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Statewide

PUCO to File Reconsideration Request Regarding FERC's MOPR Ruling

Summary: As you may recall, FERC recently issued an order requiring PJM to make subsidized generation resources subject to the minimum offer price rule (the MOPR), such as the HB 6-subsidized OVEC and nuclear plants. One of the reasons for this change, FERC stated, was the fact that these subsidized resources could distort prices downward and lead to overproduction (and inefficient production) of electricity.

This week, the PUCO announced that it would seek rehearing the FERC decision in concert with other states, listing several alleged errors in the FERC order. The PUCO stated that the FERC order results in a more “complex construct,” interferes with states’ rights to create their own energy mix, is discriminatory, is inconsistent with state and federal policies that support nuclear facilities, and does not properly set forth issues concerning OVEC or HB 6. Several commissioners indicated their disagreement with FERC’s conclusion that without the MOPR, anti-competitive effects would occur, asserting that such effects were “theoretical” and that other factors could have led to suppressed prices in the PJM market.

PUCO Affirms the Per-Account Cap for OVEC Charges (Case No. 19-1808-EL-UNC)

Summary: Over the objections of OMA Energy Group, the PUCO ruled that “per customer” is “clear and unambiguous” in meaning “per account.” The PUCO cited to a definition of “customer” as an entity with an account. As you may recall, the OMAEG challenged the PUCO’s decision to apply the HB 6-mandated cap on collections against non-residential customers on a “per account” basis as the statute, HB 6, explicitly caps collections on a “per customer” basis.

AEP

PUCO Denies AEP's Rehearing Request and Motion for Clarification (18-501-EL-RDR)

Summary: AEP sought rehearing and clarification of the PUCO order that denied AEP's request to impose a non-bypassable charge on all its customers to fund certain renewable electric generating facilities as the facilities were not needed based upon resource planning projections. The PUCO declined to reconsider its decision without issuing an opinion.

FirstEnergy

PUCO Authorizes FirstEnergy's Revenue Decoupling Rider (Case No. 19-2080-EL-ATA)

Summary: The PUCO granted FirstEnergy's request for a decoupling mechanism and to establish a decoupling rider (Rider CSR). Under the mechanism, if annual revenue in a given calendar year is less (or greater) than the 2018 baseline revenue, FirstEnergy will charge (or credit) the difference to customers through the decoupling rider. FirstEnergy will now be guaranteed to receive the level of revenues that it received in 2018 (during the warmest summer in history) every year, regardless of its operating and maintenance costs and the actual revenue received from customers for base distribution rates. The Commission approved FirstEnergy's application as filed, rejecting PUCO Staff's recommendation to weather normalize the 2018 baseline revenue due to the unusual high temperatures in 2018. Staff's approach would have minimized the possibility of creating a large decoupling rider to make up for the difference in revenue between future years and 2018. Interestingly, in this order, the PUCO stated that it had to follow the statute and could not add words to or change the statute (which directly contradicts what the PUCO did in the OVEC case where it changed the mandated cap language to "per account" from "per customer" despite the clear language in the statute).

For a complete summary of the proceeding and order, please see [this Carpenter Lipps & Leland memorandum](#).

PUCO Upholds Removal of Rate Case Filing Requirement in FirstEnergy Case (19-361-EL-RDR)

Summary: The PUCO upheld its earlier decision that FirstEnergy would not need to file for new distribution rates at the end of its current ESP in 2024. The PUCO had removed the requirement after FirstEnergy's Distribution Modernization Rider was removed from the ESP as it was invalidated by the Supreme Court of Ohio. Commissioner Conway was vocally opposed to this decision, stating the requirement was important in a low-inflation low-interest rate environment like the present one in order to keep EDUs in check. Chairman Randazzo stated that there were still adequate pressures on FirstEnergy because a stakeholder or the Commission itself could challenge the reasonableness of FirstEnergy's distribution rates through a complaint proceeding.