

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

**MOTION TO QUASH THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
SUBPOENA DIRECTED TO ANTONIO FERNÁNDEZ**

Pursuant to Ohio Administrative Code ("O.A.C.") 4901-1-25(C), FirstEnergy Corp. moves the Commission for an order quashing the subpoena directed to its Vice President and Chief Ethics and Compliance Officer Antonio Fernández, filed by the Office of the Ohio Consumers' Counsel ("OCC") on February 7, 2022.¹ FirstEnergy Corp. and the FirstEnergy Ohio utilities² are cooperating with OCC to respond to OCC's subpoena and facilitate the deposition of the person most knowledgeable about topics relevant to this proceeding. But OCC's subpoena, as served, is defective for several reasons. First, the subpoena is directed to the wrong person. Second, document discovery in this proceeding has been closed since last November, and OCC's broad document requests to a non-party are nothing more than an attempt to end-run this deadline. Third, and in any event, certain of OCC's document requests are neither relevant to this proceeding nor reasonably calculated to lead to the discovery of admissible evidence. Accordingly, FirstEnergy Corp. respectfully requests that the Commission grant this Motion to Quash.

¹ OCC's subpoena is attached as Exhibit A to the Memorandum in Support.

² All references to the "FirstEnergy Ohio utilities" are meant to refer to Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company, collectively.

Dated: February 28, 2022

Respectfully submitted,

/s/ Corey A. Lee

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On behalf of FirstEnergy Corp.

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**MEMORANDUM IN SUPPORT OF MOTION TO QUASH
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S SUBPOENA
DIRECTED TO ANTONIO FERNÁNDEZ**

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I. INTRODUCTION

Through its subpoena, OCC seeks to depose Mr. Fernández, FirstEnergy Corp.’s Vice President and Chief Ethics and Compliance Officer, and demands production of fourteen broad categories of documents two days before that deposition. OCC’s document requests seek, among other things, “records in the possession of, or under the control, of Ebony Yeboah-Amankwah related to corporate separation for the FirstEnergy Ohio utilities during 2016 through 2020”; training records, internal audits, processes and procedures, and other documents related to the FirstEnergy Ohio utilities’ corporate separation plan and compliance; and all records and correspondence regarding the FERC audit around the time the FERC audit report was filed.³

OCC’s subpoena is fundamentally flawed. *First*, as counsel informed OCC, Mr. Fernández—who does not serve as the compliance officer for the FirstEnergy Ohio utilities for corporate separation matters under Rule 4901:1-37-05(B)(11), O.A.C.—does not have the information OCC seeks. This is precisely why counsel is willing to “work with [OCC] on an alternative date for the proper person.”⁴ But despite multiple attempts to confer with OCC as to the proper deponent and scope of any production, OCC refuses to withdraw its subpoena to Mr. Fernández, insisting instead that “Mr. Fernandez produc[e] (on or before February 28, 2022) . . . the documents requested in the subpoena.”⁵

Second, OCC has improperly served new and overbroad document requests months after document discovery closed in this case. OCC demands the production of fourteen broad categories of documents, ranging from communications involving the former Chief Ethics Officer to

³ Exhibit A, at 1-2.

⁴ Exhibit B, Email from C. Lee to M. Willis, February 11, 2022 at 1:17 pm.

⁵ See Exhibit 2, Email from M. Willis to C. Lee, February 17, 2022 at 12:28 pm.

confidential FERC investigation materials. While notices of deposition are still permitted under the procedural schedule, the deadline for the service of document discovery has long passed.⁶ By shoehorning requests for the significant production of documents from a non-party in a subpoena for a deposition, OCC improperly seeks to circumvent the Attorney Examiners' discovery orders.

Third, OCC fails to show how certain of its document requests are relevant to this corporate separation proceeding. In particular, the subpoenaed FERC-related documents—which concern the compliance of FirstEnergy Corp. and its subsidiaries with federal regulations—have no bearing on this case.

For these reasons and those explained below, the Commission should grant FirstEnergy Corp.'s Motion to Quash OCC's subpoena in its entirety.

II. APPLICABLE LAW

Under O.A.C. Rule 4901-1-25, the Commission may quash a subpoena “if it is unreasonable or oppressive.”⁷ For a subpoena to be valid, it must “designate with reasonable particularity the matter on which examination is requested”⁸ and be “within the scope of discovery set forth in rule 4901-1-16 of the Administrative Code.”⁹ O.A.C. Rule 4901-1-16, limits the scope of discovery to non-privileged matters that are “relevant to the subject matter of the proceeding” or reasonably calculated to lead to the discovery of admissible evidence.¹⁰ Ohio Civil Rule 26

⁶ Case No. 17-974-EL-UNC, Entry, at ¶ 18(a) (Sept. 17, 2021); Case No. 17-974-EL-UNC, Entry, at ¶ 24(a) (Oct. 12, 2021).

⁷ Ohio Adm. Code § 4901-1-25(C).

⁸ Ohio Adm. Code 4901-1-21(F).

⁹ Ohio Adm. Code 4901-1-25.

¹⁰ Ohio Adm. Code 4901-1-16(B).

similarly limits discovery to relevant, non-privileged matters and requires that all requests be “proportional to the needs of the case.”¹¹

In the case of a subpoena to a non-party, the party seeking discovery must make a showing of “substantial need” for the non-privileged information sought. For example, in *Lambda Research v. Jacobs*, 170 Ohio App. 3d 750, 756 (1st Dist. 2007), the appellate court reversed a trial court’s denial of a motion to quash a subpoena that sought information from a non-party to a lawsuit involving a breach of a supplier agreement. The appellate court held that “the trial court’s laissez-faire approach to discovery was at direct odds with . . . Civ.R. 45(C) . . . which provide[s] protection for nonparties.”¹² Specifically, “Civ. R. 45 provides that when a nonparty moves to quash a subpoena on the ground that it imposes an undue burden, the party seeking the discovery must demonstrate a substantial need for the materials that cannot be met through alternate means.” Additionally: “[t]he rule further provides that the court shall quash the subpoena unless the party on whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship.”¹³ Well-settled Commission precedent is consistent with this Ohio case law; the Commission quashes subpoenas that are overbroad, unduly burdensome, or otherwise unreasonable.¹⁴

¹¹ Ohio Civ. R. 26(B)(1).

¹² *Lambda Research v. Jacobs*, 2007-Ohio-309, 869 N.E.2d 39, 170 Ohio App. 3d 750, 756-757 (Ohio Ct. App. 2007).

¹³ *Id.* (internal quotations omitted). See also *Kaplan v. Tuennenman-Kaplan*, 9th Dist. Wayne No. 11CA0011, 2012 WL 256562, at *4 (Jan. 30, 2012) (affirming the trial court’s decision to grant a motion to quash because the appellant failed to show substantial need for the discovery sought); *Martin v. Budd*, 128 Ohio App. 3d 115, 120 (9th Dist. 1998) (holding that trial court’s failure to grant a motion to quash a subpoena duces tecum was an abuse of discretion because the subpoena created an undue burden and the subpoenaing party failed to show a substantial need for the requested information); *Eitel v. Eitel*, 4th Dist. Pickaway No. 95CA11, 1996 WL 482703 at *4-6 (Aug. 23, 1996) (affirming trial court’s decision to quash subpoenas that were unreasonable, oppressive, and unduly burdensome, and for failure of subpoenaing party to show substantial need).

¹⁴ See, e.g., *In the Matter of the Complaint of the Ohio Consumers’ Counsel, Stand Energy Corporation, Incorporated, Northeast Ohio Public Energy Council, and Ohio Farm Bureau Federation v. Interstate Gas Supply, Inc.*, Case No. 10-2395-GA-CSS, 2011 Ohio PUC LEXIS 1202, Entry at *4-5 (Nov. 2, 2011) (granting motion to quash because

III. ARGUMENT

A. OCC Cannot Show A “Substantial Need” For Its Misdirected Deposition.

OCC asserts its requested deposition is “intended to produce information that pertains to the issues in this case” and the “issues relate to how (and whether) the FirstEnergy Ohio Utilities complied with Ohio’s corporate separation law and rules during 2016 through 2020.”¹⁵ This information, OCC posits, “is crucial to establish whether the corporate separation plan was ‘sufficient’ to protect Ohio consumers.”¹⁶

But Mr. Fernández does not have the information OCC seeks.¹⁷ Even setting aside that OCC’s document requests are procedurally barred, *see infra* Section III.B, Mr. Fernández is not now, and never has been, the FirstEnergy Ohio utilities’ compliance officer for Ohio corporate separation matters under O.A.C. Rule 4901:1-37-05(B)(11). He has neither personal knowledge nor possession of training records, internal audits, or processes and procedures related to the

subpoena was unreasonable); *In the Matter of the Complaint of Buckeye Energy Brokers, Inc., v. Palmer Energy Company*, Case No. 10-693-EL-CSS, 2011 Ohio PUC LEXIS 406, Entry at *6 (Mar. 30, 2011) (granting motion to quash); *see also In the Matter of the Application of Champaign Wind, LLC, for a Certificate to Construct a Wind-Powered Electric Generating Facility in Champaign County, Ohio*, Case No. 12-160-EL-BGN, 2013 Ohio PUC LEXIS 110, Opinion, Order, and Certificate at *19-20 (May 28, 2013) (quashing “extraordinarily overbroad” subpoenas directed at nonparties, finding there was no showing by the subpoenaing party as to how it would suffer an “undue hardship” in the absence of the subpoenaed information and holding “it would be unreasonable to force a nonparty to expend its time and resources toward a request that is unlimited in scope”). While *Champaign Wind* is a decision from the Power Siting Board, the Board follows the same procedures as the Commission. *See R.C. 4906.12* (“Procedures of the public utilities commission to be followed: Sections 4903.02 to 4903.16 and 4903.20 to 4903.23 of the Revised Code shall apply to any proceeding or order of the power siting board under Chapter 4906 of the Revised Code, in the same manner as if the board were the public utilities commission under such sections.”); *In the Matter of the Complaint of Brenda Fitzgerald v. Duke Energy Ohio*, Case No. 10-791-EL-CSS, 2011 Ohio PUC LEXIS 415, Entry at *5-13 (April 4, 2011) (denying in part motion to compel where respondent had already provided responses to several discovery requests at issue and the requests otherwise sought irrelevant information); *In the Matter of the Complaint of Ruth L. Wellman v. Ameritech Ohio*, Case No. 99-768-TP-CSS, 2002 Ohio PUC LEXIS 554, Entry at *2-19 (June 21, 2002) (denying motion to compel where discovery requested was vague, “not imperative in a final determination of [the] matter,” overly broad, and because the respondent had already responded to several of the discovery requests at issue).

¹⁵ Case No. 17-974-EL-UNC, OCC Motion for Subpoena Duces Tecum for FirstEnergy Vice President and Chief Ethics and Compliance Officer Antonio Fernández, Memorandum in Support (“OCC Mem.”), at 1 (Feb. 7, 2022).

¹⁶ OCC Mem., at 3 (citation omitted).

¹⁷ See Exhibit B, Email from C. Lee to M. Willis, February 11, 2022 at 1:17 pm.

FirstEnergy Ohio utilities’ corporate separation plan. Nor does he have within his custody communications from a FirstEnergy Corp. employee separated from the Company prior to the start of Mr. Fernández’s tenure.¹⁸ As OCC is aware, Mr. Fernández is not best suited to respond to OCC’s requests.

In fact, counsel informed OCC both that Robert Mattiuz assumed responsibility from Ms. Yeboah-Amankwah for the Company’s Ohio corporate separation matters effective September 22, 2021, and that Mr. Mattiuz is retiring and has been replaced by Olenger Pannell effective February 6, 2022.¹⁹ Further, counsel understands that OCC is working with counsel for the FirstEnergy Ohio utilities to facilitate the deposition of Mr. Mattiuz or Mr. Panell. Despite all of this, OCC refuses to withdraw its subpoena to Mr. Fernández (OCC is “hold[ing]” Mr. Fernández’s deposition) and continues to “insist on Mr. Fernandez producing (on or before February 28, 2022) to OCC the documents requested in the subpoena.”²⁰

OCC’s continued insistence is unreasonable.²¹ There is no need to depose Mr. Fernández on the issues OCC has raised where an appropriate deponent will be provided for cross-examination. And OCC faces no hardship in not receiving documents it had months to request in discovery. OCC cannot demonstrate a substantial need for the subpoenaed materials.

¹⁸ Exhibit A, at 1-2. OCC also seeks and all records and correspondence regarding the FERC audit around the time the FERC audit report was filed, which is not relevant to this proceeding, *see infra* Section III.C.

¹⁹ See Exhibit B, Email from C. Lee to M. Willis, February 11, 2022 at 1:17 pm (attaching Case No. 09-462-EL-UNC, Letter Filing (Feb. 11, 2022), attached as Exhibit C). See also, Exhibit D, Case No. 09-462-EL-UNC, Letter Filing (Sept. 22, 2021).

²⁰ See Exhibit B, Email from M. Willis to C. Lee, February 17, 2022 at 12:28 pm.

²¹ *In the Matter of the Complaint of the Ohio Consumers’ Counsel, Stand Energy Corporation, Incorporated, Northeast Ohio Public Energy Council, and Ohio Farm Bureau Federation v. Interstate Gas Supply, Inc.*, Case No. 10-2395-GA-CSS, 2011 Ohio PUC LEXIS 1202, Entry at *4-5 (Nov. 2, 2011) (granting motion to quash because subpoena was unreasonable).

B. OCC Seeks To Improperly Circumvent The Procedural Schedule.

OCC’s subpoena should also be quashed because it is procedurally improper. OCC well knows that document discovery—even between the *parties* to this case—ended months ago. Yet, OCC attempts to misuse the subpoena process as a means to end-run the deadlines that have long since passed, making fourteen new and broad document requests in its subpoena to Mr. Fernández.

These onerous requests are oppressive in their disregard for the procedural schedule—as Ohio law and Commission decisions make clear. A party cannot merely ignore the close of discovery.²² And it is well-settled Commission practice that a party cannot circumvent discovery deadlines by requesting documents through the deposition process.²³ On this point, *In the Matter of the Complaint of Buckeye Energy Brokers, Inc., Complainant* is instructive.²⁴ There, as here, Buckeye Energy issued a subpoena to a representative from Palmer Energy where its subpoena called for categories of documents beyond what had already been produced in discovery.²⁵ Palmer Energy moved to quash the subpoena with respect to the document requests, arguing that the deadline to serve discovery requests had passed and, therefore, Buckeye Energy should not be allowed “to circumvent the discovery deadline by using a subpoena to request additional

²² *Sciaretta v. Refractory Specialties, Inc.*, 2018-Ohio-1141, ¶ 67 (Ohio Ct. App. 2018) (finding that motion to compel was filed more than four weeks after the discovery deadline and that no request to extend the deadline was made, therefore affirming denial of motion to compel); *P.N. Gilcrest Ltd. P'ship v. Doylestown Fam. Prac., Inc.*, 2011-Ohio-2990, ¶ 20 (Ohio Ct. App. 2011) (affirming denial of motion to compel since discovery cut-off date had passed and Court was unpersuaded that party was not requesting further discovery and simply seeking to obtain it from a different source).

²³ *In the Matter of the Complaint of Brenda Fitzgerald & Gerard Fitzgerald, Complainant*, No. 10-791-EL-CSS, 2011 WL 1682213, at *5 (P.U.C.O. Apr. 25, 2011) (quashing subpoena as it pertains to the production of documents given that discovery was complete); *In the Matter of the Complaint of Buckeye Energy Brokers, Inc., Complainant*, No. 10-693-EL-CSS, 2011 WL 1319206, at *2 (P.U.C.O. Mar. 30, 2011) (granting motion to quash with respect to accompanying document requests since the document requests sought new discovery and exceeded the previously established deadlines.).

²⁴ No. 10-693-EL-CSS, 2011 WL 1319206, at *2 (P.U.C.O. Mar. 30, 2011).

²⁵ *Id.*

documentation.”²⁶ The Commission quashed the subpoena, noting it went “beyond the scope of the prior discovery and that to allow the subpoena to remain as drafted would in essence allow for the conducting of discovery *beyond the previously established deadlines.*”²⁷

The same result should follow here. OCC’s requests similarly eschew the document discovery deadline and should be rejected. Not only do OCC’s new document requests go “beyond the scope of the prior discovery” and “beyond the previously established deadlines,”²⁸ OCC cannot show a “substantial need” for its requested documents from a non-party now.²⁹ *See supra* Section III.A. OCC pins its requests to the Corporate Separation Audit Report, claiming that “due to a lack of records, state-appointed auditor Daymark was unable to assess the FirstEnergy Ohio utilities’ corporate separation compliance tracking and monitoring activities.”³⁰ Even ignoring this blatant distortion of the Audit Report, OCC had ample time to explore any alleged compliance gaps. The Audit Report was filed on September 13, 2021. Four days later, all parties were put on notice that the deadline for the service of discovery would be November 1, 2021.³¹ The close of discovery was then extended to November 24, 2021.³² OCC served no further requests between September 13 and November 24. Nor did OCC challenge the document discovery deadline. OCC’s attempt to serve document requests now—through an entirely improper vehicle on a non-party—should be rejected.

²⁶ *Id.*

²⁷ *Id.* (emphasis added).

²⁸ *Id.*

²⁹ *Lambda Research*, 170 Ohio App. 3d at 756-757.

³⁰ OCC Mem., at 1; Case No. 17-974-EL-UNC, OCC Motion for Subpoena Duces Tecum for FirstEnergy Vice President and Chief Ethics and Compliance Officer Antonio Fernández (“OCC Mot.”), at 2-3 (Feb. 7, 2022).

³¹ Case No. 17-974-EL-UNC, Entry, at ¶ 18(a) (Sept. 17, 2021) (“The deadline for the service of discovery, except for notices of deposition, shall be set for November 1, 2021.”).

³² Case No. 17-974-EL-UNC, Entry, at ¶ 24(a) (Oct. 12, 2021).

C. OCC’S FERC-Related Document Requests Are Irrelevant.

Finally, OCC seeks the production of FERC investigation materials—including communications with and documents produced to FERC in connection with its audit of FirstEnergy Corp.—yet has failed to show why these materials are relevant to this proceeding. A subpoena must be “within the scope of discovery set forth in rule 4901-1-16 of the Administrative Code,”³³ which limits the scope of discovery to non-privileged matters that are “relevant to the subject matter of the proceeding” or reasonably calculated to lead to the discovery of admissible evidence.³⁴ But nowhere in OCC’s motion for a subpoena or accompanying memorandum does OCC explain the relevance of any of the requested FERC materials, which deal entirely with federal regulations. OCC’s FERC-related requests here amount to mere “fishing expeditions” that go beyond the scope of reasonable or otherwise limited discovery—which Ohio courts disfavor.³⁵ Moreover, the discovery of FERC materials is a pending issue in these investigative Commission proceedings.³⁶

IV. CONCLUSION

FirstEnergy Corp. and the FirstEnergy Ohio utilities are working with OCC to facilitate the deposition of the proper person on relevant corporate separation topics. But as it stands, OCC’s subpoena is directed to the wrong person and is an improper attempt to serve new document requests on a non-party despite the close of document discovery. For these reasons, FirstEnergy

³³ Ohio Adm. Code 4901-1-25.

³⁴ Ohio Adm. Code 4901-1-16(B).

³⁵ See, e.g., *Martin*, 128 Ohio App. 3d at 119 (“[D]iscovery proceedings may not be used to conduct a mere fishing expedition.”); *Bland v. Graves*, 85 Ohio App. 3d 644, 659 (9th Dist. 1993) (“The court may permissibly limit discovery so as to prevent mere ‘fishing expeditions’ in an effort to locate incriminating evidence.”)

³⁶ See Case No. 20-1502-EL-UNC, Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company’s Supplemental Memorandum (Feb. 18, 2022) (showing that the FERC materials requested are confidential under federal law and FERC rules).

Corp. respectfully requests that this Motion be granted and that the Commission quash OCC's subpoena.

Dated: February 28, 2022

Respectfully submitted,

/s/ Corey A. Lee
Corey Lee (0099866)
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901 Lakeside Avenue
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Tel: (216) 586-3939
Fax: (216) 579-0212
calee@jonesday.com

On behalf of FirstEnergy Corp.

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 February 28, 2022. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ Corey A. Lee

Attorney for FirstEnergy Corp.

EXHIBIT A

STATE OF OHIO
PUBLIC UTILITIES COMMISSION
180 E. EAST BROAD STREET
COLUMBUS OHIO 43266-0573

Michael DeWine
GOVERNOR



PUBLIC UTILITIES COMMISSION OF OHIO
SUBPOENA DUCES TECUM

TO: Mr. Antonio Fernandez
FirstEnergy Service Company
76 South Main Street
Akron, Ohio 44308

Upon application of the Office of the Ohio Consumers' Counsel ("OCC"), Mr. Antonio Fernandez, Vice President and Chief Ethics and Compliance Officer of FirstEnergy Service Company, is hereby required to appear for deposition at 10:00 a.m. on March 2, 2022 at OCC's office at 65 East State Street, Suite 700, Columbus, Ohio 43215. Mr. Fernandez is also required to produce the following documents to OCC at the same location, two days prior to the scheduled deposition:

- (1) All records that were in the possession of, or under the control, of Ebony Yeboah-Amankwah related to corporate separation for the FirstEnergy Ohio utilities during 2016 through 2020.
- (2) All records containing processes and procedures that FirstEnergy Ohio utilities used pertaining to Ohio corporate separation requirements during 2016 through 2020.
- (3) All records pertaining to training undertaken with respect to FirstEnergy Ohio utilities' corporate separation compliance from 2016 through 2020.
- (4) All records pertaining to FirstEnergy Ohio Utilities' day-to-day compliance with Ohio's corporate separation rules and law.
- (5) All internal audits conducted during 2016 to 2020, pertaining to the FirstEnergy Ohio Utilities' compliance with Ohio corporate separation requirements.
- (6) All documents relating to changes to the FirstEnergy Ohio Utilities' corporate separation plan since the former Chief Ethics Officer was "separated," including any changes currently under consideration.

- (7) All communications (emails, texts, etc.) between Mr. Fernandez and his supervisor and his supervisees, respectively, relating to the FirstEnergy Utilities' corporate separation plan for Ohio.
- (8) All records containing inquiries by FirstEnergy entities into the information that PUCO auditor Daymark stated (in its audit report) was missing and not available for Daymark's auditing.
- (9) All communications (emails, texts, etc.) between Mr. Fernandez and Ms. Yeboah-Amankwah relating to the FirstEnergy Utilities' corporate separation plan for Ohio, on and after May 1, 2020.
- (10) All records explaining, documenting and/or referencing the statement in an email from Ms. Yeboah-Amankwah about paying Lincoln Electric, including any opinion that she held with regard to making the payment. (Attached).
- (11) All records in any and all forms that Ms. Yeboah-Amankwah took with her from her job that ended at FirstEnergy.
- (12) All records that any and all FirstEnergy entities provided to FERC regarding FERC's audit of FirstEnergy in FERC Docket No. FA19-1-000 for the period two weeks before the audit was released and records after the audit report release on February 4, 2022.
- (13) The FirstEnergy position (job) descriptions for Mr. Fernandez and formerly for Ms. Yeboah-Amankwah.
- (14) Records containing any and all correspondence between FERC and any and all FirstEnergy entities after the February 4, 2022 issuance of FERC's audit in FERC Docket No. FA19-1-000.

The documents will be produced in connection with the proceeding entitled: "In
the Matter of the Ohio Edison Company, the Cleveland Electric Illuminating Company,
and the Toledo Edison Company's Compliance with R.C. 4928.17 and the Ohio Adm.
Code Chapter 4901:1-37 (Case No. 17-0974-EL-UNC),"

Dated at Columbus, Ohio, this 7 day of February 2022.



Attorney Examiner

NOTICE: If you are not a party or an officer, agent, or employee of a party to this proceeding, then witness fees for attending under this subpoena are to be paid by the party at whose request the witness is summoned. Every copy of this subpoena for the witness must contain this notice.

EXHIBIT B

From: Maureen.Willis@occ.ohio.gov
Sent: Thursday, February 17, 2022 12:28 PM
To: Lee, Corey A.
Cc: John.Finnigan@occ.ohio.gov; William.Michael@occ.ohio.gov
Subject: RE: OCC subpoena to Fernandez

**** External mail ****

Thank you Corey for accepting service of Mr. Fernandez' subpoena.

You are correct that OCC is not withdrawing its subpoena of Mr. Fernandez at this time. We do agree that the deposition of Mr. Fernandez can be put on hold at this time. However, based on yesterday's conversation with Ryan, we will insist on Mr. Fernandez producing (on or before February 28, 2022) to OCC the documents requested in the subpoena signed by Attorney Examiner Price.

If you would like to discuss , please feel free to contact either John or I.

Thank you.



Maureen R. Willis
Senior Counsel

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Columbus, Ohio 43215
(614) 466-9567
Maureen.willis@occ.ohio.gov

CONFIDENTIALITY NOTICE:

This message may contain privileged and/or confidential information for intended recipients only. If you have received this communication in error, please notify me immediately by email and telephone.

From: Lee, Corey A. <calee@jonesday.com>
Sent: Thursday, February 17, 2022 11:34 AM
To: Willis, Maureen <Maureen.Willis@occ.ohio.gov>
Cc: Finnigan, John <John.Finnigan@occ.ohio.gov>
Subject: RE: OCC subpoena to Fernandez

Maureen,

I confirm that I am accepting service of the subpoena to Mr. Fernandez. While you have not agreed to withdraw the subpoena, it is my understanding that you have been in contact with counsel for the utilities, and will be working with them to facilitate the deposition of Mr. Mattiuz. At this time, I understand that no further action is needed by Mr. Fernandez.

Thank you,
Corey

From: Maureen.Willis@occ.ohio.gov <Maureen.Willis@occ.ohio.gov>
Sent: Monday, February 14, 2022 8:54 AM
To: Lee, Corey A. <calee@jonesday.com>
Cc: John.Finnigan@occ.ohio.gov
Subject: RE: OCC subpoena to Fernandez

** External mail **

Corey, thank you for agreeing to accept service of the subpoena for Mr. Fernandez. I have attached to this email a copy of the signed subpoena. Please confirm you accept service of the subpoena in this form.

At this time, we are not waiving any right to take Mr. Fernandez' deposition. However, based on your representation, at this time, we are willing to depose Mr. Mattiuz. Please confirm that you are agreeing to make Mr. Mattiuz available for a deposition at a to-be scheduled time that works for all concerned, without requiring OCC to seek a subpoena compelling his attendance at the deposition. Once Mr. Mattiuz has been deposed, we can discuss the deposition of Mr. Fernandez.

Once you have proposed dates for Mr. Mattiuz, please contact me. We should also discuss the documents production which we would expect becomes part of the Mattiuz deposition.

Thank you.



Maureen R. Willis
Senior Counsel

Office of the Ohio Consumers' Counsel
65 East State Street
Suite 700
Columbus, Ohio 43215
(614) 466-9567
Maureen.willis@occ.ohio.gov

CONFIDENTIALITY NOTICE:

This message may contain privileged and/or confidential information for intended recipients only. If you have received this communication in error, please notify me immediately by email and telephone.

From: Lee, Corey A. <calee@jonesday.com>
Sent: Friday, February 11, 2022 1:17 PM
To: Willis, Maureen <Maureen.Willis@occ.ohio.gov>
Subject: OCC subpoena to Fernandez

Maureen,

As we discussed earlier today, there is no need to serve Mr. Fernandez in person, and we will accept service of the subpoena. However, I also told you that Mr. Fernandez does not have the information that you seek. As seen in the attached, Ms. Yeboah-Amankwah was followed by Robert Mattiuz, as it relates to Ohio corporate separation matters. Mr. Mattiuz is retiring, and has been replaced by Olenger Pannell.

As I also informed you, we will not be available on March 2nd, but will work with you on an alternative date for the proper person. You also agreed to consider a virtual deposition.

While we did not discuss the documents sought in the subpoena, we specifically reserve all our rights to object to this portion of the subpoena.

Thank you,
Corey

Corey Lee ([bio](#))
Partner
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EXHIBIT C



76 South Main St
Akron, OH 44308

Emily V. Danford
Attorney

330-384-5849
Fax: 330-315-7647

Ms. Tanowa Troupe
Commission Secretary
The Public Utilities Commission of Ohio
180 E. Broad St.
Columbus, OH 43215

February 11, 2022

Re: Case No. 09-462-EL-UNC

Dear Secretary Troupe:

Pursuant to O.A.C. 4901:1-37-05(B)(11), Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the “Companies”) hereby provide notice that Olenger L. Pannell, Vice President, Compliance & Regulated Services, FirstEnergy Service Company, has been designated the Companies’ compliance officer who will be the contact for the Commission and Staff on corporate separation matters. This designation is effective February 6, 2022, when Mr. Pannell replaced Robert R. Mattiuz, Jr., who is retiring.

Sincerely,

/s/ Emily V. Danford
Emily V. Danford (0090747)
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308
(330) 384-5849
edanford@firstenergycorp.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 11th day of February, 2022. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ Emily V. Danford

*Attorney for Ohio Edison Company,
The Cleveland Electric Illuminating
Company and The Toledo Edison
Company*

**This foregoing document was electronically filed with the Public Utilities
Commission of Ohio Docketing Information System on
2/11/2022 11:52:21 AM**

in

Case No(s). 09-0462-EL-UNC

**Summary: Letter of Notification electronically filed by Ms. Emily V. Danford on
behalf of Ohio Edison Company and The Cleveland Electric Illuminating Company
and The Toledo Edison Company**

EXHIBIT D



76 South Main St
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Emily V. Danford
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330-384-5849
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Ms. Tanowa Troupe
Commission Secretary
The Public Utilities Commission of Ohio
180 E. Broad St.
Columbus, OH 43215

September 22, 2021

Re: Case No. 09-462-EL-UNC

Dear Secretary Troupe:

Pursuant to O.A.C. 4901:1-37-05(B)(11), Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (the “Companies”) hereby provide notice that Robert R. Mattiuz, Jr., VP, Compliance & Regulated Services, FirstEnergy Service Company, has been designated the Companies’ compliance officer who will be the contact for the Commission and Staff on corporate separation matters.

Sincerely,

/s/ Emily V. Danford
Emily V. Danford (0090747)
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308
(330) 384-5849
edanford@firstenergycorp.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 22nd day of September, 2021. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

s/s/ *Emily V. Danford*

*Attorney for Ohio Edison Company,
The Cleveland Electric Illuminating
Company and The Toledo Edison
Company*

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Commission of Ohio Docketing Information System on

9/22/2021 1:31:44 PM

in

Case No(s). 09-0462-EL-UNC

Summary: Letter of Notification electronically filed by Ms. Emily V. Danford on behalf of The Cleveland Electric Illuminating Company and Ohio Edison Company and The Toledo Edison Company

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

2/28/2022 5:22:53 PM

in

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

Summary: Motion to Quash the Office of the Ohio Consumers' Counsel's Subpoena Duces Tecum for FirstEnergy Vice President and Chief Ethics and Compliance Officer electronically filed by Mr. Corey Lee on behalf of FirstEnergy Corp.