



March 10, 2014

**VIA ELECTRONIC FILING**

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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: Investigation of Pennsylvania's Retail Electricity Market: Joint Electric Distribution Company - Electric Generation Supplier Bill; Docket No. M-2014-2401345; COMMENTS OF FIRSTENERGY SOLUTIONS CORP.**

Dear Secretary Chiavetta:

Enclosed for filing are the Comments of FirstEnergy Solutions Corp. in the above-captioned matter.

Please contact me if you have any questions regarding this matter.

Sincerely,

COZEN O'CONNOR



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

DPZ/kmg  
Enclosure

cc: Matthew Hrivnak, Bureau of Consumer Services  
Kirk House, Office of Special Assistants

**BEFORE THE  
PENNSYLVANIA PUBLIC SERVICE COMMISSION**

Investigation of Pennsylvania's	)	
Retail Electricity Market:	)	Docket No. M-2014-2401345
Joint Electric Distribution Company -	)	
Electric Generation Supplier Bill	)	

**COMMENTS OF FIRSTENERGY SOLUTIONS CORP.**

**I. INTRODUCTION**

FirstEnergy Solutions, Corp. ("FES") submits these Comments in response to the Tentative Order entered by the Pennsylvania Public Utility Commission ("Commission") on February 6, 2014 (the "Tentative Order") based on stakeholders' informal feedback to OCMO. The Tentative Order proposes three changes to utility consolidated bills ("UCBs") to make them more supplier-oriented: (1) inclusion of the electric generation supplier's ("EGS's") logo on the EDC bill; (2) expansion of the bill messaging space provided to the EGS from two lines to four lines of up to 80 characters each; and (3) inclusion of a Shopping Information Box. Tentative Order at 3-4, 10.

**II. COMMENTS**

**A. Including an EGS's Logo on the UCB Must Be Optional with the Owner of the Trademark.**

FES supports the Commission's proposals in the Tentative Order, but urges the Commission to clarify further that the inclusion of the EGS logo on the UCB must be at the option of the EGS logo trademark owner. It is important to recognize that an EGS, for one reason or another, may not want its logo to appear on the UCB. To that end, federal trademark law recognizes that the owner of a federally registered trademark owner has the "exclusive right to use the registered mark in commerce or in connection with the goods or services specified in

the certificate [of registration]”. 15 U.S.C. §1057(b). The registrant’s “exclusive right to use” means the right to exclude others from using its mark, *James Burrough, Ltd. v. Sign of the Beefeater, Inc.*, 540 F.2d 266 (7<sup>th</sup> Cir. 1976), and the owner of the trademark has the exclusive right to control the use of its mark pursuant to federal trademark law. See *Park ‘N Fly, Inc. v. Dollar Park and Fly, Inc.*, 469 U.S. 189 (1985). As a result, while the Commission has the authority to set the minimum content of customer bills in the furtherance of its statutory duties, the Commission does not have the legal authority to prescribe how an EGS uses its federally registered logo, or to require the placement of an EGS’s trademarked property on the UCB bill.

**B. FES Supports the Proposals in the Tentative Order on Cost Recovery, EGS Messaging Space and the Inclusion of a Shopping Information Box.**

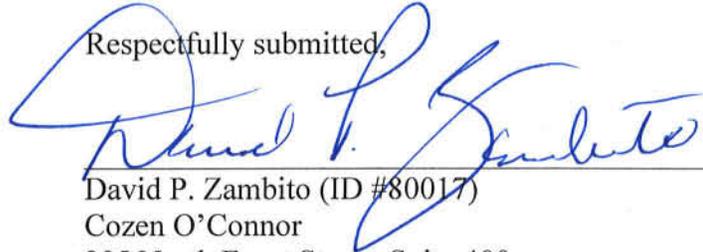
The Commission proposes that the costs associated with its proposals in the Tentative Order be recovered from all distribution customers on a non-bypassable basis through the EDCs’ Retail Market Enhancements surcharge or some similar mechanism. Tentative Order at 9. FES agrees with this proposal, since as the Commission recognizes these changes will affect all customers, both those currently shopping and those who have not yet elected to do so. Further, FES generally supports the other proposals in the Tentative Order to expand the EGS bill messaging space from two to four lines with up to 80 characters each, and to include a “Shopping Information Box.”

**III. CONCLUSION**

In summary, FES supports the Tentative Order’s proposal to permit the inclusion of an EGS’s logo on the UCB, but the Commission should clarify that such inclusion will be at the option of the EGS logo trademark owner. FES supports the other proposals in the Tentative Order to expand the EGS bill messaging space, to include a Shopping Information Box, and to

recover any associated costs from all customers on a non-bypassable basis. FES appreciates the opportunity to submit these Comments, and appreciates the Commission's continued support of retail shopping in Pennsylvania.

Respectfully submitted,



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