

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of Ohio Edison)
Company, The Cleveland Electric) Case No. 17-974-EL-UNC
Illuminating Company, and The Toledo)
Edison Company's Compliance with R.C.)
4928.17 and Ohio Adm. Code Chapter)
4901:1-37.)

**MOTION TO COMPEL THE FIRSTENERGY UTILITIES TO ANSWER
DISCOVERY
BY
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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February 22, 2021

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The new public relations from FirstEnergy is “fostering trust and transparency at all levels.”¹ Those are empty words when it comes to the FirstEnergy Utilities’ refusal to answer investigatory questions from the state’s consumer advocate, OCC. And that brings us to this Motion to Compel the FirstEnergy Utilities to Answer Discovery.

This case was already important for consumer protection when opened a few years ago. Unfortunately for the FirstEnergy Utilities’ two million consumers, not much has happened in the case. But our filing of investigatory motions on September 8th last year reflected the case’s significance regarding the revelation of the FirstEnergy/House Bill 6 scandal. U.S. Attorney David Devillers described that scandal as "likely the largest

¹ FirstEnergy Press Release, “FirstEnergy names Hyun Park Senior Vice President & Chief Legal Officer” (Jan. 5, 2021) https://www.firstenergycorp.com/newsroom/news_articles/firstenergy-names-hyun-park-senior-vice-president---chief-legal-.html

bribery, money laundering scheme ever perpetrated against the people of the state of Ohio.”²

In 2017, in this case, the PUCO ordered Sage Management Consultants, LLC. (“Sage”) to perform an audit of FirstEnergy’s compliance with the Ohio’s corporate separation law and PUCO rules.³ In at least one instance, Sage found that FirstEnergy’s corporate structure was “highly inappropriate” because it combined competitive and noncompetitive functions into the same shared services organization, supervised by its Senior Vice President of Marketing and Branding.⁴

Against this backdrop, the FirstEnergy Utilities have refused to produce the information OCC requested, alleging that OCC’s discovery is “premature” and no discovery may be taken prior to the issuance of an audit report (which is not scheduled to be completed until June 2021). The FirstEnergy Utilities are using an old utility strategy of distraction and delay, nearly forty years after (and despite) the legislature’s discovery reform statute, R.C. 4903.082. That statute ensures discovery rights for a party such as OCC that is performing its state work to investigate utility monopolies such as the FirstEnergy Utilities. That the FirstEnergy Utilities perceive they have license to decline to answer OCC’s discovery confirms the PUCO has failed to impose sufficient consequences to deter utilities from this obstructionist tactic.

² Horn, D. “Ohio House Speaker Larry Householder arrested in \$60 million bribery case.” *The Cincinnati Enquirer* (July 31, 2020). <https://www.cincinnati.com/story/news/2020/07/21/ohio-bribery-case-state-official-charged-federal-prosecutors/5477862002/>

³ *In the Matter of the Review of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company’s Compliance with R.C. 4928.17 and Ohio Adm. Code Chapter 4901:1-37*, Case No. 17-974-EL-UNC Entry (July 5, 2017).

⁴ *Id.* Sage Audit Report at 34 (May 14, 2018).

Under Ohio Admin. Code 4901-1-12 and 4901-1-23, OCC moves the Public Utilities Commission of Ohio (“PUCO”), the legal director, the deputy legal director, or an attorney examiner for an order compelling the FirstEnergy Utilities to immediately respond to OCC’s Fourth Set of Discovery, served on December 29, 2020. OCC’s discovery is attached. The FirstEnergy Utilities refused to respond to nearly every request of OCC. OCC’s discovery is important for its advocacy to the PUCO in the review of the corporate separation issues surrounding the FirstEnergy Utilities’ H.B. 6 activities. OCC’s efforts to resolve differences between it and the FirstEnergy Utilities are detailed in the attached affidavit, per Ohio Admin. Code 4901-1-21(C)(3), reflecting an impasse. The PUCO should use its authority (Ohio Admin. Code 4901-1-23(F)) to penalize the FirstEnergy Utilities, in quarter-million dollar increments, for each of its distract and delay tactics, among other sanctions. The penalty should be deposited for the use of consumer bill-payment assistance.

The reasons supporting this motion are set forth in the attached Memorandum in Support. The PUCO should require the FirstEnergy Utilities to fully respond to OCC’s discovery requests, posthaste.

Respectfully submitted,

Bruce Weston (0016973)
Ohio Consumers' Counsel

/s/ Maureen R. Willis

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

The burgeoning H.B. 6 scandal has fueled great controversy over FirstEnergy's corporate governance and whether the FirstEnergy Utilities (and their affiliates) violated Ohio law and rules relating to corporate separation. On this subject, Standard and Poor's recently wrote about FirstEnergy:

We believe these violations at the highest level of the company are demonstrative of insufficient internal controls and a cultural weakness. We view the severity of these violations as significantly outside of industry norms and, in our view, they represent a material deficiency in the company's governance.⁵

A key to this case is finding out if the FirstEnergy Utilities subsidized illegal H.B. 6 activities that benefitted their now former generation affiliate, FirstEnergy Solutions.⁶ If they did, Ohio law, PUCO rules and PUCO orders were violated and customers who were harmed are deserving of justice.

⁵ See Khalid, U., "S&P downgrades FirstEnergy following \$1.95B draw on revolving credit facility," S&P Market Intelligence (Nov. 25, 2020).

⁶ OCC laid out the scandal's background in its Motion for a PUCO Investigation, and OCC incorporates that discussion by reference. *See In the Matter of the Review of the Review of the Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company's Compliance with R.C. 4928.17 and the Ohio Adm. Code Chapter 4901:1-37*, Case No. 17-974-EL-UNC, et al., Motion for a PUCO Investigation (Sept. 8, 2020).

Revelations from FirstEnergy Corp’s recent earnings call confirm that this is a distinct possibility. On the February 16, 2021 earnings call, FirstEnergy Corp. reported that in the course of its internal investigation (which it will not provide discovery on) it identified transactions over a long period of time that were “either improperly classified, misallocated to certain of utility or transmission companies or lacked proper supporting documentation” with amounts being collected from customers.⁷ According to FirstEnergy Corp. Board Executive Director Christopher Pappas, the transactions could include lobbying and political activities misallocated to certain of its utility companies, resulting in collections from customers,⁸ with the majority of the transactions related to Ohio.⁹ This is not good news, but tends to confirm our suspicions and calls into question the FirstEnergy Utilities’ assertion that customers have not paid riders or charges for political expenses, including H.B. 6 costs.¹⁰

Under Ohio law, a utility must follow a corporate separation plan that upholds “the public interest in preventing unfair competitive advantage and preventing the abuse of market power.”¹¹ The plan shall be “sufficient to ensure that the utility will not extend any undue preference or advantage to any affiliate, division, or part of its own business engaged in the business of supplying competitive retail electric service.”¹² The plan must also avoid anticompetitive subsidies between competitive and non-competitive retail electric services.¹³

⁷ FirstEnergy Corp. Earnings Call (Feb. 16, 2021), Tr. at 21,22. (Executive Director, Christopher Pappas).

⁸ *Id.*

⁹ *Id.* at 28 (Eileen Mikkelsen, Vice President Rates and Regulatory Affairs).

¹⁰ *In the Matter of the Review of the Political and Charitable Spending by Ohio Edison Company, The Cleveland Electric Illuminating Company, and the Toledo Edison Company*, Case No. 20-1502, FirstEnergy Utilities Response to Show Cause Order (Sept. 30, 2020).

¹¹ R.C. 4928.17(A)(2).

¹² R.C. 4928.17(A)(3).

¹³ R.C. 4928.02(H).

In 2017, the PUCO ordered that Sage Management Consultants, LLC. (“Sage”) perform an audit of FirstEnergy’s compliance with the Ohio’s corporate separation law and PUCO rules.¹⁴ In at least one instance, Sage found that FirstEnergy’s corporate structure was “highly inappropriate” because it combined competitive and noncompetitive functions into the same shared services organization, supervised by its Senior Vice President of Marketing and Branding.¹⁵ Fast forward to October 29, 2020, where, in an SEC filing, FirstEnergy Corp. revealed that it fired three of its top executives, including the very same Senior Vice President of Marketing and Branding, for violating company policies and its code of conduct.¹⁶

Following FirstEnergy’s October 29th reporting, the PUCO acceded to OCC’s calls for an investigation, recognizing the need to “take additional action to ensure compliance by the Companies and its affiliates with the corporate separation provision of R.C. 4928.17 and with the Companies’ Commission-approved corporate separation plans.”¹⁷ The PUCO ordered an additional audit to assist in its review of whether the FirstEnergy Utilities and their affiliates complied with Ohio law, PUCO rules, and their filed corporate separation plan. This second audit is to cover the period between November 1, 2016 and October 31, 2020 (the time leading up to the passage of H.B. 6 and the subsequent referendum).

On December 29, 2020, OCC sent its Fourth Set of Discovery to the FirstEnergy Utilities (albeit its first set directed to the new audit period). On January 19, 2021, the FirstEnergy

¹⁴ *In the Matter of the Review of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company’s Compliance with R.C. 4928.17 and Ohio Adm. Code Chapter 4901:1-37*, Case No. 17-974-EL-UNC Entry (July 5, 2017).

¹⁵ *Id.* Sage Audit Report at 34 (May 14, 2018).

¹⁶ FirstEnergy Corp. (Oct. 29, 2020). 8-K Form <https://investors.firstenergycorp.com/sec-filings-and-reports/sec-filings/sec-filings-details/default.aspx?FilingId=14469121>

¹⁷ *In the Matter of the Review of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company’s Compliance with R.C. 4928.17 and Ohio Adm. Code Chapter 4901:1-37*, Entry at par. 17 (Nov. 4, 2020).

Utilities responded, stating that they would not respond to OCC's discovery requests at this time because the discovery requests were premature. The FirstEnergy Utilities claimed that since the final audit report was not due until months later, "no discovery in audit proceedings may be taken prior to the issuance of the final audit report." *See* Attachment 1. Additionally, the FirstEnergy Utilities indicated that they "reserve their right to make all further objections***at the appropriate time.

OCC Counsel contacted the FirstEnergy Utilities Counsel to set up a time to discuss the FirstEnergy Utilities' objections to OCC's discovery. On February 1, 2021, Ms. Willis and Mr. Doringo discussed their interpretation of PUCO precedent on when discovery is permissible in audit proceedings. It became clear in that conversation that OCC and the FirstEnergy Utilities have a fundamental disagreement on that issue. OCC requested Mr. Doringo check with his client on whether they would reconsider and present a compromise offer to OCC on the discovery. Mr. Doringo advised he would get back to Ms. Willis with respect to any compromise the utilities were willing to make on the discovery.

As of February 10, 2021, Mr. Doringo had not responded with the utilities' position on any possible discovery compromise. Accordingly, OCC contacted the Utilities to inquire as to progress on the matter. Mr. Doringo then responded on February 12, 2021 that the utilities were not willing to make any compromise on the discovery responses and, instead, they would stand by their original objections to OCC's discovery.

A. OCC has a right to discovery which under the PUCO rules may begin "immediately after a proceeding has commenced."

According to the PUCO "the policy of discovery is to allow the parties to prepare cases and to encourage them to prepare thoroughly without taking undue advantage of the other side's

industry or efforts.”¹⁸ The PUCO’s rules on discovery “*do not create an additional field of combat to delay trials or to appropriate the Commission’s time and resources*; they are designed to confine discovery procedures to counsel and to expedite the administration of the Commission proceedings.”¹⁹

These rules are meant to facilitate “prompt and expeditious” use of discovery consistent with the full and ample discovery rights granted to parties under R.C. 4903.082. *See* Ohio Admin. Code 4901-1-16(A). R.C. 4903.082 was effective in 1983 as part of a more comprehensive regulatory reform.

Yet all these years later, the FirstEnergy Utilities are impeding OCC’s discovery efforts. The PUCO should not allow the FirstEnergy Utilities to use obstructionist tactics to deny OCC the ample and prompt discovery allowed under Ohio law and PUCO rules. The PUCO should use its authority (Ohio Admin. Code 4901-1-23(F)) to penalize the FirstEnergy Utilities, in quarter-million dollar increments, for each of its distract and delay tactics, among other sanctions. The penalty should be deposited for the use of consumer bill-payment assistance.

OCC, as a party in this proceeding, is entitled to begin discovery “immediately” after a proceeding is commenced under the PUCO rules of discovery. *See* Ohio Admin. Code 4901-1-17 (A). This proceeding was commenced by the PUCO in 2017 (almost four years ago) to ensure the FirstEnergy Utilities’ compliance with R.C. 4928.17, the PUCO corporate separation

¹⁸ *In the Matter of the Investigation into the Perry Nuclear Power Plant*, Case No. 85-521-EL-COI, Entry at 23 (Mar. 17, 1987).

¹⁹ *Id.*, citing *Penn Central Transportation Co. v. Armco Steel Corp.* (C.P. 1971), 27 Ohio Misc. 76 (emphasis added).

rules and Ohio policies under R.C. 4928.02.²⁰ The recent Entry by the PUCO has merely extended the period under review to encompass H.B. 6 activities.

OCC's right to discovery is assured by law, rules and Supreme Court of Ohio ("Court") precedent.²¹ OCC is entitled to obtain discovery from the FirstEnergy Utilities at all stages of the proceeding, beginning with when the proceeding is commenced. Further, the Ohio Administrative Code instructs parties to complete discovery "as expeditiously as possible."²²

In Ohio Admin. Code 4901-1-23, the PUCO provides the procedure for parties to obtain the enforcement of these discovery rights, guaranteed by law and rule. Under Ohio Admin. Code 4901-1-23(A) and (B) the PUCO can compel a party to respond to a discovery request when the party has failed to do so. Ohio Admin. Code 4901-1-23(C) details the technical requirements for a motion to compel, which OCC meets.

The Motion to Compel is to be accompanied by a Memorandum in Support setting forth the basis of the Motion and authorities relied upon; a brief explanation of how the information sought is relevant; and responses to objections raised by the party from whom the discovery is sought.²³ Finally, Ohio Admin. Code 4901-1-23(C) requires the party seeking discovery to file an affidavit explaining how it has exhausted all other reasonable means of resolving the differences with the party from whom the discovery is sought.

OCC has detailed in the accompanying Affidavit of Maureen Willis, consistent with Ohio Admin. Code 4901-1-23(C)(3), the efforts that it undertook to resolve differences between it and

²⁰ *In the Matter of the Review of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company's Compliance with R.C. 4928.17 and Ohio Adm. Code Chapter 4901:1-37*, Case No. 17-974-EL-UNC, Entry at ¶4 (May 17, 2017).

²¹ *OCC v. PUC*, 111 Ohio St.3d 300, 2006-Ohio-5789, 856 N.E.2d 213.

²² Ohio Admin. Code 4901-1-17(A).

²³ Ohio Admin. Code 4901-1-23(C)(1).

the FirstEnergy Utilities. At this point, there can be no resolution of this discovery dispute without PUCO intervention. OCC seeks discovery from the FirstEnergy Utilities now and the FirstEnergy Utilities will continue to refuse to produce the discovery without the PUCO compelling such a result.

B. The information OCC seeks is reasonably calculated to lead to the discovery of admissible evidence.

OCC meets the Ohio Administrative Code's standard that discovery must be reasonably calculated to lead to the discovery of admissible evidence.²⁴ This case involves an investigation into the FirstEnergy's Utilities' (and their affiliates) compliance with corporate separation requirements, with a current focus on their activities during the H.B. 6 scandal. OCC's discovery requests are reasonably designed to elicit information on this topic. The discovery requests are aimed at the organizational structure of the FirstEnergy Utilities and their affiliates, which corporate entities and departments were responsible for the H.B. 6 activities, and whether officials failed to maintain the required separation between competitive and noncompetitive activities. These topics are relevant and OCC's discovery is reasonably calculated to lead to the discovery of admissible evidence concerning whether corporate separation laws and rules may have been violated in connection with H.B. 6 activities.

It should be noted that the FirstEnergy Utilities have not objected to OCC's discovery on grounds of relevance. Any claim by the Utilities that they could assert such objections later ("at the appropriate time") does not pass muster. This suggested practice, where a party could forego objecting and identifying the reason for the objection until a more convenient time, is without precedent in PUCO practice and is contrary to the PUCO rules. (See Ohio Admin. Code 4901-1-

²⁴ Ohio Admin. Code 4901:1-16(B).

19(A) requiring a party to “fully” answer interrogatories, “unless objected to, in which case the reason for the objection shall be stated in lieu of an answer.”)

Additionally, allowing the answering party to withhold objections to discovery until it designates an “appropriate” time, interferes with the ability of parties to enforce their discovery rights, through a motion to compel (under Ohio Admin. Code 4901-1-23). This practice would not allow discovery to proceed expeditiously, as required by PUCO rules. And if the objections are a moving target, only to resurface at a time convenient to the answering party, the PUCO’s ability to resolve discovery conflicts once and for all is jeopardized. Case law holds that where a party fails to object on a timely basis to discovery, it has waived its objection.²⁵

An American Bar Association article summarized the three main problems with such conditional discovery responses:

1. They can be confusing. What does it mean to produce documents ‘subject to and not waiving’ various objections? It is not always clear. Perhaps the party is producing some documents and withholding others based on its objections. Or, perhaps the party is producing all responsive documents, but simply noting that the discovery request is objectionable as stated.

In the words of one court, the requesting party is ‘left guessing as to whether [the producing party] has produced all documents, or only produced some documents and withheld others.’ *See Pro Fit Mgmt., Inc. v. Lady of Am. Franchise Corp.*, No. 08-CV-2662, 2011 WL 939226, at *9 (D. Kan. Feb. 25, 2011) *objections overruled*, 2011 WL 1434626 (D. Kan. Apr. 14, 2011). (Though less common, courts have also criticized the use of conditional discovery responses to interrogatories. *See Mann v. Island Resorts Dev., Inc.*, No. 3:08CV297, 2009 WL 6409113, at *3-4 (N.D. Fla. Feb. 27, 2009)).

²⁵ *Meyer v. United States*, 2017 U.S. Dist. LEXIS 26510, 2017 WL 735750 (D. Kan. Feb. 24, 2017); *Flinn Block, LLC v. DESA, LLC*, 2010 U.S. Dist. LEXIS 158538, 2010 WL 11701126 (D. Ore. (June 25, 2010)).

2. They may render discovery unmanageable. Another concern is that conditional discovery responses may lead to increased motion practice during discovery. ‘Absent an indication of what, exactly, the responding party was objecting to. . . courts would be flooded with motions to compel by litigants seeking to confirm that undisclosed responsive documents did not exist. And courts would then be forced to ask counsel, over and over again, ‘Do other documents exist?’ *Haeger v. Goodyear Tire and Rubber Co.*, 906 F. Supp. 2d 938, 977 (D. Ariz. 2012).
3. They may be inconsistent with the Federal Rules of Civil Procedure. ‘The plain language of Rule 34 requires a partial response be identified as such.’ *Id.* See Fed. R. Civ. P. 34(b)(2)(C) (‘An objection to part of a request must specify the part and permit inspection of the rest.’); *see also* Fed. R. Civ. P. 33(b)(3) (‘Each interrogatory must, to the extent it is not objected to, be answered separately and fully in writing under oath.’).²⁶

Here, the time to object was twenty days after service, meaning answers and objections to OCC’s discovery were due on or before January 19, 2021. Consequently, the Utilities have waived their right to object on grounds of relevancy (and any other unstated grounds) in their misinformed attempt to preserve their right to later object. Their sole objection for purposes of this motion to compel is whether OCC’s discovery is premature. It’s not.

²⁶ L. Sexton, *Beware of “Subject to and Not Waiving” in Discovery Responses*, Am. Bar Ass’n (May 21, 2015), available at: <https://www.americanbar.org/groups/litigation/committees/products-liability/practice/2015/beware-of-subject-to-and-not-waiving-in-discovery-responses/>

C. OCC is entitled to begin discovery in this case prior to completion of the Audit Report.

The crux of the FirstEnergy Utilities' delay is whether a party may begin discovery prior to the filing of a supplemental audit report. The answer to this is found in the PUCO's rules. Yes, parties may begin discovery when a proceeding is commenced under Ohio Admin. Code 4901-1-16(A). This proceeding was commenced in 2017, almost four years ago. FirstEnergy Utilities acted unreasonably and contrary to PUCO rules when they refused to respond to discovery until after the supplemental audit report is filed.

The FirstEnergy Utilities refusal to timely respond to discovery is based on a single, recent, yet distinguishable Attorney Examiner ruling in another FirstEnergy case. *See In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry (Nov. 1, 2018). The FirstEnergy Utilities' cited precedent happens also to be the infamous PUCO case that was linked to the Ohio Supreme Court throwing out the PUCO's Order and ruling the FirstEnergy Utilities' distribution modernization charge to be illegal. There, the FirstEnergy Utilities collected nearly a half-billion dollars from consumers that it got to keep because the PUCO voted earlier to not make the charge refundable.²⁷ We would not recommend emulating that case for much of anything.

In that case, OCC sought to conduct discovery before the issuance of a final audit report where the FirstEnergy Utilities distribution modernization rider was to be audited. The Utilities refused to respond to the discovery on the ground that it was premature. They filed a motion for protective order and OCC filed a motion to compel.

²⁷ *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, Finding and Order (Dec. 21, 2016).

Although the Attorney Examiner ruled in the FirstEnergy Utilities' favor, that ruling is distinguishable from the present case. First, the discovery sought in that proceeding was directed at requests and responses tied to the audit report, and the Utilities made claims that disclosure should not occur until the Staff's investigation was completed (under R.C. 4901.16). Not so for the discovery that is the subject of this motion to compel. OCC discovery here is largely independent of what transpires between the FirstEnergy Utilities and the PUCO-appointed auditor.

Second, the Attorney Examiner's ruling touted by the FirstEnergy Utilities hinged on the fact that the filing of the audit report was contingent upon two events, neither of which had occurred at the time OCC's discovery was served. The PUCO noted that the audit report would only be filed if the distribution modernization rider was (1) extended or (2) terminated.²⁸ The PUCO found that it was possible that there would be nothing for the PUCO or the parties to review or investigate. In that case, there would have been no need for any discovery.

In the present case, there is nothing contingent about the supplemental audit. The audit will occur and an audit report will be filed. Discovery in this case is needed and will better inform the PUCO in its review of whether the FirstEnergy Utilities and their affiliates violated Ohio law and PUCO rules on corporate separation. The discovery ruling in the FirstEnergy Utilities' distribution modernization rider case is not controlling because it is distinguishable from the present case.

²⁸ *In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶15 (Nov. 1, 2018).

In other cases, the PUCO has ruled that parties may commence discovery prior to the issuance of an audit report.²⁹ That is the sensible and legal approach. And it is consistent with the Ohio Administrative Code and the statutory discovery rights parties are afforded under R.C. 4903.082.

This case also presents an extraordinary situation where a \$60 million bribe was made allegedly by the FirstEnergy Utilities' affiliates to fund illegal H.B. 6 activities. The events surrounding H.B. 6 have shaken the public's confidence in the legislative and regulatory systems. Discovery should proceed.

The longer discovery is delayed, the harder it will be to obtain answers and the easier it is for the FirstEnergy Utilities and their affiliates to evade discovery. FirstEnergy Corp. fired certain top executives for violating company policies related to the H.B. 6 scandal. These executives may have knowledge regarding whether the FirstEnergy Utilities and their affiliates undertook activities that violated corporate separation laws, rules, and PUCO orders. With the passage of time, it may be more difficult to obtain answers from individuals no longer employed by FirstEnergy Corp. This factor also weighs in favor of allowing discovery to go forward now, instead of down the road.

In sum, Ohio law, the Ohio Administrative Code and PUCO precedent supports OCC's right to begin discovery now – nearly four years after the proceeding was commenced and months before the second audit report is completed. The unusual circumstances of this case

²⁹ *In the Matter of the 2015 Review of the Delivery Capital Recovery Rider Contained in the Tariffs of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 15-1739-EL-RDR Entry (Dec. 19, 2016); *In the Matter of the Audit of the Transportation Migration Rider -- Part B of The East Ohio Gas Company D/B/A Dominion Energy Ohio*; *In The Matter of the Audit of the Uncollectible Expense Rider of The East Ohio Gas Company D/B/A Dominion Energy Ohio*; *In the Matter of the Audit of the Percentage of Income Payment Plan Rider of The East Ohio Gas Company D/B/A Dominion Energy Ohio*, Case No. 17-219-GA-EXR Entry (Sept. 28, 2017).

present additional reasons to allow “prompt and expeditious” use of discovery now, not months from now.

D. OCC undertook reasonable efforts to resolve the discovery dispute.

As detailed in the accompanying Affidavit of Maureen Willis, OCC undertook efforts to resolve this discovery dispute.

OCC has exhausted all other reasonable means to resolve differences between it and the FirstEnergy Utilities. OCC and the FirstEnergy Utilities have an irreconcilable difference as to whether OCC has a right to conduct discovery prior to the filing of the Audit Report. The PUCO needs to act to resolve this dispute.

II. CONCLUSION

The PUCO, consistent with the Ohio Administrative Code, Ohio law and the public interest, should grant OCC's Motion to Compel. Granting this Motion would protect consumers by assisting OCC and other parties in their investigation. It would also better inform the PUCO's review of whether the FirstEnergy Utilities complied with the corporate separation law and rules, by providing the PUCO with a more complete record upon which to base its decision. OCC's Motion to Compel should be granted and FirstEnergy Utilities should be ordered to respond to OCC's discovery requests in a timely manner, without regard to whether the second audit report has been completed or filed. Additionally, the PUCO should penalize the FirstEnergy Utilities, in quarter-million dollar increments, for each of its distract and delay tactics, among other sanctions. The penalty should be deposited for the use of consumer bill-payment assistance.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Motion to Compel was served on the persons stated below via electric transmission this 22nd day of February 2021.

/s/ Maureen R. Willis

Maureen R. Willis

Senior Counsel

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

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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

| | | |
|--|---|------------------------|
| In the Matter of the Review of Ohio Edison |) | |
| Company, The Cleveland Electric |) | Case No. 17-974-EL-UNC |
| Illuminating Company, and The Toledo |) | |
| Edison Company's Compliance with R.C. |) | |
| 4928.17 and Ohio Adm. Code Chapter |) | |
| 4901:1-37. |) | |

**AFFIDAVIT OF MAUREEN R. WILLIS
IN SUPPORT OF MOTION TO COMPEL**

I, Maureen R. Willis, Senior Counsel for the Ohio Consumers' Counsel ("OCC") in the above-captioned case, submit this affidavit in support of OCC's Motion to Compel Responses to Discovery.

1. After receiving the FirstEnergy Utilities' responses to OCC's Fourth Set of Discovery, I contacted FirstEnergy Utilities Counsel to set up a time to discuss the FirstEnergy Utilities objections to OCC's discovery.
2. On February 1, 2021, I discussed with Counsel Doringo the FirstEnergy Utilities' interpretation of PUCO precedent on when discovery is permissible in audit proceedings. It became clear in that conversation that OCC and the FirstEnergy Utilities have a fundamental disagreement on that issue. FirstEnergy Utilities believe no discovery can be had before June of 2021, the expected date of the audit report filing. OCC fundamentally disagrees with FirstEnergy Utilities' position and advocates for answers now, consistent with the PUCO rules.

3. I requested that Mr. Doringo check with his client on whether they would reconsider and present a compromise offer to OCC on the discovery. Mr. Doringo advised he would get back to me with respect to any compromise the Utilities were willing to make on the discovery.

4. Ten days passed and I contacted Mr. Doringo to inquire as to progress on the matter. I advised Mr. Doringo if OCC did not hear back from him by the end of the week, it would go forward with a motion to compel.

5. On February 12, Mr. Doringo advised that the Companies have decided to stand by their objections to OCC's Fourth Set of Discovery.

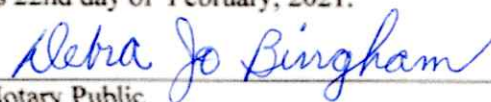
STATE OF OHIO)
) SS:
COUNTY OF FRANKLIN)

The undersigned, being of lawful age and duly sworn by oath, hereby certifies, deposes and states the following:

I have caused to be prepared the attached written affidavit for OCC in the above referenced docket. This affidavit is true and correct to the best of my knowledge, information and belief.


Maureen R. Willis, Affiant

Subscribed and sworn to before me this 22nd day of February, 2021.


Notary Public



DEBRA JO BINGHAM
Notary Public
State of Ohio
My Comm. Expires
June 13, 2025

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of The Ohio)
Edison Company, The Cleveland Electric) Case No. 17-974-EL-UNC
Illuminating Company, and The Toledo)
Edison Company's Compliance with R.C.)
4928.17 and the Ohio Adm. Code Chapter)
4901:1-37.

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY'S RESPONSES AND
OBJECTIONS TO THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
FOURTH SET OF DISCOVERY REQUESTS**

Pursuant to Rules 4901-1-16 through 4901-1-22 of the Ohio Administrative Code and in accordance with Ohio Rules of Civil Procedure 26, 33, and 34, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the "Companies") submit their responses and objections to the Office of Ohio Consumers' Counsel's ("OCC") Fourth Set of Interrogatories, Requests for Admission, and Requests for Production (collectively, "Discovery Requests").

GENERAL OBJECTIONS

The Companies incorporate the following objections into each response below, as if fully restated therein:

1. The Companies object to OCC's attempt to provide definitions and "instructions for answering" that are broader than, or inconsistent with, the rules of the Ohio Administrative Code or the Ohio Rules of Civil Procedure. The Companies will respond in accordance with their obligations under those rules.

2. As a preliminary matter, the Companies object to OCC's Fourth Set of Discovery Requests in their entirety because these requests are premature. Under the Commission's November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to raise further objections, whether general or specific, at the appropriate time.

3. The Companies object to the definition of "Documents" and "Documentation" to the extent it seeks to impose obligations on the Companies that are broader than, or inconsistent with, those imposed by the rules of the Ohio Administrative Code and the Ohio Rules of Civil Procedure. The Companies construe the term "documents" to be synonymous in meaning and equal in scope to the usage of the term "documents" in Rule 34(A) of the Ohio Rules of Civil Procedure.

4. The Companies object to the definition of "Communication(s)" as overbroad, unduly burdensome, and vague and ambiguous, and the Companies further object to the extent that the definition seeks to impose obligations on the Companies that are broader than, or inconsistent with, those imposed by the rules of the Ohio Administrative Code and the Ohio Rules of Civil Procedure. For example, OCC defines "Communication(s)" to include the transmission of information by "oral" or "otherwise perceptible means" and therefore unreasonably purports to require the Companies to describe in detail communications that are not contained in any

document. Further, the definition states that a request “seeking the identity of a communication . . . encompasses documents having factual, contextual, or logical nexus to the matter, as well as communications in which explicit or implicit reference is made to the matter in the course of the communication” and therefore unreasonably purports to place an undue burden on the Companies to identify any documents or communications having any “nexus” or containing any “explicit or implicit” reference to the subject matter of a communication.

5. The Companies object to the definition of “You,” and “Your,” or “Yourself” as overbroad, unduly burdensome, vague, and ambiguous because it unreasonably purports to require the Companies to provide information on behalf of any “present or former director, officer, agent, contractor, consultant, advisor, employee, partner, or joint venturer” and is unlimited as to time. The Companies construe the terms “You,” “Your,” and “Yourself” to refer only to the Companies.

6. The Companies object to the definition of “Identify,” or “the identity of”, or “identified” as overbroad, unduly burdensome, vague, and ambiguous. For example, this definition unreasonably purports to obligate the Companies to provide information outside of their personal knowledge, to identify all persons “in the presence” of parties to communications, and to describe “acts” and the persons in the presence of the “actor.”

7. The Companies object to the definition of “FirstEnergy Service Co.” as vague and ambiguous in its use of the phrase “controlled by the Board of Directors of FirstEnergy Corp.”

8. The Companies object to the definition of “Political and Charitable Spending” as overbroad, unduly burdensome, vague, and ambiguous. The Companies further object to this definition to the extent it purports to state a legal conclusion regarding the scope of the Commission’s jurisdiction.

9. The Companies object to the definition of “House Bill 6 activities” as overbroad, unduly burdensome, vague, and ambiguous.

10. The Companies object to the instruction “to produce responsive materials and information” in the possession of persons “purporting to act on [the Companies’] behalf” because this instruction on its face calls for the production of materials that are not within the Companies’ possession, custody, or control.

11. The Companies object to the instruction in numbered paragraph 8 of the “Instructions for Answering” as overbroad, unduly burdensome, vague, and ambiguous. For example, this instruction unreasonably purports to require the Companies to search for and produce “information and tangible materials” over a 13-year period of time.

12. The Companies object to the “instructions” for invoking privilege to the extent they seek to impose requirements on the Companies that are broader than, or inconsistent with, those imposed by the Ohio Administrative Code or by the Ohio Rules of Civil Procedure. Should the Companies withhold any document on the basis of any applicable privilege, immunity, or protection, the Companies will provide the information required by Ohio Rule of Civil Procedure 26(B)(8)(a).

13. The Companies object to OCC’s “instructions” in numbered paragraphs 11 and 12 of the “Instructions for Answering” because they unreasonably purport to require the Companies to treat interrogatories as requests for production of documents or requests for production of documents as interrogatories under certain circumstances. The Companies will treat interrogatories as interrogatories and requests for production of documents as requests for production of documents.

14. The Companies object to OCC's "instruction" in numbered paragraph 13 of the "Instructions for Answering" as vague and ambiguous because this instruction appears to have been copied and pasted from OCC's requests in another proceeding. The Companies have filed no "Application" in this case.

15. The Companies object to each request to the extent that it seeks production of information that is confidential business, commercial, financial, or proprietary information belonging to the Companies or third parties.

16. The Companies object to Complainant's requests to the extent they seek information or documents protected from disclosure by the First Amendment. The Supreme Court has recognized that the forced disclosure of political associations raises First Amendment concerns, because the "[i]nviolability of privacy in group association may in many circumstances be indispensable to preservation of freedom of association." *NAACP v. State of Ala. ex rel. Patterson*, 357 U.S. 449, 462 (1958). Compelled disclosure of campaign-related communications in civil discovery can deter activities protected under the First Amendment "by chilling participation and by muting the internal exchange of ideas." *Perry v. Schwarzenegger*, 591 F.3d 1147, 1163 (9th Cir. 2010). Thus, courts "have repeatedly found that compelled disclosure, in itself, can seriously infringe on privacy of association and belief guaranteed by the First Amendment." *Id.* at 1160 (citing *AFL-CIO v. FEC*, 333 F.3d 168, 175 (D.C. Cir. 2003)); *see also Black Panther Party v. Smith*, 661 F.2d 1243, 1268 (D.C. Cir. 1981), *vacated on other grounds*, 458 U.S. 1118 (1982).

RESPONSES AND OBJECTIONS TO INTERROGATORIES

INT-04-001. Please identify each person that FirstEnergy Utilities expect to call as a witness at any hearing conducted in this proceeding.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-002. Please identify all payments made by FirstEnergy Utilities to Generation Now. For each payment, identify:

- a. The date the payment was made;
- b. The amount of the payment(s);
- c. The name and position of the person(s) that authorized the payment;
- d. The person the individual(s) identified in (c) directly reports to;
- e. All persons, committees, departments, boards that approved each of the payments;
- f. All persons within FirstEnergy Utilities that had knowledge of each payment;

- g. Identify the account(s) including any FERC sub-account(s) with description(s) of account(s) sub-account(s) the payment(s) were booked to.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-003. Please identify all payments made by FirstEnergy Service Co. or FirstEnergy Corp. to Generation Now. For each payment, identify:

- a. The date(s) the payment(s) was/were made;
- b. The amount of the payment(s);
- c. The name and position of the person(s) that authorized the payment(s);
- d. The person(s) the individual(s) identified in (c) directly reports to;
- e. All persons, committees, departments, boards that approved each of the payments;
- f. All persons within FirstEnergy Service Co. or FirstEnergy Corp. that had knowledge of each payment;

- g. Identify the account(s) including any FERC sub-account(s) with description(s) of account(s) or sub-account(s) the payment(s) were booked to.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-004. Please identify all political and charitable spending by or behalf of FirstEnergy Utilities, regarding House Bill 6 activities. For each act of political and charitable spending, please identify:

- a. The payee and payor;
- b. The date the spending occurred;
- c. The account(s) and sub accounts the political/charitable spending was charged to;
- d. The name and position of the person(s) who authorized the spending;
- e. The amount of money paid per instance of spending;
- f. The person(s) the individual(s) identified in (d) directly reports to;

- g. All persons within FirstEnergy Utilities that had knowledge of each instance of political and charitable spending identified above.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-005. Please identify all political and charitable spending by or on behalf of the FirstEnergy Foundation since January 1, 2017 associated with regulatory and legislative activities that affect the FirstEnergy Utilities. For each instance of political and charitable spending, please identify:

- a. The date the spending occurred;
- b. The payor and the payee and whether the payee was involved with a communication to a government official of a position on a regulatory or legislative matter that affected FirstEnergy Utilities;
- c. The organization the payee was associated with;
- d. Whether the payee was affiliated with a government official or a sponsor of legislation affecting FirstEnergy Utilities;
- e. The name and position of the person(s) who authorized the spending;

- f. The amount of money paid;
- g. The person(s) the individual(s) identified in (c) directly reports to;
- h. All persons within FirstEnergy Utilities that had knowledge of each instance of political and charitable spending;
- i. The sub-account(s) including description(s) of the political/charitable spending was charged to;
- j. All persons, committees, departments, boards that approved each of the instances of spending.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-006. Please identify all charitable contributions made by or on behalf of FirstEnergy Utilities since January 1, 2017. Please segregate the contributions by year, by month, by FERC sub-account(s) with sub-account(s) description(s) by utility, and recipient, including but not limited to contributions made to persons, organizations, charitable foundations and grantees. For each charitable contribution, please identify:

- a. The date the contribution was made;
- b. The payor and payee and whether the payee was involved with a communication to a government official of a position on a regulatory or legislative matter that affected FirstEnergy Utilities;
- c. The organization the payee was associated with;
- d. Whether the payee was affiliated with a government official or a sponsor of legislation affecting FirstEnergy Utilities;
- e. The name and position of the person(s) who authorized the contribution;
- f. The amount of the contribution;
- g. The person(s) the individual(s) identified in (e) directly reports to;
- h. All persons within FirstEnergy Utilities that had knowledge of each charitable contribution;
- i. The FERC sub-account(s) and sub-account(s) description(s) the charitable contribution(s) was charged to;
- j. All persons, committees, departments, boards that approved each of the charitable contributions.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1,

2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-007. For the period January 1, 2017 through present, please identify the actual monthly amounts by FERC sub-account with sub-account descriptions attributed to House Bill 6 activities and every political action organization which FirstEnergy Utilities made contributions to related to House Bill 6 activities, broken down by date of payment, payee, political action organization and each specific contribution to that political action organization.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-008. Please identify all travel and entertainment expenses incurred by or on behalf of FirstEnergy Utilities, related to House Bill 6 activities. Please identify these expenses by FERC sub-account(s) with sub-account(s) descriptions and amounts, and describe the person involved, job title, and reason/explanation for the expense.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-009. For the period January 1, 2017 through present, please identify for FirstEnergy Utilities, the actual monthly amounts by year booked to FERC sub-account(s) with sub-account(s) description(s) attributed to contributions and payments related to House Bill 6 activities to:

- a. Any 501(c)3 non-profit religious, charitable, or educational organization;
- b. Any 501(c)4 social welfare group that can engage in advocacy and lobbying activities; and
- c. Any 527 organization.

Please identify and describe each organization (by type a-c), and include a description of each contribution, identifying each specific amount attributed to that organization, the date of the payment and the payor.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is

not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-010. Please identify all expense and capital accounts and cost code elements with cost code element descriptions associated with providing electric service to FirstEnergy Utilities' customers in Ohio that contain expenses or capitalized items pertaining to:

- a. Charitable contributions;
- b. Lobbying expenses;
- c. Charitable and political spending;
- d. Governmental affairs;
- e. State affairs support;
- f. Economic development support; and
- g. FirstEnergy Foundation.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be

taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-011. Referring to Ohio Edison's 2018 FERC Form 1,

- a. Please describe the "charitable contribution carryforward" that is shown on Schedule Page 261, line 10 as \$15,000,000. Is that amount incorporated into the rates Ohio electric customers paid or will pay for electric service from Ohio Edison?
- b. Please describe the "charitable contribution carryforward" that is shown on Schedule Page 234 with a beginning balance of \$71,177 and an end of year balance of \$3,312,220. Is that amount incorporated into the rates Ohio electric customers paid or will pay for electric service from Ohio Edison?
- c. Please identify if any of the amounts listed in FERC Sub-Account 930.2 "miscellaneous general" on page 335 relate to political and charitable spending? If so, which if any of the line items are incorporated into the rates Ohio electric customers paid or will pay for electric service from Ohio Edison?
 - i. please describe "economic development" shown on line 14 and identify the charges that make up the \$-661,217 amount shown there.

- d. Referring to the “Transactions with Associated (Affiliated Companies)” shown on page 429 and 429.1, please identify if any of the amounts charged or credited relate to political or charitable spending? If so, which if any of the line items are incorporated into the rates Ohio electric customers paid or will pay for electric service from Ohio Edison?
 - i. Please describe the nature of the services provided by FirstEnergy Service Co. to Ohio Edison described as “Provide Local Affairs & Economic Development Support.”
 - ii. Please describe the nature of services FirstEnergy Service Co. provided to Ohio Edison described as “Provide State Affairs Support.”

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC’s Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-012. Referring to Toledo Edison’s 2018 FERC Form 1 and the “Transactions with Associated (Affiliated Companies)” shown on page 429 and 429.1, please identify

if any of the amounts charged or credited relate to political or charitable spending. If so, which if any of these amounts related to political or charitable spending are incorporated into the rates Ohio electric customers paid or will pay for electric service from Toledo Edison?

- a. Describe the nature of services provided by FirstEnergy Service Co. to Toledo Edison and listed as “Provide Environmental Support.”;
- b. Describe the nature of services provided by FirstEnergy Service Co. to Toledo Edison listed as “Provide Compliance and Regulated Service Support”;
- c. Describe the nature of services provided by FirstEnergy Service Co. to Toledo Edison listed as “Provide Rates & Regulatory Affairs Support”;
- d. Describe the nature of services provided by FirstEnergy Service Co. to Toledo Edison listed as “Provide Local Affairs & Economic Development Support”;
- e. Describe the nature of services provided by FirstEnergy Service Co. to Toledo Edison listed as “Provide State Affairs Support”; and
- f. Describe the nature of services provided by FirstEnergy Service Co. to Toledo Edison listed as “Provide FE Generation Support”.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC’s Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the*

Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve all other further objections to this Interrogatory, including, but not limited to, whether this Interrogatory seeks information outside the scope of the Commission’s jurisdiction.

INT-04-013. Referring to Cleveland Electric Illuminating Company’s 2018 FERC Form 1,

- a. Please describe the nature of the item listed on page 450.2 as “Ohio Economic Development.”;
- b. Please describe the nature of the “Ohio Economic Development Contribution” listed on line 5-6 of page 269 and explain the debit to the account shown to “Contra Account 242.”;
- c. Please identify all items that make up the “Charitable Contribution State & Local RTA” listed on page 450.1;
- d. Referring to page 429.1, “Transaction with Associated (Affiliated) Companies” please describe the nature of the services provided by FirstEnergy Service Co. to CEI that make up the “Non-Power Good or Service” Line items labelled:
 - i. “Provide Rates & Regulatory Affairs Support” \$784,904;
 - ii. “Provide State Affairs Support” \$115,638; and
 - iii. “Provide Local Affairs & Economic Development Support” \$1,479,989.

- e. Please explain what caused the difference between 4th Quarter 2017 “Miscellaneous and General Expenses” (930.2) of \$22,891,423 to the “current year” amount for that item of \$680,078.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC’s Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-014. Please identify the monthly Regulated Money Pool balances in 2017 through 2020.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC’s Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-015. How do FirstEnergy Utilities (or any of FirstEnergy Utilities' Affiliates) fund political and charitable spending? Please identify the specific source of the funding.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-016. Did the FirstEnergy Utilities (or any FirstEnergy Utilities' affiliates) use any of the money collected from Ohioans under "riders and charges" under FirstEnergy Utilities' tariffs for House Bill 6 activities? If so, please identify on a yearly basis how much was used for that purpose, and which riders and charges were the source of the House Bill 6 activities funds?

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating*

Company, and The Toledo Edison Company, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-017. Did the FirstEnergy Utilities (or any FirstEnergy Utilities' affiliates) use any of the money collected from Ohioans under "riders and charges" approved in FirstEnergy Utilities latest electric security plan in PUCO Case No. 14-1297-EL-SSO, et al. for House Bill 6 activities? If so, please identify on a yearly basis how much was used for that purpose, and which electric security plan riders and charges were the source of the House Bill 6 activities funds?

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-018. Did the FirstEnergy Utilities (or any FirstEnergy Utilities' affiliates) use any of the money collected from Ohioans under FirstEnergy Utilities' "riders and charges" approved in FirstEnergy's latest electric security plan, in PUCO Case No. 14-1297-EL-SSO, et al, for political and charitable spending since January 1, 2017? If so,

please identify on a yearly basis how much was used for that purpose, and which electric security plan riders and charges were the source of the political and charitable spending?

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-019. Please identify the specific corporate policies that former CEO Charles Jones violated that led to his termination on or about October 29, 2020.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-020. Please identify the job duties to hold the position of Senior Vice President of Product Development with FirstEnergy.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-021. Please identify the reasons for terminating former Senior Vice President of Product Development Dennis Chack. If his termination was due to violating corporate policies, please specifically identify those policies.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1,

2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-022. Please identify the job duties to hold the position of Senior Vice President of External Affairs with FirstEnergy.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-023. Please identify the reasons that at former Senior Vice President of External Affairs Michael Dowling was terminated. If his termination was due to violating corporate policies, please specifically identify those policies.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating*

Company, and The Toledo Edison Company, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-024. Please identify the specific corporate policies that were discovered to be violated as part of the independent board of directors' review concerning the Criminal Complaint.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-025. Please identify the specific changes to FirstEnergy's Corporate Separation Plan that were proposed as part of the independent board of directors' review concerning the Criminal Complaint or that were proposed as part of termination of Chuck Jones, Dennis Chack and Michael Dowling.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to

June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

INT-04-026. Please identify the specific changes to FirstEnergy's Corporate Separation Plan that have been proposed since January 1, 2017.

RESPONSE: The Companies object to this Interrogatory in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Interrogatory at the appropriate time.

RESPONSES AND OBJECTIONS TO REQUESTS FOR ADMISSION

RFA-04-001. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

FirstEnergy Service Co. made money payments to Generation Now.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-002. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

FirstEnergy Utilities made money payments to Generation Now.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland*

Electric Illuminating Company, and The Toledo Edison Company, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-003. Please admit or deny that FirstEnergy Utilities engaged in political and charitable spending to support the enactment of House Bill 6.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-004. Please admit or deny that FirstEnergy Service Co. engaged in political and charitable spending on behalf of FirstEnergy Utilities to support the enactment of House Bill 6.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-05. Please admit or deny that all funds the FirstEnergy Utilities received from Rider DMR were placed into the Regulated Utility Money Pool.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-06. Please admit or deny that non-OHIO regulated subsidiaries of FirstEnergy Corp. have borrowing access to Rider DMR funds through the Regulated Money pool.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-07. Please admit or deny that FirstEnergy utilities can borrow from the Regulated Money Pool to fund their expenditures.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR,

Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-08. Please admit or deny that from January 1, 2017 forward, funds in the Regulated Money Pool have been used to pay dividends to FirstEnergy Corp.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-09. Please admit or deny that FirstEnergy Utilities borrowed from the Regulated Money Pool to fund House Bill 6 activities.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit

proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-010. Please admit or deny that FirstEnergy Utilities from January 1, 2017 forward, borrowed from the Regulated Money Pool to fund charitable and political spending.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-011. Please admit or deny that no FirstEnergy affiliate borrowed from the Regulated Money Pool to fund House Bill 6 activities.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-012. Please admit or deny that non-OHIO regulated subsidiaries borrowed money from the Regulated Money Pool from January 1, 2017 forward.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-013. Please admit or deny that the internal investigation undertaken at the direction of the independent members of the FirstEnergy Board of Directors discovered that FirstEnergy violated its Corporate Separation Plan.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-014. Please admit or deny that the internal investigation undertaken at the direction of the independent members of the FirstEnergy Board of Directors discovered that former CEO Charles Jones violated FirstEnergy's Corporate Separation Plan.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of*

the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-015. Please admit or deny that the internal investigation undertaken at the direction of the independent members of the FirstEnergy Board of Directors discovered that former Senior Vice President of Product Development Dennis Chack violated FirstEnergy's Corporate Separation Plan.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-016. Please admit or deny that the internal investigation undertaken at the direction of the independent members of the FirstEnergy Board of Directors discovered that

former Senior Vice President of External Affairs Michael Dowling violated FirstEnergy's Corporate Separation Plan.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

RFA-04-017. Please admit or deny that the internal investigation undertaken at the direction of the independent members of the FirstEnergy Board of Directors was undertaken as a result of the Criminal Complaint.

ADMIT/DENY: The Companies object to this Request for Admission in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR,

Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Admission at the appropriate time.

**RESPONSES AND OBJECTIONS TO
REQUESTS FOR PRODUCTION OF DOCUMENTS**

RPD-04-001. Please provide a privilege log if privilege is asserted in response to any of OCC's discovery requests.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-002 Please provide a copy of all formal and informal requests (e.g., interrogatories, requests for production of documents, data requests) made to the FirstEnergy Utilities by the Commission in this proceeding and the FirstEnergy Utilities' response to those requests.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit

report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-003. Please provide a copy of all formal and informal requests (e.g., interrogatories, requests for production of documents, data requests) made to the FirstEnergy Utilities by any other party in this proceeding and the FirstEnergy Utilities' responses to those requests.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-004. Please provide a copy of all communications made by or on behalf of FirstEnergy Utilities with the Commission regarding this proceeding.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-005. Please provide a copy of all communications related to political and charitable spending for House Bill 6 activities undertaken by or on behalf of the FirstEnergy Utilities. This would include, but not be limited to, communications that occurred beginning January 1, 2017 forward.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at

¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-006. Provide any documents that you relied upon or that otherwise support your responses to OCC INT-01-002 through 01-006, 01-010, and 01-014 through 01-026.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-007. Provide a complete copy of all documents reflecting payments made by or on behalf of FirstEnergy Utilities to any political action committee or organization since January 1, 2017 to date, related to House Bill 6 activities.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings

may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-008. Provide a complete copy of all invoices in the custody and control of FirstEnergy Utilities that are associated with Ohio lobbying efforts on matters affecting FirstEnergy Utilities or a FirstEnergy affiliate for years 2017 through present.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-009. Provide a copy of employee time and expense reports and invoices documenting expenses that were asked to be identified in OCC Interrogatory 01-08.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit

report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-010. Please provide a copy of all records produced by FirstEnergy Utilities and FirstEnergy Service Co. in response to the subpoenas issued by the U.S. Attorney's Office for the Southern District of Ohio (as reported in FirstEnergy's Form 10Q (June 30, 2020)). (Publicly filed documents need not be produced).

If a privilege is asserted in response to this request, please produce a privilege log to back up the claim of privilege.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-011. Please provide a copy of all documents produced by FirstEnergy Utilities or a FirstEnergy affiliate related to the shareholder lawsuits against FirstEnergy and current and former directors, officers and other employees (as identified in FirstEnergy's Form 10Q at 32 (June 30, 2020)) relating to House Bill 6 activities. (Publicly filed documents need not be produced).

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-012. Please provide a copy of all documents related to the internal investigation into the matters raised in the Criminal Complaint that has been undertaken at the direction of the independent members of the FirstEnergy Board of Directors. (Publicly filed documents need not be produced). If a privilege is asserted in response to this request, please produce a privilege log to back up the claim of privilege.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit

report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-013. Please provide a copy of all documents relating to the internal investigation into the matters raised in the Criminal Complaint that has been undertaken at the direction of the independent members of the FirstEnergy Board of Directors. (Publicly filed documents need not be produced). If a privilege is asserted in response to this request, please produce a privilege log to back up the claim of privilege.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-014. Please provide a copy of all documents related to the Securities Exchange Commission investigation into matters related to House Bill 6 activities. (Publicly filed documents need not be produced). If a privilege is asserted in response to this request, please produce a privilege log to back up the claim of privilege.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-015. Please provide a copy of all documents related to the Attorney General's lawsuit, filed in the Franklin County Court of Common Pleas related to House Bill 6 activities. (Publicly filed documents need not be produced). If a privilege is asserted in response to this request, please produce a privilege log to back up the claim of privilege.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings

may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-016. Please provide a copy of all documents submitted to the New Jersey Board of Public Utilities (“NJBPU”) are part of the NJBPU’s investigation into FirstEnergy and its New Jersey subsidiary Jersey Central Power & Light. (Publicly filed documents need not be produced). If a privilege is asserted in response to this request, please produce a privilege log to back up the claim of privilege.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC’s Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-017. Please provide a copy of the regulated money pool agreement between FirstEnergy Corp. and its regulated subsidiaries, including FirstEnergy Utilities.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-018. Please provide copies of reports submitted to the Commission regarding the FirstEnergy Ohio utilities participation in the FirstEnergy Regulated Money Pool for the period of January 1, 2017 through present.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-019. Please provide copies of PUCO documents approving or disapproving FirstEnergy Utilities' participation and lending limits in the FirstEnergy Regulated Money Pool since January 1, 2017.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-01-020. Please provide a copy of any policy, procedure, job description or other document that states that the Director of State Affairs for Ohio does not represent FirstEnergy Solutions and/or only represents the three FirstEnergy Ohio Utilities.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at

¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-01-021. Please provide the current organization chart for the FirstEnergy “External Affairs” organization structure, showing all positions, the reporting relationships (superior and subordinates), the titles of the positions, department or unit name, and the person in those positions from January 1, 2017 to date. Please identify as part of this response, persons who provide external affairs services (in whole or part) for the FirstEnergy Ohio utilities.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC’s Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-01-022. Please provide the current organization chart for the FirstEnergy “Product Development” organization structure, showing all positions, the reporting relationships (superior and subordinates), the titles of the positions, department or unit name, and the person in those positions from January 1, 2017 to date. Please

identify as part of this response, persons who provide services (in whole or part) for the FirstEnergy Ohio utilities.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-023. Please provide the current organization chart for FirstEnergy's organization structure, showing all positions, the reporting relationships (superior and subordinates), the titles of the positions, department or unit name, and the person in those positions from January 1, 2017 to date. Please identify as part of this response, persons who provide services (in whole or part) for the FirstEnergy Ohio utilities.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review*

of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-024. Please provide the current organization chart for the FirstEnergy Utilities' organization structure, showing all positions, the reporting relationships (superior and subordinates), the titles of the positions, department or unit name, and the person in those positions from January 1, 2017 to date. Please identify as part of this response, persons who provide services (in whole or part) for the FirstEnergy Ohio utilities.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-025. Please provide the current organization chart for the FirstEnergy Service Co.'s organization structure, showing all positions, the reporting relationships (superior

and subordinates), the titles of the positions, department or unit name, and the person in those positions from January 1, 2017 to date. Please identify as part of this response, persons who provide services (in whole or part) for the FirstEnergy Ohio utilities.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at ¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

RPD-04-026. Please provide all drafts of FirstEnergy's Corporate Separation Plan drafted or in operation beginning January 1, 2017 to date.

RESPONSE: The Companies object to this Request for Production in its entirety because OCC's Discovery Requests are premature. Under the November 4 Entry in this proceeding, the final audit report is not due until April 21, 2021, and Commission Staff has requested an extension of that deadline to June 21, 2021. As the Commission has recognized, no discovery in audit proceedings may be taken prior to the issuance of the final audit report. *See, e.g., In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 17-2474-EL-RDR, Entry at

¶ 15 (Nov. 1, 2018) (denying motion to compel discovery as premature). The Companies reserve their right to make all further objections to this Request for Production at the appropriate time.

Dated: January 19, 2021

Respectfully submitted,

/s/ Ryan A. Doringo

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On behalf of the Companies

CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was served on counsel for all parties by email on
January 19, 2021:

/s/ Margaret M. Dengler
Attorney for the Companies

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

Summary: Motion Motion to Compel the FirstEnergy Utilities to Answer Discovery by Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Willis, Maureen R Mrs.