

**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.)

**JOINT DISCOVERY STATUS REPORT
BY
OFFICE OF THE OHIO CONSUMERS’ COUNSEL
NORTHEAST OHIO PUBLIC ENERGY COUNCIL
AND OHIO MANUFACTURERS’ ASSOCIATION ENERGY GROUP**

I. INTRODUCTION

Consumer Parties¹ provide this joint discovery status update. This update is required per ¶30 of the Attorney Examiners’ April 7, 2022 Entry, ¶28 of the June 16, 2022 Entry, ¶20 of the August 11, 2022 Entry, and ¶88 of the PUCO’s August 24, 2022 Entry.

The Consumer Parties incorporate the information provided in their prior Joint Discovery Status reports and provide the following additional information in response to the PUCO directives requiring the Consumer Parties to file status updates on discovery and the number of documents that the Consumer Parties have received and collectively reviewed.

¹ Office of the Ohio Consumers’ Counsel (“OCC”), the Northeast Ohio Public Energy Council (“NOPEC”) and the Ohio Manufacturers’ Association Energy Group (“OMAEG”) (collectively, the “Consumer Parties”).

II. DOCUMENT REVIEW

Table 1: Estimated Documents Produced by FirstEnergy Corp.

Produced	Initial Review Completed	Awaiting Initial Review
562,000 pages	Approx. 371,000 pages	Approx. 191,000 pages

FirstEnergy Corp. produced approximately 90,000 additional pages of documents on August 12, 2022. FirstEnergy Corp.'s delay in producing documents has been a persistent problem. For example, FirstEnergy Corp. reported that by January 18, 2022, it had produced approximately 380,000 pages of the DOJ documents to plaintiffs in one of the civil cases.² FirstEnergy Corp. did not produce this amount of documents to the Consumer Parties until April 11, 2022. OCC has repeatedly asked FirstEnergy Corp. to produce documents simultaneously with documents that are produced in the civil litigation, but to no avail.

We expect that FirstEnergy Corp.'s rolling document production will continue despite the six-month stay the PUCO recently ordered of the four FirstEnergy HB 6 investigations. The discovery we are receiving from FirstEnergy Corp. is what is being produced to the plaintiffs in the securities litigation. In the securities cases, there has been no stay on discovery; nor has there been a request by the U.S. Attorney to stay discovery. Accordingly, document production by FirstEnergy Corp., as part of FirstEnergy Corp./OCC's agreement to produce all documents provided to the plaintiffs in the securities cases, is expected to continue.

² *Miller v. Anderson*, Case No. 5:20-cv-1743, Nominal Defendant FirstEnergy Corp.'s Status Report (doc. 240) at 2 (N.D. Ohio) (January 18, 2022).

In a similar vein, FirstEnergy Corp. is currently working on providing OCC the confidential portions of the deposition transcript of Tracy Ashton, Assistant Controller, taken in the securities case. FirstEnergy Corp.’s attorney accepted service of the subpoena for the Rule 30(b)(6) deposition transcript on July 14, 2022. FirstEnergy Corp. produced a redacted transcript on August 1, 2022 and noted that it would produce the unredacted transcript as soon as possible.

The confidential information, including deposition exhibits, are records expected to be provided to OCC and other parties, under subpoena. As noted, in the securities cases, there has been no stay on discovery; nor has there been a request by the U.S. Attorney to stay discovery. To date, FirstEnergy Corp. has produced neither the unredacted transcript nor the deposition exhibits.

Table 2: Estimated Documents Produced by FirstEnergy Utilities

Produced	Initial Review Completed	Awaiting Initial Review
40,000 pages	Approx. 26,000 pages	Approx. 14,000 pages

The FirstEnergy Utilities previously produced documents relating to the FERC audit of FirstEnergy Corp., but only through the date of the February 4, 2022 audit report. The FirstEnergy Utilities eventually agreed to produce documents related to the FERC audit report that were created after February 4, 2022. The Consumer Parties received the first batch of these additional documents from the FirstEnergy Utilities relating to the FERC audit on July 11, 2022, with additional documents to be produced on a rolling basis thereafter. No additional FERC audit documents have been received since that date.

III. DEPOSITIONS

The Consumer Parties deposed Ms. Ebony Yeboah-Amankwah on July 21, 2022. However, that deposition was interrupted, and the Consumer Parties were not able to complete the deposition of Ms. Yeboah-Amankwah that day. Additionally, an interlocutory appeal was taken of the Attorney Examiner's ruling that would seemingly limit the deposition questioning of Ms. Yeboah-Amankwah. That appeal has not been ruled upon. Nonetheless, parties were in the process of rescheduling the deposition when the PUCO issued its August 24, 2022 Entry staying all four FirstEnergy investigation cases.

There are a number of depositions that have been noticed by OCC and have yet to be taken. Additionally, on August, 4, 2022, OCC requested PUCO approval for nine subpoenas to assure attendance of witnesses at depositions. The subpoenas requested by OCC were for the following: Joel Bailey, former FirstEnergy Lobbyist and Vice President of State & Local Government Affairs & Economic Development; Chuck Jones, former FirstEnergy President and CEO; Ty Pine, former FirstEnergy Lobbyist and Director of State Affairs; Justin Biltz, former FirstEnergy Lobbyist and Director of State Affairs; Robert Reffner, former FirstEnergy Senior Vice President and Chief Legal Officer; Michael Dowling, former FirstEnergy Senior Vice President of External Affairs; Eileen Mikkelsen, former Vice President of Rates and Regulatory Affairs; Dennis Chack, former FirstEnergy Senior Vice President of Product Development, Marketing and Branding; and, FirstEnergy CEO Steven Strah. The subpoenas have not been signed by the PUCO.

IV. PROCEDURAL SCHEDULE

The PUCO's August 24, 2022 Entry vacated all existing procedural schedules in all four FirstEnergy investigation cases.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Joint Discovery Status Report was served on the persons stated below via electric transmission this 26th day of August 2022.

/s/ Maureen R. Willis

Maureen R. Willis

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The PUCO's e-filing system will electronically serve notice of the filing of this document on the following parties:

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Summary: Report Joint Discovery Status Report by Office of the Ohio Consumers' Counsel, Northeast Ohio Public Energy Council and Ohio Manufacturers' Association Energy Group electronically filed by Ms. Alana M. Noward on behalf of Willis, Maureen R.