

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the)	
Political and Charitable Spending by)	
Ohio Edison Company, The Cleveland)	Case No. 20-1502-EL-UNC
Electric Illuminating Company, and The)	
Toledo Edison Company.)	

**REPLY COMMENTS OF OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC
ILLUMINATING COMPANY, AND THE TOLEDO EDISON COMPANY**

I. INTRODUCTION

Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the “Companies”) appreciate the comments¹ provided by the Office of the Ohio Consumers’ Counsel (“OCC”), the Ohio Manufacturers’ Association Energy Group (“OMAEG”), and the Citizens’ Utility Board of Ohio (“CUB Ohio”, with OCC and OMAEG, the “Intervenors”). The Companies have sufficiently responded to the Commission’s show cause directive and do not dispute that certain political and charitable spending relating to H.B. 6 was charged to their pole attachment customers. That is a fact the Companies promptly disclosed. And as they have done, the Companies will continue to proactively address the Commission’s concerns surrounding House Bill 6, as necessary. But all this does not mean that either the Companies or the Commission should accept without scrutiny Intervenors’ comments, many of which mischaracterize the record and some of which demand further proceedings far beyond the scope of this case.

¹ Comments for Protection of FirstEnergy Utility Consumers by the Office of the Ohio Consumers’ Counsel (Nov. 29, 2021) (“OCC Comments at ___.”); Comments of the Ohio Manufacturers’ Association Energy Group (Nov. 29, 2021) (“OMAEG Comments at ___.”); Initial Comments by the Citizens’ Utility Board of Ohio (Nov. 29, 2021) (“CUB Ohio Comments at ___.”).

The Companies therefore object to Intervenor’s assertions that the Companies’ show cause response was insufficient. And the Companies emphatically reject the misrepresentation concerning the conduct of their affiant brought by OCC, which falsely claims that the affiant improperly altered records. Moreover, the Companies respectfully submit that the Commission should resist Intervenor’s invitations to convert this proceeding into an open-ended, quasi-criminal investigation, ignoring the limits on the Commission’s statutory authority and encroaching on ground occupied by other regulators.

To foster trust and transparency, the Companies do recognize that additional process, including an audit or a hearing, may be necessary. And the Companies do not oppose the Commission’s efforts in that regard. The Companies respectfully ask, however, that those efforts be tailored to the confines of Ohio statute and consistent with the Commission’s careful, fact-based approach to date.

II. REPLY TO INTERVENOR COMMENTS

A. Intervenor’s Criticisms of the Companies’ Show Cause Response are Without Merit and Their Requests to Expand This Proceeding are Largely Improper.

On September 15, 2020, the Commission directed the Companies to demonstrate by September 30 that “the costs of any political or charitable spending in support of Am. Sub. H.B. 6, or the subsequent referendum effort, were not included, directly or indirectly, in any rates or charges paid by ratepayers in this state.”² Since then, the Companies have worked cooperatively with the Commission and Intervenor to review H.B. 6-related political and charitable spending allocated to the Companies, supplementing both their show cause response and their discovery responses where necessary as new facts emerged. The Companies do not dispute that certain

² Case No. 20-1502-EL-UNC, Entry (Sept. 15, 2020), at ¶ 5.

H.B. 6-related political spending resulted in a \$14,534 impact to pole attachment rates.³ Indeed, the Companies self-disclosed that fact in their supplemental response to the show cause directive. And the Companies remain committed to proactively working with the Commission and with the parties.

But some Intervenor comments here encourage an unending and open-ended Commission investigation into all aspects of FirstEnergy Corp.’s political activity that goes far beyond the scope of this proceeding and, in some instances, the scope of the Commission’s statutory authority. In support of their demands, certain Intervenor mischaracterize the Commission’s show cause directive and the Companies’ response to it.⁴ And OCC blatantly misrepresents the work performed by the Companies’ affiant, making the outrageous and unsupported claim that he “changed the accounting records” relating to certain payments.⁵ For these reasons and those explained further below, the Companies object to certain Intervenor proposals and respectfully request that the Commission continue with its deliberate and careful approach adopted in this proceeding.

1. The Companies Adequately Responded to the Commission’s Show Cause Directive.

In its comments, OCC repeats the arguments from its pending motion for an independent audit and investigation of the Companies’ response to the Commission’s show cause directive,

³ See Case No. 20-1629-EL-RDR, Rider DCR Expanded Scope Audit Report (Aug. 3, 2021) (“Expanded Scope Audit Report”), at 18-23, 27, 29.

⁴ OMAEG, for instance, claims that the “whole point” of the show cause directive was for the Companies to prove that “monies collected through their rates or riders” were not later transferred to political or charitable organizations. OMAEG Comments at 12-13. But that is not what the Commission’s show cause directive said. Instead, the Commission’s directive focused on rates or charges *paid by ratepayers in this state*.

⁵ OCC Comments at 11.

contending that the Companies' response was "inadequate."⁶ OMAEG strikes a similar chord.⁷ Both parties are off base.

In the fifteen days between the Commission's directive and the Companies' response, the Companies conducted a thorough review of the processes for accounting for political or charitable spending and an investigation into whether such spending impacted rates. That review also assessed whether spending related to entities publicly tied to the Department of Justice's ("DOJ") criminal investigation, namely Generation Now and Hardworking Ohioans, had any rate impact. At deposition, the Companies' affiant summarized his work this way:

The approach for the affidavit was conceptual and to review the Companies' calculations of their rates, riders, and charges compared to the accounts in which the costs of political and charitable spending are to be recorded. [I] [c]oncluded based on that conceptual review there shouldn't be [any] costs of political or charitable spending that [are] impacting customer rates. In the course of my review, I was made aware of these [Generation Now and Hardworking Ohioans] payments that we were discussing yesterday that required further review. Upon further review [I] determined there was no conclusion reached that I was aware of that those costs were in support of House Bill 6 or that they had any impact on customer rates. And so the review of those payments did not impact the conclusions in my affidavit.⁸

Both OCC and OMAEG criticize the "conceptual" nature of the review.⁹ But the "conceptual" issue referred to is this: the costs of political or charitable spending—whether related to H.B. 6 or otherwise—should not impact customer rates given how the Companies' base rates, riders, and other charges are calculated. That is a fact not reasonably subject to dispute. Further, when the Commission issued its directive in September 2020, the allegations of DOJ's complaint remained under investigation both by the federal government and by FirstEnergy Corp., through

⁶ OCC Comments at 9-12, 14, 17.

⁷ See OMAEG Comments at 11, 17 (claiming the Companies' response was deficient and taking issue with the nature of the review of the Companies' affiant).

⁸ Ex. B, Deposition of Santino Fanelli (Mar. 10, 2021), at 205:15–207:6.

⁹ See OCC Comments at 10; OMAEG Comments at 11.

its own internal investigation. Given the information then available, the Companies could not opine on the purpose of payments made by FirstEnergy Corp.—that is, whether any given payments were intended as political or charitable spending to support H.B. 6. So, by necessity, the Companies turned to a conceptual review that examined how the Companies accounted for political and charitable spending costs, *regardless of the purpose of the payments*. And when the Companies learned that payments for political or charitable spending had been misallocated, they investigated those further.¹⁰

Moreover, contrary to OMAEG’s accusation that the Companies conducted no independent analysis to reach their conclusions,¹¹ the Companies conducted a thorough review to arrive at the conclusion that political and charitable spending costs should not be included in rates paid by their customers. OMAEG and OCC heard lengthy testimony over the course of two days about the detailed process in which the Companies engaged. The Companies reviewed a breakdown of political and charitable spending costs incurred by them, as well as a breakdown of the accounts that were used to calculate the Companies’ rider mechanisms.¹² In addition to a review of costs allocated to FERC accounts 426.1 and 426.4, the Companies also reviewed accounting information concerning payments to Generation Now and Hardworking Ohioans, where portions of those payments were allocated to the Companies.¹³ The Companies’ affiant also inquired as to whether the Companies incurred any other potential costs for H.B. 6-related political and charitable spending allocated by FirstEnergy Service Company.¹⁴ The review supporting the

¹⁰ See *infra*, at 7-9.

¹¹ See OMAEG Comments 6, 11.

¹² Ex. A, Deposition of Santino Fanelli (Mar. 9, 2021), at 124:3-16.

¹³ *Id.* at 131:14–132:7, 150:4–151:8; 164:12–165:7; 166:6-18.

¹⁴ *Id.* at 166:6-18.

Companies' Affidavit was not limited to any particular period of time.¹⁵ And the Companies revisited and confirmed the Affidavit's conclusions upon learning of improperly classified or misallocated transactions publicly disclosed by FirstEnergy Corp. in February 2021.¹⁶

In the course of this work, the Companies investigated the potential rate impact of certain political and charitable spending on their rates and riders. For example, when asked about the capitalized portions of Generation Now costs allocated to the Companies, the Companies' affiant explained he reviewed whether those costs had any impact on, among other riders, Rider DMR, Rider DSE, Rider DCR, and Rider AMI and concluded that they did not.¹⁷

The Companies' response to the show cause directive was, in sum, the product of a detailed process. Some of the conclusions reached by the Companies in that review—namely that the costs incurred by the Companies related to Generation Now and Hardworking Ohioans did not impact customers' rates—have since been confirmed by an independent audit in another proceeding.¹⁸ Further, the effort has been ongoing. When the Companies learned through the July 20, 2021 Deferred Prosecution Agreement between the Companies' parent FirstEnergy Corp. and the U.S. Attorney's Office for the Southern District of Ohio ("DPA") that a \$4.3 million payment by FirstEnergy Corp. to Sustainability Funding Alliance ("SFA") in part constituted political spending in support of H.B. 6, they promptly moved to supplement their response to the show cause entry to disclose the impact of this payment on pole attachment rates.¹⁹ The Companies'

¹⁵ Ex. B at 205:15–206:5.

¹⁶ Ex. A at 171:19–172:7.

¹⁷ Ex. B at 211:24–215:13 (discussing Rider DMR, Rider DSE, and Rider DCR), 218:24–219:15 (discussing Rider AMI).

¹⁸ See Expanded Scope Audit Report at 18–23, 27, 29.

¹⁹ Case No. 20-1502-EL-UNC, Companies' Motion For Leave To File a Supplemental Response To the September 15, 2020 Show Cause Entry (Aug. 6, 2021).

calculations of the impact of that payment on pole attachment rates have also been independently reviewed by an auditor.²⁰

As it stands, the parties took advantage of a more than ample opportunity to take discovery on the Companies' response, including a two-day deposition. The Companies' review and conclusions have been explained at length, and the Companies have acted promptly to review and, if necessary, supplement their conclusions as new information has come to light. OCC's and OMAEG's criticisms of the Companies' response are therefore misplaced, and OCC's request for an independent investigation into the Companies' response should be rejected.

2. OCC's Claim that the Companies' Affiant "Changed" Accounting Record is False.

One comment by OCC warrants a separate response. In its request for an investigation of the Companies' show cause response, OCC misrepresents that the Companies' affiant "changed the accounting records to remove the charges" associated with Generation Now.²¹ OCC cites no specific testimony to support this accusation, instead pointing to a swath of pages from a transcript that it does not even attach. Nor could it as there is not a shred of testimony in that transcript to support OCC's claim.

In truth, the Companies' affiant testified—in response to OCC's questions no less—that in the course of his work he "learned of costs originally recorded as A&G expense, some of which was capitalized. Those costs were later determined to be for political or charitable spending and so there were accounting adjustments made to reclassify them to the appropriate accounts below

²⁰ Expanded Scope Audit Report at 28-29.

²¹ OCC Comments at 11. OCC makes the same false statement in its Reply in Support of its Motion for an Auditor. Case No. 20-1502-EL-UNC, OCC Reply Memorandum in Support of Motion for an Independent Auditor (Nov. 19, 2021) at 13.

the line.”²² He later reiterated the point, explaining that the Generation Now costs “were determined to have been misallocated, and so accounting entries were made to reallocate or reclassify them in what were determined to be the appropriate accounts.”²³ In other words, the accounting entries for certain Generation Now payments were *corrected* by being reclassified to the appropriate below-the-line accounts. Moreover, the Companies’ affiant explained that the costs associated with those misallocated payments “did not have any impact on customer rates.”²⁴ Beyond this, OCC knows that the Companies’ affiant—who is not part of FirstEnergy Service Company’s Accounting group²⁵—did not reclassify these costs. Indeed, when asked specifically whether he “changed the accounting classification between September 5, 2020, and September 30, 2020,” the Companies’ affiant directly answered, “**I didn’t change it.**”²⁶ And despite repeated attempts from OCC to elicit an admission that “you” reclassified the charges, the affiant explained, “I am not involved in that.”²⁷

This testimony makes clear that OCC has falsely claimed that the Companies’ affiant “changed” accounting records for some nefarious purpose.²⁸ OCC’s misrepresentation is

²² Ex. A at 129:3-9.

²³ Ex. B at 269:3-270:24.

²⁴ Ex. A at 137:6-23.

²⁵ Ex. A at 113:17-21.

²⁶ Ex. A at 136:4-7.

²⁷ Ex. A at 146:16-147:10-13.

²⁸ OCC’s statement that certain Generation Now charges were “not disclose[d]” in the Companies’ initial response to the Commission’s show cause directive also misses the mark. OCC Comments at 11. The Commission ordered the Companies to show cause that political or charitable spending costs in support of H.B. 6 were not included in rates or charges “*paid by ratepayers* in this state.” Case No. 20-1502-EL-UNC, Entry (Sept. 15, 2020), at ¶ 5. The costs of the Generation Now payments targeted by OCC were never included in any charges paid by the Companies’ ratepayers, which an auditor in a separate proceeding has confirmed. See Expanded Scope Audit Report at 18-23, 27, 29.

outrageous and reckless, particularly in this closely watched proceeding where filings often find their way to comment by various media sources.

3. Intervenor Assertions of a Lack of Transparency in This Case are Without Merit.

Similarly refuted by the record is OMAEG's claim that the Companies have not been "cooperative and transparent" in this case, which it says requires the Commission to "expand the proceeding" in order to "force the [Companies] to participate in a complete and thorough discovery process."²⁹ In support of this misplaced argument, OMAEG first asserts that the Companies "oppose[d] the intervention of several stakeholders."³⁰ But nearly a year ago the Companies withdrew any objections to intervention motions and publicly represented that they will not oppose future motions to intervene.³¹ OMAEG also points to various motions to compel opposed by the Companies in this matter.³² Setting aside that OMAEG filed no such motion, the Companies, like every other party, have the right to rely on the limitations placed on discovery by the Commission's rules and privilege doctrines. But more fundamentally, any insinuation that the Intervenor has been denied ample discovery rights is unsupportable. The Companies have responded to hundreds of discovery requests in this case,³³ and along with their parent FirstEnergy Corp., have produced copious amounts of information. For instance, in connection with the resolution of an OCC subpoena to FirstEnergy Corp., OCC and OMAEG have received more than 275,000 documents

²⁹ OMAEG Comments at 21-22.

³⁰ OMAEG Comments at 20.

³¹ Case No. 20-1502-EL-UNC, Hr'g Tr. at 40:22-41:6 (Jan. 7, 2021) ("MR. GLADMAN: Your Honor, can I – one final thing that maybe makes your job and life a little bit easier. On the motions to intervene, I know that prior to my involvement the Companies had opposed I don't know if it was all, most if not all of them. I have been authorized by the Company to withdraw the objections and the oppositions to those intervention motions in light of the things that have happened since that time, so we would not oppose those interventions.").

³² OMAEG Comments at 21.

³³ Indeed, OCC and OMAEG together have served well over 500 written discovery requests (including sub-parts) on the Companies in this case.

produced by FirstEnergy Corp. to other regulators, with more to be produced in the coming days and weeks. Moreover, OMAEG participated in—and indeed asked a number of questions during—the two-day deposition of the Companies’ affiant in March.

In light of the extensive discovery provided to the parties in this case (not to mention the Commission’s other HB 6-related proceedings), Intervenor demands for an expanded discovery process or review of the Companies’ response to the show cause directive fall flat. Whatever incremental discovery Intervenor seeks is privileged,³⁴ protected from disclosure,³⁵ or duplicative of discovery that has already occurred in this case.³⁶

4. Internal Labor Costs Are Outside the Scope of This Proceeding.

Some Intervenor suggests an expansion of this proceeding to review the costs of “internal services” and internal “labor expenses” in connection with HB 6.³⁷ These comments are

³⁴ OCC and OMAEG’s request that FirstEnergy Corp. produce a privileged internal investigation report should be denied. The Attorney Examiners have already ruled on this issue, correctly finding that the investigation report is protected. Case No. 17-974-EL-UNC, Entry, at ¶ 20 (Oct. 12, 2021); Case No. 20-1629-EL-UNC, Entry, at ¶ 16 (Oct. 12, 2021); *see also* Case Nos. 17-974-EL-UNC, 20-1629-EL-RDR, Memorandum Contra the Office of the Ohio Consumers’ Counsel’s Request for Interlocutory Appeal (Oct. 25, 2021). And similarly misplaced is OCC’s referenced motion seeking to supplement its interlocutory appeal on this issue with a proposed order from the Maryland Public Service Commissioner. *See* Case Nos. 17-974-EL-UNC, 20-1629-EL-RDR, FirstEnergy Corp. and FirstEnergy Service Company’s Memorandum Contra OCC Motion to Accept Statement of Additional Authority (Dec. 6, 2021).

³⁵ OCC also renews its request for “documents FirstEnergy produced associated with FERC’s audit of FirstEnergy’s political and charitable spending.” OCC Comments at 6. The Commission has already correctly ruled that FERC materials are confidential at this time—OCC’s arguments to the contrary are either misplaced or factually incorrect. *See generally*, Case No. 20-1502-EL-UNC, Hr’g Tr. (June 30, 2021); Aug. 31 Hr’g Tr.; *see also*, Case No. 20-1502-EL-UNC, Memorandum Contra the Office of the Ohio Consumers’ Counsel’s Request Interlocutory Appeal, Request for Certification to the PUCO Commissioners, and Application for Review (Sept. 13, 2021) at 6-14.

³⁶ OMAEG speculates that there could be other payments to “dark money” groups allocated to the Companies related to H.B. 6 because the Companies stated they were “not aware” of any such allocations in response to OMAEG’s interrogatories. OMAEG Comments at 14. While OMAEG may take issue with the Companies’ phrasing, the fact remains that the Companies fully and truthfully responded to OMAEG’s requests. Moreover, OMAEG points to nothing that would call the Companies’ responses into question, despite the voluminous discovery record in this and other H.B. 6-related proceedings.

³⁷ OCC Comments at 15; CUB Ohio Comments at 8.

misplaced. As an initial matter, the Attorney Examiners have already ruled that matters concerning labor and shared services employee expense are outside the scope of this case:

“Labor and shared service employee expenses and capital related to labor and shared employee expenses – shared service employees, should be addressed in the corporate separation investigation. So any question which is dealing with the external affairs group or government relations is best dealt with in the corporate separation case and will not be – there will be no discovery permitted for that here today. . . . Inside lobbyists, Mr. Pine, Mr. Dowling, again, if you have issues related to their allocation of their time, that’s left to the corporate separation case.”³⁸

Beyond this, current labor expense does not impact the Companies’ base distribution rates. CUB Ohio wrongly contends that “to the extent [shared services employees] expended hours in support of political activity related to H.B. 6,” customers may have paid for those costs in base distribution rates.³⁹ This assertion is simply at odds with how base rates are set. The Companies’ base rates were last set in Case No. 07-551-EL-AIR, *et al.*, based on a 12 month test year between March 2007 and February 2008. The labor costs recovered in the Companies’ current base rates therefore represent costs as they existed *during the test year*. Since the test year long predates any alleged H.B. 6 activity, current base rates do not, and could not, include labor expense associated with H.B. 6.

5. Intervenor Comments Concerning the Commission’s Former Chair.

The Intervenor also propose expanding the scope of this proceeding to cover political spending by FirstEnergy Corp. involving the Commission’s former Chair. The Companies certainly recognize the significant public interest in transparency around that issue. The Companies do note, however, that the facts surrounding FirstEnergy Corp.’s \$4.3 million payment

³⁸ Case No. 20-1502-EL-UNC, Hr’g Tr. at 10:15-11:5 (Mar. 25, 2021). Comments directed at alleged deficiencies with the Cost Allocation Manuals (“CAM”) or Rider DCR charges are likewise outside the bounds of this case. To the extent the Intervenor seeks to review the CAM, *see, e.g.*, OMAEG Comments at 13, or Rider DCR, *see, e.g.*, OCC Comments at 11, those comments should be addressed to the corporate separation and Rider DCR audit proceedings.

³⁹ CUB Ohio Comments at 8.

to SFA are well known and recounted at length in the DPA. As the DPA explains, that payment was made in January 2019 for the former Chair's benefit and in exchange for certain official action.⁴⁰ And when the Companies learned through the DPA that the \$4.3 million payment in part constituted political spending in support of H.B. 6, they promptly moved to supplement their response to the show cause entry to disclose the slight impact of this payment on pole attachment rates.⁴¹

The parties are therefore aware of the circumstances surrounding the \$4.3 million payment, the \$14,534 impact it had on pole attachment rates (which an auditor separately verified),⁴² and the underlying documentary record, which has already been produced by FirstEnergy Corp. in this and other H.B. 6-related proceedings before the Commission. Indeed, the Intervenors cite some of these documents in their comments.⁴³ Put another way, the rate impact of the political spending by FirstEnergy Corp. involving the former Chair is already a facet of this case. And it is unclear what more the Intervenors expect to learn about this issue in this Commission proceeding. To be sure, OMAEG asserts that the Commission should investigate "to obtain a complete picture of the magnitude and breadth of the scandal" involving the former Chair.⁴⁴ But broad requests like these seem to urge the Commission to tread upon ground already covered, or being covered, by other agencies.

⁴⁰ See DPA at 35.

⁴¹ Case No. 20-1502-EL-UNC, Companies' Motion For Leave To File a Supplemental Response To the September 15, 2020 Show Cause Entry (Aug. 6, 2021).

⁴² Expanded Scope Audit Report at 29.

⁴³ See OMAEG Comments, Attachment C; OCC Comments, Attachments.

⁴⁴ OMAEG Comments at 20.

6. Intervenor Comments Concerning An Evidentiary Hearing.

The Intervenors also request an evidentiary hearing in this proceeding.⁴⁵ Again, the Companies recognize the need for transparency and do not oppose a hearing in principle. But, as far as the Companies' response to the Commission's show cause directive goes, an evidentiary hearing may not be necessary. As explained above, the Companies have already disclosed that certain political spending—the \$4.3 million payment to SFA—*did* have an impact on pole attachment rates. The parties are likewise aware that other H.B. 6-related payments to Generation Now and Hardworking Ohioans, though initially misallocated, did not impact rates.⁴⁶ Thus, the voluminous discovery record and the comments submitted in this case may allow the Commission to resolve the Companies' response to the show cause directive without a hearing. The Commission has previously found no hearing is necessary in like circumstances.⁴⁷

Some comments do, of course, ask the Commission for a much broader hearing. CUB Ohio, for example, seeks a “full evidentiary hearing” regarding the actions of any shared services employees related to “H.B. 6 and other political activities.”⁴⁸ Such an expansive hearing is outside the scope of the Commission's show cause directive and would raise the same jurisdictional concerns discussed below with respect to Intervenor requests for an audit of all FirstEnergy affiliates.⁴⁹ The Companies do not oppose an evidentiary hearing but respectfully submit that such

⁴⁵ OMAEG Comments at 22; CUB Ohio Comments at 8.

⁴⁶ Case No. 20-1502-EL-UNC, Motion for Leave to File a Supplemental Response (Aug. 6, 2021) Exhibit A, at 3 n.10.

⁴⁷ See, e.g., *In Re Ameritech Ohio*, No. 00-942-TP-COI, 2003 WL 21153429 (P.U.C.O. Jan. 10, 2003) (finding evidentiary hearing unnecessary at the time where Competition Ohio argued an appropriate analysis of the issues could be performed through notice and comment process).

⁴⁸ CUB Ohio Comments at 8; *see also*, OMAEG Comments at 22.

⁴⁹ *Infra* at Section II.B.

a hearing must be consistent with the Commission's statutory mandate and subject to reasonable scope.

B. The Companies Do Not Oppose a Reasonable Audit, But Intervenors' Expansive Audit Requests are Improper.

As explained in response to OCC's recent motion, the Companies certainly agree that the Commission's audit process is an effective tool and do not oppose an audit of political and charitable spending by, or on behalf of, the Companies consistent with the Commission's statutory authority and with due regard for the Commission's efforts to date.⁵⁰ But for the reasons explained below, the Companies object to certain of the Intervenors' overbroad demands.

First, the Companies respectfully oppose an open-ended audit of all political and charitable spending by FirstEnergy Corp. and all its subsidiaries.⁵¹ The Companies will not belabor the points briefed at length in response to OCC's motion. But OCC requests an investigation outside the Commission's jurisdiction as defined in Chapter 4905 of the Ohio Revised Code and expounded upon in *Allstate Ins. Co. v. Cleveland Elec. Illuminating Co.*, 2008-Ohio-3917, ¶ 12, 119 Ohio St. 3d 301, 304, 893 N.E.2d 824, 828.⁵²

Second, OCC's proposed audit of all transactions booked to FERC Account 923 from April 1, 2019 through April 1, 2020 should likewise be rejected. Relying on extra record information from an online article, OCC asks the Commission to audit "a list of charges to Account 923 (Outside services employed) during the [H.B. 6] referendum period, for which any costs were distributed, allocated or assigned to [the Companies]."⁵³ OCC's request is a patently overbroad

⁵⁰ Case No. 20-1502-EL-UNC, Memorandum Contra OCC's Revised Motion for an Independent Auditor (Nov. 12, 2021) at 1-4.

⁵¹ OMAEG Comments at 21; OCC Comments at 6-7.

⁵² Case No. 20-1502-EL-UNC, Memorandum Contra OCC's Revised Motion for an Independent Auditor (Nov. 12, 2021) at 3-6.

⁵³ OCC Comments at 17.

exercise in pure speculation. OCC has received hundreds of discovery responses and hundreds of thousands of pages of documents in this matter. It has taken a two-day deposition of the Companies' affiant. Yet, it fails to point to any H.B. 6-related payments—other than those already disclosed by the Companies—made by or allocated to the Companies. OCC's request for an audit of literally every charge booked to Account 923 is therefore nothing more than a fishing expedition that would be an undue drain on the Commission's and the auditor's resources.

Third, and for similar reasons, the Companies object to OCC's proposed investigation into whether "FirstEnergy Corp. allocated any costs to [the Companies] arising from the FirstEnergy Solutions bankruptcy settlement and, if so, whether such costs related to H.B. 6."⁵⁴ OCC's arguments on this front are, at best, convoluted. OCC ostensibly claims that FirstEnergy Corp.'s negotiated resolution of numerous matters with numerous parties in FirstEnergy Solutions' ("FES") bankruptcy case may have resulted in the *Companies* incurring costs of political and charitable spending by *FES* in support of H.B. 6.⁵⁵ OCC says that the bankruptcy resolution, approved in January 2019, "called for FirstEnergy Corp. to credit FirstEnergy Solutions \$112.5 million toward the cost of charges by FirstEnergy Service Company" and that if any of those costs were charged to the Companies, then customers may have somehow "indirectly paid H.B. 6 costs" tied to FES's H.B. 6 spending in the third quarter of 2019.⁵⁶ OCC's argument is incoherent and, once again, asks the Commission to launch an investigation premised on pure speculation without an iota of record support.

⁵⁴ OCC Comments at 19.

⁵⁵ *Id.* at 19-20.

⁵⁶ *Id.* at 20.

Finally, the Companies renew their arguments that an independent, external auditor and independent audit oversight committee are not needed here.⁵⁷ Nothing in OCC's comments justifies a departure from the Commissions' tried and true audit process. In each audit of the Companies to date, the selected auditor has engaged in a rigorous review. Moreover, where new information has suggested that additional investigation was needed, the Commission has expanded the scope of its investigative proceedings.⁵⁸ Simply put, there are no reasonable grounds to question the Commission's appointed auditors' independence or impartiality in these proceedings.

III. CONCLUSION

The Companies appreciate the deliberate, fact-based approach taken by the Commission in this proceeding and others. While the Companies oppose the expansive, quasi-criminal investigations that some Intervenors suggest, the Companies understand that further regulatory processes by the Commission may be needed to adequately address the Commission's and the public's concerns. The Companies thank the Commission for this opportunity to offer comments and look forward to continued collaboration with the Commission, Staff, and the parties.

⁵⁷ Case No. 20-1502-EL-UNC, Memorandum Contra OCC's Revised Motion for an Independent Auditor (Nov. 12, 2021) at 4-6.

⁵⁸ *In the Matter of the 2020 Review of the Delivery Capital Recovery Rider of FirstEnergy*, Case No. 20-1629-EL-RDR, Attorney Examiner Entry ordering that Blue Ridge expand the scope of the audit in this case to determine if the costs of the naming rights for FirstEnergy Stadium have been recovered from ratepayers by the Companies and that unless otherwise ordered by the Commission, a supplemental audit report be filed in this docket no later than November 19, 2021 (Sept. 29, 2021), at ¶ 1; *In the Matter of the 2020 Review of the Delivery Capital Recovery Rider of FirstEnergy*, Case No. 20-1629-EL-RDR, Entry directing Blue Ridge Consulting Services, Inc. to expand the scope of the 2020 annual audit of FirstEnergy's delivery capital recovery rider costs to include payments made to a number of vendors, recently disclosed by FirstEnergy Corp. (Mar. 10, 2021), at ¶ 1.

Dated: December 14, 2021

Respectfully submitted,

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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 December 14, 2021. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ Shalini B. Goyal

Attorney for the Companies

EXHIBIT A

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Review of the Political :
and Charitable Spending by:
Ohio Edison Company, The : Case No. 20-1502-EL-UNC
Cleveland Electric :
Illuminating Company, and :
The Toledo Edison Company.:

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DEPOSITION

of Santino L. Fanelli, taken before me, Karen Sue
Gibson, a Notary Public in and for the State of Ohio,
via Microsoft Teams, on Tuesday, March 9, 2021, at
10:04 a.m.

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VOLUME I

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7 Jones Day
8 By Mr. Michael R. Gladman
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16 On behalf of the Ohio Edison Company, The
17 Cleveland Electric Illuminating Company,
18 and The Toledo Edison Company.

19 Bruce J. Weston, Ohio Consumers' Counsel
20 By Ms. Maureen R. Willis,
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22 and Mr. John Finnigan,
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On behalf of the Residential Customers of
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Electric Illuminating Company, and The
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Interstate Gas Supply, Inc.
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On behalf of the Interstate Gas Supply,
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1 APPEARANCES: (Continued)

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6 On behalf of the Natural Resources
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14 On behalf of The Ohio Environmental
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31 Environmental Law & Policy Center
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36 On behalf of the Environmental Law &
37 Policy Center.

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1 APPEARANCES: (Continued)

2 Boehm, Kurtz & Lowry
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7 On behalf of the Ohio Energy Group.

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12 On behalf of the Citizens Utility Board
13 of Ohio.

14 Dave Yost, Ohio Attorney General
15 Mr. John Jones, Section Chief
16 By Mr. Werner L. Margard, III,
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18 Public Utilities
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20 Columbus, Ohio 43215

21 On behalf of the Staff of the PUCO.

22 - - -

23 ALSO PRESENT:

24 Ms. Tammy Turkenton.
25 Ms. Lindsey Molter.
Mr. Mike Haugh.

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2 4Q 2020 Investor FactBook

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3 Form 8-K February 16, 2021

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1 MR. GLADMAN: Hey, guys, caution you not
2 to talk over each other to the extent possible so we
3 can help our court reporter.

4 A. I'm sorry. Could I please have the
5 question reread?

6 Q. I'll rephrase it just to simplify. I
7 would just like to know the names of the people who
8 are responsible for the different types of underlying
9 documentation for the account entries. You said that
10 there were different people who were responsible for
11 different types of entries.

12 A. Yes. And I am referring to the
13 underlying accounting entries supporting our various
14 cost recovery mechanisms in Ohio so there are
15 different accountants responsible for the various
16 recovery mechanisms.

17 Q. Who are those different accountants?

18 A. I can't name here each individual within
19 the Accounting organization.

20 Q. Why not?

21 A. That's not the group that I work in.

22 Q. Well, let's back up here. You said that
23 at times when you're reviewing entries in the Uniform
24 System of Accounts, you have to review underlying
25 documentation for those entries. You said that those

1 I am trying to navigate the waters and allow you to
2 move forward. Let me suggest something, a couple
3 potential questions that sort of get us out of the
4 land where he's being asked perhaps, and I know you
5 are not doing it intentionally, to reveal privileged
6 communications where Mr. Knipe was involved,
7 something like as -- you know, maybe something like
8 this, what documents, what accounting records and
9 documents did you review in connection with preparing
10 your affidavit, and/or something like what was your
11 understanding of the accounting documentation and/or
12 processes related to political and charitable
13 spending as you prepared your affidavit.

14 That way it moves us temporally kind of
15 ahead out of that meeting and I hope avoid the
16 potential waiver issue but allows you to get to the
17 same information.

18 MR. FINNIGAN: Okay. Well, I'm not sure
19 what nuance we're drawing there, Mike, honestly.
20 But -- and I am not sure what the temporal issues
21 might be because he said that these communications
22 occurred during that two-week window between when the
23 Commission issued its show cause order and the
24 Company responded. So that entire time frame would
25 seem to be relevant to the case so I'm just going to

1 stand by my original question. And to simplify I'll
2 just rephrase it.

3 Q. (By Mr. Finnigan) What records did you
4 get from Mr. Richards?

5 MR. GLADMAN: You may answer.

6 A. I received some details behind political
7 and charitable spending costs incurred by the
8 Companies. And I also received some accounting
9 details behind the calculation of the companies'
10 various rider mechanisms.

11 Q. And what details did you receive?

12 A. I received a breakdown of political and
13 charitable spending costs incurred by the operating
14 companies, and I also received a breakdown of all the
15 accounts that are used to calculate the companies'
16 rider mechanisms.

17 Q. Okay. What are all the FERC accounts
18 that would include political or charitable spending
19 for the Ohio utilities?

20 A. My understanding of the FERC Uniform
21 System of Accounts, that political and charitable
22 spending costs are to be recorded in Accounts 426.1
23 and 426.4.

24 Q. Are those the only ones?

25 A. As I understand it, those are the two

1 accounts where those sorts of costs are to be
2 recorded.

3 Q. Those are the only ones you know of?

4 A. Those are the only two accounts under the
5 FERC Uniform System of Accounts for those types of
6 costs as I understand it.

7 Q. Okay. And then what would be an example
8 of the type of costs that would go into those
9 accounts? So if FirstEnergy -- Ohio Edison writes a
10 check to a charity in its service territory, that
11 would go into which account?

12 A. Ohio Edison makes a payment to support a
13 charitable organization?

14 Q. Yes.

15 A. I would expect those costs would be
16 recorded in 426.1 or 426.4.

17 Q. Okay. What's the difference between
18 those two?

19 A. I don't have the account names in front
20 of me. 426.1, as I understand it, is for donations
21 to charitable organizations. 426.4 is related to
22 other political activities.

23 Q. Okay. And those are both below the line
24 accounts that wouldn't appear in the Companies'
25 rates, correct?

1 A. No.

2 Q. What other accounts did you check?

3 A. In the course of my review, I learned of
4 costs originally recorded as A&G expense, some of
5 which was capitalized. Those costs were later
6 determined to be for political or charitable spending
7 and so there were accounting adjustments made to
8 reclassify them to the appropriate accounts below the
9 line.

10 Q. Well, tell me the background of that.

11 A. Could you please rephrase the question?

12 Q. Well, yeah. You just said you learned of
13 some expense -- expense -- A&G administrative in
14 general, was that the acronym you used?

15 A. That is the acronym I used, yes. I
16 apologize for not spelling that out.

17 Q. No, that's okay. But just tell me all
18 the background of that. You just summed up that, you
19 know, you found these A&G expenses. They were
20 capitalized. They had to be reclassified. Just give
21 me the whole story of the -- from the beginning when
22 you learned of that and who you learned it from.

23 A. I learned about those costs in
24 preparation of my affidavit. Once I did learn about
25 them, we reviewed more closely. My understanding was

1 that there had been no determination that those costs
2 were determined to be political and charitable
3 spending in support of House Bill 6, so they did not
4 impact the conclusions that I was reaching in my
5 affidavit.

6 Q. What was that spending for?

7 A. They were costs allocated to the Ohio
8 companies for political or charitable spending.

9 Q. What kind of political or charitable
10 spending? In other words, what was it spent on?

11 A. My understanding is that the costs were
12 spent on contributions to external entities.

13 Q. What was the amount of those
14 contributions?

15 A. The cost allocated to the Ohio companies
16 for those contributions were approximately \$500,000.

17 Q. Those were contributions to whom?

18 A. They were costs allocated to the Ohio
19 companies for contributions to -- to outside
20 political entities.

21 Q. Give me their names.

22 A. Two entities were Hard Working Ohioans
23 and Generation Now.

24 Q. What was the total amount of the
25 contribution to Generation Now?

1 A. The total amount allocated to the Ohio
2 companies for that payment was approximately
3 \$300,000.

4 Q. What was the date of that contribution?

5 A. 2017.

6 Q. When in 2017?

7 A. I'm sorry, Mr. Finnigan. I didn't hear
8 that last question.

9 Q. I apologize. I was just trying to get
10 the date of that contribution to Generation Now. I
11 think I heard you say it was in 2017. I was trying
12 to get a more precise date.

13 A. I don't recall the precise dates.

14 Q. What records did you see that informed
15 you of this contribution?

16 A. The information I saw was part of the
17 information that I reviewed in preparation for my
18 affidavit with our Accounting group.

19 Q. Is this the information you got from
20 Mr. Richards that we were talking about earlier?

21 A. I learned about it in that information,
22 yes.

23 Q. Were there other sources you had besides
24 Mr. Richards for this information?

25 A. I don't recall any other source for that

1 information.

2 Q. What underlying documentation did you see
3 for that contribution to Generation Now?

4 A. I saw the accounting details how those
5 costs were allocated or a portion of those costs were
6 allocated to the Ohio companies and what account --
7 accounts they were recorded in.

8 Q. Did you see any underlying documentation
9 besides accounting entries, in other words, did you
10 see like a check or a memorandum explaining what the
11 check was for?

12 A. No.

13 Q. Did you ask for it?

14 MR. GLADMAN: Objection, vague.

15 A. Can I please have the question reread?

16 Q. Did you ask for a check or a memorandum
17 or correspondence or any underlying documentation
18 from the Accounting department to support this
19 contribution from Generation Now or to Generation
20 Now?

21 A. I don't recall asking for that type of
22 information.

23 Q. Why didn't you ask for that?

24 A. I didn't think it was necessary.

25 Q. Well, if you are -- who made the decision

1 to reclassify that to some below the line account?

2 A. I don't recall specifically who made that
3 determination.

4 Q. Is that a determination that you are
5 authorized to make?

6 A. I was involved in reviewing that
7 information. I wouldn't characterize myself as the
8 authority in making that decision.

9 Q. Who was the authority?

10 A. I don't recall specifically who made that
11 determination. It was a collective review.

12 Q. Who else was in that collective group?

13 MR. GLADMAN: Mr. Fanelli, to the extent
14 counsel was involved, please let us know this first.
15 If not, you may answer.

16 MR. FINNIGAN: Well, Mike, again, I am
17 looking for a fact. I don't want --

18 Q. (By Mr. Finnigan) Mr. Fanelli, let me
19 preface my question. If you received any legal
20 advice from one of your attorneys regarding this
21 case, I don't want to ask you about that. However, I
22 am asking about the books and records of the Company.
23 And if the Company changed how it accounted for a
24 certain payment, I do want to know that. That's not
25 privileged.

1 of a criminal action and several civil lawsuits, are
2 there any records made of that?

3 A. Could you please rephrase the question?

4 Q. Sure. You changed the accounting
5 classification between September 5, 2020, and
6 September 30, 2020, correct?

7 A. I didn't change it.

8 Q. Well, your collective group did.

9 A. The accounting classification -- the
10 accounting classification for these costs was
11 adjusted in September of 2020.

12 Q. Okay. And at that time this was a
13 pending criminal complaint against Larry Householder
14 and others naming some unidentified company and there
15 were also several civil lawsuits against FirstEnergy
16 related to House Bill 6 and also there was a civil
17 action by the Ohio Attorney General and others
18 against FirstEnergy relating to House Bill 6 at that
19 time, correct?

20 A. I don't know.

21 Q. Okay. Did you read the criminal
22 complaint?

23 A. No.

24 Q. None of it?

25 A. No.

1 Q. You've never seen it.

2 A. I don't recall seeing it.

3 Q. You don't have a copy of it, do you?

4 A. I have copies of the exhibits -- exhibits
5 that OCC sent over yesterday evening.

6 Q. Okay. And let's go back to this payment
7 to Generation Now. So what account -- what FERC
8 account was it originally classified to?

9 A. 923.

10 Q. Is that an above the line account?

11 A. Yes.

12 Q. And if the payment was made in 2017 and
13 it wasn't reclassified until 2019, were there any
14 riders that were submitted to the Commission during
15 that 2017-2019 time frame where this administrative
16 and general expense would have been reflected?

17 A. Could you please help me understand what
18 you mean by reflected?

19 Q. Yes. Where it would have been included
20 in the calculation of the rider.

21 A. The costs associated with the payment
22 incurred by the Ohio companies did not have any
23 impact on customer rates.

24 Q. Well, I know -- I know you've said that.
25 But when you -- were there any riders that you

1 or so. Don't mean to interrupt your flow but if
2 there's a good point soon for a break, we would
3 appreciate it.

4 MR. FINNIGAN: Okay. Thank you, Mike.
5 What I'll do, let me just -- I have a few more
6 questions about this particular item and let me wrap
7 those up. And then once we do that, we will take a
8 break, but it might take another 10 or 15 minutes so.
9 But bear with me here.

10 Q. (By Mr. Finnigan) So, Mr. Fanelli, do you
11 still have the records showing when it was allocated
12 to the company as a 923 item?

13 A. Could you please help me understand what
14 you mean do I still have the records? I am not sure
15 what you are referencing.

16 Q. Yes. Here is how I understand your
17 explanation. So you -- you met with Mr. Richards.
18 He gave you some information. The information showed
19 that there was a payment from Generation Now that was
20 allocated to the Ohio utilities. It was in Account
21 923. You and others determined that that was
22 misclassified, and then you reclassified it into one
23 of these below the line accounts, 426.1 or 426.4.
24 And I am just trying to get at are there still any
25 records that would show the original allocation to

1 the utilities as a 923 item?

2 A. I don't know what is still available from
3 an accounting record perspective.

4 Q. From an accounting standpoint, when you
5 reclassify an item like that, is there any -- and the
6 matter is in litigation, is there some protocol where
7 you are required to keep those records of the
8 original classification, or you don't need to keep
9 those?

10 A. Companies maintain their accounting
11 system of record. I am not involved in that nor am I
12 part of the record retention efforts employed by the
13 Accounting group.

14 Q. Well, I guess you would have been
15 educated on record retention as every employee at
16 FirstEnergy does, correct?

17 A. I am aware that the Company has record
18 retention policies and practices. You are asking me
19 specifically about these entries, and I don't know
20 specifically what is -- what is still available from
21 an accounting entry or accounting record perspective.

22 Q. But you have to go through periodic
23 training on the Companies' record retention policies,
24 right?

25 A. There is periodic training that includes

1 as you know and should still exist.

2 MR. GLADMAN: Objection, foundation. You
3 may answer.

4 A. I'm not responsible for the record
5 retention practices of the Companies. I have no
6 reason to believe that any records have been
7 destroyed.

8 MR. FINNIGAN: That's all the questions I
9 have on that topic. Let's take a short break. It's
10 about 10 after 4:00. Why don't we come back in 15
11 minutes, 25 after.

12 MR. GLADMAN: That sounds good. Thanks,
13 John.

14 (Recess taken.)

15 Q. (By Mr. Finnigan) Good afternoon,
16 Mr. Fanelli. I have a few questions I want to follow
17 up on regarding that Generation Now charge. Who
18 authorized that payment to Generation Now?

19 A. I don't know.

20 Q. Did you check whether there were any
21 other contributions to Generation Now during the
22 period of 2016 to 2020 where costs were allocated to
23 the Ohio utilities?

24 A. I am not aware of any other such costs
25 during that time frame.

1 Q. Did you check for it?

2 A. In the course of preparing for my
3 affidavit, I learned that those were the only ones.

4 Q. Okay. But I -- I'm just asking because
5 there seems to be some discrepancies about the scope
6 of the case. You know, on one hand we've talked
7 about House Bill 6 was introduced in 2019, and on the
8 other hand the criminal complaint starts in 2016. So
9 I'm just trying to find out, you know, what you
10 checked for. I know you are not aware of any other
11 costs involving Generation Now. But did you do an
12 investigation to find out whether any costs
13 reflecting contributions to Generation Now were
14 allocated to the Ohio utilities for the period of
15 2016 to 2020?

16 A. In preparation for my affidavit in
17 consultation with the Accounting group, I was not
18 aware of any other payments other than the ones we've
19 been talking about here.

20 Q. I know you are not aware of them, but did
21 you check?

22 A. I inquired if there were any.

23 Q. For that time period of 2016 to 2020?

24 A. I don't recall my inquiry being limited
25 to a specific time period.

1 Q. So when you asked for any contributions
2 to Generation Now that were allocated to the Ohio
3 utilities.

4 A. My recollection is I learned of these
5 payments in 2017 that predated House Bill 6 as we've
6 discussed. I inquired if there were any other
7 payments like that that got allocated to the Ohio
8 companies, and my understanding was no.

9 Q. Okay. And the person you made that
10 inquiry of was Mr. Richards who we talked about
11 earlier.

12 A. Yes.

13 Q. Was there anyone else you inquired of?

14 A. I recall legal being involved in the
15 discussions. I don't recall a specific inquiry to
16 legal.

17 Q. Anyone else you recall being involved?

18 A. No, not that I recall.

19 Q. This Generation Now cost was allocated
20 from what entity? It was FirstEnergy Service
21 Company?

22 A. Yes.

23 Q. Do you know who authorized the payment to
24 Generation Now?

25 A. No.

1 Q. Now, we talked earlier in your deposition
2 how you sometimes have to review underlying
3 documentation for FERC account entries. Do you
4 sometimes have to involve or review bank records?

5 A. I don't recall an instance where I had to
6 review bank records.

7 Q. Who maintains the Companies' bank
8 records? Would that be the Treasury department?

9 A. The Treasury department is responsible
10 for managing the Companies' bank accounts.

11 Q. Okay. When you review accounting records
12 that support entries in the FERC accounts, do these
13 accounting entries sometimes indicate the bank
14 account number that a transaction was paid from?

15 A. I don't recall.

16 Q. Is it common to refer to a bank account
17 number by the last four digits of the number rather
18 than reciting the entire number in a record?

19 A. I don't know if that's common.

20 Q. Are you familiar with two FirstEnergy
21 bank accounts, one ending in 6496 and the other
22 ending in 4788? Are you familiar with either
23 account?

24 A. No.

25 Q. Okay. Now, I would like to go back to

1 A. It defines the types of costs that are to
2 be recorded in that account.

3 Q. And how does it define political
4 activities as part of that definition?

5 A. I don't have that definition in front of
6 me. I'm sorry.

7 Q. Okay. But in any event you didn't check
8 whether FirstEnergy Service Company hired lobbyists
9 to work on House Bill 6 and whether those costs might
10 have been allocated to the Ohio utilities; is that
11 correct?

12 MR. GLADMAN: Objection.

13 A. Could you please restate the question,
14 Mr. Finnigan?

15 Q. I just wanted to confirm that you didn't
16 check whether FirstEnergy Service Company hired any
17 lobbyists to work on House Bill 6 and then allocated
18 the costs to the Ohio utilities? You didn't check
19 for that.

20 MR. GLADMAN: Same objection.

21 A. I did not conduct a review of lobbyists
22 hired by FirstEnergy Service Company.

23 Q. Okay. And who would be the person to
24 check for that information if someone did want to
25 check that?

1 A. I don't know.

2 Q. Now, you talked about this payment to
3 Generation Now that was allocated to the Ohio
4 utilities. Were there any other contributions to
5 political advocacy groups between 2016 and 2020
6 besides this one to Generation Now the costs of which
7 were allocated to the Ohio utilities?

8 A. If I may clarify one thing, Mr. Finnigan,
9 the Generation Now was more than one payment over the
10 course of 2017. They all occurred in 2017 totaling
11 the amount that we discussed earlier.

12 Q. Okay. Thank you. I want to
13 differentiate those because we've already talked
14 about those. I just wanted to ask did you
15 investigate whether there were any other
16 contributions to political advocacy groups or
17 nonprofits, social welfare organizations that engaged
18 in political advocacy -- well, that's a terrible
19 question. Let me start all over.

20 Aside from the payments to Generation Now
21 that we've discussed, did you check whether there
22 were any other contributions by FirstEnergy Service
23 Company during 2016 to 2020 that went to nonprofit
24 groups and were used for political advocacy and whose
25 costs were allocated to the Ohio utilities?

1 A. Yes. I am aware of other costs allocated
2 from Service Company to the Ohio Operating Companies
3 but have been determined to be political and
4 charitable spending.

5 Q. And what were the groups that received
6 those payments?

7 A. Hard Working Ohioans.

8 Q. Any others besides them and Generation
9 Now?

10 A. Could you please rephrase the question?
11 I want to make sure I understand the context,
12 Mr. Finnigan.

13 Q. Sure. I am just trying to find out
14 whether you or -- did any investigation to find out
15 whether there were any contributions to political
16 advocacy groups besides the two you mentioned that
17 did work on House Bill 6 and whose costs were
18 allocated to the Ohio utilities.

19 A. I am not aware of any costs allocated
20 from Service Company to the Ohio companies for
21 political and charitable spending in support of House
22 Bill 6.

23 Q. But did you check whether there were any
24 contributions to nonprofits, social welfare
25 organizations, or political advocacy groups that

1 worked on House Bill 6 during that 2016-2020 time
2 period?

3 MR. GLADMAN: Objection, vague.

4 A. I'm sorry. I don't understand the
5 question.

6 Q. Sure. You know, you told me about Hard
7 Working Ohioans and Generation Now. I am just asking
8 whether you checked for other contributions to those
9 kinds of groups for political advocacy, the cost of
10 which were allocated to the Ohio utilities.

11 MR. GLADMAN: With the specific qualifier
12 related to House Bill 6, John?

13 MR. FINNIGAN: Yes.

14 MR. GLADMAN: Okay. Thank you.

15 A. I inquired if there were any other costs
16 incurred by the Companies allocated from Service
17 Company for political and charitable spending. Those
18 are the only two groups that I am aware of.

19 Q. Okay. And did you ask that for any
20 certain time period?

21 A. I don't recall the requests being
22 specific to a time period.

23 Q. Was the request in writing?

24 A. I don't recall.

25 Q. Okay. I want to go to the companies'

1 fourth quarter earnings call recently. Did you
2 listen in on that call?

3 A. You are referring to the call held last
4 month, Mr. Finnigan?

5 Q. Yeah, February 18.

6 A. Yes, I listened to that.

7 Q. Okay. Now, during that call Steve Papas
8 who is the Executive Director of the Board made a
9 statement about the internal investigation, and I am
10 going to read you his statement because I have a
11 couple of follow-up questions. And I know you don't
12 have a transcript in front of you, but I just want to
13 lay this out as the foundation and ask if this is
14 substantially correct and -- and whether you recall
15 him making a statement that was substantially to this
16 effect.

17 So if I may read for a moment. Mr. Papas
18 said "The ongoing investigation has not resulted in
19 any new material items not previously disclosed. In
20 the course of the internal investigation, we did
21 identify certain transactions which in some instances
22 extend back 10 years or more including vendor
23 services that were either improperly classified,
24 misallocated to certain utility or transmission
25 companies, or lacked proper supporting

1 them were for outside services.

2 So I am trying to find out whether any of
3 these related to political spending or charitable
4 spending that related to House Bill 6 or the
5 referendum effort because that's the essence of what
6 this case is about.

7 So this is a really relevant area of
8 questioning for me and I have got a number of
9 questions about this that go to his knowledge of what
10 these items are, what the amounts are, who the
11 vendors are, what the services were, when they were
12 performed, how they related to House Bill 6, et
13 cetera, et cetera. So are you not allowing any
14 questioning in those areas, or shall I proceed and
15 ask my questions and you can object and instruct him
16 to answer on each one?

17 MR. GLADMAN: So I hear what you are
18 saying, John. And I don't have a problem. My
19 problem is primarily with identification of the
20 vendors. If you want to ask him whether his
21 conclusions related to the affidavit and the
22 statements he's already made with respect to
23 political and charitable spending by the Companies in
24 support of House Bill 6 that were charged back to
25 rates more generically, I am fine with that, and then

1 we can perhaps defer the question of the identity of
2 the vendors and what the specific services were for a
3 determination as to whether or not that's proper.

4 MR. FINNIGAN: Okay.

5 MR. GLADMAN: How does that sound as an
6 approach?

7 MR. FINNIGAN: I certainly would like to
8 proceed, you know, with that for now. But I don't
9 want to -- I want to reserve the right to ask him who
10 the vendors were and what the services were because
11 those are facts that are related to this case, and we
12 have a right to that information because that's what
13 this whole case is about. So let me just proceed and
14 ask on a question-by-question basis and if you find
15 anything objectionable, you can object and, if need
16 be, instruct him not to answer but let's just one at
17 a time and see where it leads.

18 MR. GLADMAN: That's fine.

19 Q. (By Mr. Finnigan) Now, in the first
20 place, Mr. Fanelli, this statement was made in
21 February, so it was after you prepared your
22 affidavit, wasn't it?

23 A. Yes.

24 Q. Now, when you heard this statement, did
25 it cause you to become concerned that your affidavit

1 might not be correct?

2 A. When I learned of the item that Mr. Papas
3 mentioned in the earnings call, I did revisit as
4 you've continued to do since September the statements
5 in my affidavit and concluded that there was no
6 impact on the conclusions that I filed back in
7 September.

8 Q. Okay. But do you know whether he was
9 referring to any different items that were
10 misallocated aside from the ones that you already
11 knew about?

12 A. To clarify, Mr. Finnigan, you referred to
13 the ones I already knew about, are you referring to
14 the couple entities we've been discussing?

15 Q. Yes.

16 A. Okay. With that clarification, I'm
17 sorry. Could I please have the question again?

18 Q. Well, I'm just asking the question that
19 when you heard Mr. Papas' statement about these
20 misallocated items, did you know whether he was
21 referring to the two that you already were aware of
22 or whether he might be referring to different ones?

23 A. I was aware of the transactions that he
24 was referencing.

25 Q. Okay. What were -- how are you aware of

1 the ones he was referencing?

2 A. I had learned of those findings from the
3 companies' internal investigation.

4 Q. Okay. And did you participate in
5 investigating any of those items?

6 A. I was not involved in the investigation
7 that led to the identification of those items.

8 Q. If you aren't involved in the
9 investigation, how did you learn of the results?

10 A. I learned of the items that were
11 identified through the investigation and was asked to
12 review what impacts, if any, there were on customer
13 rates.

14 Q. Okay. And when did that happen?

15 A. I learned of that in February.

16 Q. February of 2021.

17 A. Yes.

18 Q. And who informed you of this?

19 A. Counsel and management.

20 Q. Okay. Who in management?

21 MR. GLADMAN: Just to clarify, Sonny, is
22 that two separate discussions or one -- one
23 discussion?

24 THE WITNESS: It was one discussion with
25 both.

EXHIBIT B

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the :
Review of the Political :
and Charitable Spending by:
Ohio Edison Company, The : Case No. 20-1502-EL-UNC
Cleveland Electric :
Illuminating Company, and :
The Toledo Edison Company.:

- - -

CONTINUED DEPOSITION

of Santino L. Fanelli, taken before me, Karen Sue
Gibson, a Notary Public in and for the State of Ohio,
via Microsoft Teams, on Wednesday, March 10, 2021, at
10:01 a.m.

- - -

VOLUME II

- - -

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23 ALSO PRESENT:

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25 Ms. Lindsey Molter.
Mr. Mike Haugh.

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1 Q. Does your CEO ever have contact with
2 Commissioners?

3 MR. GLADMAN: Objection, foundation.

4 A. I don't know.

5 Q. Does -- does Eileen Mikkelsen ever have
6 contact with Commissioners?

7 MR. GLADMAN: Same objection.

8 A. I don't recall.

9 Q. I want to go back to something we were
10 talking about yesterday and this has to do with that
11 time period between September 15 of last year when
12 the Commission issued the show cause order and
13 September 30 when the Company filed its response.
14 During that period you mentioned that you found out
15 that some costs had been allocated to the Ohio
16 utilities for payments to Generation Now and Hard
17 Working Ohioans. What I am wondering is that after
18 you learned of that, did you notify anybody on
19 Commission Staff?

20 A. Not that I recall.

21 Q. Did anyone at FirstEnergy notify any
22 Commissioners of that?

23 A. I don't know.

24 Q. Okay. So as far as you know, this
25 deposition might be the first time anybody at the

1 Commission is learning of these facts.

2 MR. GLADMAN: Objection, foundation.

3 A. Could you please restate the question,
4 Mr. Finnigan?

5 Q. No, that's okay. I will withdraw it.

6 So now I want to go back to your
7 affidavit when you talk about House Bill 6 costs, and
8 we had some discussion about this yesterday, but I'm
9 not entirely clear, and I would just like to pin that
10 down. When you discussed the concept of House Bill 6
11 costs in your definition -- in your affidavit, did
12 you only include costs that were incurred between the
13 time frame of April 2019 onward?

14 A. No.

15 Q. How far back did you go in evaluating
16 House Bill 6 costs when you were preparing your
17 deposition?

18 MR. GLADMAN: You mean affidavit, John?

19 MR. FINNIGAN: Yes, I'm sorry.

20 Affidavit, thank you.

21 A. My review was not time limited. It was
22 conceptual as we discussed yesterday reviewing how
23 the companies' rates are determined, compare it to
24 how the Company accounts for the costs of political
25 and charitable spending. In the course of my review,

1 as we discussed yesterday, I learned of these
2 instances where costs had been misallocated and later
3 determined to be costs of political and charitable
4 spending and those occurred in 2017 and 2018 so I did
5 take those into consideration in my affidavit.

6 Q. I didn't see where you mentioned those in
7 your affidavit.

8 A. Those are not explicitly mentioned in the
9 affidavit. The approach was --

10 Q. Why not?

11 A. I'm sorry, Mr. Finnigan. I think we were
12 speaking over each other. Was there a question
13 pending, or would you like me to return to finishing
14 my prior answer?

15 Q. Yes. I apologize for interrupting.

16 A. The approach for the affidavit was
17 conceptual and to review the Companies' calculations
18 of their rates, riders, and charges compared to the
19 accounts in which the costs of political and
20 charitable spending are to be recorded. Concluded
21 based on that conceptual review there shouldn't be
22 new costs of political or charitable spending that is
23 impacting customer rates.

24 In the course of my review, I was made
25 aware of these payments that we were discussing

1 yesterday that required further review. Upon further
2 review determined there was no conclusion reached
3 that I was aware of that those costs were in support
4 of House Bill 6 or that they had any impact on
5 customer rates. And so the review of those payments
6 did not impact the conclusions in my affidavit.

7 Q. How did you reach that decision that the
8 Generation Now spending didn't support House Bill 6?

9 MR. GLADMAN: And let me just interject,
10 to the extent this involved discussions with counsel,
11 please indicate so.

12 A. It did involve discussions with counsel.

13 Q. What is your understanding of why the
14 Generation -- Generation Now costs would not have
15 supported House Bill 6?

16 A. My understanding is that there's been no
17 conclusion reached determining that those costs are
18 in support of House Bill 6. I also understand the
19 timing of those costs to precede House Bill 6.

20 Q. Okay. And when you say there's been no
21 conclusion reached that the Generation Now costs
22 supported House Bill 6, you mean no conclusion
23 reached by whom?

24 A. I think that would again implicate
25 discussions with counsel.

1 Q. Okay. Well, if there's no conclusion
2 reached on whether the Generation Now costs supported
3 House Bill 6, how could you say in your affidavit
4 that there were no costs supporting House Bill 6?

5 MR. GLADMAN: Objection, misstates
6 testimony. You may answer.

7 A. The scope of the affidavit was to look at
8 political and charitable spending costs in support of
9 House Bill 6 that impacted customer rates. I had no
10 information or was not aware of any costs that met
11 all three of those criteria.

12 Q. Okay. But at least as far as these House
13 Bill 6 costs that were -- I'm sorry. Strike that.

14 At least as far as these Generation --
15 Generation Now costs that we're talking about, did
16 they meet the criteria of spending in -- well, I will
17 strike that.

18 Let me move on to something else. When
19 we talk about House Bill 6 costs being allocated to
20 the utilities, did you consider only payments to
21 third parties, or did you consider that allocations
22 might also be included in that definition of spending
23 in furtherance of House Bill 6?

24 A. I considered allocations of political and
25 charitable spending costs to the Ohio Operating

1 Companies as being within the scope of my review.

2 Q. Okay. And why would that not include
3 executive compensation and employees' salaries?

4 A. The Companies' interpretation of costs of
5 political and charitable spending in the entry was
6 payments or contributions to external parties either
7 directly incurred by the Companies or allocated to
8 the Companies.

9 Q. Okay. Now I want to change the subject
10 and go to some of the Companies' riders. So you're
11 in charge of the Rates and Regulatory Affairs. I
12 take it that you're generally familiar with all the
13 different riders that the Company has in its Ohio
14 rates; would that be fair?

15 A. Yes.

16 Q. Okay. Is there a rider NMB in the Ohio
17 utilities' rates, Nancy Mary Ben?

18 A. Yes, there is a rider by that acronym.

19 Q. Does that rider include collection of any
20 costs for capital costs?

21 A. No.

22 Q. Let me ask you to turn your attention to
23 Rider DMR, David Mary Robert. Are you familiar with
24 that one?

25 A. I'm familiar with that rider, yes.

1 Q. Does that rider include any capital
2 accounts?

3 A. Could you please clarify, Mr. Finnigan,
4 when you say include capital accounts what you mean
5 by that?

6 Q. Well, I'll let you tell -- I will let you
7 ask -- I'm sorry. I will let you explain. What
8 types of accounts are included in Rider DMR? Is it
9 only expense accounts or only capital accounts or
10 some of both?

11 A. Rider DMR is no longer in effect. When
12 it was in effect, the rates were based on amounts
13 authorized by the Commission in the ESP IV case.

14 Q. Did those authorized amounts include
15 capital accounts?

16 A. The authorized amounts were dollar
17 amounts.

18 Q. Okay. Were they based on the amount of
19 capital on the Companies' books?

20 A. Can you please clarify what you mean by
21 the amount of capital on the Companies' books,
22 please?

23 Q. How were the dollar amounts determined
24 that were authorized for collection in Rider DMR?

25 A. They were determined based upon an

1 analysis prepared by Staff in the ESP IV case.

2 Q. Okay. And what was included in that
3 analysis?

4 A. I don't recall the specifics around that
5 calculation.

6 Q. Was that rider updated in 2018?

7 A. The prices would have been updated in
8 2018.

9 Q. Was that 2018 update impacted by the fact
10 that the Ohio utilities had Generation Now costs on
11 their books at that time?

12 MR. GLADMAN: Objection, foundation,
13 misstates prior testimony. You may answer.

14 A. Could you please rephrase the question,
15 Mr. Finnigan?

16 Q. Yes. Was the amount of the update of the
17 DMR Rider in 2018 impacted by the fact that the Ohio
18 utilities had Generation Now costs on their books at
19 that time?

20 MR. GLADMAN: Same objection.

21 A. The Rider DMR pricing updates were made
22 consistent with the Commission orders in the ESP IV
23 case.

24 Q. Were the Rider DMR updates in 2018
25 impacted by the fact that the Company had Generation

1 Now costs on their books in 2018? In other words,
2 did that change the amount that the updates would
3 have been as compared to if those costs were not on
4 the Companies' books?

5 MR. GLADMAN: Same objection.

6 A. There was no adjustment in the Rider DMR
7 rate calculation for the costs you identified.

8 Q. Okay. So the fact that Generation Now
9 costs have been capitalized on the Ohio utility books
10 did not impact the amount of the DMR adjustment that
11 included -- that occurred in 2018?

12 MR. GLADMAN: Same objection.

13 A. The Rider DMR updates were made
14 consistent with the terms and conditions of ESP IV.

15 Q. Okay. And when they were done consistent
16 with those terms and conditions, were they impacted
17 in any way by the fact that Generation Now costs were
18 on the books of the utilities?

19 MR. GLADMAN: Same objection.

20 A. No.

21 Q. Okay. Let me ask you to turn your
22 attention to Rider DSE, David Sam Edward. Does that
23 rider include any capital accounts?

24 A. Rider DSE does not include any capital
25 costs.

1 Q. Was that rider updated in 2018?

2 A. There were pricing updates in 2018.

3 Q. Was the fact that there were amounts from
4 Generation Now on the Companies' books in both
5 capital and expense accounts, did that impact the
6 amount of the adjustment to Rider DSE that occurred
7 in 2018?

8 MR. GLADMAN: Objection, foundation.

9 A. Could you please clarify what you mean by
10 impact in this context, Mr. Finnigan?

11 Q. Yes. What I am getting at is that -- is
12 the amount of the adjustment that occurred to Rider
13 DSE in 2018, is that the same amount that would have
14 occurred if no Generation Now costs had been on the
15 Companies' books?

16 A. Yes.

17 Q. Okay. Then please turn your attention to
18 Rider DCR, David Charlie Robert. Are you familiar
19 with that one?

20 A. Yes.

21 Q. That stands for Delivery Capital
22 Recovery, does it not?

23 A. That's right.

24 Q. And so does that include any capital
25 accounts?

1 A. The calculation of the revenue
2 requirement includes capital accounts. The rates are
3 subject to revenue caps authorized in the ESP case.

4 Q. Okay. And how did the fact that there
5 were Generation Now costs on the Companies' books
6 impact the adjustment of Rider DCR that occurred in
7 2018?

8 MR. GLADMAN: Objection, foundation,
9 argumentative. You may answer.

10 A. By adjustment, Mr. Finnigan, are you
11 referring to pricing updates?

12 Q. Yes.

13 A. Thank you for the clarification. Could
14 you please restate the question? I apologize.

15 Q. Sure. You testified earlier that in
16 2018, the Company had Generation Now costs on its
17 books and various expense and capital accounts, and I
18 am just trying to find out how that factored into the
19 update of Rider DCR that occurred in 2018.

20 A. It would not have impacted the Rider DCR
21 aggregate rates across the Companies.

22 Q. Why not?

23 A. Because the rates for Rider DCR are based
24 on the revenue caps in that time period.

25 Q. Did the fact that the generation --

1 strike that.

2 Did the Company exceed the revenue caps
3 in terms of its -- the amounts that could otherwise
4 have been collected under Rider DCR in 2018?

5 A. The Companies' Rider DCR revenue
6 requirements were in excess of the revenue caps.

7 Q. So that's why you say that the Generation
8 Now costs didn't impact the calculation because you
9 exceeded the caps.

10 A. Those capitalized dollars for those
11 payments did not impact the overall Rider DCR rates
12 because the revenue requirements were in excess of
13 the revenue caps.

14 Q. Okay. Now, please turn your attention to
15 Rider GEN, Gary Edward Nancy. Are you familiar with
16 that one?

17 A. Yes.

18 Q. Does that rider include any capital
19 accounts?

20 A. No.

21 Q. Was that rider updated in 2018?

22 A. There was a pricing update in 2018.

23 Q. Was the amount of that pricing update in
24 2018 impacted by the fact that the Ohio utilities had
25 Generation Now costs on their books at that time?

1 A. No. There was no impact on the Rider GEN
2 prices.

3 Q. Why not?

4 A. Because the costs for those payments
5 incurred by the Companies are not included in Rider
6 GEN.

7 Q. Okay. So Rider GEN only includes certain
8 accounts and not the Companies that these Generation
9 Now costs would have been recorded in, correct?

10 A. Yes. Yes.

11 Q. Now, please turn your attention to Rider
12 DUN, David, Ulysses, Nancy. Are you familiar with
13 that one?

14 A. Yes.

15 Q. Does that rider include any capital
16 accounts?

17 A. No.

18 Q. Was that rider updated in 2018?

19 A. There were pricing updates in 2018.

20 Q. Was that update in 2018 of Rider DUN
21 impacted by the fact that Generation Now costs were
22 on the books of the Ohio utilities?

23 A. No, there was no impact on Rider DUN
24 prices.

25 Q. Why not?

1 A. Rider DUN recovers distribution-related
2 uncollectible expenses. So the costs of the payments
3 that you asked about would not have been included in
4 Rider DUN.

5 Q. Okay. Now, please turn your attention to
6 Rider NDU, Nancy David, Ulysses. Are you familiar
7 with that one?

8 A. Yes.

9 Q. Does that include any capital accounts?

10 A. No.

11 Q. Was that rider updated in 2018?

12 A. There were pricing updates in 2018.

13 Q. Were those 2018 updates to Rider NDU
14 impacted by the fact that the Ohio utilities had
15 Generation Now costs on their books?

16 A. No.

17 Q. Please turn your attention to Rider PUR,
18 Patrick Ulysses Robert. Are you familiar with that
19 one?

20 A. Yes.

21 Q. Was that rider updated in 2018?

22 A. There were pricing updates in 2018.

23 Q. Were those 2018 pricing updates impacted
24 by the fact that the Companies had Generation Now
25 costs on their books?

1 A. No, there was no impact on Rider PUR.

2 Q. Okay. Let me ask you to turn your
3 attention to Rider EDR, Edward David Robert. Was
4 that rider updated in 2018?

5 A. There were pricing updates in 2018.

6 Q. Does that rider include collection of any
7 costs that are in capital accounts?

8 A. No.

9 Q. Was the 2018 update to Rider EDR impacted
10 by the fact that the Ohio utilities had Generation
11 Now costs on their books at that time?

12 A. No, there were no impacts on Rider EDR
13 prices.

14 Q. Please turn your attention to Rider GCR,
15 Gary Charlie Robert. Are you familiar with that?

16 A. Yes.

17 Q. Was that rider updated in 2018?

18 A. There were pricing updates to Rider GCR.

19 Q. Were those pricing updates to Rider GCR
20 in 2018 impacted by the fact that the utilities had
21 Generation Now costs on their books at that time?

22 A. No, there was no impact on Rider GCR
23 rates.

24 Q. Please turn your attention to Rider AMI,
25 Albert Mary Irene. Are you familiar with that one?

1 A. Yes.

2 Q. Was that rider updated in 2018?

3 A. There were pricing updates in 2018.

4 Q. Did those updates include amounts that
5 are in capital accounts?

6 A. For certain projects, yes.

7 Q. Now, does the update that occurred in
8 2018 reflect the fact that there were Generation Now
9 costs on the books of the Ohio companies at that
10 time?

11 A. The Rider AMI prices were not impacted by
12 those costs.

13 Q. Why not?

14 A. Because those costs aren't part of the
15 Rider AMI revenue requirement calculation.

16 Q. Well, I thought the revenue requirement
17 calculation included certain capital accounts; is
18 that not correct?

19 A. Revenue requirement calculation includes
20 capital costs for certain projects.

21 Q. Okay. And you testified yesterday that
22 the Generation Now costs were capitalized across all
23 capital accounts of the utilities. Do you recall
24 that?

25 A. I believe I said all capital projects

1 excluding grid modernization projects.

2 Q. No, you didn't say that, but is that
3 true?

4 MR. GLADMAN: Move to strike. You're
5 misremembering his testimony, but you may go on.

6 A. Could you please rephrase the question,
7 Mr. Finnigan?

8 Q. Okay. I understood you to say yesterday
9 that these Generation Now costs that you discovered
10 in September of 2020 had been broken out into both
11 capital and expense accounts for the Ohio utilities,
12 and the capitalization portion was capitalized across
13 all Ohio accounts. Am I misremembering that or is
14 that, in fact, what occurred?

15 A. I apologize if there was any
16 miscommunication. The capitalized portion of those
17 costs, as I understand it, were spread across the
18 Ohio Companies' capital projects excluding grid
19 modernization projects that are recovered through
20 Rider AMI.

21 Q. Why were those AMI projects excluded from
22 the capitalization of the Generation Now costs?

23 A. Because the Rider AMI costs are charged
24 to specific cost collectors.

25 Q. You mean to specific FERC accounts?

1 understand about that.

2 A. I didn't hear a question frankly.

3 Q. Okay. Well, let me try to ask one. So
4 you talked yesterday about these Generation Now
5 payments that you discovered in September of 2020,
6 and you discussed how you had to reclassify those
7 into below the line accounts. You said that when you
8 first became aware of them, they were classified in
9 Account 923 for outside services; is that correct?

10 A. The costs allocated to the Ohio
11 companies?

12 Q. Yes.

13 A. Those generated payments were originally
14 recorded in Account 923, and a portion was later
15 capitalized.

16 Q. Okay. And is that the normal process
17 that should have been followed to classify those in
18 Account No. 923, or was that a breakdown in the
19 process?

20 MR. GLADMAN: Objection. You may answer.

21 A. I am not involved in the normal
22 accounting process for those sorts of costs. What I
23 do know it was determined, as we've discussed, that
24 those particular costs should be reallocated to
25 different accounts.

1 Q. Okay. So it was a mistake to put them in
2 923, right?

3 MR. GLADMAN: Objection. You may answer.

4 A. It was determined that those costs should
5 have been -- should be reclassified into below the
6 line accounts.

7 Q. If they had to be reclassified, would it
8 be fair to call it a mistake to put them in 923 in
9 the first place?

10 MR. GLADMAN: Objection, asked and
11 answered. You may answer.

12 A. I would characterize it as a
13 misallocation.

14 Q. Okay, misallocation. And is it a mistake
15 when you make misallocations?

16 MR. GLADMAN: Objection, asked and
17 answered. He has given you his answer. He's used
18 his own words, John.

19 Q. You can answer.

20 MR. GLADMAN: You can answer.

21 A. The costs were determined to have been
22 misallocated, and so accounting entries were made to
23 reallocate or reclassify them in what were determined
24 to be the appropriate accounts.

25 Q. Well, I just am asking when somebody

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Case No(s). 20-1502-EL-UNC

Summary: Reply Comments electronically filed by Mrs. Shalini B. Goyal on behalf of The Toledo Edison Company and Ohio Edison Company and The Cleveland Electric Illuminating Company