



Office of the Ohio Consumers' Counsel

November 6, 2017

Ms. Barcy McNeal, Secretary
Public Utilities Commission of Ohio
180 East Broad Street, 11th Floor
Columbus, Ohio 43215-3793

Re: FirstEnergy Solutions, PUCO Case No. 00-1742-EL-CRS

Dear Ms. McNeal:

In light of recent statements by the corporate parent of FirstEnergy Solutions (“FES”) that FES likely will file for bankruptcy at some point, the Public Utilities Commission of Ohio (“PUCO”) should address in advance how FES’s consumers will be protected if or when a bankruptcy filing is made. The potential for customer confusion should be minimized, among other things. As background, FirstEnergy Corp., in its October 26, 2017 quarterly report to the Securities and Exchange Commission (“SEC”), stated that FES may be required to “restructure debt and other financial obligations with its creditors and/or seek protection under U.S. bankruptcy laws.”

Additionally, in its report to the SEC, FirstEnergy Corp. expressed concerns about whether FES could continue as a going concern: “Although management is exploring capital and other cost reductions, asset sales, and other options to improve cash flow as well as continuing with efforts to explore legislative or regulatory solutions, these obligations and their impact to liquidity raise substantial doubt about FES’s ability to meet its obligations as they come due over the next twelve months and, as such, its ability to continue as a going concern.”

In this regard, financial guarantees to protect consumers from a marketer’s default are a requirement for energy marketers serving the public. The PUCO’s rules (Ohio Adm. Code 4901:1-24) and Ohio law speak to the financial capability of energy marketers. Specifically, R.C. 4928.08(B) requires that marketers must be certified by the PUCO and must provide “a financial guarantee sufficient to protect customers and electric distribution utilities from default.” Also see Ohio Adm. Code 4901:1-24-14.

The PUCO should be proactive to protect consumers and potential consumers with regard to a possible bankruptcy by FES. The PUCO should require FES to immediately file a plan with proposals for measures to protect existing consumers. The plan should include proposed messages for FES to send its consumers, before and after a bankruptcy filing, with information about options in the event FES defaults. The information about options should include reference to the availability of the utilities’ standard offers. In addition to protections for existing consumers, FES’s plan should include proposals for informing potential consumers (whose business FES is soliciting) about the potential bankruptcy and possible impacts on service terms and conditions. Upon review of FES’s proposals

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and after input from other interested parties, the PUCO should order FES to send appropriate information to consumers for their protection.

Furthermore, the PUCO should review FES's posted collateral (financial guarantee) to ascertain whether it is adequate to protect consumers and governmental aggregators, who are currently under contract to receive service from FES, in the event of a default.

Thank you for considering these protections for Ohio consumers.

Sincerely,

A handwritten signature in blue ink, appearing to read "Terry Etter". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Terry Etter
Assistant Consumers' Counsel

Cc: Kim Bojko, Special Counsel for the Office of the Ohio Consumers' Counsel
William Wright, Attorney General, PUCO
Mark A. Hayden, Counsel for FirstEnergy Solutions Corp.

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Summary: Correspondence Correspondence by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of Etter, Terry L.