Retirement System of the City of St. Louis, et al. v. Charles E. Jones, et al.*, Case No. 2:20-cv-04813-ALM-KAJ (S.D. Ohio), Opinion & Order on Motion to Stay, Doc. #142, pgs. 7-8, filed Oct. 20, 2021. Well said. There is little reason that this case should be treated any less meaningfully. The State has at least as much interest in advancing its litigation as the federal private plaintiffs.<sup>46</sup>

Ohio consumers here deserve the opportunity to investigate the FirstEnergy Utilities' side deals just as much as the State has the opportunity to investigate in the Ohio Attorney General's case and the federal private plaintiffs have in their cases. Ohio consumers deserve just as much of an opportunity to litigate their case as the plaintiffs in the extensive civil litigation pending against FirstEnergy entities as disclosed in FirstEnergy Corp.'s recent 10-K.<sup>47</sup> And Ohio consumers deserve to have the agency responsible for regulating the FirstEnergy Utilities – the PUCO – fulfill its responsibilities in parallel with pending civil litigation just like the regulators elsewhere have.<sup>48</sup>

The Ohio Attorney General has not requested a stay. Much civil litigation is pending and proceeding with discovery while various investigations are ongoing.

---

<sup>46</sup> *Id.*, Motion to Lift Stay at 3-4 (citations omitted).

<sup>47</sup> FirstEnergy Corp.'s SEC Form 10-K (for fiscal year ended Dec. 31, 2022) at 117-120.

<sup>48</sup> *See, e.g.*, Docket Nos. D-2020-3023106 through D-2020-3023109 (Pennsylvania's investigation); Docket No. EA20110733 (New Jersey's investigation); Case No. 9667 (Maryland's investigation); Docket No. FA19-1-000 (FERC's investigation).

Regulators outside of Ohio are fulfilling their duty to investigate FirstEnergy entities in parallel with pending civil litigation. There is no reason to continue the stay. And there is every reason to lift it, in consumers' interest. Rehearing should be granted.

**ASSIGNMENT OF ERROR NO. 3: THE PUCO ERRED BY FAILING TO ORDER FIRSTENERGY CORP. TO PRESERVE ALL DOCUMENTS AND OTHER RECORDS RELATED TO THESE PROCEEDINGS UNTIL THE STAY HAS BEEN LIFTED AND THE INVESTIGATIONS HAVE BEEN COMPLETED, INCLUDING ANY EVIDENTIARY HEARINGS.**

As part of its earlier stay order, the PUCO ordered the FirstEnergy Utilities to preserve all documents and other records until the stay is lifted.<sup>49</sup> The new stay order should have included the same requirement. Further, the PUCO should have also imposed this requirement on **FirstEnergy Corp.** This would have partially helped offset the prejudice that will otherwise occur for parties due to the delay in the discovery process. The PUCO should have expanded this order to include FirstEnergy Corp. FirstEnergy Corp. has produced the bulk of the information OCC has obtained in discovery. Leaving FirstEnergy Corp. out of the equation may cause substantial prejudice for parties – prejudice that can be avoided if the preservation of records order applies to FirstEnergy Corp.

---

<sup>49</sup> Entry at ¶ 87 (Aug. 24, 2022).



**ASSIGNMENT OF ERROR NO. 4: TO PROTECT CONSUMERS, THE PUCO'S STAY ORDER SHOULD NOT HAVE PREVENTED THE PUCO FROM GRANTING THE MOTION FOR SUPPLEMENTAL AUDIT FILED ON NOVEMBER 5, 2021 BY OCC AND THE NORTHEAST OHIO PUBLIC ENERGY COUNCIL. THE AUDIT SHOULD BE CONDUCTED DURING THE STAY AS INFORMATION GATHERING CAN PROCEED, WITHOUT INTERFERING WITH THE GOVERNMENT'S INVESTIGATION, WITH DISCLOSURE OF INFORMATION PRECLUDED UNDER R.C. 4901.16.**

On November 5, 2021, OCC and the Northeast Ohio Public Energy Council (“NOPEC”) filed a Motion for Supplemental Audit in Case No. 17-974-EL-UNC, the FirstEnergy Utilities corporate separation case. Attorney Examiner Price expressly deferred ruling on the motion until after the evidentiary hearing is conducted in the case.<sup>50</sup> Attorney Examiner Price upheld his “ruling,”<sup>51</sup> following an interlocutory appeal by OCC and NOPEC.<sup>52</sup>

However, in light of what now amounts to a year stay, the PUCO should grant OCC and NOPEC’s Motion for Supplemental Audit without waiting for an evidentiary hearing.. The need for the Supplemental Audit is as great as it ever has been. It should be conducted now and can be without interfering with the government’s investigation, given the non-disclosure restrictions imposed by Ohio law under R.C. 4901.16.

The Motion for Supplemental Audit involves two areas. The first area concerns the numerous ex parte communications between FirstEnergy executives and then-Chair Sam Randazzo. Such communications are a violation of Ohio law, R.C. 4903.081. The second matter to be addressed in the supplemental audit is the appropriate scope of the

---

<sup>50</sup> Case No. 17-974-EL-UNC, Prehearing Conference Tr. at 24 (Jan. 4, 2022).

<sup>51</sup> *Id.*, Entry (Feb. 10, 2022).

<sup>52</sup> *Id.*, Interlocutory Appel Request for Certification to the PUCO Commissioners and Application for Review by the Office of the Ohio Consumers’ Counsel and Northeast Ohio Public Energy Council (Jan. 14, 2022).

audit. This issue involves a November 13, 2020 email from a PUCO staffer, where the staffer appears to have inappropriately limited the scope of the corporate separation audit. The staffer answered “no” to potential audit bidders inquiring if the audit would include examining the source of funds for House Bill 6 political and charitable spending or conducting tests to determine if consumers provided House Bill 6 funding.<sup>53</sup>

In light of the new stay, this case might not go to hearing until 2024. This will further delay a supplemental audit. OCC and NOPEC will be harmed by this additional delay. It will be harder to locate witnesses. Witnesses’ memories will not be as sharp in 2024 as they try to recall events that occurred five years earlier, in 2019. Relevant evidence, witnesses or testimony could end up lost, missing or no longer available because of the delay.

The U.S. Attorney’s criminal investigation would not be harmed if the audit is expanded to include these two topics. Under R.C. 4901.16, the PUCO-appointed auditor is bound to conduct his work confidentially. The PUCO could allow the supplemental audit to occur now. This would provide for a speedier resolution of the issues, would protect OCC and NOPEC’s due process and discovery rights, and would avoid any interference with the U.S. Attorney’s criminal investigation.

---

<sup>53</sup> See, Case 17-2474-EL-RDR, OCC Reply to PUCO Staff’s Opposition to OCC’s Subpoena for Draft Audit Reports and Other Documents Related to the Investigation of FirstEnergy, Attachment (Nov. 12, 2021).

**ASSIGNMENT OF ERROR NO. 5: TO PROTECT CONSUMERS, THE PUCO SHOULD HAVE GRANTED THE SUBPOENAS FILED ON AUGUST 4, 2022 IN CASE NO. 17-974-EL-UNC TO ALLOW OCC TO OBTAIN SERVICE, WITH THE DEPOSITIONS TO BE CONDUCTED AFTER THE STAY IS LIFTED. THE PUCO SHOULD HAVE ALSO REQUIRED FIRSTENERGY EX-CEO MR. JONES TO RESPOND TO THE SUBPOENA FILED ON AUGUST 4, 2022.**

OCC filed motions for subpoenas of nine current and former FirstEnergy Corp. executives on August 4, 2022 in Case No. 17-974-EL-UNC. The blanket stay order violates OCC's due process and discovery rights under R.C. 4903.082 because the blanket stay order seemingly prohibits the PUCO from granting the OCC subpoenas and thus, prevents OCC from conducting the depositions requested under the OCC subpoenas.

OCC has an interest in having the motions granted quickly and obtaining service of the subpoenas at this time when OCC can locate the deponents. OCC has already located the residences for these current and former FirstEnergy executives. If OCC needs to re-do this work after a six month stay (or more), the executives might move (or disappear), making it difficult or impossible for OCC to locate them and obtain service, compelling their attendance at a deposition. The PUCO should have fashioned a stay order to allow it to issue subpoenas requiring attendance of current and former FirstEnergy executives at a deposition with the exact date determined after the stay has been lifted.

In particular, as to FirstEnergy's ex-CEO Mr. Jones, the PUCO granted OCC's request for a subpoena of documents and OCC perfected service through Mr. Jones' attorney on August 11, 2022. This occurred prior to the U.S. Attorney's original stay

request on August 16, 2022.<sup>54</sup> The PUCO should have, at the very least, required Mr. Jones to respond to OCC's subpoena and produce documents. But the PUCO did not. That was unreasonable. Rehearing should be granted.

**ASSIGNMENT OF ERROR NO. 6: THE PUCO SHOULD HAVE ALLOWED DISCOVERY TO BE RE-OPENED IN CASE NO. 17-974-EL-UNC AFTER THE STAY IS LIFTED.**

The PUCO should have provided for discovery to be re-opened in Case No. 17-974-EL-UNC after the stay is lifted. The basic problem is that the PUCO set a discovery cut-off and hearing date at an early stage in Case No. 17-974-EL-UNC, then revised the hearing date several times without revising the discovery cut-off date to match the new hearing dates. This created a mismatch between the discovery cut-off date and the hearing date. This mismatch will be exacerbated by a six month stay because it will unfairly deprive OCC of the opportunity to do written discovery on a vast trove of information produced between the original discovery cut-off date and the ultimate hearing date.

With a stay of six months (or more) it is conceivable that the hearing in Case No. 17-974-EL-UNC might not occur until 2024. If so, the written discovery deadline would have occurred approximately two-and-one-half years prior to the hearing date. This would deprive OCC of the opportunity for written discovery on a vast amount of information produced during this two-and-one-half-year interval. The PUCO should therefore provide that it will establish a new written discovery deadline in Case No. 17-974-EL-UNC after any stay is lifted. This would be consistent with the PUCO's claim in its Entry that "once the stay is lifted and discovery may proceed, all parties will have

---

<sup>54</sup> Request of the United States Attorney, Southern District of Ohio, to stay all discovery (Aug. 16, 2022).

reasonable time for discovery and to prepare their cases before any hearing is held.”<sup>55</sup>

## II. CONCLUSION

To protect consumers, the PUCO should grant OCC’s Application for Rehearing as described above.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers’ Counsel

*/s/ Maureen R. Willis*  
Maureen R. Willis (0020847)  
Senior Counsel  
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](mailto:maureen.willis@occ.ohio.gov)  
[john.finnigan@occ.ohio.gov](mailto:john.finnigan@occ.ohio.gov)  
[connor.semple@occ.ohio.gov](mailto:connor.semple@occ.ohio.gov)  
(willing to accept service by email)

---

<sup>55</sup> Entry at ¶ 87 (Aug. 24, 2022).

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Application for Rehearing was served on the persons stated below via electronic transmission, this 7<sup>th</sup> day of April 2023.

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

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

### **SERVICE LIST**

#### **17-974-EL-UNC**

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

#### **Attorney Examiners:**

[megan.addison@puco.ohio.gov](mailto:megan.addison@puco.ohio.gov)  
[jacqueline.st.john@puco.ohio.gov](mailto:jacqueline.st.john@puco.ohio.gov)

[edanford@firstenergycorp.com](mailto:edanford@firstenergycorp.com)  
[cwatchorn@firstenergycorp.com](mailto:cwatchorn@firstenergycorp.com)  
[bknipe@firstenergycorp.com](mailto:bknipe@firstenergycorp.com)  
[mrgladman@jonesday.com](mailto:mrgladman@jonesday.com)  
[mdengler@jonesday.com](mailto:mdengler@jonesday.com)  
[radoringo@jonesday.com](mailto:radoringo@jonesday.com)  
[calee@jonesday.com](mailto:calee@jonesday.com)  
[marcie.lape@skadden.com](mailto:marcie.lape@skadden.com)  
[iavalon@taftlaw.com](mailto:iavalon@taftlaw.com)  
[kverhalen@taftlaw.com](mailto:kverhalen@taftlaw.com)  
[rdove@keglerbrown.com](mailto:rdove@keglerbrown.com)  
[bojko@carpenterlipps.com](mailto:bojko@carpenterlipps.com)  
[tdougherty@theOEC.org](mailto:tdougherty@theOEC.org)  
[ctavenor@theOEC.org](mailto:ctavenor@theOEC.org)  
[knordstrom@theoec.org](mailto:knordstrom@theoec.org)  
[jweber@elpc.org](mailto:jweber@elpc.org)  
[trhayslaw@gmail.com](mailto:trhayslaw@gmail.com)  
[leslie.kovacik@toledo.oh.gov](mailto:leslie.kovacik@toledo.oh.gov)  
[sgoyal@jonesday.com](mailto:sgoyal@jonesday.com)  
[calee@jonesday.com](mailto:calee@jonesday.com)  
[dparram@bricker.com](mailto:dparram@bricker.com)  
[rmains@bricker.com](mailto:rmains@bricker.com)

**This foregoing document was electronically filed with the Public Utilities  
Commission of Ohio Docketing Information System on**

**4/7/2023 5:07:54 PM**

**in**

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

Summary: App for Rehearing Application for Rehearing by Office of the Ohio  
Consumers' Counsel electronically filed by Mrs. Tracy J. Greene on behalf of Willis,  
Maureen R..