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November 12, 2014

Barcy F. McNeal
Docketing Division Chief
Public Utilities Commission of Ohio
180 E. Broad Street
Columbus, Ohio 43215--3793

Regarding: *Ohio Schools Council v. FirstEnergy Solutions Corp.* Case No 14-1182-EL-CSS

Dear Ms. McNeal:

Noble Americas Energy Solutions LLC ("Noble") submits these comments in this complaint proceeding because it believes that issues that are being litigated between the parties can be decided by the Public Utilities Commission of Ohio ("Commission") in a manner that impacts Noble's customer agreements. Noble is not seeking party status to this proceeding, but if the Commission issues a decision that has broader impact than to just the parties to this proceeding, then Noble would seek to intervene.

This complaint proceeding began July 3, 2014 when The Ohio Schools Council, Ohio School Boards Association, Ohio Association of School Business Officials, and Buckeye Association of School Administrators, dba Power4Schools("Complainants") filed a Complaint pursuant to RC 4905.26 and 4928.16(A)(1) and (2) seeking Commission relief related to FirstEnergy Solutions ("FES") charging Complainants for costs attributable to increased market-based ancillary service costs resulting from cold weather during the month of January, 2014. Complainants seek relief from violations of, inter alia, Chapter 4928, Revised Code, and Chapters 4901:1-21 and 4901:1-24, Ohio Administrative Code.

Complainants seek relief because they believe that these charges are unjust and unreasonable and that FES' interpretation of the contractual provisions cited by FES in support of its billing these charges amount to deceptive, unfair, and unconscionable acts and practices in violation of Sections 4928.10 and 4928.02, Revised Code, and rules 4901:1-21-03(A)(1) through (3) and 4901:1-21-11(A), O.A.C., and is unjust and unreasonable under Sections 4905.26 and 4928.01(A), Revised Code.

Noble believes that the subject matter at issue in this proceeding is inextricably linked to the investigation currently being conducted by the Commission and the findings in this case could have an impact on that investigation. Furthermore, Noble has a real and substantial interest in any findings that relate to the general application of pass-through provisions included in a retail supply contract under the "regulatory change" section because they are material components found in most, if not all, Competitive Retail Electric Service ("CRES") provider contracts.

Noble Americas Energy Solutions LLC
A member of the Noble Group
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Noble notes that the Commission has initiated an investigation into customers being billed pass-through charges and among the issues addressed in that proceeding is whether the presence of a pass-through provision in a customer contract is itself a deceptive practice. While Noble is a member of a trade association that is an active intervener in that investigation, the issue of what constitutes an acceptable interpretation and application of CRES provider contractual pass-through provisions is common to this Complaint and the investigation. Accordingly, a decision or finding in the instant Complaint proceeding could have a material and adverse impact on Noble's interest in the investigation proceeding both of which could impact the application of its contractual provisions.

Noble recognizes that the dispute between Complainants and FES is focused on the marketing practices of another supplier and involves specific contracts to which Noble is not a party. However, Noble is a CRES provider licensed by the State of Ohio pursuant to R.C. Chapter 4928 and has contractual provisions similar to those contained in the contracts between Complainants and FES, and a finding by the Commission in this Complaint proceeding could have a material and substantial impact on the interpretation and application of those terms as they are contained in agreements between Noble and its customers. The "regulatory change/change of law" provision has been used for decades in retail natural gas and electricity contracts. The integrity and spirit of the clause is critical for both consumers and energy suppliers.

FES is the only energy provider, of which Noble is aware, that is passing through the higher charges that they incurred in fulfilling their fixed price contractual commitments during the Polar Vortex by relying on a pass-through provision unrelated to an actual change in law, which is embedded in the regulatory change section of their contract. This has resulted in extensive backlash in FES's customer base and the retail customer base as a whole resulting in an industry wide investigation regarding this issue. Even though this particular complaint is limited to the action of a single supplier, Noble is concerned about the potential ramifications associated with a Commission ruling on this issue and the profound impact it could have on our business and the retail markets as a whole in the future. As long as the Commission's focus is only on the actions of FES and any ruling is limited to the parties of this action then Noble would not seek any further involvement with this proceeding. To the extent that the Commission expects to issue a ruling in this proceeding that will impact the contracts and marketing practices of suppliers generally, including Noble, Noble requests proper notice and the opportunity to intervene.

Sincerely,

A handwritten signature in black ink, appearing to read 'Peter Yuen', with a long horizontal line extending to the right.

Peter Yuen

Cc: Parties of Record