



April 3, 2014

VIA E-FILE

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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
P.O. Box 3265
Harrisburg, PA 17105-3265

Re: Review of Rules, Policies and Consumer Education Measures Regarding Variable Rate Retail Electric Products; Docket No. M-2014-2406134; COMMENTS OF FIRSTENERGY SOLUTIONS CORP.

Dear Secretary Chiavetta:

Enclosed for filing with the Commission is FirstEnergy Solutions Corp.'s Comments in the above-referenced proceeding. If you have any questions or concerns regarding this filing, please direct them to me. Thank you for your attention to this matter.

Sincerely,

COZEN O'CONNOR

By: David P. Zambito
Counsel for *FirstEnergy Solutions Corp.*

DPZ/kmg
Enclosure

cc: Office of Competitive Market Oversight @ ra-OCMO@pa.gov

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Review of Rules, Policies and Consumer Education :
Measures Regarding Variable Rate Retail Electric : Docket No. M-2014-2406134
Products :

COMMENTS OF FIRSTENERGY SOLUTIONS CORP.

I. INTRODUCTION

By Order entered March 4, 2014 (the “Order”), the Pennsylvania Public Utility Commission (“Commission”) opened the above-referenced proceeding to examine the rules, policies and consumer education materials relating to variable-priced retail electric products. The Commission requested that stakeholders respond to information requests set forth in the Order. FirstEnergy Solutions Corp. (“FES”), a Pennsylvania-licensed Electric Generation Supplier¹ (“EGS”), hereby submits its Comments in response to the Commission’s request.

II. COMMENTS

A. Comments on the Issues Raised in the Order

The genesis of this proceeding is the price spikes experienced by certain customers with variable rate products during the polar vortex events of January 2014. FES commends the Commission for taking a judicious and measured approach to important and far-reaching decisions that impact if and how EGSs can do business in Pennsylvania. This is a better approach to addressing pricing situations that arose from extremely unusual and unforeseeable

¹ Docket No. A-110078 (1998).

weather events than the Commission's two recent "final-omitted" rulemaking proceedings² and newly-introduced legislation that is intended to address the same issues. This more-measured approach presents far less risk of unintended consequences that can cause irreparable damage to the competitive retail markets in Pennsylvania, and result in EGSs ceasing to do business in the Commonwealth. In making its decisions, the Commission should focus on whether remedies are necessary or appropriate to address the specific problems that arose from the January 2014 polar vortex, without imposing unnecessary restrictions on the competitive retail market that the Commission has fostered and promoted through deliberative processes over the past decade and a half.

B. Comments on the Specific Questions Posed in the Order

The Commission has requested comments with regard to the following issues.

For variable-priced contracts without explicit formulaic pricing parameters

1. Should EGSs be required to provide advance notice of price changes to customers?

FES Response: No. Since variable-priced contracts can by definition change price each hour, day, month, etc.,³ as a practical matter it would be difficult for EGSs to provide advance notice in time for customers to make changes to their supplier or product. It would also be costly, as suppliers offering a monthly variable rate product, for example, would have to provide 12 additional notices for each customer. FES estimates that a notice sent via first-class mail is approximately 60 cents per customer for a post card and \$1 per customer for a letter. Rather than

² *Proposed Rulemaking: Standards for Changing a Customer's Electricity Generation Supplier*, Docket No. L-2014-2409383 (Secretarial Letter dated Mar.18, 2014); *Rulemaking to Amend the Provisions of 52 Pa. Code, Section 54.5 Regulations Regarding Disclosure Statement for Residential and Small Business Customers and to Add Section 54.10 Regulations Regarding the Provision of Notices of Contract Renewal or Changes in Terms*, Docket No. L-2014-2409385 (Secretarial Letter dated Mar. 19, 2014).

³ *Guidelines for Use of Fixed Price Labels for Products With a Pass-Through Clause*, Docket No. M-2013-2362961 (Final Order entered Nov. 14, 2013).

bombarding customers with monthly (or even more frequent) notices from EGSs that offer variable-priced products or imposing requirements that essentially would remove products from the market, FES recommends ongoing customer education about the differences between fixed and variable products.

2. Should the advance notice requirement be waived for minor contract price changes, within a certain bounds? If so, what bounds are appropriate?

FES Response: FES interprets this question as following upon the notice requirements in Q. 1. above. Since FES does not favor the advance notice requirement for a variable product that may change monthly, daily or even hourly, it has no comment on this question, but notes that it assumes monthly (or even more frequent) notices will be burdensome to both the EGSs and the customer and therefore should not be adopted.

3. If advance notice is required, how far in advance of the meter read date should notice be provided and how can this notice be provided?

FES Response: See responses to Qs. 1. and 2. above.

4. Do variable rate contracts without explicit pricing parameters provide consumers with the information needed to make informed decisions? If not, what is the remedy?

FES Response: FES believes that, as long as a contract without explicit pricing parameters clearly states the conditions which may cause the price to vary, the answer is “yes.” A more specific answer would depend upon the details of each EGS’s contract language, and requires an analysis of whether the pricing language gives sufficient information for a customer to make an informed decision. The question appears to assume that consumers who sign up for variable-priced products are incapable of understanding that the price of their electric generation supply will increase, potentially significantly, during the term of the contract. FES disagrees

with that premise, but recognizes that recent complaints associated with unusual price increases under variable-priced contracts resulting from a unique convergence of circumstances indicates that more needs to be done to educate customers about variable rate options. In addition to enhanced customer education, FES does not oppose a requirement for variable-priced product contracts that Commission-approved language be prominently displayed, in capital letters and/or bolded font, which directs attention to the pricing provision in the customer's contract in the disclosure statement.

For variable-priced contracts with explicit formulaic pricing parameters

5. Should EGSs be required to provide a historical pricing history for this formulaic rate structure?

FES Response: No. Historical pricing is not indicative of future pricing, and this requirement would likely cause more customer confusion and dissatisfaction in the long run. A variable rate would have looked attractive to a customer who requested this type of information in December; yet this data would not have protected the customer from the January variable rate increases. This requirement would be costly and burdensome for EGSs, and would offer minimal value from a consumer protection standpoint.

6. If so, how many months should be provided, and where should this information be provided so as to be available to all participating customers?

FES Response: See the response to Q. 5. above.

7. Should EGSs describe specifically how future formulaic prices are determined?

FES Response: It should be up to the EGS to determine the appropriate level of detail to describe how formulaic prices are determined. Some products have a readily-available formula,

and other products are best described by listing the conditions which may cause the price to vary. EGSs can differentiate themselves from their competitors based on the products they offer. The goal should be to educate customers about the available options and let consumers choose which market models they wish to support.

For daily recorded and automatic meter reading capable electric utilities

8. Under current plans, when will mid-cycle EGS switches be implemented?

FES Response: FES believes this question is better addressed by EDCs.

9. How much can these plans be accelerated, and at what additional cost?

FES Response: FES believes this question is better addressed by EDCs.

For Electric Generation Suppliers who offer variable-priced products

10. Please provide copies of Customer Disclosure Statements for variable-priced products provided through contracts in effect for service rendered for the period December 1, 2013 through February 20, 2014.

FES Response: FES submitted its response to this request to the OCMO mailbox on March 3, 2014.

III. CONCLUSION

FES appreciates the opportunity to submit these Comments, and thanks the Commission for its continued support of retail electric competition in Pennsylvania.

Respectfully submitted,



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