

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Review of the)
Political and Charitable Spending by Ohio) Case No. 20-1502-EL-UNC
Edison Company, The Cleveland Electric)
Illuminating Company, and the Toledo)
Edison Company.)

**MEMORANDUM CONTRA FIRSTENERGY'S INTERLOCUTORY APPEAL
BY
OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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March 21, 2022

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I. INTRODUCTION

After nearly a year of delay for OCC’s case preparation, PUCO Attorney Examiner Megan Addison rightly granted OCC’s renewed request to order the FirstEnergy Utilities to turn over the documents that FirstEnergy provided to FERC.¹ The federal regulator obtained those documents for its audit of FirstEnergy Corp. and its subsidiaries, regarding accounting and recordkeeping for affiliates, including H.B. 6 matters. But the FirstEnergy Utilities, that are owned by a company now charged with a federal crime, are not done with delaying OCC’s access to the documents. They now seek an interlocutory appeal of the Attorney Examiner’s ruling, asking PUCO Commissioners to keep the documents secret from OCC.

Keeping the FirstEnergy documents from OCC is the last thing the PUCO should do if justice is to be achieved in this case. Let’s remember just one of FERC’s shocking revelations in the audit of FirstEnergy that calls out for examination here:

[e]ven more concerning, several factual assertions agreed to by FirstEnergy in DPA [Deferred Prosecution Agreement] and the remedies FirstEnergy agreed to undertake, *point*

¹ Transcript of Prehearing Conference on Mar. 11, 2022 at 58.

*towards internal controls having been possibly obfuscated or circumvented to conceal or mislead as to the actual amounts, nature, and purpose of the lobbying expenditures made, and as a result, the improper inclusion of lobbying and other nonutility costs in wholesale transmission billing rates. (Emphasis added.)*²

The PUCO should dismiss FirstEnergy Utilities interlocutory appeal or affirm the Attorney Examiner's ruling, per O.A.C. 4901-1-15(E). For one, OCC has a right to obtain the information in discovery for case preparation, per R.C. 4903.082 and O.A.C. 4901-1-16 et seq. Two, the FirstEnergy Utilities were not adversely affected by the ruling (under O.A.C. 4901-1-15(A)) and thus, the PUCO should not entertain the immediate interlocutory appeal. Three, the FirstEnergy Utilities lack the standing to raise FERC's federal interest in the confidentiality of its audits. Four, the FirstEnergy Utilities have failed to show that the ruling is a new or novel matter or a departure from past precedent, as required under O.A.C. 49021-1-15(B). Five, the FirstEnergy Utilities have failed to show undue prejudice or expense as a result of the ruling under O.A.C. 4901-1-15(B).

These issues affecting the Ohio public cry out for justice that is transparent and complete, which are objectives that require information for learning if FirstEnergy has wrongly charged Ohioans for its bad acts. The PUCO is here presented with the extraordinary circumstances of FirstEnergy's activities regarding the making of law (H.B.6) and regarding regulation (involving the highest level of the PUCO).

As Louis Brandeis wrote, a few years before appointment to the United States Supreme Court:

² FERC Audit Report at 48 (Feb. 4, 2022), Docket No. FA19-1-000 (emphasis added).

Publicity is justly commended as a remedy for social and industrial diseases. Sunlight is said to be the best of disinfectants; electric light the most efficient policeman.³

The PUCO Commissioners should not allow FirstEnergy Utilities to waste any more of OCC's time for trying to shed needed sunlight in this investigation. The PUCO Commissioners should dismiss FirstEnergy Utilities' Interlocutory Appeal or affirm the Attorney Examiner's ruling.

II. BACKGROUND

The FirstEnergy Utilities have long sought to withhold from the public all information FirstEnergy provided for FERC's audit of FirstEnergy Corp. and its subsidiaries. That audit spanned the period January 1, 2015 to September 30, 2021, a period that covered the scandalous and criminal activity associated with H.B. 6.

OCC's quest for this information began almost a year ago, when OCC served its fifth and seventh set of discovery on the FirstEnergy Utilities.⁴ After receiving "responses" (mostly objections) from FirstEnergy Utilities, and being unable to resolve the discovery dispute, OCC filed Motions to Compel.⁵ A prehearing conference was held on August 31, 2021, where the Attorney Examiner's ruled on OCC's Motions to Compel.

At that prehearing conference, the parties discussed OCC's discovery related to FERC's investigation (OCC RPD 5-001 and OCC INT 6-003). OCC advised PUCO Examiner Price that OCC would narrow its document request to documents supplied by

³ Harper's Weekly, Volume 58, Number 2974, What Publicity Can Do by Louis D. Brandeis, Start Page 10, Quote Page 10, The McClure Publications, New York (Dec. 20, 2013).

⁴ OCC's Fifth Set of Discovery was served on Feb. 19, 2021; OCC's Seventh Set of Discovery was served on Apr. 2, 2021.

⁵ OCC Motions to Compel (Jun. 29, 2021).

FirstEnergy to FERC, instead of also including information that FERC communicated to FirstEnergy.⁶ But Examiner Price denied OCC's Motions to Compel, finding that "We will let FERC proceed with their investigation in a confidential matter. If and when a public audit is released by FERC, we can *revisit* this issue at that time."⁷

On February 4, 2022, FERC publicly released its audit report. The audit report contains seven findings of noncompliance and 38 recommendations that require FirstEnergy and its subsidiaries to take corrective actions (including apparently refunds to consumers). FERC's audit findings included its acknowledgement of "significant shortcomings" in FirstEnergy and its subsidiaries' internal controls over financial reporting for expenses relating to civic, political and lobbying activities.

As recounted above, FERC additionally noted that "several factual assertions agreed to by FirstEnergy Corp. in..." the U.S. Deferred Prosecution Agreement:

*point towards internal controls having been possibly obfuscated or circumvented to conceal or mislead as to the actual amounts, nature, and purpose of the lobbying expenditures made, and as a result, the improper inclusion of lobbying and other nonutility costs in wholesale transmission billing rates. (Emphasis added.)*⁸

The very same day that FERC released the audit report, OCC filed a letter in this docket asking Attorney Examiner Price to revisit OCC's Motions to Compel discovery, as he earlier invited in his August 31, 2021 ruling.⁹ On February 10, 2022, a prehearing

⁶ Tr. 16 (Aug. 31, 2021); *see also* OCC Motion to Compel at 17.

⁷ Tr. 18; 36-37 (Aug. 31, 2021) (emphasis added).

⁸ FERC Audit Report at 48 (Feb. 4, 2022), Docket No. FA19-1-000 (emphasis added).

⁹ Correspondence by Office of the Ohio Consumers' Counsel (Feb. 7, 2022).

conference included discussion of OCC’s request for Examiner Price to revisit his 2021 denial of OCC’s Motions to Compel seeking FERC audit-related documents.

The first issue addressed by the Examiner Price at the prehearing was OCC’s “motion to compel . . . requesting FirstEnergy Utilities to disclose all documents given [by FirstEnergy] to the Federal Energy Regulatory Commission as part of their recent audit of the FirstEnergy utilities.”¹⁰ OCC argued that the documents given by the FirstEnergy Corp. and its subsidiaries to FERC are not confidential – the public has the right to see them.¹¹ The FirstEnergy Utilities asserted that the public has no right to see documents that they gave to FERC because, in the Attorney Examiner’s words, they are “confidential.”¹²

Examiner Price did not then rule on the merits of OCC’s request to revisit his earlier ruling. But the Examiner asked parties to file memoranda addressing “the narrow question of once the FERC audit report has been released whether the confidentiality provisions are still in place.”¹³

Then, Attorney Examiner Megan Addison ruled at the March 11, 2022 prehearing conference that the FirstEnergy Utilities must produce to OCC the documents provided to FERC for its audit of FirstEnergy Corp. and its subsidiaries.¹⁴ The FirstEnergy Utilities

¹⁰ Tr. 9, lines 11-15 (Feb. 10, 2022).

¹¹ *See Id.* at 10, 23.

¹² *Id.* at 14.

¹³ *Id.*

¹⁴ Transcript of Prehearing Conference on March 11, 2022 at 58.

now seek an interlocutory appeal of this ruling, asking the PUCO Commissioners to keep the documents from OCC (and thus from the PUCO for its decision-making).¹⁵

III. ARGUMENT

Ohio Administrative Code 4901-1-15 provides for an interlocutory appeal when the conditions of section A (“immediate interlocutory appeal) or section B (certification of an interlocutory appeal) are met.

Ohio Administrative Code 4901-1-15 (A) provides for an immediate interlocutory appeal from an Attorney Examiner’s ruling that, inter alia, grants a motion to compel discovery. Even so, the party taking the appeal must show it is “adversely affected” by the ruling. The FirstEnergy Utilities have applied for an immediate interlocutory appeal to the PUCO under this provision.

Ohio Administrative Code 4901-1-15 (B) allows an interlocutory appeal if the attorney examiner certifies the appeal. In order to have an appeal certified, the PUCO must find that the appeal meets both of the following conditions:

- the appeal presents a new or novel question of interpretation, law, or policy, or is taken from a ruling which represents a departure from past precedent; and
- an immediate determination by the commission is needed to prevent the likelihood of undue prejudice or expense to one or more of the parties, should the commission ultimately reverse the ruling in question.¹⁶

¹⁵ Interlocutory Appeal Concerning Discovery of Non-Public Audit Materials Produced to the Federal Energy Regulatory Commission (Mar. 16, 2022).

¹⁶ O.A.C. 4901-1-15(B).

In the present case, the FirstEnergy Utilities have failed to show that they have been adversely affected by the ruling, which they must do under O.A.C. 4901-1-15(A). For this reason, the PUCO should not accept the appeal. And the FirstEnergy Utilities have not shown that their appeal meets the conditions of O.A.C. 4901-1-15(B). The appeal should not be certified.

The PUCO should, consistent with O.A.C. 4901-1-15(E) either affirm the attorney examiner ruling or dismiss the appeal. Dismissal of the appeal would be especially appropriate given that the FirstEnergy Utilities lack standing to raise the issues and have not shown prejudice as a result of the ruling.

- A. The FirstEnergy Utilities do not qualify for an immediate appeal (under O.A.C. 4901-1-15(A)(1)) and “lack[] the requisite standing to raise the issues presented” such that their appeal should be “dismissed” under O.A.C. 4901-1-15(E)(2).**

The FirstEnergy Utilities claim that they qualify for an immediate interlocutory appeal under O.A.C. 4901-1-15(A)(1). That rule allows any party that is adversely affected by a ruling granting a motion to compel discovery to seek an immediate interlocutory appeal. In the present case, however, the FirstEnergy Utilities were not adversely affected by the ruling. That’s because any harm that they claim from supposedly “violating the important federal interest in the confidentiality of audit materials” is an alleged, potential harm to FERC, and not to the utilities themselves.

Additionally, FirstEnergy Utilities’ appeal should be “dismiss[ed]” because it lacks “standing” under O.A.C. 4901-1-15(E)(2) to appeal or raise the issue of confidentiality. The duty (if there is one) to keep this information confidential is a limitation on FERC, not on FirstEnergy.

In this regard, the FirstEnergy Utilities assert that “the information requested is confidential, non-public, and protected from disclosure under the Federal Power Act. That includes 16 U.S.C. §825, 42 U.S.C. §16452(d), and FERC’s regulations, including 18 C.F.R. Part 388.”¹⁷ OCC does not concede that the information remains confidential when, as is the case here, the audit has already been concluded.

In any event and as stated, the FirstEnergy Utilities lack standing to raise the issue of confidentiality because the duty to keep this information confidential is a limitation on FERC Staff, not on the utilities producing information to FERC.

The first statute the FirstEnergy Utilities cite, 16 U.S.C. 825(b), in pertinent part reads:

*No member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge during the course of examination of books or other accounts*** except insofar as he may be directed by the Commission or by a court. (Emphasis added).*

The second statute, 42 U.S.C. 16452, in pertinent part reads:

No member, officer, or employee of the Commission shall divulge any fact or information which may come to his or her knowledge during the course of examination of books, accounts, memoranda, or other records as provided in this section, except as may be directed by the Commission or by a court of competent jurisdiction. (Emphasis added).

These provisions apply to the FERC Staff, not the FirstEnergy Utilities. They only prevent disclosure of information by the Staff of FERC. Nothing in these laws prevent the FirstEnergy Utilities from providing information that FirstEnergy Corp or its subsidiaries provided to the FERC audit staff during the FERC audit.¹⁸ As a result, the

¹⁷ See OCC Motions to Compel, attachments (Jun. 29, 2021).

¹⁸ OCC researched this topic and was unable to find related case law that establishes the non-disclosure requirements of 16 U.S.C. 825 and 42 U.S.C. 16452 as applicable to public utilities. OCC conveyed this to

FirstEnergy Utilities lack standing to raise a claim of confidentiality under statutes that apply only to FERC Staff. And the FirstEnergy Utilities are not adversely affected because any harm that they claim from supposedly “violating the important federal interest in the confidentiality of audit materials” is an alleged, potential harm to FERC, and not to the utilities themselves.

B. In addition to not qualifying for an appeal under O.A.C. 4901-1-15(A), the FirstEnergy Utilities failed to claim that the appeal presents a new or novel question of interpretation, law, or policy, or is taken from a ruling which represents a departure from past precedent, under O.A.C. 4901-1-15(B).

Having tried (and failed) to qualify for an interlocutory appeal under section A of O.A.C. 4901-1-15, the FirstEnergy Utilities did not argue that they qualify under section B of the rule. So, their appeal should not be certified. We note that they do not qualify under section B, even if they had argued that point, for the following reasons.

In Ohio, it is common (*not new or novel*) practice for parties to file discovery requests with the utility seeking communications that a utility had with Staff or a Staff auditor. This is the same thing OCC did by requesting the documents FirstEnergy provided for the FERC audit. Indeed, Attorney Examiner Price should have allowed OCC to obtain these documents when OCC initially requested them, without requiring OCC to wait until the audit was completed.

The Attorney Examiner’s ruling requiring the production of discovery in response to a motion to compel raises no new or novel question. And it does not represent a

the FirstEnergy Utilities during its discussion of this issue at the meet and confer on the 6th set of discovery. OCC invited the Utilities to provide authority to support their contention that the non-disclosure requirements of these laws apply to the utilities. *They were unable and/or unwilling to do so.*

departure from past precedent. The PUCO should therefore reject the FirstEnergy Utilities' request for an interlocutory appeal.

C. The PUCO Commissioners should dismiss the FirstEnergy Utilities' Interlocutory Appeal because they "failed to show prejudice as a result of the ruling..." per O.A.C. 4901-1-15(E)(2).

The FirstEnergy Utilities' Interlocutory Appeal should also be dismissed because they fail to show that it is prejudiced by the Attorney Examiner's March 13, 2022 ruling. OCC seeks documents that FirstEnergy produced to FERC for the FERC audit. The FERC audit is now concluded, so the FirstEnergy Utilities cannot demonstrate any harm from producing the documents to OCC at this time.

The FirstEnergy Utilities briefly argued at page 17 of their Interlocutory Appeal that they would be prejudiced by producing the documents they provided to FERC. But the FirstEnergy Utilities' argument is flawed. It is millions of Ohioans who are being prejudiced if the documents are not provided to OCC.

First, the FirstEnergy Utilities' claims they would be prejudiced because FERC has an ongoing investigation.¹⁹ This argument has no merit because the FERC investigation is a separate proceeding and OCC does not seek any documents from the investigation case.

Second, the FirstEnergy Utilities argue that "compelling production of all FERC communications here runs the risk of re-litigating issues in this case that FERC has already disposed of." This argument is without merit because the PUCO is doing a parallel investigation of FirstEnergy's political and charitable spending in support of H.B.

¹⁹ FirstEnergy Utilities Interlocutory Appeal at 6-7, 14-18.

6. The fact that FERC also did an audit and is also investigating this matter does not deprive the PUCO of its jurisdiction nor does it deprive OCC of its rights to discovery.

Finally, the FirstEnergy Utilities' claim that they would be prejudiced because requiring them to produce the documents they provided to FERC "interferes with FERC's ability to proceed in a considered and orderly fashion and severely undermines FERC's and Congress's guarantees of confidentiality." This argument must fail because the FirstEnergy Utilities are confusing the FERC audit case with the FERC investigation case. The audit is concluded and there is no ongoing FERC audit that would be interfered with by FirstEnergy producing the documents OCC seeks.

The Attorney Examiner's ruling simply required FirstEnergy to produce documents from another proceeding that are highly relevant to this proceeding. Parties are often asked to produce information from other proceedings, where relevant to a current proceeding. The FERC audit is finished, and FirstEnergy has accepted FERC's findings. The FirstEnergy Utilities would not suffer any harm by producing the documents to OCC. Moreover, FirstEnergy and its affiliates could produce the documents under the existing confidentiality agreements they have with OCC and others. This would protect any possible interest they might have in maintaining the confidentiality of any information produced to FERC during the FERC audit.

The PUCO should therefore dismiss the FirstEnergy Utilities' Interlocutory Appeal because they failed to demonstrate it is prejudiced by the Attorney Examiner's ruling, as required by O.A.C. 4901-1-15(E)(2).

D. The Attorney Examiner’s ruling requiring the release of information supplied by FirstEnergy to FERC was lawful under R.C. 4903.082 and O.A.C. 4901-1-16(B).

1. OCC is entitled to the documents FirstEnergy provided to FERC, which are relevant to this case. OCC is entitled to the FERC documents pursuant to OCC’s broad rights of discovery as provided by R.C. 4903.082 and O.A.C. 4901-1-16(B).

The FirstEnergy Utilities’ Interlocutory Appeal should be denied because the Attorney Examiner made the correct ruling under R.C. 4903.082 and O.A.C. 4901-1-16(B). In the first instance, the documents that FirstEnergy provided to FERC are highly relevant to the present case. This case pertains to the political and charitable expenses FirstEnergy Service Company allocated to the Ohio utilities related to H.B. 6.

According to the PUCO “the policy of discovery is to allow the parties to prepare cases and to encourage them to prepare thoroughly without taking undue advantage of the other side’s industry or efforts.”²⁰ The PUCO’s rules on discovery “*do not create an additional field of combat to delay trials or to appropriate the Commission’s time and resources*; they are designed to confine discovery procedures to counsel and to expedite the administration of the Commission proceedings.”²¹ The rules are also intended to “minimize commission intervention in the discovery process.”²² These rules are intended to facilitate full and reasonable discovery, consistent with the statutory discovery rights parties are afforded under R.C. 4903.082.

²⁰ *In the Matter of the Investigation into the Perry Nuclear Power Plant*, Case No. 85-521-EL-COI, Entry at 23 (Mar. 17, 1987).

²¹ *Id.*, citing *Penn Central Transportation Co. v. Armco Steel Corp.* (C.P. 1971), 27 Ohio Misc. 76 (emphasis added).

²² Ohio Admin. Code 4901-1-16(A).

R.C. 4903.082 states that “[a]ll parties and intervenors shall be granted ample rights of discovery” and that the PUCO shall aid full and reasonable discovery. *See OCC v. PUC*, 111 Ohio St.3d 300, 2006-Ohio-5789. The discovery statute was effective in 1983 as part of a more comprehensive regulatory reform. R.C. 4903.082 was intended to protect discovery rights for parties in PUCO cases.

Yet all these years later, the FirstEnergy Utilities are impeding OCC’s discovery efforts. The PUCO should not allow the FirstEnergy Utilities’ obstruct and delay tactics to be used to deny OCC the ample discovery rights allowed under Ohio law and PUCO rules. OCC, as a party in this proceeding, is entitled to timely and complete responses to its discovery inquiries. Additionally, R.C. 4903.082 directs the PUCO to ensure that parties are allowed “full and reasonable discovery” under its rules.

The PUCO has also adopted rules that specifically define the scope of discovery. O.A.C. 4901-1-16(B) provides:

any party to a commission proceeding may obtain discovery of any matter, not privileged, which is relevant to the subject matter of the proceeding. It is not a ground for objection that the information sought would be inadmissible at the hearing, if the information sought *appears* reasonably calculated to lead to the discovery of admissible evidence. (Emphasis added.)

The PUCO’s rule is similar to Ohio Civ. R. 26 (B)(1), which governs the scope of discovery in civil cases. Civ. R. 26(B) has been liberally construed to allow for broad discovery of any unprivileged matter relevant to the subject matter of the pending proceeding.²³ This scope of discovery also applies to requests for production. Requests

²³ *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 111 Ohio St.3d 300, 2006-Ohio-5789, citing to *Moskovitz v. Mt. Sinai Med. Ctr.* (1994), 69 Ohio St.3d 638, 661 and *Disciplinary Counsel v. O’Neill* (1996), 75 Ohio St.3d 1479.

for production may elicit documents within the possession, custody, or control, of the party upon whom the discovery is served, under O.A.C. 4901-1-20.

OCC's right to discovery is assured by law, rule and Supreme Court of Ohio ("Court") precedent.²⁴ OCC is entitled to timely and complete responses to its discovery inquiries.

We know from OCC's discovery in this case and from the Blue Ridge Audit in Case No. 20-1629-EL-RDR that FirstEnergy Service Company charged the FirstEnergy Ohio Utilities for political and charitable activities in 2017 and 2018. That included payments to Generation Now and Hardworking Ohioans, as well as payments to Sustainability Funding Alliance.²⁵ We still don't know (a year and a half after this investigatory case was opened) if that is the extent of the political and charitable spending that was allocated to the Ohio FirstEnergy Utilities by FirstEnergy Service Company (or any other FirstEnergy affiliate).

The FERC audit includes the period related to H.B. 6 activities (January 1, 2017 to December 31, 2019). The FERC audit covered information about how FirstEnergy Service Company charged its franchised public utilities (including the FirstEnergy Ohio utilities) for lobbying expenses, donations, and costs lacking supporting documentation (misallocated costs).

With respect to external lobbying expenses, FERC's audit staff discovered that FirstEnergy Service Company improperly recorded \$10.9 million of lobbying costs in utility operating expense accounts.²⁶ FERC Staff also identified \$20.9 million of

²⁴ *OCC v. PUC*, 111 Ohio St.3d 300, 2006-Ohio-5789, 856 N.E.2d 213.

²⁵ Deposition of Santino Fanelli at 129-137 (Mar. 9, 2021).

²⁶ *Id.* at 5; 48.

payments to entities associated with the former PUCO chairman.²⁷ And the FERC Staff identified \$28.98 million in payments to sixteen entities associated with one person that were improperly classified or misallocated to certain FirstEnergy regulated utilities.²⁸ FERC Staff also found that internal lobbyists (in the Governmental Affairs department) were incorrectly recording their labor costs, resulting in FirstEnergy Service Company including such costs to FirstEnergy transmission affiliates, who in turn charged their customers.²⁹

FERC's audit gives the clearest picture yet of the ongoing FirstEnergy misdeeds involving H.B. 6. The documents provided by FirstEnergy to FERC should be analyzed and thoroughly reviewed by the parties to this case and other cases involving the H.B. 6 investigation. Significantly, FirstEnergy Corp., in large part, does not appear to be contesting the FERC findings and its recommendations for improvement. The documents FirstEnergy provided to FERC are therefore highly relevant to this case.

2. The documents FirstEnergy produced for the FERC audit are not covered by any privilege now that the audit is concluded.

In Section A, above, OCC presented the applicable statutes that cover the confidentiality of information presented to FERC. OCC provided these statutes to demonstrate that the FirstEnergy Utilities lack standing to raise the confidentiality issue. The statutes also demonstrate that the documents FirstEnergy produced to FERC are not confidential in any sense now that the FERC audit has been concluded. The Attorney Examiner correctly concluded that there would be no violation of the Federal Power Act

²⁷ *Id.* at 50-51.

²⁸ *Id.* at 51.

²⁹ *Id.* at 51-52.

by granting OCC's motions to compel. OCC sought disclosure from the FirstEnergy Utilities, not FERC Staff.

As discussed in Section III.B, above, the FirstEnergy Utilities have not cited to *any* authority to support their position of keeping documents FirstEnergy Corp and its subsidiaries gave to FERC from the public now that the FERC audit has been concluded.

In fact, Attorney Examiner Price should have allowed OCC to obtain these documents when OCC initially requested them in 2021, without requiring OCC to wait until the audit was completed. In any event, Examiner Megan Addison certainly issued the correct ruling at this time now that the FERC audit is complete. The PUCO should therefore deny the FirstEnergy Utilities' Interlocutory Appeal.

IV. CONCLUSION

The PUCO should affirm Examiner Megan Addison's ruling or dismiss FirstEnergy's interlocutory appeal, per O.A.C. 4901-1-15(E)(1) and (2). The PUCO Examiner's ruling and more like it are needed to shine a light on FirstEnergy toward getting to truth and justice for millions of Ohioans.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Memorandum Contra was served on the persons stated below via electronic transmission, this 21st day of March 2022.

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