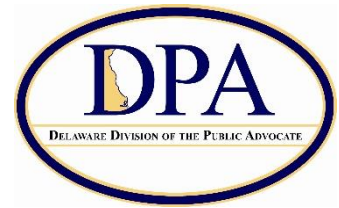




STATE OF DELAWARE
DEPARTMENT OF STATE
DIVISION OF THE PUBLIC ADVOCATE



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May 3, 2018

Mr. Francis Brooke
Special Assistant to the President, Domestic Energy and Environmental Policy
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

RE: FirstEnergy Solution's Request for Emergency Order

Dear Mr. Brooke:

I am the duly-appointed Public Advocate for the state of Delaware. The Delaware legislature has tasked me with representing the interests of Delaware's ratepayers in federal and state proceedings involving rates and energy policy.

On March 29, 2018, FirstEnergy Solutions Corp ("FES") submitted a Request for Emergency Order Pursuant to Federal Power Act Section 202(c) ("Request" or "Emergency Order Request") to the Secretary of the Department of Energy ("DOE"). I do not believe that FES has presented circumstances that constitute an emergency under Section 202(c) of the Federal Power Act. Further, FES' request attempts to circumvent the legitimate deliberative processes already underway at PJM for its own narrow ends, without any evidence of a legitimate crisis in the capacity market or grid reliability. Therefore, on behalf of the Delaware ratepayers whom I represent, the Delaware Division of the Public Advocate ("DPA") opposes FES' request.

FES' request is overly broad and fails to demonstrate that an emergency exists within the PJM footprint if its coal and nuclear plants are not bailed out. During the December 28, 2017 to January 7, 2018 weather event, the so-called "bomb cyclone," "PJM experienced one of our top 10 winter peak demand days of all time . . . Overall, the grid and the generation fleet performed well. Even during peak demand, PJM had excess reserves and capacity."¹

In addition, "PJM has seen significant new entry (nearly 40,000 MW) of a diverse mix of fuel types since the inception of the capacity market. PJM has experienced over 20,000 MW of coal retirements in the same period, and the average age of the coal units that have retired was over 50 years. In short, the markets have helped to incent new efficient generation of all fuel types and helped to retain existing generation needed to serve electric needs of customers in the PJM footprint."²

¹ PJM Coal Snap Performance. February 26, 2018. <http://www.pjm.com/-/media/library/reports-notice/weather-related/20180226-january-2018-cold-weather-event-report.ashx>. And, as indicated in the January 23, 2018 testimony of PJM CEO Andrew Ott before the U.S. Senate and Natural Resources Committee.

² PJM Coal Snap Performance. February 26, 2018. <http://www.pjm.com/-/media/library/reports-notice/weather-related/20180226-january-2018-cold-weather-event-report.ashx>.

As with any competitive market, price is a key determinant. In this regard, some coal and nuclear plants have become uneconomic. This is the case with FES, as further evidenced by its bankruptcy filing on March 31, 2018.³

If this request is granted, consumers throughout the PJM region will pay higher prices with little if any demonstrated benefit to grid reliability. Meanwhile, there are two pending dockets before the Federal Energy Regulatory Commission (“FERC”) regarding grid resilience and the capacity market construct.⁴ These ongoing dockets will examine the issues raised by FES in a systematic and deliberate way, allowing all interested parties to voice their opinions.

Additionally, consistent with the PJM Tariff, PJM conducted a thorough analysis of its system to determine whether the announced retirements would present reliability issues.⁵ On April 30, 2018, PJM completed this analysis and informed FirstEnergy, “that the deactivation of these generating units is not expected to adversely affect the reliability . . . with these measures, the PJM Transmission system will remain reliable, and therefore the generating units listed above may plan to deactivate as scheduled.”⁶

Again, “PJM can state without reservation there is no immediate threat to system reliability. Indeed, the FES units that announced their expected retirement earlier this week, by their own disclosures, will remain operational in most cases until through May 2021 . . . But even assuming these units do in fact close as of the dates announced, PJM, FERC, and the Department of Energy will have ample time before then to take measures, which at the extreme might include the kind of relief sought in the instant request.”⁷

Given that PJM has stated the system remains reliable, and absent an emergency need (which has not been demonstrated) to subsidize uneconomic coal and nuclear plants, FES' request for an emergency order should be denied.

Thank you for your consideration of these comments on behalf of the citizens of Delaware.

Sincerely,

/s/ Andrew Slater

Andrew C. Slater
Public Advocate

³ http://www.cleveland.com/business/index.ssf/2018/03/firstenergy_solutions_bankrupt.html

⁴ *Grid Resilience in Regional Transmission Organizations and Independent System Operators*, Docket No. AD18-7-000 (January 8, 2018. and PJM Interconnection submits tariff filing per 35.13(a)(2)(iii): Revisions to Address Impacts of State Public Policies on the PJM Capacity Market , ER18-1314-000 (4/9/2018).

⁵ PJM letter to Energy Secretary Perry regarding FirstEnergy Solutions’ Request for Emergency Relief under Section 202 of the Federal Power Act. March 30, 2018.

⁶ PJM Letter to Secretary of Energy. April 30, 2018.

⁷ PJM letter to Energy Secretary Perry regarding FirstEnergy Solutions’ Request for Emergency Relief under Section 202 of the Federal Power Act. March 30, 2018.