

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the Political and )  
Charitable Spending by Ohio Edison ) Case No. 20-1502-EL-UNC  
Company, The Cleveland Electric Illuminating )  
Company, and The Toledo Edison Company. )

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**MOTION TO INTERVENE  
OF  
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

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Pursuant to R.C. 4903.221 and Ohio Adm. Code 4901-1-11, the Ohio Manufacturers' Association Energy Group (OMAEG) respectfully moves the Public Utilities Commission of Ohio (Commission) to intervene in this matter with the full powers and rights granted to intervening parties.

On September 15, 2020, the Commission opened a proceeding in Case No. 20-1502-EL-UNC to review the political and charitable spending by the FirstEnergy Corp. distribution companies, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy), in support of Am. Sub. H.B.6. (HB 6) and against the subsequent referendum effort. Also on September 15, 2020, the Commission ordered FirstEnergy to show cause by September 30, 2020 that customers were not directly or indirectly assessed or charged for any costs associated with political or charitable spending in support of HB 6.<sup>1</sup> The Commission further directed interested parties to file comments on FirstEnergy's response by October 29, 2020 and reply comments by November 13, 2020.<sup>2</sup> As demonstrated in the attached Memorandum in Support, OMAEG has real and substantial interests that may be adversely

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<sup>1</sup> Entry at ¶ 5 (September 15, 2020).

<sup>2</sup> Id. at ¶ 6.

affected by the outcome herein, and which cannot be adequately represented by any other existing parties. Accordingly, OMAEG satisfies the standard for intervention set forth in Ohio statutes and regulations.

Therefore, OMAEG respectfully requests that the Commission grant this motion to intervene and that OMAEG be made a full party of record in these proceedings.

Respectfully submitted,

/s/ Kimberly W. Bojko

Kimberly W. Bojko (0069402) (Counsel of Record)

Carpenter Lipps & Leland LLP

280 North High Street, Suite 1300

Columbus, Ohio 43215

Telephone: (614) 365-4124

[bojko@carpenterlipps.com](mailto:bojko@carpenterlipps.com)

(willing to accept service by e-mail)

*Counsel for the Ohio Manufacturers' Association  
Energy Group*

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**MEMORANDUM IN SUPPORT**

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**I. INTRODUCTION**

On July 23, 2019, the Ohio General Assembly enacted HB 6, which created new charges for customers. For example, R.C. 3706.46(A)(1) requires that for bills rendered on or after January 1, 2021, utilities must assess retail electric customers a monthly charge sufficient to produce an annual revenue requirement of \$170 million. On July 17, 2020, the United States Attorney for the Southern District of Ohio filed a criminal complaint alleging that numerous illegal acts were committed in direct relation to the enactment of HB 6.<sup>3</sup> Since then, the Ohio Attorney General has filed a civil lawsuit in the Franklin County Court of Common Pleas alleging that in an effort to enact HB 6 and prevent its repeal via referendum, FirstEnergy Corp. and its subsidiaries, FirstEnergy Service Company and FirstEnergy Solutions, have engaged in a pattern of corrupt activity, laundered money, committed bribery, and tampered with evidence.<sup>4</sup>

On September 15, 2020, the Commission opened a docket in Case No. 20-1502-EL-UNC to review the political and charitable spending by FirstEnergy in support of HB 6 and against the

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<sup>3</sup> *United States of America v. Larry Householder, Jeffrey Longstreth, Neil Clark, Matthew Borges, Juan Cespedes, and Generation Now*, Case No. 1:20-MJ-00526 (S.D. Ohio) (July 17, 2020).

<sup>4</sup> See <https://www.ohioattorneygeneral.gov/Files/Briefing-Room/News-Releases/State-ex-rel-Yost-v-FirstEnergy-et-al-Complaint-AI.aspx>.

subsequent referendum effort. Also on September 15, 2020, the Commission ordered FirstEnergy to show cause by September 30, 2020 that customers were not directly or indirectly charged or assessed costs related to FirstEnergy's political or charitable spending in support of HB 6.<sup>5</sup> The Commission further directed interested parties to file comments on FirstEnergy's response by October 29, 2020 and reply comments by November 13, 2020.<sup>6</sup>

In accordance with the Commission's directive on September 15, 2020, OMAEG hereby files its motion to intervene in the Commission's review of FirstEnergy's political and charitable spending in support of HB 6.

R.C. 4903.221 and Ohio Adm. Code 4901-1-11 establish the standards for intervention in Commission proceedings. R.C. 4903.221 provides, in pertinent part, that any person "who may be adversely affected" by a Commission proceeding is entitled to seek intervention in that proceeding. R.C. 4903.221(B) further requires the Commission to consider the nature and extent of the prospective intervenor's interest, the legal position advanced by the prospective intervenor and its probable relation to the merits of the case, whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding, and the prospective intervenor's potential contribution to a just and expeditious resolution of the issues involved. Ohio Adm. Code 4901-1-11 permits intervention to a party who demonstrates a real and substantial interest in the proceeding and who is so situated that the disposition of the proceeding may impair or impede its ability to protect that interest and whose interest is not adequately represented by an existing party.

OMAEG is a non-profit entity that strives to improve business conditions in Ohio and drive down the cost of doing business for Ohio manufacturers. OMAEG members and their

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<sup>5</sup> Entry at ¶ 5 (September 15, 2020).

<sup>6</sup> Id. at ¶ 6.

representatives work directly with elected officials, regulatory agencies, the judiciary, and others: to provide education and information to energy consumers, regulatory boards and suppliers of energy; advance energy policies to promote an adequate, reliable, and efficient supply of energy at reasonable prices; and advocate in critical cases before the Commission. Indeed, OMAEG has been a participant in several cases before the Commission involving implementation of various provisions enacted by HB 6.<sup>7</sup> As consumers of significant amounts of energy in FirstEnergy's service territory, OMAEG has also been involved in numerous FirstEnergy cases.<sup>8</sup> OMAEG has a substantial interest in ensuring that any costs incurred by its members for utility services are just, reasonable, and consistent with Ohio law. Furthermore, OMAEG has an interest in ensuring that its members did not directly or indirectly fund any political or charitable spending efforts in support of HB 6 or the subsequent referendum effort through rates and charges paid to the FirstEnergy distribution utilities.

For these reasons, OMAEG has a direct, real, and substantial interest in the issues raised in this proceeding and is so situated that the disposition of these proceedings may, as a practical

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<sup>7</sup> See, e.g., *In the Matter of Establishing the Nonbypassable Recovery Mechanism for Net Legacy Generation Resource Costs Pursuant to R.C. 4928.148*, Case No. 19-1808-EL-UNC (OVEC Cost Recovery Proceedings); *In The Matter Of The Application Of Ohio Power Company For Approval Of Its Energy Efficiency And Peak Demand Reduction Program Portfolio Plan for 2017 Through 2020*, Case Nos. 17-1398-EL-POR, et al.; *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a Decoupling Mechanism*, Case Nos. 19-2080-EL-ATA, et al.; *In the Matter of the Application of Ohio Power Company for Approval of a Decoupling Mechanism*, Case Nos. 20-1099-EL-ATA, et al.; *In the Matter of Establishing the Clean Air Fund Rider Pursuant to R.C. 3706.46*, Case No. 20-1143-EL-UNC.

<sup>8</sup> See, e.g., *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a Decoupling Mechanism*, Case Nos. 19-2080-EL-ATA, et al.; *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO; *In The Matter Of The 2014 Review Of The Demand Side Management And Energy Efficiency Rider Of Ohio Edison Company, The Cleveland Electric Illuminating Company, And The Toledo Edison Company*, Case Nos. 13-2173-EL-RDR, *In the Matter of the Application of The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company for Approval of Their Energy Efficiency and Peak Demand Reduction Program Plans for 2013 through 2015*, Case No. 12-2190-EL-POR.

matter, impair or impede its ability to protect that interest. It is regularly and actively involved in Commission proceedings and, as in previous proceedings, OMAEG's unique knowledge and perspective will contribute to the full development and equitable resolution of the factual issues in this case. OMAEG's interest will not be adequately represented by other parties and its timely intervention will not unduly delay or prolong these proceedings.

As discussed above, OMAEG satisfies the criteria for intervention set out in R.C. 4903.221 and Ohio Adm. Code 4901-1-11. OMAEG, therefore, respectfully requests that the Commission grants this motion, allows OMAEG to intervene with the full powers and rights granted by the Commission to intervening parties, and makes OMAEG a full party of record.

Respectfully submitted,

/s/ Kimberly W. Bojko

Kimberly W. Bojko (0069402) (Counsel of Record)  
Carpenter Lipps & Leland LLP  
280 North High Street, Suite 1300  
Columbus, Ohio 43215  
Telephone: (614) 365-4124  
[bojko@carpenterlipps.com](mailto:bojko@carpenterlipps.com)  
(willing to accept service by e-mail)

*Counsel for the Ohio Manufacturers' Association  
Energy Group*

## **CERTIFICATE OF SERVICE**

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document also is being served via electronic mail on September 30, 2020 upon the parties listed below.

/s/ Kimberly W. Bojko  
Kimberly W. Bojko

*Counsel for Ohio Manufacturers'  
Association Energy Group*

[mkurtz@BKLawfirm.com](mailto:mkurtz@BKLawfirm.com)  
[kboehm@BKLawfirm.com](mailto:kboehm@BKLawfirm.com)  
[jkylercohn@BKLawfirm.com](mailto:jkylercohn@BKLawfirm.com)  
[Maureen.willis@occ.ohio.gov](mailto:Maureen.willis@occ.ohio.gov)  
[Angela.obrien@occ.ohio.gov](mailto:Angela.obrien@occ.ohio.gov)  
[rkelter@elpc.org](mailto:rkelter@elpc.org)  
[mleppla@theOEC.org](mailto:mleppla@theOEC.org)  
[tdougherty@theOEC.org](mailto:tdougherty@theOEC.org)  
[ctavenor@theOEC.org](mailto:ctavenor@theOEC.org)  
[ccox@elpc.org](mailto:ccox@elpc.org)  
[Heather.chilcote@puco.ohio.gov](mailto:Heather.chilcote@puco.ohio.gov)  
[John.jones@ohioattorneygeneral.gov](mailto:John.jones@ohioattorneygeneral.gov)  
[rdove@keglerbrown.com](mailto:rdove@keglerbrown.com)  
[bethany.allen@igs.com](mailto:bethany.allen@igs.com)  
[joe.oliker@igs.com](mailto:joe.oliker@igs.com)  
[michael.nugent@igs.com](mailto:michael.nugent@igs.com)  
[jlang@calfee.com](mailto:jlang@calfee.com)  
[khehmeyer@calfee.com](mailto:khehmeyer@calfee.com)  
[bknipe@firstenergycorp.com](mailto:bknipe@firstenergycorp.com)

Attorney Examiners:  
[Greg.Price@puco.ohio.gov](mailto:Greg.Price@puco.ohio.gov)

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Summary: Motion Motion to Intervene of The Ohio Manufacturers' Association Energy Group  
electronically filed by Mrs. Kimberly W. Bojko on behalf of OMA Energy Group