

SECURITIES AND EXCHANGE COMMISSION

(Release No. 35-28047; 70-10307)

FirstEnergy Corp., et al.

Order Authorizing the Acquisition of Securities

October 19, 2005

FirstEnergy Corp., (“FirstEnergy”), an Ohio corporation and a registered holding company under the Public Utility Holding Company Act of 1935, as amended (“Act”); its public utility subsidiaries: Ohio Edison Company, an Ohio corporation (“Ohio Edison”); The Cleveland Electric Illuminating Company, an Ohio corporation (“Cleveland Electric”); The Toledo Edison Company, an Ohio corporation (“Toledo Edison”); and Pennsylvania Power Company, a Pennsylvania corporation and wholly owned subsidiary of Ohio Edison, (“Penn Power”), collectively, “Utility Subsidiaries;” all of Akron, Ohio, have filed an application-declaration, as amended (“Application”) with the Securities and Exchange Commission (“Commission”) under sections 9(a), 10 and 12(b) of the Act and rules 45 and 54 under the Act. FirstEnergy and the Utility Subsidiaries are referred to as “Applicants.” FirstEnergy directly owns all of the outstanding common stock of Ohio Edison, Cleveland Electric, Toledo Edison, and indirectly through Ohio Edison owns all of the outstanding common stock of Penn Power.¹ The Commission issued a notice of the Application on August 30, 2005 (HCAR No. 28021).

Ohio Edison was organized under the laws of the State of Ohio in 1930 and owns property and does business as an electric public utility in that state. Ohio Edison also has

¹FirstEnergy’s other public utility subsidiaries are Jersey Central Power & Light Company, Pennsylvania Electric Company, Metropolitan Edison Company, York Haven Power Company, The Waverly Electric Power & Light Company and American Transmission Systems, Incorporated. These companies are not applicants in this filing.

ownership interests in certain generating facilities located in the Commonwealth of Pennsylvania. Ohio Edison engages in the generation, distribution and sale of electric energy to communities in a 7,500 square mile area of central and northeastern Ohio having a population of approximately 2.8 million.

Ohio Edison owns all of Penn Power's outstanding common stock. Penn Power was organized under the laws of the Commonwealth of Pennsylvania in 1930 and owns property and does business as an electric public utility in that state. Penn Power is also authorized to do business and owns property in the State of Ohio. Penn Power furnishes electric service to communities in a 1,500 square mile area of western Pennsylvania having a population of approximately 300,000.

Cleveland Electric was organized under the laws of the State of Ohio in 1892 and does business as an electric public utility in that state. Cleveland Electric engages in the generation, distribution and sale of electric energy in an area of approximately 1,700 square miles in northeastern Ohio having a population of approximately 1.9 million. It also has ownership interests in certain generating facilities located in Pennsylvania.

Toledo Edison was organized under the laws of the State of Ohio in 1901 and does business as an electric public utility in that state. Toledo Edison engages in the generation, distribution and sale of electric energy in an area of approximately 2,500 square miles in northwestern Ohio having a population of approximately 800,000. It also has interests in certain generating facilities located in Pennsylvania.

Requested Authorization

Applicants request authorization for certain transactions that are related to the sale of their respective interests in certain fossil-fuel and hydroelectric generating facilities owned by the Utility Subsidiaries to FirstEnergy Generation Corp. (“FE GenCo”), which is a direct wholly-owned subsidiary of FirstEnergy Solutions Corp. (“FE Solutions”) and an indirect subsidiary of FirstEnergy. FE GenCo is an “exempt wholesale generator” (“EWG”) under Section 32 of the Act. These asset transfers are in furtherance of FirstEnergy’s Ohio and Pennsylvania corporate separation plans, which were described in FirstEnergy’s Application/Declaration for authorization to merge with GPU, Inc. (“GPU”). See HCAR No. 27459 (October 29, 2001) (“Merger Order”). Specifically, the Utility Subsidiaries request authority to acquire the secured promissory notes from FE GenCo, as described below.

The Utility Subsidiaries own, individually or together as tenants in common, interests in the following fossil-fuel and hydroelectric generating plants:²

Plant	Location	MW	Ownership %
Ashtabula 5	Ashtabula, OH	244	Cleveland Electric 100%
Bay Shore 1-4 Bay Shore Peaking	Toledo, OH	631 17	Toledo Edison 100%
R.E. Burger 3-5	Shadyside, OH	406	Ohio Edison 100%
R.E. Burger Peaking	Shadyside, OH	7	Ohio Edison 85.6% Penn Power 14.4%
Eastlake 1-5 Eastlake Peaking	Eastlake, OH	1,233 29	Cleveland Electric 100%
Lakeshore 18 Lakeshore Peaking	Cleveland, OH	245 4	Cleveland Electric 100%
Bruce Mansfield 1	Shippingport, PA	780	Ohio Edison 60% Penn Power 33.5%
Bruce Mansfield 2	Shippingport, PA	780	Ohio Edison 43.06% Penn Power 9.36%

² The Utility Subsidiaries do not propose to transfer their remaining percentage ownership interests in certain fossil-fuel units that are not now being leased by FE GenCo.

			Cleveland Electric 1.68%
Bruce Mansfield 3	Shippingport, PA	800	Ohio Edison 49.34% Penn Power 6.28%
W.H. Sammis 1-6	Stratton, OH	1,620	Ohio Edison 100%
W.H. Sammis 7	Stratton, OH	600	Ohio Edison 48% Penn Power 20.8% Cleveland Electric 31.2%
W.H. Sammis Peaking	Stratton, OH	13	Ohio Edison 85.6% Penn Power 14.4%
Edgewater Peaking	Lorain, OH	48	Ohio Edison 86% Penn Power 14.0%
Richland Peaking 1-3	Defiance, OH	42	Toledo Edison 100%
Seneca	Warren, PA	435	Cleveland Electric 100%
West Lorain Peaking Unit 1	Lorain, OH	120	Ohio Edison 100%
Mad River Peaking	Springfield, OH	60	Ohio Edison 85.6% Penn Power 14.4%
Stryker Peaking	Springfield, OH	18	Toledo Edison 100%

Currently, the Utility Subsidiaries lease all of the fossil and hydroelectric generating plants listed in the table above to FE GenCo, which, as indicated, has previously been certified by the Federal Energy Regulatory Commission (“FERC”) as an EWG.³ FE GenCo leases and operates these plants pursuant to the terms of a Master Facility Lease (“Master Lease”), dated as of January 1, 2001. Applicants state that the Master Lease, which became effective on January 1, 2001, and has a term of twenty years, was intended as the first step in the eventual transfer of ownership of the leased plants to FE GenCo. Applicants further state that the Master Lease is a net lease that, among other things, obligates FE GenCo, as lessee, to pay for all capital improvements to the leased plants. According to Applicants, to date, FE GenCo has expended more than \$900 million for major capital improvement to the leased plants.

³ FE GenCo was approved by the FERC as an EWG on April 6, 2001. FirstEnergy Generation Corp., 95 FERC ¶ 62,018 (2001).

Pursuant to Section 12 of the Master Lease, FE GenCo has an option to purchase the leased generating plants for the purchase price per unit stated in the Master Lease. Section 12 of the Master Lease further provides that, upon exercise of the purchase option, FE GenCo may pay the purchase price either in cash or by executing a promissory note, secured by a lien on the transferred assets.

Each of the Utility Subsidiaries and FE GenCo has entered into a Fossil Purchase and Sale Agreement (“Fossil PSA”). Under the Fossil PSAs, FE GenCo has agreed to purchase each Utility Subsidiary’s fossil units (and, in the case of Cleveland Electric, one hydroelectric generating facility), plus all of the applicable seller’s right, title and interest in and to any and all contracts, fuel, spare parts, inventories, equipment, supplies and other assets associated with the transferred units for an amount equal to the purchase price set forth in section 2.2 of each Fossil PSA (the “Purchase Price”) as follows: Ohio Edison - \$980 million; Penn Power - \$125 million; Cleveland Electric - \$389 million⁴; and Toledo Edison - \$88 million, as adjusted through closing to reflect the value of any additional assets or liabilities transferred by the selling Utility Subsidiary to FE GenCo. In addition, under each Fossil PSA, FE GenCo has agreed to assume and discharge all of the liabilities and obligations of the selling Utility Subsidiary that are related to the purchased units (e.g., accumulated deferred income taxes and asset retirement obligations).

As consideration for the purchased units, FE GenCo will deliver to the selling Utility Subsidiary its secured promissory note (“FE GenCo Note”). The principal amount of each FE GenCo Note will be equal to the Purchase Price for the transferred units, as adjusted through

⁴ Applicants represent that the Purchase Price set forth in section 2.2 of the Fossil PSA for Cleveland Electric has been amended from \$408 million due to the failure to account for the retirement of one unit (Ashtabula C), which is not being transferred to FE GenCo and because of an incorrect value for another unit (Mansfield Unit 2).

closing, and will be secured by a lien on the purchased units, bear interest at a rate per annum based on the average weighted cost of long-term debt of the Utility Subsidiary to which the FE GenCo Note is issued, and mature twenty years after the date of issuance. FE GenCo may prepay the FE GenCo Notes at any time, in whole or in part, without penalty. The calculation of the average weighted cost of long-term debt of each of the Utility Subsidiaries as of September 30, 2005 is shown in Exhibit I to the Application.

Under each Fossil PSA, FE GenCo has also agreed that, upon request of the selling Utility Subsidiary, it will assume the selling Utility Subsidiary's liabilities and obligations with respect to certain outstanding pollution control revenue bonds ("PCRBs") that were issued to finance pollution control equipment related to the purchased plants.⁵ If PCRB obligations are assumed by FE GenCo at or prior to closing, then the principal amount of the assumed obligations will reduce the principal amount of the applicable FE GenCo Note delivered by FE GenCo at closing. If FE GenCo assumes PCRB obligations after closing, the principal amount assumed will represent a payment of principal on the applicable FE GenCo Note delivered at closing.

The Utility Subsidiaries have obtained releases under their respective first mortgage bond indentures for the fossil and hydroelectric units to be transferred to FE GenCo.

Rule 54

Rule 54 provides that the Commission shall not consider the effect of the capitalization or earnings of subsidiaries of a registered holding company that are EWGs or "foreign utility

⁵ Currently, the Utility Subsidiaries have outstanding obligations in respect of PCRBs in approximately the following principal amounts: Ohio Edison - \$471 million; Penn Power - \$63 million; Cleveland Electric - \$362 million; and Toledo Edison - \$69 million.

companies” (“FUCOs”) in determining whether to approve other transactions if Rule 53(a), (b) and (c) are satisfied.

FirstEnergy currently meets all of the conditions of Rule 53(a), except for clause (1).⁶

Applicants state that the fees, commissions and expenses incurred or to be incurred in connection with the authority sought in this filing are expected to not exceed \$40,000. The Utility Subsidiaries have obtained the requisite findings under Section 32(c) of the Act from the Public Utility Commission of Ohio, Pennsylvania Public Utility Commission, New Jersey Board of Public Utilities, and New York Public Service Commission in order or for the transferred fossil-fuel and hydroelectric plants to be considered “eligible facilities” exempt under Section 32(c) of the Act. Thus, the approval of the Commission for the transfer of these plants is not required. Penn Power has obtained the approval of the Pennsylvania Public Utility Commission

⁶ Under the Merger Order, as modified by order dated June 30, 2003 (HCAR No. 27694) (the “2003 Financing Order”), the Commission, among other things, authorized FirstEnergy to invest in EWGs and FUCOs so long as FirstEnergy’s “aggregate investment,” as defined in Rule 53(a)(1), in EWGs and FUCOs does not exceed \$5 billion. The Merger Order and the 2003 Financing Order also specify that this \$5 billion amount may include amounts invested in EWGs and FUCOs by FirstEnergy and GPU, Inc. (“GPU”) at the time of the Merger Order (“Current Investments”) and amounts relating to possible transfers to EWGs of certain generating facilities owned by certain of FirstEnergy’s operating utilities (“GenCo Investments”). FirstEnergy has made the commitment that through December 31, 2005, its aggregate investment in EWGs and FUCOs other than the Current Investments and GenCo Investments (“Other Investments”) will not exceed \$1.5 billion (the “Modified Rule 53 Test”).

As of June 30, 2005, FirstEnergy’s aggregate investment in EWGs and FUCOs was approximately \$1 billion. On a *pro forma* basis, taking into account the sale of the fossil-fuel and hydroelectric units to FE GenCo, FirstEnergy’s “aggregate investment” in EWGs and FUCOs as of June 30, 2005 would be approximately \$2.6 billion, which is still below the \$5 billion threshold authorized under the Merger Order and 2003 Financing Order. Additionally, as of June 30, 2005, FirstEnergy’s consolidated retained earnings were \$1.9 billion. By way of comparison, FirstEnergy’s consolidated retained earnings as of December 31, 2001 were \$1.52 billion.

FirstEnergy satisfies all of the other conditions of paragraphs (a) and (b) of Rule 53.

for the proposed transactions under Pennsylvania's affiliated interest statute. Also, prior to the merger of FirstEnergy and GPU, the Utility Subsidiaries obtained the authorization of the Federal Energy Regulatory Commission for the transfer the fossil and hydroelectric plants to FE GenCo.⁷ Applicants maintain that no other state or federal commission or agency, other than the Commission, has jurisdiction over the transactions for which authorization is sought in this Application.

Due notice of the filing of this Application has been given in the manner prescribed in rule 23 under the Act, and no hearing has been requested of ordered by the Commission. Based on the facts in the record, the Commission finds that the applicable standards of the Act and rules are satisfied and that no adverse findings are necessary.

IT IS ORDERED, under the applicable provisions of the Act and the rules under the Act, that the Application, as amended, be granted and be permitted to become effective immediately, subject to the terms and conditions prescribed in rule 24 under the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz
Secretary

⁷See FirstEnergy Corp., et al., 94 FERC ¶ 61,179 (2001). Under the FERC order, the exercise of the purchase option under the Master Lease must occur prior to January 1, 2006.

