

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

Carbo Forge, Inc., Wyandot, Inc., Plaskolite,)	
Inc., American Trim, LLC, Whirlpool)	
Corporation, McWane, Inc., Navistar, Inc.,)	
Sauder Woodworking Co., McDonald Steel)	
Corporation, Henny Penny Corporation, Lima)	
Refining Company, Campbell Soup Supply)	
Company, LLC, Cooper Tire & Rubber)	
Company, Mantaline Corporation, Republic)	
Steel, Jay Industries, Inc., Sun Chemical)	Case No. 14-1610-EL-CSS
Corporation, and 3M Company,)	
Complainants,)	
v.)	
FirstEnergy Solutions Corp.,)	
Respondent.)	

**MOTION FOR ASSISTANCE TO PREVENT TERMINATION OF SERVICE,
REQUEST FOR RELIEF, AND REQUEST FOR EXPEDITED RULING OF
CARBO FORGE, INC., WYANDOT, INC., PLASKOLITE, INC.,
AMERICAN TRIM, LLC, WHIRLPOOL CORPORATION, MCWANE, INC.,
NAVISTAR, INC., SAUDER WOODWORKING COMPANY,
MCDONALD STEEL CORPORATION, HENNY PENNY CORPORATION,
LIMA REFINING COMPANY, CAMPBELL SOUP SUPPLY COMPANY, LLC,
COOPER TIRE & RUBBER COMPANY, MANTALINE CORPORATION,
REPUBLIC STEEL, JAY INDUSTRIES, INC., SUN CHEMICAL CORPORATION,
AND 3M COMPANY**

On September 12, 2014, Carbo Forge, Inc., Wyandot, Inc., Plaskolite, Inc., American Trim, LLC, Whirlpool Corporation, McWane, Inc., Navistar, Inc., Sauder Woodworking Co., McDonald Steel Corporation, Henny Penny Corporation, Lima Refining Company, Campbell Soup Supply Company, LLC, Cooper Tire & Rubber Company, Mantaline Corporation, Republic Steel, Jay Industries, Inc., Sun Chemical Corporation, and 3M Company (collectively, Complainants) filed a complaint (Complaint) with the Public Utilities Commission of Ohio

(Commission) against FirstEnergy Solutions Corporation (FES) asserting, inter alia, violations of various provisions of Chapter 4928, Revised Code, and Chapters 4901:1-21 and 4901:1-24, Ohio Administrative Code (O.A.C.). In the Complaint, Complainants requested that the Commission order FES to discontinue its unfair, misleading, deceptive, and unconscionable practices in connection with its assessment of unauthorized “RTO Expense Surcharges” on Complainants’ bills.

Despite Complainants’ correspondence disputing FES’ assessment of the RTO Expense Surcharge, explaining Complainants’ legal position, and indicating that Complainants will not be paying the RTO Expense Surcharge amounts or will be seeking a refund of sums previously collected from Complainants for the unauthorized charges, as the RTO Expense Surcharge amounts are in dispute, FES has indicated that it considers Complainants’ “good faith ability to dispute the RTO Expense Surcharge” to be “questionable.” Although the Complainants’ Customer Supply Agreements do not consider the non-payment of the disputed amounts as a default,¹ FES’ response to the dispute to date gives Complainants pause. For these reasons, and the circumstances set forth in the Complaint, Complainants believe that they may be facing termination of their retail electric generation service for non-payment. Accordingly, pursuant to Rule 4901-9-01(E), O.A.C., Complainants hereby file this motion, requesting assistance from the Commission to prevent the termination of service by FES or Complainants’ respective electric distribution utilities (EDUs) to Complainants during the pendency of the Complaint in this matter. Additionally, Complainants request relief from any late fee payments or charges assessed on disputed charges. The rationale for this motion and its necessity are set forth in the attached Memorandum in Support.

¹ This appears to be consistent with the Commission’s billing requirements. See Rules 4901:1-21-18(H)(2)(a) and 4901:1-21-14(G), O.A.C.

Moreover, because of the significant negative consequences resulting or potentially resulting from the termination of Complainants electric generation service, Complainants hereby request that the Commission issue an expedited ruling on this motion pursuant to Rule 4901-1-12(C), O.A.C.

Respectfully submitted,



Kimberly W. Bojko (Counsel of Record)

Jonathan Allison

Rebecca L. Hussey

Carpenter Lipps & Leland LLP

280 North High Street

Suite 1300

Columbus, Ohio 43215

Telephone: 614-365-4100

Fax: 614-365-9145

Bojko@CarpenterLipps.com

Allison@CarpenterLipps.com

Hussey@CarpenterLipps.com

Counsel for Complainants

MEMORANDUM IN SUPPORT

As explained in detail in the Complaint, FES has assessed an RTO Expense Surcharge to each of the Complainants. Pursuant to formal correspondence and discussions through counsel, and most recently, the Complaint filed in this matter, the Complainants have disputed FES' assessment of the RTO Expense Surcharge in their bills. The allegations asserted in the Complaint include, but are not limited to, FES' violations of a number of sections of Chapter 4928, Revised Code, and Chapters 4901:1-21 and 4901:1-24, O.A.C., in connection with the actions FES has taken in invoicing Complainants for the RTO Expense Surcharge.

In correspondence to a number of the Complainants in May 2014, FES states, inter alia, that "invoice disputes under the [Customer Supply] Agreement must be made in good faith" under Paragraph 18 of the Customer Supply Agreement, and further, that each Complainant's "good faith ability to dispute the RTO Expense Surcharge is questionable." Although FES' assertions about the good faith nature of the dispute are meritless, Complainants are concerned that FES or Complainants' respective EDUs will discontinue their service during the pendency of this dispute on account of FES' representations.

Although the Complainants who receive consolidated bills have alerted their respective EDUs that there is an ongoing dispute between them and FES regarding the RTO Expense Surcharge, and the EDUs appear to be cooperating, Complainants remain concerned that, because of the number of parties tangentially involved in this matter and the length of time during which the dispute has been and will be ongoing, that the potential exists for their service to be disconnected at some point during the course of this proceeding. Additionally, one EDU has provided letters to certain Complainants agreeing to a 60-day lock on the account, during which no late fees or disconnection notices will accrue. However, the 60-day period referenced

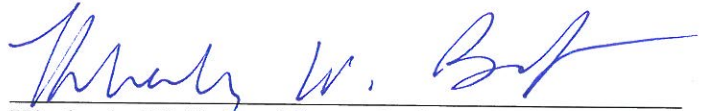
in these letters will expire soon. The same EDU has recently communicated that it intends to reimburse any amounts that have previously been paid by Complainants toward the RTO Expense Surcharge, or eliminate the charges from Complainants' consolidated bills, thereby requiring FES to bill all affected Complainants for the RTO Expense Surcharge directly. Although Complainants believe this process may eliminate much of the confusion and concern associated with non-payment of the RTO Expense Surcharge amounts in dispute and any late payment charges or disconnection situations, Complainants have not witnessed the implementation of this practice by the EDU, and it has not been proposed by the other Ohio EDUs. Thus, in conjunction with the allegations in the Complaint, by means of this motion and pursuant to Rule 4901-9-01(E), O.A.C., the Complainants are requesting that the Commission provide them with assistance to prevent termination of service provided pursuant to their Customer Supply Agreements with FES. Specifically, Complainants request that an order be issued directing FES and the Ohio EDUs to not disconnect or otherwise terminate service to any of the Complainants throughout the pendency of this matter for reasons associated with the non-payment of amounts in dispute between FES and the Complainants regarding the RTO Expense Surcharge. Complainants believe that such an order will prevent the disconnection of service to any of the Complainants due to any misunderstandings or otherwise during the course of the Complaint for reasons associated with the dispute regarding the RTO Expense Surcharge.

Furthermore, Complainants respectfully request that the Commission direct FES and the Ohio EDUs to not assess or attempt to collect late fees associated with the disputed charges. Assessing late charges on amounts in dispute is not contemplated by the Customer Supply Agreement or the Commission's rules.

Pursuant to Rule 4901-1-12(C), O.A.C., Complainants further request an expedited Commission ruling on this motion, as maintaining uninterrupted electric service is of the utmost importance to the continued success of their businesses.

WHEREFORE, the Complainants respectfully request that the Commission expeditiously grant their motion for assistance to prevent termination of service, request for relief, and request for expedited ruling on the same, and order FES and the Ohio EDUs to not terminate the existing service to the Complainants or assess late fees for reasons associated with their dispute of the RTO Expense Surcharge during the course of this proceeding.

Respectfully submitted,



Kimberly W. Bojko (Counsel of Record)

Jonathan Allison

Rebecca L. Hussey

Carpenter Lipps & Leland LLP

280 North High Street

Suite 1300

Columbus, Ohio 43215

Telephone: 614-365-4100

Fax: 614-365-9145

Bojko@CarpenterLipps.com


Allison@CarpenterLipps.com

Hussey@CarpenterLipps.com

Counsel for Complainants

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing document was served this 12th day of September, 2014 by electronic mail upon the persons listed below.



Kimberly W. Bojko

Mark A. Hayden
Jacob A McDermott
Christine M. Weber
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308
haydenm@firstenergycorp.com
jmcdermott@firstenergycorp.com
cweber@firstenergycorp.com

James W. Burk
Carrie M. Dunn
FirstEnergy Service Company
76 South Main Street
Akron, OH 44308
burkj@firstenergycorp.com
cdunn@firstenergycorp.com

Judi L. Sobecki
The Dayton Power & Light Company
1065 Woodman Drive
Dayton, Ohio 45432
Judi.sobecki@aes.com

James F. Lang
N. Trevor Alexander
Calfee, Halter & Griswold LLP
The Calfee Building
1405 East Sixth Street
Cleveland, OH 44114
jlang@calfee.com
tallexander@calfee.com

Amy B. Spiller
Duke Energy Business Services
139 E. Main Street, 1303-Main
Cincinnati, Ohio 45202
Amy.spiller@duke-energy.com

Steven Nourse
American Electric Power Service
Corporation
1 Riverside Plaza, 29th Floor
Columbus, Ohio 43215
stnourse@aep.com

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Case No(s). 14-1610-EL-CSS

Summary: Motion for Assistance to Prevent Termination of Service, Request for Relief, and Request for Expedited Ruling electronically filed by Ms. Rebecca L Hussey on behalf of Carbo Forge, Inc., et al.