

IN THE CIRCUIT COURT FOR BALTIMORE CITY, MARYLAND

PATRICK SHERIDAN, Individually and on behalf of all others similarly situated,
15 Tennessee Avenue
Long Beach, New York 11561

Plaintiff,

vs.

ALLEGHENY ENERGY, INC.
351 West Camden Street
Baltimore, Maryland 21201
Serve on: Resident Agent:
The Corporation Trust Incorporated
351 West Camden Street
Baltimore, Maryland 21201

Paul J. Evanson
351 West Camden Street
Baltimore, Maryland 21201

H. Furlong Baldwin
351 West Camden Street
Baltimore, Maryland 21201

Eleanor Baum
351 West Camden Street
Baltimore, Maryland 21201

Cyrus F. Friedman, Jr.
351 West Camden Street
Baltimore, Maryland 21201

Julia L. Johnson
351 West Camden Street
Baltimore, Maryland 21201

Ted J. Kleisner
351 West Camden Street
Baltimore, Maryland 21201

Christopher D. Pappas
351 West Camden Street
Baltimore, Maryland 21201

Civil Action No. _____

COMPLAINT AND JURY
DEMAND

Case: 24-C-10-001255
CV File New \$50.00
Appear Fee \$20.00
MLSC \$25.00
TOTAL \$125.00

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BALTIMORE CITY

Energy, its Board of Directors (the “Board” or the “Individual Defendants”), FirstEnergy Corp. (“FirstEnergy”) and Element Merger Sub Corporation (“Merger Sub”) (FirstEnergy and Merger Sub are sometimes referred to as “FirstEnergy”) (collectively, the “Defendants”), arising out of a transaction in which FirstEnergy will acquire each share of Allegheny Energy’s common stock for .667 shares of FirstEnergy, representing approximately \$27.65 per share as of the announcement of the deal (the “Proposed Acquisition”). In approving the Proposed Acquisition, the Individual Defendants breached their fiduciary duties of loyalty, good faith, due care and disclosure by, *inter alia*, (i) agreeing to sell to Allegheny Energy without first taking steps to ensure that Plaintiff and Class members (defined below) would obtain adequate, fair and maximum consideration under the circumstances; and (ii) engineering the Proposed Acquisition to benefit themselves and/or FirstEnergy without regard for Allegheny Energy’s public shareholders. Moreover, as alleged further herein, FirstEnergy aided and abetted the Individual Defendants’ breaches of fiduciary duty. Accordingly, this action seeks to enjoin the Proposed Acquisition and compel the Individual Defendants to properly exercise their fiduciary duties to Allegheny Energy’s shareholders.

PARTIES

2. Plaintiff, Patrick Sheridan, is a citizen of the United States and the state of New York, residing at 15 Tennessee Avenue, Long Beach, New York 11561.

3. Plaintiff has been a shareholder of Allegheny Energy at all times relevant hereto has been, and continues to be a shareholder of Allegheny Energy.

4. Defendant Paul J. Evanson (“Evanson”) is the Chairman of the Board, President and Chief Executive Officer of Allegheny Energy. He has been a member of the board since 2003. If the Proposed Acquisition is consummated, Evanson will become executive vice chairman of the combined company.

5. Defendant H. Furlong Baldwin ("Baldwin") has been a director of the Company since 2003 and is the Chair of the Management Compensation and Development Committee and a member of the Executive Committee.

6. Defendant Dr. Eleanor Baum ("Baum") has been a director of the Company since 1988 and is a member of the Management Compensation and Development and Nominating and Governance committees.

7. Defendant Cyrus F. Freidheim, Jr. ("Freidheim") has been a director of the Company since 2003 and is the Chair of the Nominating and Governance Committee and a member of the Executive Committee.

8. Defendant Julia L. Johnson ("Johnson") has been a director of the Company since 2003 and is a member of the Audit and Nominating and Governance committees.

9. Defendant Ted J. Kleisner ("Kleisner") has been a director of the Company since 2001 and is a member of the Executive and Management Compensation and Development committees.

10. Defendant Christopher D. Pappas ("Pappas") has been a director of the Company since 2008 and is a member of the Management Compensation & Development Committee.

Steven H. Rice ("Rice") has been a director of the Company since 1986 and is a member of the Audit and Executive committees, and currently serves as the Board's Presiding Director.

11. Gunnar E. Sarsten ("Sarsten") has been a director of the Company since 1992 and is a member of the Audit and Nominating and Governance committees.

12. Defendant Michael H. Sutton ("Sutton") has been a director of the Company since 2004 and is the Chair of the Audit Committee.

13. Defendants named in paragraphs 4-12 are referred to herein as "Individual Defendants" or "Director Defendants."

14. By reason of their positions as officers and/or directors of the Company, the Individual Defendants named above are in a fiduciary relationship with Plaintiff and the other public shareholders of Allegheny Energy and owe them the highest duties of good faith, loyalty and due care, as set forth in further detail herein.

15. Defendant Allegheny Energy Corporation is a Maryland Corporation. Allegheny Energy is an investor-owned utility with over \$3 billion in annual revenues and more than 4,000 employees, with both regulated and unregulated operations. The Company's headquarters are located at 800 Cabin Hill Drive, Greensburg, PA 15601

16. Defendant FirstEnergy is an Ohio Corporation headquartered at 76 South Main Street, Akron, OH 44308. FirstEnergy is a diversified energy company. Its subsidiaries and affiliates are involved in the generation, transmission and distribution of electricity, as well as energy management and other energy-related services. Its seven electric utility operating companies comprise the nation's fifth largest investor-owned electric system, serving 4.5 million customers within 36,100 square miles of Ohio, Pennsylvania and New Jersey; and its generation subsidiaries control more than 14,000 megawatts of capacity.

17. Defendant Element Merger Sub, Inc. is a Maryland corporation and wholly owned subsidiary of FirstEnergy.

SUBSTANTIVE ALLEGATIONS

18. On February 11, 2010, Allegheny Energy and FirstEnergy jointly issued a press release and filed it with the United States Securities and Exchange Commission ("SEC") wherein they disclosed the entry by Allegheny Energy and FirstEnergy into a definitive agreement under

which FirstEnergy will acquire Allegheny Energy in an all stock transaction (the "Merger Agreement"). The joint press release provides, in relevant part, as follows:

AKRON, Ohio and GREENSBURG, Pa., Feb 11, 2010 /PRNewswire via COMTEX/ -- FirstEnergy (NYSE: FE) and Allegheny Energy, Inc. (NYSE: AYE) today announced that both companies' boards of directors have unanimously approved a definitive agreement in which the companies would combine in a stock-for-stock transaction.

Under the terms of the agreement, Allegheny shareholders would receive 0.667 shares of FirstEnergy common stock in exchange for each share of Allegheny they own. Based on the closing stock prices for both companies on February 10, 2010, Allegheny shareholders would receive a value of \$27.65 per share, or \$4.7 billion in the aggregate. FirstEnergy will also assume approximately \$3.8 billion in Allegheny net debt. The price per share represents a premium of 31.6 percent to the closing stock price of Allegheny on February 10, 2010, and a 22.3 percent premium to the average stock price of Allegheny over the last 60 days ending February 10, 2010. Following the completion of the merger, it is anticipated that FirstEnergy shareholders would own approximately 73 percent and Allegheny shareholders would own approximately 27 percent of the combined company.

The transaction is anticipated to be accretive to FirstEnergy earnings in the first year following the close. The companies expect to complete the transaction within 12-14 months.

* * *

"The combination of our companies is a natural fit that will accelerate our efforts to strengthen the operating performance of our generating fleet while building on our long-standing dedication to customers, shareholders and employees," said Anthony J. Alexander, president and chief executive officer of FirstEnergy. "This transaction will provide outstanding value to both companies' shareholders - offering enhanced earnings growth potential and a more competitive cost structure. Among other benefits, it would increase generation resources by 70 percent, more than double the amount of supercritical coal capacity, improve the overall environmental performance of the generation fleet, and increase our customer base by 35 percent. We also expect to create significant efficiencies and economies of scale as we share best practices across the new organization.

"This combination supports our strategy of being a leading regional energy provider, focused on both regulated utility operations and our competitive generation business," Mr. Alexander said. "Simply put, it provides a far better platform for growth than either company would have been capable of achieving on a stand-alone basis."

Paul J. Evanson, chairman, president and chief executive officer of Allegheny, said, "This transaction significantly enhances value for our shareholders, who will

receive both a meaningful premium and a substantial increase in the dividend based on FirstEnergy's current practice. The combined company will have substantial upside potential with increased scale and a more diverse generation fleet. We plan on working closely with FirstEnergy to integrate the businesses while maintaining both companies' long-standing focus on reliability, customer service, quality and safety."

* * *

Structure and Organization

Following completion of the merger, the combined company would retain the FirstEnergy name and be headquartered in Akron, Ohio. The company's customers will continue to be served by their current electric utility companies including: Pennsylvania Electric Company (Penelec); Pennsylvania Power Company (Penn Power); Metropolitan Edison Company (Met-Ed); Allegheny Power (including: West Penn Power Company; Monongahela Power Company; The Potomac Edison Company); Ohio Edison Company; The Cleveland Electric Illuminating Company (CEI); The Toledo Edison Company; and Jersey Central Power & Light (JCP&L).

Anthony J. Alexander will continue to serve as president and chief executive officer of FirstEnergy. Paul J. Evanson, currently chairman, president and chief executive officer of Allegheny, will become executive vice chairman of the combined company, reporting to Mr. Alexander. The FirstEnergy board will be expanded from 11 to 13 people with two additional directors from Allegheny.

19. In a February 11, 2010 Presentation to investors, FirstEnergy made clear that the deal was for the benefit of FirstEnergy. The Presentation provides, in relevant part that the "[t]ransaction provides numerous opportunities to create value:

- Increased scale, scope and diversification improves operating performance and geographic reach
- More cost-effective fuel procurement options and O&M savings
- Improved risk profile through existing and planned FERC regulated transmission investments
- Attractive shareholder return potential
- Diversified avenues for growth between regulated and generation businesses
- Solid balance sheet with strong operating cash flows

20. Further, FirstEnergy stated that it anticipates the “transaction to be accretive to earnings in the first year following the close.”

21. Based upon the closing price of FirstEnergy shares on the day of the announcement of the deal, Allegheny Energy shareholders would receive only \$27.65 for each of their shares. In fact, Allegheny Energy was trading at was trading at \$29.16 a share in May 2009 and was trading at \$27.64 a share as recently as September 18, 2009. Moreover, while FirstEnergy shares closed at \$39.59 on February 11, 2010, in the time since the announcement of the deal, FirstEnergy stock has closed down in the first trading days since the announcement. Also, significantly, review establishes that FirstEnergy traded as low as \$37.19 in July 2009 and has dropped from \$47.28 in December to its current low of \$39.21, a loss of over 15% of its price. Thus, the nominal premium offered to Allegheny Energy shareholders is further troubling in light of the recent drop in FirstEnergy’s stock price, as well as the fact that as a result of the deal, Allegheny Energy shareholders will hold only a 27% interest in FirstEnergy.

22. Moreover, FirstEnergy’s promotion of the Proposed Acquisition fails to adequately address the fact that in the fourth quarter of 2009, its profits fell by approximately 40%, apparently due to continued weak demand for power generation among its steel and automotive customers.

23. Additionally, according to one analyst, \$27.65 a share for Allegheny Energy would value the stock well below where the market has historically valued Allegheny, with ten year examples of the stock trading between 14.2x-26.4x cash earnings levels and price to cash earnings at about 7.5x at the deal’s price.

24. As such, the Proposed Acquisition will allow FirstEnergy to purchase Allegheny Energy shares at an unfairly low price while availing itself of Allegheny Energy’s significant value and upside or long-term potential.

PRECLUSIVE DEAL PROTECTION MECHANISMS

25. The Merger Agreement contains certain provisions that unduly benefit FirstEnergy by making an alternative transaction either prohibitively expensive or otherwise impossible. These provisions would be problematic in virtually any transaction, but given the market reaction to the Proposed Acquisition, the financial analysis performed in support thereof, and the razor thin “benefit” to be derived by Allegheny Energy shareholders (if at all), these provisions carry even more weight to unfairly prejudice any effort by another suitor to bid for Allegheny Energy.

26. Here, for example, the Merger Agreement contains a termination fee provision that requires Allegheny Energy to pay \$150,000,000.00 to FirstEnergy if the Merger Agreement is terminated under certain circumstances and expenses up to \$45,000,000.00.

27. Significantly, the volatility in FirstEnergy’s stock price during 2009 bears directly on the chilling quality of the termination fee. On the date the deal was announced, the termination fee and expenses payable under this provision was over 4% of the total value of the Proposed Acquisition; certainly an amount that would make the Company that much more expensive to acquire for potential purchasers, while resulting in a corresponding decline in the amount of consideration payable to Allegheny Energy’s shareholders. Presently, this volatility looms larger as Allegheny Energy shareholders have no certainty of the value of the deal and the percentage impact of the termination fee and expenses may continue to increase.

28. The Merger Agreement also contains a “no shop” provision that restricts Allegheny Energy from considering alternative acquisition proposals by, *inter alia*, constraining Allegheny Energy’s ability to solicit or communicate with potential acquirers or consider their proposals. Specifically, the provision prohibits Allegheny Energy from soliciting any alternative proposal, but permits the Board to consider an *unsolicited* proposal only if it constitutes or is reasonably

calculated to lead to a “Superior Proposal” as defined in the Merger Agreement. However, even the Board’s consideration of unsolicited proposal is restricted: prior to considering any such proposal, the Board must determine, in consultation with its financial advisors, that its fiduciary duties *require* it to consider the proposal. Thus, the Board cannot consider alternative proposals even if it reasonably believes that any such proposal would be beneficial to shareholders.

29. Further, the Agreement reduces the possibility of a topping offer from an unsolicited purchaser. Here, Defendants agreed to provide FirstEnergy information in order to match any other offer, thus providing FirstEnergy access to the unsolicited bidder’s financial information and giving FirstEnergy the ability to top the superior offer. Thus, a rival bidder is not likely to emerge with the cards stacked so much in favor of FirstEnergy.

30. Finally, and critically, the Merger Agreement does not include protections to ensure that the consideration payable to shareholders will remain within a range of reasonableness. In a conventional stock-for-stock transaction, the parties often negotiate and implement a “floor” on the value of the consideration payable to shareholders, which establishes the lowest possible price payable. In other cases, the parties limit the stock component of the consideration (and thus the volatility in the value of the consideration), by agreeing that the shareholders will receive cash *and* stock in exchange for their shares. Such transactions also often include a “collar,” which establishes parameters that attempt to minimize the impact of stock price fluctuations on the value of the consideration payable to shareholders. The Merger Agreement contains none of these protections. Rather, the Merger Agreement contains a *fixed* exchange ratio of .667 which means that Allegheny Energy shareholders will receive .667 shares of FirstEnergy common stock for each of their shares, *regardless of FirstEnergy’s stock price at the close of the transaction*. Thus, the consideration payable to Allegheny Energy shareholders is not insulated from the very real fluctuations in

FirstEnergy's stock price, and shareholders are left in the precarious position of not knowing whether the consideration payable to them will decline further.

31. Significantly, as set forth in herein, since the announcement of the merger, shares of FirstEnergy have fallen each trading day since the deal was announced.

32. Accordingly, the true value of the Company's shares is compromised by the consideration offered in the Proposed Acquisition and the Proposed Acquisition is the product of the Board's breaches of fiduciary duty, aided and abetted by FirstEnergy and Allegheny Energy.

INDIVIDUAL DEFENDANTS' FIDUCIARY DUTIES

33. In any situation where the directors of a publicly traded corporation undertake a transaction that will result in either a change in corporate control or a break-up of the corporation's assets, the directors have an affirmative fiduciary obligation to act in the best interests of the company's shareholders, including the duty to obtain maximum value under the circumstances. To diligently comply with these duties, the directors may not take any action that:

- (a) adversely affects the value provided to the corporation's shareholders;
- (b) will discourage or inhibit alternative offers to purchase control of the corporation or its assets;
- (c) contractually prohibits them from complying with their fiduciary duties;
and/or
- (d) will provide the directors, executives or other insiders with preferential treatment at the expense of, or separate from, the public shareholders, and place their own pecuniary interests above those of the interests of the company and its shareholders.

34. In accordance with their duties of loyalty and good faith, the Individual Defendants, as directors and/or officers of Allegheny Energy, are obligated to refrain from:

(a) participating in any transaction where the directors' or officers' loyalties are divided;

(b) participating in any transaction where the directors or officers are entitled to receive a personal financial benefit not equally shared by the public shareholders of the corporation; and/or

(c) unjustly enriching themselves at the expense or to the detriment of the public shareholders.

35. Plaintiff alleges herein that the Individual Defendants, separately and together, in connection with the Proposed Acquisition, violated, and are violating, the fiduciary duties they owe to Plaintiff and the other public shareholders of Allegheny Energy, including their duties of loyalty, good faith, candor, and due care. As a result of the Individual Defendants' divided loyalties, Plaintiff and Class members will not receive adequate, fair or maximum value for their Allegheny Energy common stock in the Proposed Acquisition.

36. As a result of these breaches of fiduciary duty, the Company's public shareholders will not receive adequate or fair value for their common stock in the Proposed Acquisition.

CLASS ACTION ALLEGATIONS

37. Plaintiff brings this action as a class action pursuant to Rule 2-231 of the Maryland Rules, individually and on behalf of all holders of Allegheny Energy common stock who are being and will be harmed by the Individual Defendants' actions, described herein (the "Class"). Excluded from the Class are Defendants and any person, firm, trust, corporation or other entity related to or affiliated with any Defendant.

38. This action is properly maintainable as a class action because, *inter alia*:

(a) The Class is so numerous that joinder of all members is impracticable. Allegheny Energy's stock is publicly traded on the New York Stock Exchange and Plaintiff believes

that there are hundreds if not thousands of holders of such shares. Moreover, the holders of these shares are geographically dispersed throughout the United States;

(b) There are questions of law and fact that are common to the Class and which predominate over questions affecting any individual Class member. These common questions include, *inter alia*: (i) whether the Individual Defendants have engaged in self-dealing, to the detriment of Allegheny Energy's public shareholders; (ii) whether the Proposed Acquisition is unfair to the Class, in that the price is inadequate and is not the fair value that could be obtained under the circumstances; (iii) whether FirstEnergy aided and abetted the Individual Defendants' breaches of fiduciary duty; and (iv) whether the Class is entitled to injunctive relief and/or damages as a result of the wrongful conduct committed by Defendants;

(c) Plaintiff is committed to prosecuting this action and has retained competent counsel experienced in litigation of this nature. The claims of Plaintiff are typical of the claims of the other members of the Class and plaintiff has the same interests as the other members of the Class. Accordingly, Plaintiff is an adequate representative of the Class and will fairly and adequately protect the interests of the Class;

(d) The prosecution of separate actions by individual members of the Class would create the risk of inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendants, or adjudications with respect to individual members of the Class which would, as a practical matter, be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests; and

(e) Defendants have acted, or refused to act, on grounds generally applicable to, and causing injury to, the Class and, therefore, preliminary and final injunctive relief on behalf of the Class as a whole is appropriate.

FIRST COUNT

Breach of Fiduciary Duty against the Individual Defendants

39. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

40. As alleged herein, Defendants have initiated a process to sell Allegheny Energy that undervalues the Company and vests them with benefits that are not shared equally by Allegheny Energy's public shareholders – a clear effort to take advantage of the temporary depression in Allegheny Energy's stock price. In addition, by agreeing to the Proposed Acquisition, Defendants have capped the price of Allegheny Energy at a price that does not adequately reflect the Company's true value. Moreover, Defendants failed to sufficiently inform themselves of Allegheny Energy's value, or disregarded the true value of the Company, in an effort to benefit themselves. Furthermore, any alternate acquirer will be faced with engaging in discussions with a management team and board that is committed to the Proposed Acquisition.

41. As such, unless the Individual Defendants' conduct is enjoined by the Court, they will continue to breach their fiduciary duties to Plaintiff and the other members of the Class, and will further a process that inhibits the maximization of shareholder value and the disclosure of material information.

42. Plaintiff and the members of the Class have no adequate remedy at law.

SECOND COUNT

Aiding and Abetting the Board's Breaches of Fiduciary Duty against Defendants FirstEnergy and Allegheny Energy

43. Plaintiff incorporates each and every allegation set forth above as if fully set forth herein.

44. Defendant FirstEnergy knowingly assisted the Individual Defendants' breaches of fiduciary duty in connection with the Proposed Acquisition, which, without such aid, would not have occurred. In connection with discussions regarding the Proposed Acquisition, FirstEnergy obtained sensitive non-public information concerning Allegheny Energy's operations and thus had the advantage to acquire the Company at an unfair price.

45. As a result of this conduct, Plaintiff and the other members of the Class have been and will be damaged in that they have been and will be prevented from obtaining a fair price for their shares.

46. Plaintiff and the members of the Class have no adequate remedy at law.

WHEREFORE, Plaintiff demands injunctive relief, in his favor and in favor of the Class, and against the Defendants, as follows:

A. Declaring that this action is properly maintainable as a class action, certifying Plaintiff as Class representative and certifying his counsel as class counsel;

B. Declaring and decreeing that the Proposed Acquisition was entered into in breach of the fiduciary duties of the Individual Defendants and is therefore unlawful and unenforceable, and rescinding and invalidating any merger agreement or other agreements that Defendants entered into in connection with, or in furtherance of, the Proposed Acquisition;

C. Preliminarily and permanently enjoining Defendants, their agents, counsel, employees and all persons acting in concert with them from consummating the Proposed Acquisition;

D. Directing the Individual Defendants to exercise their fiduciary duties to obtain a transaction that is in the best interests of Allegheny Energy's shareholders;

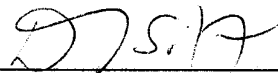
E. Imposing a constructive trust, in favor of Plaintiff and the Class, upon any benefits improperly received by Defendants as a result of their wrongful conduct;

F. Awarding Plaintiff the costs and disbursements of this action, including reasonable attorneys' and experts' fees; and

G. Granting such other and further equitable relief as this Court may deem just and proper.

Respectfully submitted,

TYDINGS & ROSENBERG LLP

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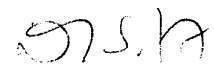
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JURY DEMAND

Plaintiff, Patrick Sheridan, prays a jury on all issues so triable.



Daniel S. Katz