**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for Approval of Phase Two of Their Distribution Grid Modernization Plan.  | )))))) | Case No. 22-704-EL-UNC |

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**MEMORANDUM CONTRA CORRECTED MOTION OF FIRSTENERGY TO MODIFY THE PROCEDURAL SCHEDULE AND REQUEST FOR AN EXPEDITED RULING**

**BY**

**OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

# I. INTRODUCTION

FirstEnergy[[1]](#footnote-2) is asking for PUCO approval to charge consumers $750 million[[2]](#footnote-3) more for grid modernization as part of its so-called Smart Grid Program Phase II. Over the first four years of FirstEnergy’s proposal, it projects charging consumers more than $400 million.[[3]](#footnote-4) It also projects that residential consumers by the fourth year would be charged $1.72 per month for Toledo Edison consumers, $2.70 per month for Ohio Edison consumers, and $3.33 per month for Cleveland Electric Illuminating consumers.[[4]](#footnote-5)

On October 30, 2023, FirstEnergy filed a Corrected Motion to modify the procedural schedule to extend the deadline for the PUCO Staff to file its testimony to December 4, 2023 and reschedule the evidentiary hearing to a date on or after January 16, 2024. Under the procedural schedule the PUCO Staff’s testimony is due November 3, 2023 and the evidentiary hearing is scheduled for December 11, 2023. OCC does not object to rescheduling the evidentiary hearing to a date on or after January 16, 2024. However, for the reasons below, FirstEnergy’s request to extend the deadline for the PUCO Staff to file its testimony to December 4, 2023 should be denied.

# II. RECOMMENDATIONS

 Intervenors filed their testimony on October 20, 2023. The PUCO Staff, under the procedural schedule set by the Attorney Examiner, is to file its testimony on November 3, 2023. The PUCO Staff has not requested an extension to file its testimony. Instead, FirstEnergy has requested an extension of time for the PUCO Staff to file its testimony.

 FirstEnergy has not shown “good cause” to extend the deadline for *the PUCO Staff* to file its testimony, as required by O.A.C. 4901-1-13 for extension of deadlines. FirstEnergy requests an extension of time for the PUCO Staff to file its testimony because:

progress has been made through settlement discussions, but the parties have not yet been able to resolve the pending issues. The Companies believe that an additional period of time is necessary, reasonable and in the best interests of all stakeholders, as an extension may result in an efficient resolution of all issues in this case.[[5]](#footnote-6)

 FirstEnergy misapprehends the benefit of *all* testimony, especially the PUCO Staff’s, being of record and available to inform the parties during settlement discussions. Delaying the PUCO Staff’s testimony impedes not enhances settlement prospects. Negotiating a resolution to this case requires parties, including the PUCO Staff, to communicate their position on the issues raised by the utility’s application — filing testimony does just that.

 For good measure, FirstEnergy continues:

the parties to this proceeding are also parties to Case No. 23-301-EL-SSO (“ESP V”). The hearing in ESP V is scheduled to begin on November 7, 2023, and will require a large part of the focus of the parties to this proceeding. Granting the Motion would avoid conflicts between ESP V hearings and settlement discussions and case preparation in this proceeding under the current schedule.[[6]](#footnote-7)

 Since OCC does not object to rescheduling the evidentiary hearing, the above “good cause” reasoning is now moot.

# III. CONCLUSION

FirstEnergy’s request to extend the deadline for the PUCO Staff to file its testimony should be denied.

Respectfully submitted,

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Ohio Consumers’ Counsel

*/s/ William J. Michael*

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Memorandum Contra Corrected Motion of FirstEnergy to Modify the Procedural Schedule and Request for an Expedited Ruling served on the persons stated below via electronic transmission, this 1st day of November 2023.

*/s/ William J. Michael*

 William J. Michael

 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. Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company. [↑](#footnote-ref-2)
2. Application (July 15, 2022) at 66, ¶ 21 (“The Companies request authorization to recover in Rider AMI their actual Grid Mod II capital costs, up to $626.4 million, and incremental O&M expenses associated with Grid Mod II up to an aggregate of $144.1 million over the deployment period.”) [↑](#footnote-ref-3)
3. FirstEnergy Witness McMillan Testimony, Ex. A. [↑](#footnote-ref-4)
4. *Id.* [↑](#footnote-ref-5)
5. Corrected Motion to Modify Procedural Schedule and Request for an Expedited Ruling (October 30, 2023). [↑](#footnote-ref-6)
6. *Id.* [↑](#footnote-ref-7)