

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

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**OHIO EDISON COMPANY, THE CLEVELAND ELECTRIC ILLUMINATING  
COMPANY, AND THE TOLEDO EDISON COMPANY’S MEMORANDUM CONTRA  
THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL’S  
MOTION TO ACCEPT STATEMENT OF ADDITIONAL AUTHORITY**

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Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the “Companies”) take no position on the Office of the Ohio Consumers’ Counsel’s (“OCC”) request for the Commission to consider the D.C. Circuit’s recent decision in *Newman v. FERC*, 22 F.4th 189, 2021 WL 6122669 (D.C. Cir. 2021). The Companies do, however, fundamentally disagree with both OCC’s characterization of that case and any purported application of the case to the Commission’s instant review.

In *Newman*, the D.C. Circuit interpreted a FERC accounting regulation and applied its interpretation to determine to which account under FERC’s Uniform System of Accounts certain discrete expenditures should have been booked. That is, the court’s opinion centers on an accounting matter and does not—contrary to OCC’s view—dictate ratemaking.

Accordingly, neither the Commission nor the parties need debate the intricacies of the D.C. Circuit’s opinion because *Newman* is simply not relevant here. The Commission has not limited this review of the Companies’ political and charitable spending in support of HB 6 to the costs booked to any specific FERC account. Moreover, the Companies have already disclosed the rate impact, if any, of HB 6-related spending costs incurred by the Companies, regardless of where

those costs were initially booked. *See* Companies' Reply Comments (Dec. 14, 2021), at 6-7.

*Newman* does not change the landscape in the least.

Dated: January 26, 2022

Respectfully submitted,

/s/ Ryan A. Doringo

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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 January 26, 2022. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ Ryan A. Doringo  
*Attorney for the Companies*

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**1/26/2022 4:17:55 PM**

**in**

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

Summary: Memorandum Contra the Office of the Ohio Consumers' Counsel's  
Motion to Accept Statement of Additional Authority electronically filed by Ryan A.  
Doringo on behalf of Ohio Edison Company and The Cleveland Electric Illuminating  
Company and The Toledo Edison Company