



## Office of the Ohio Consumers' Counsel

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April 1, 2020

Ms. Tanowa Troupe  
Docketing Division  
Public Utilities Commission of Ohio  
180 East Broad Street  
Columbus, Ohio 43215

RE: *In the Matter of the Initial Certification Application for Electric Aggregators/ Power Brokers  
Suvon, LLC d/b/a FirstEnergy Advisors.* PUCO Case No. 20-103-EL-AGG

Dear Ms. Troupe:

Through this letter, OCC supports NOPEC's Memorandum Contra and opposes the broad limitation on intervenors' discovery rights requested by FirstEnergy Advisors.

As explained by the Northeastern Ohio Public Utilities Council ("NOPEC") in its Memorandum Contra filed on April 1, 2020, FirstEnergy Advisors' Motion for Protective Order is very broad. As written, it will potentially impact the other intervenors in this proceeding, including the Office of the Ohio Consumers' Counsel ("OCC"), and their discovery rights.

OCC served its first set of discovery on FirstEnergy Advisors on March 9, 2020. FirstEnergy Advisors objected to those discovery requests, offering no substantive responses. While OCC may address FirstEnergy Advisors' specific responses to OCC's discovery in a separate motion to compel, OCC believes it is important to address FirstEnergy Advisors' more general request in its Motion for Protective Order at this time.

Through its Motion for a Protective order,<sup>1</sup> FirstEnergy Advisors seeks to prevent OCC and all other intervenors from requesting information in an attempt to interfere with intervenors' case preparation in this proceeding. OCC and the other intervenors have a right to ample discovery which begins once a proceeding is commenced and after a motion to intervene has been filed. R.C. 4903.082; Ohio Adm. Code 4901-1-16; Ohio Adm. Code 4901-1-17. Both of these pre-conditions have been met. Discovery responses are due to OCC.

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<sup>1</sup> FirstEnergy Advisors' Motion for Protective Order at 1 (March 17, 2020) (FirstEnergy Advisors "hereby moves for a protective order from the discovery served upon it on February 20, 2020 by the Northeast Ohio Public Energy Council ("NOPEC") as well as any discovery which may be issued in the future by intervenors. As more fully explained in the accompanying Memorandum in Support, discovery is premature at this juncture. Commission precedent does not anticipate discovery from intervenors in every case, particularly where no hearing has been established where such discovery could be used. FirstEnergy Advisors therefore seeks an order pursuant to OAC Rule 4901-1-24(A)(1) that discovery not be had until and unless the Commission determines the procedural course the above captioned application will follow.")

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OCC, and others, also have an interest in protecting consumers in this proceeding.

To this end, OCC, and others, have the right to discover the relationships between the distribution utilities' management and that of their affiliates, including FirstEnergy Advisors. Consumers can be harmed where marketers are not following the PUCO's rules regarding marketing and corporate separation rules.

Accordingly, the PUCO should deny FirstEnergy Advisors' Motion for Protective Order and permit the parties to conduct discovery in this case.

Sincerely,

/s/ Angela O'Brien

Angela O'Brien (0097579)

Counsel of Record

Assistant Consumers' Counsel

cc: Attorney Examiners, Parties of Record

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Summary: Correspondence Correspondence by the Office of the Ohio Consumers' Counsel electronically filed by Ms. Deb J. Bingham on behalf of O'Brien, Angela Ms.