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September 19, 2016

**Via Electronic Filing**

Rosemary Chiavetta, Secretary  
PA Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

Re: Application of Fair View Energy, Inc. for Approval to Offer to Supply Electricity or  
Electric Generation Services as a Broker/Marketer to the Public in the Commonwealth of  
Pennsylvania, Docket No. A-2016-2558553

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Dear Secretary Chiavetta:

Enclosed for electronic filing, in the above-referenced matter, please find Fair View Energy, Inc.'s Prehearing Memorandum. Copies have been served in accordance with the attached certificate of service.

Sincerely,



Karen O. Moury

KOM/jls  
Enclosure

cc: Hon. Joel H. Cheskis., Chief Administrative Law Judge w/enc.  
Certificate of Service w/enc.

**CERTIFICATE OF SERVICE**

I hereby certify that this day I served a copy of Fair View Energy, Inc.'s Prehearing Memorandum upon the person listed below in the manner indicated in accordance with the requirements of 52 Pa. Code Section 1.54.

**Via Email and/or First Class Mail**

John Holmes, CEO  
Frontline Power Solutions  
400 Metacom Avenue  
Bristol, RI 02809  
[johnholmes@frontlinepowersolutions.com](mailto:johnholmes@frontlinepowersolutions.com)

Dated: September 19, 2016

  
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Karen O. Moury, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Fair View Energy, Inc. :  
For Approval to Supply Electricity Or :  
Electric Generation Services As A : A-2016-2558553  
Broker/Marketer To The Public In The :  
Commonwealth of Pennsylvania :

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**PREHEARING MEMORANDUM  
OF FAIR VIEW ENERGY, INC.**

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TO THE HONORABLE ADMINISTRATIVE LAW JUDGE JOEL H. CHESKIS:

Fair View Energy, Inc. (“Fair View” or “Company”) hereby submits this Prehearing Memorandum in accordance with the Prehearing Order dated September 7, 2016.

**I. INTRODUCTION AND BACKGROUND**

On July 25, 2016, Fair View filed with the Pennsylvania Public Utility Commission (“Commission”) an application seeking approval to offer, render, furnish or supply electricity or electric generation services as a broker/marketer to the public in the Commonwealth of Pennsylvania. Notice of the application was published in seven newspapers throughout Pennsylvania. Pursuant to such publication, a protest was filed by Front Line Power Solutions, LLC (“Front Line”) which is licensed as an electric generation supplier (“EGS”) to operate as a broker/marketer in Pennsylvania. *Application of Front Line Power Solutions for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Broker/Marketer*, Docket No. A-2013-2360865 (Order entered August 15, 2013).

On August 5, 2016, Fair View filed an answer to Front Line's protest, pursuant to Section 5.52 and 54.36 of the Commission's regulations, 52 Pa. Code §§ 5.52 and 54.36. By its answer, Fair View respectfully requested that the Commission dismiss the competitive protest and grant Fair View's application. Fair View also noted that the protest was replete with hearsay, was not sufficiently documented as required by the Commission's regulations and provided no legitimate challenge to Fair View's financial or technical fitness to operate as a broker in Pennsylvania. Further, Fair View challenged Front Line's standing to protest its application, noting that a general interest in compliance with the law is insufficient to confer standing to protest an application.

The Commission's regulations provide that protests will be assigned to Commission staff for review and that if a protest is not sufficiently documented, Commission staff will prepare a recommendation for Commission consideration dismissing the protest and granting the application. If Commission staff views the protest as being sufficiently documented, the application is transferred to the Office of Administrative Law Judge ("OALJ") for hearings or mediation as deemed appropriate. 52 Pa. Code § 54.36(c).

After Commission staff's review of the protest, Fair View's application was transferred to the OALJ. On August 26, 2016, Fair View respectfully requested the expedited scheduling of a hearing by September 30, 2016. Further, Fair View asked that the OALJ address both the requested dismissal of the protest and the merits of the application in an Initial Decision that is issued after the close of the evidentiary record.

By hearing notice dated September 6, 2016, a hearing was scheduled for September 26, 2016 at 10:00 a.m. in Harrisburg. On September 7, 2016, the OALJ issued a Prehearing Order requiring the submission of prehearing memoranda by September 19, 2016. This prehearing memorandum is submitted in accordance with the Prehearing Order.

**II. SERVICE OF DOCUMENTS**

Fair View requests that all documents be served on:

Karen O. Moury  
Eckert Seamans Cherin & Mellott, LLC  
213 Market St., 8<sup>th</sup> Floor  
Harrisburg, PA 17101  
717.237.6036

Fair View agrees to receive electronic service of documents in this proceeding. To the extent that materials are disseminated electronically, it is requested that copies be sent to [kmoury@eckertseamans.com](mailto:kmoury@eckertseamans.com).

**III. PROPOSED SCHEDULE**

Fair View proposes that all issues necessitating a hearing in this proceeding be addressed during the hearing scheduled for September 26, 2016. Fair View further proposes that oral argument at the close of the hearing on September 26, 2016 be utilized in place of the submission of briefs. Alternatively, Fair View requests that only Main Briefs be filed by the parties by October 11, 2016. Fair View also respectfully requests that an Initial Decision be served by October 31, 2016 and that abbreviated Exception and Reply Exceptions be imposed by the Commission, so as to permit action on the application by the Commission at its public meeting scheduled for December 8, 2016.

**IV. WITNESSES**

At this time, Fair View intends to call the following witnesses:

Jay A. Snyder  
7782 W. Ridge Rd.  
Fairview, PA 16415  
814-392-6535

Michael P. McCormick  
7782 W. Ridge Rd.  
Fairview, PA 16415  
412-999-3826

Joshua Dolbin  
48 Red Mountain Lane  
New Riggold, PA 17960  
570-263-0292

John Sheerer  
105 Stoney Camp Lane  
Pittsburgh, PA 15238  
412-735-6363

Mr. Snyder and Mr. McCormick will offer testimony describing Fair View's structure, present operations and proposed services. They will also testify as to their technical and financial fitness to provide licensed brokering activities in Pennsylvania. Mr. Dolbin and Mr. Sheerer will offer testimony regarding their business dealings with Fair View, particularly with respect to the timely receipt of accurate commission payments.

Fair View reserves the right to call additional witnesses to address any issues that have been or are later raised during the course of the proceeding and will identify such additional witnesses as soon as possible.

## **V. ISSUES**

The issues in this proceeding are: 1) whether Fair View has demonstrated its technical and financial fitness to operate as a licensed broker in Pennsylvania; and 2) whether the proposed service is consistent with the public interest and policy declared in Chapter 28 of the Public Utility Code, 66 Pa. C.S. § 2809(b). *See also* 52 Pa. Code § 54.37. Fair View's position is that it has supplied the information required by the Commission's regulations at 52 Pa. Code § 54.33 and has established that it possesses the requisite technical and financial fitness to operate as a licensed

broker in Pennsylvania. Further, it is Fair View's position that it has demonstrated a commitment to compliance with the Commission's regulations and orders. *See Application of PRX Energy LLC d/b/a PRX Energy for Approval to Offer, Render, Furnish or Supply Electricity or Electric Generation Services as a Broker*, Docket No. A-2016-2547339 (Order entered June 30, 2016) (Commission issued a broker license upon the production of information that is very similar to Fair View's application).

Additionally, this proceeding involves an issue of whether the competitive protest filed by Front Line Power Solutions should be dismissed for lack of standing and because it was not sufficiently documented as required by the Commission's regulations at 52 Pa. Code § 54.36. Fair View's position is that the Commission's regulations reject the notion of competitive protests and that the protest filed by Front Line Power Solutions is nothing more than an attempt to prevent or delay the entry of a competitor into the electric brokering market. Moreover, Fair View will show during the hearing the competitive protest filed by Front Line Power Solutions has no merit or should in no way affect the disposition of this application.

By contrast to the competitive protest filed in this proceeding, the protestant in *Application of J. Andrews Associates, Inc., d/b/a Seven-Utility Management Consultants, LLC For Approval to Supply Electricity or Generation Services as a Broker*, Docket No. A-2011-2241747 (Order entered December 20, 2012) filed a protest with specific details that were sufficiently documented. Moreover, the Office of Consumer Advocate ("OCA") intervened and joined the protestant's opposition to the application. Also, the Commission's Bureau of Investigation and Enforcement (I&E") participated in that proceeding, opposing the application in briefs. Notably in this proceeding, the OCA has not intervened; nor has I&E entered its appearance, despite having filed a complaint against Fair View.

**VI. PROTECTION OF CONFIDENTIAL INFORMATION**

Simultaneously with the filing of this Prehearing Memorandum, Fair View is filing a Motion for Protective Order pursuant to Section 5.362 of the Commission's regulations, 52 Pa. Code § 5.362. By the Motion for Protective Order, Fair View is requesting that confidential information submitted with its application be placed on the proprietary record of this proceeding. Such information includes its bond, balance sheet, income statement, back account statements, 2015 tax return and tax certification statement. In addition, requests that it be permitted to place information in the proprietary record regarding the status of the complaint proceeding initiated by the Bureau of Investigation and Enforcement on May 25, 2016 at Docket No. C-2016-2547502. Fair View's Motion for Protective Order will request that the proprietary record be made available only to Commission staff as necessary for purposes of adjudicating the application.

Respectfully submitted,



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Dated: September 19, 2016

Counsel for Fair View Energy, Inc.