

**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. 16-481-EL-UNC
Edison Company of a Grid Modernization)
Business Plan.)

In the Matter of the Filing by Ohio Edison)
Company, The Cleveland Electric)
Illuminating Company, and The Toledo)
Edison Company Application for) Case No. 17-2436-EL-UNC
Approval of a Distribution Platform)
Modernization Plan.)

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo)
Edison Company to Implement Matters) Case No. 18-1604-EL-UNC
Relating to the Tax Cuts and Jobs Act of)
2017.)

In the Matter of the Application of Ohio)
Edison Company, The Cleveland Electric)
Illuminating Company, and The Toledo) Case No. 18-1656-EL-UNC
Edison Company for Approval of a Tariff)
Change.)

**APPLICATION FOR REHEARING
BY
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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December 18, 2023

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An audit has determined that FirstEnergy failed to demonstrate the benefits to consumers of investments under its Grid Mod I program, for which consumers have paid more than \$600 million over the past four years.¹ In a November 16, 2023 Order, the PUCO nonetheless authorized FirstEnergy to move forward with phase two of its grid

¹ Finding and Order (Nov. 16, 2023) (“Order”), at ¶ 20.

modernization program, Grid Mod II,² where FirstEnergy is asking consumers to fund an additional \$700 million investment. Consumers should not pay a penny in funding for GridMod II until FirstEnergy demonstrates the *actual* benefits of GridMod I to consumers. FirstEnergy should also demonstrate that GridMod I investments were used and useful and prudently incurred under Ohio ratemaking law.³

FirstEnergy sold Grid Mod I to the PUCO with a cost-benefit analysis showing that the program would produce over \$1 billion of net benefits for consumers.⁴ And at the time Grid Mod I funding was approved, the PUCO was led by former PUCO Chair Sam Randazzo who was recently criminally indicted by a federal grand jury for embezzlement and accepting \$4.3 million in bribes from FirstEnergy.⁵ Now, FirstEnergy cannot demonstrate the Grid Mod I benefits it promised consumers. The PUCO's Order allowing FirstEnergy to proceed with Grid Mod II was wrong and it should be modified to protect consumers.

Pursuant to R.C. 4903.10, the Office of the Ohio Consumers' Counsel ("OCC") applies for rehearing of the PUCO's November 16, 2023 Order, which is unreasonable in the following respects:

ASSIGNMENT OF ERROR NO. 1: The PUCO erred by issuing an Order that allows FirstEnergy to continue with and charge consumers for Grid Mod II when FirstEnergy has failed to demonstrate the operational benefits to consumers of Grid Mod I.

ASSIGNMENT OF ERROR NO. 2: The PUCO erred by issuing an Order that allows FirstEnergy to continue with and charge consumers for Grid Mod II when

² Order, at ¶ 33.

³ R.C. 4909.15.

⁴ *In the Matter of the Filing by Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company of a Grid Modernization Business Plan*, Case No. 16-481-EL-UNC, Stipulation and Recommendation at Attachment B (Nov. 9, 2018).

⁵ *United States of America v. Samuel Randazzo*, Case No. 1:23-cr-114, Indictment (Nov. 29, 2023).

FirstEnergy has failed to demonstrate that the investments for Grid Mod I are used and useful and were prudently incurred under Ohio ratemaking law, R.C. 4909.15.

ASSIGNMENT OF ERROR NO. 3: The PUCO erred by issuing an Order that allows FirstEnergy to apply fixed operational savings in years four through six of Grid Mod. The PUCO should grant rehearing to require FirstEnergy to identify the actual operational savings of Grid Mod I before implementing Grid Mod II.

ASSIGNMENT OF ERROR NO. 4: The PUCO erred by issuing an Order that allows FirstEnergy to continue with and charge consumers for Grid Mod II given the commonality of Grid Mod II with the FirstEnergy H.B. 6 investigation cases stayed by the PUCO. The PUCO should grant rehearing and stay the continuation of Grid Mod II as well.

The reasons in support of this Application for Rehearing are set forth in the accompanying Memorandum in Support. The PUCO should grant rehearing and abrogate or modify its Order as proposed by OCC.

Respectfully submitted,

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MEMORANDUM IN SUPPORT

I. INTRODUCTION

Consumers have paid more than \$600 million over the past four years for FirstEnergy's grid modernization program, Grid Mod I. The charges to FirstEnergy's consumers include up to \$72 million for a so-called stranded investment associated with legacy meters. That means FirstEnergy is charging consumers for both the old (replaced) meters and the new meters. That's a lot of money for two million FirstEnergy consumers to be charged.

Now, in a November 16, 2023 Order, the PUCO has given FirstEnergy the green light to move forward in seeking approval of the second phase of grid modernization, Grid Mod II, even though the audit of Grid Mod I found that FirstEnergy is incapable of demonstrating the actual benefits of Grid Mod I.

FirstEnergy sold the PUCO on its program with a cost-benefit analysis showing that the program would produce over \$1 billion of net benefits for consumers.⁶ But to date – after consumers have paid more than \$600 million over the past four years – there is nothing to show the promised benefits for consumers.⁷ There has been no PUCO determination that Grid Mod I is used and useful to consumers under Ohio ratemaking law (R.C. 4909.15). Nor has there been any determination that FirstEnergy’s investments were prudent. For all we know, FirstEnergy’s hundreds of millions in investments funded by consumers may just be “gold-plating.” Yet the PUCO’s Order allows FirstEnergy to push forward with seeking PUCO approval to charge consumers for Grid Mod II where FirstEnergy is asking consumers to fund an additional *\$700 million* investment.

FirstEnergy’s Grid Mod Program funding was also approved by the PUCO under the leadership of former PUCO Chair Sam Randazzo. The former PUCO Chair has been criminally indicted by a federal grand jury for embezzlement and for accepting \$4.3 million in bribes from FirstEnergy.⁸ FirstEnergy Corp. entered into a Deferred

⁶ *In the Matter of the Filing by Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company of a Grid Modernization Business Plan*, Case No. 16-481-EL-UNC, Stipulation and Recommendation at Attachment B (Nov. 9, 2018).

⁷ There have been very limited disallowances recommended by the PUCO Staff for FirstEnergy’s Grid Mod expenses and investment. From 2019 to 2021, approximately \$5 million in total has been recommended for disallowance in FirstEnergy’s Grid Mod 1 annual audit cases, which are all awaiting a PUCO decision. *See* Case Nos. 18-1647-EL-UNC, 21-1903-EL-UNC and 20-1672-EI-UNC.

⁸ *United States of America v. Samuel Randazzo*, Case No. 1:23-cr-114, Indictment (Nov. 29, 2023).

Prosecution Agreement with the Government under which it admitted that it “paid \$4.3 million dollars to [Randazzo] through his consulting company in return for [Randazzo] performing official action in his capacity as PUCO Chairman to further FirstEnergy Corp.’s interests relating to passage of nuclear legislation and *other specific FirstEnergy Corp. legislative and regulatory priorities, as requested and as opportunities arose.*”⁹

We and the public still do not know how much of the public corruption was at the expense of FirstEnergy’s utility consumers. Consumers deserve answers – and protection. Yet the PUCO is allowing FirstEnergy to proceed with charging consumers for Grid Mod when FirstEnergy cannot demonstrate the benefits. The PUCO should grant rehearing and modify the Order consistent with OCC’s recommendations.

II. ASSIGNMENTS OF ERROR

ASSIGNMENT OF ERROR NO. 1: The PUCO erred by issuing an Order that allows FirstEnergy to continue with and charge consumers for Grid Mod II when FirstEnergy has failed to demonstrate the operational benefits to consumers of Grid Mod I.

The PUCO should grant rehearing to modify the Order to halt the consideration and implementation of Grid Mod II because FirstEnergy cannot demonstrate operational benefits to consumers under Grid Mod I. Permitting FirstEnergy to proceed with Grid Mod II without resolving the issues in Grid Mod I would be unfair to the consumers who have been charged hundreds of millions for the program. And it would violate the supplemental settlement previously approved by the PUCO in this case.

The PUCO (led by the recently indicted former PUCO Chair Randazzo) approved a supplemental settlement in this case that allowed FirstEnergy to implement the first

⁹ *United States of America v. FirstEnergy Corp.*, Case No. 1:21-cr-86, Deferred Prosecution Agreement at 17 (July 20, 2021) (emphasis added).

phase of its Grid Mod Program.¹⁰ Under the settlement, an operational benefits assessment and review was to be performed on investments made by FirstEnergy for Grid Mod I, to demonstrate that consumers were receiving operational savings benefits.¹¹ This assessment was to be made before the next phase of the project, Grid Mod II, could be implemented. The PUCO-adopted settlement even included a specific provision that there would be no PUCO approval of Grid Mod II until after the operational savings audit is filed and the PUCO resolves issues in a decision.¹²

In addition, the audit review was supposed to include an evaluation of whether the actual functionality and performance of Grid Mod I is consistent with planned specifications as well as an independent cost analysis.¹³ In other words, for consumer protection, the audit was intended to compare the alleged benefits of Grid Mod I to the actual benefits consumers are realizing.

However, the PUCO appointed auditor (Daymark Energy Advisors) was unable to determine the operational benefits of Grid Mod I. The auditor identified numerous flaws in FirstEnergy's ability to demonstrate that consumers are actually getting the benefits they pay for under Grid Mod I. The auditor concluded that "the lack of clear documentation***combined with the lack of direct reporting as to operational savings being achieved, precluded a direct audit determination of a current and future level of operational savings to be credited to Rider AMI [consumers]."¹⁴ The auditor made twelve

¹⁰ Case No. 16-481-EL-UNC, PUCO Opinion and Order (July 17, 2019) ("July 17, 2019 Order").

¹¹ *Id.* at ¶ 44.

¹² Supplemental Settlement at 5 (Jan. 25, 2019).

¹³ July 17, 2019 Order, at ¶ 44.

¹⁴ Daymark Energy Advisors' Operational Benefits Assessment of FirstEnergy Ohio's Grid Mod I (Nov. 14, 2022) ("Audit Report").

key findings demonstrating that FirstEnergy's implementation of Grid Mod I is essentially unauditable.¹⁵

The PUCO's Order acknowledged FirstEnergy's failure to provide the data necessary so that the auditor could complete an assessment of the operational benefits of Grid Mod I.¹⁶ However, instead of setting a procedural schedule in this case and implementing the auditor's recommendations in order to resolve the issues related to Grid Mod I, the PUCO's Order allows FirstEnergy to move forward with Grid Mod II and implement the auditor's recommendations there.¹⁷ How convenient for FirstEnergy.

The PUCO Order is patently unreasonable. Consumers should not have to pay a penny toward funding FirstEnergy's additional planned \$700 million investment for Grid Mod II until it can demonstrate that consumers have benefitted from Grid Mod I. As the PUCO itself found in its July 17, 2019 Order approving the supplemental settlement, "grid modernization should only be implemented if the benefits of grid modernization outweigh the costs."¹⁸ Accordingly, the PUCO should grant rehearing to require a resolution of the issues regarding Grid Mod I before FirstEnergy can proceed with Grid Mod II.

¹⁵ Operational Benefits Assessment of FirstEnergy Ohio's Grid Mod I at 1-5.

¹⁶ Order, at ¶ 20.

¹⁷ Order, at ¶¶ 30, 33.

¹⁸ July 17, 2019 Order, at ¶ 111.

ASSIGNMENT OF ERROR NO. 2: The PUCO erred by issuing an Order that allows FirstEnergy to continue with and charge consumers for Grid Mod II when FirstEnergy has failed to demonstrate that the investments for Grid Mod I are used and useful and were prudently incurred under Ohio ratemaking law, R.C. 4909.15.

The PUCO acknowledges in the Order that FirstEnergy must show that the Grid Mod I investment is used and useful and prudently incurred.¹⁹ The PUCO expressly stated that “[w]e agree with some of the commenters that it is appropriate to determine whether investments were used and useful and prudently incurred, as ordered in Grid Mod I Case, et al., Opinion and Order (July 17, 2019) at ¶ 33.”²⁰ There has been no showing by FirstEnergy that its Grid Mod I investments were used and useful and prudently incurred. Yet the PUCO still determined that FirstEnergy can move forward with Grid Mod II, given the PUCO Staff’s annual audits of the Advanced Metering Infrastructure Rider (“Rider AMI”). The PUCO’s Order is unreasonable and unlawful under R.C. 4909.15.

The auditor’s review of Grid Mod I shows that FirstEnergy failed to demonstrate the usefulness of its Grid Mod I investments. For example, Daymark found that at the time of the Audit Report, portions of Grid Mod I technologies were in fact undergoing or awaiting full activation.²¹ As a result, Daymark did not have the data “to rely on for determining functionality and performance of these technologies in comparison to planned specifications.”²² Moreover, Daymark found FirstEnergy to be lax in presentation of clear documentation of the complete assumptions behind operational

¹⁹ Order at ¶ 34.

²⁰ *Id.*

²¹ Audit Report at 4.

²² Audit Report at 4.

savings estimates, combined with the lack of direct reporting as to operations savings being achieved. This precluded a direct audit determination of current and future level of operational savings to be credited to consumers under Rider AMI.

The PUCO should grant rehearing to consider these issues through an evidentiary hearing in this case, before allowing FirstEnergy to proceed with its application for Grid Mod II. Consumers should not be forced to pay for FirstEnergy's Grid Mod I investments that cannot be demonstrated to be used and useful and prudently incurred.

Moreover, if Grid Mod I investments are not found to be used and useful, the past collections from consumers should be refunded. Refunds to consumers could be ordered under Rider AMI, given the approved tariff language that "[t]his Rider is subject to reconciliation, including, but not limited to increases or refunds."²³ The PUCO found this tariff language "clearly anticipates the possibility that, as a result of an audit ordered by the Commission, a disallowance may occur and such disallowance may result in a refund to ratepayers."²⁴

Refunds should be ordered if FirstEnergy fails to show how the Grid Mod I investments are both used and useful to its consumers. Refunds to consumers are also required under the supplemental settlement, which requires that "[i]f a Commission order finds that costs were either not prudently incurred or were not used and useful, such costs

²³ See FirstEnergy Utilities Rider AMI Tariff. The Rider AMI tariff also defines reconciliation "based solely upon the results of audits ordered by the Commission in accordance with the July 18, 2012 Opinion and Order in Case No. 12-1230-EL-SSO, and the March 21, 2016 Opinion and Order in Case No. 14-1297-EL-SSO and upon the Commission's orders in Case No. 18-47-AU-COI."

²⁴ July 17, 2019 Order, at ¶ 120.

will not be collected from customers and, if already collected, shall be refunded to the customers.”²⁵ The PUCO should grant rehearing and modify the Order.

ASSIGNMENT OF ERROR NO. 3: The PUCO erred by issuing an Order that allows FirstEnergy to apply fixed operational savings in years four through six of Grid Mod. The PUCO should grant rehearing to require FirstEnergy to identify the actual operational savings of Grid Mod I before implementing Grid Mod II.

The PUCO’s Order unreasonably allows FirstEnergy to continue charging consumers for Grid Mod. And because FirstEnergy has not been able to demonstrate actual benefits to consumers, the PUCO adopts FirstEnergy’s proposal to apply fixed operational savings for years four through six of the program. The PUCO’s Order is unfair and unreasonable. FirstEnergy should not be able to charge consumers *at all* until it can demonstrate actual operational savings from Grid Mod I.

The auditor was supposed to determine the actual operational savings under FirstEnergy’s Grid Mod I and compare those savings to the credits being made to consumers and recommend an ongoing level of credits to consumers.²⁶ But the auditor was unable to do this because of FirstEnergy’s *own failure* to provide necessary documentation regarding the operational savings achieved.²⁷ FirstEnergy’s lack of clear documentation and its lack of direct reporting led to the auditor having “no adopted recommendation” for a consumer credit in years four, five, and six.

For the PUCO to simply accept the fixed operational savings going forward unfairly rewards FirstEnergy. And it seems to undermine the settlement agreed to by

²⁵ *Id.*, Supplemental Stipulation and Recommendation at ¶ 4 (Jan. 25, 2019).

²⁶ *In the Matter of the Filing by Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company of a Grid Modernization Business Plan*, Case No. 16-481-EL-UNC, Request for Proposal No. RA21-GM-1 at 3 (March 9, 2022); *see also* July 17, 2019 Order at ¶ 44.

²⁷ Daymark Audit at 2 (Nov. 14, 2022).

FirstEnergy and others, including OCC, which was intended to allow a modified level of savings to be considered by the auditor.

The PUCO should grant rehearing and modify its Order to direct FirstEnergy to work with the auditor and identify the actual operational savings achieved to date under FirstEnergy's Grid Mod I program. Until FirstEnergy can demonstrate actual operational savings from Grid Mod I, it should not be allowed to continue charging consumers for the Grid Mod program in years four, five, and six.

ASSIGNMENT OF ERROR NO. 4: The PUCO erred by issuing an Order that allows FirstEnergy to continue with and charge consumers for Grid Mod II given the commonality of Grid Mod II with the FirstEnergy H.B. 6 investigation cases stayed by the PUCO. The PUCO should grant rehearing and stay the continuation of Grid Mod II as well.

The PUCO's Order permits FirstEnergy to move forward with GridMod II.²⁸ The PUCO's Order is unreasonable, and rehearing should be granted to stay the continuation of GridMod pending the resolution of the FirstEnergy H.B.6 investigation cases, which have been stayed by the PUCO. Recently, former PUCO Chair Randazzo was criminally indicted on eleven counts related to bribery and embezzlement, including an alleged conspiracy scheme and scheme to defraud customers dating back to 2010.²⁹

Before increasing what FirstEnergy will charge consumers under GridMod II, consumers have a right to know how deep the corruption runs. That corruption potentially involves FirstEnergy and its grid modernization plan and its relationship with Randazzo. Recall that FirstEnergy Corp. entered into a Deferred Prosecution Agreement with the Government under which it admitted that it "paid \$4.3 million dollars to [Randazzo]

²⁸ Order, at ¶ 33.

²⁹ *United States of America v. Samuel Randazzo*, Case No. 1:23-cr-114, Indictment (Nov. 29, 2023).

through his consulting company in return for [Randazzo] performing official action in his capacity as PUCO Chairman to further FirstEnergy Corp.'s interests relating to passage of nuclear legislation and *other specific FirstEnergy Corp. legislative and regulatory priorities, as requested and as opportunities arose.*"³⁰

In FirstEnergy's Grid Mod I case,³¹ FirstEnergy is charging consumers for \$516 million related to its Grid Mod I program which was set in motion through a settlement in FirstEnergy's ESP IV.³² In FirstEnergy's ESP IV, as part of the settlement, FirstEnergy agreed that, if the PUCO approved its plan, it would collect charges from consumers through a single-issue ratemaking charge.³³ FirstEnergy's ESP IV is presently under investigation, through Case No. 20-1629-EL-RDR, where the PUCO expanded the audit scope to include an investigation of whether FirstEnergy violated R.C. 4928.145.³⁴

³⁰ *United States of America v. FirstEnergy Corp.*, Case No. 1:21-cr-86, Deferred Prosecution Agreement at 17 (July 20, 2021) (emphasis added).

³¹ *In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for Approval of Phase Two of Their Distribution Grid Modernization Plan*, Case No. 22-704-EL-UNC; *In the Matter of the Filing by Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company of a Grid Modernization Business Plan*, Case No. 16-481-EL-UNC.

³² *In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for Approval of Phase Two of Their Distribution Grid Modernization Plan*, Case No. 22-704-EL-UNC; *In the Matter of the Filing by Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company of a Grid Modernization Business Plan*, Case No. 16-481-EL-UNC.

³³ *In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company for Authority to Provide a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO, Third Supplemental Stipulation at 9-10 (Dec. 1, 2015).

³⁴ *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 (Dec. 15, 2021).

The PUCO, under the direction of former Chair Randazzo, later approved a specific grid modernization charge to consumers when it resolved a seemingly unrelated tax savings case.³⁵ Consumers who have been ordered to pay for Grid Mod I expenditures³⁶ deserve to know whether Mr. Randazzo undertook “official action in his capacity as PUCO Chairman to further FirstEnergy Corp.’s interests” “as requested and as opportunities arose”³⁷ in securing approval for the Grid Mod I rider charge to consumers.

In FirstEnergy’s Grid Mod II, FirstEnergy is seeking approval to charge consumers for an additional \$626 million grid modernization investment even though it hasn’t demonstrated the benefits it promised from Grid Mod I.³⁸ FirstEnergy’s Grid Mod II case is premised on its Grid Mod business plan which relates back to FirstEnergy’s ESP IV as well as former Chairman Randazzo’s approval of grid modernization charges to consumers through the tax savings case. Grid Mod II (and Grid Mod I) cannot be separated from the HB 6 investigations.

The new indictment and allegation of criminal behavior have now been tied to a scheme to defraud consumers. Therefore, not only has FirstEnergy Corp. entered into a Deferred Prosecution Agreement with the Government under which it admitted that it

³⁵ *In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company to Implement Matters Relating to the Tax Cuts and Jobs Act of 2017*, Case No. 18-1604-EL-UNC, Opinion and Order (July 17, 2019).

³⁶ *In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for Approval of Phase Two of Their Distribution Grid Modernization Plan*, Case No. 22-704-EL-UNC; *In the Matter of the Filing by Ohio Edison Company, the Cleveland Electric Illuminating Company and the Toledo Edison Company of a Grid Modernization Business Plan*, Case No. 16-481-EL-UNC, Entry (Nov. 16, 2023).

³⁷ See *supra* note 9.

³⁸ Application (July 15, 2022) at 66, ¶ 21 (“The Companies request authorization to recover in Rider AMI their actual Grid Mod II capital costs, up to \$626.4 million, and incremental O&M expenses associated with Grid Mod II up to an aggregate of \$144.1 million over the deployment period.”)

“paid \$4.3 million dollars to [Randazzo] through his consulting company in return for [Randazzo] performing official action in his capacity as PUCO Chairman to further FirstEnergy Corp.’s interests relating to passage of nuclear legislation and *other specific FirstEnergy Corp. legislative and regulatory priorities, as requested and as opportunities arose*,”³⁹ there is now evidence that the corruption runs deeper and may be the basis of inappropriate charges to consumers for Grid Smart.

In light of this new information and the potential connection to Grid Smart, it is imperative for the PUCO to investigate the payments and get to the bottom of this corruption and the amounts charged to consumers before increasing those charges passed on to consumers for Grid Smart II. The PUCO should protect consumers and determine whether harm has been perpetrated on them by FirstEnergy and Randazzo through their criminal activities.

Given that the H.B. 6 investigations are stayed, it is only fair that the related portions (*i.e.*, Grid Smart) also be stayed. The PUCO has broad powers to ensure fairness and has done so in past cases.⁴⁰ Staying the implementation and consideration of Grid Smart II in this case would create a fairness of balance and symmetry in the PUCO’s regulation – something that is especially needed when it comes to FirstEnergy’s two million consumers. Going forward with considering and continuing Grid Smart II in this proceeding is also inefficient and prejudicial to consumers. As the PUCO acknowledged,

³⁹ *United States of America v. FirstEnergy Corp.*, Case No. 1:21-cr-86, Deferred Prosecution Agreement at 17 (July 20, 2021) (emphasis added).

⁴⁰ *See, e.g., In the Matter of the Application of Ohio Edison Company, the Cleveland Electric Illuminating Company, and the Toledo Edison Company for Authority to Provide for a Standard Service Offer Pursuant to R.C. 4928.143 in the Form of an Electric Security Plan*, Case No. 14-1297-EL-SSO, Fifth Entry on Rehearing (Oct. 12, 2016), at ¶¶ 38, 39 (permitting the PUCO Staff to propose an alternative proposal for a distribution modernization rider).

the public has an interest in the efficient use of government resources.⁴¹ Accordingly, the PUCO should grant rehearing and modify the Order to stay the continuation of Grid Mod II.

III. CONCLUSION

Consumers should not be charged by FirstEnergy for Grid Mod investments that don't deliver the benefits FirstEnergy promised. The PUCO's November 16, 2023 Order is unreasonable and unlawful under Ohio ratemaking law (R.C. 4909.15). To protect consumers, the PUCO should grant this application for rehearing and modify the Order consistent with OCC's above recommendations.

Respectfully submitted,

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⁴¹ *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, Entry at ¶ 79 (Aug. 24, 2022).

CERTIFICATE OF SERVICE

I hereby certify that a copy of Application for Rehearing by the Office of the Ohio Consumers' Counsel was served on the persons stated below via electronic transmission, this 18th day of December 2023.

/s/ Angela D. O'Brien
Angela D. O'Brien
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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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12/18/2023 4:46:24 PM**

in

**Case No(s). 16-0481-EL-UNC, 17-2436-EL-UNC, 18-1604-EL-UNC, 18-1656-EL-
ATA**

Summary: App for Rehearing Application for Rehearing by Office of the Ohio
Consumers' Counsel electronically filed by Alana M. Noward on behalf of O'Brien,
Angela D..