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MEMORANDUM

Date: April 21, 2017
To: OMA Energy Group (OMAEG)
From: Kim Bojko
Re: Analysis of Customer Cost Cap Language in SB 128/HB 178—ZEN Credit Program

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Senate Bill 128 (SB 128) and a companion bill, House Bill 178 (HB 178), were recently introduced in the Ohio General Assembly, altering state policy and mandating that FirstEnergy's Ohio customers subsidize FirstEnergy's nuclear generation plants. The subsidy is estimated to cost FirstEnergy's Ohio customers, at a minimum, approximately $300 million per year for 16 years or $4.8 billion total.

SB 128/HB 178 create a Zero-Emissions Nuclear credit mechanism, or ZEN credits, which would be bought from Ohio's nuclear generators, as well as out-of-state generators, and paid for by customers of the FirstEnergy Ohio distribution utilities. Under the legislation, FirstEnergy's Ohio customers would be required to purchase 18 million ZEN credits at a price of $17 per ZEN credit, totaling approximately $300 million per year (plus any increases for inflation).

While the cost of the ZEN program appears to be limited to a 5% increase on the total retail electric bill paid by any one customer, the FirstEnergy Ohio distribution utilities are authorized to defer any costs incurred over the cap, add interest, and recover that amount from customers over a subsequent 12-month period. Not only does the language in the proposed legislation authorize the creation of the deferral, it authorizes the collection of the deferral with interest over a subsequent 12-month period. Typically, under ratemaking, the Public Utilities Commission of Ohio (PUCO) would first authorize the deferral with an opportunity to recover the cost in the future (there is no guarantee that the deferral will actually be recovered from customers). The utility would then have to seek cost recovery of the deferral from the PUCO in a subsequent proceeding.

The legislation allows FirstEnergy's Ohio distribution utilities to defer any costs over the 5% cap and collect those costs with interest over the subsequent 12-month period. Accordingly, the cap is essentially meaningless as a customer will pay the 5% increase plus an additional monthly charge for the deferred amount plus interest (for any amount over the 5%). In reality, the 5% cap may be better for the utilities as they will collect their costs plus receive an interest payment with only a recovery delay of a few months.