

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

<b>Ohio Schools Council, Ohio School Boards</b>	)	
<b>Association, Ohio Association of School</b>	)	
<b>Business Officials, and Buckeye</b>	)	
<b>Association of School Administrators, dba</b>	)	
<b>Power4Schools</b>	)	<b>CASE NO. 14-1182-EL-CSS</b>
	)	
<b>Complainants,</b>	)	
	)	
<b>v.</b>	)	
	)	
<b>FirstEnergy Solutions Corp.</b>	)	
	)	
<b>Respondent.</b>	)	

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**DEFENDANT FIRSTENERGY SOLUTIONS CORP.’S ANSWER TO COMPLAINT**

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For its Answer to Complainants’ Complaint, Respondent FirstEnergy Solutions Corp. (“FES”) states as follows:

**Parties and Jurisdiction:**

1. FES denies the allegations contained in paragraph 1 of the Complaint for lack of knowledge or information sufficient to form a belief as to their truth.
2. FES denies the allegations contained in paragraph 2 of the Complaint for lack of knowledge or information sufficient to form a belief as to their truth.
3. FES denies the allegations contained in paragraph 3 of the Complaint for lack of knowledge or information sufficient to form a belief as to their truth.
4. FES denies the allegations contained in paragraph 4 of the Complaint for lack of knowledge or information sufficient to form a belief as to their truth.

5. FES denies the allegations contained in paragraph 5 of the Complaint for lack of knowledge or information sufficient to form a belief as to their truth.

6. FES denies the allegations contained in paragraph 6 of the Complaint for lack of knowledge or information sufficient to form a belief as to their truth.

7. FES denies the allegations contained in paragraph 7 of the Complaint for lack of knowledge or information sufficient to form a belief as to their truth.

8. FES admits the allegations contained in paragraph 8 of the Complaint.

9. FES denies the allegations in paragraph 9 of the Complaint.

**Background:**

10. FES incorporates all the preceding paragraphs as if fully rewritten herein.

11. FES admits that S.B. 3 was enacted in 1999, that S.B. 3 speaks for itself, and otherwise denies the remainder of the allegations in paragraph 11 of the Complaint.

12. FES admits S.B. 3 speaks for itself. FES denies the remainder of the allegations in paragraph 12 of the Complaint.

13. FES admits S.B. 3 speaks for itself. FES denies the remainder of the allegations in paragraph 13 of the Complaint.

14. FES admits the Ohio Revised Code and Ohio Administrative Code speak for themselves. FES denies the remainder of the allegations in paragraph 14 of the Complaint.

15. FES admits the Ohio Revised Code and Ohio Administrative Code speak for themselves. FES denies the remainder of the allegations in paragraph 15 of the Complaint.

16. FES admits the Ohio Revised Code and Ohio Administrative Code speak for themselves. FES denies the remainder of the allegations in paragraph 16 of the Complaint.

17. FES admits the Ohio Revised Code and Ohio Administrative Code speak for themselves. FES denies the remainder of the allegations in paragraph 17 of the Complaint.

18. FES admits the Ohio Revised Code and Ohio Administrative Code speak for themselves. FES denies the remainder of the allegations in paragraph 18 of the Complaint.

19. FES admits the Ohio Revised Code and Ohio Administrative Code speak for themselves. FES further states that O.A.C. 4901:1-21-12(B)(8) provides that CRES contracts with residential and small commercial customers shall include the terms and conditions of service, including any contingencies associated with the service or product offered. FES denies the remainder of the allegations in paragraph 19 of the Complaint.

20. FES admits the Ohio Revised Code and Ohio Administrative Code speak for themselves. FES further states that O.A.C. 4901:1-21-12(B)(8) provides that CRES contracts with residential and small commercial customers shall include the terms and conditions of service, including any contingencies associated with the service or product offered. FES denies the remainder of the allegations in paragraph 20 of the Complaint.

21. FES admits the Ohio Revised Code and Ohio Administrative Code speak for themselves. FES denies the remainder of the allegations in paragraph 21 of the Complaint.

**General Allegations as to FES' Service to FE EDU Participating Members:**

22. FES incorporates all the preceding paragraphs as if fully rewritten herein.

23. FES admits the allegations contained in paragraph 23 of the Complaint.

24. FES admits the allegations contained in paragraph 24 of the Complaint.

25. FES admits the allegations contained in paragraph 25 of the Complaint.

26. FES admits the quotes contained in paragraph 26 of the Complaint are accurate.

FES denies any remaining allegations in paragraph 26 of the Complaint.

27. FES denies standard service offer components separately identified ancillary services in the manner alleged. FES also denies the tariffs identified contain identical terms as the Master Agreement. FES denies the remainder of the allegations in paragraph 27 of the Complaint.

28. FES admits that the documents speak for themselves, and otherwise denies all allegations in paragraph 28 of the Complaint.

29. FES admits that a portion of the FES website is attached to the Complaint as Exhibit F. FES denies the remainder of the allegations in paragraph 29 of the Complaint.

30. FES denies the SSO Supply Agreement is relevant to the interpretation of the contract. FES denies the remainder of the allegations in paragraph 30 of the Complaint.

31. FES admits that prices for ancillary services as billed by PJM may fluctuate monthly. FES denies the remainder of the allegations in paragraph 31 of the Complaint.

32. FES denies the allegations in paragraph 32 of the Complaint.

33. FES admits the Master Agreement contains a provision for passing through additional charges. FES admits the quote from Paragraph 1(d) is accurate. FES also states that other provisions of the Master Agreement are relevant, including without limitation, § 5.11 and ¶¶ 38 & 39 of the Supply Agreement. FES denies any remaining allegations contained in paragraph 33 of the Complaint.

34. FES denies the allegations in paragraph 34 of the Complaint.

35. FES denies the allegations in paragraph 35 of the Complaint.

36. FES denies the allegations in paragraph 36 of the Complaint.

**General Allegations as to FES' Service to OP EDU Participating Members**

37. FES incorporates all the preceding paragraphs as if fully rewritten herein.

38. FES admits the allegations contained in paragraph 38 of the Complaint.
39. FES admits the allegations contained in paragraph 39 of the Complaint.
40. FES denies the allegations in paragraph 40 of the Complaint.
41. FES admits the quote from the Pricing Attachment is accurate. FES denies that the pricing attachment fails to disclose that events could make the fixed discount fluctuate. FES denies the remaining allegations contained in paragraph 41 of the Complaint.
42. FES denies the allegations in paragraph 42 of the Complaint.
43. FES admits the tariffs speak for themselves. FES denies remaining allegations in paragraph 43 of the Complaint.
44. FES admits some ancillary costs as billed by PJM may fluctuate monthly. FES denies the remaining allegations in paragraph 44 of the Complaint.
45. FES denies the allegations in paragraph 45 of the Complaint.
46. FES admits the Master Agreement contains a provision for passing through additional charges. FES admits the quote from Paragraph I.A.xii is accurate. FES also states that other provisions of Master Agreement are relevant, including without limitation, § 5.11 and ¶¶ 38 & 39 of the Supply Agreement. FES denies any remaining allegations contained in paragraph 46 of the Complaint.
47. FES denies the allegations in paragraph 47 of the Complaint.
48. FES denies the allegations in paragraph 48 of the Complaint.
49. FES denies the allegations in paragraph 49 of the Complaint.

**General Allegations as to FES' Service to FE and OP EDU Participating Members:**

50. FES incorporates all the preceding paragraphs as if fully rewritten herein.

51. FES admits that it sent Exhibit J or a form thereof and that Exhibit J is quoted accurately. FES denies any remaining allegations in paragraph 51 of the Complaint.

52. FES admits that it sent Exhibit K or a form thereof and that Exhibit K is quoted accurately. FES denies any remaining allegations in paragraph 52 of the Complaint.

53. FES admits that high natural gas prices, restrictions on natural gas deliveries, interchange volatility, and an unprecedented amount of plant outages during the periods of January 6-8 and January 17-29 were part of the cause of increased costs. FES denies any remaining allegations contained in paragraph 53 of the Complaint.

54. FES denies the allegations in paragraph 54 of the Complaint.

55. FES denies the allegations contained in paragraph 55 of the Complaint regarding Participating Members' operations for lack of knowledge or information sufficient to form a belief as to their truth, and otherwise denies the remaining allegations in paragraph 55 of the Complaint.

56. FES admits the allegations contained in paragraph 56 of the Complaint.

57. FES admits that it relied on applicable contracts when billing these charges and that the quotation from those contracts is accurate. FES denies any remaining allegations contained in paragraph 57 of the Complaint.

58. FES denies the allegations in paragraph 58 of the Complaint.

59. FES denies the allegations in paragraph 59 of the Complaint.

60. FES denies the allegations contained in paragraph 60 of the Complaint for lack of knowledge or information sufficient to form a belief as to their truth.

61. FES admits the supply contract speaks for itself. FES denies any remaining allegations contained in paragraph 61 of the Complaint.

- 62. FES denies the allegations in paragraph 62 of the Complaint.
- 63. FES denies the allegations in paragraph 63 of the Complaint.

**Count I:**

- 64. FES incorporates all the preceding paragraphs as if fully rewritten herein.
- 65. FES denies the allegations in paragraph 65 of the Complaint.

**Count II:**

- 66. FES incorporates all the preceding paragraphs as if fully rewritten herein.
- 67. FES denies the allegations in paragraph 67 of the Complaint.

**Count III:**

- 68. FES incorporates all the preceding paragraphs as if fully rewritten herein.
- 69. FES denies the allegations in paragraph 69 of the Complaint.

**Count IV:**

- 70. FES incorporates all the preceding paragraphs as if fully rewritten herein.
- 71. FES denies the allegations in paragraph 71 of the Complaint.

**Count V:**

- 72. FES incorporates all the preceding paragraphs as if fully rewritten herein.
- 73. FES denies the allegations in paragraph 73 of the Complaint.

**Count VI:**

- 74. FES incorporates all the preceding paragraphs as if fully rewritten herein.
- 75. FES denies the allegations in paragraph 75 of the Complaint.

**Count VII:**

- 76. FES incorporates all the preceding paragraphs as if fully rewritten herein.
- 77. FES denies the allegations in paragraph 77 of the Complaint.

**Count VIII:**

- 78. FES incorporates all the preceding paragraphs as if fully rewritten herein.
- 79. FES denies the allegations in paragraph 79 of the Complaint.

**Count IX:**

- 80. FES incorporates all the preceding paragraphs as if fully rewritten herein.
- 81. FES denies the allegations in paragraph 81 of the Complaint.

**Count X:**

- 82. FES incorporates all the preceding paragraphs as if fully rewritten herein.
- 83. FES denies the allegations in paragraph 83 of the Complaint.

**Count XI:**

- 84. FES incorporates all the preceding paragraphs as if fully rewritten herein.
- 85. FES denies the allegations in paragraph 85 of the Complaint.
- 86. FES denies the allegations in paragraph 86 of the Complaint.

**Count XII:**

- 87. FES incorporates all the preceding paragraphs as if fully rewritten herein.
- 88. FES denies the allegations in paragraph 88 of the Complaint.

**Count XIII:**

- 89. FES incorporates all the preceding paragraphs as if fully rewritten herein.
- 90. FES denies the allegations in paragraph 90 of the Complaint.

**Count XIV:**

- 91. FES incorporates all the preceding paragraphs as if fully rewritten herein.
- 92. FES denies the allegations in paragraph 92 of the Complaint.

**AFFIRMATIVE DEFENSES**



FES hereby sets forth its affirmative defenses to the claims asserted in the Complaint as follows:

93. Complainants claims are barred in whole or in part for failure to state a claim upon which relief can be granted.

94. Complainants claims are barred in whole or in part because the Commission does not have jurisdiction over the terms of a contract, including but not limited to the price term, between a CRES provider and its customers.

95. Complainants claims are barred in whole or in part because Complainants do not have standing to bring this action on behalf of the Participating Members.

Respectfully submitted,

/s/ Mark A. Hayden

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*Attorneys for FirstEnergy Solutions Corp.*

**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *FirstEnergy Solutions Corp.'s Answer* was served this 4th day of August, 2014, via e-mail upon the parties below.

/s/ N. Trevor Alexander  
One of the Attorneys for FirstEnergy Solutions Corp.

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

Summary: Answer electronically filed by Mr. Nathaniel Trevor Alexander on behalf of FirstEnergy Solutions Corp.