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Statewide

Randazzo Requests Dismissal of Cities' HB 6 Lawsuit (Case No. 20CV-10-7005)

Summary: The cities of Columbus and Cincinnati sued former PUCO Chairman Sam Randazzo and State Treasurer Robert Sprague in their official capacities to prevent the collection of the HB 6 nuclear subsidies, arguing that the charges are an unconstitutional tax.

Prior to his resignation last Friday, Nov. 20, Randazzo requested that the Franklin County Court of Common Pleas dismiss the claims against him. Specifically, he argued that only the Supreme Court of Ohio has authority to prevent a PUCO order from taking effect and asserted that the lawsuit failed to state a claim because electric distribution utilities (EDUs) collect the HB 6 charge, not the PUCO.

Householder, Energy Harbor, and Others Request Dismissal of AG's HB 6 Lawsuit (Case No. 20CV-00-6281)

Summary: Several defendants to Attorney General Dave Yost's HB 6 civil lawsuit requested that the court dismiss the case. Householder asserted that the case is a "political stunt that's masquerading as a lawsuit," and that the state lacks standing to sue as it did not suffer a cognizable harm, while it also failed to allege sufficient facts to show that he violated the Ohio Corrupt Practices Act.

Energy Harbor argued that the state's claim must fail because any harm that the state incurred was caused by the General Assembly passing HB 6 and Governor Mike DeWine signing the bill, and courts cannot inquire into the motive behind each legislator's vote. Lastly, Energy Harbor claimed that "the State's allegations against [it] amount only to a description of its First Amendment right to advocate for causes and legislation helpful to its business."

Defendants Matthew Borges, Neil Clark, Juan Cespedes, Jeff Longstreth, JPL & Associates LLC, Constant Content, and Generation Now raised similar arguments and contended that the state lacked standing to sue.

Duke

Duke Proposes Update to OVEC Rider (Case No. 20-1707-EL-RDR)

Summary: Duke requested the following updates to its non-bypassable Legacy Generation Resource Rider (LGR) non-residential rates. As you may recall, HB 6 established the LGR to allow EDUs to recover OVEC costs as follows:

- Part A (statewide) Rate per kWh for First 833,000 kWh per month: \$0.001801/kWh, an increase from \$0.00085/kWh.
- Part B (EDU True-Up) Rate per kWh for First 833,000 kWh per Month: \$0/kWh, a decrease from \$0.000946/ kWh.

If approved, the rates would become effective Jan. 1, 2020.

FirstEnergy

ELPC Asks PUCO to Vacate Orders Concerning Several FirstEnergy Proceedings (Case Nos. 16-481-EL-UNC, et al.)

Summary: In light of FirstEnergy Corp.'s recent filing with the U.S. Securities and Exchange Commission and former PUCO Chairman Sam Randazzo's resignation, the Environmental Law & Policy Center (ELPC) requested that the PUCO vacate the orders and conduct new proceedings in the following cases regarding the FirstEnergy Utilities: Case No. 19-361-EL-RDR; Case Nos. 16-481-EL-UNC, et al.; and Case Nos. 12-2190-EL-POR, et al.

ELPC asserted that Randazzo's failure to recuse himself from cases concerning the FirstEnergy utilities at the very least created the appearance of impropriety. While the PUCO does not have rules that specifically address this situation, ELPC argued that the PUCO has broad authority to conduct hearings in a manner that comports with fundamental fairness and due process.