**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Duke Energy Ohio, Inc., for an Increase in Electric Distribution Rates. In the Matter of the Application of Duke Energy Ohio, Inc., for Tariff Approval.In the Matter of the Application of Duke Energy Ohio, Inc., for Approval to Change Accounting Methods. | )))))))))) | Case No. 21-887-EL-AIRCase No. 21-888-EL-AIRCase No. 21-889-EL-AIR |

**APPLICATION FOR REHEARING**

**BY**

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January 13, 2023 (willing to accept service by e-mail)

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Soaring Energy prices, inflation and unemployment are impacting consumers.[[1]](#footnote-2) The stock market is crashing.[[2]](#footnote-3) And a recession is looming.[[3]](#footnote-4) Yet on December 14, 2022, the Public Utilities Commission of Ohio (“PUCO”) approved a Settlement among Duke, the PUCO Staff, and others that allows Duke to increase its electric distribution rates by $23.1 million annually while providing little protection to Duke’s residential consumers and at-risk populations.[[4]](#footnote-5) The PUCO should grant rehearing to abrogate or modify the December 14 Order because it is unreasonable and contrary to Ohio law (R.C. 4929.02(A) & (L) and R.C. 4905.33).

The $23.1 million rate increase agreed to in the Settlement and approved by the PUCO is *nearly three times greater* than the mid-point of the revenue increase range ($1.86 million to $15.27 million) initially recommended by the PUCO Staff.[[5]](#footnote-6) The Settlement fails to protect Duke’s residential consumers and at-risk populations who will bear the brunt of Duke’s rate increase. The Settlement discriminates against Duke’s residential consumers and other local governments outside the City of Cincinnati who are not eligible for bill payment assistance and other benefits under the Settlement.

The Office of the Ohio Consumers’ Counsel (“OCC”), the statutory representative of Duke’s 657,000 residential consumers, opposes the Settlement because it is unfair and unlawful. The PUCO’s December 14, 2022 Order approving the Settlement is unreasonable and unlawful in the following respects:

 ASSIGNMENT OF ERROR NO. 1: The PUCO erred by unreasonably approving a Settlement that was not the result of serious bargaining and does not represent the broad interests of residential consumers.

 ASSIGNMENT OF ERROR NO. 2: The PUCO erred by unlawfully approving a Settlement that discriminates against consumers outside the City of Cincinnati in violation of R.C. 4928.02(A) and R.C. 4905.33 and fails to protect at-risk populations in violation of R.C. 4928.02(L).

 ASSIGNMENT OF ERROR NO. 3: The PUCO erred by unlawfully upholding a procedural schedule that limited OCC’s case preparation and restricted OCC’s “ample rights” of discovery in violation of R.C. 4903.082 and Ohio Supreme Court precedent.

OCC applies for rehearing of the PUCO’s December 14, 2022 Order in accordance with R.C. 4903.10 and O.A.C. 4901-1-35. The reasons in support of this application for rehearing are set forth in the accompanying Memorandum in Support. The PUCO should grant rehearing and abrogate or modify its December 14, 2022 Order as requested by OCC.

Respectfully submitted,

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**MEMORANDUM IN SUPPORT**

# I. INTRODUCTION

 At this time of soaring energy prices, inflation and a potential recession, Duke, the PUCO Staff, and others signed a Settlement[[6]](#footnote-7) to increase consumers’ electric rates by $23.1 million annually.[[7]](#footnote-8) OCC, the statutory representative of Duke’s residential consumers, did not sign the settlement because it is a bad deal, discriminatory, and fails to adequately protect at-risk populations.

The PUCO approved the settlement in its December 14, 2022 Order, summarily rejecting OCC’s evidence that the settlement fails the PUCO’s three-part settlement test. For the reasons explained below, the PUCO should grant rehearing and abrogate or modify the Order.

The Settlement approved by the PUCO is not the product of serious bargaining, as required by the PUCO’s three-part test to evaluate settlements. The settling parties do not fully represent residential consumers’ interests. Yet they agreed to make residential consumers pay the bulk of Duke’s $23.1 million rate increase, which is nearly three times greater than the mid-point ($1.86 million to $15.27 million) the PUCO Staff initially recommended.[[8]](#footnote-9) The settling parties further refused to include in the Settlement important protections to help residential consumers pay for the agreed-to rate increase.

OCC participated in settlement negotiations to advocate for all of Duke’s 657,000 residential consumers. But Duke, the PUCO Staff and other parties did not seriously consider OCC’s consumer protection proposals. OCC opposed the Settlement, but the Attorney Examiners adopted a procedural schedule that further harmed consumers by severely limiting OCC’s case preparation and rights to “ample discovery”.[[9]](#footnote-10)

The Settlement also discriminates against residential consumers and local governments outside the City of Cincinnati, in violation of Ohio law (R.C. 4905.33, R.C. 4929.02(A)) and regulatory principles. Duke made several commitments in the Settlement to benefit the City of Cincinnati that non-Cincinnati residential consumers and local governments won’t receive. The PUCO’s Order justified Duke’s preferential treatment of Cincinnati consumers by stating “[o]ther localities within Duke’s service territory had the opportunity to intervene, yet they chose not to.”[[10]](#footnote-11) But the onus is on *Duke* – as the PUCO-regulated utility – to provide nondiscriminatory service to *all* consumers throughout its service territory regardless of who intervenes.[[11]](#footnote-12)

The Settlement is patently unfair and unlawful. PUCO should grant rehearing to abrogate or modify the Order consistent with OCC’s recommendations.

# II. ASSIGNMENTS OF ERROR

## ASSIGNMENT OF ERROR NO. 1: The PUCO erred by unreasonably approving a Settlement that was not the result of serious bargaining and does not represent the broad interests of residential consumers.

The first prong of the PUCO’s three-part settlement test requires a determination of whether the settlement is the product of serious bargaining among capable, knowledgeable parties.[[12]](#footnote-13) The PUCO found that the Settlement satisfies this test, rejecting OCC’s evidence that serious bargaining did not occur.[[13]](#footnote-14) The PUCO’s decision is unreasonable and flawed. The PUCO should grant rehearing.

The PUCO determined that serious bargaining occurred because Duke held settlement meetings that parties, including OCC, attended.[[14]](#footnote-15) The PUCO also found that parties were capable and knowledgeable about PUCO matters. But these factors alone do not necessarily demonstrate that serious bargaining occurred. In this case, Duke leveraged its unequal bargaining power in settlement negotiations to its advantage and to the detriment of residential consumers.

As the PUCO noted, Duke argued that “it is hard to imagine a universe where the party seeking governmental approval to increase rates would not be a party to a settlement agreement; it would be nonsensical for all of the other parties to reach an agreement on the utility’s rates without approval of the utility.”[[15]](#footnote-16) Duke’s argument sums up why it had unequal bargaining power in the settlement negotiations. In PUCO settlements, the utility (Duke) is treated as an indispensable party. This created a dynamic where Duke could ignore OCC’s settlement proposals to protect residential consumers who will be forced to pay the rate increase settling parties agreed to. Duke’s unequal bargaining power was an obstacle to serious bargaining of the Settlement.

As OCC has argued, former PUCO Commissioner Cheryl Roberto recognized a similar unfair dynamic in the context of the settlement of a FirstEnergy electric security plan (“ESP”). Commissioner Roberto wrote:

In the case of an ESP, the balance of power created by an electric distribution utility’s authority to withdraw a Commission-modified and approved plan creates a dynamic that is impossible to ignore. I have no reservation that the parties are indeed capable and knowledgeable but, because of the utility’s ability to withdraw, the remaining parties certainly do not possess equal bargaining power in an ESP action before the Commission.[[16]](#footnote-17)

The PUCO should have, through its Order, protected consumers from Duke’s superior bargaining power in this case by equalizing the power among parties or improving the results in such a settlement. It should have modified the Settlement to address concerns that OCC raised.

The PUCO’s Order fails to address Duke’s unequal bargaining power in settlement negotiations. Instead, the PUCO criticizes OCC’s opposition to the Settlement as nothing more than an attempt to “veto” it and “thwart a settlement agreement merely by withholding its signature.”[[17]](#footnote-18) That is incorrect. Duke’s unequal bargaining power unfairly allowed Duke to present settlement terms to OCC on a take it or leave it basis. And that is not *serious* bargaining. As such, the PUCO should grant rehearing and abrogate or modify the Order.

OCC presented extensive evidence to show how the Settlement harms consumers and violates Ohio law. OCC opposed the Settlement as OCC has the right to do under the PUCO’s rules.[[18]](#footnote-19) OCC did not, as the PUCO states, “unreasonably withhold[] its signature” in order to “veto” the Settlement. The PUCO and settling parties appear to focus on the fact that OCC was the only party to oppose the Settlement, as if that somehow demonstrates that serious bargaining occurred. But as OCC has argued, the number of settling parties does not show serious bargaining if the Settlement fails to reflect the broad interests of all consumers.

Duke could have worked toward a result beneficial to all consumers throughout its service territory by moderating rate increases and agreeing to other consumer protections not found in the Settlement. But it chose not to. Instead, Duke used its unequal bargaining power to assemble a coalition of settling parties to craft the Settlement that does not serve the broad interests of consumers.[[19]](#footnote-20) Doing this benefits Duke in two ways. First, a settlement that serves narrow interests costs Duke less money. Second, the more settling parties Duke has, the more the Settlement appears to serve the broad interests of all consumers, when it really doesn’t.

The Settlement provides a $23.1 million rate increase for Duke. The agreed-to increase significantly exceeds the mid-point of the range ($1.86 million to $15.27 million) the PUCO Staff initially recommended in the Staff Report.[[20]](#footnote-21) All of Duke’s residential consumers will pay for most of the rate increase. The PUCO claims (erroneously) that OCC “mischaracterizes” the allocations of the rate increase to residential consumers.[[21]](#footnote-22) Nevertheless, the PUCO acknowledges (as it must) that the Settlement allocates to residential consumers 92.4% of the $23.1 million increase, and 64% of the total revenue requirement.[[22]](#footnote-23) Thus, no matter how the allocations are characterized, it is undisputed that residential consumers will pay for most of the rate increase.

Plainly, non-residential settling parties like Walmart and OEG[[23]](#footnote-24) (and non-opposing parties Kroger and OMAEG[[24]](#footnote-25)) will benefit from the Settlement’s allocations because they will pay less than 8% of the agreed-to $23.1 million rate increase. Whereas other settling parties, like Nationwide Energy Partners, ChargePoint, Inc., and OneEnergy Enterprises, LLC[[25]](#footnote-26) have little interest in what residential consumers pay for electric distribution service because they have narrow interests specific to their businesses and industries.

The PUCO concluded that other settling parties represent residential consumer interests.[[26]](#footnote-27) However, evidence presented by OCC demonstrates that these parties do not represent the broad interests of all Duke’s residential consumers.[[27]](#footnote-28) Instead, the parties who purport to be representatives of residential consumers actually have a more parochial or narrow interest that is not reflective of the residential customer class as a whole.

 For example, OPAE, CUB Ohio, and PWC have a limited focus on providing weatherization and energy efficiency services that often *increase* the rates residential consumers pay because such programs are charged to consumers through distribution rates. The City of Cincinnati and the PUCO Staff represent the interests of non-residential consumers in addition to residential consumers.

Despite their limited and/or conflicting residential consumer interests, these parties joined the Settlement that determined how much all residential consumers should pay. At the same time, these parties also *refused* OCC proposals to help residential consumers mitigate the impact of the agreed-to rate increase. That is not fair, and it is not serious bargaining. Rather than comparing the number of parties signing the Settlement to the number of parties opposing, the PUCO should consider the diversity of interests represented in the Settlement and the fact that OCC, a knowledgeable, statutory representative of residential consumers did not sign the settlement.

The PUCO also criticizes OCC’s argument that there was no serious bargaining because Duke provides benefits (“dangles money”) in return for those parties’ settlement signatures.[[28]](#footnote-29) According to the PUCO, OCC’s arguments are “meaningless” and “disingenuous”. [[29]](#footnote-30) They are not. OCC’s arguments are correct, and they were unreasonably rejected by the PUCO.

The PUCO references OCC witness Williams’ testimony on cross-examination that he had not communicated with other settling parties and that Duke did not offer specific “monetary payments” to the PUCO Staff or other parties.[[30]](#footnote-31) The PUCO also found that the Settlement merely continues Duke’s existing funding for PWC.[[31]](#footnote-32) However, the Settlement does not have to state any specific “monetary payment” in order for there to be a benefit (financial or otherwise) to a settling party.

For example, the non-residential settling and non-opposing parties receive a favorable allocation under the settlement. That is obviously a financial benefit (a non-cash benefit) because they will pay less of Duke’s rate increase. PWC’s continuance of funding under the Settlement is a financial benefit (a non-cash benefit), because if the funding from Duke is not continued, that would be a financial loss to PWC. Similarly, Duke’s commitments to the City of Cincinnati, though not quantified, are also benefits (that other non-Cincinnati Duke consumers will not receive).

Just because the Settlement does not state the financial value of benefits provided to settling parties does not mean there are none. Nor does it mean that Duke did not use benefits to entice a coalition of parties, who serve their own narrow, parochial interests instead of the broad interests of all of Duke’s residential consumers, to sign the Settlement.

In short, the Settlement is not the product of serious bargaining. The PUCO should grant rehearing and abrogate or modify the Order approving the Settlement.

## ASSIGNMENT OF ERROR NO. 2: The PUCO erred by unlawfully approving a Settlement that discriminates against consumers outside the City of Cincinnati in violation of R.C. 4928.02(A) and R.C. 4905.33 and fails to protect at-risk populations in violation of R.C. 4928.02(L).

The PUCO erred in approving the Settlement that unreasonably discriminates among similarly situated residential consumers. R.C. 4928.02(A) and R.C. 4905.33 require that electric service be nondiscriminatory. But the Settlement provides benefits to Cincinnati and its residents that other consumers throughout Duke’s service territory will not receive. Accordingly, the PUCO should grant rehearing and abrogate or modify the Order.

In particular, the Settlement provides for $350,000 in annual funding for weatherization, energy efficiency and bill-payment assistance programs for qualifying low-income residents in Cincinnati.[[32]](#footnote-33) The Settlement does not provide for similar assistance to non-Cincinnati residents throughout Duke’s service territory. The PUCO states that the “funding to Cincinnati for weatherization comes from the franchise fee Duke is obligated to pay any city within its service territory.”[[33]](#footnote-34) But that is beside the point and in no way justifies Duke’s failure to provide similar assistance to non-Cincinnati residents.

In addition, the Settlement contains commitments by Duke to the City of Cincinnati regarding a streetlight improvement project,[[34]](#footnote-35) establishing “Smart City” technology,[[35]](#footnote-36) improving reliability of electric service to water treatment plants,[[36]](#footnote-37) and asset relocation.[[37]](#footnote-38) Duke does not make similar commitments to other local governments throughout its service territory. That is discriminatory.

The PUCO attempts to justify the Settlement’s Cincinnati-only provisions by stating:

We agree with Duke that, considering the first part of the three-part test pertains only to negotiations between *parties*, it is under no obligation to negotiate with a non-party to this proceeding. Other localities within Duke’s service territory had the opportunity to intervene, yet they chose not to.[[38]](#footnote-39)

The PUCO should grant rehearing to reconsider its reasoning. Indeed, even if Duke is not obligated to negotiate with a non-party to this proceeding, Duke *is* obligated – under R.C. 4905.33 and R.C. 4928.02(A) – to provide nondiscriminatory service to *all consumers* within its service territory. Thus, Duke must provide nondiscriminatory service throughout its service territory regardless of whether any locality intervenes in this case.

In addition, R.C. 4928.02(L) requires the PUCO to “[p]rotect at-risk populations”. However, the Order fails to do that by ignoring at-risk populations outside the City of Cincinnati. Certainly, there are non-Cincinnati residential consumers within Duke’s service territory that are low-income and at-risk. These consumers should receive bill-payment assistance as well.

 The Settlement violates Ohio law. The PUCO should grant rehearing and abrogate or modify the Order approving the Settlement.

## ASSIGNMENT OF ERROR NO. 3: The PUCO erred by unlawfully upholding a procedural schedule that limited OCC’s case preparation and restricted OCC’s “ample rights” of discovery in violation of R.C. 4903.082 and Ohio Supreme Court precedent.

The PUCO’s Order unreasonably and unlawfully upheld the fast-track procedural schedule the Attorney Examiners set after the Settlement was filed.[[39]](#footnote-40) The procedural schedule prejudiced residential consumers by impeding OCC’s ability to prepare a case for consumer protection. The PUCO’s Order determined that OCC’s objections to the procedural schedule were “meritless.”[[40]](#footnote-41) But it is the PUCO’s Order that ignores R.C. 4903.082, which protects OCC’s “ample rights” to discovery, and Ohio Supreme Court precedent. The PUCO should therefore grant rehearing to abrogate or modify the Order.

The Settlement was filed with the PUCO on September 19, 2022. A pre-hearing conference was held remotely on September 20, 2022.[[41]](#footnote-42) At the pre-hearing conference, over OCC’s objections, the Attorney Examiner announced a procedural schedule that required testimony in support of the proposed settlement to be filed by September 22, 2022, testimony in opposition to the proposed settlement to be filed on September 29, 2022 and set the evidentiary hearing for October 4, 2022.

The pre-hearing conference was not transcribed by a court reporter, but the procedural schedule was memorialized in the Attorney Examiners’ September 20, 2022 Entry. OCC subsequently filed a request for an interlocutory appeal of the Attorney Examiners’ September 20, 2022 Entry. OCC’s interlocutory appeal was denied in an Entry on October 3, 2022, just one day before the evidentiary hearing commenced.

OCC again raised the unfairness of the procedural schedule in post-hearing briefs. However, the PUCO’s Order rejected OCC’s arguments stating:

The Commission notes that, even in the cases cited by OCC, the procedural schedules vary, likely based on a number of factors, including, but not limited to, statutory requirements; schedules of the parties, witnesses, Staff, and the attorney examiners; and the availability of Commission resources. OCC has had ample time to conduct discovery and prepare for hearing and, in short, has not shown that the procedural schedule is unduly prejudicial or unreasonable under the circumstances of these proceedings. Also, under Ohio Adm.Code 4901-1-27, attorney examiners have broad discretion in regulating the hearing process. The Commission must also be mindful of the timing requirements in R.C. 4909.42. The statute provides that, where the Commission fails to issue an order within 275 days of the filing of an application under R.C. 4909.18, a public utility requesting an increase on any rate, joint rate, toll, classification, charge, or rental or requesting a change in a regulation or practice affecting the same, the increase shall go into effect upon the filing of a bond or a letter of credit by the public utility, subject to refund. Therefore, we find OCC’s objections to the attorney examiners’ procedural schedule meritless.[[42]](#footnote-43)

The PUCO should grant rehearing to abrogate this ruling. R.C. 4903.082 expressly states that “[a]ll parties and intervenors shall be granted ample rights of discovery.” These “ample rights of discovery” exist notwithstanding the PUCO’s discretion in regulating the hearing process and statutory timeframes.

In *In re Suvon, LLC*, the Ohio Supreme Court held that while the PUCO has discretion to manage its proceedings and regulate its docket, it cannot do so at the expense of a party’s statutory rights of discovery under R.C. 4903.082.[[43]](#footnote-44) In that case, the Court held that the PUCO erred in denying discovery by Northeast Ohio Public Energy Council (“NOPEC”) and OCC regarding FirstEnergy Advisors’ application for a certificate to aggregate and broker electric services. The PUCO had denied automatic approval of FirstEnergy Advisors’ certificate application, which triggered a 90-day statutory timeframe for the PUCO to approve or deny the application.[[44]](#footnote-45) The Court held that even where the PUCO is bound by a statutory timeframe, the PUCO “will need to balance the statutory right to discovery and the constraints imposed by the statutory timeframe” of the proceeding.[[45]](#footnote-46) The PUCO’s Order wholly ignores R.C. 4903.082 and the Court’s decision in *In re Suvon*.

In this case, the PUCO unlawfully disregarded OCC’s ample rights to discovery, regardless of the 275-day statutory timeframe under R.C. 4909.42 cited in the PUCO’s Order. As the PUCO itself notes, its failure to enter an order within 275 days of a rate increase application results in “an increase not to exceed the proposed increase [to] go into effect upon the filing of a bond or a letter of credit by the public utility.”[[46]](#footnote-47) That increase is subject to refund.[[47]](#footnote-48) Thus, the timeframe in R.C. 4909.42 relied on by the PUCO is no justification for restricting OCC’s rights to discovery under R.C. 4903.082.

Moreover, Settlement negotiations between Duke, the PUCO Staff and other parties did not begin until after the Staff Report was filed and initial discovery ended (June 2, 2022) under O.A.C. 4901-1-17(B). Therefore, the PUCO’s finding that “OCC has had ample time to conduct discovery and prepare for hearing”[[48]](#footnote-49) is incorrect. The Settlement, not filed until September 19, 2022, gave rise to the need for new and additional discovery because not all Settlement language was circulated among the parties until just before the Settlement was filed. And even with an expedited discovery response time, OCC was forced to complete its Settlement discovery before September 29, 2022 when the Attorney Examiners required OCC to file testimony in opposition to the Settlement.

The PUCO’s Order unreasonably and unlawfully upheld the procedural schedule set by the Attorney Examiners. The PUCO disregarded OCC’s “ample rights” to discovery under R.C. 4903.082 and ignored Ohio Supreme Court precedent in *In re Suvon*. The PUCO should grant rehearing to abrogate or modify its Order.

# III. CONCLUSION

 The Settlement approved by the PUCO was not the product of serious bargaining and it discriminates against non-Cincinnati consumers in Duke’s service territory. The Settlement fails the PUCO’s three-part test for evaluating settlements. In addition, the PUCO violated Ohio law (R.C. 4903.082) and Ohio Supreme Court precedent by upholding a procedural schedule that denied OCC’s “ample rights” to discovery. Accordingly, the PUCO should grant rehearing in this case and abrogate or modify the Order approving the Settlement.

Respectfully submitted,

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**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 13th day of January 2023.

 */s/ Angela D. O’Brien*

 Angela D. O’Brien

 Assistant Consumers’ Counsel

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

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1. J. Zuckerman, *Millions of Ohioans face home gas and electric rate hikes*, Ohio Capital Journal(June 28, 2022); *Consumer Price Index – November 2022,* U.S. Bureau of Labor Statistics (Dec. 13, 2022) (reporting a 7.1% annual increase in inflation before seasonal adjustment); *Ohio’s unemployment rate increased to 4.2% in October,* Ohio Department of Jobs and Family Services (Nov. 18, 2022). [↑](#footnote-ref-2)
2. S. Min, *Dow closes out its worst day in three months, falls more than 700 points as recession fears grow,* CNBC.com (Dec. 15, 2022). [↑](#footnote-ref-3)
3. *Id.* [↑](#footnote-ref-4)
4. Opinion and Order (Dec. 14, 2022). [↑](#footnote-ref-5)
5. PUCO Staff Ex. 1 (Staff Report) at 6. [↑](#footnote-ref-6)
6. Joint Exhibit 1 (Stipulation and Recommendations). On September 19, 2022, Duke filed a Stipulation and Recommendation and a Corrected Stipulation and Recommendation collectively admitted into evidence as Joint Exhibit 1 and referred to in OCC’s Initial Brief as the “Settlement.” [↑](#footnote-ref-7)
7. Opinion and Order (Dec. 14, 2022). [↑](#footnote-ref-8)
8. PUCO Staff Ex. 1 (Staff Report) at 6. [↑](#footnote-ref-9)
9. R.C. 4903.082. [↑](#footnote-ref-10)
10. Order at ¶ 103. [↑](#footnote-ref-11)
11. *See* R.C. 4928.02(A); R.C. 4905.33. [↑](#footnote-ref-12)
12. Order at ¶ 90. [↑](#footnote-ref-13)
13. Order at ¶¶ 100-104. [↑](#footnote-ref-14)
14. Order at ¶ 100. [↑](#footnote-ref-15)
15. Order at ¶ 99. [↑](#footnote-ref-16)
16. *In the Matter of the Application of Ohio Edison Company, et al*., Case No. 08-935-EL-SS0, et al., Concurring and Dissenting Opinion of Cheryl Roberto, at 2 (Mar. 25, 2009). [↑](#footnote-ref-17)
17. Order at ¶ 101. [↑](#footnote-ref-18)
18. O.A.C. 4901-1-30(D). [↑](#footnote-ref-19)
19. OCC Ex. 3 (Williams Supplemental) at 7-8. [↑](#footnote-ref-20)
20. Order at ¶ 24. [↑](#footnote-ref-21)
21. Order at ¶ 101. [↑](#footnote-ref-22)
22. Order at ¶ 136. [↑](#footnote-ref-23)
23. Ohio Energy Group (“OEG”). [↑](#footnote-ref-24)
24. Kroger and Ohio Manufacturers’ Association Energy Group (“OMAEG”) signed the Settlement as non-opposing parties. [↑](#footnote-ref-25)
25. OneEnergy signed the Settlement as a non-opposing party. [↑](#footnote-ref-26)
26. Order at ¶ 101. [↑](#footnote-ref-27)
27. OCC Ex. 3 (Williams Supplemental) at 7-8. [↑](#footnote-ref-28)
28. Order at ¶ 102. [↑](#footnote-ref-29)
29. *Id.* [↑](#footnote-ref-30)
30. *Id.*  [↑](#footnote-ref-31)
31. *Id.* [↑](#footnote-ref-32)
32. Order at ¶ 85. [↑](#footnote-ref-33)
33. Order at ¶ 102. [↑](#footnote-ref-34)
34. *Id.* at ¶ 81. [↑](#footnote-ref-35)
35. *Id.* at ¶ 82. [↑](#footnote-ref-36)
36. *Id.* at ¶ 83. [↑](#footnote-ref-37)
37. *Id.* at ¶ 84. [↑](#footnote-ref-38)
38. Order at ¶ 103 (emphasis original). *See also* Order at ¶ 146. [↑](#footnote-ref-39)
39. Order at ¶ 28. [↑](#footnote-ref-40)
40. *Id.* [↑](#footnote-ref-41)
41. *See* Entry (Sept. 19, 2022). [↑](#footnote-ref-42)
42. Order at ¶ 28. [↑](#footnote-ref-43)
43. *In re Suvon, LLC*, 2021-Ohio-3630, ¶ 42. [↑](#footnote-ref-44)
44. *Id.* at ¶ 41. [↑](#footnote-ref-45)
45. *Id.* [↑](#footnote-ref-46)
46. R.C. 4909.42. [↑](#footnote-ref-47)
47. *Id.* [↑](#footnote-ref-48)
48. Order at ¶ 28. [↑](#footnote-ref-49)