



# DAVE YOST

OHIO ATTORNEY GENERAL

February 29, 2024

Sent via email to [monica.waller@puco.ohio.gov](mailto:monica.waller@puco.ohio.gov)

Ms. Monica L. Waller, Esq.  
General Counsel  
Public Utilities Commission of Ohio  
180 E Broad Street  
Columbus, Ohio 43215

Re: *Impact of PUCO investigations on the criminal prosecutions of Samuel Randazzo, Charles Jones, and Michael Dowling*

Dear Ms. Waller:

We understand that the Public Utilities Commission of Ohio intends to resume four investigations involving FirstEnergy and HB 6 related cases.<sup>1</sup> While we are generally supportive of the PUCO's obligation to conduct these proceedings in a prompt, fair and deliberate manner on behalf of all Ohioans, we wanted to alert you to a potential issue that could interfere with ongoing criminal proceedings. Ohio Revised Code Section 4903.08 provides:

No person shall be excused from testifying or from producing accounts, books, and papers, in any hearing before the public utilities commission any public utilities commissioner, or any person appointed by the commission to investigate any matter under its jurisdiction, on the ground or for the reason that the testimony or evidence might tend to incriminate him, or subject him to a penalty or forfeiture. **No such person shall be prosecuted or subjected to any penalty or forfeiture on account of, any transaction or matter concerning which he has testified or produced any documentary evidence.** No person so testifying shall be exempted from prosecution or punishment for perjury in so testifying.

(Emphasis added).

The language of R.C. 4903.08 appears to grant transactional immunity to anyone who testifies or produces documents in any hearing before the PUCO. See generally *Mouser v. Public Utilities Comm'n*, 124 Ohio St. 425 (1931) ("the broad and comprehensive immunity furnished by the [predecessor statute to R.C. 4903.08] \* \* \* provides that if a person does testify he shall not be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may have testified"). See also 1947 Ohio Attorney General Opinion 121 (applying *Mouser* to a similar statutory provision).

If the PUCO were to enforce subpoenas requiring Samuel Randazzo, Charles Jones, or Michael Dowling to produce documents or testify regarding any of the transactions at issue in

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<sup>1</sup> <https://puco.ohio.gov/utilities/electricity/resources/hb-6-related-investigations> (last viewed February 29, 2024)

ongoing criminal proceedings, these individuals would claim transactional immunity under R.C. 4903.08. Such a claim could then result in the dismissal of criminal charges. While we do not believe that the PUCO should stay its investigations in their entirety, we would ask in an abundance of caution that the PUCO refrain from enforcing any subpoena requiring Samuel Randazzo, Charles Jones, or Michael Dowling to produce documents or testify in any PUCO hearing while criminal proceedings are pending.

Thank you very much for your prompt consideration of this request. We do not make this request lightly, and are only doing so because we believe that it is necessary to ensure the integrity and viability of the ongoing criminal proceedings involving Samuel Randazzo, Charles Jones, and Michael Dowling.

Respectfully submitted,



**Carol Hamilton O'Brien**  
**Deputy Attorney General for Law Enforcement**

Matthew E. Meyer  
Principal Attorney General

Brad Gessner  
Chief Counsel, Summit County Prosecutor's Office

cc:\ Emily Glatfelter, Assistant United States Attorney  
Maureen Willis, Ohio Consumers Counsel  
File

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RDR**

Summary: Correspondence received from Carol Hamilton O'Brien, Deputy Attorney General for Law Enforcement. electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio.