BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

| In the Matter of the Review of Ohio |) | |
|---|---|------------------------|
| Edison Company, The Cleveland Electric |) | |
| Illuminating Company, and The Toledo |) | Case No. 17-974-EL-UNC |
| Edison Company's Compliance with |) | |
| R.C. 4928.17 and Ohio Adm. Code |) | |
| Chapter 4901:1-37. |) | |

RESPONSE OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY TO THE JOINT INTERLOCUTORY APPEAL, REQUEST FOR CERTIFICATION, AND APPLICATION FOR REVIEW BY NORTHEAST OHIO PUBLIC ENERGY COUNCIL AND OFFICE OF THE OHIO CONSUMERS' COUNSEL

The Office of the Ohio Consumers' Counsel ("OCC") and the Northeast Ohio Public Energy Council ("NOPEC") jointly submitted a request for an interlocutory appeal, ultimately asking the Commission to reverse the August 4, 2021 Entry, which granted Commission Staff's August 3 request for an extension of the audit report deadline to September 13, 2021. While Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the "Companies") take no position on OCC and NOPEC's request, the Companies submit this response to correct unnecessary and inaccurate accusations in the joint submission.

OCC and NOPEC misleadingly attribute Staff's need for the August 3 extension request "to the [Companies'] delay in responding to Staff's or the auditor's data requests." However, the August 3 request explains that "Daymark and Staff now believe that subsequent events warrant

¹ Case No. 17-974-EL-UNC, Joint Interlocutory Appeal (August 9, 2021).

² In addition to the accusations described below, OCC and NOPEC insinuate that the Companies have been "charged with a federal crime" when in fact they have not. (*Id.* at 2).

³ Memorandum in Support ("Mem."), at 6.

granting additional time." ⁴ There is no reference to any delay as grounds for the current extension—contrary to OCC and NOPEC's characterization.

Based on the false premise that delay by the Companies necessitated Staff's August 3 request, OCC and NOPEC further allege that "[w]ith [the Companies'] discovery stall tactics unchecked, the [Companies] effectively are able to delay this proceeding indefinitely for the benefit of their affiliate, FirstEnergy Advisors." This accusation—that the Companies are employing "discovery stall tactics" for the benefit of a separate entity—is completely unfounded and unsupported.

In addition, OCC and NOPEC state it is "inexplicable" that the Companies were unable to enter into a contract with Marcum LLP. 7 To the extent OCC and NOPEC's uninformed speculation is intended to imply wrongdoing and delay on the part of the Companies, again, such accusations are simply untrue.

The Companies are committed to following Commission orders and cooperating with Staff and the auditor to respond to any requests. While the Companies take no position on OCC's and NOPEC's challenge to the Attorney Examiner's scheduling Entry, OCC and NOPEC's accusations that the Companies are using "delay tactics" to prolong this proceeding indefinitely for the benefit of an affiliate are unsupported by the facts.

⁴ Case No. 17-974-EL-UNC, Amended Motion for Extension of Time, Memorandum In Support, at 1 (August 3, 2021).

⁵ Mem. at 6-7 (referencing *In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors for Certification*, Case No. 20-103-EL-AGG ("*FirstEnergy Advisors*")).

⁶ Mem. at 3.

⁷ See Case No. 17-974-EL-UNC, Request Electronically Filed On Behalf of PUCO Staff (January 7, 2021).

Respectfully submitted,

Dated: August 16, 2021

/s/ Ryan A. Doringo

Michael R. Gladman (0059797) Margaret M. Dengler (0097819) Jones Day 325 John H. McConnell Blvd Suite 600

Columbus, Ohio 43215 Tel: (614) 469-3939 Fax: (614) 461-4198 mrgladman@jonesday.com mdengler@jonesday.com

Ryan A. Doringo (0091144) Jones Day North Point 901 Lakeside Avenue Cleveland, Ohio 44114 Tel: (216) 586-3939

Fax: (216) 579-0212 radoringo@jonesday.com

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 August 16, 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

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

8/16/2021 5:25:13 PM

in

Case No(s). 17-0974-EL-UNC

Summary: Response to Joint Interlocutory Appeal, Request for Certification to the Full Commission and Application for Review by Northeast Ohio Public Energy Council and Office of The Ohio Consumers' Counsel electronically filed by Ryan A Doringo on behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company and The Toledo Edison Company