

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

**In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo) Case No. 19-361-EL-RDR
Edison Company For An Extension of)
The Distribution Modernization Rider.)
)**

**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY’S
MOTION FOR EXTENSION OF TIME**

Pursuant to Ohio Administrative Code 4901-1-13, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, the “Companies”) move the Commission for an extension of the three-day period for the Companies to file a motion for protective order in response to Staff’s notice of intent to disclose confidential records pursuant to a public records request. Case No. 17-2474-EL-RDR, Entry, at ¶ 12 (Jan. 24, 2018) (“Paragraph 12”). The Companies received notice that the Office of the Ohio Consumers’ Counsel (“OCC”), under Ohio R.C. 149.43, *et seq.*, is seeking public records in the possession of the Public Utilities Commission of Ohio “relating to the mid-term and final audit reports produced by Oxford Advisors, LLC,” in Case No. 17-2474-EL-RDR.

Under Paragraph 12, Staff or the monitor may disclose the responsive documents unless the Commission receives a request for a protective order within a three-day period. For good cause shown, and as more fully explained in the accompanying memorandum, the Companies seek an extension of that three-day period to review the documents responsive to the request—potentially obviating the need for a protective order. The Companies therefore request that they have until **Friday, May 21** to file a request for a protective order, to the extent one is necessary after the Companies’ review of the documents.

Dated: May 14, 2021

Respectfully submitted,

/s/ Ryan A. Doringo

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**MEMORANDUM IN SUPPORT OF
OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON COMPANY'S
MOTION FOR EXTENSION OF TIME**

The Companies received notice that the Office of the Ohio Consumers' Counsel ("OCC") filed a public records request, seeking public records in the possession of the Public Utilities Commission of Ohio "relating to the mid-term and final audit reports produced by Oxford Advisors, LLC, in Case No. 17-2474-EL-RDR."¹ Paragraph 12 of the Commission Entry selecting Oxford Advisors sets forth the process for addressing such requests. *See* Case No. 17-2474-EL-RDR, Entry, at ¶ 12 (Jan. 24, 2021) ("Paragraph 12"). Specifically, prior to the release of any responsive documents marked confidential, the Companies are afforded three days' notice of Staff's intent to disclose those documents. "Three days after such notice, Staff or the monitor may disclose or otherwise make use of such documents or information for any lawful purpose, unless the Commission receives a request for a protective order pertaining to such documents or information within the three-day notice period." *Id.*

Under OAC 4901-1-13, the Companies respectfully request an extension of the three-day period to review the responsive documents to OCC's request and to request a protective order—

¹ The Companies note that there was no "final audit report[]" produced by Oxford Advisors."

should one be needed at all. For three primary reasons, good cause exists to extend the time-period to file a request for a protective order to **Friday, May 21**.

First, the notice period in Paragraph 12 ensures that the Companies have an opportunity to review and confirm that no responsive documents are exempt from disclosure under R.C. 149.43(A)(1). However, circumstances are preventing the Companies from having the opportunity to conduct the review intended by Paragraph 12. The Companies received notice of the public records request on May 3, at a time of significant ongoing demands on the Companies' counsel. The Companies' counsel received a folder with approximately 260 files, but had difficulty accessing the files. Further, and as explained below, as counsel gained access to the files, counsel recognized that some of the files include documents being afforded confidential treatment in other Commission proceedings, necessitating careful review. Paragraph 12 grants Staff some discretion with the three-day notice period: Staff "*may disclose* or otherwise make use of such documents ... unless the Commission receives a request for a protective order...." Entry, at ¶ 12 (emphasis added). This flexibility is consistent with Ohio R.C. 149.43(B)(7)(a), under which the release of the responsive documents need only occur within a "reasonable period of time." Accordingly, this motion seeks a modest extension to May 21 to permit further review, as intended by Paragraph 12, while allowing for disclosure, to the extent permitted, within a "reasonable period of time."

Second, the extension may well serve to eliminate any disputes over the release of documents, given the Companies' review may obviate the need for a protective order. Shortly before the Companies received notice of this public records request, the Companies produced over 200 documents responsive to one of OCC's requests for discovery in Case No. 17-2474-EL-RDR. On initial review, there appears to be an overlap of the documents already produced in that proceeding and the documents responsive to this public records request. Thus, the Companies

simply request additional time to determine the extent of the overlap and to confirm that there are no documents that fall within one of the exempted categories listed in R.C. 149.43(A)(1)—including whether any of the documents contain trade secrets protected under R.C. 1333.61, *et seq.*

Third, good cause also exists for additional review time due to the demands on the Companies' counsel. Given the four ongoing investigative proceedings, including Case No. 17-2474-EL-RDR, a short extension will permit the Companies to determine if a request for a protective order is necessary. If so, the Companies will promptly file such a request by May 21. This will allow for the release of the remainder of the documents (or all of the documents) within a reasonable time, as contemplated by R.C. 149.43 and Paragraph 12. Accordingly, the short extension will not prejudice OCC.

For these reasons, the Companies respectfully request that the Commission grant this Motion for an Extension of Time.

Dated: May 14, 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 filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on May 14, 2021. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ Ryan A. Doringo

Attorney for the Companies

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Case No(s). 19-0361-EL-RDR

Summary: Motion for Extension of Time electronically filed by Ryan A Doringo on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company