

In the Matter of the Application of ) Case No. 10-0468-EL-ACP  
FirstEnergy Solutions Corp. for Ten-Year )  
Alternative Energy Compliance Plan. )

On November 19, 2010, the OEC filed a motion to intervene in this docket for the purpose of commenting on the Ten Year-Alternative Energy Compliance Plan filed by FirstEnergy Solutions Corporation (“FirstEnergy.”). On December 3, 2010, FirstEnergy filed a Memorandum Contra the OEC’s Motion to Intervene, arguing primarily that this docket is not one in which the OEC, or any interested party, may intervene and provide comment. The OEC believes that it has a right to intervene and provide comment on FirstEnergy’s plan.

The Company maintains that its ten year alternative energy filing is a “nonbinding....information resource for the Commission, nothing more” and that “[a]s such, [it] is not a proceeding in which OEC or any other party has either a right or a reason to intervene.”<sup>1</sup> FirstEnergy then recites the rule requiring utilities to file such plans. As FirstEnergy explains, “the Commission’s rule requiring a ten-year plan is clear. O.A.C. 4901:1-40-03(C) requires FES to ‘file a plan for compliance with future annual advanced- and renewable-energy benchmarks, including solar, utilizing at least a ten-year planning horizon.’”<sup>2</sup> However, while FirstEnergy correctly recites the rule, it does not follow that the information contained in the plan is irrelevant. Even if the plan is a non-binding information resource, it still must

<sup>1</sup> Memorandum Contra OEC at 1.

<sup>2</sup> Id.

be an accurate, good faith projection of a utility's expected sources of generation. The content matters. Moreover, even if the plan is non-binding, it does not follow that intervenors are prohibited from providing comment.

In its Motion, the OEC stated that this matter “involves the review of FES's plans to meet Ohio's advanced energy and renewable energy benchmarks for the next ten years.”<sup>3</sup> The OEC believes that changed circumstances require revisions to FirstEnergy's plan for compliance with its alternative energy benchmarks. The un-redacted portions of FirstEnergy's ten year plan assume that FirstEnergy's R.E. Burger facility will provide a major source of RECs that will be used to meet the renewable energy benchmarks. Now that the project will not go forward,<sup>4</sup> and will not be a source of renewable energy for benchmark compliance, the ten year plan must be revised. The assumptions underlying the plan have changed significantly. Therefore, the plan is now defunct. It is inaccurate and provides the Commission with an incomplete picture of the substance of the Company's plans to comply with Ohio's statutory benchmarks. The OEC urges the Commission to require FirstEnergy to revise and re-file the Company's ten-year benchmark plant in light of these significant changed circumstances.

Respectfully Submitted,

/s/ William T. Reisinger  
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<sup>3</sup> Motion to Intervene at 3.

<sup>4</sup> See FirstEnergy Press Release, “FirstEnergy, Citing Lower Market Prices, Cancels Plans for Biomass Conversion Project,” November 17, 2010.

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## CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class and/or electronic mail this 6<sup>th</sup> day of December, 2010.

/s/ William T. Reisinger

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Summary: Reply Reply to Memorandum Contra electronically filed by Mr. Will Reisinger on behalf of Ohio Environmental Council