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## **Federal**

### **PUCO and PAPUC Appeal New ‘Focused’ MOPR (U.S. Third Circuit Court of Appeals, Case No. 21-3243)**

**Summary:** In July 2021, PJM filed tariff revisions to allow certain state-subsidized resources to participate in PJM’s capacity auction without being subject to the Minimum Offer Price Rule (MOPR), significantly narrowing the scope of the prior MOPR. Because FERC did not rule on the filing within 60 days, the proposed tariff changes automatically became effective in September 2021.

This week, the PUCO and the Pennsylvania Public Utility Commission (PAPUC) filed an appeal with the U.S. Third Circuit Court of Appeals, arguing that the “focused” MOPR “allow[s] for the unchecked exercise of buyer-side market power ... compromise[s] the market’s competitive structure, prices, and the crucial element of reliability.”

## **AES Ohio (formerly DP&L)**

### **OCC Appeals PUCO’s Approval of AES Ohio Global Settlement (Case Nos. 18-1875-EL-GRD, et al.)**

**Summary:** On June 16, 2021, the PUCO approved a global settlement filed by AES Ohio, OMAEG, and several other parties to resolve multiple AES Ohio proceedings, including Grid Modernization, Quadrennial Review, and Significantly Excessive Earnings Test (SEET) cases.

Benefits under the settlement include: a commitment that AES Ohio will file for a new electric security plan (ESP) by October 2023; the continuation and expansion of AES Ohio’s transmission rider opt-out pilot program; economic development incentives for qualifying signatory parties; the phasing out of the non-bypassable Rate Stabilization Charge (RSC); and a commitment from AES to develop a new Customer Information System and provide customers energy usage interval data.

This week, the Office of the Ohio Consumers' Counsel (OCC) appealed approval of the settlement to the Supreme Court of Ohio and asserted that the PUCO unlawfully upheld the RSC as a valid charge and denied residential customers SEET refunds.

## **AES Ohio Opposes Discovery in OVEC Case (Case No. 20-165-EL-RDR)**

**Summary:** AES Ohio has attempted to prevent parties, including OMAEG, from deposing an Ohio Valley Electric Corporation (OVEC) representative about the OVEC coal plants' operations and the substantial costs to customers who subsidize OVEC through a PUCO-approved rider.

In [response](#), OMAEG advocated that Ohio law prevents AES Ohio (but not OVEC) from challenging the deposition because AES Ohio cannot show any individualized harm that *it* would suffer.