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Federal

In FES Bankruptcy Case, HB 6 Lobbyists Claim No Knowledge of Illegal Activities (Case No. 18-50757 N.D. Ohio)

Summary: The law firm of Akin Gump Strauss Hauer & Feld (Akin Gump) represented FirstEnergy Solutions (FES, now Energy Harbor) during its bankruptcy and lobbied to pass House Bill 6.

In 2020, the judge presiding over the FES bankruptcy case ordered four Akin Gump associates to file sworn declarations regarding their roles in the Ohio House speakers' race, 2018 statehouse races, the enactment of HB 6, and their work with Juan Cespedes, an Ohio lobbyist who pleaded guilty in the HB 6 federal racketeering case.

This week, in a letter to the bankruptcy court, Akin Gump stated it was not aware of any evidence that its attorneys and professionals knew of any illegal activity, including by anyone at its client FES, in connection with House Bill 6.

The letter also stated that the firm's involvement with FES' expenditures to Generation Now – a 501(c)(4) entity that also pleaded guilty in the HB 6 federal racketeering case – was limited to advising on restructuring and corporate issues.

One Akin Gump associate stated that “[d]uring the period between the engagement of Mr. Cespedes until House Bill 6 was signed into law by the governor, I had almost daily contact with Mr. Cespedes” and that he, along with other Akin Gump associates, “provided advice relating to bipartisan political contributions by FES to Generation Now.”

Despite these statements, all four Akin Gump associates denied knowledge of any illegal activities related to HB 6.

**PUCO Submits Comments on FERC's Transmission Planning, Cost Allocation, Generator Interconnection Proposals
(Docket No. RM21-17-000)**

Summary: In July 2021, FERC issued an Advanced Notice of Proposed Rulemaking presenting several potential reforms to the electric regional transmission planning and cost allocation and generator interconnection processes.

This week, the PUCO submitted [comments](#) on the proposal, asserting that: (1) transmission owners should not be required to identify zones with the potential for renewable resource development; (2) "supplemental transmission projects" currently are not subject to federal or regional certification or approval processes, and increased oversight of such projects would foster cost-effectiveness; (3) transmission project cost allocation methods should strictly adhere to cost causal and beneficiary pays principles; (5) PJM's existing process for accommodating state-specific transmission planning should be respected; (6) the number of interconnection requests submitted by generators should be capped to prevent backlog and the use of multiple requests to determine the lowest cost location to site a generating facility; and (7) PJM has the authority and is the appropriate entity to monitor all transmission projects in the region.

Statewide

**Supreme Court Unanimously Reverses PUCO Approval of FirstEnergy-Linked Broker
(Slip Opinion No. 2021-Ohio-3630)**

Summary: In a 7-0 decision, the Supreme Court of Ohio ruled that the PUCO unlawfully authorized FirstEnergy Advisors, a FirstEnergy Corp. subsidiary, to operate as an energy broker and aggregator.

The court determined that despite objections about FirstEnergy Advisors' relationship with its parent company, "PUCO granted the certification requested, issuing a barebones order that offered no explanation as to how FirstEnergy Advisors met the applicable legal requirements."

Accordingly, the court sent the case back to the PUCO to determine whether FirstEnergy Advisors can comply with all applicable legal requirements, including PUCO corporate separation rules, before certifying the company.