

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

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

.....
**MOTION BY THE NORTHWEST OHIO AGGREGATION COALITION
TO INTERVENE
AND MOTION TO HOLD A HEARING IN THIS MATTER**
.....

Motions

The Northwest Aggregation Coalition (NOAC) respectfully first moves to intervene in this matter pursuant to Ohio Rev. Code § 4903.221 and Ohio Admin. Code 4901-1-11. Second NOAC moves that the Commission hold a hearing in this matter under Ohio Admin. Code 4901:1-24-10(A).

Memorandum in Support

On January 17, 2020 Suvon, LLC d/b/a FirstEnergy Advisors (FirstEnergy Advisors) filed an application to be an electric power broker and aggregator. The Attorney Examiners' February 11, 2020 Entry and Order provides a case history and summary of the pleading filed by the Office of Consumer Counsel (OCC) and the Northeast Aggregation Coalition (NOPEC) and the pleading filed by Vistra Energy Corp. These and other information in the Entry and Order are incorporated by reference.

The Entry and Order concluded in Paragraph 6 that: "The attorney examiner finds that good cause exists to suspend the 30-day automatic approval process for FirstEnergy Advisors' application for certification, in order for the Commission and Staff to further review this matter."

Motion to Intervene: NOAC's members are eight cities, four villages, two townships, and one county.¹ Each is a governmental aggregator for electricity located in the Toledo Edison territory of FirstEnergy. NOAC is directly affected by the FirstEnergy Advisors' application. Together the community aggregations serve over 125,000 households and small businesses. As set out in the OCC/NOPEC and Vistra memorandums, the FirstEnergy Advisors' application is harmful to competition and in violation of legal and regulatory protections *inter alia*. This directly threatens harm to NOAC and its customers.

NOAC and its communities have actively participated in numerous proceedings before the PUCO. Our participation will bring important expertise to a fair resolution of this matter. We are in the best position to advocate for Northwest Ohio and its citizens and businesses, who will be directly affected. Therefore, we ask the Commission to grant our motion to intervene.

Motion for a Hearing: The Attorney Examiner's Entry and Order properly found that there was "just cause" to suspend the automatic approval process to provide time for the "Commission and Staff to further review this matter." However, the Order did not address the OCC/NOPEC motion requesting that the Commission hold a hearing. The Commission has the discretion to hold a hearing under Ohio Admin. Code 4901:1-24-10(A). NOAC here also moves the Commission to order a hearing be held.

A hearing is essential to the fair resolution of this matter. The OCC/NOPEC and Vistra pleadings raise essential and cogent defects in the application concerning, for example, corporate separation and the name "FirstEnergy Advisor." The Entry and Order indicates that the staff will further investigate and the Rules allow it to request for further information from FirstEnergy

¹ These communities are the Cities of Maumee, Perrysburg, Toledo, Sylvania, Oregon, Rossford, Northwood, and Waterville; the Villages of Delta, Holland, Ottawa Hills and Walbridge; the Townships of Lake and Perrysburg; and Lucas County.

Advisors. This however will not bring forth the fullest and best evidence on the effects on competition or of customer confusion. That information resides with customers and competitors of FirstEnergy Advisors.

Further, cosmetic changes to these problems in the Application (for example, Suvon simply dba as Suvon) will not address the deeper issues of entanglement and unfair advantage presented. A hearing is necessary to uncover the actual workings of FirstEnergy Advisors and its interactions with FirstEnergy and its regulated subsidiaries. This information is necessary to determine if the Application meets the requirements of the Revised Code and Commission Rules. A hearing will develop necessary information for the Commission to reach a just decision.

It is important that there is “sunshine”—of letting the public see and participate in this important decision. FirstEnergy and its subsidiaries file many, many routine matters at the Commission, NOAC does not file in those matters. But, as the Attorney Examiner found, this Application is not routine. We urge the Commission to order a hearing and to afford the public the customary due process scrutiny used in important matters.

NOAC therefore respectfully requests that the Commission order a hearing in this matter.

On behalf of the Northwest Aggregation Coalition respectfully submitted by:

/s/ Thomas R. Hays
Thomas R. Hays (0054062), Counsel of Record
Counsel for Lucas County
8355 Island Lane
Maineville, OH 43039
419-410-7069
trhayslaw@gmail.com

/s/ John A. Borell, Sr.
John A. Borell, Sr.
Assistant Lucas County Prosecuting Attorney (0016481)
Deputy Chief, Civil Division
700 Adams Street
Suite 250
Toledo, OH 43604
419-213-2001

*Attorneys for The Northwest Ohio
Aggregation Coalition*

WE AGREE TO ELECTRONIC SERVICE

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 Motion to Intervene was sent by, or on behalf of, the undersigned counsel to the following parties of record this 10th day of February 2020.

/s/ Thomas R. Hays
Thomas R. Hays, 0054062
trhayslaw@gmail.com

lrader@firstenergycorp.com
dstinson@bricker.com
gkrassen@bricker.com
angela.obrien@occ.ohio.gov
mwager@taftlaw.com
iavalon@taftlaw.com

Megan.Addison@puco.ohio.gov

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

2/17/2020 3:34:55 PM

in

Case No(s). 20-0103-EL-AGG

Summary: Motion NOAC's Motion to Intervene and Motion for A Hearing electronically filed by Mr. Thomas R. Hays on behalf of NOAC