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Statewide

PUCO Nominating Council Seeks Applications for Commissioner Conway's Seat

Summary: The PUCO Nominating Council is seeking applications for the position of commissioner for a five-year term beginning April 11, 2022, as Commissioner [Daniel Conway](#)'s term is expiring. Applications are due by Jan. 20. After reviewing the resumes of all applicants, the Council will narrow the list to those most qualified for the position. On Feb. 4, the Council will interview the selected applicants and recommend four finalists to Gov. Mike DeWine. The governor will have 30 days to either appoint a commissioner from the list or request a new list.

Utilities Oppose Discovery in OVEC Case (Case Nos. 18-1004-EL-RDR, et al.)

Summary: AES Ohio (formerly DP&L), AEP, and Duke have attempted to prevent parties, including OMAEG, from deposing an Ohio Valley Electric Corporation (OVEC) representative in five cases that concern the operations of OVEC's coal plants and the substantial costs to customers who subsidize OVEC through PUCO-approved riders (including for a plant in Indiana).

In [response](#), OMAEG advocated that Ohio law prohibits the utilities from challenging the deposition because the utilities cannot show any individualized harm that *they* would suffer. Additionally, the utilities unreasonably requested that the PUCO require the parties to conduct five separate depositions of the same OVEC representative – one deposition for each of the five cases.

OMAEG explained that requiring parties to conduct five depositions of the same OVEC representative for each of the cases would be a waste of time and resources, and is unreasonable, unnecessary, and unduly burdensome given the substantial overlap of the issues.

FirstEnergy

PUCO Expands Audit to Review FirstEnergy-IEU Side Deal (Case No. 20-1629-EL-RDR)

Summary: This week, the PUCO expanded its House Bill 6-related audit of FirstEnergy's Delivery Capital Recovery Rider (Rider DCR) to include a review of whether FirstEnergy violated Ohio law by failing to disclose a side deal with IEU-Ohio and IEU-Ohio's counsel in its Fourth Electric Security Plan (ESP IV) Case.

The Deferred Prosecution Agreement (DPA) between FirstEnergy Corp. and the federal government indicated that in 2015, one of the consulting agreements between FirstEnergy Corp., one of Sam Randazzo's consulting companies, and IEU-Ohio was amended – and that the amended agreement called for an increase in Randazzo's retainer and supplemental payments through 2024.

Additionally, the DPA stated: **“(T)he 2015 amendment coincided with and was made in exchange for [Randazzo’s] industrial group withdrawing its opposition to a 2014 PUCO Electric Security Plan settlement package involving FirstEnergy Corp.’s Ohio electric distribution subsidiaries.”**

The PUCO cited these facts as the basis for its expanded audit and further stated that it would divide the proceeding to address the side deal separately from the other issues in the case, which include the millions of dollars in misallocated costs that resulted in charges to FirstEnergy customers, as well as the issue of whether customers paid for costs related to FirstEnergy Stadium's naming rights.

OMAEG Files Reply Comments in FirstEnergy HB 6 Spending Case (Case No. 20-1502-EL-UNC)

Summary: On Dec. 14, OMAEG filed [reply comments](#) in the PUCO review of FirstEnergy's political and charitable spending in support of House Bill 6 and against the subsequent referendum effort. The comments advocated that the PUCO should ensure that customers are not paying (through base rates) the compensation of FirstEnergy Service Company employees who carried out the HB 6 bribery scheme. The comments also urged the Commission to review the circumstances surrounding a \$4.3 million payment by FirstEnergy Corp. to former PUCO Chair Randazzo in exchange for favorable regulatory treatment and to set the case for a hearing.

**OMAEG Files Reply Comments in FirstEnergy Corporate Separation Audit
(Case No. 17-974-EL-UNC)**

Summary: On Dec. 13, OMAEG filed [reply comments](#) in the PUCO audit of FirstEnergy's compliance with Ohio corporate separation laws and regulations. The reply comments asserted that the scope of the audit is insufficient to protect customers because it failed to account for major corporate separation violations, including the costs allocated to the regulated FirstEnergy utilities to enact the \$1.1 billion nuclear subsidy in House Bill 6 and bailout their former affiliate FirstEnergy Solutions (now Energy Harbor).

The comments also urged the Commission to investigate *ex parte* communications between the former PUCO chair and the director of the FirstEnergy utilities regarding the then-pending application of their affiliate Suvon d/b/a FirstEnergy Advisors to offer competitive retail electric services (CRES).

Finally, the comments explained that the PUCO should assess forfeitures to FirstEnergy and prohibit their affiliates from offering CRES in Ohio for at least five years given the severity of their corporate separation violations.