



October 15, 2020

VIA E-FILE

David P. Zambito

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Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor North
Harrisburg, PA 17120

Re: Application of Suvon LLC, d/b/a FirstEnergy Advisors, For Approval To Offer, Render, Furnish Or Supply Electricity Or Electric Generation Services As A Marketer/Broker In The Commonwealth Of Pennsylvania; Docket No. A-2020-3020377

Joint Petition for Approval of Settlement of All Issues

Dear Secretary Chiavetta:

Enclosed for filing with the Pennsylvania Public Utility Commission is the Joint Petition for Approval of Settlement of All Issues, signed by Suvon LLC, d/b/a FirstEnergy Advisors and the Retail Energy Supply Association. Copies have been served as shown on the attached Certificate of Service.

Thank you for your attention to this matter. If you have any questions regarding this filing, please direct them to me.

Sincerely,

COZEN O'CONNOR

By: David P. Zambito
Counsel for Suvon LLC, d/b/a FirstEnergy Advisors

DPZ:kmg
Enclosure

cc: Deputy Chief Administrative Law Judge Joel H. Cheskis
Per Certificate of Service
Scott Casto, Esq.

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Application of Suvon LLC, d/b/a FirstEnergy Advisors :
For Approval To Offer, Render, Furnish Or Supply :
Electricity Or Electric Generation Services As A : Docket No. A-2020-3020377
Marketer/Broker In The Commonwealth Of :
Pennsylvania :

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing **Joint Petition for Approval of Settlement of All Issues** upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

DUE TO THE COVID-19 PANDEMIC, SERVICE IS BEING MADE BY E-MAIL ONLY:

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Counsel for *Retail Energy Supply Association*



David P. Zambito, Esquire
Counsel for *Suvon LLC*
d/b/a FirstEnergy Advisors

Date: October 15, 2020

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Deputy Chief Administrative Law Judge
Joel H. Cheskis**

Application of Suvon LLC, d/b/a FirstEnergy :
Advisors, for Approval to Offer, Render, Furnish :
Or Supply Electricity or Electric Generation : Docket No. A-2020-3020377
Services as a Marketer/Broker in the :
Commonwealth of Pennsylvania :

**JOINT PETITION FOR APPROVAL OF
SETTLEMENT OF ALL ISSUES**

Suvon LLC, d/b/a FirstEnergy Advisors (“Suvon”) and the Retail Energy Supply Association (“RESA”) (singularly, a “Petitioner” and, collectively, the “Joint Petitioners”) hereby join in this “Joint Petition for Approval of Settlement of All Issues” (“Settlement”) and respectfully request that the Honorable Deputy Chief Administrative Law Judge Joel H. Cheskis (the “ALJ”) recommend approval of, and the Pennsylvania Public Utility Commission (“Commission”) approve, this Settlement without modification.

In support of the Settlement, the Joint Petitioners state the following:

I. BACKGROUND AND PROCEDURAL HISTORY

1. On May 21, 2020, Suvon filed with the Pennsylvania Public Utility Commission (“Commission”) the “Application of Suvon, LLC d/b/a FirstEnergy Advisors, for approval to offer,

render, furnish or supply electricity or electric generation services as a Broker/Marketer to the public in the Commonwealth of Pennsylvania” (the “Application”).

2. The cover letter to the Application stated that Suvon would subsequently file proofs of publication and a corrected certificate of fictitious name registration.

a. On June 16, 2020, Suvon filed proofs of publication of its Application.

b. On September 22, Suvon filed a corrected certificate of fictitious name registration.

3. On June 15, 2020, the Secretary of the Commission issued a letter acknowledging receipt of the Application. In addition, the letter waived the 45-day deadline in 52 Pa. Code § 54.37(b) for processing the Application.

4. Using the latest date of publication, protests to the Application were due by Monday, June 15, 2020. At that time, the Application was referred to the Commission’s Bureau of Technical Utility Services (“TUS”) for review.

5. On June 22, 2020, TUS sent a set of data requests to Suvon. Suvon responded to this set of data requests on July 21, 2020.

6. On August 3, 2020, TUS sent a second set of data requests to Suvon. Suvon responded to this set of data requests on August 7, 2020.

7. RESA filed a Protest *Nunc Pro Tunc* to the Application on August 4, 2020, challenging the technical and financial fitness of Suvon to be a broker/marketer of electricity or electric generation services.

8. On August 10, 2020, Suvon filed the “Motion of Suvon LLC, d/b/a FirstEnergy Advisors, to Dismiss the Protest *Nunc Pro Tunc* of the Retail Energy Supply Association, and for Expedited Treatment” (“Motion to Dismiss”).

9. On August 20, 2020, RESA filed an Answer to the Motion to Dismiss.

10. On September 1, 2020, the Commission issued a Hearing Notice scheduling a hearing in this matter on October 13, 2020 and assigning the case to Deputy Chief Administrative Law Judge Joel H. Cheskis (the “ALJ”).

11. On September 10, 2020, the ALJ issued his Order Denying the Motion to Dismiss.

12. On October 6, 2020, the parties informed the ALJ that they had reached a settlement in principle and requested that he suspend the procedural schedule, including the hearing scheduled for October 13, 2020. Later that same day, a hearing notice was issued to cancel the hearing scheduled for October 13, 2020.

13. On September 24, 2020, Suvon filed a Motion for Protective Order. The ALJ granted this motion and issued a Protective Order on October 6, 2020.

II. SETTLEMENT TERMS

The Joint Petitioners agree as follows:

A. Request for Official Notice

14. The Application is supported by the Application Affidavit, signed by Brian A. Farley, which states (in pertinent part): “That the Applicant herein has answered the questions on the application correctly, truthfully, and completely and provided supporting documentation as required.”

15. Suvon’s answers to the data requests of TUS were supported by verifications from the supporting witnesses.

16. The proofs of publication submitted by Suvon were supported by affidavits of individuals from each of the publishing newspapers.

17. The corrected certificate of fictitious name filing is an official record of the Pennsylvania Department of State.

18. Consequently, the Joint Petitioners request that the ALJ and the Commission take official notice of the facts stated in the documents described in paragraphs 14-17.

B. Joint Stipulation of Fact

19. The Joint Petitioners request that the ALJ recommend, and the Commission approve, the Joint Stipulation of Fact (“Stipulation”) attached hereto as **Attachment A**.

C. Approval of Application

20. Based on the facts set forth in the documents described in paragraphs 14-17 and in the Stipulation, Suvon requests that the ALJ recommend, and the Commission grant, the Application and issue a license to Suvon to offer, render, furnish or supply electricity or electric generation services as a broker/marketer. RESA does not oppose this request.

D. Modification of Bonding Requirement

21. In the Application, Suvon requested that the Commission modify the \$250,000 bond requirement because Suvon will not take title to electricity and will not pay electricity bills on behalf of its customers. Suvon also submitted a \$10,000 bond. Suvon requests that the ALJ recommend, and the Commission grant, the requested modification of the bonding requirement. RESA does not oppose this request.

E. Supporting Documents

22. Attached as **Attachments B, C and D** are Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Ordering Paragraphs, respectively, which have been prepared by Suvon. RESA neither joins nor opposes the Proposed Findings of Fact, Proposed Conclusions of Law, and Proposed Ordering Paragraphs.

23. Suvon and RESA have prepared Statements in Support of Settlement, attached as **Attachment E** and **Attachment F** respectively, setting forth the bases upon which they believe the Settlement to be fair, just and reasonable and, therefore, in the public interest. The Suvon Statement in Support also explains why the Application should be approved without modification.

F. Miscellaneous

24. The Settlement is conditioned upon the Commission's approval of the terms and conditions contained in the Settlement without modification. If the Commission modifies the Settlement, any Petitioner may elect to withdraw from the Settlement and may proceed with litigation and, in such event, the Settlement shall be void and of no effect. Such election to withdraw must be made in writing, filed with the Secretary of the Commission and served upon all Parties within five (5) business days after the entry of an Order modifying the Settlement. The Joint Petitioners acknowledge and agree that the Settlement, if approved, shall have the same force and effect as if the Parties had fully litigated this proceeding.

25. This Settlement is proposed by the Joint Petitioners to settle all issues in the instant proceeding. If the Commission does not approve the Settlement and the proceedings continue, the Joint Petitioners reserve their respective procedural rights, including the right to present additional testimony and to conduct full cross-examination, briefing and argument. The Settlement is made without any admission against, or prejudice to, any position which any Petitioner may adopt in the event of any subsequent litigation of these proceedings, or in any other proceeding.

26. The Joint Petitioners acknowledge that the Settlement reflects a compromise of competing positions and does not necessarily reflect any Petitioner's position with respect to any issues raised in this proceeding. This Settlement may not be cited as precedent in any future proceeding, except to the extent required to implement this Settlement.

27. If the ALJ recommends approval of the Settlement without modification, the Joint Petitioners waive their rights to file Exceptions.

III. REQUEST FOR RELIEF

WHEREFORE, the Joint Petitioners respectfully request that:

1. Deputy Chief Administrative Law Judge Joel H. Cheskis recommend, and the Commission approve, this Settlement as submitted, including all terms and conditions thereof, without modification;

2. Deputy Chief Administrative Law Judge Joel H. Cheskis recommend, and the Commission approve, the Joint Stipulation of Fact, attached as **Attachment A**;

3. Deputy Chief Administrative Law Judge Joel H. Cheskis and the Commission approve Suvon's application for a license to offer, render, furnish or supply electricity or electric generation services as a broker/marketer¹; and

4. Deputy Chief Administrative Law Judge Joel H. Cheskis and the Commission approve Suvon's request for a modification of the bonding requirement to \$10,000.²

[Signatures appear on next page.]

¹ RESA neither joins nor opposes this request for relief.

² RESA neither joins nor opposes this request for relief.



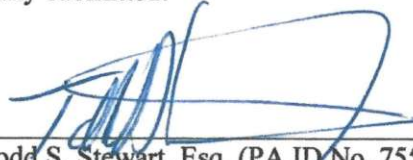
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Dated: October 15, 2020

Respectfully submitted:



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Dated: October 15, 2020

List of Attachments:

- A. Joint Stipulation of Fact
- B. Suvon's Proposed Findings of Fact
- C. Suvon's Proposed Conclusions of Law
- D. Proposed Ordering Paragraphs
- E. Statement in Support of Suvon LLC, d/b/a FirstEnergy Advisors
- F. Statement in Support of The Retail Energy Supply Association

ATTACHMENT A

JOINT STIPULATION OF FACT

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Deputy Chief Administrative Law Judge
Joel H. Cheskis**

Application of Suvon LLC, d/b/a FirstEnergy	>:	
Advisors, for Approval to Offer, Render, Furnish	:	
Or Supply Electricity or Electric Generation	:	Docket No. A-2020-3020377
Services as a Marketer/Broker in the	:	
Commonwealth of Pennsylvania	:	

JOINT STIPULATION OF FACT

Suvon LLC, d/b/a FirstEnergy Advisors (“Suvon”) and the Retail Energy Supply Association (“RESA”) (hereinafter, collectively referred to as the “Stipulating Parties”), file this Joint Stipulation of Fact (“Stipulation”) in the above-captioned proceeding. In support of the Stipulation, the Stipulating Parties represent as follows:

1. Paragraphs 1 through 13 (regarding “Background and Procedural History”) of the Settlement, filed on this same date in the above-captioned proceeding, are hereby incorporated by reference.

2. Considering that the Stipulating Parties have reached a Settlement prior to the introduction of any testimony in this matter, and in view of the need for substantial evidence supporting the Commission’s decision, the Stipulating Parties hereby jointly stipulate to the facts set forth in **Appendix A**.

3. The Settlement requests that the ALJ and the Commission take official notice of the documents that Suvon has filed in support of its Application. Consequently, the Stipulation of Fact does not re-state the contents of those documents.

4. This Stipulation is presented by the Stipulating Parties in conjunction with the Settlement, which is intended to settle all issues in the above-captioned proceedings. If the Commission rejects or otherwise modifies the Settlement, the Stipulating Parties reserve their respective procedural rights to submit testimony and exhibits, and cross-examine witnesses at on-the-record evidentiary hearings.

5. This Stipulation is being presented in conjunction with the Settlement only to resolve issues in the above-captioned proceeding. Regardless of whether this Stipulation is approved, no adverse inference shall be drawn, nor shall prejudice result to any Stipulating Party in this or any future proceeding as a consequence of this Stipulation, or any of its terms or conditions.

WHEREFORE, the Stipulating Parties, by their respective counsel, respectfully request that the Honorable Deputy Chief Administrative Law Judge Joel H. Cheskis recommend, and the Commission approve this Stipulation of Fact.

Respectfully submitted:



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Respectfully submitted:



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APPENDIX A
STIPULATED FACTS

THE PARTIES

1. Suvon LLC, d/b/a FirstEnergy Advisors is an Ohio limited liability company. It was formed in 2017.

2. RESA is a trade organization of twenty retail energy suppliers of electricity and/or natural gas dedicated to promoting efficient, sustainable, and customer-oriented competitive retail energy markets.

FILINGS

3. Suvon has submitted the following documents to the Commission in support of its application:

- a. The Application;
- b. A proof of publication of notice;
- c. A corrected registration of fictitious name; and,
- d. Answers to data requests Set I and Set II from the Bureau of Technical

Utility Services.

UPDATE TO THE FILINGS

4. After Suvon filed the Application, it received its certificate for electric and gas aggregation services in Virginia.

AFFILIATES OF SUVON

5. Suvon is a wholly-owned subsidiary of FirstEnergy Corp., which is not a Pennsylvania public utility. Suvon is a legally and operationally distinct entity from FirstEnergy Corp. and its affiliates. Neither FirstEnergy Corp. nor any of its affiliates play a role in the day-to-day operations of Suvon.

6. Suvon's offices are located in the same building as the offices of FirstEnergy Corp., but the Suvon sales team is located in a separate, remote space where access is restricted.

SUVON WILL NOT RECEIVE A PREFERENCE FROM ANY PENNSYLVANIA PUBLIC UTILITY

7. Suvon has agent agreements in place with several suppliers. Suvon sends out customer load for bid and suppliers return price, terms and conditions of sale. Suvon compares prices and terms to present to customers. Suvon makes recommendations based on what it believes are the best price, term and conditions for the customer. The customer ultimately chooses the supplier and product that best suits its needs. Suvon does not prefer one supplier over another. The winning supplier and the customer agree to a contract.

8. Any customer information obtained from a Pennsylvania electric distribution company will be requested after obtaining the appropriate authorization from customers.

9. Suvon does not have an affiliate that is a retail generation supplier, so there is no incentive to show any bias.

10. All employees of FirstEnergy Corp. subsidiaries are required to take annual training that includes the review and acknowledgment of understanding of 52 Pa. Code § 54.121-122 (including the prohibition against an electric distribution company giving any preference to any electric generation supplier).

SUVON ENSURES NO PREFERENTIAL SHARING OF LEADS AND CUSTOMER INFORMATION

11. All customer information is obtained by Suvon.
12. Suvon maintains all customer-specific information in a dedicated database or system, accessible only by certain employees working on behalf of Suvon, and protected by corporate-approved cybersecurity tools.
13. Employee access to information and information systems is restricted based on Federal Energy Regulatory Commission (“FERC”) employee classification. Sales or customer-facing services will be performed by individuals classified as marketing function employees working on behalf of Suvon. Employees with market employee classifications do not have access to transmission or distribution systems, facilities, or related information. Marketing and regulated employees do not have access to each other’s market useful information systems. The access restriction is ensured through a limitation on both physical access and information technology access. Access is consistently reviewed and monitored in accordance with FirstEnergy corporate policy.
14. Employees working on behalf of Suvon are classified as market function employees. As such, these employees do not have access to transmission or distribution information, including customer data. If an employee begins a new position with a new classification, an internal process is initiated that includes the wiping of the employee’s computer and files to ensure information is not shared.
15. All employees of FirstEnergy Corp. subsidiaries are required to take annual training that includes the review and acknowledgment of understanding of 52 Pa. Code §§ 54.121-122

(including the prohibition against an electric distribution company giving any preference to any electric generation supplier in the disclosure of customer information).

FIRSTENERGY CORP.'S TRAINING, ADOPTION AND ENFORCEMENT OF THE COMMISSION'S CODE OF CONDUCT

16. FirstEnergy Corp adopted 52 Pa. Code § 54.122 as company policy. As part of this effort, annual training is provided for employees regarding the code of conduct.

SUVON ENSURES APPROPRIATE MARKETING OF ITS SERVICES

17. Legal staff is included in the process of developing marketing materials, and will ensure compliance with the Pennsylvania Public Utility Code, the Commission's regulations and orders, including but not limited to 52 Pa. Code § 54.122.

18. All employees of FirstEnergy Corp. subsidiaries are required to take annual training that includes the review, and acknowledgement of understanding, of 52 Pa. Code § 54.122 conduct).

19. All marketing materials include an affiliate disclaimer.

SUVON ENSURES THE INDEPENDENCE OF ITS FINANCES

20. Suvon is financially independent of any Pennsylvania public utility.

21. Suvon is a member of FirstEnergy Corp.'s unregulated money pool, which is set up to provide short-term capital requirements for participating companies. A money pool is a common cash management structure used in a variety of businesses, especially large utilities and utility holding companies. The unregulated money pool is separate and distinct from the utility money pool because regulatory requirements prohibit the cross-lending of funds from utilities to

competitive entities: The utility money pool is approved by various state regulatory commissions and FERC on a periodic basis.

22. There is no mechanism by which FirstEnergy Corp. retains revenue from Pennsylvania electric distribution companies.

23. Suvon does not share any costs or functions with FirstEnergy Corp. or any FirstEnergy Corp. subsidiaries. Suvon will rely on and properly allocate costs for typical shared services (such as human resources, accounting, information technology, fulfillment and legal), according to FirstEnergy Corp.'s Cost Allocation Manual ("CAM"). The CAM prescribes the appropriate methodologies for allocating costs. Shared service employees bill and account for their time appropriately when supporting Suvon. Allocation is done based on which entity a service company employee is serving. If a shared service employee works for an hour (or half hour) for Suvon, the time is charged directly to Suvon. If a service company employee is working on a specific project, any time spent on that project is allocated to that project.

THE INDEPENDENCE OF EMPLOYEES IS ENSURED

24. The use of shared employees is permitted by the Pennsylvania affiliate restrictions.

25. FirstEnergy Service Company provides typical shared services, such as human resources, accounting, information technology, fulfillment and legal to various FirstEnergy Corp. subsidiaries, including Suvon.

26. Brian A. Farley is the Vice President of Sales and Operations for Suvon. The employees engaged in marketing and sales that report to him are classified as marketing-function employees. They do not have access to regulated distribution or transmission information or customer information.

ATTACHMENT B

Suvon's Proposed Findings of Fact³

³ RESA neither joins nor opposes these proposed findings of fact.

THE PARTIES

1. Suvon LLC, d/b/a FirstEnergy Advisors is an Ohio limited liability company. Corrected Registration of Fictitious Name; Stipulation of Fact ¶ 1.

2. RESA is a trade organization of retail energy suppliers of electricity and/or natural gas dedicated to promoting efficient, sustainable, and customer-oriented competitive retail energy markets. Stipulation of Fact ¶ 2.

SUVON'S CORPORATE STRUCTURE

3. Suvon is directly and wholly owned by FirstEnergy Corp. Application Attachment 7b Summary Organizational Chart.

4. Suvon has numerous affiliates, including several jurisdictional public utilities, but FirstEnergy Corp. is not a Pennsylvania electric distribution company. Application pp. 3-4.

5. Suvon is legally and operationally distinct from FirstEnergy Corp. and its affiliates. Neither FirstEnergy Corp. nor any of its affiliates play a role in the day-to-day operations of Suvon. Joint Stipulation of Fact ¶ 5.

SUVON'S APPLICATION

6. Suvon applied for authority to operate as an electric broker/marketer in Pennsylvania. Application p. 4.

7. Suvon's Application is complete. Secretarial Letter dated June 15, 2020.

8. Suvon is not presently operating as a broker/marketer in Pennsylvania. It will start operations in Pennsylvania if the Application is approved. Application pp. 4 and 5.

9. Suvon proposes to provide services throughout the Commonwealth to residential, small commercial, large commercial, industrial and governmental customers (except mixed meter customers). Application p. 5.

10. Suvon described its proposed services in the Application as follows:

As a broker, Suvon, LLC d/b/a FirstEnergy Advisors ("FE Advisors") will help customers of all classes evaluate their energy needs and facilitate the selection of retail suppliers. FE Advisors will serve as a consultant to customers, gathering data, interfacing with retail suppliers and helping customers review their options. FE Advisors will advise on market trends, price and risk associated with various options, energy efficiency opportunities, understanding utility tariffs and help coordinate the contract and renewal process.

Application p. 5.

11. Suvon will not be taking title to the electricity, nor will it be making payments for customers. Application p. 4.

12. On page 9 of the application form, an applicant for a broker's license is asked to provide information about the broker's payment structure. Suvon stated that it "will engage in contracts with suppliers for payment of our services. Generally, suppliers pay brokers based on a cent/kWh that the customer has used and paid for." Application p. 9.

SUVON'S FINANCIAL FITNESS TO OPERATE AS AN ELECTRIC BROKER/MARKETER

13. Page 9 of the application form instructs the applicant to provide sufficient information to demonstrate financial fitness commensurate with the service proposed to be provided. It lists examples of information that may be submitted. An actual or proposed organizational structure may be submitted to prove financial fitness. Suvon submitted a summary organizational structure that demonstrates Suvon is directly and wholly owned by its ultimate corporate parent, FirstEnergy Corp. Application, Attachment 7b.

14. As additional evidence of financial fitness, the application form states that the applicant may provide an internet address where its parent company's financial and credit information may be found. Suvon provided an internet link to FirstEnergy Corp.'s filings with the United States Securities and Exchange Commission. Application p. 9.

15. As further evidence of financial fitness, the application form states that the applicant may provide evidence of its credit rating. Suvon submitted a credit report as a **CONFIDENTIAL** attachment to the Application. Application Attachment 7b.

16. As additional evidence of financial fitness, the application form states that the applicant may provide audited financial statements. In response to a TUS data request, Suvon explained that its financial statements are not audited. It also stated: "Suvon does not take title to power consumed by customers, and does not anticipate any financial obligations to customers, electric generation suppliers, jurisdictional public utilities or PJM associated with the services Suvon intends to provide." Answer to TUS Data Request Set I No. 2.

17. Suvon also submitted unaudited financial statements as a **CONFIDENTIAL** attachment in response to TUS's data requests. Attachment to Answer to TUS Data Request Set I No. 2.

18. As further evidence of financial fitness, the application form states that the applicant may provide any other information that demonstrates its financial fitness. Suvon submitted forecasted financial statements as a **CONFIDENTIAL** attachment to the Application. Application, Attachment 7b.

19. Page 10 of the application form requests that an applicant provide a tax certification statement as further evidence of its financial fitness. Suvon attached a copy of its tax certification statement as a **CONFIDENTIAL** attachment to the Application. Application, Attachment 7f.

20. Attachment 2b-1 of the Application is the Limited Liability Company Operating Agreement of Suvon. Section 3.1 of that agreement states that FirstEnergy Corp. agrees to contribute to Suvon such cash, property or services as determined by FirstEnergy; FirstEnergy has no obligation to make capital contributions. Suvon is to finance its operations independently of FirstEnergy and without FirstEnergy's financial support. Application Attachment 2b-1 p. 2.

21. Suvon is financially independent of any Pennsylvania public utility. Joint Stipulation of Fact ¶ 20.

22. Suvon is a member of FirstEnergy Corp.'s unregulated money pool, which is set up to provide short-term capital requirements for participating companies. A money pool is a common cash management structure used in a variety of businesses, especially large utilities and utility holding companies. The unregulated money pool is separate and distinct from the utility money pool because regulatory requirements prohibit the cross-lending of funds from utilities to competitive entities. Joint Stipulation of Fact ¶ 21.

SUVON'S TECHNICAL FITNESS TO OPERATE AS AN ELECTRIC BROKER/MARKETER

23. Section 8 of the Application requests information about the technical fitness of the applicant. This information may include information regarding the applicant's previous experience in the electric industry. Suvon stated: "Current staff members have over 90 years of combined history in the electric and energy market. In the past 10 years, this group has focused on retail markets and has sold electric contracts to large, medium and small industrial and commercial customers." Attachment 8a, p. 2. Suvon further stated that its staff "has sold contracts to over 3 million residential customers via municipal aggregation and mail and web-based mass marketing [in] Ohio and Pennsylvania. While Pennsylvania does not participate in municipal

aggregation, we worked with agents in Pennsylvania who offered chamber programs and programs for various boroughs.” *Id.*

24. The application form also asks the applicant to identify its chief officers and include their resumes. Suvon attached the resumes of two of its officers (Brian A. Farley and Lorraine M. Rader), which demonstrate that these individuals have extensive experience in the electric industry. Application Attachment 8e.

25. As evidence of technical fitness, the application form states that an applicant may submit a summary and proof of licenses as a supplier of electric services in other states. Suvon submitted proof that it is certified as a Competitive Retail Electric Service Provider in Ohio. Application, Attachment 8a.

26. After submitting its Application, Suvon received its certificate for electric and gas aggregation services in Virginia. Joint Stipulation of Fact ¶ 4.

27. As further evidence of technical fitness, the application form states that an applicant may submit staffing structure and numbers as well as employee training commitments. Suvon provided an anticipated organization chart for employees working on behalf of Suvon. Application, Attachment 8a. p.2. It further stated:

Proposed Team

- Sales Consultant Energy Sales - Energy expertise in gas and electric, someone who has done energy audits, worked with customers and sold in past. Technical energy expert
- Sales Manager/Consultant Energy Sales - National account, large account sales' rep to manage industrial, commercial sales opportunities
- Sales Rep V - Sales specialist who creates and manages SMI sales team. Will be senior sales' expert and will know where to target, what technology to use and have a history of field sales creation success. Will also develop technology to obtain customers in residential channel.
- Sales Reps (2) - Sales' rep versed in selling to medium and potentially large commercial and industrial customers

- Analyst - lower level analyst trained to keep track of group activity, margin earned and expenses
- Training
 - Sales' Rep training is ongoing. Training in energy efficiency programs and resources has been developed. Call center training has been provided to our inhouse call center. Staff has attended and plans to continue to attend industry seminars including the MEC. Sales will also work with regulatory group to make sure that sales work is within rules and guidelines provided by the Pennsylvania Public Utility Commission.
 - External training - 2 sales reps intend to become certified energy managers in 2020.

Attachment 8a pp. 2-3.

28. FirstEnergy Corp. adopted 52 Pa. Code § 54.122 (“code of conduct”) as company policy. As part of this effort, annual training is provided for employees regarding the Commission’s code of conduct. Joint Stipulation of Fact ¶ 16.

29. As further evidence of technical fitness, the application form states that an applicant may submit business plans for operations within the Commonwealth. Suvon submitted the following business plan:

Within the Commonwealth, Suvon intends to provide fee-based energy broker/consulting services to customers who would like assistance in procuring electricity. We would:

- Serve as trusted advisors bringing energy expertise, brand name, relationship history and field experience to customers to negotiate best prices, terms and conditions for customer energy and product needs
- Develop direct client base of Commercial and Industrial customers who will hire FirstEnergy Advisors as their representative
- Develop Small, Medium Commercial/Industrial field sales team that can sell procurement services
- Develop website for sales brokering
- Develop a non-biased supplier base who will bid on customer load such that customer and supplier are positioned for success
- Continually monitor marketplace and develop product and sales expertise to meet customer needs

- Proactively meet sales goals in short, medium and long-term time horizons
- Evaluate and recommend partnering opportunities to grow business and improve services

Application, Attachment 8a, pp. 3-4.

SUVON IS WILLING AND ABLE TO COMPLY WITH THE PENNSYLVANIA PUBLIC UTILITY CODE, THE COMMISSION'S REGULATIONS AND ORDERS

Suvon will not Receive a Preference from any Pennsylvania Electric Distribution Company

30. Suvon has agent agreements in place with several suppliers. Suvon sends out customer load for bid and suppliers return price, terms and conditions of sale. Suvon compares prices and terms to present to customers. Suvon makes recommendations based on what it believes are the best price, term and conditions for the customer. The customer ultimately chooses the supplier and product that best suites its needs. Suvon does not prefer one supplier over another. The winning supplier and the customer agree to a contract. Joint Stipulation of Fact, ¶ 7.

31. Suvon does not have an affiliate that is a retail generation supplier. As a result, there is no incentive for a supplier to give Suvon any preference. Joint Stipulation of Fact ¶ 9.

Suvon will not Share Customer Information with any Affiliates

32. Suvon will obtain its own customer information. Joint Stipulation of Fact ¶ 11.

33. Although Suvon's offices are located in the same building as the offices of FirstEnergy Corp., the Suvon sales team is located in a separate, remote space where access is restricted. Joint Stipulation of Fact ¶ 6.

34. Suvon maintains all customer-specific information in a dedicated database or system, accessible only by certain employees and protected by corporate-approved cybersecurity tools. Joint Stipulation of Fact ¶ 12.

35. Employee access to information and information systems is restricted based on Federal Energy Regulatory Commission (“FERC”) employee classification. Sales or customer-facing services will be performed by individuals classified as marketing function employees working on behalf of Suvon. Employees with market employee classifications do not have access to transmission or distribution systems, facilities, or related information. Marketing and regulated employees do not have access to each other’s market useful information systems. The access restriction is ensured through a limitation on both physical access and information technology access. Access is consistently reviewed and monitored in accordance with FirstEnergy corporate policy. Joint Stipulation of Fact ¶ 13.

36. Employees working on behalf of Suvon are classified as market function employees. As such, these employees do not have access to transmission or distribution information, including customer data. If an employee begins a new position with a new classification, an internal process is initiated that includes the wiping of the employee’s computer and files to ensure information is not shared. Joint Stipulation of Fact ¶ 14.

37. Any customer information obtained from a Pennsylvania electric distribution company will be requested after obtaining the appropriate authorization from the customer. Joint Stipulation of Fact, ¶ 8.

Shared Services Costs will be Allocated to Suvon

38. FirstEnergy Service Company provides typical shared services, such as human resources, accounting, information technology, fulfillment and legal to various FirstEnergy Corp. subsidiaries, including Suvon. Joint Stipulation of Fact ¶ 25. The use of shared employees is permitted by the Pennsylvania affiliate restrictions. *Id.* ¶ 24.

39. Shared service employees bill and account for their time appropriately when supporting Suvon. Allocation is done based on which entity a service company employee is serving. If a shared service employee works for an hour for Suvon, the time is charged directly to Suvon. If a service company employee is working on a specific project, any time spent on that project is allocated to that project. Joint Stipulation of Fact ¶ 23.

40. Suvon does not share any costs or functions with FirstEnergy Corp. or any FirstEnergy Corp. subsidiaries. Suvon will rely on and properly allocate costs for typical shared services according to FirstEnergy Corp.'s Cost Allocation Manual ("CAM"). The CAM prescribes the appropriate methodologies for allocating costs. Joint Stipulation of Fact ¶ 23.

Marketing

41. Section 8 of the application form asks the applicant to disclose its proposed marketing methods. Suvon checked the following boxes:

- Internal – Applicant will use its own internal resources for marketing
- External EGS – Applicant will contract with a PUC LICENSED EGS broker/marketer
- Affiliate – Applicant will use a NON-EGS affiliate marketing company and or individuals
- External Third-Party – Applicant will contract with a NON-EGS third party marketing company and or individuals

Application p. 10.

42. Suvon further indicated that it does not expect to implement door to door sales activities. Application p. 11.

43. Section 8 of the application form asks the applicant to explain all methods it will use to ensure all marketing is performed in an ethical manner, for both employees and subcontractors. Suvon stated:

FirstEnergy Advisors' marketing will be done via phone, web, face to face and possibly mail. Eventually, FirstEnergy Advisors may engage a sales force to cover more territory to work the medium sized commercial/industrial customer base. This would be a direct customer contact sales force and may be outsourced.

FirstEnergy Advisors' process is to review its marketing material with our internal Communications group who then sends this material to our Legal department. All material is thoroughly reviewed for compliance with all Pennsylvania rules and regulations.

Before FirstEnergy Advisors considers using any outside contractor for service, an RFP will be developed and our internal vendor management team will qualify that vendor based on approval of qualifications. If FirstEnergy Advisors does engage outside contractors to handle small commercial/industrial channel customers, we would develop training process documents and require contractors to supply reports of training sessions and quality scoring. Any field training material will be vetted through Communications and Legal teams. FirstEnergy Advisors will supply training materials and face to face training. We would evaluate quality scoring from field and would record sessions and outcomes. We would also accompany any field sales group on a random basis to confirm report results.

Application p. 11.

44. Suvon's marketing materials include an affiliate disclaimer. Joint Stipulation of Fact ¶ 19.

45. Legal staff is included in the process of developing marketing materials and will ensure compliance with the Code, the Commission's regulations and orders, including but not limited to 52 Pa. Code § 54.122. Joint Stipulation of Fact ¶ 17.

46. On page 12 of the Application, Suvon agreed to the following:

STANDARDS OF CONDUCT AND DISCLOSURE: As a condition of receiving a license, Applicant agrees to conform to any Uniform Standards of Conduct and Disclosure as set forth by the Commission. Further, the Applicant agrees that it must comply with and ensure that its employees, agents, representatives, and independent contractors comply with the standards of conduct and disclosure set out in Commission regulations at 52 Pa. Code § 54.43, as well as any future amendments.

THE FINANCIAL SECURITY REQUIREMENT SHOULD BE REDUCED FOR SUVON

47. Suvon checked the box on page 8 of the Application indicating that, as an applicant for broker/marketer authority, it was requesting a reduction of the \$250,000 bond requirement because it will not take title to electricity and will not pay electricity bills on behalf of customers. Suvon also submitted a \$10,000 bond to the Commission. Application Attachment 7a **(CONFIDENTIAL)**.

48. The purpose of the bond is to ensure the licensee's financial responsibility, the payment of gross receipts tax, and the supply of electricity at retail in accordance with contracts, agreements or arrangement. 52 Pa. Code § 54.40(b).

49. Suvon will be paid a fee by suppliers for assisting customers in procuring electricity. Application p. 9 and Attachment 8a p. 3. Consequently, there is little risk to customers or suppliers if Suvon faces financial challenges.

ATTACHMENT C

Suvon's Proposed Conclusions of Law⁴

⁴ RESA neither joins nor opposes these proposed conclusions of law.

1. The Applicant bears the burden of proving that it is qualified to provide the requested service under the applicable standard by a preponderance of the evidence. 66 Pa. C.S. § 332.

2. The Applicant has the burden of proving its entitlement to licensing and must do so by a preponderance of the evidence, or evidence which is more convincing than the evidence presented by the other parties. *Se-Ling Hosiery v. Margulies*, 364 Pa. 45, 70 A.2d 854 (1950); *Samuel J. Lansberry, Inc. v. Pa. Publ. Util. Comm'n*, 578 A.2d 600 (Pa. Cmwlth. 1990).

3. Any finding of fact necessary to support an adjudication of the Commission must be based upon substantial evidence, which is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion. *Mill v. Comm., Pa. Publ. Util. Comm'n*, 447 A.2d 1100 (Pa. Cmwlth. 1982); *Edan Transportation Corp. v. Pa. Publ. Util. Comm'n*, 623 A.2d 6 (Pa. Cmwlth. 1993), 2 Pa. C.S. § 704.

4. More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. *Norfolk & Western Ry. v. Pa. Pub. Util. Comm'n*, 489 Pa. 109, 413 A.2d 1037 (1980); *Erie Resistor Corp. v. Unemployment Com. Bd. of Review*, 166 A.2d 96 (Pa. Super. 1960); *Murphy v. Cmwlth., Dept. of Public Welfare, White Haven Center*, 480 A.2d 382 (Pa. Cmwlth. 1984).

5. The Code provides for the licensing of an electric broker/marketer. 66 Pa. C.S. § 2809.

6. An application must contain such information as the Commission requires. 66 Pa. C.S. § 2809(b).

7. Suvon's application is complete.

8. A license shall issue to a qualified applicant if it is found that the applicant is fit, willing and able to perform properly the service proposed and to conform to the provisions of the Code regarding licensure and to conform to the lawful orders and regulations of the commission. 66 Pa. C.S. § 2809(b).

9. Suvon has sustained its burden of proving, by a preponderance of the evidence, that it is financially fit to provide service as an electric broker/marketer.

10. Suvon has sustained its burden of proving, by a preponderance of the evidence, that it is technically fit to provide service as an electric broker/marketer.

11. Suvon has sustained its burden of proving, by a preponderance of the evidence, that it is fit, willing and able to comply with the Code, the Commission's regulations and orders.

12. The bond required is to ensure the financial responsibility of the licensee. 66 Pa. C.S. § 2809(c).

13. Suvon has sustained its burden of proving, by a preponderance of the evidence, that the financial security for its license should be \$10,000.

ATTACHMENT D

Proposed Ordering Paragraphs

1. That the Settlement is approved as submitted, including all terms and conditions thereof, without modification;
2. That the Joint Stipulation of Fact is approved;
3. That Suvon's application for a license to offer, render, furnish or supply electricity or electric generation services as a broker/marketer is approved;⁵ and
4. That Suvon's request for a modification of the bonding requirement to \$10,000 is approved.⁶

⁵ RESA neither joins nor opposes this request for relief.

⁶ RESA neither joins nor opposes this request for relief.

ATTACHMENT E

Statement in Support of Suvon, LLC

d/b/a FirstEnergy Advisors

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Deputy Chief Administrative Law Judge
Joel H. Cheskis**

Application of Suvon LLC, d/b/a FirstEnergy :
Advisors, for Approval to Offer, Render, Furnish :
Or Supply Electricity or Electric Generation : Docket No. A-2020-3020377
Services as a Marketer/Broker in the :
Commonwealth of Pennsylvania :

**SUVON LLC, D/B/A FIRSTENERGY
ADVISORS' STATEMENT IN SUPPORT OF
JOINT PETITION FOR APPROVAL OF
SETTLEMENT OF ALL ISSUES**

Suvon LLC, d/b/a FirstEnergy Advisors (“Suvon”) files this Statement in Support of the Joint Petition for Approval of Settlement of All Issues (“Settlement”), entered into by Suvon and the Retail Energy Supply Association (“RESA”) (singularly, a “Joint Petitioner” and collectively, the “Joint Petitioners”). Suvon respectfully requests that the Honorable Deputy Chief Administrative Law Judge Joel H. Cheskis (the “ALJ”) recommend approval of, and that the Commission approve, the Settlement, including all terms and conditions thereof, without modification.

I. INTRODUCTION

The Settlement pertains to the “Application of Suvon, LLC d/b/a FirstEnergy Advisors, for approval to offer, render, furnish or supply electricity or electric generation services as a Broker/Marketer to the public in the Commonwealth of Pennsylvania” (the “Application”), which was filed with the Pennsylvania Public Utility Commission (the “Commission”) on May 21, 2020. The Settlement is a full settlement of all issues by all parties to the proceeding.

RESA filed a Protest *Nunc Pro Tunc* in this matter, alleging that the Application lacks the requisite details on how Suvon intends to ensure compliance with applicable statutes, regulations, and Commission orders. *See, e.g.*, Protest ¶¶ 9-11, 13-18, and 23-24. In discovery responses and settlement discussions, Suvon has provided additional information that sufficiently addresses RESA’s concerns.

In addition to these factual issues, this case presents several legal issues. Suvon’s Motion to Dismiss Protest challenged the timeliness of RESA’s Protest *Nunc Pro Tunc*, Motion to Dismiss Protest ¶¶ 5-17, and the standing of RESA to maintain a protest. Motion to Dismiss Protest ¶¶ 18-21. The Joint Petitioners have reached a reasonable compromise on these issues eliminating the need for further litigation.

Commission policy promotes settlements. *See* 52 Pa. Code § 5.231. Settlements lessen the time and expense that the parties must expend litigating a case and, at the same time, conserve precious administrative resources. The Commission has indicated that settlement results are often preferable to those achieved at the conclusion of a fully-litigated proceeding. *See* 52 Pa. Code § 69.401. In order to accept a settlement, the Commission must determine that the proposed terms and conditions are in the public interest. *Pa. Pub. Util. Comm’n v. York Water Co.*, Docket No. R-00049165 (Order entered October 4, 2004); *Pa. Pub. Util. Comm’n v. C.S. Water and Sewer*

Assocs., 74 Pa. P.U.C. 767 (1991). For the reasons set forth herein, Suvon respectfully submits that the Settlement is in the public interest and should be approved without modification.

II. PROCEDURAL MATTERS

The Commission's order must be supported by substantial evidence in the record. 66 Pa. C.S. § 332(b); *Lyft v. Pa. Pub. Util. Comm'n*, 145 A.3d 1235 (Pa. Cmwlth. 2016). More is required than a mere trace of evidence or a suspicion of the existence of a fact sought to be established. Evidence is substantial when relevant and of a nature that a reasonable mind might accept as adequate to support a conclusion. *Norfolk & Western Ry. Co. v. Pa. Pub. Util. Comm'n*, 413 A.2d 1037 (Pa. 1980).

No hearing has been held in this proceeding. In order to provide the ALJ and the Commission with substantial evidence demonstrating that approval of the Settlement is in the public interest, and that Suvon meets the statutory and regulatory criteria for obtaining a license as a broker/marketer of electricity, the Settlement includes a request that the ALJ and the Commission (1) take official notice of documents already filed in the case, and (2) approve a Joint Stipulation of Fact.

These requests are reasonable and in the public interest and should be granted, in part, because they will expedite the resolution of this proceeding. Suvon submitted its Application on May 21, 2020. Applications for an electric generation supplier's license generally should be processed within 45 days (or, in this case, by Monday, July 6, 2020). 52 Pa. Code § 54.37(b). This proceeding has already taken significantly more than 45 days.

If a hearing would be held on October 13, 2020 and the Joint Petitioners would be permitted to file briefs and reply briefs after the hearing, this case would not be resolved for several more

months. Approval of the procedural requests would eliminate the need for a hearing. Moreover, the Joint Petitioners have waived their right to file exceptions in the event that the ALJ recommends approval of the Settlement without modification.

The Joint Petitioners' procedural requests are reasonable and in the public interest because they would expedite a resolution of this case while limiting costs to the Joint Petitioners and the Commission. Additional reasons for granting each of these procedural requests are set forth below.

A. Request for Official Notice

Suvon has already submitted extensive evidence to the Commission in support of the Application. In addition to the Application, Suvon has submitted answers to two sets of data requests from the Bureau of Technical Utility Services ("TUS"). RESA has not submitted any evidence in this proceeding to rebut or question these submissions; RESA has simply alleged that there are gaps in these submissions (gaps that are addressed by the Joint Stipulation of Fact).

Since the ALJ and the Commissioners (and their staffs) have access to documents in the Commission's files, no practical purpose would be served by requiring Suvon to submit the Application and discovery responses to the Commission a second time. Consequently, rather than submitting these same documents for entry into the record, the Joint Petitioners request that the ALJ and the Commissioners take official notice of these documents. This agreement saves the Joint Petitioners the expense of additional copying and eliminates the need for the Commission to maintain multiple copies of the same documents (some of which are confidential). This process also limits unnecessary administrative tasks by the Commission and the parties during the COVID-19 pandemic.

For all of the above reasons, the Joint Petitioners respectfully request that the ALJ recommend, and that the Commission take official notice of the documents that Suvon has already

submitted to the Commission in this matter. This request is reasonable and in the public interest and should be approved.

B. Joint Stipulation of Fact

In discovery and in settlement discussions, Suvon provided additional information to RESA to address the alleged gaps in the information contained in the documents that Suvon previously submitted to the Commission. Some of this information is embodied in the Joint Stipulation of Fact, which the Joint Petitioners have attached to the Settlement. The Joint Petitioners agree that these facts sufficiently address the concerns that RESA expressed in its Protest *Nunc Pro Tunc* regarding Suvon's financial and technical fitness to be a broker/marketer of electricity in Pennsylvania. These facts also address the concerns that RESA expressed regarding Suvon's willingness and ability to comply with applicable statutes, regulations and orders.

For example, RESA's Protest *Nunc Pro Tunc* expressed concern about Suvon's ability and willingness to comply with the Code of Conduct in 52 Pa. Code § 54.122 due to the fact that Suvon is directly and wholly owned by FirstEnergy Corp. *See, e.g.*, Protest, ¶¶ 9-10, 13-19, and 21-25. The Joint Stipulation of Fact demonstrates that FirstEnergy Corp. is not a jurisdictional public utility, and Suvon will not receive preferential treatment from any Pennsylvania electric distribution companies. Joint Stipulation of Fact ¶¶ 30-31. Additionally, the Joint Stipulation of Fact demonstrates that FirstEnergy Corp. adopted the Code of Conduct as company policy and requires the employees of its subsidiaries (including Suvon) to attend annual training about the Code of Conduct. Joint Stipulation of Fact ¶ 16.

For all of the above reasons, the Joint Petitioners request that the ALJ recommend, and the Commission approve the Joint Stipulation of Fact. This request is reasonable and in the public interest and should be approved.

III. APPROVAL OF APPLICATION

Suvon asks that the Commission approve the Application and promptly issue an electric broker/marketer license to Suvon. RESA does not oppose this request. This request is reasonable and in the public interest because Suvon has demonstrated, by a preponderance of the evidence, that it is financially and technically fit and is willing and able to comply with applicable statutes, regulations and Commission orders.

In terms of financial fitness, Suvon is a start-up company, having been founded in 2017. Joint Stipulation of Fact ¶ 1. Like many other start-up companies, it has run an initial deficit, but it expects to earn a profit in the near future. To demonstrate its financial fitness, it submitted a credit report, forecasted financial statements, and a tax certification statement. Application p. 9. It also submitted unaudited financial statements to TUS in response to data requests. Answer to TUS Data Request Set I No. 2.

Suvon does not take title to power consumed by customers, and does not anticipate any financial obligations to customers, electric generation suppliers, jurisdictional public utilities or PJM associated with the services Suvon intends to provide. Suvon will be paid a fee by suppliers for assisting customers in procuring electricity. Application p. 9, and Application Attachment 8a p. 3. Consequently, there is little risk to customers or suppliers if Suvon faces financial challenges. Proposed Finding of Fact 50.

Suvon is financially independent of any Pennsylvania public utility, Joint Stipulation of Fact ¶ 21, but Suvon participates in FirstEnergy Corp.'s unregulated money pool, which is set up to provide short-term capital requirements for participating companies. The unregulated money pool is separate and distinct from the utility money pool because regulatory requirements prohibit the cross-lending of funds from utilities to competitive entities. Joint Stipulation of Fact ¶ 22.

Suvon does not share any costs or functions with FirstEnergy Corp. or any FirstEnergy Corp. subsidiaries. Suvon will rely on and properly allocate costs for typical shared services (such as human resources, accounting, information technology, fulfillment and legal), according to FirstEnergy Corp.'s Cost Allocation Manual ("CAM"). The CAM prescribes the appropriate methodologies for allocating costs. Shared service employees bill and account for their time appropriately when supporting Suvon. Allocation is done based on which entity a service company employee is serving. If a shared service employee works for an hour (or half hour) for Suvon, the time is charged directly to Suvon. If a service company employee is working on a specific project, any time spent on that project is allocated to that project. Joint Stipulation of Fact ¶ 24.

In terms of technical fitness, Suvon is presently licensed as a Competitive Retail Electric Service Provider in Ohio. Application, Attachment 8a. Suvon has also received its certificate for electric and gas aggregation services in Virginia. Joint Stipulation of Fact ¶ 4. The officers directly responsible for the operation of Suvon, Brian A. Farley (the Vice President of Sales and Operations of Suvon) and Lorraine M. Rader (the Director of Energy Sales for Suvon), have extensive experience in the electric industry. Application, Attachment 8e. "Current staff members have over 90 years of combined history in the electric and energy market. In the past 10 years, this group has focused on retail markets and has sold electric contracts to large, medium and small industrial and commercial customers." Application, Attachment 8a p. 2.

Suvon submitted a detailed business plan with its Application. Application, Attachment 8a pp. 3-4. Suvon has agent agreements in place with several suppliers. Suvon sends out customer load for bid and suppliers return price, terms and conditions of sale. Suvon compares prices and terms to present to customers. Suvon makes recommendations based on what it believes are the best price, term and conditions for the customer. The customer ultimately chooses the supplier and product that best suits its needs. Suvon does not prefer one supplier over another. The winning supplier and the customer agree to a contract. Joint Stipulation of Fact, ¶ 7.

Suvon also submitted an employee training plan with its Application. Application, Attachment 8a p. 4. Among other things, the training plan will ensure compliance with the Commission's Code of Conduct. Joint Stipulation of Fact ¶ 10.

Suvon will not market through door to door sales. Instead, Suvon will market its services using internal methods, external methods (through EGSs and third parties) and affiliate methods. Application pp. 10-11. Suvon provided the Commission with a detailed plan explaining how it will oversee its marketing to ensure that it is done in an ethical manner. Application p. 11. Suvon's oversight includes the submission of marketing materials to legal staff. Joint Stipulation of Fact ¶ 17.

In terms of Suvon's willingness and ability to comply with applicable statutes, regulations and Commission orders, Suvon agreed to the Application's statement that "as a condition of receiving a license, Applicant agrees to conform to any Uniform Standards of Conduct and Disclosure as set forth by the Commission." Application p. 12. As stated above, employees will receive annual training regarding the Commission's Code of Conduct. Joint Stipulation of Fact ¶ 18. In addition, Suvon's offices are separate from those of FirstEnergy and its affiliates, and access is restricted. Joint Stipulation of Fact ¶ 6. Suvon obtains customer information itself and

does not share it with affiliates. Joint Stipulation of Fact ¶¶ 11-13. Suvon's information technology system restricts access to customer data to persons classified as marketing function employees. Joint Stipulation of Fact ¶¶ 13-14. Finally, Suvon's marketing materials include an appropriate affiliate disclaimer. Joint Stipulation of Fact ¶ 19.

The preponderance of the evidence therefore demonstrates that Suvon satisfies the statutory and regulatory requirements for obtaining a license as an electric broker/marketer. 66 Pa. C.S. § 2809; 52 Pa. Code § 54.36(b). Approving Suvon's Application and issuing an electric broker/marketer license to Suvon would be in the public interest because it would allow another qualified entity to enter the competitive marketplace.

For all of the above reasons, Suvon requests that the ALJ recommend, and the Commission approve the Application and issue an electric broker/marketer license to Suvon. This request is reasonable and in the public interest and should be approved.

IV. MODIFICATION OF BONDING REQUIREMENT

In accordance with the instructions on the application form, Suvon requested that the bond requirement be reduced from \$250,000, and submitted an initial bond in the amount of \$10,000, because Suvon will not take title to electricity and will not pay electricity bills on behalf of customers. Application p. 8. In the Settlement, Suvon asks that the Commission grant the request to reduce the bonding requirement for Suvon. RESA does not oppose the request.

The purpose of the bond is to ensure the licensee's financial responsibility, the payment of gross receipts tax, and the supply of electricity at retail in accordance with contracts, agreements or arrangement. 52 Pa. Code § 54.40(b). In this case, there is little risk to customers or suppliers if Suvon faces financial challenges. Suvon will be paid a fee by suppliers for assisting customers

in procuring electricity. Application p. 9 and Attachment 8a p. 3. Additionally, as stated in the Secretarial Letter issued on April 8, 2016 in Docket No. M-2013-2393141, “since an EGS Marketer/Broker licensee does not normally have gross receipts, EGS Marketer/Brokers are typically required to maintain a security level of \$10,000.”

Reducing the bond requirement would ease Suvon’s entry into the competitive marketplace without posing a risk to suppliers, customers, or the Commonwealth. The request to modify the bonding requirement to \$10,000 is therefore reasonable and in the public interest, and should be granted.

V. CONCLUSION

Considered individually, each part of the Settlement is reasonable and in the public interest. Together, the several parts of the Settlement allowed the Joint Petitioners to resolve their differences and resolve this proceeding expeditiously and eliminate the need for expensive litigation. Considered as a comprehensive whole, therefore, the Settlement is reasonable and in the public interest.

WHEREFORE, Suvon LLC, d/b/a FirstEnergy Advisors respectfully requests that the Honorable Deputy Chief Administrative Law Judge Joel H. Cheskis recommend approval of, and that the Commission approve, the Settlement, including all terms and conditions thereof, without modification, and enter an order consistent with the Settlement.

[Signature appears on next page.]

Respectfully submitted,



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Counsel for *Suvon LLC, d/b/a FirstEnergy Advisors*

Dated: October 15, 2020

ATTACHMENT F

**Statement in Support of
The Retail Energy Supply Association**

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

**Deputy Chief Administrative Law Judge
Joel H. Cheskis**

Application of Suvon LLC, d/b/a FirstEnergy	:	
Advisors, for Approval to Offer, Render, Furnish	:	
Or Supply Electricity or Electric Generation	:	Docket No. A-2020-3020377
Services as a Marketer/Broker in the	:	
Commonwealth of Pennsylvania	:	

**THE RETAIL ENERGY SUPPLY ASSOCIATION'S
STATEMENT IN SUPPORT OF SETTLEMENT**

Now Comes the Retail Energy Supply Association ("RESA") and hereby offers this statement in support of its settlement with Suvon, LLC d/b/a First Energy Advisors ("Suvon"). The Settlement includes a stipulation that ensures that Suvon, an affiliate of a number of Pennsylvania jurisdictional Electricity Distribution Companies ("EDC"), will comply with the Commission's Code of Conduct Regulations regarding the interaction of EDCs and their affiliated suppliers. For these reasons, RESA contends that the Settlement is in the public interest and should be approved.

In support of its position, RESA states and avers as follows:

1. On May 21, 2020, Suvon filed with the Pennsylvania Public Utility Commission ("Commission") the Application of Suvon, LLC d/b/a FirstEnergy Advisors, for approval to offer, render, furnish or supply electricity or electric generation services as a Broker/Marketer to the public in the Commonwealth of Pennsylvania (the "Application").

2. The Application requests authority from the Commission to offer broker/marketer services, throughout the Commonwealth, to residential, small commercial, large commercial, industrial and governmental customers (except mixed meter).

3. RESA filed a Protest *Nunc Pro Tunc* to the Application on August 4, 2020, challenging the technical and financial fitness of Suvon to be a broker/marketer of electricity or electric generation services.

4. On August 10, 2020, Suvon filed the “Motion of Suvon LLC, d/b/a FirstEnergy Advisors, to Dismiss the Protest *Nunc Pro Tunc* of the Retail Energy Supply Association, and for Expedited Treatment” (“Motion to Dismiss”).

5. On August 20, 2020, RESA filed an Answer to the Motion to Dismiss.

6. On September 1, 2020, the Commission issued a Hearing Notice scheduling a hearing in this matter and assigning the case to Deputy Chief Administrative Law Judge Joel H. Cheskis (the “ALJ”).

7. On September 10, 2020, the ALJ issued his Order Denying Motion to Dismiss.

8. RESA’s Protest focused on the Commission’s Competitive Safeguard Regulations at 52 Pa. Code § 54.121, *et seq.*, and its contention that the Application did not contain information to conclude that Suvon was prepared to comply with the requirements of the Code of Conduct at 52 Pa. Code § 54.122.

9. In particular, RESA alleged that Suvon had failed to demonstrate how it would comply with the Commission’s consumer protection and competitive market safeguards including how Suvon would manage compliance with the requirements that it not share employees, facilities and finances with its utility affiliates. RESA also raised concerns regarding the Application’s failure to demonstrate that FirstEnergy affiliates would not be permitted share customer

information with Suvon that was not shared with other suppliers on the same basis. In short, RESA's protest contends that Suvon failed to demonstrate that it was aware of and prepared to comply with the Commission's Code of Conduct regulations.

10. After a prehearing conference with the Presiding Administrative Law Judge, the Parties engaged in Settlement discussions which proved to be fruitful, and which resulted in the Parties entering into a Settlement by which Suvon would provide addition information on its compliance program via a stipulation that is made part of the Settlement. With the stipulated facts, Suvon demonstrates an intention to comply with the Code of Conduct and the processes and procedures which will ensure that it does so.

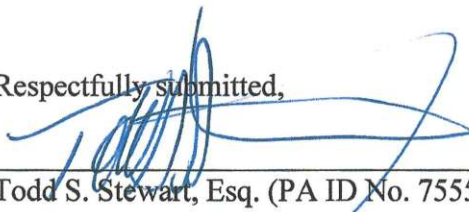
11. Based on RESA's analysis of the settlement parameters and stipulations agreed to by Suvon showing its intent to comply with the Commission's Code of Conduct regulations, acceptance of the Joint Petition for Approval of Settlement of all issues is in the public interest. Resolution of these issues by settlement and stipulation rather than continued litigation will avoid the additional time and expense involved in formally pursuing all issues in this proceeding. Acceptance of the Joint Petition for Approval of Settlement will negate the need to engage in evidentiary hearings and the preparation of Main Briefs, Reply Briefs, Exceptions, and Reply Exceptions.

12. RESA agrees to settle the disputed issues as to Suvon's representation and intent to comply with the Commission's Code of Conduct regulations. RESA's agreement to settle this case is made without any admission or prejudice to any position that RESA might adopt during subsequent litigation or the continuation of this litigation in the event the settlement agreement is rejected by the Commission or otherwise properly withdrawn by either of the Joint Petitioners.

13. If the ALJ recommends that the Commission adopt the settlement agreement as proposed, RESA agrees to waive the right to file exceptions. However, RESA has not waived its rights to file Exceptions with respect to any modifications to the terms and conditions of the settlement agreement, or any additional matters, that may be proposed by the ALJ. RESA also reserves the right to file Reply Exceptions to any Exceptions that may be filed by any party to this proceeding. The settlement agreement is also conditioned upon the Commission's approval of all terms and conditions contained therein, and should the Commission fail to approve or otherwise modify the terms and conditions of the settlement, the Joint Petition may be withdrawn by RESA or Suvon.

WHEREFORE, the Retail Energy Supply Association represents that it supports the Joint Petition for Settlement as being in the public interest and respectfully requests that Deputy Chief Administrative Law Judge Joel Cheskis recommend, and the Commission subsequently approve, the foregoing Settlement Agreement, including all terms and conditions contained therein.

Respectfully submitted,



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Dated: October 15, 2020

Counsel for *Retail Energy Supply Association*