

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

|                                      |   |                        |
|--------------------------------------|---|------------------------|
| In the Matter of the 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 the Ohio Adm. Code  | ) |                        |
| Chapter 4901:1-37.                   | ) |                        |

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**NOTICE OF FILING OF TRANSCRIPT FOR DEPOSITION OF EBONY  
YEBOAH-AMANKWAH ON JULY 21, 2022  
BY  
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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The Office of the Ohio Consumers' Counsel, consistent with O.A.C. 4901-1-21(N), hereby gives notice of the filing of the attached deposition transcript for the deposition of Ebony Yeboah-Amankwah taken on July 21, 2022.

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing pleading was served on the persons stated below via electronic transmission, this 10<sup>th</sup> day of August 2022.

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BEFORE THE PUBLIC UTILITIES  
COMMISSION OF OHIO

~~~~~

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 ADMIN CODE  
CHAPTER 4901:1-37

CASE NO. 17-974-EL-UNC

~~~~~

DEPOSITION OF  
EBONY YEBOAH-AMANKWAH

July 21, 2022

10:08 a.m.

Taken at:

Embassy Parkway Suites  
4040 Embassy Parkway  
Fairlawn, Ohio

Kurt M. Spencer, Notary Public

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~ ~ ~ ~ ~

1 EBONY YEBOAH-AMANKWAH, of lawful  
2 age, called for examination, as provided by the  
3 Ohio Rules of Civil Procedure, being by me  
4 first duly sworn, as hereinafter certified,  
5 deposed and said as follows:

6 MR. FINNIGAN: Good morning, Ma'am.  
7 My name is John Finnigan. I am with the Office  
8 of the Ohio Consumers' Counsel. With me is my  
9 colleague, Ms. Maureen Willis. The first thing  
10 we would like to do today is to enter  
11 everyone's appearance so we know who was here  
12 in attendance at the deposition. So I've done  
13 that for us. Let's go around the table with  
14 the people in the room, and, then, we will do  
15 the ones remotely after that.

16 Marcie, would you like to begin.

17 MS. LAPE: Sure. Marcie Lape from  
18 Skadden & Arps. I am here on behalf of the  
19 Deponent, Ebony Yeboah-Amankwah.

20 MR. FITZGERALD: And joining  
21 Ms. Lape is Pat Fitzgerald from Skadden & Arps.

22 MR. O'CONNOR: And also joining  
23 Ms. Lape is Brian O'Connor from Skadden & Arps.

24 MR. HOLLINGSWORTH: Adam  
25 Hollingsworth from Jones Day on behalf of

1 FirstEnergy Corp.

2 MR. DORINGO: Ryan Doringo, and my  
3 colleague, Mike Gladman, who is remote, of  
4 Jones Day on behalf of Ohio Edison Company, the  
5 Cleveland Electric Illuminating Company and the  
6 Toledo Edison Company.

7 MR. FINNIGAN: That is everyone in  
8 the conference room. Let's go ahead and do the  
9 appearances for the people who are  
10 participating remotely. What I will do is  
11 mention the name of each organization and then  
12 whoever is on the call for that organization  
13 can enter their appearance.

14 Let's first begin with OCC. Is  
15 there anyone participating remotely from OCC?

16 MR. SAUER: Larry Sauer with OCC,  
17 as well, John.

18 MR. HALL: Mike Hall from OCC is  
19 also on.

20 MR. FINNIGAN: Is there anyone  
21 participating remotely from FirstEnergy  
22 Utilities?

23 MR. DORINGO: John, it's just me  
24 and Mike today.

25 MR. FINNIGAN: Okay. Anyone else

1 from First --

2 MR. GLADMAN: Hey John, it is Mike  
3 Gladman for the companies, and I will tell you  
4 that Matt Pritchard is noted in the chat.

5 We can barely hear you guys at all.

6 MR. FINNIGAN: Okay. Thank you,  
7 Mike. So we need to speak more loudly. So  
8 Mike, please let us know if you are having that  
9 problem again. We have the computer facing  
10 Ms. Yeboah-Amankwah so that you can hear her  
11 clearly. But if you don't hear any of the  
12 attorneys, will someone please speak up and  
13 notify us, and we will try to speak more  
14 loudly. Thank you, Mike.

15 MR. HALL: Okay.

16 MR. FINNIGAN: Let's go through the  
17 list then. Is there anyone else on for  
18 FirstEnergy Corp?

19 MR. KOSLEN: Yes. Michael Koslen  
20 for FirstEnergy Corp.

21 MR. FINNIGAN: Is there anyone for  
22 the Office of the Ohio Attorney General?

23 MR. LINDGREN: Yes. Good morning.  
24 This is Tom Lindgren. My colleague, Werner  
25 Margard, is also on and we are representing the

1 staff. We have Christina Shaffer, Donald  
2 Leming and Tom Shepherd from the staff on as  
3 well.

4 MR. FINNIGAN: Thank you. Anyone  
5 from OMA EG?

6 MS. BOJKO: Yes. This is Kim Bojko  
7 and John Wygonski for the Ohio Manufacturers'  
8 Association Energy Group with Carpenter Lipps  
9 and Leland.

10 MR. FINNIGAN: NOPEC?

11 MR. STINSON: Yes. This is Dane  
12 Stinson on behalf of NOPEC with Bricker &  
13 Eckler, LLP.

14 MR. FINNIGAN: NRDC? IGS?

15 MR. OLIKER: Hi, this is Joe Oliker  
16 from IGS Energy. Evan Betterton is also on the  
17 phone.

18 MR. FINNIGAN: IEU?

19 MR. PRITCHARD: Good morning, this  
20 Matt Pritchard on behalf of IEU Ohio with the  
21 law firm of Mcnees Wallace & Nurick.

22 MR. FINNIGAN: OEG?

23 MS. COHN: Good morning, this is  
24 Jody Cohn calling with the Ohio Energy Group.  
25 Thank you.

1                   MR. FINNIGAN: Is there anyone else  
2 who has not identified themselves, if so,  
3 please do so now.

4                   MS. NORDSTROM: Good morning, Karin  
5 Nordstrom with Ohio Environmental Council.

6                   MS. PLANT: And Rhiannon Plant. I  
7 am also here at the Ohio Attorney General's  
8 Office.

9                   MR. DOUGHERTY: This is Trent  
10 Dougherty with Citizens Utility Board, Ohio.

11                   MR. FINNIGAN: Okay. Let's go  
12 ahead and get started.

13                   EXAMINATION OF EBONY YEBOAH-AMANKWAH  
14 BY MR. FINNIGAN:

15                   Q. Ms. Yeboah-Amankwah, thank you for  
16 appearing for your deposition today. Let the  
17 record reflect that your deposition is being  
18 taken pursuant to a motion for subpoena and an  
19 Attorney Examiner Order that was issued on  
20 June 16th, in the case of 17-974 EL UNC.

21                   Ma'am, have you given a deposition  
22 before?

23                   A. No, I have not.

24                   Q. Okay. Could you tell us about your  
25 background, beginning with your educational

1 background.

2 A. I attended law school at  
3 Washington and Lee University. Started out of  
4 school at a law firm in Cleveland.

5 Q. What year was that, please?

6 A. 2003 to 2005. Took position at  
7 FirstEnergy in 2005 doing commercial finance  
8 work, then, switched over to state regulatory  
9 some years after that. I'm not sure exactly  
10 when. Did Ohio regulatory work until 2011 with  
11 the merger of Allegheny. Did some State Affairs  
12 work from 2011 to -- I'm not sure the end date  
13 with that. Went back to the Legal Department  
14 did state and federal regulatory work.

15 2017, became corporate secretary,  
16 Chief Ethics Officer, from 2017 to maybe  
17 2018/2019 and then came back to the Legal  
18 Department and as Deputy General Counsel  
19 overseeing a number of different affairs within  
20 the Legal Department, before assuming the  
21 position of General Counsel in 2020, the spring  
22 of 2020, until about --

23 MR. GLADMAN: John, I hate to  
24 interrupt. But on our end, we can't hear -- we  
25 effectively can't hear anything.

1 (Whereupon, a recess was taken.)

2 Q. Ma'am, I believe you were telling  
3 us about your employment history and you've  
4 reached the year 2020, when you were appointed  
5 General Counsel for FirstEnergy?

6 A. Yes. I served in that position  
7 until November of 2020.

8 Q. Are you employed at this time?

9 A. Yes, I am.

10 Q. What is your employment, at this  
11 time?

12 A. I work for Signet Jewelers.

13 Q. And what is your position there?

14 A. Vice President, Ethics Compliance  
15 and Enterprise Risk Management.

16 Q. And you began your employment there  
17 when?

18 A. February of 2022.

19 Q. Where is that business located at?

20 A. Akron, Ohio.

21 Q. What kind of business is it, just a  
22 retail jewelry business?

23 A. Correct.

24 Q. Now, I'd like to go through your  
25 employment history just to make sure I



1 understand the details you gave me. You  
2 mentioned coming out of law school, you worked  
3 for a law firm beginning in 2003. What law  
4 firm was that?

5 A. Calfee & Halter.

6 Q. And was that in the commercial  
7 finance area?

8 A. Yes, it was.

9 Q. Who was your supervisor there?

10 A. Carl Buse.

11 Q. You joined FirstEnergy in 2005?

12 A. Yes.

13 Q. And that was in the Legal  
14 Department?

15 A. Yes, it was.

16 Q. In what area of the Legal  
17 Department?

18 MS. LAPE: Asked and answered.

19 Q. Go ahead. You may answer.

20 A. I did commercial finance work.

21 Q. Did you stay in that Department of  
22 Commercial Finance within the Legal Department,  
23 until your next position within FirstEnergy?

24 A. No. I went from commercial finance  
25 work to state regulatory work.

1 Q. And what year was that?

2 A. I'm not certain.

3 MR. GLADMAN: John, I'm very sorry  
4 to interrupt you. It sounds just terrible.

5 (Whereupon, a recess was taken.)

6 Q. Ma'am, you were going through your  
7 employment history. There are a few details I  
8 did not get. So I just want to ask you to  
9 flush those out a little bit more.

10 You mentioned that you left the  
11 Legal Department in about 2011; is that right?

12 A. That's correct.

13 Q. And to take what position?

14 A. State Affairs.

15 Q. Okay. And what position within  
16 State Affairs?

17 A. Legislative work.

18 Q. And what was your title?

19 A. Executive Director of State  
20 Affairs.

21 Q. For what states?

22 A. The states that FirstEnergy  
23 operated in.

24 Q. And you held that position until  
25 2017?

1           A.     No. I had gone back to the Legal  
2 Department at a certain date that I don't  
3 recall.

4           Q.     About when? What is your best  
5 estimate?

6           A.     Perhaps '12 or '13.

7           Q.     And what position did you take upon  
8 returning to the Legal Department?

9           A.     I don't recall. Maybe Executive  
10 Director, State Affairs, maybe, State Legal  
11 Affairs.

12          Q.     You mentioned that your current  
13 employment is with Signet Jewelers. How do you  
14 spell that?

15          A.     S-I-G-N-E-T.

16          Q.     And what is your business address  
17 there?

18          A.     I don't know, off the top of my  
19 head.

20          Q.     Okay. Now, at your different  
21 levels of employment within FirstEnergy, when  
22 you worked in the Legal Department, who was the  
23 head of the Legal Department, at that time?

24                 MS. LAPE: Objection. Time.

25          Q.     When you started there in 2005?

1           A.     Leila Vespoli.

2           Q.     And how long did she remain General  
3 Counsel?

4           A.     I don't recall that date.

5           Q.     Who succeeded her as General  
6 Counsel?

7           A.     Bob Ruffner.

8           Q.     Do you know, approximately, when he  
9 became General Counsel?

10          A.     I don't.

11          Q.     When you were Executive Director of  
12 State Affairs, to whom did you report?

13          A.     When I was in legal or out of the  
14 legal?

15          Q.     Why don't you give me both.

16          A.     Out of legal, Mike Dowling; in  
17 legal, Bob Ruffner.

18          Q.     When you were Assistant General  
19 Counsel, did you report to Mr. Ruffner?

20          A.     I'm not sure I held that title.

21          Q.     When you were Chief Ethics Officer,  
22 to whom did you report?

23          A.     When I was within or outside of  
24 legal?

25          Q.     Both.

1           A.       When I was outside of legal, I  
2       reported to Chuck Jones; within legal, I  
3       reported to Bob Ruffner.

4           Q.       Have you ever acted as a registered  
5       lobbyist in any state?

6           A.       I don't recall.

7           Q.       Have you ever met with any state  
8       legislators to advocate for any bill involving  
9       FirstEnergy's business?

10           MS. LAPE:   Objection.

11           A.       I don't think so.

12           Q.       Did you supervise lobbyists, when  
13       you worked in any role at FirstEnergy?

14           A.       Yes, I did.

15           Q.       Did you have responsibility for  
16       knowing what the circumstances were, under  
17       which lobbyists had to register with any state  
18       legislative lobbying authority?

19           A.       I don't remember.

20           Q.       When you held any of your positions  
21       at FirstEnergy, did you have any responsibility  
22       for meeting with state regulatory officials,  
23       like, at the Public Utilities Commission of  
24       Ohio?

25           MS. LAPE:   Objection.   Vague.

1           A.       I don't think so.

2           Q.       Did you supervise others, who met  
3 with regulatory officials?

4           A.       Yes.

5           Q.       Did you need to know, as their  
6 supervisor, what were the circumstances, under  
7 which they were allowed to have contact with  
8 those regulatory officials?

9           A.       I don't remember.

10          Q.       Have you heard of a concept called  
11 ex parte communications?

12          A.       Yes, I have.

13          Q.       What is your understanding of that  
14 concept?

15          A.       Communications with a regulator  
16 between a party to a pending case.

17          Q.       Okay. And did you have any  
18 responsibility for training the people who  
19 reported to you about ex parte communications?

20          A.       I don't recall.

21                 MS. LAPE: Does this have something  
22 to do with Corporate Separation?

23                 MR. FINNIGAN: Yes, it does. It  
24 does have to do with the topic of Corporate  
25 Separation, because some of the cases involved

1 in this case, we believe involved improper  
2 ex parte communications. So this relates to  
3 those transactions.

4 MS. LAPE: That has to do with  
5 whether or not FirstEnergy complied with  
6 Corporate Separation Rules?

7 MR. FINNIGAN: Yes, that's right.  
8 Because part of the rules have to do with  
9 allocating costs that were generated or  
10 originated with a competitive business to the  
11 non-competitive business. And so I'm asking  
12 this as background to those allocation  
13 transactions.

14 MS. LAPE: This is a close line,  
15 but let's continue.

16 MR. FINNIGAN: And I'm sorry.  
17 Could you repeat the last answer, please.

18 (Whereupon, the court reporter read  
19 back the last answer)

20 Q. Okay. Have you ever registered as  
21 a legislative or regulatory lobbyist?

22 A. I don't recall.

23 Q. Did you ever become aware of any  
24 ex parte communications between anyone at  
25 FirstEnergy and any Ohio regulatory officials?

1 MS. LAPE: Objection.

2 A. Can you repeat the question.

3 (Whereupon, the court reporter read  
4 back the last question.)

5 A. I don't think so.

6 Q. Did you ever appear before the  
7 Public Utilities Commission of Ohio on behalf  
8 of FirstEnergy in the capacity as an attorney  
9 for the companies?

10 A. Yes, I did.

11 Q. During what period of time?

12 A. I'm not sure; you know, commencing  
13 in 2006, perhaps, but I don't know until then.

14 Q. Did you ever appear as an attorney  
15 for the FirstEnergy Utilities before the PUCO  
16 on any electric security plan case?

17 A. I believe so.

18 Q. Which ones were those?

19 A. I believe the first one.

20 Q. And what year?

21 A. I don't recall.

22 Q. Would it have been around 2008?

23 A. It could have been.

24 Q. Did you appear as an attorney on  
25 behalf of the FirstEnergy utilities for a 2014



1 electric security plan case?

2 A. I don't remember.

3 Q. Did you have any supervisory  
4 responsibilities that involved 2014 electric  
5 security plan case?

6 MS. LAPE: Objection. Vague.

7 A. I believe so.

8 Q. What were those responsibilities?

9 A. I believe, at that time, I served  
10 as Executive -- I'm not sure of my title there,  
11 but, I believe, I oversaw the state regulatory  
12 group of FirstEnergy.

13 Q. And who was in that group that you  
14 supervised, at that time?

15 A. Brett Bingaman oversaw the group.  
16 But I don't recall all the attorneys in the  
17 group, at the time.

18 Q. Did you participate in settlement  
19 negotiations in that case?

20 A. I believe so.

21 Q. With what other --

22 MIKE RODMAN: John, I'm sorry.  
23 It's Mike Gladman. Can you tell us what this  
24 has to do with Corporate Separation, and  
25 whether the companies are compliant with the

1 Corporate Separation laws and regulations in  
2 Ohio -- I don't see a connection between  
3 Ebony's participation in an ESP case from eight  
4 years ago.

5 MR. FINNIGAN: The connection is  
6 that we believe that there was a settlement  
7 that was entered into with Sustainability  
8 Funding Alliance, as a result of that case, and  
9 that those costs were charged to the utilities,  
10 and that they were misallocated, which is  
11 Corporate Separation violation.

12 MR. GLADMAN: Well, ask a question  
13 related to that, instead of trying to get into  
14 settlement discussions --

15 MR. FINNIGAN: Well, I will --

16 MR. GLADMAN: -- we are not going  
17 to --

18 MR. FINNIGAN: I will when I get to  
19 that point. I'm just setting the background  
20 for right now.

21 MR. GLADMAN: John, let me just put  
22 this out there, and you know this. There is an  
23 entirely different proceeding related to this  
24 specific transaction, which has been put on by  
25 the Commission. I have grave concern that you

1 are trying to probe into an area that the  
2 Commission has stayed, at this point in time.

3 So a little bit more latitude on  
4 background, but I don't know how much further  
5 we can let this go.

6 MR. FINNIGAN: Well, you say you  
7 can let this go, I don't believe you have any  
8 authority to stop this deposition from  
9 occurring. This is not your client. This is a  
10 different party than the client you represent.

11 So, and in addition to that, as you  
12 know from the comments that we filed in this  
13 case, we believe that this case involves issues  
14 of misallocated costs related to the contract  
15 with Sustainability Funding Alliance, which I  
16 am asking about.

17 MS. LAPE: It sounds like, I think,  
18 the allocation of cost questions, we can get  
19 into, but there is an Order from the Commission  
20 stating that you should not get into the  
21 subject matters that are under investigation by  
22 the US Attorney's office. So we are going to  
23 cut it off, or get the Examiner on the line, if  
24 you keep asking questions that relate to that  
25 subject matter.

1                   MR. FINNIGAN: Well, yes, I do have  
2 to ask questions about the transactions that  
3 underlie the misallocated costs, and the  
4 transactions with the Sustainability Funding  
5 Alliance are among those misallocated costs.  
6 So I have to ask those, because those are  
7 issues in this case. So that's one of the  
8 primary reasons for this deposition.

9                   MS. LAPE: Then I think we're going  
10 to have to get the Examiner on the line.

11                  MR. FINNIGAN: Well, at this point,  
12 I don't even have a question pending before the  
13 witness.

14                  MS. LAPE: Okay.

15                  MR. FINNIGAN: And let me ask, are  
16 any of the Attorney Examiners on the call --  
17 okay -- it sounds as if not.

18                  Q. Okay. So my question was --

19                  MR. HOLLINGSWORTH: Sir, I was just  
20 going to say, we know that the SFA issues are  
21 going to be something that we are going to have  
22 to deal with separately. So one way to  
23 approach this is for you to ask all of the  
24 other transactions that you are interested in,  
25 and, then, we can get to the SFA stuff at the

1 end of that.

2 MR. FINNIGAN: Sure. But let me  
3 proceed. I think I have an idea of how I would  
4 like to do my questioning. But thank you.

5 Q. So before we had a discussion among  
6 attorneys, we were talking about settlement  
7 negotiations in the 2014 ESP case --

8 MS. LAPE: Again, just to set the  
9 stage. Those settlement negotiations, the  
10 content of them would be confidential and we  
11 shouldn't be discussing them. But to the  
12 extent you're asking just, did you participate,  
13 did they occur, those are fine.

14 MR. FINNIGAN: Well, actually, they  
15 might have been confidential, at one time, but  
16 there was information about those settlement  
17 negotiations that have been disclosed by  
18 FirstEnergy. So to the extent that they might  
19 have been confidential, they no longer are,  
20 because of the disclosure of that information.

21 MS. LAPE: We'll see when the  
22 question arises.

23 Q. So, Ma'am, I was asking about what  
24 your role was in the settlement negotiations,  
25 and my question is, what outside parties did

1       you negotiate with?

2               A.       I don't recall.

3               Q.       Do you recall any?

4               A.       No.

5               Q.       Did you negotiate with Sam  
6       Randazzo?

7                       MS. LAPE:  Objection.  This is  
8       outside the scope.  This is exactly the subject  
9       matter that we're not supposed to be getting  
10      into, per the Commissioner's Order.

11                      MR. FINNIGAN:  Are you instructing  
12      her not to answer?

13                      MS. LAPE:  I am at this point.

14               Q.       Did you participate in any  
15      settlement negotiations with Sustainability  
16      Funding Alliance?

17                      MS. LAPE:  Same objection.

18                      THE WITNESS:  Do I need to answer?

19                      MS. LAPE:  You don't need to  
20      answer.

21               Q.       Did you participate in any  
22      settlement negotiations with IEU Ohio?

23                      MS. LAPE:  Same objection.  And you  
24      do not need to answer.

25                      MR. FINNIGAN:  Okay.  Now, at this

1 point, I'm not asking about the content of any  
2 settlement negotiations. I am just asking  
3 whether there were any, in which she  
4 participated. So I want the record to be clear  
5 about that.

6 Q. Did you -- well, strike that. Is  
7 Ebony Yeboah-Amankwah your married name?

8 A. Yes, it is.

9 Q. When you worked at FirstEnergy, did  
10 you appear before the PUCO under your maiden  
11 name?

12 A. Yes, I did.

13 Q. What was that name?

14 A. Miller.

15 Q. Did you appear for the FirstEnergy  
16 Utilities before the Public Utilities  
17 Commission of Ohio on the Utilities Corporate  
18 Separation case?

19 A. I don't recall.

20 Q. Do you recall participating with  
21 Jim Burke in an application for approval of the  
22 Companies' initial Corporate Separation Plan?

23 A. I may have.

24 Q. Is there anything you recall about  
25 that case?

1                   MR. DORINGO: And I'm just going to  
2 object, and just caution you, Ebony, as the  
3 lawyer, I think you were acting in legal  
4 capacity for the companies, at the time, and  
5 not to reveal any privileged communications.  
6 The companies will assert that privilege.

7                   THE WITNESS: Thank you.

8                   Q.       What do you recall about that case?

9                   A.       I don't have any active memory of  
10 it.

11                  Q.       Did you have to familiarize  
12 yourself with Ohio law and regulations  
13 pertaining to Corporate Separation, in  
14 connection with that case?

15                  A.       I don't remember my involvement in  
16 the case.

17                  Q.       All right. So you don't remember  
18 whether you became familiar with Corporate  
19 Separation law and regulations?

20                  A.       I can make a lot of assumptions on  
21 what I would have done, in preparation for the  
22 case, but I don't remember.

23                  Q.       Have you ever had to study Ohio  
24 Corporate Separation laws and regulations?

25                  A.       Yes.



1           Q.     And why did you have to become  
2 familiar with those?

3           A.     I don't have an active memory on  
4 why. But overseeing Ohio regulatory law, I can  
5 make an assumption on why I would have made  
6 myself familiar with it.

7           Q.     And why was that?

8           A.     Because I oversaw Ohio regulatory.

9           Q.     So you are familiar with Ohio  
10 Corporate Separation requirements?

11          A.     Not sitting here today.

12          Q.     Can you tell me what your  
13 responsibilities were as Chief Ethics Officer?

14          A.     I oversaw the Companies' employee  
15 concerns line. If an employee had a concern,  
16 they could report it directly to me. I oversaw  
17 Code of Conduct training and Insider Trading.

18          Q.     Anything else?

19          A.     That's what I recall, off the top  
20 of my head.

21          Q.     And you mentioned the employee  
22 concerns line. As your, in your role as Chief  
23 Ethics Officer, were all the employee concerns  
24 that were reported over the employee concerns  
25 line reported to you?

1           A.       They were reported. They could  
2 have been reported directly to me, or through  
3 the employee concerns line, they would have  
4 gone to a third party vendor that then sent a  
5 report to me and to others.

6           Q.       Who are the others?

7           A.       The head of internal audit, at the  
8 time. And I served in the role, and would have  
9 also gotten the report.

10          Q.       I'm sorry. Did you mention that  
11 person's name? I didn't hear, if you did.

12          A.       I did not.

13          Q.       What was that person's name?

14          A.       Kevin Burgess.

15          Q.       What responsibility did you have  
16 for investigating calls that came in over the  
17 employee concerns line?

18          A.       Once we received the report, Kevin  
19 Burgess and I would align on who would be  
20 assigned to investigate the report and then  
21 they would do the investigation and report back  
22 the findings.

23          Q.       Were written reports made?

24          A.       Yes, they were.

25          Q.       And when you say that the findings

1       were reported back, was it to you and  
2       Mr. Burgess?

3             A.       That's correct.

4             Q.       Anyone else?

5             A.       Someone in Human Resources.

6             Q.       Who was that?

7             A.       Dave Winston.

8             Q.       Anyone else?

9             A.       I don't recall.

10            Q.       After the concerns were  
11       investigated and a report came back -- well,  
12       strike that. Who did the actual investigation?

13                    MS. LAPE: Objection.

14            A.       It depended on the nature of the  
15       claim.

16            Q.       Could you explain that?

17            A.       If it was a Human Resources-related  
18       issue, someone in Human Resources would  
19       investigate it; if it was a financially-related  
20       issue, someone in internal audit would  
21       investigate; if it was a security-related  
22       issue, someone in securities would investigate,  
23       for example.

24            Q.       Would people within those  
25       respective departments be appointed to do the

1 investigations?

2 A. That's correct.

3 Q. And after the reports came back of  
4 these investigations, what was the next step in  
5 processing the calls that came in?

6 A. To review the report for its  
7 thorough and completeness, and, then, any  
8 Action Items to follow-up with the applicable  
9 H.R. representative, or internal auditing, to  
10 take action.

11 Q. Did you report to anyone about the  
12 results of employee concerns line  
13 investigations?

14 A. Yes, I did.

15 Q. And to whom did you report?

16 A. To the Audit Committee.

17 Q. The Board of Directors Audit  
18 Committee?

19 A. That's correct.

20 Q. Were those reports in writing?

21 A. I don't recall.

22 Q. Were minutes prepared of those  
23 Board meetings?

24 A. Committee --

25 Q. Yes.

1 A. Were committee minutes taken?

2 Q. Yes.

3 A. Yes.

4 Q. During your tenure at FirstEnergy,  
5 were there ever any calls on the employee  
6 concerns line related to level of signature  
7 authority?

8 MS. LAPE: Objection. Foundation.

9 A. I don't recall.

10 Q. During your time as Chief Ethics  
11 Officer, were there ever any calls that came in  
12 on the employee concerns line relating to  
13 improper payment of invoices, or improper  
14 payments to a vendor?

15 A. Not that I can remember.

16 Q. Were there any calls that came in  
17 on the employee concerns line relating to  
18 Generation Now?

19 MS. LAPE: Objection. Foundation.  
20 Scope. This is also going into the subject  
21 matter under investigation by the US Attorney's  
22 office, once again. You don't need to answer.

23 MR. FINNIGAN: Did you instruct her  
24 not to answer?

25 MS. LAPE: About a question related

1 to Generation Now --

2 MR. FINNIGAN: Yes.

3 MS. LAPE: Yes.

4 MR. FINNIGAN: Okay. Well, this is  
5 an issue in this case, just, because, costs for  
6 Generation Now were charged to consumers. So  
7 that's why I'm asking about this issue.

8 Q. Did you ever receive any calls on  
9 the employee concerns line relating to  
10 Sustainability Funding Alliance?

11 MS. LAPE: Same objection.

12 MR. FINNIGAN: You will have to let  
13 us know if you are instructing her not to  
14 answer.

15 MS. LAPE: I'm instructing you not  
16 to answer. And you can ask the question of,  
17 did you ever receive a call about a Corporate  
18 Separation issue, which would be allowable in  
19 this proceeding.

20 MR. FINNIGAN: Well, and these are,  
21 the questions I just asked are related to  
22 Corporate Separation violations, because of the  
23 improper allocation of costs. That's why I was  
24 asking her.

25 MS. LAPE: Well, you can ask a

1 general question that is permissible in this  
2 proceeding that would cover what you're asking  
3 about.

4 MR. FINNIGAN: Well, I appreciate  
5 that. But I will judge the way in which I will  
6 want to ask the questions. And, as I  
7 mentioned, these are all relevant, in that they  
8 have to do with the costs that were  
9 misallocated to consumers.

10 MS. LAPE: And they are all issues  
11 that the Commission has instructed not to be  
12 questioned about in this proceeding.

13 MR. FINNIGAN: No, they haven't  
14 made such an instruction.

15 MS. WILLIS: If I could jump in.  
16 You are referring to an Order. I just want to  
17 make sure the Order you are referring to, where  
18 the Commission ruled we cannot ask these  
19 questions, that's kind of my -- a very basic  
20 Order. Which Order are you referring to?

21 MR. DORINGO: And, Maureen, it's in  
22 the -- from the Commission, you guys know that  
23 the Commission expanded the scope of the DCR  
24 case to investigate whether there was a  
25 violation of the Ohio statute that required

1 FirstEnergy, or the companies, to disclose the  
2 side agreement. In that Order and elsewhere,  
3 frankly, the Commission was very clear that  
4 discovery into the Sustainability Funding  
5 Alliance, and the other matters that are under  
6 investigation by the DOJ, is somewhere where  
7 the Commission is not going to go, they said.

8 MS. WILLIS: Okay. And --

9 MR. DORINGO: -- Examiner Price  
10 said, "This is the worst mistake that  
11 Commission could make."

12 MS. WILLIS: Ryan, which Order, if  
13 you could, because I got the -- I'll just pull  
14 it up on the --

15 MR. DORINGO: It is  
16 December-something, 2021.

17 MR. HOLLINGSWORTH: December 15th.

18 MS. WILLIS: And the 20-1629, is  
19 that what you are referring to?

20 MR. DORINGO: Yes.

21 MS. WILLIS: Okay. Can you give us  
22 a moment. And that is the same Order that you  
23 are referring to?

24 MS. LAPE: Yes. Paragraph 14.

25 MS. WILLIS: All right. Let me



1 pull that up.

2 MR. GLADMAN: I'm sorry. Can you  
3 repeat that. It wasn't quite clear.

4 MS. LAPE: Yes. It is in the  
5 December 15, 2021 Order, Case No. 20-1629 in  
6 paragraph 14, where the Commission states that  
7 it is of the utmost importance that our  
8 investigations do not interfere with the  
9 criminal investigation by the United States  
10 Attorney or the action brought by the Ohio  
11 Attorney General.

12 Q. Ma'am, have you been notified by  
13 anyone from the Department of Justice that you  
14 are under investigation?

15 MS. LAPE: Objection. Do not  
16 answer that question.

17 Q. Ma'am, I want to ask you about the  
18 circumstances under which your employment ended  
19 with FirstEnergy. Who notified you that your  
20 employment was ending?

21 MS. LAPE: Objection.

22 THE WITNESS: Can I answer the  
23 question?

24 MS. LAPE: Yes.

25 A. My counsel.

1 Q. Who?

2 A. Counsel.

3 Q. And what was counsel's name?

4 A. Pat Fitzgerald.

5 Q. What do you understand were the  
6 reasons why your employment at FirstEnergy  
7 ended?

8 A. I think the company issued an AK  
9 that provided its reasons.

10 Q. And I have read that AK, and it  
11 says the reason was because of inaction on your  
12 part that was influenced by improper tone at  
13 the top; is that correct?

14 MS. LAPE: Objection.

15 A. I think the document states what it  
16 states.

17 Q. Is that what you understand was the  
18 reason?

19 A. My understanding was the document.

20 Q. All right. Do you understand that  
21 your employment at FirstEnergy ended, because  
22 of any inaction on your part?

23 A. Not to my knowledge.

24 Q. Do you understand that your  
25 employment at FirstEnergy ended, because of

1     some improper tone at the top that influenced  
2     your work there?

3                   MS. LAPE:    Objection.

4                   MR. GLADMAN:  Let me get an  
5     objection in.  Unless you are asking whether or  
6     not there was something to do with Corporate  
7     Separation related to Ebony's departure from  
8     the company, I think this is inappropriate.  So  
9     note my objection.

10                  A.     No behavior on my part, but I can't  
11     speak to the Company's rationale.  You would  
12     have to ask the company.

13                  Q.     So you don't really know why your  
14     employment ended at FirstEnergy --

15                   MS. LAPE:  Objection.  Asked and  
16     answered.

17                  Q.     Is that fair?

18                  A.     I've indicated my understanding.

19                  Q.     And do you feel that you did  
20     anything wrong during your employment at  
21     FirstEnergy that led to your employment ending?

22                   MS. LAPE:  Objection.  Scope.

23                  A.     Absolutely not.

24                   MR. GLADMAN:  Objection scope.

25                  Q.     During your tenure at FirstEnergy,

1 did you have any responsibility for the  
2 Corporate Separation Plan for the Ohio  
3 FirstEnergy utilities?

4 MS. LAPE: Objection. Time period.

5 A. While I was engaged, I don't recall  
6 my role.

7 Q. Okay. When you say while you were  
8 engaged, do you mean while you were engaged in  
9 employment at FirstEnergy, or while you were  
10 engaged with the Corporate Separation Plan, you  
11 don't recall your role? Can you explain that  
12 answer?

13 A. You referenced a filing that had my  
14 name on it, and while I recall being engaged in  
15 that filing, I don't recall my role.

16 Q. Okay. I want to ask a different  
17 topic from that. I don't want to ask you any  
18 questions, at this point, with respect to any  
19 role you might have played regarding the  
20 initial approval of the Corporate Separation  
21 plan. Let's put that aside.

22 What I want to ask you now, is  
23 that, apart from the initial approval of the  
24 Corporate Separation plan, did you have any  
25 responsibility at any time after that for

1     whether the Corporate Separation Plan was  
2     complied with, and I am referring to the  
3     Corporate Separation Plan for the FirstEnergy  
4     Ohio Utilities?

5                   MR. DORINGO:   And I'll just again  
6     caution not to reveal any privileged  
7     information relating to your representation  
8     with the companies.

9                   A.     In my role as Chief Ethics Officer,  
10    if there was a concern with compliance with  
11    Corporate Separation, internal or external  
12    parties could contact me, and report it, just  
13    like many of the employee concerns lines, or  
14    other concerns that people brought on behalf of  
15    themselves or others.

16                  Q.     Did you ever have any  
17    responsibility for maintaining records related  
18    to FirstEnergy Ohio Utilities Corporate  
19    Separation Plan?

20                  A.     I don't recall if that was a direct  
21    responsibility.

22                  Q.     Could it have been an indirect  
23    responsibility?

24                         MS. LAPE:   Objection.

25                  A.     I don't recall if that was a

1 responsibility.

2 Q. Did you ever have any  
3 responsibility during your tenure at  
4 FirstEnergy for determining whether FirstEnergy  
5 employees received any training on Ohio  
6 Corporate Separation requirements?

7 A. Through my role as Chief Ethics  
8 Officer, I am sure that we provided training on  
9 Corporate Separation through our Code of  
10 Conduct training.

11 Q. And did that training include  
12 training on Ohio Corporate Separation  
13 requirements?

14 A. Yes, it did.

15 Q. Are you aware of any audit findings  
16 that FirstEnergy did not provide training on  
17 Ohio Corporate Separation requirements?

18 MS. LAPE: Objection. Foundation.

19 A. Not that I can recall.

20 Q. Are you familiar with a Sage audit  
21 of the FirstEnergy Corporate Separation Plan,  
22 during the time you worked there in 2018?

23 A. Not that I can recall.

24 Q. Did you recall anyone ever bringing  
25 to your attention that -- well, strike that.

1                   Are you familiar with the FERC  
2 standards of conduct?

3           A.       I'm aware that they exist. I would  
4 have to see them to be able to speak to them.

5           Q.       Are the Ohio Corporate Separation  
6 requirements co-extensive with the FERC  
7 standards of conduct, in other words, if one  
8 complies with the FERC standards of conduct,  
9 will they automatically be complying with the  
10 Ohio Corporate Separation requirements?

11                   MS. LAPE: Objection. Are you  
12 asking for a legal opinion?

13                   MR. FINNIGAN: Her understanding,  
14 as Chief Compliance Officer.

15                   MS. LAPE: Objection. She was  
16 Chief Ethics Officer.

17           A.       I don't believe that they  
18 overlapped, precisely.

19           Q.       So are there requirements under the  
20 Ohio Corporate Separation laws and regulations  
21 that would not be met merely by complying with  
22 FERC standards of conduct?

23                   MS. LAPE: Objection. You can  
24 answer, if you know.

25           A.       I believe so.

1           Q.       Who did the training for employees  
2 of the FirstEnergy Ohio Utilities on Ohio  
3 Corporate Separation requirements?

4           A.       Ohio Corporate Separation was  
5 decentralized, in the sense that it was covered  
6 by a variety of different departments. As  
7 Chief Ethics Officer, I provided for our Code  
8 of Conduct certain Ohio Corporate Separation  
9 training. But I'm not saying that that was the  
10 only training provided.

11          Q.       I'm sorry. When you say you  
12 provided the training, did you provide it  
13 personally?

14          A.       There was, through the Code of  
15 Conduct that my team administered, there was a  
16 Corporate Separation component to it.

17          Q.       And was this Ohio Corporate  
18 Separation requirements?

19          A.       Yes, it was.

20          Q.       And you mentioned "my team." Who  
21 was on that team?

22          A.       Chief Ethics Officer was an  
23 unstaffed position, and, so, I would work with  
24 internal auditing and H.R. And so, with the  
25 Code of Conduct training, I think I worked



1 mostly with internal auditing to administer the  
2 training.

3 Q. And are you saying that there was  
4 separate training on Ohio Corporate Separation  
5 requirements that was separate and apart from  
6 FERC standards of conduct training?

7 A. That's correct.

8 Q. And did you keep records of which  
9 employees completed that training?

10 A. The system would note who completed  
11 the training and who didn't.

12 Q. I'm sorry. Who would note?

13 A. The system.

14 Q. When you say the system, what is  
15 the system?

16 A. It was an electronic program, or  
17 something that was administered over the  
18 computer.

19 Q. What was the name of that program?

20 A. I don't know.

21 Q. Who had responsibility for  
22 administering it?

23 A. I don't recall.

24 Q. Was that part of your  
25 responsibility as Chief Ethics Officer?

1           A.       I would ensure that the training  
2       was launched, and, then, I would get reports  
3       back on the completion, and follow-up with  
4       members of management to ensure their team had  
5       taken the training, and then get reports back  
6       regarding certain components of the training.

7           Q.       Now, you've talked about your role  
8       as Chief Ethics Officer. Did you ever hold the  
9       title of Chief Compliance Officer?

10          A.       No, I did not.

11          Q.       Now, during the time you worked at  
12       FirstEnergy, was there ever any issue with  
13       missing records related to compliance with the  
14       Ohio Corporate Separation requirements?

15                 MS. LAPE: Objection.

16          A.       I don't recall.

17          Q.       Were the records for compliance  
18       with Ohio Corporate Separation Rules maintained  
19       in electronic or paper form or both?

20                 MS. LAPE: Objection. Time period.

21          A.       I don't know. My records would  
22       have been electronic. But, as I said, the role  
23       was decentralized amongst a variety of  
24       different departments, and I'm not sure how  
25       they kept their records.

1           Q.       Now, going back to when you were  
2 notified that your employment at FirstEnergy  
3 ended, did you have access to any company  
4 records, after you were notified about that?

5                   MS. LAPE:   Objection.

6           A.       I did.

7           Q.       And what was the nature of your  
8 access to those records?

9           A.       At that time, we were working  
10 remotely, and I had certain paperwork and  
11 documents in my possession.

12          Q.       What did you do with the paperwork  
13 and documents when you ended your employment?

14          A.       I returned them to FirstEnergy.

15          Q.       And to whom did you return them?

16          A.       I don't recall.

17          Q.       What was the person's position?

18          A.       I don't know.

19          Q.       Was there somebody who, at H.R.,  
20 who supervised your separation from the  
21 company?

22          A.       I don't know.

23          Q.       Did you turn over all the records  
24 within your possession?

25          A.       I did.

1           Q.     Did you ever have any  
2     responsibility for overseeing how costs were  
3     allocated from FirstEnergy's competitive  
4     businesses to the non-competitive businesses?

5           A.     I don't think so.

6           Q.     So your job did not include  
7     oversight of whether there were ever improper  
8     subsidies from the competitive business to the  
9     non-competitive business --

10           MS. LAPE:   Objection.

11           A.     That's correct.

12           Q.     -- or vice-versa, any subsidies  
13     from the non-competitive business to the  
14     competitive business.

15           A.     That's correct.

16           Q.     Do you know who had that  
17     responsibility?

18           A.     I would assume Accounting.

19           Q.     What person in Accounting?

20           A.     I don't know.

21           Q.     Was it Art Richards?

22           A.     I'm not familiar whether he's in  
23     Accounting.

24           Q.     Are you aware of whether there are  
25     any Ohio Corporate Separation requirements

1 relating to cost allocation?

2 A. I am aware that there are.

3 Q. And what did you do to make sure  
4 that those were complied with?

5 A. There was training.

6 Q. What review was done of the cost  
7 allocations to make sure that they were  
8 properly done, and in compliance with the Ohio  
9 separation requirements?

10 A. I don't recall.

11 Q. Are you familiar with an entity by  
12 the name of Sustainability Funding Alliance?

13 MS. LAPE: Are we going to go into  
14 these questions again?

15 MR. FINNIGAN: I have a list of  
16 questions about this, yes.

17 MS. LAPE: Okay. Well, I will let  
18 you ask if she is familiar with it, but we're  
19 not going to go much further than that.

20 A. I'm familiar with that name.

21 Q. Okay. And what dealings did you  
22 have with that organization?

23 MS. LAPE: Objection. Scope.

24 MR. DORINGO: Objection scope.

25 MS. LAPE: And also, we have the

1 Commission's Order.

2 MR. FINNIGAN: Well, again, I'm  
3 going to -- if you are instructing the witness  
4 not to answer, you need to tell her so that we  
5 all know.

6 MS. LAPE: Yes. I am instructing  
7 the witness not to answer questions about any,  
8 about Sustainability Funding Alliance, as that  
9 is under investigation. Those topics are under  
10 investigation by the US Attorney's Office.

11 MR. FINNIGAN: Okay. She hasn't  
12 told us that, so we have no way of knowing  
13 that.

14 MS. LAPE: It's public record. I'm  
15 pretty sure everybody in this room knows that.

16 MR. FINNIGAN: Well, that might be.  
17 But if the witness is not part of that  
18 investigation or a subject or a target, there  
19 is no reason why the witness can't answer  
20 questions about it.

21 MR. HOLLINGSWORTH: Except for the  
22 Order.

23 MS. LAPE: Except for there is that  
24 Order by the Commission saying that these  
25 topics should not be explored.

1 MS. WILLIS: Well, I mean, to be  
2 fair, we can all pull up the Order and take a  
3 look at it. And I think the Order, I don't  
4 think it goes quite nearly as far as you would  
5 say. So, I mean, perhaps we need to get the  
6 Examiner on the phone. We can do that.

7 MS. LAPE: I read the exact  
8 language from that Order. I did not  
9 mischaracterize it.

10 MS. WILLIS: You didn't read the  
11 entire paragraph.

12 MS. BOJKO: Excuse me. We disagree  
13 with your interpretation of the Order. We are  
14 not talking about criminal matters, at this  
15 point, or anything related to the Attorney  
16 General's Office. We are talking about  
17 Corporate Separation, and all of these  
18 companies and issue directly relate to the  
19 Corporate Separation proceeding, and how the  
20 costs were allocated, you know, we're not  
21 getting into the same issues that the Order was  
22 referencing.

23 MR. FINNIGAN: And let me just see  
24 if we can get an answer on this. So Tom or  
25 Vern, could one of you contact one of the

1 Attorney Examiners to see if they can join the  
2 call.

3 MR. LINDGREN: Hey John, I don't  
4 have their direct phone number, but I will  
5 attempt to contact her.

6 MR. FINNIGAN: Okay. Let's take a  
7 short recess, while you do that.

8 (Whereupon, a recess was taken.)

9 MR. FINNIGAN: Your Honors, thank  
10 you both for joining. This is John Finnigan  
11 with OCC. We are here in Akron for the  
12 deposition of Ms. Ebony Yeboah-Amankwah, and an  
13 issue has arisen about the scope of  
14 questioning.

15 I started to ask a series of  
16 questions relating to her dealings with  
17 Mr. Randazzo and Sustainability Funding  
18 Alliance that she was instructed not to answer.  
19 That's why we asked you to join the call.

20 Our theory of this case is that  
21 these questions are issues in the case, because  
22 this case involves Corporate Separation  
23 requirements and possible violations, part of  
24 which would include cost misallocations. We  
25 know from the audit report for the expanded



1 scope audit in the DCR case that some, I  
2 believe, it was \$24 million in costs from  
3 Sustainability Funding Alliance were improperly  
4 allocated to the FirstEnergy Ohio Utilities.  
5 So I was asking these questions as background  
6 to find out more information about those  
7 improper cost allocations in violation of the  
8 Corporate Separation requirements.

9 And, so, we were wondering if you  
10 can give us guidance, as to whether that is a  
11 legitimate scope of questioning in this case.  
12 And Ms. Lape is here representing the witness.

13 MS. LAPE: Good morning. Thank you  
14 for joining the call. We did have a question  
15 with respect to scope, and whether these  
16 questions were appropriate, in light of the  
17 Commission's prior Order, that it is of the  
18 utmost importance that the investigation not  
19 interfere with the criminal investigation by  
20 the US Attorney's office and the action brought  
21 by the Ohio Attorney General.

22 It is impossible to speak to the  
23 allocation of payments with respect to  
24 Sustainability Funding Alliance and  
25 Mr. Randazzo without getting into the subject

1 matter of, you know, the settlement  
2 discussions, without getting into the purpose  
3 of the payments, without getting into the  
4 subject matters that are under direct  
5 investigation by the US Attorney's office.

6 And so they seem inappropriate, at  
7 this point in time, and given the Commission's  
8 prior Order with respect to that matter.

9 MR. FINNIGAN: Your Honors, if I  
10 may respond to that. You know, we are here on  
11 a public call, where not everyone on this call  
12 has signed a confidentiality agreement with  
13 FirstEnergy Corp, but, we have, and in the  
14 course of records that we have received, there  
15 is great detail about all the payments that  
16 were made to Sustainability Funding Alliance.  
17 There is a great deal of information about  
18 e-mail communications and text communications  
19 between Mr. Randazzo and Ms. Yeboah-Amankwah  
20 and others at FirstEnergy about --

21 MS. LAPE: Objection. You are  
22 misrepresenting the record.

23 MR. FINNIGAN: Well, excuse me.  
24 Let me --

25 ATTORNEY EXAMINER: Please let him

1 finish and then we can allow you to respond.

2 MR. FINNIGAN: Yes, I would just  
3 like to finish. So it is our view that this  
4 subject matter is not confidential in any way,  
5 or outside the scope of questioning in this  
6 case. Because to establish that these costs  
7 were misallocated, we have to ask about the  
8 nature of the dealings with Mr. Randazzo and  
9 Sustainability Funding Alliance.

10 It is all documented in the text  
11 messages and the e-mail exchanges that we've  
12 received in documents, and, now, we're simply  
13 asking the witness what her involvement was in  
14 all of those communications that we already  
15 have in paper form.

16 MR. DORINGO: Your Honors, this is  
17 Ryan Doringo on behalf of the companies. If I  
18 could just be heard for a moment.

19 ATTORNEY EXAMINER: Certainly.

20 MR. DORINGO: Thank you. Your  
21 Honors, fundamentally, the Commission has  
22 expressed, not just in the December 15th Order  
23 in the Rider DCR case, but continuously through  
24 these proceedings something more than  
25 hesitation, I mean, an outright refusal to get

1 into the details of the matters that are under  
2 investigation by the Department of Justice and  
3 other regulators. These questions go directly  
4 to that.

5 The questions were relating to  
6 whether, or the substance of the communications  
7 that happen during ESP 4 with Randazzo or IEU  
8 Ohio. These are not germane to Corporate  
9 Separation issues. We disagree with that. OCC  
10 and others have all the information about the  
11 payments that were made and how they were  
12 allocated. That's not what they are going for  
13 here. They are using that as a pretext to get  
14 to information that should not be disclosed, in  
15 light of the Commission's Order on December  
16 15th and its other statements on these issues.

17 MR. OLIKER: I will wait to speak,  
18 but I just want to reserve a moment to suggest  
19 an additional topic, since you are on the line.  
20 But I don't want to interrupt the discussion.

21 ATTORNEY EXAMINER: Would anyone  
22 else like to weigh in on this?

23 MS. BOJKO: Yes, Your Honor. This  
24 is Kim Bojko with Ohio Manufacturers's  
25 Association Energy Group. We believe, first of

1 all, a bit of misrepresentation by the  
2 companies. We weren't even allowed to ask  
3 questions about, did settlement discussions  
4 happen, did you talk to this entity, did this  
5 entity speak with you? It wasn't even the  
6 contents of settlement discussions. It was  
7 whether they occurred and who did they occur  
8 with. Those are proper, even under the  
9 Commission's current rules in the current  
10 proceedings. So those questions were not  
11 allowed to be asked either, the witness was  
12 instructed to not answer.

13 But I think that any kind of  
14 allocation of cost directly goes to this  
15 proceeding Corporate Separation violation.  
16 This witness was the ethics officer, at the  
17 time, and she was involved in the process, in  
18 the Complaint process, and she's also stated  
19 she was involved in settlement discussions.  
20 And anything that occurred that resulted in  
21 allocations of cost that were improper to the  
22 Ohio utilities, is very much a Corporate  
23 Separation violation issue, and it should be  
24 allowed to move forward.

25 So we support the position, I

1 think, that the companies didn't properly  
2 instruct, or the witness' attorney didn't  
3 properly instruct her there. It wasn't proper.  
4 Thank you.

5 MR. OLIKER: Your Honor, if I could  
6 add to that. There are questions regarding the  
7 allocation. For example, we should be entitled  
8 to explore whether the agreement with  
9 Sustainability Funding Alliance was for the  
10 benefit of FirstEnergy Solutions, a competitive  
11 affiliate and questions regarding how those  
12 costs were coded to the Ohio utilities, what  
13 the intent was, those all go to chapter  
14 29.2817, and whether or not there was undue  
15 benefit being made to an affiliate. That is  
16 the whole proper context of this letter.

17 And we don't want prejudge any of  
18 the things regarding the DOJ. That's not what  
19 we're here to explore. That's separate. The  
20 actual activities that took place near the  
21 agreement, that's completely separate aside.  
22 That's not what we're asking about.

23 ATTORNEY EXAMINER: Ms. Lape, any  
24 response?

25 MR. DORINGO: Your Honors, for the

1 companies again. First of all, I want to  
2 clarify that we have not instructed the witness  
3 not to answer anything. I want to be clear on  
4 that front.

5 Second of all, there hasn't been a  
6 single question about the actual cost  
7 allocation. It's been about the substance of  
8 the communications. I think, look, cost  
9 allocation matters are relevant here, but the  
10 substance of those communications is directly  
11 involved in the expanded scope DCR case. It's  
12 for another proceeding that the Commission has  
13 stayed. Thank you.

14 MS. LAPE: Your Honors, just to  
15 reiterate; the fact of the settlement  
16 discussions with SFA, the substance of those  
17 contracts with SFA, those are direct subject  
18 matters under investigation by the US  
19 Attorney's office. We don't believe that the  
20 questions that have been posed here are proper.

21 Again, I understand if there are  
22 questions related to the allocation, itself,  
23 and aside from that, any questions related to  
24 the subject matter we think are inappropriate,  
25 in light of the investigation that is ongoing

1 right now.

2 MR. FINNIGAN: Your Honor, if I may  
3 respond to that. We've received thousands and  
4 thousands of pages of documents relating to  
5 contracts, e-mail communications, text  
6 discussions, relating to the subject area. So  
7 this certainly is not off limits to the case,  
8 because we've already received this  
9 information. Now we are asking one of the  
10 persons involved what her role was, with  
11 respect to these communications.

12 So we would maintain that it is not  
13 off limits, because we have all of these  
14 documents that center on this topic. It does  
15 go to the issue of improper cost allocations,  
16 and we are simply asking her these background  
17 questions about what her role was in these  
18 improper cost misallocations.

19 MR. HOLLINGSWORTH: Your Honors,  
20 these subject matters became off limits on  
21 December 15, 2021, when the Commission issued  
22 its Order, and it was issued because there is  
23 an ongoing criminal investigation of a very  
24 serious matter.

25 So there is an existing stay of



1 discovery, and it's the very subject matter  
2 that OCC is trying to get into. We are all  
3 aware of the fact that there was a search  
4 warrant at Commissioner Randazzo's home. That  
5 is a matter of public record. And the subject  
6 matter that they are trying to get into is  
7 precisely related to the underlying US  
8 Attorney's office investigation.

9 ATTORNEY EXAMINER: Thank you.  
10 Anyone else? Okay. We are going to take a  
11 couple minutes to discuss the arguments and  
12 come back on with our ruling. Thank you.

13 MS. LAPE: Thanks very much.

14 (Whereupon, a recess was taken.)

15 ATTORNEY EXAMINER: We are ready to  
16 make the ruling. Can everyone hear me?

17 MR. FINNIGAN: Yes.

18 ATTORNEY EXAMINER: Thank you.  
19 Okay. Before getting into the substance of the  
20 ruling, I will note Attorney Examiners always  
21 seem to be at a disadvantage getting pulled  
22 into depositions without knowing, you know, the  
23 20 questions proceeding the disputed question,  
24 or the 20 questions that will come thereafter.

25 But based on the argument presented

1 by the parties, we do find that this line of  
2 questioning will be permitted.

3 In the June 16, 2022 entry in this  
4 proceeding, we did deny the motion to quash and  
5 allow this deposition to proceed.

6 And based on that, I will remind  
7 the parties that the discovery threshold is a  
8 very low bar, in that it's only allowable for  
9 information reasonably calculated to lead to  
10 discovery of admissible evidence, pursuant to  
11 Ohio Admin Code 4901:1-16(B). And while we  
12 note that these questions are being permitted,  
13 as of today for the purposes of the deposition,  
14 we again reiterate the relevancy of this  
15 proceeding and this line of questioning will be  
16 addressed at the hearing.

17 Specifically, to the issue  
18 regarding certain documents pertaining to the  
19 DOJ or FERC investigations, we did note in that  
20 same entry that documents that had already been  
21 produced, we would allow parties to ask  
22 questions related to those documents, during  
23 those depositions subject to that ruling,  
24 that's paragraphs 38 and 39 of this June 16,  
25 2022 entry. If we do tread into areas that

1 have otherwise been deemed confidential, I  
2 believe, that we already have an adequate means  
3 of making sure that that information is not  
4 inadvertently disclosed in the public record by  
5 accessing the confidential portion of the  
6 deposition that has already been set up.

7 So we would expect the parties to  
8 refrain from asking certain questions if those  
9 would divulge confidential details, until the  
10 confidential portion of the deposition is held.

11 So I believe that covers everything  
12 that had been raised. Are there any additional  
13 questions for the Attorney Examiners, at this  
14 time?

15 MR. DORINGO: Your Honors, I think  
16 we would insist that, precaution, that this  
17 line of questioning just goes forth entirely in  
18 the confidential session?

19 MR. FINNIGAN: Your Honor, this is  
20 John Finnigan for OCC --

21 ATTORNEY EXAMINER: Yes.

22 MR. FINNIGAN: We are happy to  
23 proceed that way and we do have a number of  
24 documents that we had intended to mark as  
25 deposition exhibits, during the confidential

1 session. So it would be just as easy for us to  
2 conduct all that questioning during this  
3 afternoon's confidential session.

4 ATTORNEY EXAMINER: Well, I  
5 certainly think that makes sense, and well  
6 done.

7 MS. LAPE: Can I ask one clarify  
8 question, Your Honor?

9 ATTORNEY EXAMINER: Yes, you may.

10 MS. LAPE: Understanding the ruling  
11 with respect to confidentiality, our concern  
12 was really with respect to interference with  
13 the criminal investigation by the US Attorney's  
14 office. And so I just wanted to understand if  
15 the ruling is that they are authorized to ask  
16 any questions, with respect to those issues  
17 that are under investigation?

18 ATTORNEY EXAMINER: I think my  
19 ruling is permitting them to ask any questions  
20 related to the documents that have already been  
21 produced in the discovery phase of this  
22 proceeding. If there are additional questions  
23 of a particular document, or a particular line  
24 of questioning related to a specific document  
25 is raised in the confidential session, we can

1 take that up. But I don't believe my ruling is  
2 quite as broad as what you're trying to argue  
3 for.

4 MS. LAPE: Well, I'm certainly not  
5 trying to argue for that. I just want to  
6 understand where we draw the lines here.  
7 Because if it's about asking about a specific  
8 document that had been produced, that's one  
9 thing. But if it's about authorizing  
10 Mr. Finnigan to ask questions about  
11 interactions with Mr. Randazzo, about payments  
12 made to SFA, about the settlement negotiations,  
13 you know, that are under investigation, you  
14 know, it's going to be hard. We just need to  
15 know so that we know how to move forward.

16 ATTORNEY EXAMINER: How would that  
17 be any different than questions regarding the  
18 documents --

19 MS. WILLIS: It's not.

20 ATTORNEY EXAMINER: The 470,000  
21 pages of documents or --

22 MS. WILLIS: Your Honor, it would  
23 not. You know, we were just giving background  
24 questions leading into those documents. Those  
25 documents are very detailed, very specific, and

1 they were produced, as you noted, they were  
2 produced by FirstEnergy Corp. So there is no  
3 privilege existing with regard to those  
4 documents. So these were background questions.  
5 We can go into the documents themselves. We  
6 were just trying to establish background and  
7 foundation.

8 ATTORNEY EXAMINER: Does that  
9 answer your question?

10 MS. LAPE: Yes. And the December  
11 15, 2021 ruling is still in effect, as well --  
12 we assume?

13 ATTORNEY EXAMINER: I'm sorry. Can  
14 you ask your question one more time.

15 MS. LAPE: Yes. Just confirming  
16 that the December 15, 2021 Order is still in  
17 effect, as well.

18 ATTORNEY EXAMINER: Unless the  
19 attorney examiners with the Commission have  
20 overruled one of our prior entries and/or  
21 Orders, they are still standing, yes.

22 MS. LAPE: Great. Thank you.

23 ATTORNEY EXAMINER: Of course.

24 MS. BOJKO: Your Honor, this is Kim  
25 Bojko. This is why we ended up calling you,

1 because the attorney is claiming that that  
2 December 15th Order, paragraph 14, precludes us  
3 from asking any questions, regarding these  
4 exact questions and issues. And we believe  
5 that she is misinterpreting the Order, or  
6 broadly interpreting it. And so we're not  
7 talking about the crime in the criminal  
8 investigation, or the AD mentioned. We are  
9 trying to ask questions about the payments and  
10 allocations and everything else.

11 ATTORNEY EXAMINER: Which I think  
12 would, I agree would be fair game consistent  
13 with our rulings today, as well as our prior  
14 entries and orders.

15 MS. WILLIS: Your Honor, to put it  
16 into focus, I believe the attorney believes  
17 that the Commission, because they deferred  
18 ruling on the violation of 4928.145, the  
19 disclosures of side agreements, that, because  
20 that, the Commission made that ruling, that  
21 that means we can't ask any questions about  
22 side agreements.

23 ATTORNEY EXAMINER: Didn't that  
24 ruling also provide a stay of discovery, as to  
25 that specific issue, Ms. Willis?

1 MS. WILLIS: Your Honor, with  
2 respect to the violation of that particular  
3 law, 4928.145 -- our questions are not going to  
4 a violation of that law, and whether there was  
5 action that violated the law -- our questions  
6 are going to whether side agreements existed,  
7 which resulted in costs being allocated  
8 improperly to the FirstEnergy Utilities, and,  
9 in turn, to their customers.

10 ATTORNEY EXAMINER: Ms. Lape, would  
11 you, or I'm sorry -- whoever would like to  
12 respond to that.

13 MR. DORINGO: Your Honor, right.  
14 With respect to the ruling, that DCR matter,  
15 it's, the point of the Commission's stay of  
16 discovery was, as we read it, to not get into  
17 the substance of the communications relating to  
18 the side agreement, or the potential side  
19 agreement that was discussed in that Order and  
20 referred to in the DPA. So I agree that the  
21 Commission stayed discovery on that issue,  
22 which, I think, was your question. And that is  
23 a much broader issue than just cost allocation.

24 ATTORNEY EXAMINER: Mr. Doringo,  
25 you don't agree that that discovery on that



1 issue could, in fact, also apply to the  
2 broader, as you just said, the broader issue of  
3 cost allocation?

4 MR. DORINGO: Well, I think the  
5 Commission just stayed discovery on the issue,  
6 Your Honor, and I think it's a very broad stay  
7 of discovery on that issue. That is how we  
8 interpret the Order, and that is the reason we  
9 got you on the phone.

10 But, yes. I don't think that  
11 agreement is relevant, and the potential side  
12 agreement, ESP 4, is relevant to Corporate  
13 Separation, you know, matters. But I think  
14 that there is a broad stay of discovery on that  
15 side agreement, or potential side agreement in  
16 ESP 4. That was the point of our argument.

17 MR. FINNIGAN: Your Honor, just to  
18 present our side. This is another way of  
19 attacking the ruling that you just made a  
20 couple of minutes ago, where you said that we  
21 are allowed to ask questions about the  
22 documents that were produced by FirstEnergy  
23 Corp in discovery that relate to the dealings  
24 with Mr. Randazzo and Sustainability Funding  
25 Alliance. Now, the company and the utilities

1 are trying to come through the back door, and  
2 say, "Well, no, you can't ask about those,  
3 because those all relate to a side deal." And  
4 then the side deal in question is one between  
5 the FirstEnergy utilities and Sustainability  
6 Funding Alliance.

7 So what they're trying to say is  
8 that, "Well, that's a side deal. You can't ask  
9 any questions about that, because discovery is  
10 stayed on that topic." If that were the case,  
11 then, the ruling that you just made moments ago  
12 would have no impact, where you said that we  
13 are allowed to ask questions about the  
14 discovery documents that were produced by  
15 FirstEnergy Corp in response to the subpoena.

16 We have many documents that were  
17 produced in discovery that relate to the  
18 dealings between Mr. Randazzo and  
19 Sustainability Funding Alliance, and our  
20 position is that they can't say that, "Well,  
21 that was a side deal," and block all of our  
22 questioning about that through those means.

23 MR. DORINGO: Just to clarify, Your  
24 Honor, we're not saying it was a side deal.  
25 That's not something the Commission has

1 determined, or anybody has determined yet.  
2 What we are saying is that the December 15th  
3 Order references a 2015 agreement between SFA  
4 and FirstEnergy, and says we are going to stay  
5 discovery on that issue. We think that is  
6 pretty broad, and that's the point.

7 MS. WILLIS: But, one last point --  
8 the entry went to whether or not a statute was  
9 violated. That statute is whether or not, if  
10 there was a side agreement, whether or not the  
11 company was obligated to, on the basis of this  
12 written discovery, to alert the parties.  
13 That's what that's about. It's not about  
14 whether or not a side agreement existed. It is  
15 about whether or not that law was violated, and  
16 that law is very specific.

17 So to say that this issue, the side  
18 agreement is an issue that's then deferred,  
19 that's not correct. It was whether or not  
20 4928.145 was violated.

21 MR. DORINGO: That's a legal  
22 question. The underlying facts go to the DOJ's  
23 investigation.

24 MS. WILLIS: Well, I will say this,  
25 that the documents that --

1                   ATTORNEY EXAMINER: Thank you.  
2 Thank you. Would anyone else care to weigh in?  
3 Okay. Hearing none. I am a little frustrated  
4 that, if this was the crux of the dispute, why  
5 that wasn't raised in the first instance of the  
6 Examiners joining in the call.

7                   That being said -- I am looking at  
8 the entry dated December 15, 2021, and issued  
9 in Case No. 20 1629 EL RDR, in which it states,  
10 we will stay further investigation of this  
11 issue, including discovery, it's also been  
12 Ordered by the Commission. The companies are  
13 directed to preserve all documents and all  
14 records related to the potential violation of  
15 R.C. 4928.145, including, but not limited to,  
16 all documents and records related to any  
17 agreements of SFA, or IEU Ohio Administration  
18 Company, until the stay has been lifted and the  
19 investigation has been completed, including a  
20 hearing, if necessary.

21                   And Mr. Doringo, that entry only  
22 was regarding the potential violation of  
23 R.C. 4928.145 from the issues raised in the  
24 audit reports in that case; isn't that correct?

25                   MR. DORINGO: So, right, I agree

1     that that entry relates to that statute, and  
2     the stay of discovery, you know, in the updated  
3     expanded scope case to investigate whether  
4     there was a violation of that statute. But we  
5     think the underlying facts subject to the stay  
6     of discovery should remain protected,  
7     specifically, given the Commission's statement  
8     in paragraph 14 of that Order, that it is of  
9     the utmost importance that our investigations  
10    do not interfere with the criminal  
11    investigation by the US Attorney's Office, or  
12    the action brought by Ohio attorney general.

13                 And, Your Honors, we think that the  
14    facts that OCC and others may try to get into  
15    here, go directly to those issues that are  
16    under investigation, and which prompted the  
17    Commission to issue that stay.

18                 MR. OLIKER: Your Honor, may I say  
19    something?

20                 ATTORNEY EXAMINER: You may.

21                 MR. OLIKER: The renegotiations  
22    that we are talking about took place many, many  
23    years, before House Bill 6. It is only  
24    tangentially connected to those events. I  
25    really think people are confusing the issues

1 here when we're talking the Corporate  
2 Separation issue. We can't explore the facts  
3 at all. There is no foundation established for  
4 a cost allocation.

5 Now, I agree somewhat that people  
6 should tread lightly, try to keep the issues a  
7 focus of this case, not the (inaudible). But  
8 to say those issues are completely, you know,  
9 out of bounds, would prevent us from having a  
10 complete log here.

11 MS. LAPE: Your Honor, if I may  
12 add, the reason we objected in the first  
13 instance is because the reasons that the  
14 Commission stayed the discovery, related to the  
15 SFA or IEU Ohio Administrative Company  
16 agreements and documents and records in the,  
17 you know, Case 20-1629, are the exact -- we  
18 think it applies equally to this case, you  
19 know, discovery was stayed, as to those  
20 particular agreements. And the other matter,  
21 because of the interference, the potential  
22 interference with the criminal investigation,  
23 that same reasoning applies in this case, and  
24 so that's why we asked for the call in. And  
25 apologies, if we were not clear enough about

1 the reasoning behind the issue.

2 MR. HOLLINGSWORTH: Your Honor,  
3 it's not that OCC will never be able to ask  
4 questions about these topics. It's just that,  
5 until the stay is lifted, the Commission has  
6 spoken. And your decision here is going to  
7 have pretty wide-ranging impacts, both on this  
8 ongoing criminal investigation, and, also,  
9 potentially, on the Liberty of the people who  
10 may be under investigation.

11 And so I think it is incumbent upon  
12 Your Honors to really sort of make sure that  
13 the decision here is not off the cuff, and it  
14 is well thought out and grounded in the  
15 discovery stay and the logic behind it that the  
16 Commission implemented in December.

17 MS. WILLIS: Your Honor, if I may,  
18 the documents that we intended to question on  
19 were released by FirstEnergy Corp, clearly,  
20 they would not have released the documents, if  
21 they believed that releasing the documents in  
22 discovery would interfere with the  
23 investigations that have been ongoing.

24 ATTORNEY EXAMINER: Okay. Thank  
25 you all. As we have a clearer picture, as to

1     what the specific issue is, now, after hearing  
2     the second round of arguments, we will take a  
3     couple minutes again to discuss this. The  
4     examiners will take a couple minutes to discuss  
5     this between themselves and we will be back in  
6     the next couple minutes. Thank you.

7                     (Whereupon, a recess was taken.)

8                     ATTORNEY EXAMINER: Examiner

9     St. John and I did have a chance to discuss the  
10    arguments raised in the second round from the  
11    parties, and we do tend to agree with OCC that  
12    questions regarding the use agreement should be  
13    permitted, as to whether it goes to violations  
14    of the Corporate Separation plan, specifically,  
15    Ms. Willis, is certainly entitled to ask  
16    whether or not these agreements were entered  
17    into with the express purpose to benefit the  
18    utilities competitive affiliate, and related  
19    questions of that nature.

20                    So we do believe, despite the  
21    Company's arguments, otherwise, the entry and  
22    Case No. 20-1629 on December 15, 2021 was  
23    directed and targeted toward a violation of  
24    R.C. 4928.145, and that will not have bearing  
25    on questions related to those agreements, as it



1 relates to the Corporate Separation plan.

2 Any additional questions?

3 MR. HOLLINGSWORTH: Your Honor, so  
4 just to clarify, are you permitting questions  
5 that are narrowly tailored to the specific  
6 issue of Corporate Separation, but leaving  
7 other issues off the table?

8 ATTORNEY EXAMINER: I'm sorry. My  
9 audio cut out just for the tail end of your  
10 question. Can you repeat that, please.

11 MR. HOLLINGSWORTH: Yes. I just  
12 wanted to clarify that questions that are  
13 narrowly tailored to Corporate Separation are  
14 permitted, but things that go beyond that are  
15 not?

16 ATTORNEY EXAMINER: Well, I will  
17 just note that that is the purpose of this  
18 proceeding. It is an investigation into the  
19 companies' compliance with the Commission's  
20 Corporate Separation rules. Apart from that, I  
21 will not go into detailing the scope of this  
22 proceeding. I feel like we've ad nauseam went  
23 into that in prior entries and orders, however,  
24 if that question does come up, the Examiners  
25 are a phone call away, and would be happy to

1 join the call again.

2 MS. WILLIS: Thank you, Your  
3 Honors.

4 ATTORNEY EXAMINERS: Thank you.  
5 Anything else?

6 MS. LAPE: None here. Thank you.

7 ATTORNEY EXAMINER: Thank you. We  
8 will go ahead and log off. We, of course, will  
9 be available in the course of any additional  
10 disputes, as the deposition carries on.

11 MR. FINNIGAN: Thank you. Let's go  
12 ahead and resume the deposition.

13 Q. Ma'am, did FirstEnergy ever enter  
14 into contract with Sustainability Funding  
15 Alliance?

16 MS. LAPE: Objection. Entity.

17 MR. DORINGO: John, I thought we  
18 agreed we would put this in the confidential  
19 session.

20 MR. FINNIGAN: I have some general  
21 questions about the relationship, and a lot of  
22 this has been reported in the news media. So I  
23 don't think any general questions implicate any  
24 confidential information.

25 MS. LAPE: Maybe we should read

1 back that Attorney Examiner's ruling, because  
2 I'm pretty confident that she said the  
3 questions related to these issues should be in  
4 the confidential session.

5 MR. HOLLINGSWORTH: Yes. Erring on  
6 the side of caution.

7 MS. LAPE: I mean, we have the  
8 transcript.

9 MS. WILLIS: We don't need to do  
10 that. Let's just move on.

11 Q. Ma'am, do you know a gentleman by  
12 the name of Matt Evans?

13 A. I've met Mr. Evans.

14 Q. And by whom is he employed?

15 A. At the time I met him, he was  
16 employed by Boych.

17 Q. Did FirstEnergy ever have any  
18 consulting agreement with Boych?

19 A. I don't know.

20 Q. Did Mr. Evans ever perform any  
21 services for FirstEnergy?

22 A. I don't know.

23 Q. Did Mr. Evans ever meet with any  
24 legislators to argue in favor of legislation  
25 that would have benefited FirstEnergy?

1           A.       I don't know.

2                   MR. HOLLINGSWORTH:   And I would  
3   object on scope and how this ties with  
4   Corporate Separation.

5           Q.       Did Mr. Evans ever register as a  
6   lobbyist on behalf of FirstEnergy?

7           A.       I don't know.

8           Q.       Do you know Tony George?

9           A.       I've heard the name.

10          Q.       In what context?

11          A.       I don't remember.

12          Q.       Did Mr. George ever perform  
13   lobbying services on behalf of FirstEnergy?

14          A.       I don't know.

15          Q.       Did Mr. George ever register as a  
16   lobbyist for FirstEnergy?

17                   MR. HOLLINGSWORTH:   Same objection  
18   as to scope.

19          A.       I don't know.

20          Q.       I want to go back to your role with  
21   the Ohio Corporate Separation plan.   Were you  
22   ever designated as the Compliance Officer for  
23   the Ohio Corporate Separation Plan for the Ohio  
24   FirstEnergy utilities?

25          A.       Yes, I was.

1 Q. For what period of time?

2 A. For the time I served as Chief  
3 Ethics Officer.

4 Q. During the entire time you were  
5 Chief Ethics Officer, you were the designated  
6 Compliance Officer under the Corporate  
7 Separation plan?

8 A. It was that title that was  
9 designated, not myself, specifically.

10 Q. What were your responsibilities as  
11 Compliance Officer under the Ohio Corporate  
12 Separation Plan?

13 A. I'd have to review the language.

14 Q. What language is it that you need  
15 to review?

16 A. Either the plan, or -- or there's  
17 something to indicate that title will serve as  
18 a Corporate Compliance, Ohio Corporate --  
19 Corporate Separation compliant -- there's some  
20 language to that, but I don't know off the top  
21 of my head.

22 Q. Are there any activities that you  
23 ever performed in your role as a Compliance  
24 Officer for the Ohio Corporate Separation Plan?

25 A. Yes.

1 Q. What were those activities?

2 A. Training, communications, to the  
3 extent there was any complaint, the  
4 investigation or assigning the investigation.

5 Q. Did you have any interaction with  
6 the auditor of the Ohio Corporate Separation  
7 plan, during the time you held that role?

8 A. What's the auditor?

9 Q. Were there any audits ordered of  
10 the Ohio Corporate Separation plan during the  
11 time that you held the role of Compliance  
12 Officer?

13 MS. LAPE: Objection.

14 A. Ordered by who?

15 Q. Ordered by the Public Utilities  
16 Commission?

17 A. I don't recall if there were any  
18 audits by the PUCO or FERC.

19 Q. What training did you perform as  
20 the Compliance Officer?

21 A. There's training contained in the  
22 Code of Conduct training. There was some  
23 ad hoc trainings conducted from time-to-time by  
24 the Legal Department.

25 Q. I just want to come back to the

1 time when your employment with FirstEnergy  
2 ended -- you said that was in November of 2020?

3 A. That's correct.

4 Q. Was there a period of time from  
5 when Mr. Jones was fired by FirstEnergy, before  
6 you were separated?

7 MS. LAPE: Objection.

8 A. Yes.

9 Q. So did you have any role in any  
10 investigation that occurred before Mr. Jones  
11 was fired relating to what his role was with  
12 House Bill 6?

13 MR. HOLLINGSWORTH: Objection to  
14 scope.

15 MS. LAPE: And you can answer a  
16 specific question about whether an  
17 investigation existed, but I would caution you  
18 not to waive any attorney/client privilege,  
19 unless your -- unless FirstEnergy's counsel is  
20 permitting that.

21 MR. HOLLINGSWORTH: No. We would  
22 also uphold the privilege here.

23 MR. DORINGO: Companies also object  
24 on scope.

25 A. Could you repeat the question.

1                   MR. FINNIGAN: Could you repeat the  
2 question.

3                   (Whereupon, the court reporter read  
4 back the last question.)

5           A.       Yes.

6           Q.       What was your role?

7                   MR. HOLLINGSWORTH: Same objection  
8 to scope.

9           A.       Counsel for the company.

10          Q.       And what activities did you perform  
11 in carrying out that role?

12                   MR. HOLLINGSWORTH: Same objection.  
13 This is nothing to do with Corporate  
14 Separation.

15          A.       Worked with outside counsel.

16          Q.       Who was your outside counsel that  
17 you worked with?

18                   MS. LAPE: Objection. What does  
19 this have to do with Corporate Separation?

20                   MR. FINNIGAN: This goes to the  
21 whole point of Corporate Separation with the  
22 governance issues that the company related in  
23 its SEC files. But, in any event, let me just  
24 conduct the questioning. You certainly can  
25 object and instruct her not to answer, but, you



1 know, it is related to the case.

2 MR. HOLLINGSWORTH: And just to  
3 make sure the record is clear, we are also  
4 asserting privilege objection to this question,  
5 as well.

6 A. Jones Day.

7 Q. All right. Did you perform any  
8 part of the investigation into Mr. Jones'  
9 conduct that led up to his firing?

10 MR. HOLLINGSWORTH: Objection.  
11 Scope and privilege.

12 MS. LAPE: Yes. Same objection.  
13 It's a privileged investigation. She says she  
14 was acting as counsel. It has nothing to do  
15 with Corporate Separation, and I don't know why  
16 you keep pursuing these lines.

17 MR. FINNIGAN: Well, this has  
18 everything to do with Corporate Separation,  
19 because --

20 MR. HOLLINGSWORTH: And we would  
21 instruct the witness not to answer this  
22 question.

23 MR. FINNIGAN: I don't know that  
24 you have any ability to do that. But let me  
25 just say that, for the record, these questions

1 all relate to Corporate Separation, because  
2 Mr. Jones' conduct enabled these cost  
3 allocations to occur. The whole reason, or the  
4 driving force behind the cost allocations that  
5 we are concerned about -- these cost  
6 allocations have to do with the contracts  
7 between Mr. Randazzo and the company. And it  
8 was Mr. Jones' improper tone at the top that  
9 allowed those misallocations to occur.

10 So we have a series of questions  
11 about what Mr. Jones' actions were that enabled  
12 these cost allocations. So we have to ask,  
13 just to get into the background of how the cost  
14 allocations happened, who authorized them, who  
15 approved of them -- so this is all part of that  
16 line of questioning.

17 MR. HOLLINGSWORTH: Well, any  
18 questions that go under the privileged internal  
19 investigation are privileged and we are not  
20 going to allow the witness to answer.

21 MS. LAPE: And we will instruct her  
22 not to answer any questions that go into areas  
23 that FirstEnergy has client privilege over.

24 MR. FINNIGAN: Well, let me -- I'll  
25 ask the questions, and you can certainly

1     instruct her not to answer, and, then, we can  
2     get a ruling from the Attorney Examiners.

3             Q.     So the SEC filings that reported on  
4     Mr. Jones' firing, are you familiar with those?

5             A.     I don't recall.

6             Q.     Are you aware that FirstEnergy Corp  
7     stated publicly that Mr. Jones was fired,  
8     because of an inappropriate tone at the top?

9             A.     I don't recall.

10            Q.     What do you understand was the  
11     reason Mr. Jones was fired?

12                   MR. HOLLINGSWORTH:  Objection.  
13     Calls for privileged information.

14                   MS. LAPE:  Objection.  Do not  
15     answer.

16                   MR. FINNIGAN:  If you're going to  
17     instruct the witness not to answer, you need to  
18     state it loudly enough for the court reporter  
19     to pick it up.

20                   MS. LAPE:  Yes.  If you could not  
21     hear me, I instructed her not to answer.

22            Q.     What does the term improper tone at  
23     the top mean to you?

24            A.     Inappropriate -- I don't know a  
25     different adjective for "tone" -- I do this

1 sometimes with my children, where I try to give  
2 them a different adjective for a word that they  
3 don't know.

4 But I don't know what -- an  
5 inappropriate tone at the upper level of a  
6 company.

7 MS. LAPE: And this is just, you  
8 are asking her just generally what her  
9 understanding is, because we've already said  
10 that she is not going to testify about specific  
11 decisions at FirstEnergy.

12 Q. Okay. Did Mr. Jones engage in any  
13 unethical conduct, during your tenure at  
14 FirstEnergy?

15 MR. HOLLINGSWORTH: Objection.  
16 Calls for privileged information. Instruct the  
17 witness not to answer.

18 MS. LAPE: Objection. I'm  
19 instructing the witness not to answer.

20 Q. In your role --

21 MR. HOLLINGSWORTH: If you want to  
22 ask questions about Corporate Separation, we're  
23 all here to do that.

24 MR. FINNIGAN: Well, as I mentioned  
25 earlier, all these questions have to do with

1       what allowed the improper cost misallocations.

2                   MR. HOLLINGSWORTH:   Sure.   So if  
3       you want to get onto those questions.

4                   MR. FINNIGAN:   I will.   But I'm  
5       going to ask these first as background, so I  
6       need to find out how they happened.   It's  
7       important to this case.   It is important for  
8       finding out, you know, how and why and who were  
9       involved in the misallocations.   We can't just  
10      receive a number that there was \$24 million in  
11      improper cost misallocations, and just be  
12      satisfied with that.   We have to find out the  
13      background of who did it, why they did it, who  
14      they did it with, how it happened and that's  
15      what all these questions related to.

16                  MR. HOLLINGSWORTH:   But you haven't  
17      asked any of those questions yet.

18                  MR. FINNIGAN:   Well, I certainly  
19      am, and you're not letting the witness answer  
20      them.

21                  Q.       So let me ask you this, Ma'am, in  
22      your role as Chief Ethics Officer, did you have  
23      any responsibility for dealing with complaints  
24      of criminal violations that were reported to  
25      you?

1 MR. DORINGO: Objection to scope.

2 MS. LAPE: Objection. It assumes  
3 facts not in evidence.

4 MR. HOLLINGSWORTH: And objection  
5 and instruct her not to answer, to the extent  
6 that the answer would reveal any  
7 attorney/client communications or privileged  
8 information.

9 Q. Ma'am, are you familiar with the  
10 Companies' Corporate Compliance Program?

11 A. I don't have an active memory of  
12 it, but, at the time I was at the company, I  
13 was familiar with it, yes.

14 Q. Did you have any responsibilities  
15 as Chief Ethics Officer for implementing the  
16 Corporate Compliance Program?

17 A. I took responsibilities.

18 Q. And what were they?

19 A. Well, there was a document that  
20 detailed the responsibilities for the position.

21 Q. Did those responsibilities include  
22 being the person to whom people would report  
23 allegations of improper conduct?

24 A. Yes.

25 Q. Did you become aware of any

1     allegations of improper conduct against  
2     Mr. Jones at any time you worked at  
3     FirstEnergy?

4             MR. HOLLINGSWORTH: I would object,  
5     and instruct the witness not to answer, to the  
6     extent that it calls for her to reveal any  
7     attorney/client privileged communications or  
8     privileged information.

9             MS. LAPE: Objection. You can  
10    answer to the extent it doesn't lead to any  
11    attorney/client privileged information. And  
12    it's, again, outside the scope.

13            A.     Could you repeat the question.

14            Q.     Let me ask a different question.  
15    During the time you were responsible for the  
16    Companies' compliance program, did you become  
17    aware of any allegations of improper conduct  
18    against Mr. Jones?

19            MR. HOLLINGSWORTH: Same objection  
20    and same instruction.

21            MS. LAPE: Again, you can answer to  
22    the extent you don't reveal any attorney/client  
23    privileged information. Why don't you ask her  
24    if she had any complaints about Corporate  
25    Separation policy.

1 Q. Just go ahead.

2 MR. FINNIGAN: I mean, you can  
3 instruct the witness not to answer, but,  
4 otherwise, I will ask the questions I am  
5 inclined to ask, not the ones you would like me  
6 to ask her.

7 A. I apologize. I just don't know  
8 what would be a violation of my attorney/client  
9 obligations, at this point, with that question.

10 Q. During your employment at  
11 FirstEnergy, did you ever have to take any  
12 action in your role as Chief Ethics Officer  
13 with relation to the Corporate Compliance  
14 Program that involved Mr. Jones?

15 MR. HOLLINGSWORTH: Same objection.  
16 Same instruction. Again, the question is not  
17 tailored to Corporate Separation, and to the  
18 extent it calls for privileged information, we  
19 ask the witness not to answer it.

20 MS. LAPE: Same objection and  
21 instruction.

22 Q. During your tenure as Chief Ethics  
23 Officer, did you ever become aware of any  
24 complaints of improper conduct by Mike Dowling?

25 MR. HOLLINGSWORTH: Same objection.



1 Same instruction.

2 MS. LAPE: Same objection. Same  
3 instruction.

4 Q. During your tenure as Chief Ethics  
5 Officer, were you ever aware of any allegations  
6 of improper conduct by Mr. Dennis Chack?

7 MR. HOLLINGSWORTH: Same objection  
8 same instruction.

9 MS. LAPE: Same objection. Same  
10 instruction.

11 Q. The media has reported that  
12 Mr. Ruffner was separated from the company.  
13 What is your understanding of the reason why he  
14 was separated?

15 MR. HOLLINGSWORTH: Objection to  
16 scope.

17 MS. LAPE: Objection to scope, and,  
18 to the extent that your recollection, or  
19 anything that you know, came from communication  
20 with counsel, that should not be revealed  
21 either.

22 THE WITNESS: Could you read back  
23 the question?

24 Q. I will re-ask it. I'm just asking,  
25 what is your understanding of why Mr. Ruffner

1 was separated?

2 MR. HOLLINGSWORTH: Same objection,  
3 scope.

4 MS. LAPE: Same objection and  
5 instruction.

6 A. Just the AK, complete the AK.

7 Q. What the AK says is that he was  
8 separated by inaction that was influenced by  
9 improper tone at the top. What did you  
10 understand that to mean?

11 MS. LAPE: Objection. AK speaks  
12 for itself. Do you have the AK?

13 A. I didn't have any special  
14 understanding of it.

15 Q. Do you think that Mr. Ruffner did  
16 anything wrong, related to the House Bill 6  
17 matter?

18 MR. DORINGO: Objection to scope.

19 MR. HOLLINGSWORTH: Objection, to  
20 the extent that it calls for the revelation of  
21 any attorney/client privileged information, I  
22 instruct the witness not to answer.

23 MS. LAPE: Objection and same  
24 instruction.

25 Q. Was anyone else separated from

1 FirstEnergy, besides yourself relating to House  
2 Bill 6?

3 MS. LAPE: Objection.

4 MR. DORINGO: Objection.

5 A. You would have to ask FirstEnergy.

6 Q. Hmm?

7 A. You would have to ask FirstEnergy.

8 Q. I'm just asking you from your  
9 knowledge.

10 MS. LAPE: Same objection. And  
11 scope.

12 MR. FITZGERALD: And nothing you  
13 heard from counsel you should reveal, meaning,  
14 your personal counsel.

15 MR. HOLLINGSWORTH: And, again, for  
16 the record, this has nothing to do with  
17 Corporate Separation.

18 A. I don't know.

19 Q. Did you sign some separation  
20 agreement with FirstEnergy?

21 MS. LAPE: Objection. This is far  
22 outside the scope. This has nothing to do  
23 with --

24 MR. DORINGO: Objection to scope.

25 Q. Go ahead. You can answer.

1           A.       No.

2           Q.       Did you enter into any joint  
3 defense privilege with FirstEnergy Corp, or the  
4 FirstEnergy utilities, or any other party?

5           MR. HOLLINGSWORTH:  Objection.

6           MS. LAPE:  Objection.  Scope --

7           MR. DORINGO:  Objection.  Scope.

8           MS. LAPE:  -- and instruct you not  
9 to answer, to the extent it reveals any  
10 privileged information.

11          A.       At what time?

12          Q.       At any time.

13          A.       I believe as an Officer of the  
14 company, there may have been a joint defense.

15          Q.       I'm asking, did you enter into a  
16 joint defense agreement, after your employment  
17 ended with FirstEnergy?

18          A.       That is a different question.

19          Q.       Okay.  That is my question.

20          MR. DORINGO:  Objection to scope.

21          MS. LAPE:  Objection to scope, and  
22 to the extent it calls for privileged  
23 information.

24          A.       I don't think so.

25          Q.       Has the company notified you that

1       they may clawback any of your compensation --

2               MS. LAPE:   Objection.

3               Q.       -- that you received during your  
4       employment at FirstEnergy?

5               MS. LAPE:   I think we should get  
6       the Attorney Examiners back on the line,  
7       because this line of questioning has gotten out  
8       of control.

9               MR. FINNIGAN:  Are you instructing  
10      her not --

11              MR. DORINGO:  Objection to scope.

12              MS. LAPE:   I am instructing her not  
13      to answer until we have, unless and until we  
14      have a direct Order from the Attorney Examiners  
15      to answer this line of questioning.

16              MR. FINNIGAN:  Let's take a brief  
17      recess for five minutes.

18              (Whereupon, a recess was taken.)

19              MR. FINNIGAN:  Okay.  Let's go back  
20      on the record.  That's all the questions that  
21      OCC has for the public session.  So we will  
22      turn it over to any other parties that want to  
23      ask questions during the public session.

24              MR. OLIKER:  John, I have about  
25      twenty questions.  So I hope I can do it in the

1 public session. I don't know if you want me to  
2 proceed before we go to lunch. I will defer to  
3 you for that.

4 MR. FINNIGAN: My preference would  
5 be to just push through the public session now,  
6 get that over with, and, then, take a lunch  
7 break and come back for the confidential  
8 session. So why don't we go ahead and do that.  
9 And it sounds like that might be Joe, but  
10 whoever it is really needs to speak up, because  
11 we are having trouble hearing you.

12 EXAMINATION OF EBONY YEBOAH-AMANKWAH  
13 BY MR. OLIKER:

14 Q. All right. Thank you. Ebony, good  
15 to see you again. My name is Joe Olikier.  
16 We've known each other for a long time.

17 A. Hi Joe.

18 Q. Good to see you. I'm going to try  
19 to follow-up on some of the questions received  
20 from Mr. Finnigan. I will try to keep this in  
21 the public record, please, if anybody objects,  
22 let me know. I will try to keep the questions  
23 as generic as possible to avoid having to do  
24 that.

25 Going back to some of the

1 discussions about the audit reports, are you  
2 familiar with the Sage Audit report, (phonetic)  
3 Daymark Audit Report?

4 A. I don't recall them.

5 Q. Are you familiar that there is an  
6 audit in Case No. 17-974?

7 A. I'm not familiar with the docket.

8 Q. Did you participate in the  
9 Corporate Separation audit of the FirstEnergy  
10 utilities, while you were still employed by  
11 FirstEnergy?

12 A. I did not.

13 Q. So I think it's safe to say you  
14 have not reviewed any audit reports that were  
15 filed with the Public Utilities Commission of  
16 Ohio?

17 A. Not that I recall.

18 Q. You were generally familiar with  
19 the purpose of Ohio's Corporate Separation  
20 requirements, correct?

21 A. That's correct.

22 Q. And are you familiar -- scratch  
23 that. Do you know if FirstEnergy has Corporate  
24 Separation policies that are specific to Ohio,  
25 or does it leverage its first Code of Conduct?

1           A.       I don't remember.

2           Q.       And are you aware that while you  
3       were employed by FirstEnergy, it offered  
4       non-jurisdictional services, such as home  
5       warranty products?

6           A.       I recall it offered services. I  
7       don't recall if that is a correct example of  
8       them.

9           Q.       Are you familiar with a company  
10      called Home Search?

11          A.       I am not.

12          Q.       And you are familiar with the term  
13      non-jurisdictional service, are you not?

14          A.       I am generally familiar with that  
15      term, correct.

16          Q.       Can you give a general definition  
17      for the record, based upon your knowledge.

18          A.       Services, other than the  
19      distribution of energy that a utility may offer  
20      that the Commission does not regulate in the  
21      same way.

22          Q.       But you generally agree that there  
23      are non-competitive services, such as  
24      distribution service and competitive retail  
25      electric services, such as generation service,



1 and other services that are typically  
2 considered non-jurisdictional outside of the  
3 Commission's general regulation.

4 A. Yes.

5 Q. And I think we already established  
6 this, but I want to make sure we are clear.  
7 You agree that while you were employed by  
8 FirstEnergy, FirstEnergy did, in fact,  
9 market/provide non-jurisdictional services to  
10 its customers.

11 MS. LAPE: Objection.

12 MR. DORINGO: Objection. And Joe,  
13 my objection is just, I know it's easy to do,  
14 but you're using FirstEnergy, and, you know, we  
15 have three utilities. We have other Ohio  
16 operating -- you have other entities operating  
17 in Ohio.

18 So just for the clarity of the  
19 record, if you could be a little more precise,  
20 I would appreciate that.

21 Q. So with that objection, and I'm  
22 happy to have it clarified, we are referring to  
23 the three FirstEnergy utility operating  
24 companies collectively as FirstEnergy or  
25 FirstEnergy Utility.

1 MS. LAPE: Do you want the question  
2 read back?

3 THE WITNESS: No.

4 A. I am aware that the services were  
5 offered by an entity in the corporate umbrella,  
6 but I do not recall which entity it was.

7 Q. Are you familiar with the entity  
8 known as Smart Mark?

9 A. I am not.

10 Q. What about FirstEnergy products?

11 A. I am aware of that name. I don't  
12 know if that is an entity name or a group name.

13 Q. Do you know where that entity or  
14 group resides within the FirstEnergy family  
15 tree of companies?

16 A. My recollection, which may or may  
17 not be correct, is that it was a group or a  
18 department within FirstEnergy.

19 Q. And when you say FirstEnergy, are  
20 you referring to utility or one of the service  
21 companies outside of the utility?

22 A. My understanding or recollection is  
23 that it would have been perhaps with a service  
24 company, FirstEnergy service company.

25 Q. And are you familiar with the

1 entity known as FirstEnergy Home?

2 A. I am not.

3 Q. And do you know, did FirstEnergy,  
4 the utility, have any internal safeguards or  
5 Corporate Separation requirements that were  
6 applicable to FirstEnergy employees marketing  
7 non-jurisdictional service?

8 A. The FirstEnergy Ohio operating  
9 companies, is that what you're asking about?

10 Q. Yes.

11 A. I recall that there were.

12 Q. And what type of safeguards were in  
13 place?

14 A. I don't remember them.

15 Q. And am I correct that when the  
16 FirstEnergy, the utility, provided a  
17 non-jurisdictional product to customers, they  
18 would invoice and collect for those services on  
19 the utility bill?

20 A. I don't know.

21 Q. Do you remember a Corporate  
22 Separation complaint that was filed against  
23 FirstEnergy by the Retail Energy Supply  
24 Association?

25 A. I don't remember it.

1           Q.     Do you remember a letter that Mark  
2     Whitt, on behalf of the Retail Energy Supply  
3     Association addressed to you, regarding the  
4     alleged Corporate Separation violation of  
5     FirstEnergy Ohio Utilities?

6           A.     No, I don't remember.

7           Q.     Can we go off the record for a  
8     second.

9                     (Whereupon, a recess was taken.)

10          Q.     Now, can you see my screen?

11          A.     I can.

12          Q.     And just take a minute and look.  
13     This is an exhibit to a Compliant. The letter  
14     is titled January 4, 2018, and just let me know  
15     if this refreshes your recollection about a  
16     particular issue.

17          A.     Can you scroll down to the next  
18     page. Can you scroll down again.

19          Q.     Yes.

20          A.     Is there another page -- I've  
21     reviewed the letter. It does not refresh my  
22     memory.

23          Q.     You said you don't remember that?

24          A.     No. I don't have any active memory  
25     of it, no.

1           Q.     Okay.  So, and I'll go to the next  
2     page.  Do you remember writing this e-mail,  
3     January 16, 2018?

4           A.     No.  But it appears consistent on  
5     how I would have handled such a complaint, but  
6     I don't remember the communication.

7           Q.     Okay.  And am I correct that, at  
8     your direction, there was a preliminary  
9     investigation conducted in FirstEnergy?  Do you  
10    remember doing that?

11          A.     I don't.

12          Q.     You do or you do not?

13          A.     I do not.

14          Q.     Okay.  I can stop sharing now.  
15    Now, how many, can you recall any other times,  
16    when a specific Corporate Separation violation  
17    or allegation was brought to your attention?

18          A.     I do not recall.

19          Q.     And regarding the separation of  
20    non-jurisdictional services, do you know the  
21    methods through which FirstEnergy marketed its  
22    product?

23          A.     I don't.

24          Q.     Do you know if FirstEnergy  
25    utilities used its call center to market its

1 non-jurisdictional service?

2 A. I don't.

3 Q. And would you agree that, at one  
4 point in time, IGS approached FirstEnergy, and  
5 requested that it be permitted to offer its own  
6 non-jurisdictional services on the utility  
7 bill?

8 A. I recall that IGS approached the  
9 Ohio utilities to offer certain  
10 non-jurisdictional services, but I don't recall  
11 the nature or scope or if the request was to be  
12 on the utility. But I don't recall the  
13 specifics around the request.

14 Q. Do you remember -- strike that.  
15 Would you agree that FirstEnergy declined to  
16 permit IGS to put its non-jurisdictional  
17 services on the utility bill?

18 A. I don't remember.

19 Q. And am I correct that you were not  
20 aware how FirstEnergy may have accounted for  
21 any of its own costs to provide  
22 non-jurisdictional services to customers?

23 A. I don't recall.

24 Q. And do you know if FirstEnergy had  
25 any restriction in place that would prevent

1 FirstEnergy employees from accessing customer  
2 information to market non-jurisdictional  
3 services?

4 A. Could you repeat the question.

5 MR. OLIKER: Could the court  
6 reporter read it back.

7 (Whereupon, the court reporter read  
8 back the last question.)

9 MR. DORINGO: I'm just going to  
10 object on the use of "FirstEnergy" there being  
11 imprecise and vague.

12 Q. To make it clear, when I'm talking  
13 about FirstEnergy, I'm talking about utilities.  
14 But if the witness wants to correct it in her  
15 response, that's fine.

16 A. I don't recall.

17 Q. Do you believe it would have been  
18 improper for a FirstEnergy employee to use the  
19 utility database to access FirstEnergy  
20 distribution customer information to market  
21 non-jurisdictional service?

22 A. I've been away from the Corporate  
23 Separation rules and regulations for a bit now,  
24 and I don't have a working knowledge, sitting  
25 here today, of the ins and outs to compare it

1 to what you've asked me.

2 Q. If a customer was calling  
3 FirstEnergy, the utility, to connect its  
4 electric service, do you believe it would be  
5 improper for a call center agent to market  
6 non-jurisdictional service?

7 MR. DORINGO: Object to form.

8 A. Same response. I would have to  
9 look over the Corporate Separation rules and  
10 regulations to be able to advise on what is  
11 permissible and not permissible.

12 Q. Am I correct that FirstEnergy  
13 Utility's call center get questions from  
14 customers regarding non-jurisdictional services  
15 provided by the FirstEnergy Utility?

16 A. I don't know.

17 Q. And because you do not know, would  
18 you agree if such calls occurred, you also do  
19 not know how those call center employees were  
20 accounted for?

21 A. Could you repeat the question.

22 MR. OLKER: Could the court  
23 reporter read it back.

24 (Whereupon, the court reporter read  
25 back the last question.)



1 (Mr. Oliker dropped from the call)

2 MR. FINNIGAN: Joe, you are back  
3 on. Please re-ask your last question.

4 Q. We touched on this just a few  
5 minutes ago, are you familiar with FirstEnergy  
6 Utility's relationship with HomeServe?

7 A. I don't recall, no.

8 Q. And what about the FirstEnergy  
9 parent company, are you familiar with their  
10 relationship with HomeServe?

11 A. No.

12 Q. And you remember discussions  
13 earlier how you told about the agreement with  
14 the Sustainability Funding Alliance, I want to  
15 keep the conversation general here, do you  
16 remember that discussion?

17 A. Here today?

18 Q. Yes.

19 A. Yes.

20 Q. And when did you become aware of  
21 any of the -- and to streamline things -- can  
22 you call Sustainability Funding Alliance, SFA,  
23 because I simply cannot say it?

24 A. Okay.

25 MS. LAPE: I think that we had an

1 agreement, or that Attorney Examiner had said  
2 that this could be, all questions related to  
3 SFA would be under the confidentiality session.

4 MR. OLIKER: I'm not sure they said  
5 all questions. I think they said specific  
6 questions regarding things, other than the  
7 public documents themselves. I have some very,  
8 very high level background that is not  
9 confidential.

10 MR. HOLLINGSWORTH: Our preference  
11 would be for all questions related to SFA to be  
12 in the confidential session consistent with the  
13 Attorney Examiner's inclination.

14 MS. WILLIS: Well, to be clear, the  
15 Attorney Examiner said that it would be a good  
16 idea. She hadn't really ruled. Let's be clear  
17 about that -- she said, "That's a good idea."

18 MR. HOLLINGSWORTH: That's why I  
19 said "inclination."

20 MS. WILLIS: But, you know, Joe, if  
21 you want to ask, you ask.

22 MR. OLIKER: There has already been  
23 some questions on the record about this. So if  
24 I get into confidential, then, you just try to  
25 cut me off. But I don't think you'll find this

1 to be such.

2 Q. When did you become aware of  
3 FirstEnergy's or any FirstEnergy entity used,  
4 its agreement with SFA?

5 MR. HOLLINGSWORTH: I'm going to  
6 object, and instruct the witness not to answer,  
7 to the extent that it reveals any  
8 attorney/client privileged information. And,  
9 again, I would reiterate my request that these  
10 questions be posed in the confidential session.

11 MS. LAPE: I'm also going to  
12 object, and instruct that you not waive any  
13 attorney/client privileged information. And I  
14 do think that these questions should be in the  
15 confidential session given the discussion we  
16 had earlier with the Attorney Examiner.

17 MR. OLIKER: Okay. If we go down  
18 this route, we're going to have to submit this  
19 whole transcript to the Attorney Examiners, and  
20 make them go through line-by-line for what is  
21 confidential and what is not. These questions  
22 are not who has any confidential information.

23 MR. DORINGO: Joe, from the  
24 Companies' point of view, it's a sensitive  
25 enough issue. I would hate to burden the

1 attorney examiners with that, but, we think  
2 just being careful here makes sense, and the  
3 Attorney Examiners seemed to agree with that.

4 MR. OLIKER: Well, I will make that  
5 requirement, if these questions have to be in  
6 the confidential session. So if you are going  
7 to require that, then, you are putting that on  
8 the Attorney Examiners.

9 MR. HOLLINGSWORTH: That's our  
10 position.

11 MS. WILLIS: Go ahead and ask, Joe.

12 MR. OLIKER: I'm sorry.

13 MS. WILLIS: I said to go ahead and  
14 ask your questions. I don't think they're  
15 going to require you to put it into the  
16 confidential session.

17 MR. HOLLINGSWORTH: No, we are.  
18 That's our position. We requested --

19 MS. WILLIS: Well, you're not going  
20 to require him, require, you're not going to  
21 require him. So we don't -- I'd rather us not  
22 keep calling the Examiner up over these issues.  
23 I think we should be able to work them out.  
24 You would like him to do it. He doesn't want  
25 to do it. There was no ruling. He should go

1 ahead.

2 MR. FITZGERALD: I think, before we  
3 work things out, when we talked to the  
4 Examiners, we clearly understood this would be  
5 handled in a confidential session.

6 MS. WILLIS: But it's not a ruling.  
7 She said, you know, clearly not a ruling.

8 MS. LAPE: You agree that she said,  
9 "I would be inclined to have everything in the  
10 confidential session?"

11 MS. WILLIS: I think what she said,  
12 "That sounds like a good idea."

13 MR. HOLLINGSWORTH: Correct. And  
14 so we agree that it's a good idea.

15 MR. FITZGERALD: And then why don't  
16 we take it up with the Examiner? If this --

17 MS. WILLIS: Well, do you want to  
18 call the Examiner over that -- have -- you  
19 know, have at it. But I think she's going to  
20 get a little annoyed by calls over things like  
21 this.

22 MR. FINNIGAN: Joe, let me suggest  
23 that we are operating with a limited amount of  
24 time here. We can certainly carve out time and  
25 go to the Attorney Examiner to talk about

1 whether this discussion, where you've got a  
2 couple of questions, ought to be in a public or  
3 a confidential session. But to save time, and  
4 since you are participating in the confidential  
5 session, would it make sense for you just to  
6 reserve those questions for the confidential  
7 session?

8 MR. OLIKER: I have about five  
9 questions. I don't want to talk about House  
10 Bill 6. I don't want to talk about anything  
11 post-2018. I have some simple questions  
12 regarding the agreements.

13 MR. FINNIGAN: Well, why don't you  
14 ask your five questions, and they can instruct  
15 the witness not to answer, if they are  
16 declined, or let the witness answer. So go  
17 ahead.

18 Q. Ebony, are you familiar with the  
19 initial 2013 agreement with SFA?

20 MR. HOLLINGSWORTH: I'm going to  
21 object and instruct the witness not to answer,  
22 until we are in the confidential session.

23 MS. LAPE: Same objection and  
24 instruction.

25 Q. All right. Well, then, are your

1 thoughts -- a similar question -- you are aware  
2 that the FirstEnergy utility voted expenses  
3 related to the SFA as distribution-related?

4 MR. DORINGO: Objection.

5 MR. HOLLINGSWORTH: Same objection.  
6 Same instruction.

7 MS. LAPE: Same objection. Same  
8 instruction.

9 MS. BOJKO: I would like to note on  
10 the record that these are not confidential  
11 questions; whether she was aware or not, are  
12 not confidential questions, and I want to note  
13 that on the record so we can go back and  
14 release everything to the public, if you are  
15 going to instruct the witness not to answer.  
16 These are not confidential questions, whether  
17 she was aware.

18 MR. FINNIGAN: Yes. OCC joins in  
19 that objection. And this is something that we  
20 can take up with the attorney examiners at  
21 another time, either this afternoon, or at a  
22 different date. But, yes, we think that these  
23 are all public record type of questions that  
24 ought to be answered, and inappropriate use of  
25 an instruction not to answer. So we join in

1     that.

2                   MR. OLIKER:   What I will suggest,  
3     after this is done, I don't necessarily think  
4     the attorney examiners will have to get  
5     involved today.   But there will be a  
6     transcript.   It will have a confidential and a  
7     public session.   I suggest that we send the  
8     confidential session to the attorney examiners  
9     and let them decide what goes into the public  
10    record.   We can take their arguments and deal  
11    with it that way.

12                  MR. FINNIGAN:   Yes.   That might be  
13    a good approach, Joe.   Let's deal with that,  
14    you know, at the appropriate time.   Do you have  
15    any more questions, at this time?

16                  MR. OLIKER:   Give me one minute to  
17    look at my notes.   Okay.   Just a couple more  
18    questions.

19                  Q.     Ebony, are you familiar with the  
20    process of building expenses between different  
21    utility service companies in general?

22                  A.     I'm aware that it is done.

23                  Q.     Okay.   Back in your earlier days at  
24    FirstEnergy, you represented the company in  
25    distribution cases, correct?



1           A.       That's correct.

2           Q.       And one of the rules of a  
3       distribution case is to identify the operation  
4       and maintenance expenses that are necessary to  
5       operate the utility, correct?

6           A.       The cost to provide service?

7           Q.       Yes.

8           A.       Cost of service is one component,  
9       yes.

10          Q.       And, in order to come to a cost of  
11       service, you look at various allocations from  
12       the parent company, not just the utility,  
13       correct?

14          A.       I don't recall how the parent  
15       company filters into the cost of service.

16          Q.       In your most recent role at  
17       FirstEnergy, were you involved in approving  
18       invoices for different operating companies?

19          A.       No.

20          Q.       Would that have been Bill Redman or  
21       Eileen Mickelson?

22          A.       I don't think so.

23          Q.       Who do you believe would have been  
24       responsibility for making determinations on  
25       which costs should be assigned to which

1 operating companies?

2 A. That's a different question,  
3 perhaps, Accounting and the rates department.

4 Q. Are you familiar with their review  
5 process, because you ultimately would have to  
6 sign-off on the allocation that's invoiced?

7 A. I would not do that, what you  
8 indicate -- I would not ultimately sign-off on  
9 allocation of those invoices.

10 Q. Do you know who, specifically,  
11 within FirstEnergy would sign-off?

12 A. I do not.

13 Q. Were you familiar with the process  
14 that FirstEnergy would undertake to assign  
15 expenses from various operating companies?

16 A. Well, I had different levels of  
17 understanding, depending on what position I  
18 held, at the time, and what I was working on;  
19 if I was engaged in a rate case, I would have  
20 had a more in-depth understanding. My  
21 understanding changed. Sitting here today, I  
22 don't recall the specifics.

23 Q. Was Chuck Jones ever involved in  
24 those determinations, if you know?

25 A. I don't know.

1 Q. How about Dennis Chack?

2 A. I don't know.

3 Q. Those are all the questions that I  
4 have for the public record. Thank you, Ebony.

5 MR. FINNIGAN: Okay. I think  
6 that's all for now. It is 10 after 2:00. Why  
7 don't we resume at 3 o'clock. We will finish  
8 up the questioning in the public session that  
9 Kim and Dane mentioned that they have and then  
10 we will go to the confidential session after  
11 that. So we'll see you back at 3 o'clock.

12 (Whereupon, a recess was taken.)

13 MR. FINNIGAN: We are ready to get  
14 started now for the afternoon public session.  
15 I think where we left off, Joe had finished his  
16 public questioning, and, now, Kim, we are going  
17 to turn it over to you for your public  
18 questioning.

19 EXAMINATION OF EBONY YEBOAH-AMANKWAH

20 BY MS. BOJKO:

21 Q. Okay. Off the record, Ebony, you  
22 graciously agreed to let me call you Ebony; so,  
23 thank you for that. As you know, my name is  
24 Kim Bojko, and, in this proceeding, I represent  
25 the Ohio Manufacturers Association Energy

1 Group.

2 My questions this afternoon are  
3 going to focus on your time when you served as  
4 Chief Ethics Officer from 2017 until November  
5 of 2020. Okay?

6 A. Okay.

7 Q. Okay. And in that position, you  
8 were ultimately responsible for compliance  
9 monitoring and tracking; is that correct?

10 A. Certain corporate compliance.

11 Q. I'm sorry. I didn't hear you.

12 A. I was responsible for certain  
13 corporate compliance.

14 Q. And would your, would one of  
15 those -- you said certain corporate  
16 compliance -- could you maybe tell me what  
17 certain corporate compliance is that you were  
18 responsible for?

19 A. It was decentralized at  
20 FirstEnergy, and, so, there was a variety of  
21 different departments that handled different  
22 components of corporate compliance. You know,  
23 sitting here today, I can't really name them.  
24 I don't kind of recall all the groups. There  
25 was federal regulatory energy compliance, but

1     there were a number of different other areas of  
2     compliance.

3             I do recall that we would have a  
4     compliance summit, that we would get together  
5     all of the people responsible for compliance,  
6     and go through their various responsibilities  
7     and what they were doing to execute those.

8             Q.     I'm sorry.   Execute what?

9             A.     Their responsibilities.

10            Q.     And one of those responsibilities  
11     would have been Corporate Separation  
12     compliance; is that right?

13            A.     That's correct.

14            Q.     And when you engaged in the  
15     corporate compliance monitoring and tracking,  
16     during your time at the company, did you have a  
17     process or a system in place for employees to  
18     report potential client violations, regarding  
19     Corporate Separation compliance?

20            A.     Employees could report it through  
21     the employee concerns line.

22            Q.     And the employee concerns line is  
23     what you referenced this morning with  
24     Mr. Finnigan.   Were there any other methods in  
25     place for employees to highlight Corporate

1 Separation concerns?

2 A. They could report it to the Legal  
3 Department, Human Resources, internal audit.

4 Q. And internal audit is actually a  
5 separate section or division within the  
6 company; is that correct?

7 A. It is.

8 Q. Was there a tracking system that  
9 employees could access electronically, in order  
10 to, I guess, in order to make their complaint  
11 known to one of these departments?

12 A. I don't recall.

13 Q. How were employees made aware of  
14 the ability for them to raise Corporate  
15 Separation compliance issues with either the  
16 employee concerns line, Legal Department, H.R.  
17 or internal audit?

18 A. I can't -- I don't recall all the  
19 different mechanisms that were available to  
20 employees, but there was training and various  
21 communications.

22 Q. When you say various  
23 communications, by whom?

24 A. The communications department.

25 Q. Do you know if they were given

1 anything in writing, regarding their ability to  
2 make a complaint regarding Corporate Separation  
3 requirements?

4 A. I don't recall.

5 Q. You mentioned a third party vendor  
6 receiving the calls on the employee concerns  
7 line; is that correct?

8 A. That's correct.

9 Q. And you stated that the third party  
10 vendor line issued, or created a report, that  
11 then you received and Kevin Burgess; is that  
12 correct?

13 A. That's correct.

14 Q. Was that report sent to you via  
15 e-mail, or was there some kind of tracking  
16 system at FirstEnergy that would house that  
17 report?

18 A. I received it via e-mail.

19 Q. And how were the records maintained  
20 with regard to the employee concerns line  
21 component?

22 A. Through the third party database.

23 Q. And what about the reports that you  
24 received from third party vendor, where were  
25 those reports housed and maintained?

1           A.       I would get an e-mail regarding the  
2       complaint, and there would be a link to go back  
3       to the third party vendor's database.

4           Q.       Thank you very much for that  
5       clarification. These employee concerns lines,  
6       they could have covered other issues, other  
7       than Corporate Separation; is that correct?

8           A.       That's correct.

9           Q.       So were the complaints classified  
10      or indexed, based on the category of concern?

11          A.       I believe that there were some  
12      categories.

13          Q.       Did the company have a method for  
14      marking the complaint that's resolved?

15          A.       I believe it was noted in the  
16      database.

17          Q.       Do you know if an employee could  
18      make a written complaint, instead of just  
19      calling into the employee concerns line?

20          A.       Yes, they could.

21          Q.       And was there a written process in  
22      place for them to do that?

23          A.       I don't understand the question.

24          Q.       Did you have a written process?  
25      Did employees know how to or who to submit a



1 written Complaint to?

2 A. I believe there was communication  
3 that a written complaint could be sent to the  
4 Chief Ethics Officer.

5 Q. So you were the only one that  
6 received written complaints, during your time  
7 as Chief Ethics Officer?

8 A. No. It could also be sent to the  
9 Legal Department or Human Resources. Employees  
10 could send a written complaint to anyone in the  
11 organization.

12 Q. Were there physical records of  
13 these complaints kept by FirstEnergy by you?

14 A. At one time, there were hardcopy  
15 records and then there was kind of an  
16 initiative to convert them to all electronic  
17 records. I'm not sure if there were any kind  
18 of paper records maintained, after they went to  
19 electronic format.

20 Q. And where would the electronic  
21 records be held in the system?

22 A. I believe the employee concerns  
23 would have been entered into the database.

24 Q. I'm sorry. Into what database, the  
25 third party database?

1           A.       That's correct.

2           Q.       And Mr. Olier showed you earlier a  
3       complaint launched by PUCO, and you received --  
4       I know you don't recall that -- presumably, you  
5       received the hardcopy or electronic of that.  
6       What would have been done with that Complaint  
7       after receiving it?

8           A.       I would have assigned it either to  
9       internal audit or the Legal Department for  
10      review and investigation.

11          Q.       So, if you received that letter  
12      electronically, would you have forwarded it to  
13      one of the those departments for investigation?

14          A.       I don't know if I would have  
15      forwarded it or had the document, run it down  
16      to the department.

17          Q.       Okay. And then physically what  
18      would you have done with the document? Where  
19      would you have put it? Would you have kept it  
20      in a file somewhere? Where would you have put  
21      that letter?

22          A.       If I would have run the document  
23      down to the department, they would have  
24      retained the document.

25          Q.       Okay. And if you received it

1 electronically, would you have saved it on the  
2 system somewhere?

3 A. I don't recall.

4 Q. So, other than the recent complaint  
5 that's been discussed here today, did you  
6 receive other complaints, during your time as  
7 Chief Ethics Officer from 2017 through  
8 November of 2020?

9 MS. LAPE: Objection. Related to  
10 Corporate Separation, or anything?

11 MS. BOJKO: Anything, right now.

12 A. I did.

13 Q. And were any of those complaints  
14 related to Corporate Separation?

15 A. I don't recall.

16 Q. So the third party vendor system  
17 that you referenced that had a database that  
18 housed the complaints, who had access to that  
19 database?

20 A. I don't recall sitting here today  
21 everyone that had access to that database. I  
22 would have had access. An administrative  
23 assistant would have had access. Someone in  
24 internal auditing would have access, and  
25 someone in H.R. would have had access. There

1       were more people who had access, but I don't  
2       recall who.

3               Q.       And the regular employees would not  
4       have had access, right?

5               A.       That's correct.

6               Q.       Do you believe that that third  
7       party database is still in existence today?

8               A.       I don't know.

9               MS. LAPE:  Objection.

10              Q.       Was the compliance system and third  
11       party database that you described in place,  
12       before you took the position as Chief Ethics  
13       Officer, or did you implement its use?

14              A.       The third party vendor had a  
15       product already in place.  When I took office,  
16       I implemented an enhanced version of it.

17              Q.       And prior, right before leaving  
18       office, was that enhanced version still in  
19       place in use?

20              A.       Yes.

21              Q.       And you don't know whether the  
22       County still utilizes the same version that you  
23       used; is that correct?

24              A.       That's correct.

25              Q.       Okay.  So we talked about the

1 employees having this employee concerns line,  
2 and I did already mention that stakeholders,  
3 customers or other third person, if they had a  
4 complaint regarding Corporate Separation, would  
5 they, where would they -- just send it to you,  
6 or H.R. or legal -- would that have been the  
7 process, at the time you were there?

8 A. Those are places a third party  
9 could have sent it to.

10 Q. Let me -- I apologize. That was a  
11 poorly-worded question. Let me ask it  
12 different way. A stakeholder or a customer or  
13 another certain person could not have called  
14 the employee concerns line; is that fair --

15 A. They could have.

16 Q. -- or they could have -- how would  
17 they have known what number to call? Was that  
18 posted on your website or something?

19 A. I don't recall.

20 Q. And during your time, as Chief  
21 Ethics Officer, if an audit was conducted,  
22 would the auditor have access to the third  
23 party vendor database that housed the  
24 complaints regarding Corporate Separation?

25 MS. LAPE: Objection. An audit

1 about Corporate Separation? Or any audit?

2 Q. Well, given that the complaint is  
3 broader than Corporate Separation, my question  
4 was, any auditor, that would have needed access  
5 to this database for any type of complaint?

6 A. External or internal auditor?

7 Q. Well, let's do both. First,  
8 internal auditor.

9 A. Internal audit had access to the  
10 database.

11 Q. All right. How about external  
12 audit? Let's take them apart. During your  
13 time at FirstEnergy, you have been involved in  
14 various audits supported by the Commission in  
15 various audits; is that fair?

16 MS. LAPE: Objection.

17 A. In general, over the course of my  
18 career, I have engaged in a few audits.

19 Q. So when the Commission hires an  
20 external auditor to do a review of a rider, or  
21 Corporate Separation, would that auditor have  
22 had access to this third party vendor database  
23 to review complaints that had been made?

24 A. I don't recall such a request.

25 Q. So if an auditor asks for all

1 records, regarding Corporate Separation  
2 compliance and monitoring tracking Corporate  
3 Separation issues, as Chief Ethics Officer, you  
4 don't believe that that auditor would have been  
5 provided access to the third party vendor  
6 database, unless the auditor specifically knew  
7 about it and asked, would have had access to  
8 that database?

9 MR. DORINGO: Object to form.

10 MS. LAPE: Objection.

11 A. I didn't say that.

12 Q. So if an auditor was auditing  
13 company compliance issues, and there were  
14 complaints regarding compliance issues, how  
15 would this third party database, would you have  
16 given access to the auditor to review those  
17 records?

18 A. I would have acted under advice  
19 from counsel from our Legal Department.

20 Q. Advice from counsel for what,  
21 whether you should allow access, or whether you  
22 should tell the auditor that the database  
23 exists?

24 MS. LAPE: Objection.

25 A. If the request came in through the

1     Legal Department, they would have advised me on  
2     how to respond to the request. I don't know.

3             Under a hypothetical situation, if  
4     an auditor called me up specifically, and asked  
5     me for access to the database, I don't know  
6     that specific hypothetical, but, typically, a  
7     request would have come to me through our Legal  
8     Department.

9             Q.     All right. So during your time as  
10    Chief Ethics Officer, you don't ever recall a  
11    time where an audit of the Corporate Separation  
12    rules and Code of Conduct were conducted and  
13    you provided access to the thirty party  
14    vendor's database, regarding Corporate  
15    Separation?

16            A.     I don't recall.

17            MS. LAPE: Objection.

18            Q.     If an auditor asked you for  
19    records, would you consider the third party  
20    database for records -- let me rephrase.  
21    Sorry.

22            If an auditor asked for records,  
23    regarding compliance monitoring and tracking,  
24    would you have provided the third party  
25    database records to the auditor?



1           A.       It's hard for me to answer the  
2 question, but auditor typically would not be  
3 asking me anything. They would be making a  
4 request to the company that would go through  
5 the Legal Department, and the Legal Department  
6 would ask me to provide any documentation that  
7 they needed to satisfy the auditor's request.

8           Q.       Okay. Fair enough. So under that  
9 scenario in your internal process, were you  
10 ever asked to provide an auditor access to the  
11 third party vendor database, with regard to  
12 Corporate Separation compliance?

13          A.       Not that I recall.

14          Q.       Understanding November of 2020, you  
15 were working remotely; is that correct?

16          A.       That's correct.

17          Q.       And you indicated that you had  
18 documents, and I'm assuming they were loaded at  
19 your house, you had documents, company  
20 documents, at your house; is that correct?

21          A.       That's correct.

22          Q.       Did you return all of the documents  
23 you had, or did you return a portion of the  
24 documents?

25          A.       I returned everything I have had.

1           Q.       When did -- I believe, you still  
2       said you had computer access, after your  
3       termination. When did that computer access  
4       terminate?

5           A.       I didn't say that.

6           Q.       I misheard that. I'm sorry. Did  
7       you -- I thought you said that, after you  
8       leave, you still had computer access; is that  
9       not correct?

10          A.       I didn't understand your question.  
11       But, no, I didn't have access, to my knowledge.

12          Q.       Okay. So upon termination, you  
13       believe you lost access to corporate records --

14               MS. LAPE: Objection.

15          Q.       -- in that timeframe, correct?

16               MS. LAPE: Objection.

17               MS. BOJKO: I didn't hear your  
18       objection. I'm sorry.

19               MS. LAPE: Form. Upon her  
20       separation.

21               MS. BOJKO: I'm actually talking  
22       about the documents, not the separation.

23          Q.       Did you --

24          A.       Upon my separation, I don't recall  
25       when my access was terminated.

1           Q.       I'm sorry. I didn't hear you. You  
2 don't recall when, is that what you said?

3           A.       Yes. I don't recall when my access  
4 was terminated, immediately, at the time of my  
5 separation, or any moments after that.

6           Q.       Did you access any corporate  
7 documents, after you received your termination  
8 notice?

9                   MS. LAPE: Objection.

10          A.       I don't recall.

11          Q.       You mentioned to Mr. Finnigan that  
12 you returned records/documents, in your  
13 possession. What was the time period that that  
14 occurred -- was it the same day? A week later?  
15 When did you return the documents?

16          A.       It was not the same day, but I  
17 don't recall when.

18          Q.       Weeks or months or days after, do  
19 you recall?

20          A.       No. I don't recall.

21          Q.       During your time as Chief Ethics  
22 Officer, did the utility companies propose any  
23 changes to their approved Corporate Separation  
24 Plan?

25          A.       I don't know.

1           Q.       Do you recall any discussions,  
2       regarding potential changes to the Companies'  
3       Corporate Separation Plan?

4           MR. DORINGO:   I will object.   And  
5       just -- well, caution -- you have a need to not  
6       reveal privileged communications, in your  
7       capacity as a lawyer for the companies.

8           MS. BOJKO:   I'm sorry.   I can't  
9       hear the attorney very well.   But he is  
10      objecting based on privileged information, but  
11      all my questions are about when she was Chief  
12      Ethics Officer, not when she was acting in the  
13      capacity of an attorney.

14          MS. LAPE:    She was also General  
15      Counsel, during the time that she was Chief  
16      Ethics Officer, as well, and Deputy General  
17      Counsel.   So there is a line to be drawn here,  
18      and to the extent that she would need to  
19      provide any attorney/client privileged  
20      information, in order to answer a question, we  
21      would advise her not to do so.

22          MS. BOJKO:   Fair enough.   But I  
23      didn't ask for substance.   I just asked if  
24      there were any discussions regarding the  
25      potential changes.

1           A.       I don't remember.

2           Q.       Do you recall whether you  
3 internally suggested any changes to the  
4 Corporate Separation Plan?

5                   MR. DORINGO: Same caution from me.

6                   MS. LAPE: Yes. Objection, to the  
7 extent it would require her to disclose  
8 privileged information.

9                   MS. BOJKO: Again, I'm not asking  
10 for the substance, just whether it occurred or  
11 not.

12          A.       I don't recall.

13          Q.       Do you recall any other employees  
14 recommending or suggesting any changes to the  
15 Corporate Separation Plan?

16          A.       I don't recall.

17          Q.       Do you recall any specific  
18 compliance issues, regarding the Corporate  
19 Separation Plan, that may have existed when you  
20 were Chief Ethics Officer?

21          A.       No. I don't recall.

22          Q.       So you don't recall whether there  
23 were any instances of potential compliance  
24 issues, regarding Corporate Separation, during  
25 your time as Chief Ethics Officer?

1           A.       I think if you would have asked me  
2       four years ago, or three years ago, I would  
3       have had a better memory. But, sitting here  
4       today, no, I don't recall.

5           Q.       Fair enough. Are you familiar with  
6       the Company's regulated money pool?

7           A.       Generally.

8           Q.       To your knowledge, do the companies  
9       -- and when I say companies, I'm talking about  
10      the Ohio -- do the companies track the source  
11      of funds from the regulated money pool, to your  
12      knowledge?

13          A.       Can you repeat the question, or can  
14      I have it read back?

15          Q.       I will repeat it. To your  
16      knowledge, do companies track the source of  
17      funds that were placed in the regulated money  
18      pool?

19          A.       I don't know.

20          Q.       And do you know whether the DMR,  
21      Distribution Modernization Rider funds were  
22      placed in the regulated money pool?

23                   MR. DORINGO: Objection. Scope.

24                   MS. LAPE: Objection. Same  
25      objection.

1           A.       Well, I was aware that there was a  
2 money pool agreement. I was not aware or  
3 involved in any of the details around that  
4 agreement.

5           Q.       Do you know whether or not Ohio  
6 subsidiaries have access to the regulated money  
7 pool?

8           A.       If Ohio's -- you said, if the  
9 subsidiaries have access?

10          Q.       Non-Ohio subsidiary.

11          A.       My understanding was that there was  
12 a regulated and unregulated money pool. There  
13 could have been others, but, that's, pretty  
14 much, the extent of my understanding of the  
15 money pool agreements.

16          Q.       Did you know, or do you know  
17 whether funds that were placed in the money  
18 pool, whether they're earmarked for that?

19          A.       I don't know what that means, and I  
20 was not engaged in the money pool agreement.

21          Q.       Well, did you ever have an  
22 opportunity to handle any complaints, regarding  
23 the need of the money pool funds?

24          A.       Not that I remember.

25          Q.       Were there ever any internal

1 instructions, regarding Corporate Separation  
2 violations with respect to the money pool?

3 MS. LAPE: Objection. I caution  
4 you not to answer to the extent you would need  
5 to disclose attorney/client privileged  
6 information.

7 MS. BOJKO: Again, I'm not asking  
8 for substance, just whether it happened.

9 A. I don't remember.

10 Q. Were there ever any internal  
11 discussions about revising accounting practices  
12 for the money pool?

13 MR. DORINGO: Objection. Scope.

14 A. Not that I can recall.

15 Q. Do you know whether the Ohio  
16 companies incurred any direct or indirect costs  
17 for political or charitable spending that have  
18 been identified?

19 MR. HOLLINGSWORTH: So I would  
20 object and caution the witness not to answer,  
21 to the extent it reveals any attorney/client  
22 privileged information.

23 MS. BOJKO: I'm sorry. We can't  
24 hear any -- when FirstEnergy Corp's attorney  
25 objects, nobody can hear him.



1 MR. HOLLINGSWORTH: So I will  
2 repeat the objection. For the record, I  
3 object, and I'm cautioning the witness not to  
4 answer the question, to the extent it reveals  
5 any attorney/client privileged information.

6 MS. BOJKO: Thank you.

7 A. I'm sorry. Was that question  
8 complete? It seemed to lack an ending. Maybe  
9 you can read it back to me. I don't think I  
10 had the whole question.

11 Q. Sure. My question was simply, to  
12 your knowledge, did the companies incur any  
13 direct or indirect cost for political or  
14 charitable spending?

15 MS. LAPE: Objection. You can  
16 answer to the extent you understand the  
17 question.

18 A. I guess I struggle with the  
19 question. I mean, to the extent that the  
20 company buys a table at the Boy Scout's event,  
21 is that incurring a cost -- and, if so, I'm  
22 aware that the company participated in events,  
23 and, I guess, purchased tables.

24 Q. And were those costs allocated to  
25 the Ohio companies?

1 MR. DORINGO: Objection. Form.

2 A. I think first, for clarification,  
3 when I said company, I was referring to a  
4 subsidiary of FirstEnergy Corp, unaware of  
5 which one it was. I guess I was more  
6 specifically referring to the FirstEnergy  
7 Foundation, and I'm not aware of any costs that  
8 the companies incurred, to your question.

9 Q. Do the Ohio companies engage in, or  
10 support the enactment of House Bill 6?

11 MR. DORINGO: Objection. Scope.

12 MR. HOLLINGSWORTH: Objection.  
13 Scope.

14 MS. LAPE: Objection.

15 A. I understand that the companies  
16 engaged in a certain section of House Bill 6.

17 Q. Which section was that?

18 MR. HOLLINGSWORTH: Objection.  
19 Scope.

20 A. A provision on decoupling.

21 Q. And I think you said previously  
22 that you are aware that payments were made by  
23 FirstEnergy Corp to third parties to support  
24 the enactment of HB 6; is that correct?

25 A. I did not say that.

1           Q.       Okay. Then I will just ask you, I  
2       didn't want to repeat. Thank you. Are you  
3       aware that payments were made by FirstEnergy  
4       Corp to third parties to support enactment of  
5       House Bill 6?

6                   MR. DORINGO: Objection. Scope.

7                   MR. HOLLINGSWORTH: Objection  
8       scope.

9           A.       I apologize. I can't -- I'm not  
10       sure if responding to your question, in any  
11       manner, would violate my attorney/client  
12       privilege.

13                   MR. HOLLINGSWORTH: In light of  
14       that response, we ask the witness not to answer  
15       the question, to the extent that it would  
16       reveal any attorney/client privileged  
17       information.

18                   MS. BOJKO: Okay. Well, I think it  
19       is public record. But I will ask my next  
20       question --

21           Q.       Were portions of those payments  
22       allocated to the Ohio companies, do you know?

23           A.       If there were payments, I don't  
24       know how they were allocated.

25           Q.       And I'm assuming that your answer

1 would also be that you don't know the party,  
2 what were the expenses related to those  
3 payments, if they were allocated, to your  
4 knowledge?

5 MS. LAPE: Objection. This is all  
6 hypothetical, and you're asking the witness to  
7 speculate.

8 MS. BOJKO: Well, I strongly  
9 disagree. I think the witness can answer, if  
10 she knows.

11 A. If there were expenses that then  
12 led to payments of those expenses -- I don't  
13 know how those hypothetical expenses or  
14 payments were allocated.

15 Q. Were you responsible for monitoring  
16 the companies' vending, Ohio companies'  
17 vending, to make sure it was compliant with the  
18 Corporate Separation Plan?

19 A. No.

20 Q. I'm sorry. Did you say no?

21 A. Yes. I said no.

22 Q. Who would have been responsible for  
23 monitoring the Ohio Companies' vending to  
24 ensure it was compliant with the Corporate  
25 Separation Plan, if it was not the Chief Ethics

1 Officer?

2 MR. DORINGO: Object to form.

3 A. I would think it would be the  
4 business unit that was trained on it, and the  
5 accounting unit that oversaw it.

6 Q. Did you state, again, that you were  
7 not ever the Ohio Compliance Officer?

8 A. I never served in a title of Chief  
9 Compliance Officer.

10 Q. Who did serve that title?

11 A. I'm not aware of that position.

12 Q. So you would not have kept records,  
13 regarding the allocation of money to the  
14 company, regarding any payments related to  
15 counsel; is that correct?

16 A. Assuming that there were payments  
17 associated with House Bill 6, I guess, I would  
18 need a little clarification.

19 The companies did engage in a  
20 section of House Bill 6, in connection with  
21 that, there were outside legal expenses  
22 associated with that representation. I was  
23 aware of the legal expense for decoupling. I  
24 don't recall being aware of any other expense,  
25 at that time.

1           Q.     And were you in charge of approving  
2     those outside legal expenses that you just  
3     mentioned?

4           A.     I don't recall.

5           Q.     Would you have kept records of the  
6     outside legal expenses associated with the Ohio  
7     companies' decoupling issue?

8           A.     It would have been in a database in  
9     the system.

10          Q.     What database? Is it a different  
11     one than you were talking --

12          A.     CounselLink.

13          Q.     CounselLink. Is this an internal  
14     database for FirstEnergy Corp?

15          A.     I don't know how the software is  
16     structured.

17          Q.     But you had access to this  
18     CounselLink database, correct?

19          A.     That's correct.

20          Q.     So do you recall, is it your belief  
21     that the legal expenses associated with the  
22     decoupling issue were charged to the companies?

23                 MR. DORINGO: Object to form.

24                 MS. LAPE: Objection.

25          A.     I don't know.

1           Q.       But you would have known, back when  
2       you were Chief Ethics Officer; is that a fair  
3       assumption?

4                   MS. LAPE:    Objection.

5           A.       I'm not sure if I would have been  
6       aware of how every person allocates their  
7       expenses in every matter throughout the  
8       organization.

9           Q.       Would you have reviewed the outside  
10      legal expenses, regarding the House Bill 6  
11      decoupling issue, to make sure it was compliant  
12      with the companies' Corporate Separation plan?

13                  MR. HOLLINGSWORTH:  Objection.  And  
14      I would just caution the witness not to reveal  
15      any attorney/client privileged information.

16                  MR. DORINGO:  Objection.  Form.

17           A.       I don't know.

18           Q.       Did anyone raise a concern with  
19      House Bill 6 related expenses with regards to  
20      Corporate Separation issues?

21                  MR. HOLLINGSWORTH:  Same objection.  
22      Same instruction.

23           A.       I don't remember.

24           Q.       If there was an audit conducted,  
25      would the auditor, regarding Corporate

1 Separation issues, would the auditor have had  
2 access to the CounselLink database, in order to  
3 review the expenses related to House Bill 6  
4 that were charged to the Ohio Companies?

5 MS. LAPE: Objection. Form.

6 A. I don't know.

7 Q. If somebody would have reported an  
8 issue, a Corporate Separation concern regarding  
9 expenses allocated to the Ohio companies, would  
10 you have been made aware of that Corporate  
11 Separation concern?

12 A. If someone would have reported it  
13 to me, or to the employee concerns line, I  
14 would have been aware. If they would have  
15 reported it to, in another way, I would have  
16 only been aware if it was brought to my  
17 attention.

18 Q. So would the Legal Department or  
19 H.R. or any other division, department, that  
20 received a complaint, regarding Corporate  
21 Separation, have brought it to the attention of  
22 the Chief Ethics Officer?

23 MS. LAPE: Objection. Calls for  
24 speculation.

25 A. I believe it depends on whether it



1 was deemed a legal matter.

2 Q. But your counsel explained to me  
3 earlier that you were also General Counsel,  
4 during this time, or Assistant General Counsel,  
5 during this time; is that right?

6 A. For part of the time.

7 Q. So you wouldn't have been made  
8 aware of Corporate Separation concern or  
9 violation, as Chief Ethics Officer and General  
10 Counsel?

11 MR. DORINGO: Object to form.

12 MS. LAPE: Objection.

13 A. I think that it is possible that I  
14 would have been aware. I think it's also  
15 possible that an outside party would not bring  
16 it to my attention.

17 Q. What do you mean an "outside  
18 party," somebody -- we were talking about  
19 H.R. -- do you mean outside the companies or  
20 outside H.R.?

21 A. Outside the company.

22 Q. Okay. But in the normal course of  
23 the process that the company engaged in, when  
24 you were their Chief Ethics Officer, would you  
25 assume that there was a Corporate Separation

1 violation, concern, regarding expenses  
2 allocated to the Ohio company, that issue would  
3 have been brought to your attention, as Chief  
4 Ethics Officer, in general?

5 A. I don't know. If it was raised in  
6 the Legal Department, and it was resolved with  
7 the party, it may or may not have been brought  
8 to my attention.

9 Q. Okay. And just to clarify the  
10 record, can you tell me, just for the time you  
11 were General Counsel, can you just more clearly  
12 define for me, during your time as Chief Ethics  
13 Officer, and when you were also General  
14 Counsel, please?

15 A. From May of 2020 to November of  
16 2020, I also served as General Counsel.

17 Q. And did you also say you were  
18 Assistant General Counsel, prior to that, then,  
19 while you were also Chief Ethics Officer?

20 A. I was Deputy General Counsel. I  
21 don't have my CV in front of me. I don't  
22 recall when I became Deputy General Counsel and  
23 Chief Ethics Officer.

24 Q. My understanding, you were Chief  
25 Ethics Officer in 2017, were you also Deputy

1 General Counsel back in 2017 through May 2020?

2 A. No, I was not. I was Chief Ethics  
3 Officer and not Deputy General Counsel, for a  
4 period of 2017 to 2018 or 2019.

5 Q. So, then, sometime in 2018 or 2019,  
6 is when you became Chief Ethics Officer?

7 A. That's correct.

8 Q. Thank you very much for that  
9 clarification. I just have a couple more  
10 questions.

11 Are you being paid today for your  
12 time to testify here?

13 A. I am not.

14 Q. Are you being compensated in any  
15 other way for your time to testify today?

16 A. I am not.

17 Q. Thank you so much for your time,  
18 Ebony. I have no further questions.

19 A. Thank you.

20 MR. FINNIGAN: I think one other  
21 person indicated that they had questions for  
22 the public session. I believe, Dane, you said  
23 you had some -- or, now, that you are going to  
24 participate in the confidential, do you want to  
25 hold those for the confidential session?

1 MR. STINSON: No. I just have a  
2 very few questions for the public session, so I  
3 think we can get started with them.

4 MR. FINNIGAN: Okay. Go ahead.

5 EXAMINATION OF EBONY YEBOAH-AMANKWAH  
6 BY MR. STINSON:

7 Q. My name is Dane Stinson. I am  
8 representing NOPEC. Good to see you, again,  
9 Ebony. Just a few questions, and they relate  
10 to the period when you were Chief Ethics  
11 Officer and Compliance Officer, but I want to  
12 focus initially on the period from January and  
13 through April of 2020.

14 MS. LAPE: Objection.

15 Q. Now, during that time, Chuck Jones  
16 was the CEO of FirstEnergy Corp; is that  
17 correct?

18 A. Can you give me the period of time  
19 again.

20 Q. January through April 2020.

21 A. From January to April, 2020, Chuck  
22 Jones was the CEO.

23 Q. Right. During that same time, he  
24 would have been Director of the three Ohio  
25 FirstEnergy utility companies; is that also

1 correct?

2 A. I don't know.

3 Q. You don't know if he has held  
4 executive positions with the electric utilities  
5 during that period?

6 A. I don't know.

7 Q. Do you know if he was the manager  
8 of SUVON, LLC, FirstEnergy advisors?

9 A. I don't know.

10 Q. What about with Steven Straub, do  
11 you know whether he was the Director of the  
12 three Ohio utilities during that period?

13 A. No, I don't.

14 Q. Do you know the position of Dennis  
15 Chack, during that period when FE was  
16 FirstEnergy Corp or FirstEnergy Services  
17 Company?

18 A. I don't recall his title, but he  
19 was over communications and FE Products.

20 Q. Would he have been a Vice President  
21 of Marketing and Branding at FirstEnergy  
22 Services Company?

23 A. I don't recall his title.

24 Q. During your term as Chief Ethics  
25 Officer, did anyone inquire about whether

1 Mr. Jones' positions with the three Ohio  
2 utilities, and any affiliates, violated the  
3 Corporate Separation rules?

4 MR. DORINGO: Object to the form.  
5 And I just caution you, Ebony, not to reveal  
6 any privileged information.

7 A. I don't recall what, if any  
8 position, he had with the Ohio utilities, nor  
9 do I recall any questions regarding it.

10 Q. What about with respect to  
11 Mr. Straub? Were there any questions or  
12 inquiries about his decisions with a regulated  
13 utility and a non-regulated affiliate?

14 MS. LAPE: And same caution, it's  
15 okay to answer this question, but just make  
16 sure that you don't disclose any  
17 attorney/client privileged information.

18 A. I guess it's a different question.  
19 You've indicated a non-utility affiliate. I  
20 don't recall any questions regarding  
21 Mr. Straub, nor am I aware of the positions  
22 that he may or may not have had.

23 Q. Okay. Just one other question.  
24 Mr. Finnigan had asked you if you were aware of  
25 any party conversations between FirstEnergy and

1 Ohio regulatory officials. You indicated that  
2 you didn't think so. Let me be a little more  
3 specific.

4 Are you aware of any conversations  
5 Mr. Jones had with PUCO Chairman Randazzo,  
6 during that same January through April, 2020,  
7 timeframe, regarding approval of an energy  
8 license?

9 MR. HOLLINGSWORTH: So I would  
10 object to that question, to the extent that it  
11 calls for any attorney/client privileged  
12 information. And, also, it was my belief the  
13 questions related to Mr. Randazzo were going to  
14 be held in the confidential session.

15 MR. STINSON: I can't hear your  
16 objection. So I would like the objections  
17 restated so I can hear them.

18 MR. HOLLINGSWORTH: Sure. I  
19 objected and cautioned the witness not to  
20 answer the question, to the extent that it  
21 would reveal any attorney-client privileged  
22 information. And then I also noted my  
23 objection to the scope, and, also, my  
24 understanding that we were reserving questions  
25 related to Mr. Randazzo for the confidential

1 session.

2 MS. LAPE: And also, to the extent  
3 that she learned information through her  
4 attorneys, she should not answer as well.

5 MS. WILLIS: I would note for the  
6 record that the company itself accompanied with  
7 a filing in a case, the text message between  
8 Jones and Chairman Randazzo, so, I believe, the  
9 attorney/client privilege has been waived.

10 MR. DORINGO: I strongly object.  
11 The privilege has never been waived by the  
12 companies.

13 MS. WILLIS: By the filing of the  
14 public document with the text exchange, that is  
15 not a waiver?

16 MR. DORINGO: It was not a  
17 privileged document that was filed.

18 MS. LAPE: And to the extent that  
19 Ebony learned things through her attorneys,  
20 that privilege has never been waived.

21 MR. STINSON: Again, I'm having  
22 trouble hearing what the objections and  
23 conversations are in the room. I didn't hear.  
24 I think you're far away.

25 MS. LAPE: Is there a question



1 pending -- do you need us to repeat all of our  
2 objections?

3 MR. STINSON: Right. I didn't hear  
4 the objections. Sorry.

5 MR. HOLLINGSWORTH: So on behalf of  
6 FirstEnergy corporation, I objected and  
7 cautioned the witness not to answer the  
8 question, to the extent it would reveal any  
9 privileged and confidential information.

10 I objected to the scope, and I also  
11 noted for the record our understanding that the  
12 questions related to Commissioner Randazzo  
13 would be asked in the confidential session.

14 MS. LAPE: I further objected to  
15 the extent that disclosure of any answer would  
16 involve disclosure of information that Ebony  
17 learned through her own attorneys, as that has  
18 never been waived.

19 MR. STINSON: Well, I disagree. I  
20 think that some of these text messages between  
21 Mr. Chack and Mr. Jones go to the question of  
22 whether there was a conversation with  
23 Mr. Randazzo, I think that's fair game in the  
24 public portion of the company deposition.

25 MS. LAPE: I don't think we even

1 remember the question that is pending.

2 MR. STINSON: Okay. I'm just  
3 talking about, I've asked whether you're aware  
4 of any conversations between Mr. Jones and PUCO  
5 Chairman Randazzo, during the January through  
6 April of 2020 timeframe.

7 MR. HOLLINGSWORTH: Same objection  
8 and same instruction.

9 A. I don't know if I'm able to respond  
10 to the question and maintain attorney/client  
11 privilege.

12 Q. Again, I'm not asking about the  
13 content of the communications or conversations.  
14 I'm asking whether you are aware of any  
15 conversations between Mr. Jones and  
16 Mr. Randazzo during that period.

17 MR. HOLLINGSWORTH: Same objection  
18 and same instruction.

19 MS. LAPE: Same objection and same  
20 instruction. And this seems very outside the  
21 scope right now of Corporate Separation.

22 MR. STINSON: It is not outside the  
23 scope of Corporate Separation, when you have an  
24 official of a non-regulated utilities affiliate  
25 directing the Executive of the electric utility

1 to make inquiries about a pending certification  
2 allocation with PUCO Chair; clearly, this isn't  
3 about Corporate Separation issues.

4 A. I don't think I'm aware.

5 Q. You don't think or you weren't --  
6 I'll withdraw that.

7 MS. LAPE: Yes. As she is sitting  
8 here today, or at the time?

9 MR. STINSON: I withdrew that  
10 question. No other questions, Your Honor.

11 MR. FINNIGAN: Well, thank you,  
12 Dane. Thanks a lot. So I think that's all the  
13 folks who indicated this morning that they  
14 would have questions for the public session.  
15 But let me ask again -- are there any other  
16 parties who haven't gone yet that want to ask  
17 questions during this public session, before we  
18 move to the confidential session? Okay.  
19 Hearing none. Let me just, before you jump  
20 off, there has been a slight change of plans  
21 here, and that's this --

22 At the beginning of today's  
23 deposition, I said that we are going to end the  
24 public session and then go into the  
25 confidential session for the rest of the

1 deposition. Well, that may not be true now,  
2 based on some information we learned at lunch.  
3 What we found out was that --

4 MR. HOLLINGSWORTH: Hold on a  
5 second. No. We can go into the confidential  
6 session.

7 MR. FINNIGAN: So what we found out  
8 this morning was that --

9 MR. HOLLINGSWORTH: John, please,  
10 let's go into the confidential session.

11 MR. FINNIGAN: What we found out  
12 this morning was that there was a ruling --

13 MR. HOLLINGSWORTH: Excuse me,  
14 John --

15 MR. FINNIGAN: -- from the Attorney  
16 Examiner that we are allowed to ask questions  
17 about the confidential documents that were  
18 produced in discovery relating to  
19 Sustainability Funding Alliance and  
20 Mr. Randazzo. And that was our intent during  
21 the confidential session, however, we found out  
22 from First --

23 MR. HOLLINGSWORTH: John, I would  
24 ask you not to reveal --

25 MR. DORINGO: Can go off the

1 record?

2 MR. HOLLINGSWORTH: Yes. We need  
3 to go off the record here.

4 MS. WILLIS: This is a public  
5 record. There is nothing confidential about  
6 what you communicated to us. It involves  
7 everyone in this case, and it involves the  
8 Attorney Examiner. It is a matter of public  
9 record.

10 MR. DORINGO: It has nothing to do  
11 with the examination of this witness.

12 MR. HOLLINGSWORTH: It has nothing  
13 to do with this witness.

14 MS. WILLIS: Sure, it does.

15 MR. FINNIGAN: Hold on. Let me  
16 finish my statement. Do not interrupt me.

17 MR. HOLLINGSWORTH: Well, I would  
18 just ask you, before you continue speaking, not  
19 to reveal the contents of what I shared with  
20 you.

21 MR. FINNIGAN: I refuse to not  
22 disclose that, because you didn't tell me  
23 anything in confidence.

24 MR. HOLLINGSWORTH: I certainly did  
25 tell you --

1 MR. FINNIGAN: No, you did not.

2 MR. HOLLINGSWORTH: -- when we  
3 stepped outside and we had the conversation off  
4 the record.

5 MR. FINNIGAN: We stepped outside  
6 in the hallway and we had a conversation off  
7 the record, but you didn't say that it was in  
8 confidence.

9 MR. HOLLINGSWORTH: Well, I don't  
10 think I need to spell that out.

11 MR. FINNIGAN: Okay. Well, you  
12 should have spelled it out, if you wanted it to  
13 be confidential.

14 MS. WILLIS: And, honestly, there  
15 is nothing confidential about a request to an  
16 examiner that you are making, you have asked  
17 it, or you had a conversation with the US  
18 Attorney and that --

19 MR. HOLLINGSWORTH: I have asked  
20 you that we do this on the confidential  
21 session. That was the purpose of the  
22 conversation outside.

23 MR. FINNIGAN: So anyway, let me  
24 continue my statement --

25 MS. BOJKO: Okay. Wait a second.

1 John, before you continue your statement. I'm  
2 sorry. We cannot hear the FirstEnergy counsel  
3 when he speaks. It is completely unfair for  
4 the rest of us to not be able to hear.

5 MR. HOLLINGSWORTH: So since we are  
6 done with the public session with the  
7 questions, I'd ask that we terminate the Zoom  
8 and then we can continue with the confidential  
9 session.

10 MR. FINNIGAN: Okay. I just want  
11 to make a statement for the record, while we  
12 are on the public session. So let me do that.

13 MR. HOLLINGSWORTH: Well, John,  
14 again, I would ask you not to reveal the  
15 contents of what I told you.

16 MR. FINNIGAN: Again, you didn't  
17 tell me anything in confidence, so I don't  
18 believe --

19 MR. HOLLINGSWORTH: Well, right  
20 now, I'm clarifying that I was doing it in  
21 confidence, so I would ask you to respect that,  
22 as a professional.

23 MR. FINNIGAN: Okay. But you  
24 didn't tell me anything, at the time, that was  
25 in confidence, so I didn't take it as a

1 confidential communication.

2 MR. HOLLINGSWORTH: And, now, I am  
3 clarifying, and I didn't know that I needed to  
4 use any magic words, in order to have a  
5 professional confidential conversation.

6 MS. LAPE: And perhaps we could  
7 have the Attorney Examiner just make a decision  
8 on this and --

9 MS. WILLIS: Well, that would be on  
10 the public record, absolutely, on the public  
11 record. When the Attorney Examiner comes on,  
12 that is a matter of public record. It is not,  
13 these are not secretive proceedings.

14 This is a deposition open to all,  
15 and to push a matter, because you don't want  
16 the appearance to be whatever it is, you know,  
17 being done in the secrets and done in the  
18 shadows, which is the way companies operate,  
19 that's inappropriate. We are in a jurisdiction  
20 where it's public. There are public records.  
21 There are laws that are about the public, and  
22 that require these proceedings to be public.  
23 There is nothing private or confidential about  
24 the fact that he has asked the Attorney  
25 Examiner --



1 MR. HOLLINGSWORTH: We -- hold on.

2 MS. LAPE: Come on.

3 MS. WILLIS: -- asked that the  
4 Attorney Examiner be called.

5 MR. FINNIGAN: Excuse me, folks.  
6 Let me -- I'm going to say something in the  
7 public record of this deposition. So please  
8 don't interrupt me as I say it.

9 MR. FITZGERALD: I just want to  
10 note that we are objecting to it. I never  
11 heard the word off the record mean something  
12 but confidential. And if that's the --

13 MS. WILLIS: And, if you continue  
14 to object, your remedy is to seek a protective  
15 order of this, and keep it from being on the  
16 public. But at this point, it becomes public.  
17 It will be transcribed and that will be your  
18 opportunity, if you believe that it is  
19 confidential, to make that motion for  
20 protection.

21 MR. FITZGERALD: I recognize you  
22 want to put the horse out of the barn and then  
23 say later, "Well, you can deal with it after it  
24 is out of the barn." But it's out of the barn.

25 MR. FINNIGAN: So folks on the

1 public call, here is what I was starting to  
2 say. At this morning's session, when we  
3 started this deposition, I said that you could  
4 just hang up, and when we ended the public  
5 session that would be the end of your  
6 involvement. But, now, that's not the case.

7 The reason is, because when we  
8 recessed for lunch, FirstEnergy Corp's  
9 attorney, Mr. Hollingsworth, told us that after  
10 the Attorney Examiners made their ruling,  
11 stating that the parties are allowed to ask the  
12 witness about the documents that were produced  
13 in discovery relating to Sustainability Funding  
14 Alliance payments by FirstEnergy Corp and  
15 activities by Mr. Randazzo, as the 100%  
16 shareholder of Sustainability Funding Alliance,  
17 apparently, Mr. Hollingsworth, or another  
18 attorney at his firm, had a conversation with  
19 Emily Glatfelter of the US Attorney's office,  
20 and has tried to arrange a call between her and  
21 the plural Attorney Examiners in an apparent  
22 attempt to get them to reverse their ruling.

23 So when we go into this  
24 confidential session, I am going to ask the  
25 Attorney Examiners that that part of the

1 discussion be in the public record, just as  
2 their ruling that we were allowed to ask those  
3 questions, as part of the public record. So I  
4 would ask that the folks, who were in the  
5 public session of the deposition, stay on this  
6 call for another half hour.

7 We are going to go to -- or, let me  
8 make this suggestion, we are going to have to  
9 end the public session now. But I would say  
10 check your computers for the next half hour,  
11 and we may be alerting you that we will resume  
12 the public session, because it is our intent  
13 that when we go into the confidential session,  
14 that we will ask the Attorney Examiners that  
15 this whole discussion about FirstEnergy Corp's  
16 contact with Ms. Glatfelter, and  
17 Ms. Glatfelter's position about what should  
18 happen at this deposition, should all be part  
19 of the public record. And if that is the case,  
20 then, we want you all to participate in that  
21 and be aware of that.

22 So please check your computers for  
23 the next half hour, and we will notify you. We  
24 should know by that time if we will be resuming  
25 the public session. So, with that, if no one

1 has any questions, we will end it for now,  
2 and then --

3 MR. HOLLINGSWORTH: So I do have an  
4 objection, both to your statement and also the  
5 mischaracterization of my representation to you  
6 of the communication with AOC Glatfelter.

7 MS. BOJKO: We cannot hear you.

8 MR. HOLLINGSWORTH: So I just  
9 objected to Mr. Finnigan's representation of  
10 the communication with AOC Glatfelter and  
11 objected to this proceeding being done on the  
12 public session.

13 MR. FINNIGAN: Okay. We are going  
14 to end the public session, at this time, and we  
15 will start the --

16 MS. BOJKO: John, before you do  
17 that, can I just ask a question. There was a  
18 fight in the room and we couldn't hear the  
19 fight over resolution. Was that on the record,  
20 or not on the record, the last -- the statement  
21 by Mr. Finnigan and the objection by  
22 FirstEnergy company?

23 MR. FINNIGAN: It's on the record.

24 MS. BOJKO: Okay. I didn't think  
25 we went back on the record, after we went off

1 the record.

2 MR. FINNIGAN: That is on the  
3 record. We are going to go off the record now,  
4 and end the public session, and we are going to  
5 start the confidential session immediately  
6 after that.

7 THE WITNESS: I will read.

8 (Morning session concluded at 4:26 p.m.)

9 (NOTE: The confidential afternoon  
10 session was ruled by the Attorney  
11 Examiners to be moved over and is  
12 heretofore a continuous transcript  
13 with the public morning session  
14 that was just completed.)

15 AE ADDISON: Hello everyone. Can  
16 everyone hear me?

17 MR. HOLLINGSWORTH: Yes, we can.  
18 Thank you. And so Attorney Examiners, we just  
19 wanted to thank you for joining us and  
20 apologize for bothering you this late in the  
21 day. An issue came up during the course of the  
22 deposition that we want to bring to your  
23 attention.

24 So since you joined the deposition  
25 earlier today, and made your ruling on the

1 permissible scope of the deposition, counsel  
2 for OCC has asked a series of questions that  
3 really go to the heart of the ongoing US  
4 Attorney Office prosecution and investigations,  
5 including several questions about HB 6, the  
6 termination of Chuck Jones, other topics  
7 unrelated to Corporate Separation, in addition  
8 to its previously posed questions about  
9 Sustainability Funding Alliance and Sam  
10 Randazzo.

11                   And so pursuant to FirstEnergy's  
12 ongoing cooperation obligations to DOJ, we  
13 reached out to the lead prosecutor of the DOJ  
14 investigation to inform her about this  
15 development, since her previous understanding  
16 was that discovery into these topics was stayed  
17 by the Commission in its December 21, 2021  
18 ruling, and she authorized us to represent to  
19 you, the Attorney Examiners, that DOJ has an  
20 objection to lines of questioning on the record  
21 in these proceedings about Sam Randazzo, about  
22 Sustainability Funding Alliance, and is  
23 available, if you would like to speak to her  
24 about the issue and DOJ's position, as it could  
25 be an important data point for your decision in

1 terms of the scope of these depositions.

2 MR. FINNIGAN: Your Honor, this is  
3 John Finnigan from OCC, just to let you know  
4 the circumstances we are under right now, we  
5 are in a confidential session of the  
6 deposition, where only the parties that have  
7 signed a confidentiality agreement with  
8 FirstEnergy Corp have access to the information  
9 that is being discussed, at this time.

10 Since your ruling earlier today  
11 about the questioning that parties were allowed  
12 to do in this deposition was made during the  
13 public session of this deposition, I would ask  
14 that this discussion that we are having now,  
15 also, be in the public session of the  
16 deposition, otherwise, by limiting it to only  
17 parties who have signed the confidentiality  
18 agreement with FirstEnergy Corp, we are  
19 unfairly excluding other parties to this case,  
20 who have a right to know what is being  
21 discussed here.

22 AE ADDISON: Thank you. Does  
23 anyone want to speak to either of those two  
24 issues?

25 MS. BOJKO: Yes, Your Honor. Kim

1     Bojko with OMA EG would like to speak on both  
2     issues. First of all, I completely disagree  
3     with the FirstEnergy corporate attorneys'  
4     characterization of the questions being asked.  
5     The questions were background questions leading  
6     up to questions that are directly related to  
7     this case. He didn't even let us get to the  
8     questions related to the case, because we  
9     couldn't properly lay the foundation, in order  
10    to ask if the witness had any knowledge of  
11    either the people, or the subject matter at  
12    issue. Many of the questions were just asking  
13    if she recalled or if she knew about certain  
14    events that happened and not the substance of  
15    the events themselves.

16                 So I wholly disagree with the  
17    conversation that these are unrelated to the  
18    Corporate Separation. As you know, any  
19    payments made to these entities or individuals  
20    that were then charged back to the companies,  
21    is a Corporate Separation violation, or could  
22    be, and is directly related to this case, and  
23    these Corporate Separation compliance-type  
24    issues are what is being sought through the  
25    discovery of this witness.



1                   So I disagree with the  
2     characterization that these questions have  
3     nothing to do with Corporate Separation. I  
4     think that this is completely different than  
5     the criminal proceeding. We are not asking  
6     questions related to the criminal proceeding.  
7     We are asking questions that will go to the  
8     allocation of expenses, which is an issue in  
9     this case.

10                  I also think it was improper for  
11     FirstEnergy Corporation's counsel to call the  
12     DOJ's office without all of us on the phone, ex  
13     parte, sort of, not with the Judge, but we  
14     think it was highly inappropriate to hear one  
15     side of the story, and him characterizing  
16     questions the way that he did, which, I am sure  
17     that I will disagree with, because I just  
18     disagreed with his statement. So I think that  
19     was inappropriate.

20                  I also think it's inappropriate, as  
21     to the second issue. I think it is  
22     inappropriate that this discussion has been  
23     held in secret in a confidential session. It  
24     should be a public record. Many of the  
25     documents have already been released to the

1 public. This has been discussed in the media  
2 to great lengths. None of the questions that  
3 we had asked them so far have anything to do  
4 with a confidential issue, and should not be in  
5 confidential session, however, I think some of  
6 us reluctantly agreed, when we were on the call  
7 earlier, to just ask the questions in  
8 confidential session.

9 So I think that this discussion and  
10 FirstEnergy's actions of calling the DOJ,  
11 should very much be in the public record and  
12 this whole discussion should be moved to the  
13 public transcript. Thank you.

14 MR. STINSON: Your Honor, this is  
15 Dane Stinson with NOPEC. I agree with OCC's  
16 and OMA EG's positions, especially, the fact  
17 that a ruling was made on the public record,  
18 and, now, we're being asked to modify or change  
19 that ruling on the private non-transparent  
20 record; transparency requires that we have this  
21 discussion on the public record.

22 AE ADDISON: Thank you. Anyone  
23 else?

24 MR. BETTERTON: Your Honor, I'll  
25 just jump in real quick. I agree with what you

1     stated before. And I would just like to admit  
2     that a lot of the questions that were being  
3     asked, and objected to, long predate any  
4     investigation in the criminal proceedings. So  
5     that's another area to consider. But I agree  
6     with what OCC and OMA EG have said.

7                 MS. WILLIS: Your Honor, if we  
8     could speak to the merits of the call.

9                 MR. FINNIGAN: Your Honor, do you  
10    want to have that discussion now, or do you  
11    want to give us guidance whether this should be  
12    in the public record or in the confidential  
13    session?

14                AE ADDISON: Well, I'm still  
15    mulling that over, Mr. Finnigan. We can  
16    certainly remove portions of the transcript, as  
17    we see fit. So let's continue. Ms. Wills?

18                MS. WILLIS: Mr. Finnigan is  
19    prepared to address it.

20                MR. FINNIGAN: Your Honor, this  
21    goes back to the ruling that the Commission  
22    made in the 20- 1629 case, where it said that  
23    the foreign investigations that the Commission  
24    is conducting into the House Bill 6 matters,  
25    all target topics that are part of the

1 Commission's exclusive jurisdiction. And to  
2 that extent, the Commission's investigations  
3 are complementary to the US Attorney's criminal  
4 investigations.

5 We do not see any circumstances,  
6 where FirstEnergy Corp should be permitted to  
7 come in and block any questioning about the  
8 documents that they have released. They  
9 released documents that provide information  
10 about the payments to Sustainability Funding  
11 Alliance that was owned by Mr. Randazzo, and  
12 they also entered into deferred prosecution  
13 agreement that admits that those payments  
14 happened, and admits that payments were made to  
15 a certain public official B for engaging in  
16 activities that would benefit FirstEnergy Corp,  
17 during his role as Chair of the Public  
18 Utilities Commission.

19 So all that information is in the  
20 public record through their admission of the  
21 criminal charge of honest services wire fraud.  
22 They signed a statement of facts, where they  
23 laid out all these facts into evidence in the  
24 public record. And now, when we bring in  
25 former employees from the company, they want to

1 stop us from asking any questions about it. So  
2 we don't really understand the argument, as to  
3 why this should be confidential, when all that  
4 information is in the public domain.

5 At the end of the day, this case  
6 goes to issue of something that is in the  
7 Commission's exclusive jurisdiction, and that  
8 is whether costs were improperly allocated to  
9 utility customers for lobbying on behalf of the  
10 utility. And the Commission really needs to  
11 take action here to protect the consumers, and  
12 to really fulfill what it said all along, that  
13 it wanted to act on a transparent basis with a  
14 full set of facts, and we can't get the full  
15 set of facts, if we are not allowed to ask  
16 questions of witnesses about the documents that  
17 we've already received.

18 Now, it seems like, if FirstEnergy  
19 Corp really had any concern that these matters  
20 were confidential and might interfere with the  
21 US Attorney's investigation, they might have  
22 contacted the US Attorney, before giving us  
23 about 500,000 pages of documents that contained  
24 the same information that we want to ask  
25 questions about. Why was it not interfering

1 with the criminal investigation to give us all  
2 those documents, and, now, it is interfering  
3 with the investigation to ask questions about  
4 the documents that they gave us?

5 Also, the whole idea about us  
6 taking Ms. Yeboah-Amankwah's deposition in the  
7 first place was the subject of a motion to  
8 quash that the Commission ruled on. They could  
9 have brought up these arguments in the motion  
10 to quash; they didn't. They could have  
11 notified the US Attorney that this deposition  
12 was going to take place, and they didn't; they  
13 waited until the eleventh hour, after you made  
14 your ruling this morning that we are allowed to  
15 ask questions about these documents, which we  
16 believe was the proper ruling. And, now, they  
17 are trying to do an end run around it by  
18 calling up the US Attorney's office in secret,  
19 and talking about it in this confidential  
20 session in secret, and keeping all this  
21 information out of the public domain.

22 So our position is that this is a  
23 topic that is the proper focus of this  
24 investigation, as the Commission has held all  
25 along, and indicated in its Order, in that, we

1 cannot proceed with our discovery, and prepare  
2 for a hearing in the case, unless we have the  
3 ability to depose witnesses, and ask them  
4 questions about the information that is in the  
5 documents, otherwise, we just have to go to a  
6 hearing and just dump a pile of documents in  
7 the Commission's offices, and not present any  
8 testimony about it, because we were not allowed  
9 to ask any witnesses questions about the  
10 documents that we were given. In my experience  
11 and practice --

12 AE ADDISON: Mr. Finnigan, if I  
13 could interject, the Commission has noted its  
14 interest to not interfere with the federal  
15 investigation, however, correct --

16 MR. FINNIGAN: Yes, Your Honor.  
17 That is correct.

18 AE ADDISON: -- as was noted in our  
19 earlier phone call?

20 MR. FINNIGAN: Yes. Yes. And, you  
21 know, the heart of our position, Your Honor, is  
22 that any discussion of whether this might  
23 interfere with the US Attorney's investigation,  
24 should be held in public, and let's hear what  
25 the US Attorney was told about the deposition,

1 and let's hear the US Attorney's position,  
2 because we see no reason why that discussion  
3 should be held in secret, especially, when the  
4 point of the discussion is try to reverse your  
5 ruling from earlier today that we are allowed  
6 to ask these questions.

7 MR. HOLLINGSWORTH: So a couple of  
8 things that I would like to clarify for the  
9 record. Mr. Finnigan suggested that we, you  
10 know, waited until the eleventh hour to inform  
11 the Assistant United States Attorney about  
12 these issues, which is patently false.

13 She was aware of this deposition,  
14 and she was also aware the Commission's  
15 December 2021 ruling, which to everyone who  
16 read it, believed that these issues would not  
17 be fair game for deposition, because the  
18 Commission put a stay on discovery of these  
19 topics. And so when the Attorney Examiners  
20 made their ruling this afternoon, that was a  
21 significant material change in the scope of  
22 what we all believed the scope of the  
23 deposition would be, and, so, it was  
24 appropriate and consistent with our cooperation  
25 obligations to inform her, at that time.



1           It clearly was not done in secret,  
2   because I immediately informed counsel for OCC  
3   of the conversation, and of the AUSA's position  
4   that questions into these topics, into these  
5   subject matters, does exactly what the  
6   Commission was worried it would do and would  
7   interfere with her ongoing investigation. You  
8   don't have to take it from me. I am  
9   representing to you that that was her position,  
10   and she is more than happy to share it with  
11   you.

12           AE ADDISON: But she's not  
13   available on the phone call right now.

14           MR. HOLLINGSWORTH: I'm happy to  
15   provide contact information for you to speak  
16   with her.

17           MR. FINNIGAN: And, Your Honor, one  
18   other point, the questioning that we were going  
19   to do about documents, was going to be in a  
20   confidential session of the deposition, where  
21   everybody participating has signed a  
22   confidentiality agreement with FirstEnergy  
23   Corp, that none of the information is going to  
24   be disclosed to the public, unless it is done  
25   consistent with the terms of the

1 confidentiality agreement, where FirstEnergy  
2 Corp would have full rights to object, and  
3 would receive advanced notice of any attempt by  
4 a party to make the information public, and  
5 could file either before the Commission or a  
6 court, in an attempt to block that from  
7 happening.

8 FirstEnergy Corp voluntarily  
9 entered into that confidentiality agreement,  
10 and all the parties that would be participating  
11 in the questioning, also, signed the agreement,  
12 and agreed to operate under those terms.

13 So if the information is going to  
14 be kept confidential, it doesn't seem like  
15 there is any way it could interfere with the  
16 criminal prosecution. The other thing we would  
17 note is that we are informed that there was a  
18 deposition of FirstEnergy Corp that took place  
19 on, I believe, it was May 19th and 20th, and we  
20 have the topics from that deposition. They  
21 were filed in the US District Court, before the  
22 deposition took place. All the topics that  
23 were to be discussed in that deposition, as  
24 indicated in the US District Court filing, were  
25 the same matters that we had intended to ask

1 about, and that you had allowed us to ask about  
2 in the confidential session of the deposition.

3 So if the Plaintiffs in the  
4 securities litigation are allowed to take a  
5 two-day deposition of FirstEnergy Corp about  
6 these same topics, why can't OCC take a same  
7 deposition about the same topics? It would be  
8 patently unfair to customers to be prevented  
9 from obtaining the same type of information  
10 that the Plaintiffs in the federal securities  
11 litigation were allowed to get.

12 AE ADDISON: Thank you.  
13 Mr. Hollingsworth, do you want the last word?

14 MR. HOLLINGSWORTH: I would just  
15 say that nobody is trying to prevent the  
16 consumers from getting access to this  
17 information and to these witnesses. It's just  
18 a matter of timing, and the US Attorney's  
19 office has represented to us that the timing of  
20 these questions would materially impact their  
21 investigation.

22 And so, for the reasons set out in  
23 the December 2001 ruling by the Commission,  
24 where it says it is of utmost importance that  
25 our investigations do not interfere with the

1 criminal investigations. We would ask that you  
2 consider your ruling to be consistent with  
3 those admonishments by the Commission.

4 AE ADDISON: Thank you. We will go  
5 ahead and take a brief break and confer with  
6 one another and hop back on when we are ready  
7 to provide a ruling.

8 MR. HOLLINGSWORTH: And just to be  
9 clear, we are going to break, and no additional  
10 questions are going to be posed until we  
11 resume. So there is not a need for an  
12 immediate response, particularly, if you would  
13 like to speak with the prosecutor at issue.

14 AE ADDISON: Thank you.

15 (Whereupon, a recess was taken.)

16 AE ADDISON: All right.

17 Mr. Hollingsworth, just as a follow-up to our  
18 earlier argument, what, specifically, is your  
19 position, then, on what should not be permitted  
20 to be asked in Confidential Session?

21 MR. HOLLINGSWORTH: Certainly, Your  
22 Honor. So if the question is, what should the  
23 permissible scope of deposition questions for  
24 the Corporate Separation hearing be on  
25 questions related to Mr. Randazzo and

1 Sustainability Funding Alliance, again, if the  
2 questions are narrowly tailored to the  
3 Corporate Separation topics specifically, and  
4 not underlying reasons for the payments, or for  
5 the other potential issues that could under  
6 investigation by the Department of Justice,  
7 then, we would have no problem with certain  
8 narrowly tailored questions like that.

9 It's just getting into the  
10 underlying facts about the agreements with  
11 Sustainability Funding Alliance, the nature of  
12 the payments and the, you know, the FirstEnergy  
13 rationale for paying those payments. Those  
14 would be, I think, the topics of interest to  
15 the Department of Justice, and ones that should  
16 not be asked, at this time, on the record.

17 AE ADDISON: Would you agree  
18 with me, then, that questions pertaining to  
19 non-public information, related to the deferred  
20 prosecution agreement, that may interfere with  
21 the federal investigation, those should not be  
22 permitted, per your representations made from  
23 the DOJ?

24 MR. HOLLINGSWORTH: Yes,  
25 definitely. Non-public information would

1 interfere with the investigation.

2 AE ADDISON: Thank you. I do  
3 believe a balance can be struck, in terms of  
4 what questions may be permitted to be asked in  
5 confidential session, certainly, we agree that  
6 any non-public information that relates to the  
7 deferred prosecution agreement that may  
8 interfere with the federal investigations,  
9 should not be permitted, and we will not permit  
10 such questions to be asked.

11 It continues to be the Commission's  
12 interest, I believe, that we cited that before,  
13 to not interfere with the ongoing criminal  
14 investigation by the United States Attorney for  
15 the Southern District of Ohio, or the civil  
16 action by the Ohio Attorney General, Dave Yost,  
17 specific to Ohio's civil RICO statute. That  
18 continues to be the case today, however, I feel  
19 as if our ruling just now is not inconsistent  
20 with our prior rulings earlier today in the  
21 public transcript.

22 And further, in taking up various  
23 parties' arguments, as to whether those  
24 arguments entertained by the Attorney  
25 Examiners, at the beginning of this

1 confidential session, should be moved into the  
2 public session, we certainly agree that that  
3 does provide a level of transparency, and  
4 provides parties that may not have had access  
5 to the confidential session, a larger, better  
6 picture view, as to what types of questions  
7 were actually permissible in this proceeding.

8 And so we should, we are going to  
9 be directing both, as soon as the Attorney  
10 Examiners entered the confidential, in which I  
11 believe we were at the very beginning, if not,  
12 very close to the beginning, as soon as we  
13 entered into the confidential session, as well  
14 as our ruling discussed right now, should be  
15 moved into the public transcript.

16 Are there any questions?

17 MR. HOLLINGSWORTH: Not from us,  
18 Your Honor.

19 MR. DORINGO: Your Honor, I don't  
20 have any more questions on this topic. I am  
21 going to be a major downer. I do have one  
22 small issue that I want to raise, but not on  
23 this topic.

24 AE ADDISON: Well, let's hear if  
25 anyone has any issues with this topic, and,

1 then, we will move on to Mr. Doringo.

2 MR. FINNIGAN: Your Honor, I just  
3 wanted to clarify whether this will constitute  
4 your ruling, as you've just described it, or  
5 will there be any written ruling that comes out  
6 and memorializes what you've just said here?

7 AE ADDISON: Oh, no, Mr. Finnigan.  
8 This will be all that the parties get.

9 MR. FINNIGAN: Okay. Thank you.

10 MS. WILLIS: Your Honor, if I may.  
11 As you said, you believe your ruling is  
12 consistent with this morning's ruling, does  
13 that mean this morning's ruling stands?

14 AE ADDISON: Absolutely. I did not  
15 provide any sort of ruling that contradicts  
16 what we stated earlier. I believe they can  
17 be -- they are both still good rulings for  
18 purposes of this deposition.

19 MS. BOJKO: Your Honor, I have a  
20 question.

21 AE ADDISON: Certainly.

22 MS. BOJKO: Thank you. You said  
23 non-public information cannot be disclosed. We  
24 are asking questions, it's my understanding, in  
25 a confidential session, so all of the



1 confidential session would not be considered  
2 non-public. So my understanding of your ruling  
3 is that these questions that we are asking, can  
4 be asked, and that there would be no limits on  
5 background information, or things that happened  
6 prior to House Bill 6 with regard to Corporate  
7 Separation issues and payments to entities; is  
8 that correct?

9 AE ADDISON: And I'm sorry,  
10 Ms. Bojko. Could you go back just maybe a  
11 step; my audio fell bad here just for a moment.

12 MS. BOJKO: Sure. My question was,  
13 you made a statement that no non-public  
14 information can be discussed or questioned.  
15 And it's my understanding that the next session  
16 we are setting forth is purely a confidential  
17 session, so nothing in the confidential session  
18 will be disclosed publically, until either a  
19 party requests that it be disclosed, or Your  
20 Honors state it will be disclosed publically,  
21 similar to our discussion here.

22 So is it fair to assume from both  
23 your ruling this morning and the ruling this  
24 afternoon, that we are able to ask questions  
25 about history and background leading up to the

1 Corporate Separation allocation questions, as  
2 well as events and items that happened  
3 Corporate Separation related before HB 6, we  
4 can ask all those questions, because none of  
5 them will be directly in the public record,  
6 when we ask them, right?

7 AE ADDISON: Ms. Bojko, my ruling  
8 is simply that we are not going to permit  
9 questions related to the non-public  
10 information, regarding the deferred prosecution  
11 agreement that could potentially interfere with  
12 the federal investigations. I think that  
13 we've, Mr. Hollingsworth made it very clear,  
14 based on the representation from the DOJ that  
15 that is taking it one step too far.

16 And while my earlier ruling stands,  
17 we will go ahead and pump the brakes, as it  
18 comes to that particular area of questioning.  
19 So anything that is not seeking that, that's  
20 where my ruling is limited.

21 MR. HOLLINGSWORTH: And thank you,  
22 Your Honor. I think that that helps to  
23 clarify. But just to be clear. So the subject  
24 of the deferred prosecution agreement relates  
25 to the payments related to House Bill 6, and,

1 also, to Sustainability Funding Alliance.

2 AE ADDISON: Sir, Mr. Hollingsworth

3 --

4 MR. HOLLINGSWORTH: Yes, Your  
5 Honor?

6 AE ADDISON: Can you hear me?

7 MR. HOLLINGSWORTH: Yes, I can.

8 AE ADDISON: Okay. I'm sorry.  
9 Could you repeat that.

10 MR. HOLLINGSWORTH: Yes. So I just  
11 wanted to be clear that when you are referring  
12 to the non-public information, related to the  
13 deferred prosecution agreement, the subject of  
14 the deferred prosecution agreement, were the  
15 payments related to HB 6 and the Sustainability  
16 Funding Alliance. So those would be, the  
17 questions about anything non-public related to  
18 those topics, would not be permitted; is that  
19 an accurate understanding of your ruling?

20 AE ADDISON: Well,  
21 Mr. Hollingsworth, I think it was a more  
22 general ruling than that. But any non-public  
23 information that would -- perhaps, I need to  
24 say this clearer -- any non-public information,  
25 related to the deferred prosecution agreement,

1 so anything that's referenced, anything that's;  
2 and, perhaps, we are trying to say the same  
3 thing.

4 MR. HOLLINGSWORTH: So any topic  
5 that is referenced in the deferred prosecution  
6 agreement.

7 MS. WILLIS: No.

8 AE ADDISON: I don't know if I  
9 would go that far, Mr. Hollingsworth. That  
10 would essentially nix everything in that line  
11 of questioning, and, I believe, we are trying  
12 to strike a balance here. My ruling is limited  
13 to non-public information related to the  
14 deferred prosecution agreement. I am not  
15 saying that all topics included in that  
16 deferred prosecution agreement are off the  
17 table. Does that help? Does that makes sense?

18 MR. HOLLINGSWORTH: It does. I'm  
19 just trying to make sure that, before we hop  
20 off the call, everyone is on the same page so  
21 that we don't have to bother you again. So I  
22 apologize if I'm being thick and --

23 AE ADDISON: No. No. That's fine.

24 MS. WILLIS: Your Honor, and since  
25 we are giving great weight to what the company

1 corp counsel represented, with respect to  
2 Ms. Glatfelter, can we ask that Affidavits be  
3 filed by Ms. Glatfelter or the company, under  
4 oath, indicating exactly the conversation?  
5 Because if we are going to go through this in a  
6 public process, we can't really rely on a  
7 representation made with respect to a  
8 conversation had with a third party. So I  
9 would ask that consistent with --

10 AE ADDISON: Ms. Willis, I am  
11 making my ruling based on the arguments had  
12 during a call. I remind everyone this is a  
13 deposition transcript. And my ruling will  
14 stand. I will not be requiring or asking any  
15 additional process, as to these rulings, and, I  
16 believe, I've given my basis for providing my  
17 rulings and we will move on from there.

18 MS. BOJKO: Your Honor, Kim Bojko  
19 again. I'm sorry --

20 AE ADDISON: Yes.

21 MS. BOJKO: Maybe I'm being thick  
22 right now. But if you're, if you are saying we  
23 cannot ask any non-public information, then,  
24 shouldn't this part of the transcript also be  
25 made public, and that there would be no need

1 for a confidential session? I'm just a little  
2 confused as --

3 AE ADDISON: Well, Ms. Bojko, it's  
4 related to the DPA, the deferred prosecution  
5 agreement. So any other confidential  
6 information, any other document of the 470,000  
7 documents that were provided during discovery,  
8 any of those that have been marked  
9 confidential, or, otherwise, those would  
10 certainly be, you know, appropriate to raise in  
11 this confidential session.

12 So I am only referring to the  
13 non-public information, as it relates to the  
14 DPA, not any of the additional discovery  
15 documents that we indicated in one of our prior  
16 entries, that would be permissible to use  
17 during this deposition.

18 MS. BOJKO: Okay. Thank you. That  
19 helps. So then any event that happened, prior  
20 to the DPA, or not related to the DPA, are  
21 still fair game.

22 AE ADDISON: Correct.

23 MS. BOJKO: Thank you.

24 AE ADDISON: Okay. And,  
25 Mr. Doringo, what is the additional issue that

1     you had to address?

2                   MR. DORINGO:  Thanks, Your Honors,  
3     for indulging me.  OCC has a motion for  
4     extension under the procedural schedule.  We  
5     have a testimony deadline for the companies on  
6     Monday, the 25th.  We are trying to figure out  
7     deposition dates for remaining witnesses.

8                   So I was just wondering if we would  
9     be likely to see a ruling on that motion by say  
10    Friday or Monday, or where that stands.

11                  AE ADDISON:  I won't go into the  
12    motion in this call in great detail.  We are  
13    aware of the motion.  It is properly before us,  
14    and a decision is forthcoming.  So I will leave  
15    it at that.  But, yes, thank you for raising  
16    that.

17                  MR. HOLLINGSWORTH:  And Your Honor,  
18    just a procedural question.  In the unlikely  
19    event that there is a dispute about where this  
20    line is, going forward, what is your preferred  
21    preference for how we handle the situation; for  
22    example, if the person defending the deposition  
23    believes that the question has exceeded the  
24    permissible scope that you just articulated,  
25    would you like us to instruct the witness not

1 to answer, and, then, move on, or would you  
2 like us to have that issue teed up for  
3 resolution by the Attorney Examiners, or how  
4 would you like us to handle it going forward so  
5 that we act consistent with your desires?

6 AE ADDISON: I should ask, how much  
7 longer are the parties prepared to go this  
8 evening for this deposition?

9 MR. HOLLINGSWORTH: So for today,  
10 we are not going to ask any substantive  
11 questions. We just wanted to get a resolution  
12 on this particular issue, because it's going to  
13 inform how the next session goes.

14 AE ADDISON: Certainly. I don't  
15 believe the Examiners would have a preference  
16 between either of those two alternatives that  
17 you just laid out. We will certainly be  
18 available, in the event the parties would like  
19 us to weigh in on any particular dispute, but  
20 as these are deposition transcripts, I will  
21 allow the parties to make that judgment call,  
22 and we will be happy to join in on any  
23 additional calls that you may need us.

24 MR. HOLLINGSWORTH: Okay. Thank  
25 you, Your Honor.



1                   AE ADDISON: Absolutely. Any  
2 additional questions?

3                   MR. FINNIGAN: Your Honor, just  
4 from a procedural standpoint, since this call  
5 was initiated, as a confidential call, during a  
6 confidential session of the deposition, as I  
7 understand your ruling, is it that this  
8 discussion that we are now having should be  
9 transferred into the public part of the  
10 deposition transcript?

11                  AE ADDISON: Yes, Mr. Finnigan.  
12 Thank you for raising that. I believe I had  
13 indicated earlier that the arguments had,  
14 before we took a brief break, as well as our  
15 rulings, based on those arguments, were to be  
16 moved into the public session. I believe that  
17 any discussion clarifying those particular  
18 rulings should also be moved into the public  
19 session.

20                  So I agree that the entirety of the  
21 confidential session, as we did not go into any  
22 substantive questions, is permissible to be  
23 moved into the public transcript.

24                  MR. FINNIGAN: Thank you, Your  
25 Honor.

1                   AE ADDISON: Absolutely. Any  
2 additional questions? Okay. With that, I wish  
3 you all a very good evening, and, again, we  
4 will be available in the event that you need us  
5 to resolve any additional disputes.

6                   MR. FINNIGAN: Thank you.

7                   MR. HOLLINGSWORTH: Thank you, Your  
8 Honor.

9                   AE ADDISON: Thank you.

10                  (Deposition concluded at 6:07 p.m.)

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1 Whereupon, counsel was requested to give  
2 instructions regarding the witness' review of  
3 the transcript pursuant to the Civil Rules.

4  
5 SIGNATURE:

6 Transcript review was requested pursuant to the  
7 applicable Rules of Civil Procedure.  
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REPORTER'S CERTIFICATE

The State of Ohio, )

SS:

County of Cuyahoga. )

I, Kurt M. Spencer, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, EBONY YEBOAH-AMANKWAH, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above-referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above-referenced witness.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

1 I do further certify that I am not  
2 a relative, counsel or attorney for either  
3 party, or otherwise interested in the outcome  
4 of this action.

5 IN WITNESS WHEREOF, I have hereunto  
6 set my hand and affixed my seal of office at  
7 Cleveland, Ohio, on this 26th day of  
8 July, 2022.

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14 Kurt M. Spencer, Notary Public  
15 within and for the State of Ohio  
16

17 My commission expires December 02, 2025.  
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Veritext Legal Solutions  
1100 Superior Ave  
Suite 1820  
Cleveland, Ohio 44114  
Phone: 216-523-1313

July 26, 2022

To: Marcie Lape, Esq.

Case Name: In Re: Ohio Edison Company, The Cleveland Electric  
Illuminating Company, And The Toledo Edison Company'S Compliance, Et  
Al. v.

Veritext Reference Number: 5319823

Witness: Ebony Yeboah-Amankwah                      Deposition Date: 7/21/2022

Dear Sir/Madam:

Enclosed please find a deposition transcript. Please have the witness  
review the transcript and note any changes or corrections on the  
included errata sheet, indicating the page, line number, change, and  
the reason for the change. Have the witness' signature notarized and  
forward the completed page(s) back to us at the Production address  
shown  
above, or email to [production-midwest@veritext.com](mailto:production-midwest@veritext.com).

If the errata is not returned within thirty days of your receipt of  
this letter, the reading and signing will be deemed waived.

Sincerely,  
Production Department

NO NOTARY REQUIRED IN CA

DEPOSITION REVIEW  
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 5319823

CASE NAME: In Re: Ohio Edison Company, The Cleveland Electric  
Illuminating Company, And The Toledo Edison Company'S Compliance, Et  
Al. v.

DATE OF DEPOSITION: 7/21/2022

WITNESS' NAME: Ebony Yeboah-Amankwah

In accordance with the Rules of Civil  
Procedure, I have read the entire transcript of  
my testimony or it has been read to me.

I have made no changes to the testimony  
as transcribed by the court reporter.

\_\_\_\_\_  
Date Ebony Yeboah-Amankwah

Sworn to and subscribed before me, a  
Notary Public in and for the State and County,  
the referenced witness did personally appear  
and acknowledge that:

They have read the transcript;  
They signed the foregoing Sworn  
Statement; and  
Their execution of this Statement is of  
their free act and deed.

I have affixed my name and official seal

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission Expiration Date

DEPOSITION REVIEW  
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 5319823

CASE NAME: In Re: Ohio Edison Company, The Cleveland Electric  
Illuminating Company, And The Toledo Edison Company'S Compliance, Et  
Al. v.

DATE OF DEPOSITION: 7/21/2022

WITNESS' NAME: Ebony Yeboah-Amankwah

In accordance with the Rules of Civil  
Procedure, I have read the entire transcript of  
my testimony or it has been read to me.

I have listed my changes on the attached  
Errata Sheet, listing page and line numbers as  
well as the reason(s) for the change(s).

I request that these changes be entered  
as part of the record of my testimony.

I have executed the Errata Sheet, as well  
as this Certificate, and request and authorize  
that both be appended to the transcript of my  
testimony and be incorporated therein.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ebony Yeboah-Amankwah

Sworn to and subscribed before me, a  
Notary Public in and for the State and County,  
the referenced witness did personally appear  
and acknowledge that:

They have read the transcript;

They have listed all of their corrections  
in the appended Errata Sheet;

They signed the foregoing Sworn  
Statement; and

Their execution of this Statement is of  
their free act and deed.

I have affixed my name and official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission Expiration Date



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ERRATA SHEET  
VERITEXT LEGAL SOLUTIONS MIDWEST  
ASSIGNMENT NO: 5319823

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Date  
SUBSCRIBED AND SWORN TO BEFORE ME THIS \_\_\_\_\_  
DAY OF \_\_\_\_\_, 20\_\_\_\_ .

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission Expiration Date

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# Ohio Rules of Civil Procedure

## Title V. Discovery

### Rule 30

#### (e) Submission to Witness; Changes; Signing.

When the testimony is fully transcribed, the deposition shall be submitted to the witness for examination and shall be read to or by the witness, unless examination and reading are waived by the witness and by the parties. Any changes in form or substance that the witness desires to make shall be entered upon the deposition by the officer with a statement of the reasons given by the witness for making them. The deposition shall then be signed by the witness, unless the parties by stipulation waive the signing or the witness is ill, cannot be found, or refuses to sign. The witness shall have thirty days from submission of the deposition to the witness to review and sign the deposition. If the deposition is taken within thirty days of a trial or hearing, the witness shall have seven days from submission of the deposition to the witness to review and sign the deposition. If the trial or hearing is scheduled to commence less than seven days before the deposition is submitted to the witness, the court may establish a deadline for the

witness to review and sign the deposition. If the deposition is not signed by the witness during the period prescribed in this division, the officer shall sign it and state on the record the fact of the waiver or of the illness or absence of the witness or the fact of the refusal to sign together with the reason, if any, given therefor; and the deposition may then be used as fully as though signed, unless on a motion to suppress the court holds that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

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Summary: Transcript Notice of Filing of Transcript for Deposition of Ebony Yeboah-Amankwah on July 21, 2022 by Office of the Ohio Consumers' Counsel electronically filed by Ms. Alana M. Noward on behalf of Willis, Maureen R.