

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE REVIEW OF OHIO
EDISON COMPANY, THE CLEVELAND
ELECTRIC ILLUMINATING COMPANY,
AND THE TOLEDO EDISON COMPANY'S
COMPLIANCE WITH R.C. 4928.17 AND
OHIO ADM.CODE CHAPTER 4901:1-37.

CASE NO. 17-974-EL-UNC

IN THE MATTER OF THE REVIEW OF THE
DISTRIBUTION MODERNIZATION RIDER
OF OHIO EDISON COMPANY, THE
CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON
COMPANY.

CASE NO. 17-2474-EL-RDR

IN THE MATTER OF THE REVIEW OF THE
POLITICAL AND CHARITABLE SPENDING
BY OHIO EDISON COMPANY, THE
CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON
COMPANY.

CASE NO. 20-1502-EL-UNC

IN THE MATTER OF THE 2020 REVIEW OF
THE DELIVERY CAPITAL RECOVERY
RIDER OF OHIO EDISON COMPANY, THE
CLEVELAND ELECTRIC ILLUMINATING
COMPANY, AND THE TOLEDO EDISON
COMPANY.

CASE NO. 20-1629-EL-RDR

ENTRY

Entered in the Journal on August 23, 2023

I. SUMMARY

{¶ 1} The Commission extends the stay in the above-captioned proceedings for a period of six months, unless otherwise ordered.

II. DISCUSSION

{¶ 2} Concurrent with the Commission's four above-captioned investigations, the United States Department of Justice's District Attorney for the Southern District of Ohio (DOJ or U.S. Attorney) has been conducting an ongoing investigation into alleged corruption relating to Am. Sub. H.B. 6 and action through the Commission, resulting in a Deferred Prosecution Agreement (DPA)¹ and an indictment of several individuals. Throughout our four investigations, the Commission has sought to balance two principles: one, the Commission will follow the facts wherever they lead; and two, it is of the utmost importance that the Commission's investigations do not interfere with the DOJ's ongoing criminal investigation, or the parallel civil action instituted by Ohio Attorney General Dave Yost.

{¶ 3} On August 16, 2022, the U.S. Attorney filed a letter in the above-captioned proceedings, pursuant to 28 U.S.C. § 517, requesting that the Commission stay these matters for a period of six months, citing its concern that continued discovery in the Commission's four investigations may directly interfere with or impede the United States' ongoing investigation into corruption relating to Am. Sub. H.B. 6.² Specifically, the DOJ referenced the trial for two individuals charged in the indictment was scheduled to begin in January 2023.

{¶ 4} On August 24, 2022, the Commission issued an Entry staying the above-captioned proceedings at the request of the U.S. Attorney for a period of six months, unless otherwise ordered by the Commission. In the Entry, the Commission made it clear that

¹ The DPA is between FirstEnergy Corp. and the United States Attorney for the Southern District of Ohio. *United States of America v. FirstEnergy Corp.*, Case: 1:21-cr-86, July 22, 2021, Doc. 3.

² According to the DOJ: "The United States understands that substantial discovery is underway in the PUCO Proceedings, including written discovery and the potential for depositions of numerous individuals and entities. The PUCO Proceedings involve issues related to the United States' investigation, and the United States believes that continued discovery in the PUCO Proceedings may directly interfere with or impede the United States' ongoing investigation."

avoiding interference with the ongoing federal criminal investigation by the U.S. Attorney is of the utmost importance, specifically citing our concerns with discovery in these proceedings interfering with the criminal trial. Moreover, the Commission's Entry made clear that we would allow for requests of reconsideration and/or extension of the stay, as may be appropriate. Entry (Aug. 24, 2022) at ¶¶ 76, 82, 84, 86. 0

{¶ 5} By letter filed on February 23, 2023, the U.S. Attorney requested that the Commission extend the stay for an additional six months, citing the criminal trial for two individuals charged in the indictment that commenced in January 2023 and was then underway.

{¶ 6} The Commission issued an Entry on March 8, 2023, granting the request of the U.S. Attorney to extend the stay for a period of six months.

{¶ 7} The criminal trial resulted in convictions for the two individuals charged in the indictment, who were later sentenced by federal Judge Timothy Black. *United States v. Larry Householder*, S.D. Ohio No. 1:20-cr-77.

{¶ 8} By letter filed on August 10, 2023, the U.S. Attorney requested a second extension of the existing stay. Similar to its August 16, 2022 request, the U.S. Attorney noted its concern that continued discovery in the Commission's four investigations may directly interfere with or impede the United States' ongoing investigation into alleged corruption relating to Am. Sub. H.B. 6.

{¶ 9} The U.S. Attorney's most recent correspondence makes it clear that its investigation is still ongoing and, thus, the interference concerns cited in our August 24, 2022 Entry remain largely at issue. Further, we recognize that, while the federal criminal trial resulted in two convictions, those convictions are currently being appealed. *United States v. Larry Householder*, Case No. 23-3565 (6th Cir. Ct. App.). As such, we find the U.S. Attorney's request to extend the existing stay to be reasonable. Thus, the stay will be extended for an additional six months from the date of this Entry, unless otherwise ordered.

Similar to the August 24, 2022 Entry, the Commission notes that the stay will continue to apply to these cases in their entirety, including, but not limited to, all discovery and motion practice during the additional six-month period, except for rehearing applications and responsive memoranda related to this Entry, pursuant to R.C. 4903.10. Entry (Aug. 24, 2022) at ¶ 87.

III. ORDER

{¶ 10} It is, therefore,

{¶ 11} ORDERED, That the existing stay in these four proceedings be extended for a period of six months, unless otherwise ordered by the Commission, consistent with this Entry. It is, further,

{¶ 12} ORDERED, That a copy of this Entry be served upon each party of record.

COMMISSIONERS:

Approving:

Jenifer French, Chair
Daniel R. Conway
Lawrence K. Friedeman
Dennis P. Deters
John D. Williams

MJA/dr

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**Case No(s). 17-0974-EL-UNC, 17-2474-EL-RDR, 20-1502-EL-UNC, 20-1629-EL-
RDR**

Summary: Entry extending the stay in the above-captioned proceedings for a period of six months, unless otherwise ordered. electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio.