

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the :
Review of the Distribution:
Modernization Rider of :
Ohio Edison, The Cleveland: Case No. 17-2474-EL-RDR
Electric Illuminating :
Company, and The Toledo :
Edison Company. :

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PREHEARING CONFERENCE

before Mr. Gregory Price, Ms. Megan Addison, and Ms. Jacky St. John Werman, Attorney Examiners, at the Public Utilities Commission of Ohio, 180 East Broad Street, via Webex, called at 10:00 a.m. on Friday, January 7, 2022.

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ARMSTRONG & OKEY, INC.
222 East Town Street, Second Floor
Columbus, Ohio 43215-5201
(614) 224-9481

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1 APPEARANCES:

2 FirstEnergy Service Company
 3 By Mr. Brian Knipe
 4 76 South Main Street
 5 Akron, Ohio 44308

6 Jones Day
 7 By Mr. Michael Gladman
 8 325 John H. McConnell Boulevard,
 9 Suite 600
 10 Columbus, Ohio 43215

11 Jones Day
 12 By Mr. Ryan A. Doringo
 13 901 Lakeside Avenue
 14 Cleveland, Ohio 44114

15 On behalf of the Ohio Edison Company, The
 16 Cleveland Electric Illuminating Company,
 17 and The Toledo Edison Company.

18 Bruce J. Weston, Ohio Consumers' Counsel
 19 By Ms. Maureen R. Willis,
 20 Senior Counsel
 21 Mr. John Finnigan
 22 and Mr. William Michael,
 23 Assistant Consumers' Counsel
 24 65 East State Street, 7th Floor
 25 Columbus, Ohio 43215

On behalf of the Residential Customers of
 the Ohio Edison Company, The Cleveland
 Electric Illuminating Company, and The
 Toledo Edison Company.

Kegler, Brown, Hill & Ritter Co., LPA
 By Mr. Robert Dove
 65 East State Street, Suite 1800
 Columbus, Ohio 43215

On behalf of the Ohio Partners for
 Affordable Energy.

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APPEARANCES: (Continued)

Carpenter Lipps & Leland LLP
By Mr. Thomas V. Donadio
280 North High Street
280 Plaza, Suite 1300
Columbus, Ohio 43215

On behalf of the Ohio Manufacturers'
Association Energy Group.

McNees, Wallace & Nurick LLC
By Mr. Matthew Pritchard
21 East State Street, 17th Floor
Columbus, Ohio 43215

On behalf of the Industrial Energy Users
of Ohio.

Bricker & Eckler, LLP
By Ms. Rachael Mains
and Mr. Devin Parram
100 South Third Street
Columbus, Ohio 43215-4291

On behalf of the Ohio Hospital
Association.

Boehm, Kurtz & Lowry
By Mr. Michael Kurtz
and Ms. Jody Kyler Cohn
36 East Seventh Street, Suite 1510
Cincinnati, Ohio 45202

On behalf of the Ohio Energy Group.

Environmental Law & Policy Center
By Ms. Janean Weber
21 West Broad Street, 8th Floor
Columbus, Ohio 43215

On behalf of the Environmental Law &
Policy Center.

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APPEARANCES: (Continued)

Dave Yost, Ohio Attorney General
By Mr. Thomas Lindgren,
Mr. Werner L. Margard, III,
and Ms. Kyle Kern,
Assistant Attorneys General
Public Utilities Section
30 East Broad Street, 26th Floor
Columbus, Ohio 43215

On behalf of the Staff of the PUCO.

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Friday Morning Session,
January 7, 2022.

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EXAMINER ST. JOHN: The Public Utilities Commission of Ohio calls for a prehearing conference at this time and place Case No. 17-2474-EL-RDR being in the Matter of the Review of the Distribution Modernization Rider of Ohio Edison Company, The Cleveland Electric illuminating Company, and The Toledo Edison Company.

My name is Jacky St. John, and with me are Gregory Price and Megan Addison. And we are the Attorney Examiners assigned to preside over this prehearing conference.

Let's begin by taking appearances starting with the Companies.

MR. KNIPE: Good morning, your Honors. Appearing on behalf of Ohio Edison, The Cleveland Electric Illuminating Company, and The Toledo Edison Company, I am Brian Knipe, 76 South Main Street, Akron, Ohio 44308.

Also appearing on behalf of the Companies from the Jones Day law firm are Michael Gladman, 325 John H. McConnell Boulevard, Columbus, Ohio 43215 and Ryan Doringo, North Point, 901 Lakeside Avenue,

1 Cleveland, Ohio 44114.

2 EXAMINER ST. JOHN: Thank you.

3 Ohio Consumers' Counsel.

4 MS. WILLIS: Thank you, your Honor. On
 5 behalf of the residential customers of the
 6 FirstEnergy utilities, Bruce Weston, Consumers'
 7 Counsel, represented by Maureen Willis, William
 8 Michael, and John Finnigan, 65 East State Street,
 9 Suite 700, Columbus, Ohio 43215. Thank you.

10 EXAMINER ST. JOHN: Thank you.

11 Ohio Energy Group.

12 MS. COHN: Good morning, your Honor. On
 13 behalf of Ohio Energy Group, Jody Cohn, Michael Kurtz
 14 from the law firm of Boehm, Kurtz & Lowry, 36 East
 15 Seventh Street, Suite 1510, Cincinnati, Ohio 45202.

16 EXAMINER ST. JOHN: Thank you. Ohio
 17 Partners for Affordable Energy.

18 MR. DOVE: Good morning, your Honor. On
 19 behalf of Ohio Partners for Affordable Energy, this
 20 is Robert Dove with the law firm Kegler, Brown, Hill
 21 & Ritter, 65 East State Street, Suite 1800, Columbus,
 22 Ohio 43215.

23 EXAMINER ST. JOHN: Thank you.

24 Environmental Law & Policy Center.

25 MS. WEBER: Good morning, your Honor.

1 This is Janean Weber with the Environmental Law &
 2 Policy Center, 21 West Broad Street, 8th Floor,
 3 Columbus, Ohio 43215.

4 EXAMINER ST. JOHN: Thank you.

5 Ohio Manufacturers' Association Energy
 6 Group.

7 MR. DONADIO: Good morning, your Honor.
 8 Thomas Donadio appearing on behalf of the Ohio
 9 Manufacturers' Association Energy Group with the law
 10 firm of Carpenter Lipps & Leland located at 280 North
 11 High Street, Suite 1300, Columbus, Ohio 43215.

12 EXAMINER ST. JOHN: Thank you.

13 Industrial Energy Users - Ohio.

14 MR. PRITCHARD: On behalf of IEU-Ohio,
 15 Matt Pritchard with the law firm of McNees, Wallace &
 16 Nurick, 21 East State Street, Columbus, Ohio 43215.

17 EXAMINER ST. JOHN: Thank you.

18 Citizens Utility Board of Ohio. Ohio
 19 Hospital Association.

20 MS. MAINS: Good morning, your Honors.
 21 On behalf of the Ohio Hospital Association, Rachael
 22 Mains and Devin Parram of the law firm Bricker &
 23 Eckler located at 100 South Third Street, Columbus,
 24 Ohio 43215. Thank you.

25 EXAMINER ST. JOHN: Thanks.

1 And last on behalf of Staff.

2 MR. LINDGREN: Thank you, your Honor. On
3 behalf of the Staff, Ohio Attorney General Dave Yost
4 by Thomas Lindgren and Werner Margard and Kyle Kern
5 at 30 East Broad Street, 26th Floor, Columbus, Ohio
6 43215.

7 EXAMINER ST. JOHN: Thank you very much.

8 Now I would like to address a few issues
9 before turning things over to Judge Price. First of
10 all, the Ohio Hospital Association has filed a motion
11 for leave to file out of time to intervene. That was
12 filed on May 28 of 2021. I'll note that no memoranda
13 contra were filed. In its motion the Ohio Hospital
14 Association stated that it has a substantial interest
15 in the proceeding because some of its members are in
16 FirstEnergy territory and paid the Rider DMR charges.

17 So at this time we find the Motion to
18 Intervene is reasonable and should be granted.

19 Next, I would like to address the motion
20 for protective order that was filed by FirstEnergy
21 utilities on June 14 of 2019. By entry issued
22 November 16 of 2019, the Attorney Examiners denied
23 the motion in part to the extent that FirstEnergy no
24 longer wished to pursue protective treatment.

25 And the Attorney Examiners directed

1 FirstEnergy to file a response in regards to the
2 remaining portion of the motion to compel.

3 FirstEnergy filed that correspondence on November 19
4 of 2021 stating that they to longer need to pursue
5 protective treatment for the remaining portion.

6 So in order to make the record clear, the
7 remaining portion of that motion for protective order
8 will be denied.

9 And now at this time I will go ahead and
10 turn things over to Judge Price.

11 EXAMINER PRICE: Thank you.

12 We just have a few more housekeeping
13 matters to clean up and then hopefully won't take too
14 much of everybody's time. The next issue we have is
15 on September 24, 2021, OCC filed a motion for
16 subpoena against FirstEnergy Corp. As we indicated
17 in the prehearing conference in another case this
18 week, you know, the Bench is not a party to what
19 happens after the subpoena has been issued. We
20 either get a motion to quash or assume the subpoena
21 is being complied with.

22 So we did ask the other day for an update
23 from OCC and FirstEnergy Corporation, and they were
24 able to give us an update that some 230,000 pages of
25 documents have been produced. We are just going to

1 ask if there is anything to add to that update which
2 is particularly relevant to this particular
3 proceeding.

4 MS. WILLIS: No, your Honor. As we
5 indicated in the -- our prehearing conference earlier
6 this week, the motion for a subpoena was filed in
7 both cases, and it was resolved by FE Corporation
8 agreeing to produce the information that it has
9 produced to other parties in the various civil suits
10 against it. So the same -- you know, the same update
11 is -- is given that was given earlier this week is
12 that our motion for subpoena need not be ruled upon
13 because we have been able to reach agreement with
14 FirstEnergy Corp. Thank you.

15 EXAMINER PRICE: Just to clarify,
16 Ms. Willis, I think we actually did grant the
17 subpoena. There has just been no motion to quash.

18 MS. WILLIS: Okay. Thank you, your
19 Honor. Thank you.

20 EXAMINER PRICE: Maybe I'm wrong, but I
21 think that's the current status. We've had a lot of
22 subpoenas in these cases.

23 Speaking of which we have two more
24 subpoenas that are pending motions. A motion for
25 subpoena for Oxford Advisors related to the alleged

1 draft final report was filed by OCC October 20, 2021.
2 Memo contra was filed by the Staff on November 4,
3 2021. OCC filed its reply on November 12, 2021. In
4 addition a motion for subpoena for Oxford Advisors --
5 to conduct a deposition of Oxford Advisors related to
6 the midterm report they have filed was filed by OCC
7 on December 10, 2021. Memo contra was filed
8 December 27, '21. And then a reply was filed on
9 January 3, 2022.

10 We'll continue to defer ruling on both
11 motions until after the filing of the final audit
12 report in this case by Staff. That report is
13 scheduled to be filed on January 14, 2022, barring
14 any further extensions. It simply makes sense to the
15 Bench to defer ruling, see if any of these questions
16 have been answered by the final report prepared by
17 Staff. Otherwise, we will proceed by ruling on the
18 motions for subpoena at a later date.

19 Related further to the final Staff
20 Report, we will set the comment period by entry so
21 all parties have notice to it, but just so counsel is
22 aware for planning purposes, assume that the comments
23 will be due about 30 days after the audit report is
24 filed assuming -- which would be mid-February if
25 there is no further extensions. Reply comments will

1 then be due as usual 15 days after the initial
2 comments.

3 Excuse me. The last issue we have is a
4 request for discovery update from the parties. A
5 motion to compel was granted to OCC on its second set
6 of discovery on this case on April 8, 2021. We've
7 heard nothing from the parties whether there are any
8 issues, but we just wanted to close the loop and make
9 sure all the production under the motion to compel
10 has been completed, and we can -- we can put this one
11 to bed.

12 Ms. Willis.

13 MS. WILLIS: Your Honor, in -- in
14 preparing for this prehearing, I have apparently
15 missed that -- that motion. I know you advised us to
16 look. I was looking over the documents and looking
17 over the -- the docket card. I did miss that. You
18 know, I can certainly give you an update through a
19 letter, but I would believe had -- because OCC has
20 not raised issues or pursued issues with regard to
21 that, that these matters have been resolved.

22 We generally do follow up on discovery
23 disputes which are not resolved, so I'm assuming that
24 it was resolved, but I can certainly double-check and
25 next week file a letter confirming that the issues

1 have been resolved.

2 EXAMINER PRICE: Thank you.

3 Mr. Gladman, anything to add?

4 MR. GLADMAN: I'll defer to Mr. Doringo
5 on this discovery issue, if that's okay, your Honor.

6 EXAMINER PRICE: Sure.

7 MR. DORINGO: Yes, your Honor, I can add
8 a little more color to that. After the last
9 prehearing conference which was amazingly in April of
10 last year, we -- we negotiated -- well, you had
11 actually put the onus on us to move for a protective
12 order if we had continuing objections to any of OCC's
13 requests, and I believe it was its second set of
14 discovery.

15 We negotiated those issues with OCC.
16 Some requests were withdrawn by OCC, but we answered
17 all of the other ones. And in my view there is no
18 remaining dispute on that discovery set.

19 We -- actually just today in preparation
20 for this prehearing conference and in your orders
21 from the corporate separation conference on Tuesday,
22 we reviewed to make sure we were all caught up,
23 realized there were some documents that were
24 inadvertently not produced yet.

25 We fixed that issue this morning, and

1 with that production made to OCC this morning, we
2 believe that -- that every issue addressed in that
3 initial prehearing conference has been resolved.

4 EXAMINER PRICE: Thank you. That's very
5 helpful.

6 Are there any other issues the parties
7 have that they want to bring to the Bench's
8 attention?

9 Hearing none, very good. Thank you all
10 for your time and attendance in this prehearing
11 conference. I think its useful in these cases to
12 eliminate as many housekeeping matters as we can and
13 without spending too much time on it. So I expect
14 that the two -- two prehearing conferences scheduled
15 for next week will be similar to this in length and
16 productivity. So thank you all.

17 With that we are adjourned. We are off
18 the record.

19 (Thereupon, at 10:14 a.m., the prehearing
20 conference was adjourned.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Friday, January 7, 2022, and carefully compared with my original stenographic notes.

Karen Sue Gibson, Registered
Merit Reporter.

(KSG-7210)

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**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on**

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in

Case No(s). 17-2474-EL-RDR

Summary: Transcript January 7th 2022 In the Matter of the Review of the Distribution Modernization Rider of Ohio Edison, The Cleveland Electric Illuminating Company, and The Toledo Edison Company. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs.