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## **Statewide**

### **OMAEG Appeals PUCO Implementation of Solar Subsidy Rider (Case No. 21-447-EL-UNC)**

Summary: The OMAEG has filed a notice of appeal with the Supreme Court of Ohio, challenging the PUCO's implementation of the Solar Generation Fund Rider (Rider SGF) – a mechanism that provides up to \$20 million annually in subsidies to certain solar facilities.

The appeal argues that the PUCO did not follow the plain language of HB 128 when it implemented Rider SGF, and instead overstated the rider's revenue requirement, implemented the rider on a "per account basis" rather than on a "per customer basis," and excluded language that would allow for customer refunds.

### **Judge Allows HB 6 Class Action Suit to Proceed Against FirstEnergy (Case Nos. 2:20-CV-3987, et al. S.D. Ohio)**

Summary: This week, a federal judge authorized a customer class action suit to proceed against FirstEnergy Corp. for "[a]ll persons and entities residin[g] in the state of Ohio who have and/or will have to pay a monthly surcharge for electric service pursuant to HB 6."

Specifically, the plaintiffs assert that FirstEnergy Corp. and others engaged in racketeering and other unlawful acts to enact HB 6 and that customers have been harmed as a result. While the nuclear subsidy and decoupling charges under HB 6 have since been terminated and/or refunded, customers are still paying the Ohio Valley Electric Corporation (OVEC) coal subsidy charges pursuant to the scandal-ridden HB 6 (and Rider SGF, which was initially established by HB 6).

At this stage in the proceeding, the judge merely confirmed that the plaintiffs met the requirements for a class action, but legally was not allowed to consider the merits of the case.

## AEP

### **OMAEG to File Comments on AEP OVEC Rider Audit (Case Nos. 18-1004-EL-RDR, et al.)**

Summary: Today, the OMAEG will file comments on an audit of AEP's Power Purchase Agreement Rider (Rider PPA), a mechanism that subsidizes the two aging OVEC coal plants (one of which is located in Indiana).

The comments will assert that customers should be refunded all Rider PPA charges during the audit period as OVEC units were not operated properly and excessive amounts of coal was purchased at above-market prices.

In addition, text messages obtained in the proceeding reveal that a PUCO staff member directed the auditor to soften the report and modify a conclusion, which originally stated that continuing to operate the plants is not in customers' best interest. The comments further advocate for more transparency as the case proceeds to an evidentiary hearing in January 2022.