

COMMONWEALTH OF PENNSYLVANIA



OFFICE OF CONSUMER ADVOCATE

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August 27, 2014

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

Re: John R. Evans, Small Business Advocate, Petitioner v. FirstEnergy
Solutions Corporation, Respondent
Docket No. P-2014-2421556

Dear Secretary Chiavetta:

Enclosed please find the Office of Consumer Advocate's Prehearing Memorandum in the above referenced proceeding.

Copies have served as indicated on the enclosed Certificate of Service.

Sincerely,

A handwritten signature in black ink, appearing to read "Brandon J. Pierce".

Brandon J. Pierce
Assistant Consumer Advocate
PA Attorney I.D. # 307665

Enclosures

cc: Honorable Katrina L. Dunderdale, ALJ
Certificate of Service

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BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION

John R. Evans,	:	
Small Business Advocate,	:	
Petitioner	:	
	:	Docket No. P-2014-2421556
v.	:	
	:	
FirstEnergy Solutions Corp.,	:	
Respondent	:	

PREHEARING MEMORANDUM
OF THE
OFFICE OF CONSUMER ADVOCATE

Pursuant to Section 333 of the Public Utility Code, 66 Pa. C.S. § 333 and in response to the and the Prehearing Conference Order issued on August 1, 2014, the Office of Consumer Advocate (OCA) provides the following information:

I. INTRODUCTION

On May 15, 2014, the Office of Small Business Advocate (OSBA) filed a Petition for Declaratory Order (Petition) with the Public Utility Commission (Commission) seeking a determination that, as a matter of law, the language in FirstEnergy Solutions Corp.’s (FES) Terms and Conditions of Service for small business “fixed price” plans does not permit FES to bill small business customers for increases in the cost of meeting FES’s existing obligations to provide regulation service and synchronized reserve service.

On May 29, 2014, the OCA filed an Answer supporting OSBA’s Petition.

On June 2, 2014, Noble Americas Energy Solutions LLC (Noble) filed a Petition to Intervene. On June 6, 2014 the FES Industrial and Commercial Customer Coalition (FES ICC) filed a Petition to Intervene. The Company filed Answers in Opposition to Noble's and FES ICC's Petitions to Intervene on June 23, 2014 and June 26, 2014, respectively. On July 7, 2014, FES ICC filed a Reply to the Company's Answer.

On June 4, 2014, FES filed a Preliminary Objection asserting that the Commission lacked subject matter jurisdiction. FES also filed an Answer with New Matter on the same date.

On June 16, 2014, OSBA filed an Answer to the Preliminary Objection of FES, reasserting the positions taken in the Petition for Declaratory Order. On June 24, 2014, OSBA filed a Reply to New Matter.

On July 11, 2014, Administrative Law Judge (ALJ) Katrina L. Dunderdale was assigned to this matter. On July 22, 2014, ALJ Dunderdale issued the First Interim Order (Interim Order) that denied FES's Preliminary Objection on the basis that the Petition for Declaratory Order involves allegations that FES failed to comply with the Commission's regulations and statutes.

On August 8, 2014, FES filed a Petition for Interlocutory Review with the Commission. On August 18, 2014, the OCA and OSBA filed Briefs that opposed the Petition for Interlocutory Review. The Company filed a Brief in Support on the same date.

On August 1, 2014, ALJ Dunderdale issued a Prehearing Conference Order in the above-referenced matter. The OCA files this Prehearing Memorandum in response to that Order.

II. ISSUES AND SUB-ISSUES

Based upon an analysis of the filings to date, the OCA has compiled a list of issues and sub-issues that permits the Commission to terminate the controversy or remove any uncertainty as requested by the OSBA's Petition for Declaratory Order. The following list sets forth issues the OCA submits are before the Commission:

1. Are the ancillary charges and synchronization reserve charges in amounts above those expected by FES a pass-through event pursuant to the FES Disclosure Statement;
2. Is it a violation of the Public Utility Code, Section 2807(d)(2), 66 Pa. C.S. § 2807(d)(2), for FES to charge its proposed surcharge to small business customers.

III. WITNESSES

The OCA does not intend to call any witnesses in this proceeding. However, the OCA specifically reserves the right to call witnesses, should it become necessary. As soon as the OCA has determined whether a witness or witnesses will be necessary for any portion of its case, the ALJ and all parties of record will be notified.

IV. SERVICE ON THE OCA

The OCA will be represented in this case by Assistant Consumer Advocates Candis A. Tunilo and Brandon J. Pierce. Two copies of the documents should be served on the OCA as follows:

Candis A. Tunilo
Brandon J. Pierce
Assistant Consumer Advocates
Office of Consumer Advocate
5th Floor, Forum Place
555 Walnut Street
Harrisburg, PA 17101-1923

Telephone: (717) 783-5048
Fax: (717) 783-7152
E-mail: CTunilo@paoca.org
BPierce@paoca.org

The OCA requests that any documents served electronically also be directed to the OCA's Legal Assistant, Cammie Shoen at CShoen@paoca.org.

V. DISCOVERY MODIFICATIONS

The OCA does not propose any discovery modifications at this time.

VI. PUBLIC INPUT HEARINGS

The OCA is unaware of any specific consumer requests for public input hearings in this matter to date. If the OCA becomes aware of substantial consumer interest, however, the OCA will promptly notify the Administrative Law Judge and parties to request a public input hearing.

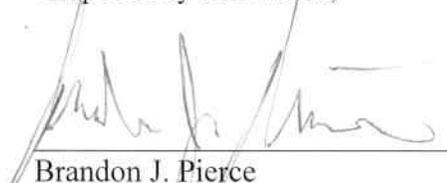
VII. PROPOSED SCHEDULE

The OCA will work with the parties and the ALJ develop a mutually acceptable schedule.

VIII. SETTLEMENT DISCUSSIONS

The OCA is unaware of any settlement discussions to date, but will fully participate in any settlement discussions.

Respectfully Submitted,



Brandon J. Pierce
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Dated: August 27, 2014

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CERTIFICATE OF SERVICE

John R. Evans, :
Small Business Advocate, :
Petitioner :
 : Docket No. P-2014-2421556
v. :
 :
FirstEnergy Solutions Corp., :
Respondent :

I hereby certify that I have this day served a true copy of the foregoing document, the Office of Consumer Advocate's Prehearing Memorandum, upon parties of record in this proceeding in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a participant), in the manner and upon the persons listed below:

Dated this 27th day of August 2014.

SERVICE BY E-MAIL & INTER-OFFICE MAIL

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SERVICE BY E-MAIL & FIRST CLASS MAIL, POSTAGE PREPAID

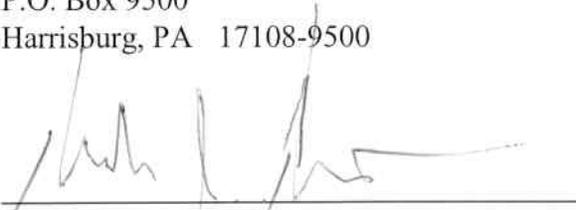
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