

**IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO**

**JENIFER FRENCH, CHAIR OF THE** : Case No.  
**PUBLIC UTILITIES COMMISSION OF** :  
**OHIO,** :  
180 East Broad Street :  
Columbus, Ohio 43215 :  
: Petitioner, :

v. :

**JOEL BAILEY,** :  
c/o Ralph E. Cascarilla :  
Walter I Haverfield LLP :  
1500 West 3rd Street, Suite 300 :  
Cleveland, OH 44113-1467 :  
Counsel for Joel Bailey :

**JUSTIN BILTZ,** :  
c/o Ralph E. Cascarilla :  
Walter I Haverfield LLP :  
1500 West 3rd Street, Suite 300 :  
Cleveland, OH 44113-1467 :  
Counsel for Justin Biltz :

**DENNIS CHACK,** :  
c/o Eric W. Sitarchuk :  
Morgan, Lewis & Bockius LLP :  
2222 Market Street :  
Philadelphia, PA 19103-3007 :  
Counsel for Dennis Chack :

And :

**TY PINE,** :  
c/o John R. Mitchell :  
Taft Stettinius & Hollister LLP :  
200 Public Square, Suite 3500 :  
Cleveland, OH 44114-2302 :  
Counsel for Ty Pine :

Respondents. :

**APPLICATION OF PETITIONER JENIFER FRENCH, CHAIR OF THE PUBLIC UTILITIES  
COMMISSION OF OHIO  
TO COMPEL PUCO HEARING TESTIMONY PURSUANT TO R.C. 4903.04**

For her Application to Compel PUCO Hearing Testimony, Petitioner Jenifer French, Chair of the Public Utilities Commission of Ohio, by and through counsel at the Ohio Attorney General’s Office, states as follows:

**PARTIES**

1. Petitioner is the Chair of the Public Utilities Commission of Ohio (“PUCO” or “Commission”). Pursuant to R.C. 4903.04, the Chair of the PUCO has authority to apply on behalf of the PUCO for an order compelling the PUCO hearing testimony of Joel Bailey, Justin Biltz, Dennis Chack, and Ty Pine, subject to the Respondents’ immunity protections contained in R.C. 4903.08. The PUCO is vested with the power and jurisdiction to supervise and regulate public utilities pursuant to R.C.4905.04.

2. Respondent Joel Bailey is a natural person residing at 2127 Pilgrim Way, Akron, Ohio 44313.

3. Respondent Justin Biltz is a natural person residing at 5524 Timberline Trail, Hudson, Ohio 44236.

4. Respondent Ty Pine is a natural person residing at 2630 Henthorn Road, Columbus, Ohio 43221.

5. Respondent Dennis Chack is a natural person residing at 2510 Glenshire Circle, Uniontown, Ohio 44685.

6. Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, “Ohio Companies”) are electric distribution utilities, as defined by R.C. 4928.01(A)(6), and public utilities, as defined in R.C. 4905.02.

The corporate parent of the Ohio Companies is FirstEnergy Corporation (“FE Corp”).

**JURISDICTION AND VENUE**

7. This is an action to compel the PUCO hearing testimony of Joel Bailey, Justin Biltz, Dennis Chack, and Ty Pine and provide these four witnesses immunity for their compelled PUCO hearing testimony pursuant to R.C. 4903.08. R.C. 4903.08 states:

No person shall be excused from testifying or from producing accounts, books, and papers, in any hearing before the public utilities commission any public utilities commissioner, or any person appointed by the commission to investigate any matter under its jurisdiction, on the ground or for the reason that

the testimony or evidence might tend to incriminate him, or subject him to a penalty or forfeiture. No such person shall be prosecuted or subjected to any penalty or forfeiture on account of, any transaction or matter concerning which he has testified or produced any documentary evidence. No person so testifying shall be exempted from prosecution or punishment for perjury in so testifying.

8. This Court has subject matter jurisdiction over this action filed by the Ohio Attorney General’s Office on behalf of the Petitioner pursuant to R.C. 4903.04. R.C. 4903.04 states:

If a person disobeys an order of the public utilities commission or a public utilities commissioner, or a subpoena, or if a witness refuses to testify to any matter regarding which he may be lawfully interrogated, the court of common pleas of a county or a judge of such court, on application of a commissioner, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. The commission also shall have the powers vested in notaries public to compel witnesses to testify and to produce books and papers.

9. This Court has personal jurisdiction over all parties to this action pursuant to R.C. 2307.382.

10. Venue is proper in this Court pursuant to Ohio Civ.R. 3 because this cause of action originated in PUCO Case No. 17-974-EL-UNC, which is an open and active case proceeding and has been consolidated in accordance with the Administrative Law Judge’s (“ALJ”) November 22, 2024, ruling regarding PUCO Case Nos. 17-2474-EL-RDR and 20-1629-EL-RDR. While Case No. 20-1502-EL-UNC was not consolidated with the other three proceedings, all four cases remain collectively known as the “*FirstEnergy Investigation Cases*” and the ALJ again noted the prior instruction that “administrative notice of evidence produced in one proceeding will be taken in the other *FirstEnergy Investigation Cases*.” PUCO Case No. 17-974-EL-UNC, Entry at ¶3 and 10 (November 22, 2024) (internal quotations omitted). The offices of the PUCO are located in Franklin County, Ohio, where it conducts its regulatory business.

**STATEMENT OF FACTS**

11. On April 12, 2017, in exercise of its authority to supervise public utilities pursuant to R.C. 4905.04, the PUCO initiated proceedings captioned *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*, PUCO Case No. 17-974-EL-UNC ("Corporate Separation Case") with the purpose of reviewing the Ohio Companies' compliance with the corporate separation rules set forth in Ohio Adm.Code Chapter 4901:1-37.

12. Numerous entities sought and have been granted leave to intervene in the Corporate Separation Case. The Ohio Consumer's Counsel ("OCC") was among the intervenors. As permitted under the PUCO rules, the intervenors have pursued discovery from the Ohio Companies, FE Corp, and numerous current and former employees of these entities.

13. On May 14, 2018, an external auditor selected by the PUCO issued a final report of its audit findings in the Corporate Separation Case. The report included findings related to FE Corp's affiliate, FirstEnergy Solutions Corp. ("FES").

14. In their comments on the auditor's report, the Ohio Companies noted that FES filed a voluntary petition in the United States Bankruptcy Court for relief pursuant to Chapter 11 of Title 11 of the United States Code.

15. Further proceedings in the Corporate Separation Case were deferred until March of 2020 awaiting resolution of FES' bankruptcy proceeding.

16. On July 16, 2020, the Office of the United States Attorney for the Southern District of Ohio (the "U.S. Attorney") filed a criminal indictment against Larry Householder, Jeffrey Longstreth, Neil Clark, Matthew Borges, Juan Cespedes, and Generation Now alleging a RICO conspiracy, among other things, related to activities connected to the passage of Ohio House Bill 6 and the subsequent referendum.

17. At the OCC's request, the Commission expanded its investigation and audit in the Corporate Separation Case to include activities related to the passage of H.B. 6 and the referendum. The Commission also opened a new proceeding on September 15, 2020, specifically to review the Ohio Companies' political and charitable spending related to H.B. 6 and the referendum (PUCO Case No. 20-1502-EL-UNC). Two other PUCO proceedings may also cover H.B. 6 and related issues: PUCO Case Nos. 17-2472 and 20-1629-EL-UNC.

The Commission has recognized the potential for overlap of these proceedings and permitted administrative notice of evidence across the *FirstEnergy Investigation Cases*.

18. On October 29, 2020, FE Corp filed a Form 8-K with the United States Securities and Exchange Commission reporting the termination of certain officers and appointment of a new interim chief executive officer. The Form 8-K further stated that, during the course of FE Corp's internal investigation related to ongoing government investigations, the Independent Review Committee of the Board of Directors determined that each of the terminated executives violated certain FE Corp policies and its code of conduct.

19. Considering the disclosures in FE Corp's Form 8-K, the PUCO selected a second auditor to perform further review of the Ohio Companies' compliance with R.C. 4928.17 and the Ohio Companies' Commission-approved corporate separation plans for the period between November 1, 2016, and October 31, 2020. The final audit report from the second auditor was filed on September 13, 2021.

20. Concurrent with the Commission's review, the U.S. Attorney was conducting an ongoing investigation into alleged corruption relating to Am. Sub. H.B. 6 and action through the PUCO, resulting in a Deferred Prosecution Agreement with FE Corp and several criminal indictments and convictions.

21. On August 16, 2022, the U.S. Attorney filed a letter in the Corporate Separation Case requesting that the PUCO stay the case for six months, citing concern that continued discovery may directly interfere with or impede the United States' ongoing investigation into corruption relating to Am. Sub. H.B. 6. The PUCO granted the U.S. Attorney's request and stayed the case. The U.S. Attorney renewed its request for a six-month stay multiple times. Each time the PUCO complied with the request and extended the stay.

22. On December 4, 2023, the U.S. Attorney's Office filed an 11-count indictment against former PUCO Chair Samuel Randazzo alleging violations of the laws of the United States related to his activities connected to H.B. 6 and his service on the PUCO.

23. The last request from the U.S. Attorney to stay the case expired in February 2024, and the U.S. Attorney did not renew the request.

24. On February 9, 2024, the Ohio Attorney General filed a criminal indictment in the Summit County Court of Common Pleas against Randazzo, Michael J. Dowling (former Senior Vice President of External Affairs for FE Corp), Charles E. Jones (former CEO of FE Corp), and two related business entities alleging various acts of bribery, theft, and fraud.

25. On February 21, 2024, the PUCO issued an entry lifting the stay in the Corporate Separation Case.

26. On May 22, 2024, the PUCO issued subpoenas requested by OCC in the Corporate Separation Case for the deposition testimony of Respondents Joel Bailey, Justin Biltz, Dennis Chack, and Ty Pine.

27. The PUCO issued the deposition subpoenas upon motions filed by OCC, which asserted that the testimony of the former officers of FE Corp is highly relevant to the PUCO's determination of the Ohio Companies' compliance with the corporate separation rules set forth under Ohio Adm.Code Chapter 4901:1-37.

28. The depositions of Respondents Joel Bailey and Justin Biltz were scheduled to proceed on November 13, 2024, and November 14, 2024, respectively. The day before the first deposition, counsel for these two Respondents filed a memorandum of law noting that both Mr. Bailey and Mr. Biltz intended to assert their Constitutional rights as enumerated in the Fifth Amendment to the United States Constitution and Article 1, Section 10 of the Ohio Constitution at their scheduled depositions because, according to their counsel, the requirements of R.C. 4903.08 had not been fully satisfied, these witnesses had not been properly immunized, and thus, any deposition testimony that was given could subject these witnesses to federal and state criminal prosecution.

29. On November 19, 2024, counsel for Respondent Ty Pine made a similar filing of a memorandum of law a day before his scheduled November 20, 2024, deposition, indicating that he also intended to assert his Constitutional rights as enumerated in the Fifth Amendment to the United States Constitution and Article 1, Section 10 of the Ohio

Constitution at his deposition because the requirements for a grant of immunity pursuant to R.C. 4903.08 had not been fully perfected.

30. On November 22, 2024, the ALJ issued an Entry in PUCO Case No. 17-974-EL-UNC consolidating the bifurcated portion of PUCO Case No. 17-974-EL-UNC with PUCO Case Nos. 17-2474-EL-RDR and 20-1629-EL-RDR for purposes of a hearing. The ALJ noted, “[w]hile Case No. 20-1502-EL-UNC has not been consolidated with these proceedings, the ALJ again notes the prior instruction that ‘administrative notice of evidence produced in one proceeding’ will be taken in the other *FirstEnergy Investigation Cases*.”

31. On December 4, 2024, the PUCO issued an entry directing the Ohio Attorney General to “initiate the appropriate judicial proceedings regarding the testimony of Mr. Bailey, Mr. Biltz, and Mr. Pine, pursuant to R.C. 4903.04.” See PUCO Entry attached as Exhibit 1 at ¶ 24. The PUCO also instructed the Ohio Attorney General to initiate judicial proceedings regarding the testimony of Mr. Chack, Mr. Strah, and Mr. Reffner should they invoke their Constitutional rights as enumerated in the Fifth Amendment to the United States Constitution and Article 1, Section 10 of the Ohio Constitution at their subsequent depositions. *Id.*

32. On December 5, 2024, counsel for Respondent Dennis Chack filed a memorandum of law days before his scheduled December 11, 2024, deposition, indicating that he also intended to assert his Constitutional rights as enumerated in the Fifth Amendment to the United States Constitution and Article 1, Section 10 of the Ohio Constitution at his deposition because the immunity grant of R.C. 4903.08 had not been fully perfected.

33. The depositions of Respondents Bailey, Biltz, Pine, and Chack proceeded on various dates, all four appeared for deposition, and all four invoked their Constitutional rights as enumerated in the Fifth Amendment to the United States Constitution and Article 1, Section 10 of the Ohio Constitution.

34. On January 17, 2025, the U.S. Attorney's Office filed an indictment against Jones and Dowling alleging violations of the laws of the United States committed during the enactment of H.B. 6 and in their interactions with Randazzo.

35. On February 18, 2025, counsel for PUCO Staff filed with the PUCO a motion to request that the Commission call a hearing in this matter for the limited purpose of taking hearing testimony from the four witnesses who had previously asserted their Constitutional rights as enumerated in the Fifth Amendment to the United States Constitution and Article 1, Section 10 of the Ohio Constitution. The motion was filed after consultation and agreement between counsel for the PUCO Staff, the attorneys for the four witnesses and counsel for OCC, that, if granted, the process will establish the predicate for, and will simplify, seeking a court order pursuant to R.C. 4903.04 compelling these witnesses' hearing testimony if these witnesses were first called to testify at a hearing before the Commission. Counsel also agreed that if this step was completed before the Commission seeks an order compelling hearing testimony, the four witnesses agreed not to oppose the application and to accept an Agreed Order compelling their hearing testimony pursuant to R.C. 4903.04, subject to the immunity provisions contained in R.C. 4903.08.

36. On February 26, 2025, the ALJ issued an Entry in Case No. 17-974-EL-UNC granting Staff's motion and scheduling a hearing on March 13, 2025. On the same date, the ALJ issued subpoenas requiring the appearance of Respondents Bailey, Biltz, Pine and Chack at that hearing. See the certified copies of the Subpoenas attached as Exhibits 2-5.

37. On March 13, 2025, the hearing was held, and the Respondents appeared, and again asserted their Constitutional rights as enumerated in the Fifth Amendment to the United States Constitution and Article 1, Section 10 of the Ohio Constitution. See the certified copy of the transcript of the hearing attached as Exhibit 6.

#### **APPLICATION**

38. The Petitioner incorporates by reference the foregoing Statement of Facts as if completely rewritten herein.

39. Respondents have refused to testify on matters regarding which they may be lawfully interrogated by asserting their Constitutional rights as enumerated in the Fifth Amendment to the United States Constitution and Article 1, Section 10 of the Ohio Constitution.

40. The Petitioner hereby applies to this Court for an order compelling Respondents' obedience pursuant to R.C. 4903.04, subject to the immunity provisions contained in R.C. 4903.08.

41. Petitioner and counsel for each Respondent have agreed to the terms of the attached proposed Agreed Order compelling Respondents to testify at a hearing before the Commission.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner Jenifer French, Chair of the Public Utilities Commission of Ohio requests that this Court grant the following relief:

- A. An order, as provided in R.C. 4903.08, granting Joel Bailey, Justin Biltz, Dennis Chack, and Ty Pine the broadest possible immunity from any prosecution for any hearing testimony they provide in any PUCO hearing in PUCO Case Nos. 17-974-EL-UNC, 17-2474-EL-RDR, 20-1629-EL-RDR, and 20-1502-EL-UNC; and
- B. An order, as provided for in R.C. 4903.04, compelling Respondents to provide hearing testimony or, if they refuse to testify in spite of a grant of immunity pursuant to R.C. 4903.08, appear at a later hearing in front of this Court to determine why Respondents should not be found in contempt for the invocation of their Constitutional rights as enumerated in the Fifth Amendment to the United States Constitution and Article 1, Section 10 of the Ohio Constitution and subsequent refusal to testify.

Respectfully submitted,

**David Yost**  
Attorney General

**John H. Jones**  
Section Chief

/s/ Thomas G. Lindgren

**Thomas G. Lindgren** (0039210)

**Julian P. Johnson** (0101554)

Assistant Attorneys General

Public Utilities Section

30 E. Broad St., 16<sup>th</sup> Floor

Columbus, OH 43215

Tel.: (614) 466-4395

Fax: (614) 644-8764

[Thomas.Lindgren@OhioAGO.gov](mailto:Thomas.Lindgren@OhioAGO.gov)

[Julian.Johnson@OhioAGO.gov](mailto:Julian.Johnson@OhioAGO.gov)

*Counsel for Petitioner Jenifer French,  
Chair of the  
Public Utilities Commission of Ohio*

**SERVICE**

A copy of the foregoing APPLICATION OF PETITIONER JENIFER FRENCH, CHAIR OF THE PUBLIC UTILITIES COMMISSION OF OHIO TO COMPEL PUCO HEARING TESTIMONY PURSUANT TO R.C. 4903.04, has been served on counsel for the witnesses with the witnesses' consent via email this 11<sup>th</sup> day of April, 2025 on the following counsel for Joel Bailey, Justin Biltz, Dennis Chack, and Ty Pine:

**On behalf of JOEL BAILEY,**  
Ralph E. Cascarilla  
Walter I Haverfield LLP  
1500 West 3rd Street, Suite 300  
Cleveland, OH 44113-1467  
Counsel for Joel Bailey

**On behalf of JUSTIN BILTZ,**  
Ralph E. Cascarilla  
Walter I Haverfield LLP  
1500 West 3rd Street, Suite 300  
Cleveland, OH 44113-1467  
Counsel for Justin Biltz

**On behalf of DENNIS CHACK,**  
Eric W. Sitarchuk  
Morgan, Lewis & Bockius LLP  
2222 Market Street  
Philadelphia, PA 19103-3007  
Counsel for Dennis Chack

And

**On behalf of TY PINE,**  
John R. Mitchell  
Taft Stettinius & Hollister LLP  
200 Public Square, Suite 3500  
Cleveland, OH 44114-2302  
Counsel for Ty Pine

*/s/ Thomas G. Lindgren* \_\_\_\_\_

Thomas G. Lindgren (0039210)

Julian P. Johnson (0101554)

*Counsel for Petitioner Jenifer French,  
Chair of the  
Public Utilities Commission of Ohio*



**Public Utilities  
Commission**

**PUCO.Ohio.gov**

Mike DeWine, Governor Jon Husted, Lt. Governor Jenifer French, Chair

***Certification***

The below-signed Secretary or Acting Secretary duly appointed and qualified official of the **Public Utilities Commission of Ohio**, in whose custody the books, papers, records, documents and files of said Commission are kept certifies that the attached is a full, true, correct and complete copy of:

Case No.	Description of Document	Date Filed
17-0974-EL-UNC	ENTRY DIRECTING THE OFFICE OF THE OHIO ATTORNEY GENERAL TO SEEK AN ORDER COMPELLING TESTIMONY FROM CERTAIN INDIVIDUALS THAT HAVE BEEN ISSUED SUBPOENAS IN THIS PROCEEDING, OR OTHER JUDICIAL RELIEF AS MAY BE DEEMED APPROPRIATE. FURTHER, THE COMMISSION GRANTS THE REQUEST OF THE OHIO ATTORNEY GENERAL REGARDING THE TESTIMONY OF EILEEN MIKKELSEN, ELECTRONICALLY FILED BY MS. MARY E. FISCHER ON BEHALF OF PUBLIC UTILITIES COMMISSION OF OHIO.	December 4, 2024

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed the official seal of the **PUBLIC UTILITIES COMMISSION OF OHIO**,  
This 26th day of December, 2024.

Tanowa Troupe, Secretary  
Public Utilities Commission of Ohio

Michelle Green, Acting Secretary  
Brian James, Acting Secretary  
Robert Fadley, Acting Secretary  
Public Utilities Commission of Ohio

**Commissioners**  
Daniel R. Conway  
Dennis P. Deters  
Lawrence K. Friedman  
John D. Williams

180 East Broad Street  
Columbus, OH 43215 U.S.A.

800 | 686 7826  
puc.ohio.gov

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER 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

Entered in the Journal on December 4, 2024

## I. SUMMARY

{¶ 1} The Commission directs the Office of the Ohio Attorney General to seek an order compelling testimony from certain individuals that have been issued subpoenas in this proceeding, or other judicial relief as may be deemed appropriate. Further, the Commission grants the request of the Ohio Attorney General regarding the testimony of Eileen Mikkelsen.

## II. DISCUSSION

A. *Procedural History*

{¶ 2} Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively, FirstEnergy or the Companies) are electric distribution utilities, as defined by R.C. 4928.01(A)(6), and public utilities, as defined in R.C. 4905.02, and, as such, are subject to the jurisdiction of this Commission.

{¶ 3} The Commission issued an Entry on February 21, 2024, lifting the then-existing stay and instructing the administrative law judges (ALJ) to issue procedural schedules in Case Nos. 17-974-EL-UNC, 17-2474-EL-RDR, 20-1502-EL-UNC, and 20-1629-EL-RDR (collectively, the *FirstEnergy Investigation Cases*).

17-974-EL-UNC

-2-

{¶ 4} On February 26, 2024, the ALJ issued procedural schedules in the *FirstEnergy Investigation Cases*, pursuant to the Commission's directives.

{¶ 5} On March 4, 2024, Ohio Consumers' Counsel (OCC) and Ohio Manufacturers' Association Energy Group jointly filed an interlocutory appeal of the February 26, 2024 Entry and request for certification to the Commission. The Companies and Northeast Ohio Public Energy Council filed responsive memoranda to the interlocutory appeal.

{¶ 6} By Entry issued March 15, 2024, the ALJ denied certification of the interlocutory appeal. The ALJ also vacated the hearing date and testimony filing deadlines established in the February 26, 2024 Entry. Further, parties were directed to provide discovery status updates consistent with the Entry.

{¶ 7} On February 29, 2024, in Case No. 20-1502-EL-UNC (*Political and Charitable Spending Audit*), OCC filed a notice that it would be withdrawing its request for a subpoena duces tecum for Charles E. Jones, which was filed on July 7, 2022, and subsequently signed by the ALJ on August 11, 2022.

{¶ 8} Additionally on February 29, 2024, the Office of the Ohio Attorney General (Attorney General) filed a letter in the *FirstEnergy Investigation Cases*, alerting the Commission of a potential issue with the resumption of those proceedings. The Attorney General cited R.C. 4903.08, which states in pertinent part: "No such person shall be prosecuted or subjected to any penalty or forfeiture on account of, any transaction or matter concerning which he has testified or produced any documentary evidence." Given the potential implications of this statute, the Attorney General requested that no subpoenas for Samuel Randazzo, Charles Jones, and Michael Dowling be enforced while the criminal proceedings remain pending.

{¶ 9} On March 1, 2024, the ALJ issued an Entry granting the limited request of the Attorney General and instructing that parties in this proceeding were precluded from

17-974-EL-UNC

-3-

taking the testimony of, or requiring the production of documents from, Charles Jones, Michael Dowling, and Samuel Randazzo in any Commission proceeding during the pendency of the criminal investigations.

{¶ 10} On May 22, 2024, the ALJ signed subpoenas requested by OCC, directing the testimony of the following individuals in this proceeding: Joel Bailey, Justin Biltz, Dennis Chack, Ty Pine, Eileen Mikkelsen, Steven Strah, and Robert Reffner.

{¶ 11} On June 21, 2024, the ALJ set a new procedural schedule that, among other items, set the evidentiary hearing to commence on October 9, 2024, and limited the scope of that hearing. The hearing was held as scheduled.

{¶ 12} Notices of deposition were subsequently filed for the individuals listed in Paragraph 10, with the first of those to occur on November 13, 2024. Later, on November 15, 2024, OCC provided notice that the deposition of Eileen Mikkelsen, originally scheduled for December 5, 2024, had been cancelled.

{¶ 13} On November 12, 2024, counsel for Mr. Bailey and Mr. Biltz filed a memorandum, noting that both individuals intended to invoke the privilege against self-incrimination at their scheduled depositions.

{¶ 14} On November 13, 2024, during the scheduled deposition of Mr. Bailey, he did invoke the privilege and the ALJ was requested to join to address various arguments raised by the parties, primarily in relation to the November 12, 2024 memorandum. The ALJ deferred ruling and instead invited parties to respond to the memorandum in writing.<sup>1</sup>

{¶ 15} On November 19, 2024, counsel for Ty Pine made a similar filing indicating he was intending to invoke the privilege against self-incrimination for the same reasons noted above. At his deposition the next day, November 20, 2024, Mr. Pine also invoked the

---

<sup>1</sup> While the ALJ was not called upon to join the deposition on November 14, 2024, subsequent filings in this proceeding confirm Mr. Biltz also invoked the privilege against self-incrimination at his deposition.

17-974-EL-UNC

-4-

privilege and the ALJ was once again requested to join the deposition and provided parties the same opportunity to respond to the memorandum.

{¶ 16} Timely responses to both memorandums were filed by OCC, and replies were filed by counsel for the noted deponents.<sup>2</sup>

{¶ 17} By correspondence filed on November 18, 2024, the Attorney General filed an additional letter acknowledging the scheduled depositions for the individuals listed in Paragraph 10. Given the potential implications of R.C. 4903.08, the Attorney General requested that Ms. Mikkelsen not be compelled to testify to avoid triggering the statutory immunity provision in R.C. 4903.08.<sup>3</sup>

{¶ 18} Further, by Entry issued November 22, 2024, the bifurcated portion of this proceeding was consolidated with Case Nos. 17-2474-EL-RDR and 20-1629-EL-RDR for purposes of hearing. The hearing is currently scheduled to commence on February 3, 2025. Entry (Nov. 22, 2024).

### *B. Summary of Pleadings*

{¶ 19} As noted above, counsel for Joel Bailey, Justin Blitz, and Ty Pine (collectively, deponents) filed memoranda on behalf of their clients to notify OCC of their intention to invoke the privilege against self-incrimination under the 5th Amendment of the U.S. Constitution and Art. I, § 10 of the Ohio Constitution, which they all subsequently did at the scheduled depositions. The Fifth Amendment to the United States Constitution and the Ohio Constitution's equivalent provide that "[n]o person . . . shall be compelled in any criminal case to be a witness against himself. U.S. Const. Amend. V; Ohio Const., Art. I §

---

<sup>2</sup> OCC filed a response to Mr. Bailey and Mr. Biltz' memorandum of law on November 19, 2024, to which counsel for Mr. Bailey and Mr. Biltz filed a reply on November 21, 2024. OCC filed a response to Mr. Pine's memorandum of law on November 26, 2024, to which counsel for Mr. Pine filed a reply on December 2, 2024.

<sup>3</sup> The letter is signed by the Deputy Attorney General for Law Enforcement, Carol Hamilton O'Brien, Principal Attorney General, Matthew E. Meyer, and Chief Counsel for the Summit County Prosecutor's Office, Brad Gessner.

17-974-EL-UNC

-5-

10. According to their counsel, the deponents will receive immunity from prosecution for violations of Ohio law resulting from their testimony before the Commission, pursuant to R.C. 4903.08; however, none of the deponents have been provided similar immunity or non-prosecution assurances from federal prosecution concerning matters related to FirstEnergy Corp. or HB 6. Counsel goes on to argue that both state and federal courts have generally held that where full statutory immunity has been conferred "... and where such immunity is full and complete by preventing prosecutions against the witness 'on account of any transaction, matter or thing' testified to, such witness may be compelled to testify and be guilty of contempt in refusing to do so." *Mouser v. Pub. Utilities Comm'n of Ohio*, 124 Ohio St. 425, 428-30 (1931). While deponents will receive transactional immunity pursuant to R.C. 4903.04 and R.C. 4903.08 from subsequent prosecution for violations of Ohio law related to the subject matter of their testimony or the production of documentary evidence before the Commission, counsel for deponents note that they must also receive immunity from potential violations of federal law, "for the grant of immunity [will remove] the dangers against which the privilege protects." *Grunewald v. United States*, 353 U.S. 391, 448-50 (1957), citing *Brown v. Walker*, 161 U.S. 591, 600 (1896); see also *Kastigar v. United States*, 406 U.S. 441, 444 (1972). Importantly, and similar to the Ohio statute cited above, counsel notes that, pursuant to 18 U.S.C. § 6002, no compelled testimony may be used against a witness in a subsequent federal criminal case. Further, counsel claims that, although FirstEnergy Corp. entered into a Deferred Prosecution Agreement with the U.S. Attorney's Office for the Southern District of Ohio, that "... Agreement does not provide any protection against prosecution of any individuals, regardless of their affiliation with FirstEnergy Corp. or with any of its present or former parents or subsidiaries." *United States v. Householder*, S.D. Ohio No. 1:20-CR-00077, Deferred Prosecution Agreement (July 22, 2021) at 5. As such, counsel argues that the deponents must be compelled to testify in order to receive adequate protection from the use against them of their testimony before the Commission in any subsequent federal prosecution. *State v. Neff*, 1999-Ohio-875, (3d Dist.) \*10-11, citing *Murphy v. Waterfront Comm'n of New York Harbor*, 378 U.S. 52, 79 (1964). Accordingly, counsel suggests that the Commission "should make a motion to the Franklin County Court of

17-974-EL-UNC

-6-

Common Pleas asking that it order [the deponents] to testify notwithstanding their claims of privilege.”

{¶ 20} In its responses, OCC acknowledges that the deponents all asserted their right against self-incrimination and declined to answer questions posed during the scheduled depositions. OCC agrees that the Commission should, consistent with R.C. 4903.04, file a motion to compel the deponents’ testimony at the Franklin County Court of Common Pleas, which would provide them immunity for federal prosecution and allow their deposition testimony to proceed. OCC notes that R.C. 4903.04 provides that, “[i]f a person disobeys an order of the . . . commission or a public utilities commissioner, or a subpoena, or if a witness refuses to testify to any matter regarding which he may be lawfully interrogated, the court of common pleas of a county or a judge of such court, on application of a commissioner, shall compel obedience by attachment proceedings for contempt, as in the case of disobedience of the requirements of a subpoena issued from such court or a refusal to testify therein. The commission also shall have the powers vested in notaries public to compel witnesses to testify and to produce books and papers.” As the deponents have been served with valid Commission subpoenas, OCC maintains that the Commission should now take the necessary steps to enforce its subpoenas. OCC notes that the deponents have indicated they will honor the subpoenas and testify at deposition if they are compelled to do so by order of court.

{¶ 21} Counsel for the deponents respond by noting that OCC has misconstrued the statutory language, further arguing that the statutory immunity will only apply if they testify during a hearing before the Commission, rather than a deposition, consistent with the plain language of the statute. Counsel observes that the cases that discuss the immunity provided under R.C. 4903.08 involve testimony during hearings before Commission instead of depositions. See, e.g., *Mouser v. Pub. Utilities Comm’n of Ohio*, 124 Ohio St. 425 (1931); *Ohio Transp. v. Pub. Utilities Comm’n*, 164 Ohio St. 98 (1955). Mr. Pine’s counsel argues a deposition does not equate to a hearing pursuant to the statute, noting the plain meaning of both terms and prior case law also distinguishes one mechanism from the other. *In re Flint*

17-974-EL-UNC

-7-

*Water Cases*, 53 F.4th 176, 194-99 (6th Cir. 2022), reh'g denied, No. 22-1353, 2023 WL 370653 (6th Cir. Jan. 5, 2023). Finally, counsel for Mr. Bailey and Mr. Biltz note that the November 12, 2024 memorandum stated that they “will refuse to answer questions or produce information during their respective depositions on November 13-14, 2024 absent a compulsion order,” clarifying that this statement applied only to the depositions held on those dates. In order to secure the protection afforded by the plain language of R.C. 4903.08, counsel maintains that the deponents must testify at a hearing before the Commission if compelled by the Franklin Court of Common Pleas, pursuant to R.C. 4903.02 and R.C. 4903.04.

{¶ 22} OCC disputes the deponents’ assertion that R.C. 4903.08 only applies to hearings, further arguing that the Commission and the Attorney General’s filings in this proceeding confirm that the statute is applicable to depositions, as well.

{¶ 23} In reply, counsel for Mr. Pine argues that OCC presents no statutory language or case precedent in support of its theory that R.C. 4903.08 also applies to depositions. Instead, counsel contends that, as a creature of statute, the Commission must apply the plain meaning of the statute when interpreting R.C. 4903.08 and the statute expressly limits R.C. 4903.08’s application to a hearing, as opposed to pre-hearing discovery proceedings.

### *C. Commission Conclusion*

{¶ 24} Ohio Adm.Code 4901-1-25(G) permits the Commission to seek appropriate judicial relief, under R.C. 4903.02 and 4903.04, against any person who disobeys an order of the Commission, or a subpoena, or if a witness refuses to testify to any matter regarding which he may be lawfully interrogated. “Subpoenas issued by this Commission are legal orders and must be respected and obeyed in order for the Commission’s statutory responsibilities to be effectuated.” *In re the Complaint of David B. Roberts v. Ohio Water Service Co.*, Case No. 87-781-WW-CSS, Entry (Dec. 1, 1987). Moreover, the Commission has consistently stated that its “ongoing review of the Companies and their actions will continue

17-974-EL-UNC

-8-

to effectuate our goal, which is to protect the interests of all of the customers of all of the public utilities we regulate, and especially FirstEnergy's ratepayers. It is important that these proceedings move forward and provide answers, *but not at the expense of ensuring effective criminal prosecution and justice*. The Commission has not hesitated to follow the facts of these cases where they lead and has made rulings supporting, when legally appropriate, these facts to become public, . . . ." Entry (Aug. 24, 2022) at ¶ 86 (emphasis added). After careful consideration of the filed responses, we find it necessary to refer this matter to the Attorney General with instructions to seek the appropriate judicial relief. Accordingly, the Attorney General should initiate the appropriate judicial proceedings regarding the testimony of Mr. Bailey, Mr. Biltz, and Mr. Pine, pursuant to R.C. 4903.04. Further, with the observation that three additional depositions are currently scheduled and so as not to cause unnecessary delay, this instruction shall also apply to Mr. Chack, Mr. Strah, and Mr. Reffner, in the event that they subsequently invoke the privilege at a deposition for which they have already received notice to appear.

{¶ 25} Finally, consistent with prior precedent and the Commission's objective to not interfere with ongoing criminal proceedings, we find the limited request of the Attorney General to be reasonable and should be granted. Thus, no subpoenas requiring Eileen Mikkelsen to produce documents or testify in any Commission proceeding will be enforced during the pendency of the ongoing criminal proceedings. *FirstEnergy Investigation Cases*, Entry (Mar. 1, 2024) at ¶ 7. As such, parties are hereby precluded from taking or offering the testimony of Eileen Mikkelsen through deposition or other means, or requiring her to produce documents, in any Commission proceeding, until otherwise ordered.

### III. ORDER

{¶ 26} It is, therefore,

{¶ 27} ORDERED, That the Attorney General file an application in the appropriate Court of Common Pleas pursuant to R.C. 4903.04 and this Entry. It is, further,

17-974-EL-UNC

-9-

{¶ 28} ORDERED, That the request of the Attorney General be granted, in accordance with Paragraph 25. It is, further,

{¶ 29} ORDERED, That a copy of this Entry be served upon any counsel that has filed a notice of appearance on behalf of a non-party in this proceeding and all parties of record.

**COMMISSIONERS:**

*Approving:*

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

MJA/dmh

**This foregoing document was electronically filed with the Public Utilities  
Commission of Ohio Docketing Information System on  
12/4/2024 2:44:21 PM**

**in**

**Case No(s). 17-0974-EL-UNC**

Summary: Entry directing the Office of the Ohio Attorney General to seek an order compelling testimony from certain individuals that have been issued subpoenas in this proceeding, or other judicial relief as may be deemed appropriate. Further, the Commission grants the request of the Ohio Attorney General regarding the testimony of Eileen Mikkelsen. electronically filed by Ms. Mary E. Fischer on behalf of Public Utilities Commission of Ohio.



**Public Utilities Commission**

Mike DeWine, Governor

PUCO.Ohio.gov

Jenifer French, Chair

***Certification***

The below-signed Secretary or Acting Secretary duly appointed and qualified official of the **Public Utilities Commission of Ohio**, in whose custody the books, papers, records, documents and files of said Commission are kept certifies that the attached is a full, true, correct and complete copy of:

Case No.	Description of Document	Date Filed
17-0974-EL-UNC	TRANSCRIPT FOR HEARING HELD 10:16 A.M. THURSDAY, MARCH 13, 2025, AT THE PUBLIC UTILITIES COMMISSION OF OHIO, 180 EAST BROAD STREET, ROOM 11-A, COLUMBUS, OHIO BEFORE ADMINISTRATIVE LAW JUDGE'S MS. MEGAN ADDISON AND MS. JACKY WERMAN ST. JOHN FILED BY MR. KEN SPENCER ON BEHALF OF ARMSTRONG & OKEY, INC. AND MRS. KAREN SUE GIBSON.	April 1, 2025
17-0974-EL-UNC	SUBPOENA OF THE PUBLIC UTILITIES COMMISSION OF OHIO TO: JUSTIN BILTZ, TY R. PINE, JOEL BAILEY AND DENNIS CHACK ELECTRONICALLY FILED BY MS. DONIELLE M. HUNTER ON BEHALF OF JACKY WERMAN ST. JOHN, ADMINISTRATIVE LAW JUDGE, PUBLIC UTILITIES COMMISSION OF OHIO.	February 26, 2025

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed the official seal of the **PUBLIC UTILITIES COMMISSION OF OHIO**,  
This 2<sup>nd</sup> day of April 2025.

\_\_\_\_\_  
Tanowa Troupe, Secretary  
Public Utilities Commission of Ohio

*Michelle Green*  
\_\_\_\_\_  
Michelle Green, Acting Secretary  
Brian James, Acting Secretary  
Robert Fadley, Acting Secretary  
Public Utilities Commission of Ohio

**Commissioners**

- Daniel R. Conway
- Dennis P. Deters
- Lawrence K. Friedman
- John D. Williams

180 East Broad Street  
Columbus, OH 43215 U.S.A.

800 | 686 7826  
puc.ohio.gov

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER 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

SUBPOENA

TO:

Mr. Justin Biltz  
5524 Timberline Trl.  
Hudson, Ohio 44236

Upon application of Commission Staff, Mr. Justin Biltz, former lobbyist and Director of State Regulatory Affairs- Ohio of FirstEnergy, is hereby required to appear for hearing at 10:00 a.m. on March 13, 2025 at the offices of the Public Utilities Commission at 180 E. Broad Street, Floor 11, Columbus, Ohio 43215, as a witness in the above-captioned proceeding.

Dated at Columbus, Ohio, this 26th day of February, 2025.

  
\_\_\_\_\_  
Administrative Law Judge

NOTICE: If you are not a party or an officer, agent, or employee of a party to this proceeding, then witness fees for attending under this subpoena are to be paid by the party at whose request the witness is summoned. Every copy of this subpoena for the witness must contain this notice.



# Public Utilities Commission

PUCO.Ohio.gov

Mike DeWine, Governor

Jenifer French, Chair

## Certification

The below-signed Secretary or Acting Secretary duly appointed and qualified official of the **Public Utilities Commission of Ohio**, in whose custody the books, papers, records, documents and files of said Commission are kept certifies that the attached is a full, true, correct and complete copy of:

Case No.	Description of Document	Date Filed
17-0974-EL-UNC	TRANSCRIPT FOR HEARING HELD 10:16 A.M. THURSDAY, MARCH 13, 2025, AT THE PUBLIC UTILITIES COMMISSION OF OHIO, 180 EAST BROAD STREET, ROOM 11-A, COLUMBUS, OHIO BEFORE ADMINISTRATIVE LAW JUDGE'S MS. MEGAN ADDISON AND MS. JACKY WERMAN ST. JOHN FILED BY MR. KEN SPENCER ON BEHALF OF ARMSTRONG & OKEY, INC. AND MRS. KAREN SUE GIBSON.	April 1, 2025
17-0974-EL-UNC	SUBPOENA OF THE PUBLIC UTILITIES COMMISSION OF OHIO TO: JUSTIN BILTZ, TY R. PINE, JOEL BAILEY AND DENNIS CHACK ELECTRONICALLY FILED BY MS. DONIELLE M. HUNTER ON BEHALF OF JACKY WERMAN ST. JOHN, ADMINISTRATIVE LAW JUDGE, PUBLIC UTILITIES COMMISSION OF OHIO.	February 26, 2025

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed the official seal of the **PUBLIC UTILITIES COMMISSION OF OHIO**,  
This 2<sup>nd</sup> day of April 2025.

Tanowa Troupe, Secretary  
Public Utilities Commission of Ohio

Michelle Green, Acting Secretary  
Brian James, Acting Secretary  
Robert Fadley, Acting Secretary  
Public Utilities Commission of Ohio

**Commissioners**

- Daniel R. Conway
- Dennis P. Deters
- Lawrence K. Friedman
- John D. Williams

180 East Broad Street  
Columbus, OH 43215 U.S.A.

800 | 686 7826  
pucO.ohio.gov

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER 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

SUBPOENA

TO:

Mr. Ty R. Pine  
2630 Henthorn Road  
Columbus, Ohio 43221

Upon application of Commission Staff, Mr. Ty R. Pine, former lobbyist and Director of State Affairs of FirstEnergy, is hereby required to appear for hearing at 10:00 a.m. on March 13, 2025 at the offices of the Public Utilities Commission at 180 E. Broad Street, Floor 11, Columbus, Ohio 43215, as a witness in the above-captioned proceeding.

Dated at Columbus, Ohio, this 26th day of February, 2025.

  
\_\_\_\_\_  
Administrative Law Judge

NOTICE: If you are not a party or an officer, agent, or employee of a party to this proceeding, then witness fees for attending under this subpoena are to be paid by the party at whose request the witness is summoned. Every copy of this subpoena for the witness must contain this notice.



**Public Utilities Commission**

Mike DeWine, Governor

PUCO.Ohio.gov

Jenifer French, Chair

***Certification***

The below-signed Secretary or Acting Secretary duly appointed and qualified official of the **Public Utilities Commission of Ohio**, in whose custody the books, papers, records, documents and files of said Commission are kept certifies that the attached is a full, true, correct and complete copy of:

Case No.	Description of Document	Date Filed
17-0974-EL-UNC	TRANSCRIPT FOR HEARING HELD 10:16 A.M. THURSDAY, MARCH 13, 2025, AT THE PUBLIC UTILITIES COMMISSION OF OHIO, 180 EAST BROAD STREET, ROOM 11-A, COLUMBUS, OHIO BEFORE ADMINISTRATIVE LAW JUDGE'S MS. MEGAN ADDISON AND MS. JACKY WERMAN ST. JOHN FILED BY MR. KEN SPENCER ON BEHALF OF ARMSTRONG & OKEY, INC. AND MRS. KAREN SUE GIBSON.	April 1, 2025
17-0974-EL-UNC	SUBPOENA OF THE PUBLIC UTILITIES COMMISSION OF OHIO TO: JUSTIN BILTZ, TY R. PINE, JOEL BAILEY AND DENNIS CHACK ELECTRONICALLY FILED BY MS. DONIELLE M. HUNTER ON BEHALF OF JACKY WERMAN ST. JOHN, ADMINISTRATIVE LAW JUDGE, PUBLIC UTILITIES COMMISSION OF OHIO.	February 26, 2025

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed the official seal of the **PUBLIC UTILITIES COMMISSION OF OHIO**,  
This 2<sup>nd</sup> day of April 2025.

Tanowa Troupe, Secretary  
Public Utilities Commission of Ohio

Michelle Green, Acting Secretary  
Brian James, Acting Secretary  
Robert Fadley, Acting Secretary  
Public Utilities Commission of Ohio

**Commissioners**

- Daniel R. Conway
- Dennis P. Deters
- Lawrence K. Friedman
- John D. Williams

180 East Broad Street  
Columbus, OH 43215 U.S.A.

800 | 686 7826  
puc.ohio.gov

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER 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

SUBPOENA

TO:

Mr. Joel Bailey  
2127 Pilgrim Way  
Akron, Ohio 44313

Upon application of Commission Staff, Mr. Joel Bailey, former lobbyist and Vice President of State & Local Government Affairs & Economic Development of FirstEnergy, is hereby required to appear for hearing at 10:00 a.m. on March 13, 2025 at the offices of the Public Utilities Commission at 180 E. Broad Street, Floor 11, Columbus, Ohio 43215, as a witness in the above-captioned proceeding.

Dated at Columbus, Ohio, this 26<sup>th</sup> day of February, 2025.

  
Administrative Law Judge

NOTICE: If you are not a party or an officer, agent, or employee of a party to this proceeding, then witness fees for attending under this subpoena are to be paid by the party at whose request the witness is summoned. Every copy of this subpoena for the witness must contain this notice.



**Public Utilities Commission**

Mike DeWine, Governor

PUCO.Ohio.gov

Jenifer French, Chair

***Certification***

The below-signed Secretary or Acting Secretary duly appointed and qualified official of the **Public Utilities Commission of Ohio**, in whose custody the books, papers, records, documents and files of said Commission are kept certifies that the attached is a full, true, correct and complete copy of:

Case No.	Description of Document	Date Filed
17-0974-EL-UNC	TRANSCRIPT FOR HEARING HELD 10:16 A.M. THURSDAY, MARCH 13, 2025, AT THE PUBLIC UTILITIES COMMISSION OF OHIO, 180 EAST BROAD STREET, ROOM 11-A, COLUMBUS, OHIO BEFORE ADMINISTRATIVE LAW JUDGE'S MS. MEGAN ADDISON AND MS. JACKY WERMAN ST. JOHN FILED BY MR. KEN SPENCER ON BEHALF OF ARMSTRONG & OKEY, INC. AND MRS. KAREN SUE GIBSON.	April 1, 2025
17-0974-EL-UNC	SUBPOENA OF THE PUBLIC UTILITIES COMMISSION OF OHIO TO: JUSTIN BILTZ, TY R. PINE, JOEL BAILEY AND DENNIS CHACK ELECTRONICALLY FILED BY MS. DONIELLE M. HUNTER ON BEHALF OF JACKY WERMAN ST. JOHN, ADMINISTRATIVE LAW JUDGE, PUBLIC UTILITIES COMMISSION OF OHIO.	February 26, 2025

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed the official seal of the **PUBLIC UTILITIES COMMISSION OF OHIO**,  
This 2<sup>nd</sup> day of April 2025.

Tanowa Troupe, Secretary  
Public Utilities Commission of Ohio

Michelle Green, Acting Secretary  
Brian James, Acting Secretary  
Robert Fadley, Acting Secretary  
Public Utilities Commission of Ohio

**Commissioners**

- Daniel R. Conway
- Dennis P. Deters
- Lawrence K. Friedman
- John D. Williams

180 East Broad Street  
Columbus, OH 43215 U.S.A.

800 | 686 7826  
pucO.ohio.gov

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER 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

SUBPOENA

TO:

Mr. Dennis Chack  
2510 Glenshire Cir.  
Uniontown, Ohio 44685

Upon application of Commission Staff, Mr. Dennis Chack, former Senior Vice President of Product Development, Marketing, and Branding of FirstEnergy Corp., is hereby required to appear for hearing at 10:00 a.m. on March 13, 2025 at the offices of the Public Utilities Commission at 180 E. Broad Street, Floor 11, Columbus, Ohio 43215, as a witness in the above-captioned proceeding.

Dated at Columbus, Ohio, this 26<sup>th</sup> day of February, 2025.

  
Administrative Law Judge

NOTICE: If you are not a party or an officer, agent, or employee of a party to this proceeding, then witness fees for attending under this subpoena are to be paid by the party at whose request the witness is summoned. Every copy of this subpoena for the witness must contain this notice.



# Public Utilities Commission

PUCO.Ohio.gov

Mike DeWine, Governor

Jenifer French, Chair

## Certification

The below-signed Secretary or Acting Secretary duly appointed and qualified official of the **Public Utilities Commission of Ohio**, in whose custody the books, papers, records, documents and files of said Commission are kept certifies that the attached is a full, true, correct and complete copy of:

Case No.	Description of Document	Date Filed
17-0974-EL-UNC	TRANSCRIPT FOR HEARING HELD 10:16 A.M. THURSDAY, MARCH 13, 2025, AT THE PUBLIC UTILITIES COMMISSION OF OHIO, 180 EAST BROAD STREET, ROOM 11-A, COLUMBUS, OHIO BEFORE ADMINISTRATIVE LAW JUDGE'S MS. MEGAN ADDISON AND MS. JACKY WERMAN ST. JOHN FILED BY MR. KEN SPENCER ON BEHALF OF ARMSTRONG & OKEY, INC. AND MRS. KAREN SUE GIBSON.	April 1, 2025
17-0974-EL-UNC	SUBPOENA OF THE PUBLIC UTILITIES COMMISSION OF OHIO TO: JUSTIN BILTZ, TY R. PINE, JOEL BAILEY AND DENNIS CHACK ELECTRONICALLY FILED BY MS. DONIELLE M. HUNTER ON BEHALF OF JACKY WERMAN ST. JOHN, ADMINISTRATIVE LAW JUDGE, PUBLIC UTILITIES COMMISSION OF OHIO.	February 26, 2025

**IN TESTIMONY WHEREOF**, I have hereunto set my hand and affixed the official seal of the **PUBLIC UTILITIES COMMISSION OF OHIO**,  
This 2<sup>nd</sup> day of April 2025.

Tanowa Troupe, Secretary  
Public Utilities Commission of Ohio

Michelle Green, Acting Secretary  
Brian James, Acting Secretary  
Robert Fadley, Acting Secretary  
Public Utilities Commission of Ohio

**Commissioners**

- Daniel R. Conway
- Dennis P. Deters
- Lawrence K. Friedman
- John D. Williams

180 East Broad Street  
Columbus, OH 43215 U.S.A.

800 | 686 7826  
puc.ohio.gov

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

- - -

In the Matter of the Ohio :  
Edison Company, The :  
Cleveland Electric :  
Illuminating Company, and :  
The Toledo Edison : Case No. 17-974-EL-UNC  
Company's Compliance with :  
R.C. 4928.17 and Ohio Adm.:  
Code Chapter 4901:1-37. :

- - -

PROCEEDINGS

before Ms. Megan Addison and Ms. Jacky Werman St.  
John, Administrative Law Judges, at the Public  
Utilities Commission of Ohio, 180 East Broad Street,  
Room 11-A, Columbus, Ohio, called at 10:16 a.m. on  
Thursday, March 13, 2025.

- - -

ARMSTRONG & OKEY, INC.  
222 East Town Street, Second Floor  
Columbus, Ohio 43215-5201  
(614) 224-9481

- - -

1 APPEARANCES:

2 Jenner & Block LLP  
3 By Ms. Nicole A. Allen  
4 353 North Clark Street  
5 Chicago, Illinois 60654

6 On behalf of the Ohio Edison Company, The  
7 Cleveland Electric Company, and the  
8 Toledo Edison Company.

9 Maureen Willis, Ohio Consumers' Counsel  
10 By Mr. Donald Kral  
11 Mr. William Michael,  
12 and Mr. Thomas Brodbeck,  
13 Assistant Consumers' Counsel  
14 65 East State Street, 7th Floor  
15 Columbus, Ohio 43215

16 On behalf of the Residential Consumers of  
17 the Ohio Edison Company, The Cleveland  
18 Electric Company, and The Toledo Edison  
19 Company.

20 Bricker Graydon LLP  
21 By Mr. Dane Stinson  
22 100 South Third Street  
23 Columbus, Ohio 43215

24 On behalf of the Northeast Ohio Public  
25 Energy Council.

Carpenter Lipps LLP  
By Ms. Kimberly W. Bojko  
and Mr. Griffen H. Hess  
280 North High Street, Suite 1300  
Columbus, Ohio 43215

On behalf of the Ohio Manufacturers'  
Association Energy Group.

Interstate Gas Supply  
By Mr. Michael Nugent  
and Mr. Joseph Olikier  
6100 Emerald Parkway  
Dublin, Ohio 43016

On behalf of the Interstate Gas Supply.

- - -

1 APPEARANCES: (Continued)

2 Boehm, Kurtz & Lowry  
3 By Ms. Jody Kyler Cohn  
4 and Mr. Michael Kurtz  
5 425 Walnut Street, Suite 2400  
6 Cincinnati, Ohio 45202

7 On behalf of the Ohio Energy Group.

8 Sullivan & Cromwell LLP  
9 By Mr. Nicholas F. Menillo  
10 125 Broad Street  
11 New York, New York 10004

12 On behalf of the nonparty FirstEnergy  
13 Corp.

14 Morgan, Lewis & Brockius  
15 By Mr. Eric W. Sitarchuk (via Teams)  
16 2222 Market Street  
17 Philadelphia, Pennsylvania 19103

18 On behalf of the nonparty Dennis Chack.

19 Walter/Haverfield LLP  
20 By Mr. Ralph E. Cascarilla (via Teams)  
21 1500 West 3rd Street, Suite 300  
22 Cleveland, Ohio 44113

23 On behalf of the nonparties Joel Bailey  
24 and Justin Biltz.

25 Taft, Stettinius & Hollister LLP  
By Mr. John Mitchell (via Teams)  
200 Public Square, Suite 3500  
Cleveland, Ohio 44114

On behalf of the nonparty Ty Pine.

21 - - -

22  
23  
24  
25

1 APPEARANCES: (Continued)

2 Dave Yost, Ohio Attorney General  
3 John H. Jones, Section Chief  
4 Public Utilities Section  
5 By Mr. Thomas Lindgren  
6 and Mr. Julian Johnson,  
7 Assistant Attorneys General  
8 30 East Broad Street, 26th Floor  
9 Columbus, Ohio 43215

10 On behalf of the Staff of the PUCO.

11 - - -  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

INDEX

- - -

WITNESS	PAGE
Joel Bailey Cross-Examination by Mr. Michael	22
Dennis Chack Cross-Examination by Mr. Brodbeck	26
Justin Biltz Cross-Examination by Mr. Michael	29
Ty Pine Cross-Examination by Mr. Michael	32

- - -

1 Thursday Morning Session,  
2 March 13, 2025.

3 - - -

4 ALJ ADDISON: Let's go ahead and go on  
5 the record.

6 The Public Utilities Commission of Ohio  
7 calls for a hearing at this time and place Case  
8 No. 17-974-EL-UNC, being captioned in the Matter of  
9 the Ohio Edison Company, The Cleveland Electric  
10 Illuminating Company, and The Toledo Edison Company's  
11 Compliance with RC 4928.17 and Ohio Admin. Code  
12 Chapter 4901:1-37.

13 My name is Megan Addison and joining me  
14 virtually this morning is Jacky St. John, and we are  
15 the Administrative Law Judges assigned to preside  
16 over this hearing.

17 We will begin by taking appearances of  
18 the parties. If we could start with the Companies,  
19 work our way around the table, and then at that point  
20 we will allow counsel representing nonparties the  
21 opportunity to make an appearance after that.

22 MS. ALLEN: Good morning, your Honor.  
23 Nichole Allen, Jenner & Block, 353 North Clark  
24 Street, Chicago, Illinois 60654 on behalf of Ohio  
25 Edison Company, The Cleveland Electric Illuminating

1 Company, and The Toledo Edison Company.

2 MR. MENILLO: I am here for nonparty so.

3 ALJ ADDISON: Oh, thank you.

4 Mr. Michael.

5 MR. MICHAEL: Good morning, your Honor.

6 On behalf of FirstEnergy's residential utility  
7 consumers, the Office of the Ohio Consumers' Counsel,  
8 by Bill Michael, Tom Brodbeck, and Don Kral.

9 ALJ ADDISON: Thank you.

10 MR. STINSON: Thank you, your Honor. On  
11 behalf of the Northeast Ohio Public Energy Council,  
12 the law firm Bricker Graydon LLP by Dane Stinson, 100  
13 South Third Street, Columbus, Ohio 43215.

14 ALJ ADDISON: Thank you.

15 MS. COHN: Good morning, your Honor. On  
16 behalf of the Ohio Energy Group, Jody Kyler Cohn and  
17 Michael Kurtz from the law firm Boehm, Kurtz & Lowry,  
18 425 Walnut Street, Suite 2400, Cincinnati, Ohio  
19 45202.

20 ALJ ADDISON: Thank you.

21 MR. LINDGREN: Good morning, your Honor.  
22 On behalf of the Commission Staff, Ohio Attorney  
23 General Dave Yost by Thomas Lindgren and Julian  
24 Johnson, Assistant Attorneys General, at 30 East  
25 Broad Street, 26th Floor, Columbus, Ohio 43215.

1 ALJ ADDISON: Thank you.

2 MR. NUGENT: Good morning, your Honor.  
3 On behalf of the Interstate Gas Supply LLC, Michael  
4 Nugent and Joseph Olikier, 6100 Emerald Parkway,  
5 Dublin, Ohio 43016.

6 MR. HESS: Good morning, your Honor. On  
7 behalf of the Ohio Manufacturers' Association Energy  
8 Group, Griffen Hess and Kimberly Bojko from the law  
9 firm Carpenter Lipps LLP, 280 North High Street,  
10 Suite 1300, Columbus, Ohio 43215.

11 ALJ ADDISON: Thank you. At this time  
12 we'll allow counsel representing nonparties to make  
13 an appearance if they would like to do that at this  
14 point.

15 MR. MITCHELL: Good morning, your Honor.  
16 John Mitchell with the law firm Taft, Stettinius &  
17 Hollister on behalf of witness Ty Pine.

18 MR. CASCARILLA: Your Honor, good  
19 morning. This is Ralph Cascarilla on behalf of  
20 nonparty witnesses Joel Bailey and Justin Biltz. My  
21 law firm is Walter and Haverfield. It's located in  
22 Cleveland, Ohio.

23 MR. SITARCHUK: Good morning, your Honor.  
24 Eric Sitarchuk with Morgan, Lewis & Brockius on  
25 behalf of Mr. Chack.

1 MR. MENILLO: Good morning, your Honor.  
2 Nicholas Menillo from Sullivan & Cromwell LLP, 125  
3 Broad Street, New York, New York 10004 on behalf of  
4 nonparty FirstEnergy Corp.

5 ALJ ADDISON: Thank you. Thank you, all,  
6 again.

7 This hearing is being held pursuant to an  
8 entry issued February 26, 2025, which granted a  
9 motion filed by Staff requesting a hearing to be  
10 scheduled for the limited purpose of taking the  
11 testimony of Joel Bailey, Justin Biltz, Ty Pine, and  
12 Dennis Chack, all of who have previously asserted  
13 their privilege against self-incrimination under the  
14 Fifth Amendment to the United States Constitution and  
15 declined to answer questions on that basis at their  
16 previously conducted depositions.

17 The four witnesses subpoenaed to provide  
18 testimony this morning, as well as their counsel,  
19 were granted the ability to join us today virtually  
20 in accordance with the entry issued March 10, 2025.

21 Prior to going on the record this  
22 morning, the parties were discussing a possible  
23 resolution to identifying the process to be  
24 undertaken this morning.

25 Mr. Michael, would you care to elaborate

1 on how discussions in regards to that issue have been  
2 going?

3 MR. MICHAEL: Certainly, your Honor.  
4 Your Honor, we view today's hearing as upon, as your  
5 Honor pointed out, the request of the PUCO Staff's  
6 motion. The witnesses are appearing pursuant to a  
7 subpoena requested by PUCO Staff.

8 There have been some proposals made on  
9 how to conduct this hearing and I am prepared today  
10 to say that OCC would not oppose the following  
11 process: First, the witnesses will represent on the  
12 record that they will answer questions at the full  
13 hearing in these matters related to pending Case  
14 Nos. 17-974-EL-UNC, 17-2474-EL-RDR, 20-1629-EL-RDR,  
15 and 20-1502-EL-UNC arising out of or reasonably  
16 related to, one, matters during the time period that  
17 they were employed by FirstEnergy; two, Larry  
18 Householder; three, Ohio House Bill 6; four, Sam  
19 Randazzo; and, five, the depositions that occurred in  
20 these matters.

21 Second, OCC would reserve all rights to  
22 revisit the breadth and scope of any court order  
23 compelling the witnesses to testify in any forum.

24 Next, the parties would agree that OCC  
25 could file as a late-filed exhibit the deposition

1 transcripts of each of the witnesses.

2           And then, lastly, your Honor -- well, I  
3 should say next to last, any agreed order presented  
4 to the Common Pleas Courts upon an application by the  
5 Attorney General seeking an order to compel the  
6 witnesses to testify would be provided to the Office  
7 of the Ohio Consumers' Counsel before it was filed  
8 and a condition precedent to the filing of that  
9 agreed order would be OCC's agreement to the terms of  
10 that order.

11           And then, lastly, your Honor, to bring  
12 those principles into fruition, we would propose a  
13 brief cross-examination of each of the witnesses  
14 treating their deposition testimony basically as  
15 direct testimony as we do in the usual course of PUCO  
16 proceedings and then asking them a final question  
17 that if the questions were asked today or any  
18 questions related to HB 6 matters, as I previously  
19 outlined, their answers would be the same, namely,  
20 invoking their rights against self-incrimination.

21           ALJ ADDISON: Thank you, Mr. Michael.

22           Mr. Mitchell.

23           MR. MITCHELL: Your Honor, I have just a  
24 point of clarification for Mr. Michael. When he  
25 mentioned his -- his five topics that were involved,

1 he mentioned depositions in these matters. I  
2 understand that to mean the deposition of --  
3 depositions of the witnesses in these matters, not  
4 the universe of depositions taken; is that accurate,  
5 Mr. Michael?

6 MR. MICHAEL: That was my intent, yes.

7 MR. MITCHELL: Okay. Thank you. With  
8 that clarification, I can say I don't have a problem  
9 with No. 1. I don't have a problem with the OCC  
10 challenging orders that have been filed. I don't  
11 have a problem with the OCC doing a very brief  
12 cross-examination and having the witnesses  
13 authenticate their deposition transcript and then  
14 establishing that they would again assert their  
15 constitutionally guaranteed Fifth Amendment  
16 protections.

17 I do have a problem with the OCC having  
18 the ability to approve any order that the Franklin  
19 County Court of Common Pleas or any other Court of  
20 Common Pleas may enter. I don't know that that -- I  
21 don't know that that should be the tail that wags the  
22 dog, Judge.

23 I mean, for the purposes of the record,  
24 the Commission directed the Ohio Attorney General to  
25 represent it in these matters. The Ohio Attorney

1 General's Office was directed to seek an application.  
2 We've worked with the Ohio Attorney General's Office  
3 collaboratively to set this process in place. And,  
4 frankly, I think it's -- I think this condition is  
5 unnecessary because I have no issue with the Ohio  
6 Attorney General's Office seeking counsel of the OCC  
7 and working with them and us in this process.

8 I mean, we are all trying to get to the  
9 same place. What I do have a problem with is we  
10 don't believe that the Office of Consumers' Counsel  
11 has any standing when we -- if we have to apply to  
12 the Court of Common Pleas. And I don't want to be in  
13 a position where they have the -- that we create an  
14 ability for them to object to this process where they  
15 don't previously have one.

16 So again, understanding that we are all  
17 trying to get to the same place, which is where the  
18 witnesses will appear at a subsequent hearing, they  
19 will have been properly immunized pursuant to  
20 4309.08, and they will answer the questions in the  
21 fulsome manner in which they were asked.

22 So other than the fourth point, which I  
23 would like to think we can work through, I have no  
24 problems with what Mr. Michael has proposed.

25 MR. STINSON: Your Honor --

1 ALJ ADDISON: One moment, Mr. Stinson.  
2 And I would like to see if counsel for Mr. Biltz, Mr.  
3 Bailey, or Mr. Chack have anything to add to what  
4 Mr. Mitchell has already said.

5 MR. CASCARILLA: Your Honor, again Ralph  
6 Cascarilla on behalf of Mr. Bailey and Mr. Biltz. We  
7 agree with the points as made by Mr. Mitchell. I  
8 think the proposal that Mr. Mitchell submitted on  
9 behalf actually lays out the details in -- in written  
10 form that accomplishes what we, I think mutually now,  
11 want to accomplish, but I cannot agree on behalf of  
12 my clients that the Office of Consumers' Counsel  
13 would be able to veto what is a discretionary  
14 decision by the Ohio Attorney General's Office and  
15 the court.

16 ALJ ADDISON: Thank you.

17 MR. SITARCHUK: Your Honor, on behalf of  
18 Mr. Chack, Eric Sitarchuk. We agree with the  
19 positions outlined by Mr. Mitchell and  
20 Mr. Cascarilla.

21 ALJ ADDISON: Thank you very much.

22 Mr. Stinson.

23 MR. STINSON: I was just going to say,  
24 your Honor, NOPEC agrees with OCC's position. Having  
25 OCC agree to the terms of the order is a quick way to

1 get us from point A to point B to ensure that all of  
2 the questions asked is subsequently -- will be  
3 answered.

4 ALJ ADDISON: Thank you.

5 Mr. Lindgren.

6 MR. LINDGREN: Thank you, your Honor.

7 Regarding the proposal outlined by Mr. Michael, I am  
8 fine with all of it except for the requirement that  
9 an agreed order be approved by OCC beforehand. I  
10 cannot agree to that.

11 We are certainly happy to consult with  
12 them and get their input on the terms of that order,  
13 but the Commission has ordered the Attorney General  
14 to seek that order; and, you know, it wasn't  
15 conditioned on any agreement with OCC, so I need to  
16 carry out the Commission's directive and, you know,  
17 regardless of whether OCC agrees to that or not. But  
18 again, I am certainly willing to work with them on  
19 those terms.

20 ALJ ADDISON: Thank you.

21 Anyone else care to provide their input?

22 And very quickly I just wanted to  
23 clarify, Mr. Mitchell, or any of the other counsel  
24 for the witnesses today, there's no objection -- I  
25 don't think I explicitly heard there is no objection

1 to filing as late-filed exhibits those deposition  
2 transcripts; is that correct?

3 MR. MITCHELL: That is correct, your  
4 Honor, no objection. Thank you for -- thank you.

5 ALJ ADDISON: Of course. Thank you. I  
6 appreciate that.

7 After hearing the only disputed issue  
8 that we have left to resolve this morning, I tend to  
9 agree with counsel for Mr. Pine, Mr. Biltz,  
10 Mr. Bailey, Mr. Chack, as well as our AGs -- with the  
11 Staff counsel, Mr. Lindgren. The Commission ordered  
12 the AGs to seek an order compelling testimony from  
13 the Court of Common Pleas. I certainly think it is  
14 appropriate and will avoid potentially any issues  
15 arising from this process to consult OCC, for OCC to  
16 provide input as to what that order might look like,  
17 but as noted by all the parties here this morning, we  
18 are all trying to work towards the same outcome in  
19 this -- in this quick process.

20 So given that, I tend to agree while OCC  
21 may be provided a copy of the draft order prior to  
22 filing with the Court of Common Pleas, there's  
23 certainly no requirement that OCC approve said order  
24 before the AGs move forward with it so.

25 MR. STINSON: Your Honor, NOPEC would

1 like the ability to review that as well.

2 ALJ ADDISON: Any objection to NOPEC also  
3 reviewing that, Mr. Lindgren?

4 MR. LINDGREN: Well, I mean, if we are  
5 opening it up to NOPEC, I think we have to open it up  
6 to all parties and anybody -- I don't think anybody  
7 should be excluded, so I don't even know if that's  
8 practical. But that's my only concern.

9 ALJ ADDISON: As of today, only OCC and  
10 NOPEC have requested.

11 MR. HESS: Your Honor, OMAEG would also  
12 like to review that order.

13 MR. LINDGREN: My only concern having  
14 multiple parties reviewing this order, it's going to  
15 slow down the process to get to the court as soon as  
16 possible and get an order signed so we can move ahead  
17 with the hearing as scheduled in May. So there's  
18 going to have to be a very quick turnaround if other  
19 parties are reviewing the draft.

20 ALJ ADDISON: Certainly.

21 Mr. Mitchell, Mr. Cascarilla, and Mr.  
22 Sitarchuk, do you have any response?

23 MR. MITCHELL: I do, your Honor, very  
24 briefly. I agree with Mr. Lindgren, and I would add  
25 for the purposes of the record, the only parties that

1 noticed the depositions of our clients was the Office  
2 of Consumers' Counsel. NOPEC, no other party did,  
3 your Honor. So the reason we are here today through  
4 this process was because of the OCC initiating or  
5 seeking the deposition of the witnesses in this case.

6 So I am inclined to -- I am happy to  
7 share what we -- is proposed with the OCC, subject to  
8 Mr. Lindgren's comments. I don't think there is any  
9 necessity to involve any other parties, your Honor.  
10 I think that will significantly slow down this  
11 process and end in too many cooks in the kitchen,  
12 Judge.

13 ALJ ADDISON: Anything else?

14 MR. MITCHELL: Your Honor, I have a point  
15 of clarification, when we resolve the --

16 ALJ ADDISON: Absolutely.

17 MR. MITCHELL: I wanted to make sure you  
18 had the opportunity to make the determination on the  
19 NOPEC issue, and then I would like to just raise a  
20 new point.

21 ALJ ADDISON: Certainly. I tend to  
22 agree. This hearing was meant to simplify the  
23 process, not overcomplicate things as to seeking an  
24 order compelling the testimony of these individuals  
25 from the Court of Common Pleas.

1           So I will reiterate that OCC will be  
2 provided an opportunity to review the order, provide  
3 input, but we are not going to expand beyond that at  
4 this point.

5           Certainly all -- all parties will have an  
6 opportunity -- provided this process moves forward as  
7 planned, all parties will have an opportunity at that  
8 later evidentiary hearing to ask their questions.

9           Certainly that is the outcome, again,  
10 that everybody wants in this proceeding in all four  
11 of the FirstEnergy investigations. So with that, and  
12 what is your point of clarification?

13           MR. MITCHELL: Thank you, your Honor.  
14 You know, I want to thank the court for allowing us  
15 to appear virtually. I realized there was one  
16 downside when I appeared. I don't know if this is  
17 being transcribed or there is a court reporter  
18 present or your practice is to record these hearings.  
19 I am just wondering what manner in which the  
20 transcript or the record is being made.

21           ALJ ADDISON: Yes. We do have a court  
22 reporter here present today. I don't know if you  
23 will be able to see.

24           MR. MITCHELL: Good morning.

25           MR. MICHAEL: There is Karen.

1 ALJ ADDISON: She is, in fact, here, so  
2 we will have a transcript filed in this proceeding.

3 MR. MITCHELL: Thank you, your Honor.

4 ALJ ADDISON: Thank you.

5 MR. MITCHELL: Thank you to the court  
6 reporter also. I can only see the top of the head.  
7 I didn't know who it was.

8 MR. MICHAEL: Your Honor, real quick, a  
9 point of clarification, OCC would reserve any right  
10 to challenge either with your Honor or the Court of  
11 Common Pleas any orders submitted and certainly  
12 appreciate the opportunity to review ahead of time,  
13 but we do reserve the right to challenge that, if  
14 necessary.

15 And then also I mentioned filing the  
16 deposition transcript as a late-filed exhibit. In my  
17 vernacular that would include the deposition exhibits  
18 to the deposition. However, I want to make that  
19 clear that we would do a late-filed exhibit to -- to  
20 include not only the deposition transcript but the  
21 exhibits used during the deposition.

22 ALJ ADDISON: So, Mr. Michael, not just a  
23 list of the exhibits but the exhibits themselves; is  
24 that correct?

25 MR. MICHAEL: Yes, that's correct.

1 ALJ ADDISON: Okay. Mr. Mitchell?

2 MR. MITCHELL: No objection, your Honor.

3 ALJ ADDISON: Excellent. Thank you.

4 With that clarification, it appears that  
5 we do have an agreement as to how to move forward  
6 this morning. So we will go ahead and take  
7 Mr. Bailey as our first witness.

8 Mr. Bailey, if your mute button is on,  
9 could you please unmute yourself? And I will go  
10 ahead and swear you in. Please raise your right  
11 hand.

12 (Witness sworn.)

13 ALJ ADDISON: Thank you.

14 Mr. Michael.

15 MR. MICHAEL: Thank you, your Honor. And  
16 just a question, are the witnesses able to see me,  
17 and can they see exactly what I see on the screen?

18 ALJ ADDISON: I believe they are able to  
19 see you. I think I have you targeted in the window.

20 MR. MICHAEL: Okay. Great.

21 - - -

22

23

24

25

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

JOEL BAILEY

being first duly sworn, as prescribed by law, was examined and testified as follows:

CROSS-EXAMINATION

By Mr. Michael:

Q. Good morning. Could you please state your name for the record.

A. Joel Bailey.

Q. And, Mr. Bailey, could you please provide your home address.

A. 2127 Pilgrim Way, Akron, Ohio.

Q. And you are appearing here pursuant to a subpoena issued by the Public Utilities Commission of Ohio, correct?

A. Correct.

Q. And, Mr. Bailey, you recall having your deposition taken in this case?

A. I do.

Q. And you did not answer those -- all of the questions asked during that deposition, correct?

A. Correct.

Q. And you invoked your rights under the Fifth Amendment of the U.S. Constitution and Article 1, Section 10, of the Ohio Constitution, correct?

A. Correct.

1 Q. A transcript was made of your deposition,  
2 correct?

3 A. Correct.

4 Q. And you've had the chance to review that  
5 transcript, correct?

6 A. Correct.

7 Q. And the transcript is accurate, correct?

8 A. There was one year that I mistakenly said  
9 2020 and it should have been 2021 and that was to a  
10 question of when was the last time I spoke to Eileen  
11 Mikkelsen.

12 Q. And you filed, Mr. Bailey, or your  
13 counsel filed an errata making that change, correct?

14 A. I don't -- I don't know. I am not  
15 positive on that but that's the only change because I  
16 reviewed it here again this morning.

17 Q. Okay. Other than -- with that change, I  
18 should say, the deposition transcript is accurate,  
19 correct?

20 A. Yes, I believe that -- yes.

21 Q. And if I were to ask you the same  
22 questions today that were asked of you during your  
23 deposition, your answers would be the same, correct?

24 A. Correct.

25 Q. And if -- if asked questions in this PUCO

1 hearing today related to pending Case Nos.  
2 17-974-EL-UNC, 17-2474-EL-RDR, 20-1629-EL-RDR, and  
3 20-1502-EL-UNC arising out of or reasonably related  
4 to, one, matters during the time period that you were  
5 employed by FirstEnergy; two, Larry Householder;  
6 three, Ohio House Bill 6; four, Sam Randazzo; and,  
7 five, your deposition taken in these matters, you  
8 would assert your rights under the Fifth Amendment of  
9 the U.S. Constitution and Article 1, Section 10, of  
10 the Ohio Constitution as you did during your  
11 deposition, correct?

12 A. Looking at my counsel but, yes, correct.

13 MR. MICHAEL: Thank you, Mr. Bailey.

14 Your Honor, I have no further questions.

15 ALJ ADDISON: Thank you, Mr. Michael.

16 Do any other parties have questions for  
17 this particular witness this morning?

18 MR. STINSON: No questions at this time,  
19 your Honor.

20 MS. COHN: No, your Honor.

21 MR. NUGENT: No, your Honor.

22 MR. HESS: Your Honor, subject to that  
23 full evidentiary hearing, no questions.

24 ALJ ADDISON: Thank you very much.

25 I have no additional questions for you,

1 Mr. Bailey. You are excused.

2 THE WITNESS: Thank you, your Honor.

3 ALJ ADDISON: Thank you very much for  
4 your time.

5 THE WITNESS: Thank you. Bye.

6 ALJ ADDISON: Mr. Cascarilla, do we have  
7 Mr. Biltz?

8 MR. CASCARILLA: Yes, your Honor. May I  
9 have a moment? I will contact him and ask him to  
10 appear. He is standing by.

11 ALJ ADDISON: Let's go ahead and go off  
12 the record while you do so.

13 (Discussion off the record.)

14 ALJ ADDISON: Let's go back on the  
15 record.

16 We will call our next witness for this  
17 morning, Mr. Chack.

18 Mr. Chack, could you please raise your  
19 right hand.

20 (Witness sworn.)

21 ALJ ADDISON: Thank you.

22 Mr. Michael, whenever you are ready.

23 MR. BRODBECK: Your Honor, Mr. Brodbeck  
24 for the record will be handling Mr. Chack.

25 ALJ ADDISON: My apologies. Please

1 proceed.

2 - - -

3 DENNIS CHACK

4 being first duly sworn, as prescribed by law, was  
5 examined and testified as follows:

6 CROSS-EXAMINATION

7 By Mr. Broadbeck:

8 Q. Good morning, Mr. Chack. Would you  
9 please --

10 A. Good morning.

11 Q. -- state and spell your last name for the  
12 record.

13 A. My name is Dennis Chack. Last name is  
14 spelled C-H-A-C-K.

15 Q. Thank you. And what is your mailing  
16 address?

17 A. 960 Cape Marco Drive, Marco Island,  
18 Florida 34145.

19 Q. And do you recall having your deposition  
20 taken in this case?

21 A. Yes.

22 Q. And at that time you did not answer the  
23 questions asked under that deposition; is that  
24 correct?

25 A. That's correct.

1 Q. And instead you invoked your rights under  
2 the Fifth Amendment of the U.S. Constitution and  
3 Article 1, Section 10, of the Ohio Constitution; is  
4 that correct?

5 A. That's correct.

6 Q. And a transcript was made of your  
7 deposition; is that correct?

8 A. That's correct.

9 Q. And have you had a chance to review that  
10 transcript?

11 A. I believe so, yes.

12 Q. And is that transcript accurate?

13 A. Yes.

14 Q. And if I were to ask you the same  
15 questions today that were contained in that  
16 deposition transcript and asked during that  
17 deposition session, would your answers be the same as  
18 today?

19 A. Yes.

20 Q. If you were asked questions in the PUCO  
21 hearing today related to Case Nos. 17-974-EL-UNC,  
22 17-2474-EL-RDR, 20-1629-EL-RDR, and 20-1502-EL-UNC  
23 arising out of a reasonably -- arising out of or  
24 reasonably related to, one, matters during the time  
25 period that you were employed by FirstEnergy; two,

1 Larry Householder; three, Ohio House Bill 6; four,  
2 Sam Randazzo; fifth, your deposition, you would  
3 assert your rights under the Fifth Amendment of the  
4 U.S. Constitution and Article 1, Section 10, of the  
5 Ohio Constitution as you did in your deposition; is  
6 that correct?

7 A. Yes.

8 MR. BRODBECK: With that, nothing further  
9 for Mr. Chack.

10 ALJ ADDISON: Thank you very much. Any  
11 additional --

12 MR. SITARCHUK: Your Honor --

13 ALJ ADDISON: -- questions? Go ahead.

14 MR. SITARCHUK: Just if there is no  
15 additional questions, may we be excused?

16 ALJ ADDISON: Oh, I am just going to make  
17 sure there are no additional questions.

18 MR. SITARCHUK: Thank you, your Honor.

19 ALJ ADDISON: Yes. Thank you. Any  
20 additional questions -- jumped the gun on me. Any  
21 additional questions for this witness?

22 MR. STINSON: No questions at this time,  
23 your Honor.

24 MS. COHN: No, your Honor.

25 MR. HESS: OMAEG has no additional

1 questions at this time.

2 ALJ ADDISON: Thank you. I have no  
3 additional questions either. You are excused. Thank  
4 you very much for your testimony this morning.

5 MR. SITARCHUK: Thank you, your Honor.

6 THE WITNESS: Thank you.

7 ALJ ADDISON: I believe we have Mr. Biltz  
8 now available.

9 Mr. Biltz, if you could unmute yourself,  
10 we will take you next. If you could raise your right  
11 hand.

12 (Witness sworn.)

13 ALJ ADDISON: Thank you.

14 Mr. Michael.

15 MR. MICHAEL: Thank you, your Honor.

16 - - -

17 JUSTIN BILTZ

18 being first duly sworn, as prescribed by law, was  
19 examined and testified as follows:

20 CROSS-EXAMINATION

21 By Mr. Michael:

22 Q. Could you state your name, please.

23 A. Justin Biltz.

24 Q. And would you state your mailing address,  
25 please.

1           A.    5524 Timberline Trail, Hudson, Ohio  
2    44236.

3           Q.    And, Mr. Biltz, you are appearing today  
4    in response to a subpoena issued by the Public  
5    Utilities Commission of Ohio, correct?

6           A.    Correct.

7           Q.    And do you recall having your deposition  
8    taken in this -- these cases?

9           A.    I do.

10          Q.    And you did not answer the questions  
11    during those depositions, correct?

12          A.    Correct.

13          Q.    Instead you invoked your rights under the  
14    Fifth Amendment of the U.S. Constitution and Article  
15    1, Section 10, of the Ohio Constitution, correct?

16          A.    Correct.

17          Q.    And a transcript was made of your  
18    deposition, correct?

19          A.    Yes.

20          Q.    And you have had a chance to review that  
21    transcript, correct?

22          A.    Yes.

23          Q.    And that transcript is accurate, correct?

24          A.    Yes.

25          Q.    If I were to ask you the same questions

1 today that you were asked during your deposition,  
2 your answers would be the same, correct?

3 A. Yes.

4 Q. If asked questions in this PUCO hearing  
5 today related to pending Case Nos. 17-974-EL-UNC,  
6 17-2474-EL-RDR, 20-1629-EL-RDR, and 20-1502-EL-UNC  
7 arising out of or reasonably related to, one, matters  
8 during the time period that you were employed by  
9 FirstEnergy; two, Larry Householder; three, Ohio  
10 House Bill 6; four, Sam Randazzo; and, five, your  
11 deposition taken in this case, you would assert your  
12 rights under the Fifth Amendment of the U.S.  
13 Constitution and Article 1, Section 10, of the Ohio  
14 Constitution as you did in your deposition, correct?

15 A. Yes.

16 MR. MICHAEL: I have no further questions  
17 at this time, your Honor.

18 ALJ ADDISON: Thank you very much.

19 Any additional questions for this witness  
20 from any party present today?

21 MR. STINSON: No questions at this time,  
22 your Honor.

23 MS. COHN: None, your Honor.

24 MR. NUGENT: No questions, your Honor.

25 MR. HESS: No additional questions from

1 OMAEG at this time, your Honor. Thank you.

2 ALJ ADDISON: Thank you, all.

3 I also have no additional questions at  
4 this time. You are excused, Mr. Biltz. Thank you  
5 very much for your testimony this morning.

6 THE WITNESS: Thank you.

7 ALJ ADDISON: Mr. Pine.

8 MR. PINE: Good morning, Judge.

9 ALJ ADDISON: Good morning. Please raise  
10 your right hand.

11 (Witness sworn.)

12 ALJ ADDISON: Thank you.

13 OCC, you may proceed.

14 MR. MICHAEL: Thank you, your Honor.

15 - - -

16 TY PINE

17 being first duly sworn, as prescribed by law, was  
18 examined and testified as follows:

19 CROSS-EXAMINATION

20 By Mr. Michael:

21 Q. Would you please state your name.

22 A. Ty Pine.

23 Q. And would you please state your home  
24 address.

25 A. 2630 Henthorn Road, Columbus, Ohio.

1 Q. And, Mr. Pine, you are appearing today  
2 pursuant to a subpoena issued by the Public Utilities  
3 Commission of Ohio, correct?

4 A. Correct.

5 Q. And you recall having your deposition  
6 taken in these cases, correct?

7 A. Correct.

8 Q. And you did not answer those questions,  
9 correct?

10 A. Correct.

11 Q. You invoked your rights under the Fifth  
12 Amendment of the U.S. Constitution and Article 1,  
13 Section 10, of the Ohio Constitution, correct?

14 A. Correct.

15 Q. A transcript was made of your deposition,  
16 correct?

17 A. Correct.

18 Q. You've had the chance to review that  
19 transcript, correct?

20 A. Correct.

21 Q. And the transcript is accurate, correct?

22 A. Yes.

23 Q. If I were to ask you the same questions  
24 today, your answers would be the same, correct?

25 A. Correct.

1 Q. If asked questions in this PUCO hearing  
2 today related to pending Case Nos. 17-974-EL-UNC,  
3 17-2474-EL-RDR, 20-1629-EL-RDR, and 20-1502-EL-UNC  
4 arising out of or reasonably related to, one, matters  
5 during the time period that you were employed by  
6 FirstEnergy; two, Larry Householder; three, Ohio  
7 House Bill 6; four, Sam Randazzo; or, five, your  
8 deposition in these cases, you would assert your  
9 rights under the Fifth Amendment of the U.S.  
10 Constitution and Article 1, Section 10, of the Ohio  
11 Constitution as you did in your deposition, correct?

12 A. Correct.

13 MR. MICHAEL: I have no further questions  
14 at this time, your Honor.

15 ALJ ADDISON: Thank you very much,  
16 Mr. Michael.

17 Any additional questions from other  
18 parties this morning?

19 MR. STINSON: No questions at this time,  
20 your Honor.

21 MS. COHN: None, your Honor.

22 MR. NUGENT: No questions, your Honor.

23 MR. HESS: No additional questions from  
24 OMAEG at this time.

25 ALJ ADDISON: Thank you very much.

1 I also have no additional questions.  
2 Mr. Pine, you are excused. Thank you very much for  
3 your testimony.

4 MR. MITCHELL: Your Honor.

5 ALJ ADDISON: Yes.

6 MR. MITCHELL: Just before Mr. Pine signs  
7 off and I sign off, the only -- I just want to bring  
8 this to your attention. We have a conflict with the  
9 May 13 date. That date was picked before we even  
10 knew we were going to be involved in this process. I  
11 am just wondering if we can get some flexibility from  
12 the court. We are willing to make ourselves  
13 available other dates, times, but May 13 and that  
14 week is very difficult for both of us.

15 ALJ ADDISON: Well, certainly we can  
16 discuss that once we get a little closer. I feel we  
17 are maybe putting the cart before the horse at this  
18 point.

19 MR. MITCHELL: Maybe.

20 ALJ ADDISON: Maybe but we can certainly  
21 talk about witness order and availability if the time  
22 comes, if it becomes clear we are moving forward on  
23 the 13th.

24 MR. MITCHELL: Thank you, your Honor.

25 ALJ ADDISON: Of course. Thank you, all.

1           That does conclude the testimony  
2 scheduled to be taken today. I do appreciate  
3 everyone's patience with this virtual format,  
4 somewhat new to all of us here.

5           As noted in the entry issued February 26,  
6 2025, the Commission's previous directives remain  
7 intact, and the Attorney General should seek the  
8 appropriate judicial relief following today's  
9 hearing.

10           And just for clarifying points,  
11 Mr. Michael, when was OCC planning to have the  
12 late-filed exhibits?

13           MR. MICHAEL: No later than Friday of  
14 next week, your Honor, and with any luck sooner than  
15 that.

16           ALJ ADDISON: Excellent. I wanted to  
17 give everyone a heads up as to when to expect them.

18           MR. MICHAEL: Certainly.

19           ALJ ADDISON: Anything else before we  
20 adjourn today?

21           MR. MITCHELL: Nothing from us, Judge.  
22 Thank you.

23           ALJ ADDISON: Thank you very much.

24           All right. Then we are adjourned. Thank  
25 you, all.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

(Thereupon, at 10:52 a.m., the hearing was adjourned.)

- - -

CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Thursday, March 13, 2025, and carefully compared with my original stenographic notes.

---

Karen Sue Gibson, Registered  
Merit Reporter.

(KSG-7751)

- - -

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**4/1/2025 4:48:07 PM**

**in**

**Case No(s). 17-0974-EL-UNC**

Summary: Transcript of FirstEnergy Corp hearing held on 03/13/25 electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Gibson, Karen Sue Mrs..

**IN THE COURT OF COMMON PLEAS  
FRANKLIN COUNTY, OHIO**

<b>JENIFER FRENCH, CHAIR OF THE PUBLIC UTILITIES COMMISSION OF OHIO,</b>	:	Case No.
	:	
	:	
Petitioner,	:	
	:	
v.	:	
	:	
<b>JOEL BAILEY, et al.,</b>	:	
	:	
Respondents.	:	

**AGREED ORDER**

This matter is before the Court on the Application of Petitioner Jenifer French, Chair of the Public Utilities Commission of Ohio (“Petitioner”) for an order compelling Respondents Joel Bailey, Justin Biltz, Dennis Chack, and Ty Pine (collectively, “Respondents”) to testify at a hearing before the Public Utilities Commission of Ohio (“Commission” or “PUCO”) pursuant to R.C. 4903.04, subject to the immunity provisions contained in R.C. 4903.08. Petitioner and Respondents hereby agree that:

1. This Court has jurisdiction over the subject matter of this cause of action and the parties.
2. Venue is proper in this Court because this action rises from a case pending before the PUCO, which conducts its statutory duties under applicable provisions of the Ohio Revised Code in Franklin County, Ohio.
3. Petitioner is the Chair of the PUCO and, as such, she is authorized to apply for an order compelling obedience with a subpoena pursuant to R.C. 4903.04.
4. On February 26, 2025, the PUCO issued subpoenas requiring the appearance of Respondents at a hearing on March 13, 2025. See Application, Exhibits 2-5.

5. Respondents appeared at a hearing before the PUCO on March 13, 2025, and asserted their Constitutional rights as enumerated in the Fifth Amendment to the United States Constitution and Article 1, Section 10 of the Ohio Constitution and refused to testify to matters regarding which they may be lawfully interrogated within the meaning of R.C. 4903.04.

6. Because Respondents asserted their Constitutional rights at the March 13, 2025, hearing, R.C. 4903.04 permits this Court to compel Respondents to provide PUCO hearing testimony or face contempt proceedings, subject to the Respondents' immunity protections contained in R.C. 4903.08.

7. Respondents are hereby granted the broadest possible immunity in accordance with R.C. 4903.08. In compliance with R.C. 4903.08, no Respondent shall be prosecuted or subjected to any penalty or forfeiture on account of or related to any transaction or matter concerning which a Respondent testifies or produces documentary evidence at any hearing before the PUCO in PUCO Case Nos. 17-974-EL-UNC, 17-2474-EL-RDR, 20-1502-EL-UNC and 20-1629-EL-RDR (the "*FirstEnergy Investigation Cases*").

8. Therefore, the Petitioner's application is GRANTED and Joel Bailey, Justin Biltz, Dennis Chack, and Ty Pine are hereby ordered to testify in any scheduled hearing where the witnesses' testimony is required in PUCO Case Nos. 17-974-EL-UNC, 17-2474-EL-RDR, 20-1502-EL-UNC and 20-1629-EL-RDR, and upon being individually sworn in as a hearing witness, each is immunized from prosecution and will not be subject to any penalty or forfeiture on account of any transaction or other matter concerning which they have testified or produced any documentary evidence in any PUCO hearing pursuant R.C.

4903.08 and this Agreed Order. Counsel for the witnesses shall accept service of any subpoenas issued for hearing testimony in relation to any PUCO hearing in the *FirstEnergy Investigation Cases*.

9. The witnesses shall be provided a signed, file-stamped copy of this Agreed Order prior to any PUCO hearing testimony that they provide in the *FirstEnergy Investigation Cases*, so they can offer it to be made a part of the transcript with their testimony before the PUCO.

10. This Court retains jurisdiction for the purposes of enforcement of this order or the resolution of any dispute between the parties regarding its interpretation.

**IT IS SO ORDERED.**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Judge  
Franklin County Court of Pleas