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via email

Dr. Ake Almgren, Chairman of the Board
PJM Interconnection
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Dr. Almgren,

As a member of PJM's Public Interest & Environmental Organizations User Group, I am bewildered by your selection of Manu Asthana to be the new CEO of PJM.

You cite "a wealth of experience from the electricity value chain"¹ in explaining your choice, but his management at Direct Energy coincides with a troubling record by the company engaging in predatory practices; ripping off household consumers; disconnecting families' electricity service in violation of statutes; and displaying callousness and showing no contrition for the harm imposed on customers.

The selection of Mr. Asthana is inconsistent with the need for PJM to adhere to the principles of accountability, transparency, and prioritization of PJM's customers: the 65 million people that pay PJM's \$300 million annual budget through their monthly utility bills.

Your troubling choice for CEO requires in-person explanation to members of PJM's Public Interest & Environmental Organizations User Group as to how an executive from a company notorious for breaking the rules and ripping off household consumers is fit to serve as PJM's CEO.

Mr. Asthana was President of Direct Energy Residential from November 2013 through November 2015, and President of Direct Energy's North America Home from November 2015 through December 2018. During this time, Mr. Asthana was in charge of the divisions responsible for egregious abuses against household consumers and Direct's employees, including:

¹ <https://pjm.com/-/media/about-pjm/newsroom/2019-releases/20191118-pjm-board-names-manu-asthana-as-pjm-president-and-ceo.ashx>

- On May 1, 2019, the Connecticut Public Utilities Regulatory Authority assessed Direct Energy a \$1.5 million civil penalty for committing numerous violations of state law. In describing the necessity of the penalty, the state ripped Direct Energy's management: "Direct's callousness toward its marketing violations was exhibited repeatedly throughout the hearings. Direct's management displayed no regard for the customers affected and displayed no contrition for the company's actions. After hearing days of testimony, reviewing hundreds of pages of transcripts, and listening to numerous audio recordings of marketing calls, the Authority concluded that Direct was willing to employ whatever means necessary to gain customers."² The vitriol directed at Direct Energy's management was during Mr. Asthana's tenure as President of Direct Energy Home.
- Partially in response to a complaint filed by Public Citizen,³ the Texas Public Utility Commission ordered Direct Energy to pay a \$220,000 administrative penalty on July 30, 2015 for seeking to cut off electricity service to 252 Texas families during extreme weather events, in violation of state law.⁴ Under Mr. Asthana's leadership, hundreds of families would have seen their power disconnected during a record cold snap, thereby potentially endangering the public health and safety of families.
- On June 28, 2017, the Texas Public Utility Commission fined Direct Energy \$70,000 for fraudulent door-to-door sales tactics.⁵
- On November 12, 2019, Judge Steven P. Logan of the U.S. District Court of Arizona approved a settlement requiring Direct Energy to pay \$1.3 million stemming from Fair Labor Standards Act violations in a class action lawsuit brought by employees.⁶
- Over a 10-year period, Direct Energy had applied improper late penalty payment charges on overdue energy bills in Alberta, overcharging consumers by \$5,778,000.⁷ From 2014-15, the Utilities Consumer Advocate of Alberta noted that consumer complaints against Direct Energy quadrupled,⁸ and brought charges against Direct Energy.⁹
- In 2016, the Michigan Public Service Commission launched an investigation into

² Docket No. 13-07-17, *PURA Investigation into Direct Energy Services, LLC's Trade Practices*, at Page 20, [www.dpuc.state.ct.us/dockcurr.nsf/8e6fc37a54110e3e852576190052b64d/327172692f33d346852583ed00526724/\\$FILE/130717-050119.pdf](http://www.dpuc.state.ct.us/dockcurr.nsf/8e6fc37a54110e3e852576190052b64d/327172692f33d346852583ed00526724/$FILE/130717-050119.pdf)

³ Case 42524, http://interchange.puc.texas.gov/Documents/42524_1_790818.PDF

⁴ Docket No. 44833, http://interchange.puc.texas.gov/Documents/44833_3_860300.PDF

⁵ Docket No. 47362, http://interchange.puc.texas.gov/Documents/47362_1_945771.PDF

⁶ *Alvarez v. Direct Energy*, Case # 16-cv-03657.

⁷ *Direct Energy 2015 Late Payment Penalty Charge Settlement Agreement*, Alberta Utilities Commission, Decision 20732-D01-2016, August 10, 2016, www.auc.ab.ca/regulatory_documents/ProceedingDocuments/2016/20732-D01-2016.pdf

⁸ Matt McClure, "Direct Energy faces mounting consumer complaints," *Calgary Herald*, <https://calgaryherald.com/news/local-news/direct-energy-faces-mounting-consumer-complaints>

⁹ "Direct Energy charged under consumer protection law," *Canadian Press*, November 4, 2015.

widespread “slamming” practices by Direct Energy’s natural gas retail operations after documenting over 300 examples of such abuses by the company.¹⁰

- A class action lawsuit accuses Direct Energy of failing to adequately disclose price-gouging variable rates in their residential contracts.¹¹
- Kara Lopez sued Direct Energy for violation of the federal Family and Medical Leave Act. When Ms. Lopez returned from maternity leave, Direct Energy had replaced her job with someone she had previously supervised and demoted her, cutting her pay by \$17,000/year. Shortly afterward, her position was eliminated entirely. On November 14, 2019, Judge David Hittner denied Direct Energy's Motion for Summary Judgement, and the case remains active.¹²
- Direct Energy partnered with suspect web sites like instantplaysweepstakes.com enticing unsuspecting individuals to fill out information that they thought was entering them into a sweepstakes, when really the information was being used by Direct Energy to trick individuals into retail energy contracts.¹³
- A class-action lawsuit was filed against Direct Energy for violating Texas law on debt-collection procedures. The parties reached an undisclosed financial settlement on August 19, 2019 in return for the case being dropped.¹⁴
- On December 21, 2017, the California Public Utilities Commission assessed a \$539,841 penalty against Direct Energy for failing to meet the state’s renewable energy resource requirement.¹⁵
- On December 13, 2017 the California Public Utilities Commission issued a \$113,153 citation against Direct Energy for violating the state’s Resource Adequacy Program.¹⁶

Selecting an individual with management responsibilities from a company with this type of extensive, troubling track record of non-compliance with basic consumer protection laws is troubling.

This is a time when it is critical for PJM to regain the confidence of its stakeholders and regulators. If PJM was fully aware of this history of Mr. Asthana’s company’s terrible track record, then stakeholders require an explanation of why he is now qualified to lead PJM. If PJM did not know this history, and it was not disclosed by Mr. Asthana to PJM, a reevaluation of 1) his selection is on order; and 2) PJM’s egregious executive

¹⁰ Case No. U-18121, www.michigan.gov/documents/mpsc/u-18121_7-22-16_569136_7.pdf

¹¹ *Forte v. Direct Energy Services*, District Court for the Northern District of New York, 17-cv-00264.

¹² *Lopez v. Airtron, Inc.*, Case # 18-cv-04228, U.S. District Court for the Southern District of Texas.

¹³ See *Getso v. Direct Energy*, U.S. District Court for the Northern District of Texas, 16-cv-02142.

¹⁴ *Murphy v. Direct Energy*, Case #: 19-cv-01454, U.S. District Court for the Northern District of Texas.

¹⁵ Proceeding R.18-07-003.

¹⁶ CPUC Energy Citation E-4195-0037.

search methods must be changed and a new search be undertaken.

I expect a prompt response to this letter.

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