

Volume 11, Issue 7 • February 18, 2022

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Federal

FirstEnergy Reaches Agreement to Settle Shareholder Lawsuits

Summary: FirstEnergy Corp. has [announced](#) an agreement, which is subject to court approval, to resolve several shareholder lawsuits filed in state and federal courts after the fallout from the scandal-ridden House Bill 6. Under the terms of the agreement, the following six FirstEnergy Corp. directors will be ineligible for re-election at the company's annual shareholder meeting in May: Michael J. Anderson; Donald T. Misheff; Thomas N. Mitchell; Christopher D. Pappas; Luis A. Reyes; and Julia L. Johnson.

The agreement also calls for a review of the current executive team within 30 days of the 2022 annual shareholder meeting, as well as more stringent board oversight of FirstEnergy's lobbying and political activities, including "periodically reviewing and approving a political and lobbying action plan prepared by management." Lastly, the agreement includes a payment to FirstEnergy Corp. of \$180 million, to be paid by insurance after court approval, minus any court-ordered attorney's fees awarded to plaintiffs.

Judge John Adams of the U.S. District Court for the Northern District of Ohio questioned how the agreement was reached without any testimony under oath from any of the directors or officers of FirstEnergy Corp. Judge Adams also stated that "it is this court's duty to review relevant factors related to the settlement, including the likelihood of success on the merits, the diligence of counsel in pursuing the claims, the risk associated with the expense and complexity of litigation, and the objections raised by shareholders." A hearing on the issue has been set for March 9, 2022.

PUCO Submits Comments on PJM's State Agreement Approach with NJBPU (Docket No. ER22-902-000)

Summary: On Feb. 16, FERC issued an order accepting a State Agreement Approach (SAA) between PJM and the New Jersey Board of Public Utilities (NJBPU). Under the agreement, PJM will solicit project proposals to expand or upgrade its transmission system to provide for the deliverability of 7,500 MW of offshore wind into New Jersey by 2035. New Jersey is the first state in the PJM region to use the SAA, a supplementary

transmission planning and cost allocation mechanism in PJM's operating agreement designed to meet states' public policy needs.

The PUCO submitted [comments](#) to FERC supporting New Jersey's right to pursue its public policy goals. However, the comments clarified, "[a]s Ohio could in no way be perceived to benefit from the New Jersey undertaking and has not chosen to participate in the proposed SAA, we expect that none of the costs that would be socialized to end up as part of our ratepayers' bills, now or in the future."

Statewide

PUCO Releases Randazzo's HB 6-Related Emails

Summary: Pursuant to public records requests, the PUCO has begun releasing communications from former Chairman Sam Randazzo. The communications were initially produced to the U.S. Department of Justice (DOJ) in response to subpoenas in the federal criminal House Bill 6 case.

Randazzo sent the communications between spring 2019 – when the General Assembly was debating HB 6 – and the day the FBI raided his home in Columbus. So far, the emails reveal Randazzo's involvement in the HB 6 repeal process and his suggested scope of the PUCO's HB 6 spending audit of FirstEnergy.

Regarding the PUCO's HB 6-related corporate separation audit of FirstEnergy, Randazzo emphasized to a PUCO public affairs director that corporate separation requirements "are not designed to address politics or lobbying (coordinated or otherwise) except as cost allocation may be involved."

Given the volume of the requested documents, they are anticipated to be released on a rolling basis.