

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Ohio )  
Edison Company, the Cleveland Electric )  
Illuminating Company, and the Toledo ) Case No. 23-301-EL-SSO  
Edison Company for Authority to )  
Establish a Standard Service Offer )  
Pursuant to R.C. 4928.143 in the Form of )  
an Electric Security Plan. )

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**MOTION TO SCHEDULE A VIRTUAL “LOCAL” PUBLIC HEARING FOR  
THE CONVENIENCE OF FIRSTENERGY CONSUMERS TO TESTIFY  
REMOTELY REGARDING FIRSTENERGY’S PROPOSED RATE INCREASES  
AND  
REQUEST FOR EXPEDITED RULING  
BY  
OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

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FirstEnergy’s proposal for a so-called Electric Security Plan (“ESP V”), filed on April 5, 2023, offers more “security” to FirstEnergy than to consumers. That is not unexpected under Ohio’s 2008 energy law that, in creating electric security plans, favors utilities over consumers for electric ratemaking. Here, FirstEnergy’s proposal could allow it to collect an additional \$1.4 billion in revenue from consumers over the next eight years.<sup>1</sup>

It is important that the public be given a convenient opportunity to have their voices heard by their state utility regulator, the PUCO, regarding FirstEnergy’s proposal to increase rates. R.C. 4928.141(B) requires the PUCO to schedule a hearing in the territory of any utility that applies for an ESP.

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<sup>1</sup> This is an estimate based on the FirstEnergy’s Application and FirstEnergy 1Q 2023 Strategic & Financial Highlights, slide 21 (April 27, 2023); *see also* FirstEnergy Annual Investor FactBook, slide 41 (Feb. 13, 2023).

*Appropriately, in-person* local public hearings have also been scheduled by the PUCO, to provide consumers a “reasonable opportunity” to participate.<sup>2</sup> But in 2023, with modern remote meeting technology available, in-person hearings are not adequate for the public convenience without also scheduling virtual hearings.

In-person public hearings present attendance challenges for some people. There are obstacles to attend to, such as jobs, health challenges, mobility issues including for seniors, disabilities, childcare, eldercare, and transportation limitations, among other things. Ohioans should be given a choice by their state government to participate and testify remotely. Indeed, the PUCO has permitted consumers to testify remotely where “financial hardship, work-related scheduling conflicts, and physical restrictions” prevented them from traveling to appear in person before the PUCO.<sup>3</sup>

The PUCO has conducted numerous evidentiary hearings remotely for the convenience of parties, including utilities.<sup>4</sup> Consumers wishing to safely appear at local public hearings deserve the same consideration.

The PUCO should set an additional “local” public hearing to be conducted virtually where consumers may testify remotely (via WebEx, Microsoft Teams, Zoom, or some similar platform) regarding FirstEnergy’s proposed rate increases. A virtual local

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<sup>2</sup> Entry at ¶ 7 (Aug. 10, 2023).

<sup>3</sup> See *In the Matter of the Commission’s Investigation into RPA Energy Inc.’s Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*, Case No. 22-441-GE-COI, Entry (Oct. 17, 2022) at ¶ 11; *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer*, Case No. 23-23-EL-SSO, et al., Entry (April 17, 2023), at ¶ 11 (scheduling virtual public hearing); and *In the Matter of the Application of the Dayton Power and Light Company to Increase its Rates for Electric Distribution*, Case No. 20-1651-EL-AIR, Entry (Oct. 22, 2021), at ¶ 13 (scheduling virtual public hearing).

<sup>4</sup> See, e.g., *In the Matter of the Application of the Dayton Power & Light Company to Increase Its Rates for Electric Distribution*, Case No. 20-1651-EL-AIR, et al.; *In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates*, Case No. 20-585-EL-AIR, et al.

public hearing should occur with adequate notice for the public, including in print media, broadcast media and social media.

The evidentiary hearing is currently scheduled to begin on November 7, 2023.<sup>5</sup> Thus, under O.A.C. 4901-1-12(C), OCC requests that the PUCO issue an expedited ruling on this motion. OCC cannot certify that no party objects to an expedited ruling. The reasons for this motion are explained more fully in the attached memorandum in support.

Respectfully submitted,

Bruce Weston (0016973)  
Ohio Consumers' Counsel

*/s/ John Finnigan*  
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<sup>5</sup> Entry (July 19, 2023) at ¶ 6.

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**MEMORANDUM IN SUPPORT**

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FirstEnergy seeks approval of an eight-year Electric Security Plan (“ESP V”) pursuant to R.C. 4928.143. FirstEnergy could increase revenues by approximately \$1.4 billion – at consumer expense.<sup>6</sup> The proposed changes will have far-reaching implications for two million FirstEnergy electricity consumers (plus their families).

Scheduling a virtual public hearing for those who have personal challenges in attending the in-person hearings is reasonable and respectful for the public. It is important that all FirstEnergy consumers have this particular opportunity to have their voices heard by the PUCO regarding FirstEnergy’s proposed rate increase.

Pursuant to R.C. 4928.143(C)(1), the PUCO’s approval of this rate plan is conditioned on the need for a finding that the plan is “more favorable in the aggregate” to consumers than a standard service offer under R.C. 4928.142. Whether a plan is more or less favorable will inevitably depend on its impact on consumers.

In-person public hearings present attendance challenges for some people. There are difficulties with jobs, health challenges, mobility issues including for seniors,

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<sup>6</sup> See FirstEnergy 1Q 2023 Strategic & Financial Highlights, slide 21 (April 27, 2023); FirstEnergy Annual Investor FactBook, slide 41 (published Feb. 13, 2023).

disabilities, childcare, eldercare, and transportation limitations, among other things. Ohioans should be given a choice by their state government to participate and testify remotely. Indeed, the PUCO has permitted consumers to testify remotely in prior cases where “financial hardship, work-related scheduling conflicts, and physical restrictions” prevented them from traveling to appear in person before the PUCO.<sup>7</sup>

The PUCO should be more inclusive and more accommodating when it comes to providing consumers with an opportunity to testify regarding the utility rates they are asked to pay. Scheduling a virtual public hearing would help accomplish this goal.

The Administrative Conference of the United States (ACUS) has noted, in a recommendation published in the Federal Register, that virtual hearings promote justice.<sup>8</sup> It is stated that, in administrative procedures, virtual hearings “have the potential to expand access to justice for individuals who belong to certain underserved communities.”<sup>9</sup> Expanding access to justice for people in underserved communities warrants virtual hearings.

The PUCO has the technology and resources available to conduct a virtual public hearing in this case. This request is hardly unprecedented; the PUCO has conducted

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<sup>7</sup> See *In the Matter of the Commission’s Investigation into RPA Energy Inc.’s Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*, Case No. 22-441-GE-COI, Entry (Oct. 17, 2022) at ¶ 11; *In the Matter of the Application of Ohio Power Company for Authority to Establish a Standard Service Offer*, Case No. 23-23-EL-SSO, et al., Entry (April 17, 2023), at ¶ 11 (scheduling virtual public hearing); and *In the Matter of the Application of the Dayton Power and Light Company to Increase its Rates for Electric Distribution*, Case No. 20-1651-EL-AIR, Entry (Oct. 22, 2021), at ¶ 13 (scheduling virtual public hearing).

<sup>8</sup> ACUS Recommendation 2021-4, *Virtual Hearings in Agency Adjudication*, 86 FR 36075, 36083-36084 (June 17, 2021) (noting that virtual hearings may be “especially beneficial” for individuals with disabilities, individuals with low income, and individuals living in rural and isolated areas).

<sup>9</sup> *Id.*

numerous evidentiary hearings remotely, including public hearings in rate cases.<sup>10</sup> Even though the PUCO has largely returned to in-person hearing processes post-pandemic, the PUCO has since permitted consumers to testify remotely on occasion. That is where “financial hardship, work-related scheduling conflicts, and physical restrictions” prevented them from traveling to appear in person before the PUCO.<sup>11</sup> Consumers wishing to participate remotely in public hearings also deserve the same consideration.<sup>12</sup>

In addition, consumers themselves have become more tech savvy. During the pandemic, many consumers developed the skills to interact with families, friends, businesses, and doctors, and to conduct other activities virtually. For those consumers who faced mobility, transportation, family and/or cost issues, virtual communications provided significant benefits, which enabled them to participate more fully in their communities. The PUCO should embrace this change by providing consumers the opportunity to testify remotely regarding FirstEnergy’s proposed rate increases.

For these reasons, the PUCO should schedule a virtual public hearing in this case. Because the evidentiary hearing in these matters is currently scheduled for November 7, 2023, the PUCO should issue an expedited ruling on this motion under O.A.C. 4901-1-12(C). OCC cannot certify that no party opposes the request for expedited ruling.

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<sup>10</sup> See, e.g., *In the Matter of the Application of the Dayton Power & Light Company to Increase Its Rates for Electric Distribution*, Case No. 20-1651-EL-AIR, et al.; *In the Matter of the Application of Ohio Power Company for an Increase in Electric Distribution Rates*, Case No. 20-585-EL-AIR, et al.

<sup>11</sup> See *In the Matter of the Commission’s Investigation into RPA Energy Inc.’s Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*, Case No. 22-441-GE-COI, Entry (Oct. 17, 2022), at ¶ 11.

<sup>12</sup> See National Association of State Utility Consumer Advocates, “Resolution on Advancing Equity & Affordability in Utility Regulation” (2022), p. 4 (calling on utility regulators to “support policies that encourage participation of diverse voices in regulatory proceedings”).

Respectfully submitted,

Bruce Weston (0016973)  
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## CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Motion to Schedule a Virtual “Local” Public Hearing for the Convenience of FirstEnergy Consumers to Testify Remotely Regarding FirstEnergy’s Proposed Rate Increases and Request for Expedited Ruling was served upon the persons listed below via electronic transmission this 29<sup>th</sup> day of September 2023.

*/s/ John Finnigan*

John Finnigan

Assistant Consumers’ Counsel

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

### SERVICE LIST

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

**9/29/2023 4:51:23 PM**

**in**

**Case No(s). 23-0301-EL-SSO**

Summary: Motion Motion to Schedule a Virtual "Local" Public Hearing for the Convenience of FirstEnergy Consumers to Testify Remotely Regarding FirstEnergy's Proposed Rate Increases and Request for Expedited Ruling by Office of the Ohio Consumers' Counsel electronically filed by Ms. Alana M. Noward on behalf of Finnigan, John.