



PUBLIC VERSION

Case No. 20-1629-EL-RDR

**Investigation into Ohio Ratepayer Funding of
FirstEnergy Corp.'s Renaming Cleveland Browns Stadium**

November 19, 2021

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EXECUTIVE SUMMARY

On September 29, 2021, the Public Utilities Commission of Ohio (PUCO) directed Blue Ridge Consulting Services, Inc. ("Blue Ridge") to expand the scope of its Rider DCR audit in Case No. 20-1629-EL-RDR to determine whether FirstEnergy Corp. recovered from Ohio ratepayers any costs related to the Stadium Naming Rights and Sponsorship Agreement ("Agreement") between FirstEnergy Corp. and the Cleveland Browns. Based on our review of the accounting records and responses to discovery requests, Blue Ridge found that the expenses related to the Cleveland Browns stadium naming rights were not recovered from Ohio ratepayers.

PURPOSE AND SCOPE OF EXPANDED SCOPE REVIEW

In Case No. 20-1629-EL-RDR, following the filing of Blue Ridge's Rider DCR audit and the expanded scope report that reviewed whether funds collected from ratepayers were used to pay specific vendors, questions were raised regarding whether the costs of the naming rights for FirstEnergy Stadium have been recovered from Ohio ratepayers. The Commission stated that institutional and promotional advertising does not provide a direct primary benefit to customers, and the costs of such advertising should not be recovered in rates. The Commission retained Blue Ridge to determine whether the Companies recovered from ratepayers the costs of the naming rights for FirstEnergy Stadium and to report those findings in a supplemental audit report in Case No. 20-1629-EL-RDR.

The expanded scope review had specific purpose based upon the Commission's Entry:

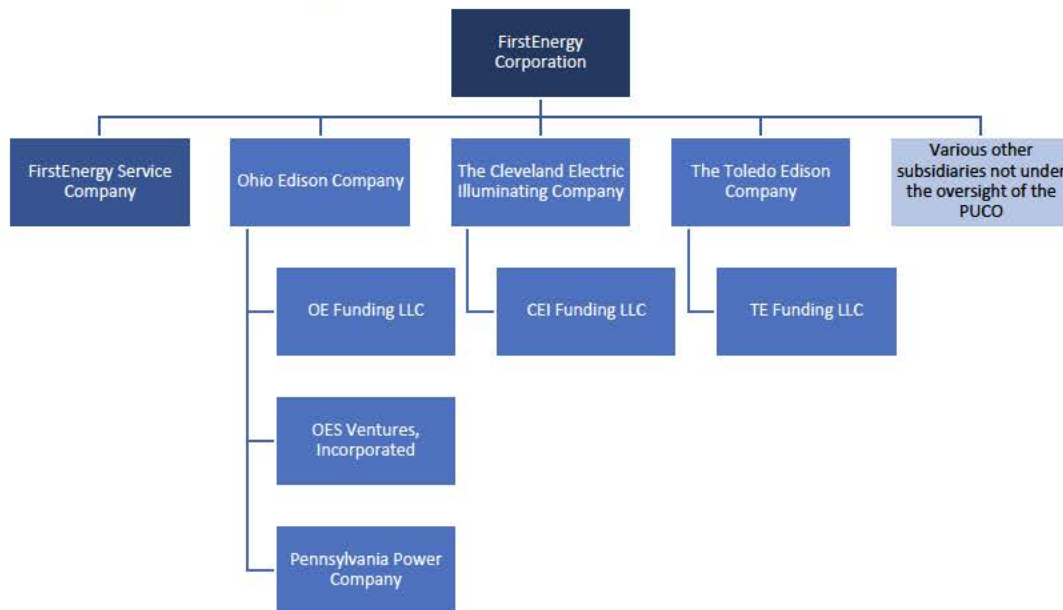
- To determine whether the costs of the naming rights for FirstEnergy Stadium have been recovered from ratepayers served by the Companies

FACTUAL FINDINGS AND CONCLUSION

FirstEnergy Corp. is a holding company with ownership interests in regulated and unregulated subsidiaries across multiple jurisdictions. Three of its distribution utilities—The Cleveland Electric Illuminating Company, Ohio Edison Company, and The Toledo Edison Company, collectively, "the Companies"—operate under the oversight of the PUCO. The oversight of the distribution companies notwithstanding, the PUCO does not regulate the parent holding company FirstEnergy Corp. per se.

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Figure 1: Abbreviated Organizational Chart ¹



The accounting records Blue Ridge reviewed showed that FirstEnergy Service Company disbursed all payments on behalf of FirstEnergy Corp. to the Cleveland Browns Football Co, LLC between the years 2013 and 2021 and recorded them as expenses of FirstEnergy Corp, not the Ohio Operating Companies.² The following table lists the payments made on behalf of FirstEnergy Corp. by year. **[BEGIN CONFIDENTIAL]**

¹ BRC CB-Set 2-INT-004.

² BRC CB-Set 1-INT-001 Confidential Attachments, BRC CB-Set 1-INT-002 Confidential Attachments, and BRC CB-Set 2-INT-003 Confidential Attachments.

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[REDACTED]

[REDACTED]

[REDACTED]

[END CONFIDENTIAL]

FirstEnergy Corp. is a public utility holding company, whose principal business is the holding, directly or indirectly, of all of the outstanding equity of its principal subsidiaries.³ FirstEnergy Corp. does not allocate or assign any expenses to its subsidiaries.⁴ Thus, Blue Ridge eliminated the possibility that the costs under review were indirectly transferred to the Companies and ultimately recovered from Ohio ratepayers.

While the primary basis for Blue Ridge's determination was the maintaining of separate financial books by the parent from the subsidiaries (thus, walling off expenses), other factors also supported our conclusion. First, the Companies' base distribution rates were last adjusted in Case No. 07-551-EL-AIR using financial data for the twelve months test year ended February 29, 2008.⁵ This measurement period for establishing the cost of service reflected in the current base tariff predates the Agreement, which was entered into on January 9, 2013.⁶

Second, with respect to non-base distribution tariffs that have been adjusted since the Agreement was consummated, the alternative cost recovery mechanisms are narrow and specific in scope. As shown in the table below, the various riders include recovery of specific expenses, including advertising to the extent that such costs would be deemed prudent and necessary for serving customers. These riders would not include recovery of expenses related to sponsorships, advertising, or marketing like those incurred in the Stadium Naming Rights and Sponsorship Agreement.

³ SEC Form 10K, 12/31/17, page 1.

⁴ BRC CB-Set 2-INT-002.

⁵ BRC CB-Set 1-INT-008.

⁶ BRC CB-Set 1-INT-001.

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Table 3: O&M Costs Recovered from Ohio Ratepayers Through Non-Base Distribution Tariffs⁷

Rider	Description of O&M Costs
AER	Costs to procure renewable energy credits and associated consultant/legal/audit administrative expenses
AMI	Costs related to the Companies' approved CEI Smart Grid Pilot and OH Grid Mod I program
DSE	Costs related to the Companies' approved energy efficiency and demand response programs or other energy efficiency-related commitments
DUN	Distribution-related uncollectible expense
GEN/GCR	Costs to procure Standard Service Offer generation service and associated auction consultant and administrative expenses
NDU	Non-distribution uncollectible expense
NMB	Non-market based costs incurred from PJM
PIR	Costs to administer the PIR securitization bonds
PUR	Uncollectible expense associated with PIPP customers

In addition, while the Companies' Pole Attachment rates are not designed to directly recovery any O&M expenses, certain O&M expense are included in the approved formula rate calculations to set the annual Pole Attachment rates.⁸ The Companies have no rates and/or tariffs that include recovery of any advertising or marketing charges under the Stadium Naming Rights and Sponsorship Agreement.⁹

Finally, the FERC Uniform System of Accounts (CFR 18), which governs the classification of general ledger accounts applicable to utilities, classifies institutional and promotional advertising below the line. In other words, the costs under review would have been designated non-recoverable from ratepayers had they been expensed on the Companies' books and not FirstEnergy Corp.'s.

In conclusion, based on our review of the accounting records and responses to discovery requests, Blue Ridge found that the expenses related to the Cleveland Browns stadium naming rights were not recovered from Ohio ratepayers.

⁷ BRC CB-Set 1-INT-006.

⁸ BRC CB-Set 1-INT-006.

⁹ BRC-CB-Set 1-INT-007.

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EXPANDED SCOPE APPENDICES

- Expanded Appendix-A: Data Requests

EXPANDED APPENDIX-A: DATA REQUESTS

The following is a list of the PUCO Staff's information requests that resulted in the expanded scope.

- 1.1. Naming Rights Agreement: Provide a copy of the contract/agreement and any amendments FirstEnergy signed related to the naming rights for the Cleveland Browns stadium.
[CONFIDENTIAL RESPONSE]
- 1.2. Naming Right Payments: [CONFIDENTIAL RESPONSE]
 - a. Provide a list of all payments made related to the naming rights of the Cleveland Browns Stadium including the FirstEnergy entity that made the payment, date of payment, amount, who the payment was made to, and the FERC account charged.
 - b. Provide a copy of the invoice(s) for any payments made related to the naming rights of the Cleveland Browns Stadium.
- 1.3. Other Agreements:
 - a. Beyond the naming rights for the Cleveland Browns stadium, does FirstEnergy have any other agreements associated with the Cleveland Browns or related party?
 - b. If so, provide the contract/agreement(s) and any amendments.
 - c. Provide a list of all payments made including the FirstEnergy entity that made the payment, date of payment, amount, who the payment was made to, the purpose of the payment, and the FERC account charged.
 - d. Provide a copy of the invoices.
 - e. Were any of these (referring to payments other than naming rights) passed through to a FirstEnergy Ohio operating company as either a direct charge or allocation?
 - f. Were any of these payments included in the development of any rate or charge passed through to Ohio ratepayers?
 - g. If so, please provide details.
- 1.4. Reimbursements or Other Benefits: Did the Company receive any payments from others, reimbursements from the Cleveland Browns, either monetary or otherwise, or any other non-monetary benefits associated with the stadium naming rights? If so, please provide the detail that includes who the benefit or payments went to, when, the amount or equivalent value and description. Examples might include Box Seats, Luxury Boxes or free tickets.
- 1.5. Naming Right Payments:
 - a. Were any payments related to the naming rights of the Cleveland Browns Stadium included in the development of any rate or charge passed through to Ohio ratepayers?
 - b. If the answer is yes, please provide details.
 - c. If no, please explain how the Company can be confident that none of those payments were included in any rate charged to an Ohio ratepayer?

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- 1.6. O&M Expenses Recovery: For each FirstEnergy Ohio operating company regulated by the PUCO, for the period 2013 through 2021,
- a. Provide a list of any rate/tariffs that includes recovery of O&M expenses that is either direct charged or allocated.
 - b. Provide a description of the O&M expenses and indicate whether it is a direct charge or allocation.
 - c. If the O&M expenses were allocations, provide the allocation percentages for each expense that total 100%.
- 1.7. Rates/Tariffs: For each FirstEnergy Ohio operating company regulated by the PUCO, for the period 2013 through 2021,
- a. Provide a list of all rates and/or tariffs that include recovery of any advertising or marketing charges either direct charge or allocated?
 - b. Provide a detailed list of the advertising or marketing included in the rate and/or tariff for 2013 through 2021.
 - c. Provide the amount included within the rate and/or tariff.
- 1.8. Last Base Rate Case: For each FirstEnergy Ohio operating company regulated by the PUCO,
- a. Provide a copy of the Opinion and Order approving the base rate case revenue requirements.
 - b. If not included within the Opinion and Order, provide the approved revenue requirements schedules with FERC account numbers.
- 1.9. Last Base Rate Case: For each FirstEnergy Ohio operating company regulated by the PUCO,
- a. Provide the amount of advertising or marketing expense approved in base rates in the most recent base rate case.
 - b. Provide a supporting document listing the payee, date, and amount of the advertising or marketing expense reflected in the test year and approved by the PUCO.
- 2.1. Naming Rights Expense: Follow-up to BRC CB-Set 1-INT-002. For each payment reported, provide documentation for the expense side of the journal entry. [CONFIDENTIAL RESPONSE]
- 2.2. Inter-Company Charges: Follow-up to BRC CB-Set 1-INT-005(c). The response states, "all payments made were expensed to FirstEnergy Corp. and not the Companies." Does FirstEnergy Corp. (SAP Code 1000) allocate or assign any of its expenses to the subsidiaries? If yes, explain the types of expense, as well as the method for accumulating and charging the subsidiaries.
- 2.3. FirstEnergy Corp. Financial Statements: Provide the detailed income statements and balance sheets for FirstEnergy Corp. (SAP Code 1000) for the annual periods between 2012 and 2020. Cite the financial statement line items under which expenses and payments associated with the Cleveland Browns agreements are classified. [CONFIDENTIAL RESPONSE]
- 2.4. FirstEnergy Corp. Legal Entity Chart: Provide an organization chart showing the relationship among the Legal Entities under FirstEnergy Corp.

**This foregoing document was electronically filed with the Public Utilities
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in

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Summary: Report Case 20-1629-EL-RDR Investigation into Ohio Ratepayer
Funding of Stadium Naming Rights FINAL PUBLIC VERSION_Redacted
electronically filed by Mrs. Tracy M Klaes on behalf of Blue Ridge Consulting
Services, Inc