

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**NORTHEAST OHIO PUBLIC ENERGY COUNCIL’S
REPLY TO FIRSTENERGY ADVISORS’ MEMORANDUM CONTRA
JOINT MOTION FOR THE PUCO TO ENFORCE ITS REMAND ORDER**

I. INTRODUCTION

The Commission’s Order on Remand issued in this proceeding on November 3, 2021 (the “Remand Order”) could not be clearer:

...pursuant to R.C. 4928.10, [FirstEnergy Advisors] may not engage in the marketing, solicitation, sale or provision of aggregation service or power brokerage service until [FirstEnergy Advisors] has been certified by the Commission to provide such service. Accordingly, the Commission cannot permit [FirstEnergy Advisors] to continue advising its current customers as [FirstEnergy Advisors] requests.

Remand Order ¶ 11 (Emphasis supplied).

As discussed further below, even the most cursory glance at FirstEnergy Advisors’ website shows that it is marketing and soliciting its power brokerage and aggregation services to Ohio consumers. Amazingly, despite the Remand Order’s clear language, FirstEnergy Advisors insists that it is not violating the PUCO’s marketing and solicitation rules, claiming that the rules do not apply to it.¹ However, in the next breath, it proposes to “voluntarily add a statement to its website specifically identifying the states where it is licensed to serve as a broker.”²

¹ FirstEnergy Advisors’ Memo Contra at 3.

² *Id.*

The PUCO should not permit FirstEnergy Advisors' chutzpah to go unchecked. The tail cannot wag the dog. Having exercised jurisdiction over FirstEnergy Advisors' marketing and solicitation under R.C. 4928.10, the PUCO – not FirstEnergy Advisors – should dictate the notice to be given to Ohio's consumers. NOPEC³ suggests that the notice should appear on each page of FirstEnergy Advisors' website and state as follows in upper case, bold letters with a yellow-highlighted background:

**FIRSTENERGY ADVISORS IS NOT LICENSED IN OHIO
TO ADVISE CONSUMERS ON THEIR CHOICE OF AN ELECTRIC SUPPLY**

II. REPLY

A. FirstEnergy Advisors' website markets and solicits power marketing and aggregation services.

FirstEnergy Advisors' website, as of the date of this filing,⁴ markets and solicits power broker and aggregation services to Ohio consumers. For example, the front page of the website contains a video in which FirstEnergy Advisors markets itself by explaining how it differentiates itself from other "brokers." Video at 0:50. The video then proceeds to solicit customers by informing them how to obtain FirstEnergy Advisors' services – by giving FirstEnergy Advisors a call or email and have a bill copy ready. Video at 2:40.

In addition, under the "Your Business" web page, FirstEnergy Advisors has inserted a sub-page ("Youngstown Warren Regional Chamber") explicitly targeting consumers in Youngstown and Warren, Ohio.⁵ The sub-page solicits consumers via a step-by-step video tutorial and/or a hard copy of instructions.⁶ The tutorial and instructions demonstrate how the customer can

³ "NOPEC" is the Northeast Ohio Public Energy Council.

⁴ <https://www.firstenergyadvisors.com/firstenergyadvisors.html>

⁵ See Exhibit A attached.

⁶ Instructions are attached as Exhibit B.

establish an account with FirstEnergy Advisors in order to use its proprietary web-based portal (“Sherpa by FirstEnergy Advisors”) to search for and contract for energy supply.

The website also dedicates an entire page to aggregation services under the caption “Your Community.”

FirstEnergy Advisors’ entire website is nothing more than a marketing piece designed to solicit consumers to register as a FirstEnergy Advisors customer. FirstEnergy Advisor’s conduct is even more egregious considering that, in its Motion to Withdraw filed in this case on November 2, 2021, it promised the PUCO it would not market or solicit customers. See Motion to Withdraw at 5 (“Meanwhile, with FirstEnergy Advisors also moving to withdraw the Certification Application, FirstEnergy Advisors cannot (and will not) advertise, solicit, or contract with any new customers.”).

B. The PUCO’s marketing and solicitation rules apply to FirstEnergy Advisors.

FirstEnergy Advisors makes the bizarre statement that because it is not providing PUCO-jurisdictional services,⁷ the PUCO’s marketing and solicitation rules don’t apply to it.⁸ In its Remand Order, the PUCO clearly exercises jurisdiction over FirstEnergy Advisors’ marketing and solicitation activities under R.C. 4928.10, and just as clearly prohibits those activities until (if ever) FirstEnergy Advisors is certificated. The reach of R.C. 4928.10 is not limited to entities actually providing jurisdictional services, as FirstEnergy Advisors erroneously contends. Rather, it extends

⁷ FirstEnergy Advisors makes the equally bizarre claim that NOPEC has not carried its burden that FirstEnergy Advisors is providing jurisdictional services. Memo Contra at 3. FirstEnergy Advisors misses the point of the Remand Order. The Remand Order does not just prohibit FirstEnergy Advisors from providing power brokerage and aggregation services, it prohibits the marketing and solicitation of those services. FirstEnergy Advisors further demonstrates that it is not fit and capable of understanding or complying with the PUCO’s rules and orders, by claiming that it has not solicited customers because it has not “accepted any new customers.” Memo Contra at 2. Solicitations are communications made to elicit a consumer to become a customer, acceptance need not occur. See Ohio Admin. Code 4901:1-24-01(KK) (“Solicitation” means any communication intended to elicit a customer’s agreement to purchase or contract for a CRES.”).

⁸ FirstEnergy Advisors’ Memorandum Contra at 3.

to “electric service companies [e.g., power brokers and aggregators] ...subject to certification under R.C. 4928.08.” In its Motion to Withdraw filed November 2, 2021, FirstEnergy Advisors readily admits that it is subject to the PUCO’s certification by promising to file another certification application “in the near future.”⁹

The Remand Order and R.C. 4928.10 ask nothing more of FirstEnergy Advisors than simply to be honest – and not mislead consumers by marketing and soliciting services it cannot provide. FirstEnergy Advisors has been nothing but dishonest throughout this proceeding. First, its officer(s) and the FirstEnergy Utilities’ officers colluded with former PUCO Chair Randazzo to award FirstEnergy Advisors’ certificate, after the former chair received a multi-million-dollar payment to advance FirstEnergy’s interests before the PUCO.¹⁰ Second, FirstEnergy Advisors’ failed to inform the Ohio Supreme Court and this Commission of the shocking new text exchange between Chuck Jones and Dennis Chack about their collusion with former Chair Randazzo to fix the award of a certificate in this case¹¹ until it filed its Motion to Withdraw in this case on November 2, 2021 – after the Supreme Court issued its decision overturning the PUCO’s decision. . FirstEnergy Advisors’ dishonesty has continued as it misled consumers in violation of the Remand Order and R.C. 4928.10, ever since the November 3, 2021 Remand Order was issued. Now it has misled this Commission, by marketing and soliciting customers when it promised not to do so in its Motion to Withdraw. The PUCO should assess civil forfeitures against FirstEnergy Advisors

⁹ FirstEnergy Advisors’ Motion to Withdraw at 5.

¹⁰ See FirstEnergy Advisors’ Motion to Withdraw, Exhibit A (the bombshell text exchange between Dennis Chack, President of FirstEnergy Advisors, and Charles Jones, CEO of FirstEnergy regulated utilities, regarding unlawful ex parte discussions with former PUCO Chair Randazzo regarding FirstEnergy Advisors’ certification application). See, also, Deferred Prosecution Agreement, *United States v. FirstEnergy Corp.*, No. 21-cr-00086 (S.D. Ohio, July 22, 2021).

¹¹ *Id.*

for each day of its violation of the Remand Order following November 3, 2021, as permitted by R.C. 4928.16(B)(3).

C. FirstEnergy Advisors’ proposal to “voluntarily add a statement to its website specifically identifying the states where it is licensed to serve as a broker”¹² is insufficient to comply with the Remand Order.

The Remand Order makes it abundantly clear that FirstEnergy Advisors is prohibited from marketing and soliciting power broker and aggregation services. The Remand Order is equally clear that FirstEnergy Advisors is prohibited from advising customers on their choice of energy supply until (if ever) FirstEnergy Advisors is certificated as a power broker and aggregator. FirstEnergy Advisors’ proposal to publish on its website a list of states in which FirstEnergy Advisors is licensed as a “broker,” is insufficient to remedy its brazen continuing rules violation.

Likely by design, FirstEnergy Advisors has not shared with the PUCO for its approval, or for comment by the eight intervenors in this case, the precise language it intends to publish on its website. A list of states in which it holds a power brokerage license, but merely omits the state of Ohio, is insufficient to provide Ohio consumers with adequate notice that FirstEnergy Advisors cannot provide consumers advice, particularly for a company that is based at the FirstEnergy Utilities headquarters offices at 76 South Main Street, in Akron, Ohio. As stated above, NOPEC suggests that a notice should appear on each page of FirstEnergy Advisors’ website, and provide in upper case, bold letters with a yellow-highlighted background as follows:

¹² *Id.*

**FIRSTENERGY ADVISORS IS NOT LICENSED IN OHIO
TO ADVISE CONSUMERS ON THEIR CHOICE OF AN ELECTRIC SUPPLY**

This notice captures the intent of the Remand Order to prohibit the marketing, solicitation and advice to customers until (if ever) FirstEnergy Advisors receives PUCO certification.

III. CONCLUSION

NOPEC requests that the PUCO to enforce its Remand Order under the authority of R.C. 4928.16(A)(2). Under the authority of R.C. 4928.16(B)(3), NOPEC asks the PUCO to:

1. Find that FirstEnergy Advisors, through its active website, has continually violated R.C. 4928.10 since November 3, 2021, by misleadingly marketing and soliciting consumers for services that it is prohibited from providing per R.C. 4928.08(B);
2. Find that FirstEnergy Advisors has continually violated the Remand Order since November 3, 2021, by marketing its services and soliciting consumers through its active website;
3. Order FirstEnergy Advisors to immediately publish on each page of its website the notice suggested above;
4. Order that FirstEnergy Advisors be assessed the maximum forfeitures permitted by R.C. 4928.16(B)(3);
5. Order FirstEnergy Advisors to disclose in any future certification application that it has violated the PUCO's Remand Order and related statutes and rules;
6. Order that FirstEnergy Advisors provide written notice to those customers that continue to be served under existing contracts it arranged prior to the Remand Order that FirstEnergy Advisors cannot provide further aggregation or power brokerage advice until and unless (if ever) it receives PUCO certification (Remand Order ¶ 11); and

7. Order any other appropriate relief available.

Respectfully submitted,

/s/ Dane Stinson

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CERTIFICATE OF SERVICE

In accordance with O.A.C. 4901-1-05, the PUCO's e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing Reply was sent by, or on behalf of, the undersigned counsel to the following parties of record this 1st day of December 2021.



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Youngstown Warren Regional Chamber



YOUNGSTOWN WARREN REGIONAL CHAMBER

Kim Calvert, Chamber Vice President of the Marketing & Members Services, talks to Lance Bolender about the Chamber program

First Energy Clip



Energy Program Details

FirstEnergy Advisors is excited to be the preferred electric partner for the Youngstown Warren Regional Chamber Energy Program.

We are here to help chamber members find the best option to meet your needs and requirements and lower electricity costs. We are an experienced team of advisors with expertise on supplier pricing, energy models and methods and a vast understanding of market movements and trends.

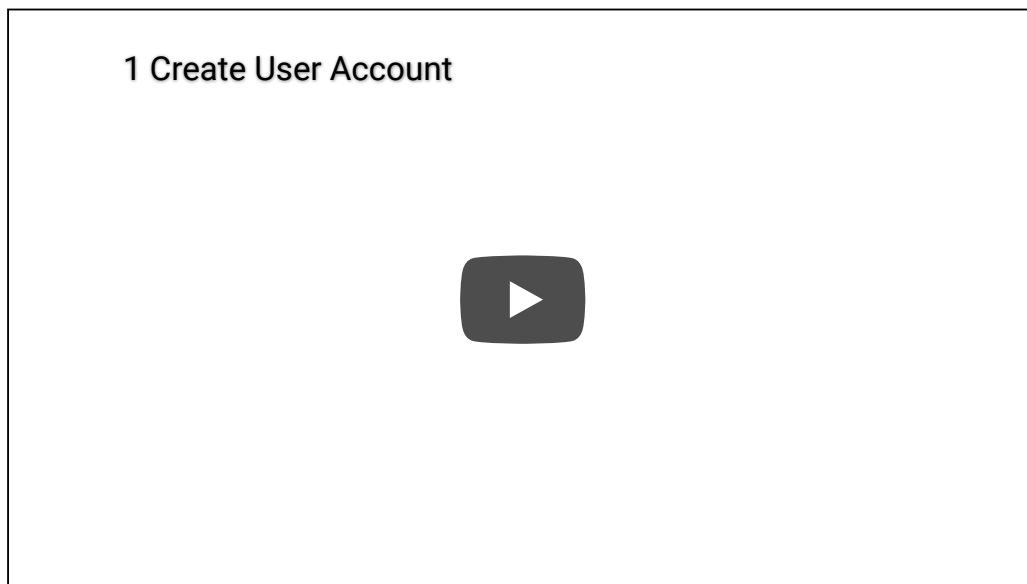
Features and Benefits

Our unique [Sherpa by FirstEnergy Advisors™](#) tool is a specialized web-based platform that allows any customer direct access to automated market pricing, dashboards and contract management. We provide a transparent and competitive platform that gives customers the ability to shop while we provide you advice every step of the way to help *your* business save money.

Shopping is easy and worth it. The savings and stability will give you confidence you aren't overpaying, so you can focus on running *your* business. All you need is a copy of a bill and a [Sherpa by FirstEnergy Advisors™](#) account to request pricing.

How to Get Started

- Contact Alex Lepp by calling 330-388-1077 or [email](#).
- Read through these [instructions](#) or
- Check out our 5-step instructional video below



Suvon, LLC, d/b/a FirstEnergy Advisors, is an unregulated subsidiary of FirstEnergy Corp. Suvon, LLC d/b/a FirstEnergy Advisors, is not the same company as FirstEnergy Corp. The prices of Suvon, LLC, d/b/a FirstEnergy Advisors, products and services are not regulated by the state utility commissions. You do not have to purchase any product and/or service from Suvon, LLC, d/b/a FirstEnergy Advisors, in order to receive the same quality regulated services from FirstEnergy Corp.'s regulated electric utilities – Ohio Edison Company, The Cleveland Electric Illuminating Company, The Toledo Edison Company, West Penn Power Company, Pennsylvania Power Company, Metropolitan Edison Company, Jersey Central Power & Light Company, Monongahela Power Company and The Potomac Edison Company.

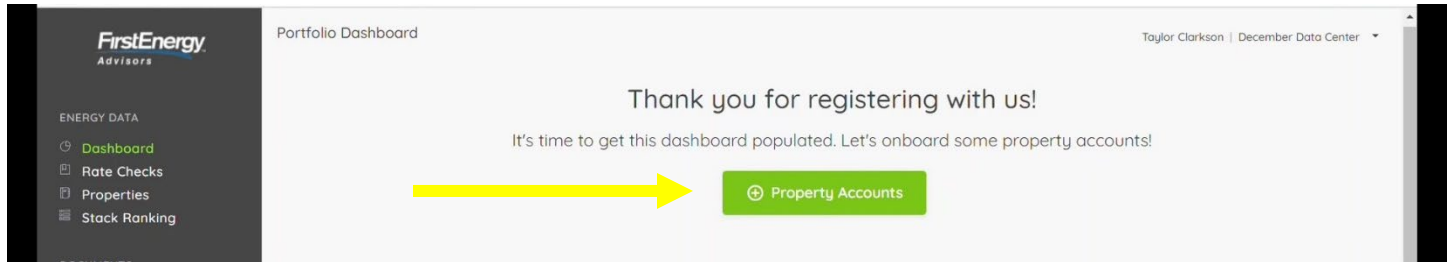
Go to: ywrc.firstenergyadvisors.com

Create an Account

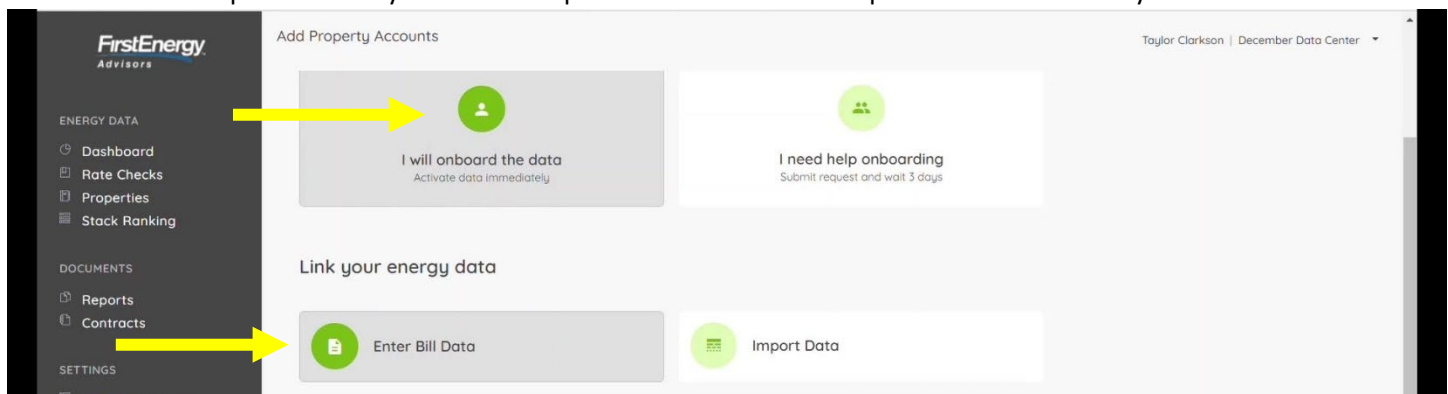
1. Select “New User? Create an Account”
2. Click “Continue”
3. Accept the Terms & Conditions when they pop up

Add an Energy Plan

1. A welcome message will be displayed after you create an account, click the green “+Property Accounts” button



2. You will be prompted to onboard the data yourself or get help with onboarding, select “I will onboard the data”
3. You can:
 - a. Enter Bill Data – if your accounts are currently on the same energy plan in the same utility
 - b. Import Data –if you have multiple accounts on different plans in different utility areas



4. Populate the Energy Plan fields

- a. If you have a supplier, details will be shown on the cost breakdown on your bill

Have a Supplier?	Supplier	Rate (\$)	Contract Term	End Date
Yes	Select name from list	Total Generation	Contract Specific	Contract Specific
No	Select “none”	Cost divided by Total kWh used	“0”	Current Month/Year

5. The Submit Button will become available once all fields have values. Click Submit

If you want to enter multiple energy plans manually, just click on “Properties” in the left navigation and repeat the steps above for each plan.

Add Account(s) to Energy Plan

1. Once an Energy Plan is entered, click the blue “+Property Account” button underneath the plan.

The screenshot shows the 'ENERGY PLANS' section with a sidebar on the left containing 'DOCUMENTS' (Reports, Contracts) and 'SETTINGS' (LEN Management, My Profile, Logout). The main area displays an energy plan summary: OH, The Illumin..., Fixed, \$0.055, 3M, 09/2020 - 12/2020, Current. Below this is the 'Property Account Details' form with the following fields:

- Legal Entity Name (LEN) *: December Data Center (default) [dropdown]
- Property Account Label *: I [text input]
- UAN *: [text input]
- Service Address 1 *: [text input]
- Service Address 2: [text input]
- City *: Select [dropdown]
- Zip *: XXXXX [text input]

Buttons: Submit, Cancel. A note indicates '* Mandatory fields'.

2. Populate the “Property Account Details” for each account on that specific Energy Plan
3. Give each account a label
4. UAN is your account number, which varies in name, see the list below for the number needed in each utility

Utility	FirstEnergy	AEP	Dayton Power & Light	Duke Energy
UAN Name	Customer Number (20 digits, begins with 080)	Service Delivery Identifier Number (17 digits, begins with 000)	Account Number (10 digits)	Account Number (11 digits)

Adding Bills to Accounts

After adding property account information, you will be prompted to enter bill information for that account, click on the blue “+ Add Bill” button.

1. Enter bill data information, click submit
 - a. Entering 3-6 bills is ideal for optimal analysis, but if you only have one that’s fine
 - b. You may also choose to upload your bill if you have it digitally in a PDF

The screenshot shows the 'ENERGY PLANS' section with a sidebar on the left containing 'ENERGY DATA' (Dashboard, Rate Checks, Properties, Stack Ranking) and 'DOCUMENTS' (Reports, Contracts). The main area displays the same energy plan summary as before. Below this is the 'Property Accounts (1)' section with a '+ Property Account' button and a 'Search Address' field. The 'Billing Information' form is shown with the following fields:

- Status: Pending
- LEN: [text input]
- Label: Studio
- UAN: 08000000000000000001
- Address 1: 1989 Rep Rd
- Address 2: [text input]
- City: Cleveland
- Zip: 41313

The 'Billing Information' section includes:

- Bill Start Date*: Required [text input]
- Bill End Date*: Required [text input]
- Next Meter Read*: Required [text input]
- Usage (kWh)*: Required [text input]
- Demand (kW): Optional [text input]
- Supply Amount (\$): Required [text input]
- Upload Bill: Upload File [button]

Buttons: Submit, Cancel. A note indicates '* Mandatory fields'.

Activating Energy Plans

Once you have entered the details for your current energy plan, the property accounts under that plan, and the bill data for each property account, you can activate your “Energy Plan” for rate checks and pricing.

You can activate each account OR activate all property accounts at the Energy Plan level at the same time.

The screenshot shows the 'ENERGY PLANS' section of the FirstEnergy Advisors interface. On the left is a navigation menu with options like Dashboard, Rate Checks, Properties, Stack Ranking, Reports, and Contracts. The main area displays a property account with details like LEN, Address, City, and Zip. Two yellow callout boxes highlight activation options: 'Activate Energy Plan and all Property Accounts' (pointing to a top-level button) and 'Activate Individual Property Account' (pointing to an 'Activate' button next to a specific account entry in a table). The table lists bill dates, usage (kWh), demand (kW), next meter reads, and supply amounts for three different periods.

A confirmation box will pop up, click on “Yes”

The screenshot shows a confirmation dialog box titled 'Ready to activate (1) pending property accounts?'. It includes a warning: 'Please note that this action will refresh your customer's usage profile. Customer's with larger usage profiles may experience a brief delay as the system updates the Customer's Dashboard.' At the bottom are two buttons: 'Cancel' (blue) and 'Yes' (green).

After your accounts are activated, we as your advisor will assess marketplace pricing, terms, contracts, and suppliers for your review. We will send notification when your rate check is available.

Reviewing Options

1. Click on “Rate Checks” in the left navigation of your dashboard to then click on the report you want to view

The screenshot shows the 'Rate Checks' section of the FirstEnergy Advisors interface. The left navigation menu highlights 'Rate Checks'. The main area displays a report titled 'DECISION' with the following details: NAME: RC_OH_20201001, DATE GENERATED: NOV 23, 2020, STATES: OH, and a 'REPORT' button. The 'DESCRIPTION' section explains that this is a request for quotes for an (All-in) Fixed-Rate energy plan starting immediately. The 'UTILITIES' and 'PROPERTIES' sections are also visible, with 'PROPERTIES' showing 'Properties (2)'.

Selecting a Price

Once in the report

1. Review pricing and savings details by term.

1. Select your option and click “Request Contract”
2. A window will pop up with details about the option you selected
3. Click “Request Contract” again to confirm

NOTE: The prices in your rate check are valid until the timer at the top of the page expires

You will be notified when the contract has been sent by the supplier, accepted, and activated.

You can check contract status by clicking “Contracts” on the left navigation in the dashboard view

**This foregoing document was electronically filed with the Public Utilities
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Case No(s). 20-0103-EL-AGG

Summary: Reply of Northeast Ohio Public Energy Council's to FirstEnergy
Advisors' Memorandum Contra Joint Motion for The PUCO to Enforce Its Remand
Order electronically filed by Teresa Orahod on behalf of Dane Stinson