



STATE OF DELAWARE
DEPARTMENT OF STATE
DIVISION OF THE PUBLIC ADVOCATE

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April 3, 2018

VIA ELECTRONIC MAIL

The Honorable James Richard Perry
Secretary of Energy
U.S. Department of Energy
1000 Independence Ave., S.W.
Washington, DC 20585
the.secretary@hq.doe.gov

Mr. Bruce Walker
Assistant Secretary, DOE Office of Elec. Delivery & Energy Reliability
Office of Electric Reliability and Energy Reliability
U.S. Department of Energy
1000 Independence Ave., S.W.
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bruce.walker@hq.doe.gov

Ms. Catherine Jereza
Deputy Assistant Secretary
Office of Electricity Delivery and Energy Reliability
U.S. Department of Energy
1000 Independence Ave., S.W.
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RE: Motion of the Delaware Division of the Public Advocate to Intervene

Dear Secretary Perry, Assistant Secretary Walker, and Deputy Assistant Secretary Jereza:

Attached is the Delaware Division of the Public Advocate's ("DPA") Motion to intervene in the proceeding concerning FirstEnergy Solutions Corp.'s ("FES") Request for Emergency Action under Section 202(c) of the Federal Power Act. The Delaware DPA is an agency of the State of Delaware statutorily charged to advocate for the lowest reasonable rates for consumers and small businesses

consistent with the maintenance of adequate utility service. Further, the Delaware DPA is empowered to appear on behalf of the interest of consumers in Delaware's state courts, the federal courts and federal administrative and regulatory agencies and commissions in matters involving rates, service and practices of public utilities.

The Delaware DPA strongly opposes the FES Request for emergency action. If the Request is not denied outright, all interested parties should be given 60 days to file comments, as requested by the Electric Power Supply Association and other organizations on Friday, March 30, 2018.

Respectfully submitted,

Delaware Division of the Public Advocate

A handwritten signature in black ink, appearing to read 'Andrew C. Slater', written over a horizontal line.

By: Andrew C. Slater,
Public Advocate

**UNITED STATES OF AMERICA
BEFORE THE
DEPARTMENT OF ENERGY**

Request for Emergency Order Pursuant)
To Federal Power Act Section 202(c) By)
FirstEnergy Solutions Corp.) DOE Docket No. _____

**MOTION OF THE DELAWARE DIVISION OF THE PUBLIC ADVOCATE TO
INTERVENE**

The Delaware Division of the Public Advocate hereby moves to intervene in the above-captioned proceeding and protests the March 29, 2018 Request for Emergency Order Pursuant to Federal Power Act Section 202(c) by FirstEnergy Solutions Corp. (“FES”), pursuant to Rules 211 and 214 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure, 18 C.F.R. §§ 385.211 and 385.214.

I. PROCEDURAL BACKGROUND

On March 29, 2018, FES issued a letter (“Request”) to the Honorable James Richard Perry, Secretary of Energy, requesting that the Secretary use emergency authority under Section 202(c) of the Federal Power Act to find that an emergency condition exists in the PJM Interconnection, L.L.C. (“PJM”) territory requiring immediate intervention. FES requests two forms of relief: that the Secretary (a) order “certain existing nuclear and coal-fired generators . . . to enter into contracts” with PJM to generate and transmit energy, capacity, and ancillary services to “maintain the stability of the electric grid” and (b) order PJM to “promptly compensate at-risk merchant nuclear and coal-fired power plants for the full benefits they provide” to energy markets and the public. FES served the Request on over 100 owners of generation, transmission, or distribution assets, state public utility commissions, and others.

II. MOTION TO INTERVENE

The Delaware Division of the Public Advocate (“Delaware DPA”) is an agency of the State of Delaware statutorily charged to advocate for the lowest reasonable rates for consumers and small businesses consistent with the maintenance of adequate utility service. Further, the Delaware DPA is empowered to appear on behalf of the interest of consumers in Delaware’s state courts, the federal courts and federal administrative and regulatory agencies and commissions in matters involving rates, service and practices of public utilities.

If FE’s requested relief is granted, cost responsibility for payments made pursuant to the Emergency Order will be recovered from consumers throughout the PJM region, including Delaware residents. The Delaware DPA strongly objects to the request and reserves the right to supplement this preliminary pleading to explain, in detail, because the request is onerous, unjustified and unlawful, and should not be granted. In addition, FE’s requested relief includes not only its assets but also impermissibly demands the same relief for the entire nuclear and coal generation fleet without any demonstration that such relief is warranted.

The Delaware DPA moves for intervention under Rule 214 of the Federal Energy Regulatory Commission’s (“Commission”) Rules of Practice and Procedure. In conformity with Rule 214(b)(2), the Delaware DPA has a significant and direct interest in the outcome of this proceeding as every electricity customer in this State will be immediately and irreparably affected. The Delaware DPA’s participation in this proceeding is in the public interest.

III. SERVICE OF DOCUMENTS

The following persons are designated by the Delaware DPA to receive service and communications on its behalf with regard to this proceeding:

Andrew C. Slater
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IV. STATEMENT OF OPPOSITION

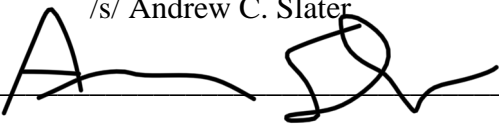
Rule 214(b)(1) requires the movant to state its preliminary position. The Delaware Division of the Public Advocate opposes the relief sought by FES. FES has not provided that it or other coal and nuclear resources cited in their request needs the requested relief. FES has not presented a credible scintilla of evidence to show that an emergency exists of any magnitude and definitely not one that justifies the application of Section 202(c) of the Federal Power Act. On January 8, 2018, the Federal Energy Regulatory Commission (“FERC”) initiated a proceeding, *Grid Resilience in Regional Transmission Organizations and Independent System Operators*, Docket No. AD18-7-000, to comprehensively and thoughtfully examine the issues of resilience presented in FES’s request. FES demand for emergency relief intends to circumvent FERC’s current deliberative proceeding in which all interested parties have an opportunity to be heard.

Dated: April 3, 2018

CERTIFICATE OF SERVICE

I hereby certify that I have this day served, via first-class mail, electronic transmission, or hand-delivery the foregoing upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Dover, Delaware this 3rd day of April, 2018.

By  /s/ Andrew C. Slater

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