

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio )  
Edison Company, The Cleveland Electric ) Case No. 21-484-EL-ATA  
Illuminating Company, and The Toledo )  
Edison Company for Approval of Tariff )  
Amendments. )

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**REPLY COMMENTS  
OF  
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

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**I. INTRODUCTION**

On May 17, 2021, the Public Utilities Commission of Ohio (Commission) established deadlines for the filing of comments and reply comments regarding Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company's (collectively, FirstEnergy) Application to refund charges previously collected through the Am. Sub. House Bill 6 (H.B. 6) decoupling mechanism.<sup>1</sup> On June 7, 2021, the Ohio Manufacturers' Association Energy Group (OMAEG) and the Office of the Ohio Consumers' Counsel (OCC) submitted initial comments on the Application that advocated for a fair, transparent, and expeditious refund process.<sup>2</sup> Thereafter, the Commission Staff submitted a Staff Report, which recommended that the Commission approve FirstEnergy's Application, but expedite the refunds to customers over a three-month period in the amount and manner proposed in the Application, but with updated rates and interest accounting for a three-month recovery period.<sup>3</sup>

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<sup>1</sup> Entry at ¶ 23 (May 17, 2021).

<sup>2</sup> See OMAEG's Comments at 4-5 (June 7, 2021); OCC's Comments at 1-2 (June 7, 2021).

<sup>3</sup> Staff Review and Recommendation (Staff Report) (June 16, 2021).

OMAEG supports both OCC and the Commission Staff's recommendations and urges the Commission to return decoupling charges to customers expeditiously (as soon as practicable) rather than over the twelve-month period originally proposed by FirstEnergy. An expeditious refund comports with the letter and spirit of Am. Sub. House Bill 128 (H.B. 128), which becomes effective June 30, 2021, and will require the decoupling charges "to be promptly refunded to customers." Furthermore, as OCC acknowledged, H.B. 6, the enabling legislation of FirstEnergy's decoupling mechanism, and other mechanisms that continue to collect charges from customers, has been embroiled in a public corruption scandal. Accordingly, the Commission should continue to require full transparency from FirstEnergy in all proceedings that it oversees but especially in those that concern H.B. 6.

In accordance with the May 17, 2021 Entry in the above-captioned proceeding, OMAEG hereby submits its reply comments for the Commission's consideration.

## **II. COMMENTS**

### **A. The Commission Should Adopt OCC's Proposed Timeline for Refunding the H.B. 6 Decoupling Charges to Customers.**

FirstEnergy proposed to refund the decoupling charges that it collected from customers over a period of 12 months with interest.<sup>4</sup> In its initial comments, OCC opposed this proposed timeline and explained that customers would benefit from an immediate refund in a single bill credit.<sup>5</sup> The Commission Staff also endorsed an expedited refund process and rejected FirstEnergy's proposed timeline for refunding the decoupling charges.<sup>6</sup>

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<sup>4</sup> Application at 1 (April 22, 2021).

<sup>5</sup> OCC's Comments at 2-3 (June 7, 2021).

<sup>6</sup> Staff Report (June 16, 2021).

OMAEG agrees with OCC and the Commission Staff that customers are entitled to their refunds (plus interest) on an expedited basis and should not be made to wait any longer than necessary. H.B. 128, which will become effective in less than two weeks, will require that any charges collected pursuant to the H.B. 6 decoupling provision “be refunded *promptly*....”<sup>7</sup> As a creature of statute,<sup>8</sup> the Commission must adhere to the intent of the General Assembly as expressed through the text of H.B. 128. The meaning of “promptly” as used in H.B. 128 is unambiguous and directs the Commission to facilitate the refunding of customer charges “without delay, very quickly, or immediately.”<sup>9</sup> Thus, the Commission should follow the plain language of H.B. 128 and accept OCC’s recommendation to immediately refund the decoupling charges with interest in a single bill credit.

If for some reason the Commission deems that OCC’s recommendation is impracticable, then, alternatively, the Commission should adopt Staff’s recommendation to refund the charges plus interest over a three-month period. Either way, FirstEnergy’s proposed timeline should be rejected. Customers had no choice in determining when to pay the decoupling charges that were based on a tainted law and, correspondingly, FirstEnergy should not be given a choice in determining when to refund the unlawful decoupling charges that it collected from customers.

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<sup>7</sup> See House Bill 128 (134th Gen. Assembly), Section 5.

<sup>8</sup> The Supreme Court of Ohio has long held that the Commission “is a creature of the General Assembly and may exercise no jurisdiction beyond that conferred by statute.” *Tongren v. Pub. Util. Comm.*, 85 Ohio St.3d 87, 88, 706 N.E.2d 1255 (1999).

<sup>9</sup> “*Promptly*.” *Merriam-Webster.com Dictionary*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/promptly>. Accessed June 16, 2021

**B. The Commission Should Continue to Require Full Transparency from FirstEnergy in all Proceedings, Especially Those Concerning H.B. 6.**

In its comments, OCC discussed how H.B. 6 is tainted by public corruption and in turn so is FirstEnergy's decoupling mechanism and other existing H.B. 6 mechanisms, such as the Legacy Generation Resource Riders which continue to unjustifiably extract monies from customers.<sup>10</sup> OMAEG echoed these concerns in its comments.<sup>11</sup> Customers will continue to be harmed so long as they are required to pay *any* charges related to H.B. 6. Accordingly, the Commission should require full transparency from FirstEnergy in every proceeding but particularly in those that directly or indirectly involve H.B. 6.

**III. CONCLUSION**

OMAEG respectfully requests that the Commission approve FirstEnergy's Application to refund the H.B. 6 decoupling charges to customers with interest, subject to the recommendations set forth herein and in OMAEG's initial comments.

Respectfully submitted,

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<sup>10</sup> OCC's Comments at 1-3 (June 7, 2021).

<sup>11</sup> OMAEG's Comments at (June 7, 2021).

### **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 June 17, 2021 upon the parties listed below.

/s/ Kimberly W. Bojko  
Kimberly W. Bojko

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Summary: Reply Comments of The Ohio Manufacturers' Association Energy Group  
electronically filed by Mrs. Kimberly W. Bojko on behalf of OMA Energy Group