

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the 2020 Review of the)
Delivery Capital Recovery Rider of the Ohio) Case No. 20-1629-EL-RDR
Edison Company, the Cleveland Electric)
Illuminating Company, and the Toledo)
Edison Company.)

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

Pursuant to R.C. 4903.221 and Ohio Adm. Code 4901-1-11, the Ohio Manufacturers' Association Energy Group (OMAEG) respectfully moves the Public Utilities Commission of Ohio (Commission) to intervene in this matter with the full powers and rights granted to intervening parties. As detailed in the attached Memorandum in Support, OMAEG has a real and substantial interest in this proceeding that may be adversely affected by the outcome herein, and which cannot be adequately represented by any other party. Accordingly, OMAEG satisfies the standard for intervention set forth in Ohio statutes and regulations. Therefore, OMAEG respectfully requests that the Commission grant this timely motion to intervene and make OMAEG a full party of record in these proceedings.

Respectfully submitted,

/s/ Kimberly W. Bojko

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

Thomas V. Donadio (0100027)

Carpenter Lipps & Leland LLP

280 North High Street, Suite 1300

Columbus, Ohio 43215

Telephone: (614) 365-4100

Bojko@carpenterlipps.com

Donadio@carpenterlipps.com

(willing to accept service by email)

*Counsel for the Ohio Manufacturers' Association Energy
Group*

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the 2020 Review of the)
Delivery Capital Recovery Rider of the Ohio) Case No. 20-1629-EL-RDR
Edison Company, the Cleveland Electric)
Illuminating Company, and the Toledo)
Edison Company.)

MEMORANDUM IN SUPPORT

On November 4, 2020, the Commission approved a joint stipulation authorizing Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy Utilities) to establish their Delivery Capital Recovery Rider (Rider DCR).¹ As part of the joint stipulation, the FirstEnergy Utilities committed to an annual review process of Rider DCR² and on December 16, 2020, the Commission selected an auditor to assist with its 2020 review of Rider DCR costs.³

On February 18, 2021, FirstEnergy Corp. filed a form 10-K with the United States Securities and Exchange Commission (SEC) describing “certain transactions. . . including vendor services” dating back ten years or more “that were either improperly classified, misallocated to certain of the Utilities...or lacked supporting documentation” that resulted in amounts that were collected from customers.⁴ Subsequently, the Staff of the Commission (Staff) requested that FirstEnergy Utilities provide documents related to the transactions described in the SEC filing.⁵

¹ *In the Matter of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company, for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code in the Form of an Electric Security Plan*, Case No. 10-388-EL-SSO, Opinion and Order at 36 (August 25, 2010).

² *Id.* at 25.

³ Entry at ¶ 1 (December 16, 2020).

⁴ FirstEnergy Corp. Form 10-K at 10, <http://d18rn0p25nwr6d.cloudfront.net/CIK-0001031296/82df6166-d113-4f21-a582-1f450bd68412.html> (February 18, 2021).

⁵ *See* Staff Request (March 8, 2021).

Upon review of the documents provided, Staff requested an expansion of the scope of the audit ordered in this case, stating that it is appropriate for the auditor to determine whether Rider DCR funds collected from customers were used to pay these vendors for their services and if so, whether the funds should be refunded to FirstEnergy Utilities' customers.⁶ On March 10, 2021, the Commission granted Staff's request to expand the scope of the 2020 annual DCR audit,⁷ stating that a review of the disclosed vendor payments is consistent with the Commission's commitment to review allegations surrounding FirstEnergy Corp. and citing to four investigations currently underway, including the corporate separation investigation regarding allegations against FirstEnergy Corp. and its conduct in the passage of Am. Sub. H.B. 6 and the subsequent referendum.⁸

OMAEG has a real and substantial interest that may be adversely affected by this proceeding and that interest cannot be adequately represented by any existing parties. R.C. 4903.221 and Ohio Adm. Code 4901-1-11 establish the standard for intervention in the above-captioned proceedings. R.C. 4903.221 provides, in part, that any person "who may be adversely affected" by a Commission proceeding is entitled to seek intervention in that proceeding. R.C. 4903.221(B) further requires the Commission to consider the nature and extent of the prospective intervenor's interest, the legal position advanced by the prospective intervenor and its probable relation to the merits of the case, whether the intervention by the prospective intervenor will unduly prolong or delay the proceeding, and the prospective intervenor's potential contribution to a just and expeditious resolution of the issues involved.

⁶ Id.

⁷ Entry at ¶ 1 (March 10, 2021).

⁸ Id. at ¶ 7-8 (citing *In the Matter of the Review of Ohio Edison Co., Cleveland Elec. Illum. Co., and Toledo Edison Co.'s Compliance with R.C. 4928.17 and Ohio Adm. Code 49.1:1-37*, Case No. 17-974-EL-UNC, Entry (Nov. 4, 2020) at ¶ 17.).

OMAEG is a non-profit entity that strives to improve business conditions in Ohio and drive down the cost of doing business for Ohio manufacturers. OMAEG members and their representatives work directly with elected officials, regulatory agencies, the judiciary, and others to provide education and information to energy consumers, regulatory boards and suppliers of energy; advance energy policies to promote an adequate, reliable, and efficient supply of energy at reasonable prices; and advocate in critical cases before the Commission. Here, OMAEG has a substantial interest in ensuring that any rates or charges that FirstEnergy Utilities assess their customers, which include OMAEG members, are just, lawful, and reasonable. As consumers of significant amounts of energy in FirstEnergy Utilities' service territory, OMAEG has been involved in numerous prior proceedings before the Commission involving FirstEnergy Utilities and the rates that they charge,⁹ and OMAEG's members are subject to the nonbypassable Rider DCR. Furthermore, OMAEG has participated in several proceedings before the Commission regarding H.B. 6.¹⁰ Lastly, OMAEG's intervention will not unduly delay the proceeding as the audit report has not been filed. For these reasons, OMAEG has a direct, real, and substantial interest in the issues raised in this proceeding and is so situated that the disposition of this

⁹ See, e.g., *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a Decoupling Mechanism*, Case Nos. 19-2080-EL-ATA, et al.; *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO; *In the Matter of the Determination of the Existence of Significantly Excessive Earnings for 2019 Under the Electric Security Plan of Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company*, Case No. 20-1034-EL-UNC.

¹⁰ See, e.g., *In the Matter of Establishing the Nonbypassable Recovery Mechanism for Net Legacy Generation Resource Costs Pursuant to R.C. 4928.148*, Case No. 19-1808-EL-UNC; *In The Matter Of The Application Of Ohio Power Company For Approval Of Its Energy Efficiency And Peak Demand Reduction Program Portfolio Plan for 2017 Through 2020*, Case Nos. 17-1398-EL-POR, et al.; *In the Matter of the Application of Ohio Edison Company, The Cleveland Electric Illuminating Company and The Toledo Edison Company for Approval of a Decoupling Mechanism*, Case Nos. 19-2080-EL-ATA, et al.; *In the Matter of the Application of Ohio Power Company for Approval of a Decoupling Mechanism*, Case Nos. 20-1099-EL-ATA, et al.; *In the Matter of Establishing the Clean Air Fund Rider Pursuant to R.C. 3706.46*, Case No. 20-1143-EL-UNC; *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-EL-UNC.

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

Because OMAEG satisfies the criteria set forth in R.C. 4903.221 and Ohio Adm. Code 4901-1-11, Ohio law authorizes OMAEG to intervene in this proceeding with the full powers and rights granted by the Commission to intervening parties. OMAEG respectfully requests that the Commission grant this timely motion for leave to intervene and make OMAEG a full party of record.

Respectfully submitted,

/s/ Kimberly W. Bojko
Kimberly W. Bojko (0069402)
Thomas V. Donadio (0100027)
Carpenter Lipps & Leland LLP
280 North High Street, Suite 1300
Columbus, Ohio 43215
Telephone: (614) 365-4100
Bojko@carpenterlipps.com
Donadio@carpenterlipps.com
(willing to accept service by email)

*Counsel for the Ohio Manufacturers' Association
Energy Group*

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned hereby certifies that a copy of the foregoing document also is being served via electronic mail on March 19, 2021 upon the parties listed below.

/s/ Kimberly W. Bojko
Kimberly W. Bojko

bknipe@firstenergycorp.com
Werner.Margard@OhioAttorneyGeneral.gov
Thomas.Lindgren@OhioAttorneyGeneral.gov

Attorney Examiners:
Megan.Addison@PUCO.Ohio.gov
Gregory.Price@PUCO.Ohio.gov
Jacky.StJohn@PUCO.Ohio.gov

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

3/19/2021 5:04:33 PM

in

Case No(s). 20-1629-EL-RDR

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