

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

On October 9, 2020, OCC first issued a notice to take deposition of Mr. Fanelli, the Director of Rates and Regulatory Affairs Dept, FirstEnergy Service Company. Mr. Fanelli provided a sworn affidavit that was attached to FirstEnergy Utilities response to the PUCO's Show Cause Entry issued in this proceeding. Three months later, OCC's right to depose Mr. Fanelli was upheld by the Attorney Examiner's ruling on January 7, 2021 denying the FirstEnergy Utilities' motion for a protective order.

On January 27, 2021, OCC filed an amended Notice to Take Deposition in this case. By mutual agreement, OCC and FirstEnergy Utilities settled on the date of February 11, 2021 for Mr. Fanelli's deposition. OCC then was informed that the Utilities' lead counsel suffered an injury, and OCC, as a courtesy, offered to reschedule the Feb. 11, 2021 deposition. OCC filed a letter at the PUCO advising parties that OCC agreed to postpone the deposition and would apprise parties of the new date and time for the deposition.

OCC and the FirstEnergy Utilities have reached a mutual agreement on the rescheduling of Mr. Fanelli's deposition. Please take note that the telephonic deposition of Mr. Fanelli, will begin on March 9, 2021 at 10:00 a.m.

The deposition will be conducted by OCC consistent with the terms of OCC's October 9, 2020 notice, as upheld and amended by the Attorney Examiner's Jan. 7, 2021 ruling denying the Utilities' motion for a protective order. The deposition will continue from day-to-day thereafter until complete. The deponent will appear at that time and make himself available for telephonic deposition and will remain present until the deposition is completed. Parties are invited to attend and participate by teleconference.

Mr. Fanelli is to bring with him to the deposition the following documents:

1. Curriculum vitae;
2. Responses to OCC discovery sets 1, 2, 3, and 4 in this case; and
3. All documents referred to or relied on with respect to Mr. Fanelli's filed affidavit in this proceeding.

OCC also requested (on January 17, 2021) that the Company supplement its response to OCC Request for Production 1-001 and 1-002. That information has yet to be provided to OCC. We expect that supplementation will be provided to OCC at least two hours before the deposition. Mr. Fanelli is to bring a copy of that supplemental response to his deposition.

OCC intends to question Mr. Fanelli, bifurcating the cross examination between Ms. Willis and Mr. Finnigan. Ms. Willis and Mr. Finnigan will be addressing separate and distinct areas without overlap.

Ms. Willis will be questioning Mr. Fanelli regarding the distribution modernization rider and whether it was the source of funds for any political or charitable

spending related to H.B. 6 made by or on behalf of the FirstEnergy Utilities.

Additionally, Ms. Willis will be deposing Mr. Fanelli on the political and charitable spending by the Companies related to H.B.6.

Mr. Finnigan will be deposing Mr. Fanelli on his affidavit, and whether customers were charged through rates for any of the costs of political or charitable spending in support of HB 6. Mr. Finnegan's questioning will also extend to recent revelations made by FirstEnergy Corp. executives that they have discovered transactions over a long period of time that were improperly classified, misallocated or lacked proper documentation with amounts being collected from customers (primarily in Ohio).¹ FirstEnergy Corp. has acknowledged that these transactions could include lobbying and political activities misallocated to the FirstEnergy Utilities, resulting in collections from customers.² These are issues that call into question the veracity of FirstEnergy's response to the PUCO's Show Cause Entry and Mr. Fanelli's sworn affidavit supporting that response.

OCC will, by separate communication, provide details and instructions for participating in the deposition of Mr. Fanelli, via teleconference.

¹ FirstEnergy Corp. Earnings Call (Feb. 16, 2021), Tr. at 21,22,28.

² *Id.*

Respectfully submitted,

Bruce Weston (#0016973)
Ohio Consumers' Counsel

/s/ Maureen R. Willis

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Attorneys for the Ohio Consumers' Counsel

CERTIFICATE OF SERVICE

I hereby certify that a copy of this Second Amended Notice to Take Deposition was provided electronically to the persons listed below this 1st day of March 2021.

/s/ Maureen R. Willis

Senior Counsel

Assistant Consumers' Counsel

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

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Case No(s). 20-1502-EL-UNC

Summary: Notice of Deposition Second Amended Notice to Take Deposition and Request for Production of Documents by Office of The Ohio Consumers' Counsel electronically filed by Mrs. Tracy J Greene on behalf of Willis, Maureen R.