

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF OHIO

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT**

PLEASE READ THIS ENTIRE NOTICE CAREFULLY. A UNITED STATES FEDERAL COURT AUTHORIZED THIS NOTICE. YOUR RIGHTS MAY BE AFFECTED BY THE PROCEEDINGS IN THIS ACTION. THIS NOTICE ADVISES YOU OF YOUR RIGHTS AND OPTIONS WITH RESPECT TO THIS ACTION.

**If you were a customer of Toledo Edison, Cleveland Electric Illuminating Co., or Ohio Edison from January 1, 2020, through June 22, 2022, you could get a payment from a class action Settlement.**

*A federal court authorized this Notice. This is not a solicitation from a lawyer.*

- A Settlement will provide \$49,000,000 to pay customers of Toledo Edison Company (“Toledo Edison”), The Cleveland Electric Illuminating Company (“Cleveland Electric”), and Ohio Edison Company (“Ohio Edison”) from January 1, 2020, through June 22, 2022.
- The Settlement resolves a lawsuit over whether customers of Toledo Edison, Cleveland Electric, or Ohio Edison were harmed by Ohio House Bill 6 (“HB 6”); it avoids costs and risks to you from continuing the lawsuit; it pays money to customers like you; and it releases Toledo Edison, Cleveland Electric, and Ohio Edison from liability, along with their parent company, FirstEnergy Corp. (“FirstEnergy”), FirstEnergy Service Company (“FirstEnergy Service”), Energy Harbor Corp. (f/k/a FirstEnergy Solutions Corp.) (“Energy Harbor”), and certain individuals.
- Court-appointed lawyers for customers will ask the Court to award up to one-third (1/3) of the Settlement (\$16,333,333) as fees, plus reimbursement of expenses, and incentive payments to the Class Representatives and an incentive award for the named plaintiff in the *Emmons* action for investigating the facts, litigating the case, and negotiating the Settlement. Class Counsel may also request an award of additional attorneys’ fees and reimbursement of expenses incurred for services performed during claims administration and to preserve and enforce the Settlement.
- The two sides disagree as to the claims in the case and how much money could have been won if the Plaintiffs won at trial.
- Your legal rights are affected whether you act or don’t act. Read this Notice carefully.

**YOUR LEGAL RIGHTS AND OPTIONS REGARDING THIS SETTLEMENT**

**EXCLUDE YOURSELF FROM THE SETTLEMENT CLASS**

If you wish to exclude yourself from the Settlement Class, you must submit a written request **postmarked no later than October 5, 2022**. If you exclude yourself, you will not be bound by future decisions of the Court and will not be entitled to recover your proportionate share of the Settlement Fund.

<b>DO NOTHING</b>	You are automatically part of the Settlement Class if you fit the Settlement Class description. By remaining in the Settlement Class, you will receive your proportionate share of the Settlement Fund, and you will give up rights to be part of any other lawsuit that asserts claims related to the allegations or claims against the FirstEnergy Settling Parties and Energy Harbor in this case.
<b>OBJECT TO THE SETTLEMENT</b>	Do not exclude yourself. Write to the Court and explain what you do not like about the Settlement. The objection deadline is <b>October 5, 2022</b> . Please consult <a href="http://www.OhioElectricityLitigation.com">www.OhioElectricityLitigation.com</a> for any updates on deadlines.
<b>GO TO A HEARING</b>	Ask to speak in Court about the fairness of the Settlement. Your notice of intention to appear at the Final Approval Hearing must be <b>postmarked no later than October 5, 2022</b> . Please consult <a href="http://www.OhioElectricityLitigation.com">www.OhioElectricityLitigation.com</a> for any updates on deadlines.

- These rights and options—**and the deadlines to exercise them**—are explained in this Notice.
- The Court in charge of this case still has to decide whether to approve the Settlement. Payments will be made if the Court approves the Settlement and after appeals are resolved. Please be patient.

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**BASIC INFORMATION ABOUT THE LAWSUIT AND THE SETTLEMENT CLASS**

**1. Why did I get this Notice?**

This Notice is given pursuant to Rule 23 of the Federal Rules of Civil Procedure and an Order of the United States District Court for the Southern District of Ohio (the "Court"). It is not junk mail, an advertisement, or a solicitation from a lawyer. You have not been sued. The purpose of the Notice is to inform you of the Settlement Class in this class action lawsuit.

You are receiving this Notice because records indicate that you may be a member of the Settlement Class.

**2. What is the lawsuit about?**

A class action lawsuit styled *Smith v. FirstEnergy Corp., et al.*, Case No. 2:20-cv-3755, is pending in the United States District Court for the Southern District of Ohio (the "Court"), and a similar lawsuit styled *Emmons v. FirstEnergy Corp., et al.*, Case No. CV-20 935557, is pending in the Cuyahoga County Court of Common Pleas.

Plaintiffs in the lawsuits claim, among other matters, that Defendants FirstEnergy, FirstEnergy Service, Ohio Edison, Toledo Edison, Cleveland Electric, Charles E. Jones, James F. Pearson, Steven E. Strah, K. Jon Taylor, and Michael J. Dowling (together, the "FirstEnergy Settling Parties"), and Energy Harbor engaged in a racketeering scheme in order to influence the passage of HB 6, thus causing some Ohio residents to pay excessive charges for electricity. Plaintiffs allege that Defendants violated the federal Racketeer Influenced Corrupt Organizations Act ("RICO"), 18 U.S.C. §§ 1961-1968, the Ohio Corrupt Practices Act ("OCPA"), and other common and statutory law. A copy of the Plaintiffs' Consolidated Amended Class Action Complaint is available at [www.OhioElectricityLitigation.com](http://www.OhioElectricityLitigation.com). Defendants deny any liability, and the Court has not made any decision on the merits of the Plaintiffs' claims.

THIS NOTICE IS NOT AN EXPRESSION OF ANY OPINION BY THE COURT AS TO THE MERITS OF PLAINTIFFS' CLAIMS AGAINST ANY DEFENDANT OR THE DEFENSES ASSERTED BY ANY DEFENDANT.

**3. Why is this lawsuit a class action?**

In a class action, one or more people called "Class Representatives" sue on behalf of other people with similar claims. In this case, the Class Representatives are Jacob Smith, Brian Hudock, and Cameo Countertops, Inc. The Class Representatives and the persons and entities on whose behalf they have sued together constitute the "Class."

The companies and people that have been sued are called the "Defendants." In a class action lawsuit, one court resolves the issues for everyone in the class, except for those class members who exclude themselves (*i.e.*, "opt out") from the class. The Court, by order dated June 22, 2022, made a preliminary determination that the lawsuit can proceed as a class action for purposes of this Settlement.

**THE PROPOSED SETTLEMENT**

**4. What is the proposed Settlement?**

On April 11, 2022, Plaintiffs and the FirstEnergy Settling Parties reached a Settlement on behalf of the Settlement Class that includes a monetary payment of \$37,500,000 to the Settlement Class. In exchange for the Settlement payment, the members of the Settlement Class will release any claims they have against the FirstEnergy Settling Parties that relate to or arise out of HB 6 or the allegations and claims in this case.

On June 7, 2022, Plaintiffs and Energy Harbor reached a Settlement on behalf of the Settlement Class that includes a monetary payment of \$11,500,000 to the Settlement Class. In exchange for the Settlement payment, the members of the Settlement Class will release any claims they have against Energy Harbor that relate to or arise out of HB 6 or the allegations and claims in this case.

**5. Why is there a Settlement?**

The two sides disagree about the merits of the Plaintiffs' claims and about the amount that the Settlement Class would be entitled to in the event the Plaintiffs were to win the case. Among other things, the Defendants say that the Settlement Class did not suffer any legal harm, due in part to the repeal of various provisions of HB 6.

The Court has not decided in favor of the Plaintiffs or the Defendants. The Plaintiffs and the Defendants have agreed to the Settlement in order to avoid the risks, costs, and delays of further litigation. The Plaintiffs and their attorneys believe that the Settlement is in the best interests of the Settlement Class.

**DETERMINING IF YOU ARE A MEMBER OF THE SETTLEMENT CLASS**

**6. I am a resident of the state of Ohio that has paid for electricity; how do I know if I am a member of the Settlement Class?**

You may be a member of the Settlement Class if you paid Toledo Edison, Cleveland Electric, or Ohio Edison for electricity pursuant to HB 6 through the date of Preliminary Approval of the Settlement Agreements (June 22, 2022) by the Court and you are not excluded from the Settlement Class.

The Settlement Class is defined as follows:

All persons and entities who have paid to Toledo Edison, Cleveland Electric, or Ohio Edison any rates, charges, fees, tolls, or other costs pursuant to HB 6 or any recovery mechanism approved by the Public Utilities Commission of Ohio (PUCO) pursuant to HB 6 through the date of Preliminary Approval of the Settlement Agreements by the Court.

Excluded from the Settlement Class are: (1) Defendants and alleged co-conspirators and their respective parents, subsidiaries, and affiliates; and (2) any Settlement Class member who timely and validly elects to be excluded from the Settlement Class.

## **YOUR OPTIONS AS A MEMBER OF THE SETTLEMENT CLASS**

### **7. What are my options as a member of the Settlement Class?**

If you are a member of the Settlement Class, you have several options:

- You can do nothing and receive a Settlement payment.
- You can exclude yourself from the Settlement Class (“opt out”). If you do this, you will not receive any payment from the Settlement, but you will keep the right to sue any of the Defendants yourself, and you will not be bound by any of the orders entered by the Court in the case.
- You can object to the Settlement or to the request by counsel for the Settlement Class for an award of attorneys’ fees and reimbursement of litigation expenses.
- You can attend a Court hearing about the proposed Settlement and ask to address the Court as to the fairness of the Settlement or the attorney’s fee petition.

### **8. How do members of the Settlement Class exclude themselves from the Settlement Class?**

If you are a member of the Settlement Class and you want to be excluded from the Settlement Class, you must submit a written request for exclusion to the Settlement Administrator. Your request for exclusion must include: (1) the Settlement Class member’s name and address; (2) the name and title of the Settlement Class member’s representative (if the Settlement Class member is not an individual); (3) the Settlement Class member’s electricity provider; (4) the service address and/or account number for which the Settlement Class member is requesting exclusion; and (5) a signed statement that you wish to be excluded from the Settlement Class in *Smith v. FirstEnergy Corp., et al.*, Case No. 2:20-cv-3755.

Exclusion requests must be mailed to the Settlement Administrator at the address below and **POSTMARKED no later than October 5, 2022:**

Ohio Electricity Litigation  
EXCLUSIONS  
P.O. Box 173001  
Milwaukee, WI 53217

A separate exclusion request must be submitted by each person or entity electing to be excluded from the Settlement Class. Any Settlement Class member that does not submit a valid request for exclusion providing all necessary information will be bound by the orders of the Court and outcome of the case.

9. **What is the legal significance of excluding myself?**

If you exclude yourself, you will not be legally bound by the orders of the Court or Judgment in the case, and you may be able to sue any of the Defendants. However, you will not receive any portion of the Settlement Fund.

10. **If I don't exclude myself, can I sue later?**

No. Unless you exclude yourself, you give up the right to sue the Defendants for claims related to the allegations or claims in this case. You must exclude yourself from the Settlement Class to be able to bring your own, separate lawsuit(s) against any of the Defendants. Remember, the exclusion deadline is **October 5, 2022**.

11. **What happens if I do nothing at all?**

If you do nothing, and you are a member of the Settlement Class, you will be bound by all orders of the Court and the Judgment entered in favor of or against the Settlement Class, and you will receive your proportionate share of the Settlement Fund. Unless you exclude yourself, you will not be able to file a lawsuit or be part of any other lawsuit asserting claims against any of the Defendants concerning or relating to the claims and factual allegations that were or could have been raised in this action.

12. **What does it mean to object?**

Objecting is telling the Court that you don't like something about the proposed Settlement. You can give reasons why you think the Court should not approve the Settlement. The Court will consider your views before making a decision. Instructions for how to object to the proposed Settlement are in Question 16.

**THE LAWYERS REPRESENTING YOU**

13. **As a member of the Settlement Class, do I have a lawyer representing my interests in this class action?**

Yes. The Court has appointed lawyers to represent you and other members of the Settlement Class. These lawyers are called Class Counsel.

<b>COUNSEL FOR THE SETTLEMENT CLASS</b>	
<p>Marvin A. Miller <b>MILLER LAW LLC</b> 145 S. Wells Street Chicago, IL 60603</p>	<p>Dennis E. Murray, Jr. <b>MURRAY &amp; MURRAY CO., L.P.A.</b> 111 East Shoreline Drive Sandusky, OH 44870</p>
<p>James L. Ward, Jr. <b>MCGOWAN, HOOD &amp; FELDER, LLC</b> 10 Shem Drive, Suite 300 Mount Pleasant, SC 29464</p>	

14. **How will the lawyers be compensated? Will the named Plaintiffs receive an incentive award?**

Class Counsel will seek an award of attorneys' fees not to exceed one-third (1/3) of the Settlement Amount, reimbursement of expenses, which are estimated to be approximately \$200,000,<sup>1</sup> an incentive award in the sum of \$10,000 for each named Class Representative in this action, and an incentive award in the sum of \$5,000 for the named plaintiff in the *Emmons* action to be paid out of the Settlement Fund. Class Counsel may also request additional attorneys' fees and reimbursement of expenses in connection with the administration and preservation of the Settlement Fund.

15. **Should I get my own lawyer?**

You do not need to hire your own lawyer, but if you hire a lawyer to speak for you or appear in Court, your lawyer must file a Notice of Appearance. If you hire your own lawyer, it will be your responsibility to pay for that lawyer.

**OBJECTING TO THE SETTLEMENT**

16. **How do I tell the Court I don't like the Settlement?**

To object, you must prepare and sign a written objection that includes: (1) the case name and number ("*Smith v. FirstEnergy Corp., et al.*, Case No. 2:20-cv-3755"); (2) your full name, current address, and telephone number; (3) a written statement of your objections and the specific reasons for each; (4) any supporting papers, evidence, or documents; (5) a statement of whether you intend to appear and present your objections at the Fairness Hearing (see Question 21); and (6) your signature. You must file your objection with the Court **no later than October 5, 2022**, and mail copies to Class Counsel and Defense Counsel at the following addresses **postmarked no later than October 5, 2022**.

Court  
Office of the Clerk  
U.S. District Court  
Southern District of Ohio  
Joseph P. Kinneary Courthouse  
Room 121  
85 Marconi Boulevard  
Columbus, OH 43215

Class Counsel  
Dennis E. Murray, Jr.  
MURRAY & MURRAY CO., L.P.A.  
111 East Shoreline Drive  
Sandusky, OH 44870

Marvin A. Miller  
MILLER LAW LLC  
145 S. Wells Street  
Chicago, IL 60603

James L. Ward, Jr.  
McGOWAN, HOOD & FELDER, LLC  
10 Shem Drive, Suite 300  
Mount Pleasant, SC 29464

FirstEnergy Counsel  
Michael R. Gladman  
Tiffany D. Lipscomb-Jackson  
JONES DAY  
325 John H. McConnell Blvd.  
Suite 600  
Columbus, OH 43215

David Axelrod  
Timothy Katsiff  
BALLARD SPAHR LLP  
1735 Market Street  
Philadelphia, PA 19103

John F. McCaffrey  
TUCKER ELLIS LLP  
950 Main Avenue, Suite 1100  
Cleveland, OH 44113-7213

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<sup>1</sup> Including expenses incurred in the *Emmons* case.



Carole Rendon  
Terry Brennan  
BAKERHOSTETLER  
Key Tower  
127 Public Square, Suite 2000  
Cleveland, OH 44114-1214

Energy Harbor Counsel  
Marion H. Little, Jr.  
ZEIGER, TIGGES & LITTLE LLP  
41 S. High Street  
3500 Huntington Center  
Columbus, OH 43215

**17. What is the difference between objecting and excluding myself?**

Objecting is simply telling the Court that you don't like something about the Settlement. You can object only if you stay in the Settlement Class. Excluding yourself is telling the Court that you don't want to be part of the Settlement Class. If you exclude yourself, you have no basis to object because the case no longer affects you.

**THE COURT'S FAIRNESS HEARING**

**18. When and where will the Court decide whether to approve the Settlement?**

The Court will hold a Fairness Hearing on November 9, 2022, at 9:30 a.m. Eastern Time at the United States District Court for the Southern District of Ohio, Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215 in Courtroom 301. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. Judge Sargus will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay to Class Counsel. After the hearing, the Court will decide whether to approve the Settlement. We do not know how long it will take for these decisions to be made.

**19. Do I have to come to the hearing?**

No. Class Counsel will answer questions Judge Sargus may have, but you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay your own lawyer to attend, but it's not necessary.

**20. May I speak at the hearing?**

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *Smith v. FirstEnergy Corp., et al.*, Case No. 2:20-cv-3755." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked **no later than October 5, 2022**, and be sent to the Clerk of the Court, Class Counsel, and Defense Counsel at the nine addresses in question 17. You cannot speak at the hearing if you excluded yourself.

**PLAN OF ALLOCATION AND DISTRIBUTION OF SETTLEMENT FUNDS**

**21. How will payments to members of the Settlement Class who do not request exclusion be calculated?**

At this time, it is unknown how much each eligible Settlement Class member will receive.

Pursuant to the proposed Settlement, Defendants will provide a Forty-Nine Million Dollar (\$49,000,000.00) fund (the "Settlement Funds"). The Settlement Funds, less Court-approved attorneys' fees, reimbursement of expenses, and incentive awards, will be paid to members of the Settlement Class who have not requested



exclusion. No money will be returned to the Defendants once the Court finally approves the Settlement, and no additional money will be paid by any of the Defendants to the Settlement Class. The payment to each eligible member of the Settlement Class, less refunds already paid by the FirstEnergy Settling Parties, will be a proportion of the amount of each member's total fees and charges paid pursuant to HB 6 during the Class Period in relation to such total amount paid by all Settlement Class members, but not to exceed 100% of the amount paid by the members of the Settlement Class.

**22. How can I get a payment?**

You do not need to do anything to receive your share of the Settlement Funds. Your money will be sent to you automatically if the Court approves the Settlement unless you exclude yourself from the Settlement.

The Settlement Administrator will seek to make the Settlement payments electronically, as this may be the easiest and quickest option for you to receive your money. If you received this Notice by email, please update your email address with a current, valid email address if you would prefer to receive further information at a different address. If you received a hard copy of this Notice in the mail or by any other method, please go to [www.OhioElectricityLitigation.com](http://www.OhioElectricityLitigation.com) or contact the Settlement Administrator at (877) 888-9895 to provide a current, valid email address. When you receive the email notifying you of your Settlement payment, you will be provided with several digital payment options. You will also have the opportunity to request that a check be mailed to you by the Settlement Administrator. This request can be made at [www.OhioElectricityLitigation.com](http://www.OhioElectricityLitigation.com).

**Again, you do not need to do anything to receive your money. It will be sent automatically if the Court approves the Settlement.**

**GETTING MORE INFORMATION**

**23. Where do I get more information?**

This Notice contains a summary of the relevant court papers. Complete copies of public pleadings, Court rulings, and other filings are available for review and copying at the Clerk's office. The address is U.S. District Court, Southern District of Ohio, Joseph P. Kinneary U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

Additional information about the case, including the Settlement Agreements, is available at [www.OhioElectricityLitigation.com](http://www.OhioElectricityLitigation.com), or you can call the Settlement Administrator toll-free at (877) 888-9895.

***Do not contact the Court, Judge Sargus, or Magistrate Judge Jolson.***

DATED: JUNE 22, 2022

BY ORDER OF THE UNITED STATES DISTRICT  
COURT, SOUTHERN DISTRICT OF OHIO