

**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. 21-484-EL-ATA
Edison Company for Approval of Tariff)
Amendments.)

**INITIAL COMMENTS
BY
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

FirstEnergy has filed to refund its decoupling charges (which its former CEO referred to as “recession-proofing” charges) that it collected from two million consumers per tainted House Bill 6. The legislature repealed the charge and required refunds per H.B. 128. And others, including OCC, had sought refunds for this consumer rip-off based on other grounds.

The law (House Bill 128, taking effect June 30, 2021¹) requires FirstEnergy to “promptly” refund this charge to consumers. FirstEnergy is proposing to refund the money, about \$26 million plus interest, over a 12-month period.² FirstEnergy explained its calculations in discussions with OCC. But, as we describe below, FirstEnergy’s timeline is not prompt for this circumstance. The PUCO should require FirstEnergy to refund the money to consumers in one payment (bill credit) at the earliest possible time. A prompt refund to consumers of all such funds is required under the law and is in the public interests.

¹ House Bill 128 (134th Gen. Assembly), Section 5, available at https://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_134/bills/hb128/EN/05/hb128_05_EN?format=pdf.

² Application at 1 (Apr. 22, 2021).

I. RECOMMENDATIONS

- A. The PUCO should authorize FirstEnergy’s H.B. 6 refund to be made promptly (meaning as soon as possible) to minimize delay in disgorging the money from FirstEnergy (where the money does not belong) to consumers (where the money does belong).**

In its Application, FirstEnergy proposed that it begin returning money to customers effective June 1, 2021.³ Given the PUCO’s established procedural schedule, FirstEnergy’s application will not be approved by June 1, 2021. The PUCO has set a procedural schedule allowing parties to file comments by June 7, 2021 and reply comments by June 17, 2021.⁴ To ensure a prompt return of this money to consumers, the PUCO should rule in this case soon thereafter.

- B. All \$26 million (plus interest) should be returned to consumers in a single bill credit so that consumers receive their money as soon as possible.**

FirstEnergy proposes returning \$26 million (plus interest) to customers over a period of 12 months.⁵ Consumers should not be made to wait 12 months to get all their money back. Instead, the entire amount should be credited to customers in a single bill credit (in July 2021). This is better for consumers because it gets them their money much more quickly—money that FirstEnergy began collecting from them more than a year ago in February 2020.

Further, an immediate refund of the entire amount (plus interest) would be consistent with recently passed House Bill 128. Under House Bill 128 (which goes into effect June 30, 2021), all amounts collected by a utility for decoupling under House Bill 6 “shall be *promptly* refunded to

³ Application at 1 (Apr. 22, 2021).

⁴ Entry ¶ 21 (May 17, 2021).

⁵ Application at 1.

customers.”⁶ “Promptly” for consumers should mean without delay or immediately, not over a period of 12 months. FirstEnergy should credit customers the full amount in a single billing cycle.

II. CONCLUSION

The PUCO should protect consumers by adopting OCC’s recommendations for refunds of the recession-proofing (decoupling) charges by FirstEnergy under tainted H.B. 6. Next we hope the legislature will soon repeal (through S.B. 117) the major remaining H.B. 6 subsidy—the consumer bailout of the AEP, Duke and AES/DP&L OVEC coal plants that is supporting both increased electric bills and air pollution.

Respectfully submitted,

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⁶ House Bill 128 (134th Gen. Assembly), Section 5, available at https://search-prod.lis.state.oh.us/solarapi/v1/general_assembly_134/bills/hb128/EN/05/hb128_05_EN?format=pdf (emphasis added).

CERTIFICATE OF SERVICE

I hereby certify that a copy of these Comments was served on the persons stated below via electronic transmission, this 7th day of June 2021.

/s/ Christopher Healey _____
Christopher Healey
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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Summary: Comments Initial Comments by Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Healey, Christopher Mr.