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Statewide

Supreme Court Rules that DMR Revenues Must be Included in FirstEnergy 2017 SEET (Slip Opinion No. 2020-Ohio-5450)

Summary: Under the Significantly Excessive Earnings Test (SEET), the PUCO must determine annually whether a utility excessively earned under its electric security plan (ESP). On appeal from the Office of the Ohio Consumers' Counsel (OCC), the Supreme Court of Ohio ruled that the PUCO improperly excluded the FirstEnergy Utilities' Distribution Modernization Rider (DMR) revenues from the 2017 SEET.

The Court held that the SEET statute did not support excluding the DMR revenues and according to precedent, the DMR constituted an "adjustment" and must be included in the SEET. The Court was unpersuaded by the FirstEnergy Utilities' arguments, including that the DMR revenues would cause the FirstEnergy Utilities to face "an unnecessary element of risk." The Court concluded that OCC demonstrated prejudice because customers are only protected if the PUCO conducts a valid SEET, but found that OCC cannot show that a refund is warranted until a new SEET is conducted. Accordingly, the Court ordered the PUCO to conduct a new SEET proceeding in which it includes the DMR revenues in the analysis.

House Republicans Introduce Bill to Delay H.B. 6 Nuke Subsidies

Summary: On December 1, 2020, Representative Jim Hoops (R-Napoleon) introduced H.B. 798, which delays the electric distribution utilities' (EDUs) collection of H.B. 6 nuclear subsidies by one year, attempts to strengthen H.B. 6's audit language, and terminates H.B. 6's decoupling provisions 60 days after its enactment. H.B. 798 also amends a provision in the SEET statute (placed in the budget bill) that shields a review of the most profitable FirstEnergy EDU's earnings and requires the PUCO to consider the three FirstEnergy EDUs' earnings collectively.

However, H.B. 798 fall short by failing to reduce the subsidy term or amounts collected from customers. A financial audit is unlikely to alter the poor performance of the OVEC plants, while Ohioans could be on the hook for \$1.5 billion in additional costs to OVEC over its remaining life. The late termination of the H.B. 6 decoupling provision could still allow the

FirstEnergy Utilities to recover roughly \$13 million in costs and does nothing to address other EDUs' decoupling mechanisms in place pursuant to their respective ESPs.

AEP Ohio

AEP Proposes Increase to OVEC Rider (Case No. 20-1118-EL-RDR)

Summary: AEP proposed the following increase to its Legacy Generation Rider (OVEC Rider) rates.

- Commercial/Industrial Customers: \$0.001801/kWh for first 833,000 kWh per month, an increase from \$0.000891/kWh.

The increase will become effective on January 1, 2021, unless otherwise specified by the PUCO.

DP&L

DP&L Files for Distribution Rate Increase (Case Nos. 20-1651-EL-AIR, et al.)

Summary: On November 30, 2020, DP&L proposed to increase its electric distribution rates and requested a rate of return of 7.71%, which includes a 10.5% return on equity. If approved as filed, DP&L would receive an increase of \$120.8 million from its current revenue requirement.

DP&L Proposes Increase to OVEC Rider (Case No. 20-1715-EL-RDR)

Summary: DP&L proposed the following increases to its Legacy Generation Rider (OVEC Rider) rates.

- Secondary: \$0.001801/kWh for first 833,000 kWh per month, an increase from \$0.000925/kWh.
- Primary: \$0.001801/kWh for first 833,000 kWh per month, an increase from \$0.000925/kWh.
- Primary Substation: \$0.001801/kWh for first 833,000 kWh per month, an increase from \$0.000925/kWh.

The increases will become effective on January 1, 2021, unless otherwise specified by the PUCO.

FirstEnergy

PUCO Staff Recommends Recalculating FirstEnergy's Lost Distribution Revenue (Case Nos. 13-2173-EL-RDR, et al.)

Summary: The PUCO Staff filed testimony stating that, the number of years the FirstEnergy Utilities used to calculate their lost distribution revenue (LDR) for energy efficiency (EE) programs years 2014-2018 was excessive. Staff requested that the FirstEnergy Utilities recalculate the 2014-2018 LDR but stated that, the Utilities were unable to provide the requested data. Staff recommended that the Utilities recalculate the LDR for program year 2018 and thereafter, using a maximum of three years of energy savings. Staff also chose program year 2018 because the LDR for 2018 will be included in the Decoupling Rider until at least the Utilities' next rate case. Lastly, Staff emphasized that its recommendation applies regardless of whether the LDR is recovered through the Utilities' EE or Decoupling Riders.

FirstEnergy Proposes Increase to OVEC Rider (Case No. 20-1674-EL-RDR)

Summary: The FirstEnergy Utilities proposed the following increases to their Legacy Generation Rider (OVEC Rider) rates.

- General Service-Secondary: \$0.001801¢/kWh for first 833,000 kWh per month, an increase from \$0.000855/kWh.
- General Service-Primary: \$0.001801/kWh for first 833,000 kWh per month, an increase from \$0.000855/kWh.
- General Service-Subtransmission: \$0.001801/kWh for first 833,000 kWh per month, an increase from \$0.000855/kWh.
- General Service-Transmission: \$0.001801/kWh for first 833,000 kWh per month, an increase from \$0.000855/kWh.

The increases will become effective on January 1, 2021, unless otherwise specified by the PUCO.