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Statewide

Supreme Court of Ohio Allows AEP Intervention in OMAEG's Solar Subsidy Appeal (Case No. 2021-1374)

Summary: This week the Supreme Court of Ohio granted AEP's request to intervene as an appellee in OMAEG's appeal of the PUCO order implementing the H.B. 128 Solar Subsidy Rider. AEP asserted that OMAEG's appeal could result in it "not receiving adequate cost recovery and upend how utilities like AEP define and charge customers." On appeal, OMAEG will assert that the PUCO did not follow the plain language of the law when it implemented the Solar Subsidy Rider charge on a "per account" basis instead of on a "per customer basis," which is likely to result in many non-residential customers being charged for their multiple accounts, meters, and facilities. OMAEG will also advocate that the PUCO incorrectly determined that the rider must collect \$20 million from customers annually, regardless of whether the solar facilities were operating and generating output to earn credits. OMAEG's initial brief will be filed with the Court on January 18, 2022.

FirstEnergy

The PUCO Moves Forward With H.B. 6-Related Investigations (Case Nos. 17-974-EL-UNC, et al.)

Summary: Several developments occurred this week in the PUCO's ongoing H.B. 6-related investigations of FirstEnergy. In the corporate separation audit, the PUCO ruled that FirstEnergy Corp.'s internal investigation report concerning H.B. 6 is protected from disclosure under attorney-client privilege but that other documents referenced in the report which led to the termination of the company's former CEO Chuck Jones and two senior vice presidents may be disclosed. The evidentiary hearing in the corporate separation case is set for March 2022.

An independent audit examining whether FirstEnergy's Distribution Modernization Rider (Rider DMR) collected charges from customers to fund H.B. 6 or other unlawful purposes is expected to be filed with the PUCO next week.

In all four of the PUCO's H.B. 6-related investigations, FirstEnergy Corp. has produced nearly 230,000 documents to parties pursuant to a subpoena seeking all documents that the company has provided the Department of Justice and the Securities and Exchange Commission. This week, FirstEnergy Corp. stated that parties can anticipate the production of more documents on a "rolling basis" with "no end in sight."