

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Ohio Schools Council, Ohio)	
School Boards Association, Ohio)	
Association of School Business Officials,)	
and Buckeye Association of School)	
Administrators, dba Power4Schools,)	
)	
Complainants,)	
)	
v.)	Case No. 14-1182-EL-CSS
)	
FirstEnergy Solutions Corp.,)	
)	
Respondent.)	

ENTRY

The attorney examiner finds:

- (1) FirstEnergy Solutions (FES) is an electric services company as defined in R.C. 4928.01(A)(9), and, as such, is subject to the jurisdiction of this Commission.
- (2) Pursuant to R.C. 4905.26, the Commission has authority to consider written complaints filed against a public utility by any person or corporation regarding any rate, service, regulation, or practice furnished by the public utility that is in any respect unjust, unreasonable, insufficient, or unjustly discriminatory. Pursuant to R.C. 4928.16, the Commission has jurisdiction under R.C. 4905.26, upon complaint of any person, regarding the provision by an electric services company subject to certification under R.C. 4928.08 of any service for which it is subject to certification.
- (3) On July 3, 2014, a complaint was filed against FES by Ohio Schools Council, Ohio School Boards Association, Ohio Association of School Business Officials, and Buckeye Association of School Administrators, dba Power4Schools (collectively, Power4Schools). Power4Schools alleges several counts relating to FES's pass-through of specific costs it received from PJM Interconnection LLC (PJM) to Power4Schools. Power4Schools' complaint alleges that it

contracted both fixed rates and discounted rates with FES and, in those contracts, FES failed to disclose the potential of additional charges from the pass-through event. Further, even if the contract did allow for the charges, imposing them was unlawful. In doing so, Power4Schools alleges FES engaged, among other things, in unfair, misleading, deceptive, or unconscionable acts or practices related to the administration of a competitive retail electric service contract in violation of R.C. 4928.10, Ohio Adm.Code 4901:1-21-02(E), 4901:1-21-03(A)(1)-(3), 4901:1-21-11(A), 4901:1-21-12(A)(7)(a), and 4901:1-21-12(A)(7)(b). Additionally, according to Power4Schools, the actions of FES were unjust, unreasonable, and unlawful pursuant to R.C. 4905.26.

- (4) On August 4, 2014, FES filed an answer to the complaint, denying all of the allegations made by Power4Schools. At that time, FES also filed a motion to dismiss for lack of subject matter jurisdiction.
- (5) On November 18, 2015, the Commission denied FES's motion to dismiss and directed the attorney examiner to issue a procedural schedule setting this matter for hearing.
- (6) The attorney examiner finds that this case should be scheduled for a hearing beginning June 14, 2016, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, Hearing Room 11-C, 11th floor, Columbus, Ohio, 43215-3793.
- (7) All discovery requests should be conducted in accordance with Ohio Adm.Codes 4901-1-16 and 4901-1-24.
- (8) Any party intending to present direct, expert testimony should comply with Ohio Adm.Code 4901-1-29(A)(1)(h), which requires that all such testimony be filed and served upon all parties no later than seven days prior to the commencement of the hearing.
- (9) As is the case in all Commission complaint proceedings, the complainant has the burden of proving the allegations of the complaint. *Grossman v. Public Util. Comm.*, 5 Ohio St. 2d 189, 214 N.E.2d 666 (1966).

It is, therefore,

ORDERED, That a hearing be scheduled for June 14, 2016, at 10:00 a.m., at the offices of the Commission, 180 East Broad Street, 11th Floor, Hearing Room 11-C, Columbus, Ohio 43215-3793, in accordance with Finding (6). It is, further,

ORDERED, That a copy of this Entry be served upon each party of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/ Nicholas Walstra

By: Nicholas Walstra
Attorney Examiner

jrj/vrm

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in

Case No(s). 14-1182-EL-CSS

Summary: Attorney Examiner Entry scheduling a hearing for June 14, 2016, at 10:00 a.m.; electronically filed by Vesta R Miller on behalf of Nicholas Walstra, Attorney Examiner, Public Utilities Commission of Ohio