

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Initial Certification	)	
Application of Suvon, LLC d/b/a FirstEnergy	)	Case No. 20-0103-EL-AGG
Advisors to Provide Aggregation and Broker	)	
Services in the State of Ohio.	)	

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**SUVON, LLC D/B/A FIRSTENERGY ADVISORS’  
MOTION FOR PROTECTIVE ORDER**

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Pursuant to Ohio Administrative Code (“OAC”) Rule 4901-1-24, Suvon, LLC d/b/a FirstEnergy Advisors (“FirstEnergy Advisors”) hereby moves for a protective order from the discovery served upon it on February 20, 2020 by the Northeast Ohio Public Energy Council (“NOPEC”) as well as any discovery which may be issued in the future by intervenors. As more fully explained in the accompanying Memorandum in Support, discovery is premature at this juncture. Commission precedent does not anticipate discovery from intervenors in every case, particularly where no hearing has been established where such discovery could be used. FirstEnergy Advisors therefore seeks an order pursuant to OAC Rule 4901-1-24(A)(1) that discovery not be had until and unless the Commission determines the procedural course the above-captioned application will follow.

OAC Rule 4901-1-24(B)(2) requires that a motion for a protective order be accompanied by copies of the discovery requests that are subject to the request for a protective order. Because FirstEnergy Advisors’ motion relates to all the interrogatories and requests for production of documents contained in NOPEC’s First Set of Discovery Requests, dated February 20, 2020, the entire first set of discovery is attached to the Alexander Affidavit as Exhibit A.

Additionally, as required by OAC Rule 4901-1-24(B)(3), an affidavit of counsel setting forth the efforts that have been undertaken to resolve this discovery issue with NOPEC is attached hereto.

Nothing in this motion shall be construed as a waiver of FirstEnergy Advisors' right to object to and/or seek protection from any discovery request contained in NOPEC's First Set of Discovery if and when the Commission determines that the discovery process should commence.

WHEREFORE, FirstEnergy Advisors respectfully requests that its motion for a protective order be granted and that the Commission issue an order providing that FirstEnergy Advisors is not required to respond to NOPEC's first set of discovery dated February 20, 2020 or any discovery which may be issued in the future by intervenors until such time as the Commission orders otherwise.

Respectfully submitted,

/s/ N. Trevor Alexander

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Advisors*

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**MEMORANDUM IN SUPPORT OF SUVON, LLC D/B/A FIRSTENERGY ADVISORS’  
MOTION FOR PROTECTIVE ORDER**

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**I. INTRODUCTION**

Pursuant to Ohio Administrative Code (“OAC”) 4901-1-24, Suvon, LLC d/b/a FirstEnergy Advisors (“FirstEnergy Advisors”) moves for a protective order from the discovery served upon it on February 20, 2020 by the Northeast Ohio Public Energy Council (“NOPEC”) as well as any discovery which may be issued in the future by intervenors.

There is no universal right to discovery in every Commission case. Instead, the Commission has reasonably drawn a distinction between cases where a hearing is scheduled and other types of cases. In the former discovery is often appropriate. In the latter there is no way to determine what information is reasonably likely to lead to the discovery of admissible evidence or whether requests would impose an undue burden. As a result when no hearing has been established there is no automatic right to discovery.

This case is a perfect example of why the Commission adopted this procedure. The Commission and Staff are responsible for reviewing broker applications, not intervenors. NOPEC is seeking information about issues which have nothing to do with the statutory standard by which broker applications are judged. There is nothing in Ohio law which gives NOPEC the right to determine the issues in this case. Determining the scope of the proceeding is reserved for the

Commission and Staff. Therefore it is inappropriate to require FirstEnergy Advisors to respond to discovery requests in a case which does not involve NOPEC, regarding issues which neither FirstEnergy Advisors nor the Commission have agreed are properly relevant to this case.

A protective order should be issued unless the Commission orders a hearing in this case and identifies the issues to be addressed in that hearing. This would conserve resources for all concerned by avoiding unnecessary discovery if no hearing is ever scheduled (as is typically the case in Commission broker application cases). It would also not prejudice any party because the intervenors would still have the chance for discovery if it was later ordered by the Commission.

## **II. LAW AND ARGUMENT**

Under OAC 4901-1-24, a party may seek Commission protection from discovery requests that would impose undue burden or expense. Paragraph (A) of this rule provides:

(A) Upon motion of any party or person from whom discovery is sought, the commission, the legal director, the deputy legal director, or an attorney examiner may issue any order that is necessary to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. Such a protective order may provide that:

(1) Discovery not be had.

FirstEnergy Advisors seeks a protective order from the Commission ordering that discovery not be had because NOPEC's discovery requests are premature and NOPEC is not entitled to discovery at this time pursuant to Commission Rules. At this juncture, there is no hearing established, and there is no reason for permitting discovery without knowing the scope of the case. There is no way to determine what information is reasonably likely to lead to the discovery of admissible evidence at this point. As such, discovery would impose an undue burden on FirstEnergy Advisors.

The Commission's discovery rules support this, as they anticipate discovery only for a "proceeding" or a "hearing." Specifically, Ohio Administrative Code ("OAC") 4901-1-17(A) allows for prehearing discovery to begin "after a proceeding is commenced" and states that such discovery "must be completed prior to the commencement of the hearing," thus contemplating that a hearing is set or is contemplated prior to engaging in discovery.<sup>1</sup> OAC 4901-1-16(A) also supports this, as it notes that the purpose of rules 4901-1-16 to 4901-1-24 is "to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings."<sup>2</sup>

Furthermore, the Commission has previously addressed whether discovery can be held in any matter. In *In re Chapters 4901-1, 4901-3, and 4901-9 of the Ohio Administrative Code*, Case No. 06-685-AU-ORD, the Commission addressed comments related to the Commission's procedural rules contained in Chapter 4901-1. OCC requested that the Commission add the definition of "proceeding" to the rules and define it as "any filing, hearing, investigation, inquiry or rulemaking which the Commission is required or permitted to make, hold or rule upon."<sup>3</sup> The Commission rejected the Ohio Consumers Counsel's ("OCC") request to define "proceeding" so broadly. The Commission held:

If OCC's proposal were adopted, any interested person would have the right to intervene, conduct discovery and present evidence in any Commission case. The Commission does not believe that such rights exist. In addition, OCC's proposed definition would eliminate the Commission's discretion to conduct its proceedings in a manner it deems appropriate and would unduly delay the outcome of many cases. The request is denied.<sup>4</sup>

Similarly, in another matter, the Commission held:

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<sup>1</sup> OAC 4901-1-17(A).

<sup>2</sup> OAC 4901-1-16(A).

<sup>3</sup> *In re Matter of the Review of Chapter 4901-1, 4901-3, and 4901-9 of the Ohio Administrative Code*, Case No. 06-685-AU-ORD, Finding and Order at ¶ 7 (December 6, 2006).

<sup>4</sup> *Id.* at ¶ 9 (emphasis added).

the Commission's procedural rules and its governing statutes convey significant discretion and flexibility on the governance of its own proceedings. This is particularly so for proceedings where no hearing is required by law. There is no right to an evidentiary hearing in this proceeding or to the full discovery process normally reserved for cases where a hearing is required."<sup>5</sup>

These cases establish that discovery is not available as a matter of right at any time in every single Commission case.

Here, there has been no case schedule established to date, nor is there any hearing or briefing process by which the information requested in the February 20, 2020 discovery requests could be utilized. For good reason; the Commission typically does not conduct hearings or allow intervenor participation in broker application cases.

In addition, the proper scope of this matter is contained in OAC 4901:1-24-10(B). Specifically, the Commission will consider the information contained in the applicant's application, supporting attachments and evidence, and recommendations of its Staff. Comments, recommendations and discovery from intervenors are notably absent from the application process. NOPEC has no authority to broaden the scope of this proceeding to other issues it would like to address. Therefore, any discovery in this matter about things outside of the Application itself is premature absent further procedural guidance.<sup>6</sup>

Furthermore, engaging in any discovery prior to having a demonstrated need or plan for a hearing is unduly burdensome because FirstEnergy Advisors cannot be expected to provide the requested information until such time as the Commission determines what, if any, issues are present in this case. Simply put, there is no need for discovery to prepare for a hearing if there is

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<sup>5</sup> *In re Triennial Review Regarding Local Circuit Switching*, Case No. 03-2040-TP-COI, Entry on Rehearing at ¶ 8 (October 28, 2003) (denying OCC and CLEC's application for rehearing claiming that it has full discovery rights in a proceeding).

<sup>6</sup> *See, e.g.*, OAC 4901-1-16(B).

not going to be a hearing. Thus, NOPEC's discovery requests are premature and the intervenors are not entitled to discovery at this time.

### **III. CONCLUSION**

For the foregoing reasons, the intervenors are not entitled to discovery in this docket now. To continue to foster the free flow of information between FirstEnergy Advisors and Staff, FirstEnergy Advisors respectfully requests that its motion for a protective order be granted and that the Commission issue an order providing that FirstEnergy Advisors is not required to respond to NOPEC's first set of discovery dated February 20, 2020 or other intervenor discovery until such time as the Commission orders otherwise.

Respectfully submitted,

/s/ N. Trevor Alexander

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*Attorneys for Suvon, LLC d/b/a FirstEnergy  
Advisors*

**CERTIFICATE OF SERVICE**

I certify that the foregoing was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on this 17th day of March 2020. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

/s/ N. Trevor Alexander

One of the Attorneys for Suvon, LLC d/b/a  
FirstEnergy Advisors



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Services in the State of Ohio. )

State of Ohio                    )  
  )                   SS  
County of Franklin            )

1. I am counsel for Suvon, LLC d/b/a FirstEnergy Advisors (“FirstEnergy Advisors”), the applicant in the above-captioned proceeding.
2. On February 20, 2020, Northeast Ohio Public Energy Council (“NOPEC”) served discovery requests upon FirstEnergy Advisors. A true and accurate copy of those discovery responses are attached as Exhibit A.
3. On March 11, 2020, FirstEnergy Advisors served its responses to NOPEC’s discovery requests, in which FirstEnergy Advisors asserted, among other objections, that discovery is premature. A true and accurate copy of those discovery responses are attached as Exhibit B.
4. On March 12, 2020, NOPEC responded to those discovery responses by claiming that it had an immediate right to discovery. A true and accurate copy of that email is attached hereto as Exhibit C.
5. On March 13, 2020, I responded via email to NOPEC’s counsel, stating that FirstEnergy Advisors would provide its response to the March 12, 2020 email on Monday, March 16, 2020.
6. On March 16, 2020, I sent a letter via email to NOPEC’s counsel, which reiterated FirstEnergy Advisors position that discovery is not appropriate at this point. A true and accurate copy of that letter is attached as Exhibit D.
7. I have prepared this affidavit for submission with the foregoing motion for protective order as required by Ohio Administrative Code Rule 4901-1-24(B)(3).

N. Trevor Alexander  
N. Trevor Alexander

Sworn to and subscribed before me on this 17 day of March 2020.

Lilian Guttmann-Robinson  
Notary Public



LILIAN GUTTMANN-ROBINSON

NOTARY PUBLIC  
STATE OF OHIO

My Commission Expires  
February 1, 2024

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Services in the State of Ohio.	)	

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**NORTHEAST OHIO PUBLIC ENERGY COUNCIL’S  
FIRST SET OF INTERROGATORIES AND REQUESTS FOR PRODUCTION OF  
DOCUMENTS TO SUVON, LLC D/B/A FIRSTENERGY ADVISORS**

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Pursuant to Ohio Administrative Code (“OAC”) Rules 4901-1-16, 4901-1-17, 4901-1-18, 4901-1-19, 4901-1-20, and as a party in the above-captioned proceedings, the Northeast Ohio Public Energy Council (“NOPEC”) hereby propounds the following Interrogatories and Request for Production of Documents (“Discovery Requests”) to Suvon, LLC d/b/a FirstEnergy Advisors (“FirstEnergy Advisors”) to be answered in writing and under oath. NOPEC requests FirstEnergy Advisors to answer the Discovery Requests and provide copies, or access to, all responsive documents with twenty (20) days of service, and no later than March, 11, 2020. All responses should be sent to:

Glenn S. Krassen  
BRICKER & ECKLER LLP  
1001 Lakeside Avenue, Suite 1350  
Cleveland, OH 44114  
E-mail: gkrassen@bricker.com

and to

Dane Stinson  
BRICKER & ECKLER LLP  
100 South Third Street  
Columbus, Ohio 43215-4291  
Email: dstinson@bricker.com

Additionally, FirstEnergy Advisors must follow the instructions provided herein in responding to the inquiries. Definitions used in NOPEC’s discovery are provided below.

## **DEFINITIONS**

As used herein the following definitions apply:

1. “Document” or “Documentation” when used herein, is used in its customary broad sense, and means all originals of any nature whatsoever, identical copies, and all non-identical copies thereof, pertaining to any medium upon which intelligence or information is recorded in your possession, custody, or control regardless of where located; including any kind of printed, recorded, written, graphic, or photographic matter and things similar to any of the foregoing, regardless of their author or origin. The term specifically includes, without limiting the generality of the following: punchcards, printout sheets, movie film, slides, PowerPoint slides, phonograph records, photographs, memoranda, ledgers, work sheets, books, magazines, notebooks, diaries, calendars, appointment books, registers, charts, tables, papers, agreements, contracts, purchase orders, checks and drafts, acknowledgments, invoices, authorizations, budgets, analyses, projections, transcripts, minutes of meetings of any kind, telegrams, drafts, instructions, announcements, schedules, price lists, electronic copies, reports, studies, statistics, forecasts, decisions, and orders, intra-office and inter-office communications, correspondence, financial data, summaries or records of conversations or interviews, statements, returns, diaries, workpapers, maps, graphs, sketches, summaries or reports of investigations or negotiations, opinions or reports of consultants, brochures, bulletins, pamphlets, articles, advertisements, circulars, press releases, graphic records or representations or publications of any kind (including microfilm, videotape and records, however produced or reproduced), electronic (including e-mail), mechanical and electrical records of any kind and computer produced interpretations thereof (including, without limitation, tapes, tape cassettes, disks and records), other data compilations

(including, source codes, object codes, program documentation, computer programs, computer printouts, cards, tapes, disks and recordings used in automated data processing together with the programming instructions and other material necessary to translate, understand or use the same), all drafts, prints, issues, alterations, modifications, changes, amendments, and mechanical or electric sound recordings and transcripts to the foregoing. A request for discovery concerning documents addressing, relating or referring to, or discussing a specified matter encompasses documents having a factual, contextual, or logical nexus to the matter, as well as documents making explicit or implicit reference thereto in the body of the documents. Originals and duplicates of the same document need not be separately identified or produced; however, drafts of a document or documents differing from one another by initials, interlineations, notations, erasures, file stamps, and the like shall be deemed to be distinct documents requiring separate identification or production. Copies of documents shall be legible.

2. “Communication” shall mean any transmission of information by oral, graphic, written, pictorial, or otherwise perceptible means, including, but not limited to, telephone conversations, letters, telegrams, electronic mail, and personal conversations. A request seeking the identity of a communication addressing, relating or referring to, or discussing a specified matter encompasses documents having factual, contextual, or logical nexus to the matter, as well as communications in which explicit or implicit reference is made to the matter in the course of the communication.
3. The “substance” of a communication or act includes the essence, purport or meaning of the same, as well as the exact words or actions involved.

4. “And” or “Or” shall be construed conjunctively or disjunctively as necessary to make any request inclusive rather than exclusive.
5. “You,” and “Your,” or “Yourself” refer to the party requested to produce documents and any present or former director, officer, agent, contractor, consultant, advisor, employee, partner, or joint venturer of such party.
6. Each singular shall be construed to include its plural, and vice versa, so as to make the request inclusive rather than exclusive.
7. Words expressing the masculine gender shall be deemed to express the feminine and neuter genders; those expressing the past tense shall be deemed to express the present tense; and vice versa.
8. “Person” includes any firm, corporation, joint venture, association, entity, or group of natural individuals, unless the context clearly indicates that only a natural individual is referred to in the discovery request.
9. “Identify,” or “the identity of,” or “identified” means as follows:
  - A. When used in reference to an individual, to state his full name and present or last known position and business affiliation, and his position and business affiliation at the time in question;
  - B. When used in reference to a commercial or governmental entity, to state its full name, type of entity (e.g., corporation, partnership, single proprietorship), and its present or last known address;
  - C. When used in reference to a document, to state the date, author, title, type of document (e.g., letter, memorandum, photograph, tape recording, etc.), general

subject matter of the document, and its present or last known location and custodian;

- D. When used in reference to a communication, to state the type of communication (i.e., letter, personal conversation, etc.), the date thereof, and the parties thereto and the parties thereto and, in the case of a conversation, to state the substance, place, and approximate time thereof, and identity of other persons in the presence of each party thereto;
  - E. When used in reference to an act, to state the substance of the act, the date, time, and place of performance, and the identity of the actor and all other persons present.
  - F. When used in reference to a place, to state the name of the location and provide the name of a contact person at the location (including that person's telephone number), state the address, and state a defining physical location (for example: a room number, file cabinet, and/or file designation).
- 10. The terms "PUCO" and "Commission" and refer to the Public Utilities Commission of Ohio, including its Commissioners, personnel (including Persons working for the PUCO Staff as well as in the Public Utilities Section of the Ohio Attorney General's Office), and offices.
  - 11. The term "e.g." connotes illustration by example, not limitation.
  - 12. "NOPEC" means the Northeast Ohio Public Energy Council.
  - 13. "Staff" means the Staff of the Public Utilities Commission of Ohio.
  - 14. "Application" means FirstEnergy Advisors' initial certification application filed with the PUCO in Case No. 20-103-EL-AGG.
  - 15. "FES" means FirstEnergy Solutions Corp.

16. “FirstEnergy Advisors” means Suvon, LLC d/b/a FirstEnergy Advisors.

**INSTRUCTIONS FOR ANSWERING**

1. All information is to be divulged which is in your possession or control, or within the possession or control of your attorney, agents, or other representatives of yours or your attorney.
2. Where an interrogatory calls for an answer in more than one part, each part should be separate in the answer so that the answer is clearly understandable.
3. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections are to be signed by the attorney making them.
4. If any answer requires more space than provided, continue the answer on the reverse side of the page or on an added page.
5. Your organization(s) is requested to produce responsive materials and information within its physical control or custody, as well as that physically controlled or possessed by any other person acting or purporting to act on your behalf, whether as an officer, director, employee, agent, independent contractor, attorney, consultant, witness, or otherwise.
6. Where these requests seek quantitative or computational information (e.g., models, analyses, databases, and formulas) stored by your organization(s) or its consultants in computer-readable form, in addition to providing hard copy (if an electronic response is not otherwise provided as requested), you are requested to produce such computer-readable information, in order of preference:
  - A. Microsoft Excel worksheet files on compact disk;



- B. other Microsoft Windows or Excel compatible worksheet or database diskette files;
  - C. ASCII text diskette files; and
  - D. such other magnetic media files as your organization(s) may use.
7. Conversion from the units of measurement used by your organization(s) in the ordinary course of business need not be made in your response; e.g., data requested in kWh may be provided in mWh or gWh as long as the unit measure is made clear.
  8. Unless otherwise indicated, the following requests shall require you to furnish information and tangible materials pertaining to, in existence, or in effect for the whole or any part of the period from January 1, 2019 through and including the date of your response.
  9. Responses must be complete when made, and must be supplemented with subsequently acquired information at the time such information is available.
  10. In the event that a claim of privilege is invoked as the reason for not responding to discovery, the nature of the information with respect to which privilege is claimed shall be set forth in responses together with the type of privilege claimed and a statement of all circumstances upon which the respondent to discovery will rely to support such a claim of privilege (i.e., provide a privilege log). Respondent to the discovery must a) identify (see definition) the individual, entity, act, communication, and/or document that is the subject of the withheld information based upon the privilege claim, b) identify all persons to whom the information has already been revealed, and c) provide the basis upon which the information is being withheld and the reason that the information is not provided in discovery.

## **INTERROGATORIES**

*\*In accordance with Ohio Adm. Code 4901-1-16(D)(5), NOPEC requests that all responses be supplemented with subsequently acquired information at the time such information is available.*

**INT 01** Identify all discovery requests made to FirstEnergy Advisors by any party, intervenor or Staff related to:

- a. The Application,
- b. FirstEnergy Advisors, and
- c. FES and/or Energy Harbor Corp.

**RESPONSE:**

**RESPONDENT:**

**INT 02** Identify all employees of FirstEnergy Advisors.

**RESPONSE:**

**RESPONDENT:**

**INT 03** Identify all employees of FirstEnergy Advisors who formerly were employed by FES and:

- a. the date of hire and termination of each such employee by FES,
- b. the date of hire of each such employee by FirstEnergy Advisors,
- c. the position or job title of each such employee while employed by FES, and

- d. the position or job title of each such employee while employed by FirstEnergy Advisors.

**RESPONSE:**

**RESPONDENT:**

**INT 04** Identify each member of Suvon, LLC.

**RESPONSE:**

**RESPONDENT:**

**INT 05** Identify all documents used to form Suvon, LLC including, but not limited to::

- a. operating agreements and
- b. articles of organization

**RESPONSE:**

**RESPONDENT:**

**INT 06** Identify all meeting minutes and written actions of Suvon, LLC.

**RESPONSE:**

**RESPONDENT:**

**INT 07** Identify the positions, offices and titles that Dennis M. Chack has held, holds, or will hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**RESPONSE:**

**RESPONDENT:**

**INT 08** Identify the positions, offices and titles that Brett W. Reynolds has held, holds, or will hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**RESPONSE:**

**RESPONDENT:**

**INT 09** Identify the positions, offices and titles that Steven R. Staub has held, holds, or will hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**RESPONSE:**

**RESPONDENT:**

**INT 10** Identify the positions, offices and titles that Ebony L. Yeboah-Amankwah has held, holds, or will hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**RESPONSE:**

**RESPONDENT:**

**INT 11** Identify the positions, offices and titles that Tracy M. Ashton has held, holds, or will hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**RESPONSE:**

**RESPONDENT:**

**INT 12** Identify the positions, offices and titles that Marlene A. Barwood has held, holds, or will hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**RESPONSE:**

**RESPONDENT:**

**INT 13** Identify the positions, offices and titles that Gregory J. Gawlik has held, holds, or will hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**RESPONSE:**

**RESPONDENT:**

**INT 14** Identify the positions, offices and titles that Charles E. Jones has held, holds, or will hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**RESPONSE:**

**RESPONDENT:**

**INT 15** Identify the positions, offices and titles that Steven E. Strah has held, holds, or will hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**RESPONSE:**

**RESPONDENT:**

**INT 16** Identify the positions, offices and titles that Lorraine M. Rader has held, holds, or will hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**RESPONSE:**

**RESPONDENT:**

**INT 17** Identify the positions, offices and titles that Brian A. Farley has held, holds, or will hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**RESPONSE:**

**RESPONDENT:**

**INT 18** Exhibit B-2 to the Application states that “FirstEnergy Advisors has the support of individuals with significant experience in contracting with customers, providing contracted services, providing billing statements, and responding to customer inquiries and complaints. Combined these individuals have over 40 years of experience and knowledge providing energy services to residential, commercial and industrial customers in Ohio.” With respect to this statement identify:

- a. the individuals to whom the statement refers,
- b. the name of the entity with which these individuals gained “experience and knowledge providing energy services,” and
- c. these individuals’ positions, job titles and offices held with the entity(ies) named in INT 18(b).
- d. all documents related to the former entity’s provision of energy services that these individuals have provided to FirstEnergy Advisors, including without limitation customer lists, customer contact information and customer account information.

**RESPONSE:**

**RESPONDENT:**

**INT 19** Exhibit B-3 to the Application states that, “The Director, Energy Sales supporting Suvon, LLC d/b/a FirstEnergy Advisors (the “Director”) has over 10 years experience working in the residential, commercial and industrial electric retail sales and

marketing space...In addition, other individuals supporting the Company have experience evaluating customer usage, creating Requests for Proposals (RFPs), and addressing customer and community inquiries and complaints.” With respect to this statement identify:

- a. the Director,
- b. the entity with which the Director gained experience in providing retail electric service;
- c. the Director’s position or job title with this former entity,
- d. the “other individuals supporting the Company” including their positions or job titles,
- e. the entity with which these “other individuals” gained the stated experiences, and
- f. these “other individuals’ positions or job titles with their former entity.
- g. all documents related to the former entity’s provision of energy services that these individuals have provided to FirstEnergy Advisors, including without limitation customer lists, customer contact information and customer account information

**RESPONSE:**

**RESPONDENT:**

**INT 20** Identify all correspondence between FirstEnergy Advisors and FES and/or Energy Harbor Corp. including without limitation all letters of intent or contracts for aggregation or brokerage services that FirstEnergy Advisors entered into or is in discussions about with FES and Energy Harbor.

**RESPONSE:**

**RESPONDENT:**



## **REQUEST FOR PRODUCTION OF DOCUMENTS**

1. Produce a copy of each document you identified, consulted, referred to, or utilized in preparing your response to the foregoing interrogatories.
2. Produce the documents identified in INT 01 including FirstEnergy Advisors' responses thereto.
3. Produce all communications and documents related to the documents identified in INT 01.
4. Produce the documents identified in INT 05.
5. Produce all communications and documents related to the documents identified in INT 05.
6. Produce the documents identified in INT 06.
7. Produce all communications and documents related to the documents identified in INT 06.
8. Produce the documents identified in INT 18(d).
9. Produce all communications and documents related to the documents identified in INT 18(d).
10. Produce the documents identified in INT 19(g).
11. Produce all communications and documents related to the documents identified in INT 19(g).
12. Produce the documents identified in INT 20.
13. Produce all communications between any of the managers or officers of FirstEnergy Advisors and any of the Officers and/or Directors of FirstEnergy Corp, FirstEnergy Services Company, Ohio Edison Company, The Cleveland Electric Illuminating Company, and/or The Toledo Edison Company.

14. Produce all communications between Lorraine M. Rader and any of the Officers and/or Directors of FirstEnergy Corp, FirstEnergy Services Company, Ohio Edison Company, The Cleveland Electric Illuminating Company, and/or The Toledo Edison Company.
15. Produce all communications between Brian A. Farley and any of the Officers and/or Directors of FirstEnergy Corp, FirstEnergy Services Company, Ohio Edison Company, The Cleveland Electric Illuminating Company, and/or The Toledo Edison Company.
16. Produce all communications between any of Suvon, LLC's members and any of the Officers and/or Directors of FirstEnergy Corp, FirstEnergy Services Company, Ohio Edison Company, The Cleveland Electric Illuminating Company, and/or The Toledo Edison Company.

Respectfully submitted on behalf of  
Northeast Ohio Public Energy Council



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Dane Stinson  
BRICKER & ECKLER LLP  
100 South Third Street  
Columbus, Ohio 43215-4291  
Email: dstinson@bricker.com

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing First Set of Interrogatories and Requests for Production of Documents was served upon the following by electronic mail this 20<sup>th</sup> day of February 2020.



\_\_\_\_\_  
Dane Stinson (0019101)

N. Trevor Alexander  
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**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Initial Certification	)	
Application of Suvon, LLC d/b/a FirstEnergy	)	Case No. 20-103-EL-AGG
Advisors to Provide Aggregation and Broker	)	
Services in the State of Ohio.	)	

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**SUVON, LLC D/B/A FIRSTENERGY ADVISORS' OBJECTIONS, ANSWERS, AND  
RESPONSES TO NORTHEAST OHIO PUBLIC ENERGY COUNCIL'S FIRST SET OF  
INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS**

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Pursuant to Rules 4901-1-19 and 4901-1-20 of the Ohio Administrative Code, Suvon, LLC d/b/a FirstEnergy Advisors ("FirstEnergy Advisors") objects, answers, and responds to Northeast Ohio Public Energy Council's ("NOPEC") First Set of Interrogatories and Requests for Production of Documents (collectively, the "Requests") as follows:

**GENERAL OBJECTIONS**

1. These General Objections are incorporated by reference into FirstEnergy Advisors' responses made with respect to each Request. The inclusion of any specific objection to a Request in a response below is not intended, nor shall in any way be deemed, as a waiver of any General Objection or any specific objection made herein or that may be asserted at another date.

2. FirstEnergy Advisors objects to each Request to the extent that it seeks information protected from disclosure by the attorney-client privilege, the attorney work product doctrine, or any other applicable statutory or common law privilege, prohibition, limitation, or immunity from disclosure. Nothing contained in the responses below is intended as a waiver of this objection.

3. FirstEnergy Advisors objects to each Request to the extent that it seeks information not relevant to the subject matter of this action and not reasonably calculated to lead to the discovery of admissible evidence.

4. FirstEnergy Advisors objects to each Request to the extent that it seeks production of information that is confidential business, commercial, or proprietary information belonging to FirstEnergy Advisors or third parties.

5. FirstEnergy Advisors objects to each Request, definition, or instruction to the extent that it purports to impose upon FirstEnergy Advisors obligations greater than, or different from, those contained in the Ohio Administrative Code.

6. FirstEnergy Advisors objects to each Request to the extent it seeks documents or information not in FirstEnergy Advisors' possession, custody, or control.

7. Also, in responding to these Requests, FirstEnergy Advisors does not admit the truth, validity, completeness, or merit of any of NOPEC's Definitions, Instructions, Requests, or any subparts of the Definitions, Instructions, or the Requests set forth below.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**INTERROGATORIES**

**NOPEC Set 1**  
**– INT-01**

Identify all discovery requests made to FirstEnergy Advisors by any party, intervenor or Staff related to:

- a. The Application,
- b. FirstEnergy Advisors, and
- c. FES and/or Energy Harbor Corp.

**Response:**

Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify all employees of FirstEnergy Advisors.  
**– INT-02**

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**  
**– INT-03**

Identify all employees of FirstEnergy Advisors who formerly were employed by FES and:

- a. the date of hire and termination of each such employee by FES,
- b. the date of hire of each such employee by FirstEnergy Advisors,
- c. the position or job title of each such employee while employed by FES, and
- d. the position or job title of each such employee while employed by FirstEnergy Advisors.

**Response:**

Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request on the grounds that it is overbroad, unduly burdensome, and it seeks information not reasonably calculated to lead to the discovery of admissible evidence.



**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify each member of Suvon, LLC.  
**– INT-04**

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify all documents used to form Suvon, LLC including, but not limited to:  
**– INT-05**

- a. operating agreements and
- b. articles of organization

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “immediately after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify all meeting minutes and written actions of Suvon, LLC.  
**– INT-06**

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request on the grounds that it is overbroad, unduly burdensome, seeks information not reasonably calculated to lead to the discovery of admissible evidence, and it is vague and ambiguous as to the meaning of “meeting minutes” and “written actions.”

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify the positions, offices and titles that Dennis M. Chack has held, holds, or will  
**– INT-07**      hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify the positions, offices and titles that Brett W. Reynolds has held, holds, or will  
**– INT-08**      hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify the positions, offices and titles that Steven R. Staub has held, holds, or will  
**– INT-09**      hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify the positions, offices and titles that Ebony L. Yeboah-Amankwah has held,  
**– INT-10**      holds, or will hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify the positions, offices and titles that Tracy M. Ashton has held, holds, or will  
**– INT-11**      hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence.



**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify the positions, offices and titles that Marlene A. Barwood has held, holds, or  
**– INT-12**      will hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify the positions, offices and titles that Gregory J. Gawlik has held, holds, or will  
**– INT-13**      hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify the positions, offices and titles that Charles E. Jones has held, holds, or will  
**– INT-14**      hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify the positions, offices and titles that Steven E. Strah has held, holds, or will  
**– INT-15**      hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify the positions, offices and titles that Lorraine M. Rader has held, holds, or will  
**– INT-16**      hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Identify the positions, offices and titles that Brian A. Farley has held, holds, or will  
**– INT-17**      hold with FirstEnergy Corp and any of its subsidiaries, including FES.

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**  
**– INT-18**

Exhibit B-2 to the Application states that “FirstEnergy Advisors has the support of individuals with significant experience in contracting with customers, providing contracted services, providing billing statements, and responding to customer inquiries and complaints. Combined these individuals have over 40 years of experience and knowledge providing energy services to residential, commercial and industrial customers in Ohio.” With respect to this statement identify:

- a. the individuals to whom the statement refers,
- b. the name of the entity with which these individuals gained “experience and knowledge providing energy services,” and
- c. these individuals’ positions, job titles and offices held with the entity(ies) named in INT 18(b).
- d. all documents related to the former entity’s provision of energy services that these individuals have provided to FirstEnergy Advisors, including without limitation customer lists, customer contact information and customer account information.

**Response:**

Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to subpart (d) of this request because it is vague, ambiguous, and seeks information not reasonably calculated to lead to the discovery of admissible evidence. FirstEnergy Advisors also objects to this request because it is overbroad and unduly burdensome in that it contains no temporal or subject matter

parameters pursuant to which it is to be answered, but instead calls for “all documents” without limitation.



**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set  
1  
– INT-19**

Exhibit B-3 to the Application states that, “The Director, Energy Sales supporting Suvon, LLC d/b/a FirstEnergy Advisors (the “Director”) has over 10 years experience working in the residential, commercial and industrial electric retail sales and marketing space...In addition, other individuals supporting the Company have experience evaluating customer usage, creating Requests for Proposals (RFPs), and addressing customer and community inquiries and complaints.” With respect to this statement identify:

- a. the Director,
- b. the entity with which the Director gained experience in providing retail electric service;
- c. the Director’s position or job title with this former entity,
- d. the “other individuals supporting the Company” including their positions or job titles,
- e. the entity with which these “other individuals” gained the stated experiences, and
- f. these “other individuals’ positions or job titles with their former entity.
- g. all documents related to the former entity’s provision of energy services that these individuals have provided to FirstEnergy Advisors, including without limitation customer lists, customer contact information and customer account information.

**Response:**

Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a

demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to subpart (g) of this request because it is vague, ambiguous, and seeks information not reasonably calculated to lead to the discovery of admissible evidence. FirstEnergy Advisors also objects to this request because it is overbroad and unduly burdensome in that it contains no temporal or subject matter parameters pursuant to which it is to be answered, but instead calls for “all documents” without limitation.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1  
– INT-20**      Identify all correspondence between FirstEnergy Advisors and FES and/or Energy Harbor Corp. including without limitation all letters of intent or contracts for aggregation or brokerage services that FirstEnergy Advisors entered into or is in discussions about with FES and Energy Harbor.

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence. FirstEnergy Advisors also objects to this request because it is vague, ambiguous, overbroad and unduly burdensome in that it contains no temporal or subject matter parameters pursuant to which it is to be answered. FirstEnergy Advisors also objects on the ground that the request seeks competitively sensitive confidential information.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**REQUEST FOR PRODUCTION OF DOCUMENTS**

**NOPEC Set 1**      Produce a copy of each document you identified, consulted, referred to, or utilized in  
**– RPD-1**            preparing your response to the foregoing interrogatories.

**Response:**      Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Produce the documents identified in INT 01 including FirstEnergy Advisors'  
**– RPD-2**      responses thereto.

**Response:**      *See* Response to INT-01.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Produce all communications and documents related to the documents identified in  
**– RPD-3**      INT 01.

**Response:**      *See* Response to INT-01. FirstEnergy Advisors also objects to this request as vague,  
ambiguous, and overbroad.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Produce the documents identified in INT 05.  
**– RPD-4**

**Response:**      *See* Response to INT-05.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Produce all communications and documents related to the documents identified in  
**– RPD-5**      INT 05.

**Response:**      *See* Response to INT-05. FirstEnergy Advisors also objects to this request as vague,  
ambiguous, and overbroad.



**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Produce the documents identified in INT 06.  
**– RPD-6**

**Response:**      *See* Response to INT-06.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Produce all communications and documents related to the documents identified in  
**– RPD-7**      INT 06.

**Response:**      *See* Response to INT-06. FirstEnergy Advisors also objects to this request as vague,  
ambiguous, and overbroad.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Produce the documents identified in INT 18(d).  
**– RPD-8**

**Response:**      *See* Response to INT-18.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Produce all communications and documents related to the documents identified in  
**– RPD-9**            INT 18(d).

**Response:**        *See* Response to INT-18. FirstEnergy Advisors also objects to this request as vague,  
ambiguous, and overbroad.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Produce the documents identified in INT 19(g).  
**– RPD-10**

**Response:**      *See* Response to INT-19.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Produce all communications and documents related to the documents identified in  
**– RPD-11**      INT 19(g).

**Response:**      *See* Response to INT-19. FirstEnergy Advisors also objects to this request as vague,  
ambiguous, and overbroad.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**      Produce the documents identified in INT 20.  
**– RPD-12**

**Response:**      *See* Response to INT-20.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**  
**– RPD-13**

Produce all communications between any of the managers or officers of FirstEnergy Advisors and any of the Officers and/or Directors of FirstEnergy Corp, FirstEnergy Services Company, Ohio Edison Company, The Cleveland Electric Illuminating Company, and/or The Toledo Edison Company.

**Response:**

Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence. FirstEnergy Advisors also objects to this request because it is overbroad and unduly burdensome in that it contains no temporal or subject matter parameters pursuant to which it is to be answered, but instead calls for “all communications” without limitation. FirstEnergy Advisors also objects to this request to the extent it calls for information protected from disclosure by the attorney-client privilege and/or the attorney work product doctrine.



**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**  
**– RPD-14**

Produce all communications between Lorraine M. Rader and any of the Officers and/or Directors of FirstEnergy Corp, FirstEnergy Services Company, Ohio Edison Company, The Cleveland Electric Illuminating Company, and/or The Toledo Edison Company.

**Response:**

Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence. FirstEnergy Advisors also objects to this request because it is overbroad and unduly burdensome in that it contains no temporal or subject matter parameters pursuant to which it is to be answered, but instead calls for “all communications” without limitation. FirstEnergy Advisors also objects to this request to the extent it calls for information protected from disclosure by the attorney-client privilege and/or the attorney work product doctrine.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**  
**– RPD-15**

Produce all communications between Brian A. Farley and any of the Officers and/or Directors of FirstEnergy Corp, FirstEnergy Services Company, Ohio Edison Company, The Cleveland Electric Illuminating Company, and/or The Toledo Edison Company.

**Response:**

Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence. FirstEnergy Advisors also objects to this request because it is overbroad and unduly burdensome in that it contains no temporal or subject matter parameters pursuant to which it is to be answered, but instead calls for “all communications” without limitation. FirstEnergy Advisors also objects to this request to the extent it calls for information protected from disclosure by the attorney-client privilege and/or the attorney work product doctrine.

**NOPEC Set 1**  
**As to Objections: N. Trevor Alexander**

Case No. 20-0103-EL-AGG

*In the Matter of the Application of Suvon, LLC d/b/a FirstEnergy Advisors For Certification as a  
Competitive Retail Electric Service Power Broker and Aggregator in Ohio*

**NOPEC Set 1**  
**– RPD-16**

Produce all communications between any of Suvon, LLC’s members and any of the Officers and/or Directors of FirstEnergy Corp, FirstEnergy Services Company, Ohio Edison Company, The Cleveland Electric Illuminating Company, and/or The Toledo Edison Company.

**Response:**

Objection. FirstEnergy Advisors objects to this request because it is premature and NOPEC is not entitled to discovery at this time. Commission Rules allow for prehearing discovery to begin “after a proceeding is commenced” and such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. Ohio Admin. Code 4901-1-17(A); *see also* Ohio Admin. Code 4901-1-16(A) (noting the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings”). There has been no case schedule established in this proceeding, nor is there any hearing or briefing process by which discovery could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is not defined, and therefore any discovery in this matter is premature until there is a demonstrated need or plan for a hearing as determined by the Commission. *See* Ohio Admin. Code 4901-1-16(B).

FirstEnergy Advisors further objects to this request because it seeks information not reasonably calculated to lead to the discovery of admissible evidence. FirstEnergy Advisors also objects to this request because it is overbroad and unduly burdensome in that it contains no temporal or subject matter parameters pursuant to which it is to be answered, but instead calls for “all communications” without limitation. FirstEnergy Advisors also objects to this request to the extent it calls for information protected from disclosure by the attorney-client privilege and/or the attorney work product doctrine.

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing Objections, Answers, and Responses of Suvon, LLC d/b/a FirstEnergy Advisors to the First Set of Interrogatories and Requests for Production of Documents of Northeast Ohio Public Energy Council was served on the following parties this 11th day of March 2020 by electronic delivery.

Glenn S. Krassen  
BRICKER & ECKLER LLP  
1001 Lakeside Avenue, Suite 1350  
Cleveland, Ohio 44114  
[gkrassen@bricker.com](mailto:gkrassen@bricker.com)

Dane Stinson  
BRICKER & ECKLER LLP  
100 South Third Street  
Columbus, Ohio 43215-4291  
[dstinson@bricker.com](mailto:dstinson@bricker.com)

/s/ N. Trevor Alexander  
One of the Attorneys for Suvon, LLC d/b/a  
FirstEnergy Advisors

## Alexander, Trevor

---

**From:** Stinson, Dane <DStinson@bricker.com>  
**Sent:** Thursday, March 12, 2020 3:22 PM  
**To:** Hehmeyer, Kari; Krassen, Glenn; Orahood, Teresa  
**Cc:** Alexander, Trevor  
**Subject:** RE: Case No. 20-103-EL-AGG

**Importance:** High

Trevor and Kari,

To comply with O.A.C. 4901-1-23(C), the following responds to Suvon, LLC d/b/a FirstEnergy Advisors' ("FEA") objections to NOPEC's first set of interrogatories and request for production of documents, served by NOPEC on February 20, 2020 ("First Set"). FEA objected to each Interrogatory and request for production of documents without providing any information requested whatsoever.

I. **INT-01 through INT -20; and RPD-1 Through 16.** FEA objects to each Interrogatory and request for production of documents served in the First Set on the basis that "a hearing must be set prior to engaging in discovery." The objection was not made in good faith.

R.C. 4903.082 provides:

All parties and intervenors shall be granted ample rights of discovery. The present rules of the public utilities commission should be reviewed regularly by the commission to aid full and reasonable discovery by all parties.

The PUCO's rules (O.A.C. 4901-1-16(H)) provides:

For purposes of rules 4901-1-16 to 4901-1-24 of the Administrative Code, the term "party" includes any person who has filed a motion to intervene which is pending at the time a discovery request or motion is to be served or filed.

Under the Commission's rules and long-standing practice, intervenors are permitted to seek discovery once a motion to intervene is filed and before a hearing is set. Further, the Commission has taken the extraordinary action to suspend this proceeding based upon NOPEC's motion to intervene and motion to suspend the application. FEA's failure to oppose NOPEC's intervention in this proceeding further illustrates the lack of good faith in making this objection.

II. **INT-02, 03, 05, 06, 07 through 17, 18(d), 19(g), 20 and RPDs that refer to these interrogatories; RPD-13, 14, 15.** FEA objects on the basis that the Information requested is not reasonably calculated to lead to the discovery of admissible evidence.

Each interrogatory and request for production of documents is calculated to lead to the discovery of admissible evidence. The issues involved in this proceeding include, among others, whether FEA's certification would be unlawful per se and/or result in unreasonable market power for the FE EDUs, as explained in NOPEC's motion to intervene, motion to suspend and reply. The issues involve whether FEA functions independently from the FE EDUs as required by the corporate separation rules and code of conduct, and includes whether use of the FirstEnergy name creates unreasonable market power. All of the interrogatories are calculated to determine if FEA functions independently, has the managerial ability to provide service, and is fit to provide service.

III. **INT-03, 06,18(d), 19(g), 20; RPD -3, 5, 6, 9, 11, 13, 14, 15** FEA objects because the interrogatory is vague, overbroad or unduly burdensome.

FEA has access to all of the information requested. FEA's objections do not detail any difficulties in identifying the information requested or hardship in providing the information. In response to FEA's objections as to vagueness:

INT-06: the terms "meeting minutes" and "written actions" refer to recorded minutes of Suvon's members' meeting and the formal written actions it has taken.

INT-18(d): merely seeks the documents that FEA's employees have provided to FEA from their former employer. NOPEC further defines the request as limited to former employees of any FE Corp current or former subsidiary. A temporal restriction is not necessary, considering the recent formation of Suvon d/b/a FEA.

INT-19(g): merely seeks the documents that FEA's employees have provided to FEA from their former employer. NOPEC further defines the request as limited to former employees of any FE Corp current or former subsidiary. A temporal restriction is not necessary, considering the recent formation of Suvon d/b/a FEA

INT-20: A temporal restriction is not necessary, considering the recent formation of Suvon d/b/a FEA; NOPEC is willing to enter into a protective agreement to protect confidential information.

RPD-13: A temporal restriction is not necessary, considering the recent formation of Suvon d/b/a FEA; NOPEC further defines its request as limited to communications regarding FEA.

RPD-14: A temporal restriction is not necessary, considering the recent formation of Suvon d/b/a FEA. NOPEC further defines its request as limited to communications regarding FEA

RPD-15: A temporal restriction is not necessary, considering the recent formation of Suvon d/b/a FEA. NOPEC further defines its request as limited to communications regarding FEA

IV. **RPD-13, 14, 15.** FEA objects based upon privilege.

To the extent privilege is claimed, NOPEC initially will accept a privilege log of communications.

The timelines for this proceeding require FEA's expedited response to this email and whether or not you intend to respond to the First Set interrogatories and request for production of documents to provide the information request. NOPEC requests a response by noon tomorrow, March 13, 2020, to avoid the need to compel discovery in view of your failure to provide any documents whatsoever.



**Dane Stinson**

Partner

**Bricker & Eckler LLP** | 100 South Third Street | Columbus, OH 43215

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**From:** Hehmeyer, Kari [mailto:KHehmeyer@Calfee.com]  
**Sent:** Wednesday, March 11, 2020 4:51 PM  
**To:** Krassen, Glenn; Stinson, Dane; Orahood, Teresa  
**Cc:** Alexander, Trevor  
**Subject:** Case No. 20-103-EL-AGG

**This Message originated outside your organization.**

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Attached please find Suvon, LLC d/b/a FirstEnergy Advisors' Objections and Responses to Northeast Ohio Public Energy Council's First Set of Discovery Requests.

**Kari Hehmeyer**  
*Attorney at Law*

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**Calfee, Halter & Griswold LLP**  
Attorneys at Law

1200 Huntington Center  
41 South High Street  
Columbus, Ohio 43215-3465  
614.621.1500 **Phone**

March 16, 2020

VIA EMAIL  
Dane Stinson  
Bricker & Eckler LLP  
100 South Third Street  
Columbus, OH 43215  
dstinson@bricker.com

Re: Suvon/FirstEnergy Advisors – Case No. 20-103-EL-AGG.

Dear Mr. Stinson,

This letter is in response to your email dated March 12, 2020 addressing NOPEC’s claimed deficiencies with FirstEnergy Advisors’ discovery objections and responses that were served upon NOPEC on March 11, 2020.

**I. Discovery is Not Appropriate at This Point.**

Your response does not address FirstEnergy Advisors’ substantive objection to discovery at this point in this case. Instead, NOPEC states that in many Commission cases discovery is appropriate once intervention has been sought. While that is generally correct, that general rule is not applicable in this case.

As specifically set forth in FirstEnergy Advisors’ responses to INT-01 through INT-20 and RPD-1 through RPD-16, discovery is premature and NOPEC is not entitled to discovery at this time pursuant to Commission Rules. Immediate rights of discovery often make sense because the scope of the case, and the potential use of the information requested, is clear from case inception. This case departs from that general rule because, at this juncture, there is no procedural opportunity for NOPEC to use the information requested in the February 20, 2020 discovery requests. There is no hearing set or even contemplated. There is no way to determine what information is reasonably likely to lead to the discovery of admissible evidence at this point.

The Commission’s discovery rules are completely consistent with FirstEnergy Advisors’ position. Discovery is only appropriate for a “proceeding” or a “hearing.” Specifically, Ohio Administrative Code (“OAC”) 4901-1-17(A) allows for prehearing discovery to begin “after a proceeding is commenced” and states that such discovery “must be completed prior to the commencement of the hearing,” thus contemplating that a hearing must be set prior to engaging in discovery. OAC 4901-1-16(A) also supports this, as it notes that the purpose of rules 4901-1-16 to 4901-1-24 is “to encourage the prompt and expeditious use of prehearing discovery in order to facilitate thorough and adequate preparation for participation in commission proceedings.” No hearing is scheduled in this matter. Discovery is inappropriate.



The Commission previously addressed whether discovery can be held in any matter as claimed by NOPEC. In *In re Chapters 4901-1, 4901-3, and 4901-9 of the Ohio Administrative Code*, Case No. 06-685-AU-ORD, the Commission addressed comments related to the Commission's procedural rules contained in Chapter 4901-1. The Ohio Consumers' Counsel ("OCC") requested that the Commission add the definition of "proceeding" to the rules and define it as "any filing, hearing, investigation, inquiry or rulemaking which the Commission is required or permitted to make, hold or rule upon."<sup>1</sup> The Commission rejected OCC's request to define "proceeding" so broadly. The Commission held:

If OCC's proposal were adopted, any interested person would have the right to intervene, conduct discovery and present evidence in any Commission case. The Commission does not believe that such rights exist. In addition, OCC's proposed definition would eliminate the Commission's discretion to conduct its proceedings in a manner it deems appropriate and would unduly delay the outcome of many cases. The request is denied.<sup>2</sup>

In another matter the Commission held:

the Commission's procedural rules and its governing statutes convey significant discretion and flexibility on the governance of its own proceedings. This is particularly so for proceedings where no hearing is required by law. There is no right to an evidentiary hearing in this proceeding or to the full discovery process normally reserved for cases where a hearing is required."<sup>3</sup>

These cases establish that discovery is not available as a matter of right at any time in every single Commission case.

There has been no case schedule established to date, nor is there any hearing or briefing process by which the information requested in the February 20, 2020 discovery requests could be utilized. Because no hearing has been set in this matter, the proper scope of discovery is also not defined because the Commission has not identified what issues beyond the Application itself it will consider. Therefore, any discovery in this matter is premature absent further procedural guidance.<sup>4</sup>

NOPEC's argument that the suspension of this proceeding somehow provides a basis for engaging in discovery is misplaced. As noted in the February 11, 2020 Entry, the attorney examiner suspended the 30-day automatic approval process for FirstEnergy Advisors' application

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<sup>1</sup> *In re Matter of the Review of Chapter 4901-1, 4901-3, and 4901-9 of the Ohio Administrative Code*, Case No. 06-685-AU-ORD, Finding and Order at ¶ 7 (December 6, 2006).

<sup>2</sup> *Id.* at ¶ 9 (emphasis added).

<sup>3</sup> *In re Triennial Review Regarding Local Circuit Switching*, Case No. 03-2040-TP-COI, Entry on Rehearing at ¶ 8 (October 28, 2003) (denying OCC and CLEC's application for rehearing claiming that it has full discovery rights in a proceeding).

<sup>4</sup> *See, e.g.*, OAC 4901-1-16(B).

for certification in order for the “Commission and Staff to further review this matter.”<sup>5</sup> The Entry could not be clearer, and made no provision for intervenor discovery. Granting FirstEnergy Advisors’ license is not NOPEC’s decision. Any interpretation to the contrary dismisses the plain language of the Entry.

**II. Requests Not Likely to Lead to the Discovery of Admissible Evidence – INT-02, 03, 05, 06, 07 through 17, 18(d), 19(g), 20 and RPDs that refer to these interrogatories; RPD-13, 14, 15.**

The proper scope of this matter is contained in OAC 4901:1-24-10(B). Specifically, the Commission will consider the information contained in the applicant’s application, supporting attachments and evidence, and recommendations of its Staff. Comments, recommendations and discovery from intervenors are notably absent from the application process, contrary to NOPEC’s recitation of the issues. Instead, at this the only relevant issues are whether FirstEnergy Advisors meets Commission criteria to serve as a broker. Anything beyond that is not reasonably likely to lead to the discovery of admissible evidence.

NOPEC’s claim that these requests are calculated to lead to the discovery of admissible evidence because the requests are “calculated to determine if FEA functions independently, has the managerial ability to provide service, and is fit to provide service” simply does not make sense in light of the specific requests. NOPEC also misstates the relevant standard by which the application will be judged. NOPEC’s ability to conduct discovery stops here. However, in an effort to amicably resolve this dispute, FirstEnergy Advisors will respond to NOPEC’s categorical concerns with various requests. These requests can be divided into several categories, all of which are not likely to lead to the discovery of admissible evidence.

**1. Requests Seeking Identification of Certain Persons; Positions, Offices, and Titles Held By Specific Individuals (INT-02, INT-03, INT-07 through INT-17 and corresponding RPDs).**

INT-03 and -02 seek specific information related to FirstEnergy Advisors’ staffing and previous employment by a former affiliate. None of these requests lend credence to NOPEC’s claim that these requests are calculated to determine if FEA functions independently, has the managerial ability to provide service, and is fit to provide service.<sup>6</sup> In fact, this standard does not appear anywhere but NOPEC’s email. FirstEnergy Advisors’ Application contains information related to the “managerial, technical, and financial capability” of the service FirstEnergy Advisors intends to provide.<sup>7</sup> Instead, NOPEC’s requests are an effort to accumulate competitive

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<sup>5</sup> Entry, ¶ 6.

<sup>6</sup> “The issues involved in this proceeding include, among others, whether FEA’s certification would be unlawful per se and/or result in unreasonable market power for the FE EDUs, as explained in NOPEC’s motion to intervene, motion to suspend and reply. The issues involve whether FEA functions independently from the FE EDUs as required by the corporate separation rules and code of conduct, and includes whether use of the FirstEnergy name creates unreasonable market power. All of the interrogatories are calculated to determine if FEA functions independently, has the managerial ability to provide service, and is fit to provide service.”

<sup>7</sup> See R.C. 4928.08(B), OAC 4901:1-24-10(B) & OAC 4901:1-25-05.

intelligence, cloaked as discovery requests, which as explained above, is not permitted in this matter. FirstEnergy Advisors is obligated only to meet the standards imposed by Ohio law, not those created by a competitor like NOPEC.

Similarly, INT-07 to INT-17 requests the positions, offices, and titles of numerous individuals which they have, held, or will hold with FirstEnergy Corp. and any of its subsidiaries, including FES. As a preliminary matter, these questions are all inappropriate because clairvoyance is not required. These individuals can't possibly be required to list positions they "will hold." Moving to information which is presently known, once again the relevant question is not whether anyone associated with FirstEnergy Advisors was previously associated with either FirstEnergy Corp. or FES. The question is whether FirstEnergy Advisors can establish compliance with the standards necessary to obtain a broker's license. As these requests have nothing to do with the standard imposed by Ohio law, they are not likely to lead to the discovery of admissible evidence.

INT-05 requests operating agreements and articles of incorporation for FirstEnergy Advisors. Once again, these requests do nothing to establish whether FirstEnergy Advisors has managerial, technical, and financial capability to provide service and are therefore beyond the proper scope of this proceeding.

## **2. Requests Seeking "All Documents" (INT-18(d), INT-19(g), and corresponding RPDs).**

INT-18 requests the names of individuals supporting FirstEnergy Advisors, as well as the complete employment history of those individuals. Subpart (d) of this request then seeks completely irrelevant information regarding "all documents related to the former entity's provision of energy services that these individuals have provided to FirstEnergy Advisors, including without limitation customer lists, customer contact information and customer account information." INT-19(g) is almost identical.

Even if such documents exist, they aren't reasonably likely to lead to the discovery of admissible evidence because they are completely unrelated to the relevant standard. NOPEC's attempt in its March 12, 2020 response to further define these requests "as limited to former employees of any FE Corp current or former subsidiary" fails to correct this error. It is completely inappropriate for a competitor like NOPEC to request customer lists, contact information, and account information solely to attempt to gain a competitive advantage.

## **3. Requests Seeking "All Communications" (RPD-13 to RPD-16).**

These requests seek "all communications" between numerous individuals and entities with "and any of the Officers and/or Directors of FirstEnergy Corp, FirstEnergy Services Company, Ohio Edison Company, The Cleveland Electric Illuminating Company, and/or The Toledo Edison Company." None of these communications have anything to do whatsoever with the appropriate legal standard for this case.

NOPEC's attempt in its March 12, 2020 response to further define its request "as limited to communications regarding FEA" still fails to correct this error. Even with this limitation, the request has nothing to do with any standard imposed by Ohio law.

### **III. Vague, Ambiguous, and Unduly Burdensome Requests – INT-03, 06, 18(d), 19(g), 20; RPD-3, 5, 6, 9, 11, 13, 14, 15, and 16.**

FirstEnergy Advisors objects to these requests as vague, ambiguous, and/or unduly burdensome.<sup>8</sup> NOPEC first made the unsupported claim "FEA has access to all of the information requested" and "FEA's objections do not detail any difficulties in identifying the information requested or hardship in providing the information." Those statements are incorrect. Indeed, as discussed above the sheer scope of the information requested, including numerous requests for "all communications" from numerous individuals and entities, is unduly burdensome and calls for information not in the possession, custody, or control of FirstEnergy Advisors. Even if NOPEC only requested a limited scope of information, the fact that NOPEC is seeking discovery of any information is unduly burdensome because it is inappropriate.

Further, NOPEC fails to justify the probative value of the information sought and has instead sought to limit the time period of information sought or provide additional clarity about what was requested. NOPEC's clarifications do nothing to fix flawed requests. As there is no probative value of the information requested, and the requests are vague, ambiguous and/or unduly burdensome, FirstEnergy Advisors stands by its objections.

For example, INT-20 seeks "all correspondence between FirstEnergy Advisors and FES and/or Energy Harbor Corp. including without limitation all letters of intent or contracts for aggregation or brokerage services that FirstEnergy Advisors entered into or is in discussions about with FES and Energy Harbor." There is simply no possible purpose for this request other than to gain an improper competitive advantage in the marketplace by requesting competitively sensitive information. Accordingly, FirstEnergy Advisors stands by its objections.

### **IV. RPD-13, RPD-14, RPD-15.**

FirstEnergy Advisors will not provide a privilege log of communications because discovery is premature, and NOPEC is not entitled to discovery at this time as explained above.

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<sup>8</sup> NOPEC incorrectly claims that these requests are not unduly burdensome due to the recent formation of "Suvon d/b/a FEA." Publicly available documents show that Suvon was incorporated in 2017.

If you would like to discuss this matter further, please feel free to contact me directly.

Sincerely,

*/s/ N. Trevor Alexander*

N. Trevor Alexander

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

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Summary: Motion For Protective Order electronically filed by Mr. Trevor Alexander on behalf of Suvon, LLC