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Statewide

PUCO Denies OMAEG's Request for Reconsideration of Rider CAF Order (Case No. 20-1143-EL-UNC)

Summary: On Oct. 21, 2020, the PUCO denied OMAEG's request for reconsideration of the PUCO order establishing the Clean Air Fund Rider (Rider CAF). Despite HB 6's plain language, the PUCO determined that nothing prohibited it from extending the rate cap for industrial customers to include all non-residential customers eligible to become self-assessing purchasers.

The PUCO also concluded that customers should be made to pay the utilities' commercial activity taxes (CAT) through the Rider CAF rates, contrary to OMAEG's arguments that this conflicts with industry standards and Ohio law. Similarly, the PUCO rejected OMAEG's argument that HB 6's plain language requires a bill impact analysis to ensure that customers are not paying "abrupt or excessive rates." The PUCO found that the rate caps required by HB 6 are sufficient safeguards for customers, even though OMAEG explained that this interpretation would render the restriction against "abrupt or excessive rates" meaningless.

Next, the PUCO rejected OMAEG's argument that the Rider CAF violates Ohio law that prohibits discriminatory rates, as the rate design is likely to result in disparate rates for similarly situated non-residential customers. The PUCO stated that the Rider CAF's adopted rate design complies with HB 6 and fairly apportions funding of the rider across the state.

Lastly, the PUCO asserted that HB 6 required the PUCO to establish the Rider CAF, regardless of the legal proceedings surrounding the HB 6 scandal. The PUCO did not address OMAEG's counterarguments that the PUCO has broad authority over scheduling its proceedings, HB 6 only required the Rider CAF to become effective in January 2021, and the PUCO established the Rider CAF in August 2020, after the federal government announced its HB 6-related prosecution and investigation. OMAEG is considering its appeal options.

FirstEnergy

FirstEnergy Seeks to Limit Discovery and Participation in PUCO HB 6 Investigation (Case No. 20-1502-EL-UNC)

Summary: Ohio Edison Company, The Cleveland Electric Illuminating Company, and The Toledo Edison Company (collectively known as FirstEnergy) opposed a notice to depose its witness and requested that the PUCO limit discovery to only written responses. FirstEnergy has also sought to minimize participation in the investigation by arguing that several stakeholders, including OMAEG, failed to satisfy the legal standard to become a party to the case.

OMAEG [replied](#) to FirstEnergy's baseless arguments, advocating for the right embedded in Ohio law and the PUCO's rules to protect its members' interests in ensuring that they are only assessed just, reasonable, and lawful rates and that the monies paid by customers were not used to fund illegal activities.

FirstEnergy Opposes Discovery in SEET Case (Case Nos. 20-1034-EL-UNC, et al.)

Summary: FirstEnergy is attempting to thwart lawful discovery in the proceeding to determine whether FirstEnergy's 2018 and 2019 earnings passed the significantly excessive earnings test (SEET). A change of law in the 2019 state budget requires the PUCO to consider the earnings of all three FirstEnergy distribution utilities collectively, making it less likely that customers would be refunded for excessive earnings by the most profitable of the three distribution utilities.

The Office of the Ohio Consumers' Counsel (OCC) is seeking information on all three of the individual distribution utilities' earnings for part of 2019, which FirstEnergy argues is irrelevant to the case.

OCC further argues that the PUCO should delay the proceeding to allow for the Supreme Court of Ohio to issue a decision in the 2017 FirstEnergy SEET case, which will determine whether revenues from the distribution modernization rider (DMR) should count as earnings in the SEET calculation.

If the court rules that DMR revenues must be included in the SEET calculation, then it is more likely that customers would be entitled to a refund from FirstEnergy.

DP&L

The PUCO Approves Decrease to DP&L EDR Rates (Case No. 20-1471-EL-RDR)

Summary: The PUCO approved a decrease to DP&L's Economic Development Rider (EDR) rates. The following rates will become effective on a bills-rendered basis for the first billing cycle of November 2020:

- **Secondary:** \$0.0001095/kWh, decreased from \$0.0002022/kWh.
- **Primary:** \$0.0000449/kWh, decreased from \$0.0000846/kWh.
- **Primary-Substation:** \$0.0000120/kWh, decreased from \$0.0000215/kWh.