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COMMITTEE ON EDUCATION AND THE  
WORKFORCE

March 21, 2012

Ms. Mary L. Schapiro  
Chairman  
United States Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Re: FirstEnergy Corporation

Dear Chairman Schapiro:

I am writing to request that the Securities and Exchange Commission conduct an investigation into whether FirstEnergy Corporation violated federal securities laws in statements that it made to its investors with respect to the cracking that was discovered on October 10, 2011 in the concrete wall of the shield building at FirstEnergy's Davis-Besse nuclear power plant.

Davis-Besse is a major asset of FirstEnergy, and any reduction of the value of Davis-Besse would have a significant impact on the price of FirstEnergy stock. The NRC operating license for Davis-Besse expires in 2017 and FirstEnergy has applied for a 20-year extension of that license. Any problems with the integrity of the wall of the shield building could have an effect upon that license extension application. If that application were denied, it could have a major effect upon the value of FirstEnergy stock.

On October 10, 2011, FirstEnergy discovered cracking in the concrete wall of the shield building at Davis-Besse. The shield building is one element of the "containment" system for the nuclear reactor. Since the discovery of that cracking, FirstEnergy has issued a number of public statements that have minimized both the nature of the cracking and the function of the shield building itself. Those statements stand in sharp contrast to what FirstEnergy has told the NRC. I am concerned that FirstEnergy may have made material misrepresentations to its investors, in violation of the securities laws of the United States, in an effort to minimize the appearance of the problem at Davis-Besse.

On October 31, 2011, FirstEnergy issued a letter "To The Investment Community" (attached), in which FirstEnergy discussed the cracking that had been discovered. This is how FirstEnergy described the purpose of the shield building in that letter to its investors:

"The Shield Building is a 2½-foot-thick reinforced concrete structure that provides protection from natural phenomena including wind and tornados."

On August 27, 2010, FirstEnergy submitted a License Renewal Application to the NRC. This is how FirstEnergy described the purposes of the shield building to the NRC on p.2.4-3 of that Application:

"The Shield Building is a concrete structure surrounding the Containment Vessel. It is designed to provide biological shielding during normal operation and from hypothetical accident conditions. The building provides a means for collection and filtration of fission product leakage from the Containment Vessel following a hypothetical accident through the Emergency Ventilation System, an engineered safety feature designed for that purpose. In addition, the building provides environmental protection for the Containment Vessel from adverse atmospheric conditions and external missiles."

On February 28, 2012, FirstEnergy submitted to the NRC its Root Cause Analysis Report, relating to the cracking in the shield building wall. This is how FirstEnergy described the purposes of the shield building to the NRC on Page 28 of that report:

The shield building is designed to provide biological shielding during normal operation and from hypothetical accident conditions [Reference 10.1.1]. The shield building provides radiation shielding, a means for collection and filtration of fission product leakage from the containment vessel following a hypothetical accident, and environmental protection for the containment vessel from adverse atmospheric conditions including extreme winds, tornadoes, and tornado-borne missiles.

So, to its investors, FirstEnergy described the shield building as something that merely "provides protection from natural phenomena..." But, to the NRC, which knows the real functions of the shield building, FirstEnergy described its purposes truthfully.

FirstEnergy's description of the cracking is even more misleading. This is how FirstEnergy described the cracking in its October 31, 2011 Letter "To The Investment Community:"

“[A] sub-surface hairline crack was identified in one of the exterior architectural elements on the Shield Building on October 10 following opening of the building for installation of the new reactor head. These elements serve as architectural features and do not have structural significance.”

When the cracking was discovered on October 10, 2011, FirstEnergy knew that the cracking was located adjacent to the main outer reinforcing steel bars (“rebar”) of the shield building wall. The October 10, 2011 “Condition Report” clearly states this location. That reinforcing steel unquestionably does “have structural significance.”

The characterization of the cracking being in “exterior architectural elements” of the wall appears to have been intentionally misleading. The cracking was clearly within the structural components of the concrete wall and was known to be there from the first moment of discovery.

Testing and core bores over the course of the next three weeks disclosed that the cracking was laminar (sheet) cracking that existed in all of the areas tested and in both the lower and upper levels of the wall. Those tests and bores confirmed that the cracking was located adjacent to the main outer steel rebar. At the time FirstEnergy wrote its October 31 letter to investors, FirstEnergy knew this. But, this is how FirstEnergy described the situation in that letter:

“During investigation of the crack at the Shield Building opening, concrete samples and electronic testing found similar sub-surface hairline cracks in most of the building’s architectural elements.”

As far as my staff can determine, FirstEnergy never disclosed the true location of the cracking until a public meeting that the NRC conducted, at my request, on January 5, 2012. My staff has not been able to find any press release in which FirstEnergy has admitted the true location of the cracking.

At some time prior to or shortly after its October 31 letter to investors, the NRC informed FirstEnergy that it would have to calculate the remaining strength of the shield building wall based upon an assumption that the main outer vertical steel did not exist. In other words, the NRC had concluded that the laminar cracking of the wall rendered the vertical outer steel rebar mat structurally ineffective. As far as my staff can determine, FirstEnergy has never disclosed to the public either this NRC requirement or the extent of the cracking that led the NRC to impose it.

The bottom line is that FirstEnergy told its investors that it had found “sub-surface hairline cracks” in “the building’s architectural elements” that “do not have structural significance,” when what it had actually found was laminar cracking adjacent to the main outer steel reinforcement that was so extensive that the NRC required FirstEnergy to

assume that the main outer vertical steel did not even exist. These discrepancies merit an investigation by the SEC into whether or not FirstEnergy has made material misrepresentations to its investors.

Sincerely,

A handwritten signature in black ink that reads "Dennis J. Kucinich". The signature is written in a cursive style with a prominent initial "D" and a long, sweeping tail.

Dennis J. Kucinich  
Member of Congress