ENERGY AND POLICY INSTITUTE

FirstEnergy

Money trail in FirstEnergy corruption scandal leads outside Ohio

Dave Anderson • April 23, 2021

FirstEnergy improperly used money collected from customers in five states to pay for expenses connected to the ongoing corruption scandal in Ohio, the company has confirmed.

The money was collected from customers of FirstEnergy's regulated distribution and transmission utilities in Maryland, New Jersey, Ohio, Pennsylvania, and West Virginia, according to statements found in annual Form 1 reports the utilities recently filed this month with the Federal Energy Regulatory Commission.

FirstEnergy first disclosed in February that its internal investigation related to the federal racketeering case against former Ohio House speaker Larry Householder had:

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> *years or more, including vendor services, that were either improperly classified, misallocated to certain of the Utilities and Transmission Companies,*

or lacked proper supporting documentation. These transactions resulted in amounts collected from customers that were immaterial to FirstEnergy, and the Utilities and Transmission Companies will be working with the appropriate regulatory agencies to address these amounts.

The Energy and Policy Institute found similar statements in annual Form 1 reports for 2020 filed with FERC by fourteen FirstEnergy distribution, generation, and transmission utilities earlier this month; the statements indicated that the money was collected from customers of all fourteen subsidiaries.

One statement found in the Form 1 report filed by Jersey Central Power & Light (JCP&L) reads as follows (highlights added):

> *… in connection with the internal investigation, FirstEnergy recently identified certain transactions, which, in some instances, extended back ten or more years, including vendor service, that were either improperly classified, misallocated to certain FirstEnergy utility and transmission companies, or lacked proper supporting documentation.* ***These transactions resulted in amounts collected from customers that were immaterial to FirstEnergy and JCP&L.*** *These utility and transmission companies will be working with the appropriate regulatory agencies to address these amounts.*

Nearly identical statements were found in Form 1s filed by thirteen other FirstEnergy utilities, only with the initials of the utility filing the report inserted in the place of JCP&L's, including Allegheny Generating Company, American Transmission Systems, Cleveland Electric Illuminating Company, Metropolitan Edison, Mon Power, Ohio Edison, Mid-Atlantic Interstate Transmission, PATH Allegheny Transmission Company, Pennsylvania Electric Company, Pennsylvania Power Company, Potomac Edison, Toledo Edison, and West Penn Power.

The Energy and Policy Institute asked Jennifer Young, a spokesperson for FirstEnergy, to confirm that the money was collected from customers of the distribution and transmission utilities that included those statements in their Form 1s.

"Your interpretation of the disclosure is correct," Young responded in an email.

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to return funds to ratepayers that were improperly included in customer rates."

"During our last call, we mentioned that we were proactively engaging with our regulators to refund customers for certain vendor payments," FirstEnergy CEO Steven Strah said during an earnings call this morning. "Those conversations are underway in each affected jurisdiction."

"In Ohio, at the PUCO's request, the scope of our annual audit of Rider DCR has been expanded to include a review of these payments," Strah said.

Last month, the Public Utilities Commission of Ohio (PUCO) directed that the audit of FirstEnergy's Delivery Capitalization Rider (DCR) be expanded to include to "determine whether any funds from ratepayers were used to pay for the vendors and if so, whether funds associated with the payments should be returned to ratepayers through Rider DCR or through an alternative proceeding."

FirstEnergy did not respond to a request for more information about how exactly FirstEnergy is working to refund the money to customers, and in which affected jurisdictions.

Exactly how much money was improperly collected from customers remains a closely guarded secret, but some details have trickled out of FirstEnergy and more may be on the way.

Company officials said on an earnings call in February that the "transactions" included a $4.3 million payment to an individual who fit the description of former Public Utilities Commission of Ohio chairman Samuel Randazzo, who resigned last year after the FBI raided his townhouse in Columbus. The transactions "could" have also included money spent on lobbying and political efforts, company officials said on the call.

Santino Fanelli, FirstEnergy's director of rates and regulatory affairs, revealed during a March deposition led by the Ohio Consumers Counsel that at least some of the $56.6 million that was secretly routed from the FirstEnergy Service Company to Generation Now was misallocated to FirstEnergy's Ohio utilities, which include Ohio Edison, CEI, and Toledo Edison.

Generation Now is one of three defendants that have pleaded guilty to racketeering conspiracy charges in the Householder case, in connection with a $60 million bribery scheme that resulted in a $1 billion nuclear power plant bailout included in Ohio's 2019 energy law House Bill 6, as well as coal bailouts and a gutting of clean energy laws.

FirstEnergy disclosed today in a quarterly financial report that it is discussing the possibility of a deferred prosecution agreement with federal prosecutors. The company also said that it "believes it is probable that it will incur a loss in connection with the investigation."

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transmission utilities may be on the hook for as much as $137 million in money paid to the FirstEnergy Service Company in 2017 to 2019 for external affairs support that included lobbying and government affairs.

Below is an excerpt from JCP&L's annual Form 1 report for 2020.

Page 51 of Jersey Central Power & Light FERC Form 1 Annual 2020

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Name of Respondent	This Report is:	Date of Report (Mo, Da, Yr)	Year/Period of Report
Jersey Central Power & Light Company	(1) X An Original (2) __ A Resubmission	/ /	2020/Q4

NOTES TO FINANCIAL STATEMENTS (Continued)

Corrupt Activity Act and civil conspiracy against FE, FESC and FES.

The plaintiffs in each of the above cases, seek, among other things, to recover an unspecified amount of damages (unless otherwise noted). In addition, on August 10, 2020, the United States Securities and Exchange Commission, through its Division of Enforcement, issued an order directing an investigation of possible securities laws violations by FE, and on September 1, 2020, issued subpoenas to FE and certain FE officers. Further, in letters dated January 26 and February 22, 2021, staff of FERC's Division of Investigations notified FirstEnergy that the Division is conducting an investigation of FirstEnergy's lobbying and governmental affairs activities concerning HB 6, and staff directed FirstEnergy to preserve and maintain all documents and information related to the same as such have been developed as part of an ongoing audit that is being conducted by FERC's Division of Audits and Accounting. The outcome of any of these lawsuits, investigations and audit are uncertain and could have a material adverse effect on FE's or its subsidiaries' financial condition, results of operations and cash flows. No contingency has been reflected in FirstEnergy's consolidated financial statements as a loss is neither probable, nor is a loss or range of a loss reasonably estimable.

Internal Investigation Relating to United States v. Larry Householder, et al.

As previously disclosed, a committee of independent members of the FE Board of Directors (FE Board) is directing an internal investigation related to ongoing government investigations. In connection with FirstEnergy's internal investigation, such committee determined on October 29, 2020, to terminate FirstEnergy's Chief Executive Officer, Charles E. Jones, together with two other executives: Dennis M. Chack, Senior Vice President of Product Development, Marketing, and Branding; and Michael J. Dowling, Senior Vice President of External Affairs. Each of these terminated executives violated certain FirstEnergy policies and its code of conduct. These executives were terminated as of October 29, 2020. Such former members of senior management did not maintain and promote a control environment with an appropriate tone of compliance in certain areas of FirstEnergy's business, nor sufficiently promote, monitor or enforce adherence to certain FirstEnergy policies and its code of conduct. Furthermore, certain former members of senior management did not reasonably ensure that relevant information was communicated within our organization and not withheld from our independent directors, our Audit Committee, and our independent auditor. Among the matters considered with respect to the determination by the committee of independent members of the FE Board that certain former members of senior management violated certain FirstEnergy policies and its code of conduct related to a payment of approximately $4 million made in early 2019 in connection with the termination of a purported consulting agreement, as amended, which had been in place since 2013. The counterparty to such agreement was an entity associated with an individual who subsequently was appointed to a full-time role as an Ohio government official directly involved in regulating the Ohio Companies, including with respect to distribution rates. FirstEnergy believes that payments under the consulting agreement may have been for purposes other than those represented within the consulting agreement. Immediately following these terminations, the independent members of its Board appointed Mr. Steven E. Strah to the position of Acting Chief Executive Officer and Mr. Christopher D. Pappas, a current member of the Board, to the temporary position of Executive Director, each effective as of October 29, 2020. Mr. Donald T. Misheff will continue to serve as Non-Executive Chairman of the Board. Additionally, on November 8, 2020, Robert P. Reffner, Senior Vice President and Chief Legal Officer, and Ebony L. Yeboah-Amankwah, Vice President, General Counsel, and Chief Ethics Officer, were separated from FirstEnergy due to inaction and conduct that the Board determined was influenced by the improper tone at the top. The matter is a subject of the ongoing internal investigation as it relates to the government investigations. Additionally, on February 17, 2021, the FE Board appointed Mr. John Somerhalder to the positions of Vice Chairperson of the FE Board and Executive Director of FE, each effective as of March 1, 2021. Mr. Misheff will continue to serve as Non-Executive Chairman of the FE Board and Mr. Pappas will continue to serve on the FE Board as an independent director. Mr. Somerhalder will help lead efforts to enhance FirstEnergy's reputation. On March 7, 2021, the FE Board appointed Mr. Steven E. Strah to the position of Chief Executive Officer of FirstEnergy, effective as of March 8, 2021. On March 7, 2021, at the recommendation of the FirstEnergy Corporate Governance and Corporate Responsibility Committee, the FE Board also elected Mr. Strah as a Director of FirstEnergy, effective as of March 8, 2021, increasing the size of the FE Board from 11 to 12 members. Mr. Strah has been elected to the FE Board to serve for a term expiring at the FirstEnergy's 2021 Annual Meeting of

Other Legal Matters

There are various lawsuits, claims (including claims for asbestos exposure) and proceedings related to JCP&L's normal business operations pending against JCP&L and its subsidiaries. The loss or range of loss in these matters is not expected to be material to JCP&L or its subsidiaries. The other potentially material items not otherwise discussed above are described under Note 5, "Regulatory Matters."

JCP&L accrues legal liabilities only when it concludes that it is probable that it has an obligation for such costs and can reasonably estimate the amount of such costs. In cases where JCP&L determines that it is not probable, but reasonably possible that it has a

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Updated on April 23, 2021 with additional information disclosed during FirstEnergy earnings call and in related investors materials posted on FirstEnergy's website.

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Tagged in: FirstEnergy, Generation Now, house bill 6, Larry Housholder, ohio bribery, ohio corruption

Posted by Dave Anderson

Dave Anderson is the policy and communications manager for the Energy and Policy Institute. Dave has been working at the nexus of clean energy and public policy since 2008. Prior to joining the Energy and Policy Institute, he was an outreach coordinator for the climate and energy program at the Union of Concerned Scientists. He is also an alumnus of the Sierra Club and the Alliance for Climate Protection (now the Climate Reality Project). Dave's research has helped to spur public scrutiny of political attacks on clean energy and climate science by powerful special interests, such as ExxonMobil and the American Legislative Exchange Council (ALEC). His work has been cited by major media outlets, such as CBS News and the Wall Street Journal, and he has served as a speaker on panels at national solar industry conferences. Dave holds a MA in Political Science from the University of New Hampshire, where he also received a BA in Humanities.

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