

**This Summary Contains Confidential and Privileged Information Pursuant to a Confidentiality Agreement and the Attorney-Client Privilege.**  
**DO NOT DISTRIBUTE OR SHARE WITH NON-MEMBERS**

## **Statewide**

### **Ohioans Against Corporate Bailouts Dismiss Federal Court Appeal**

**Summary:** As you may recall, Ohioans Against Corporate Bailouts challenged the HB 6 referendum process in federal court on the grounds they did not have the full time period allowed by the Ohio Constitution to collect signatures. The judge found that the question needed to be resolved by the Supreme Court of Ohio. Ohioans Against Corporate Bailouts appealed that decision in the 6<sup>th</sup> Circuit Court of Appeals, in addition to appearing at the Supreme Court of Ohio, to make their case that they should be allowed to continue the referendum. This week, Ohioans Against Corporate Bailouts dismissed their 6<sup>th</sup> Circuit appeal, leaving their Supreme Court case as the forum for continuing their HB 6 challenge.

### **PUCO Nominating Council Sends Names to Governor DeWine for Consideration**

**Summary:** On Thursday, January 23, the PUCO's 12-member Nominating Council sent Governor DeWine the names of four candidates who they deemed qualified to serve as a PUCO commissioner. The vacancy will be filled on April 11, 2020. The Council nominated:

- Lawrence Friedeman
- Ronald Russo
- Stephen Serraino
- Gerardo Torres

### **Several Groups Challenge FERC's Order Expanding MOPR (FERC Case No. EL 16-49-002)**

**Summary:** Several parties requested reconsideration of the recent FERC order that expanded the Minimum Offer Price Rule (MOPR) to most state-subsidized electricity resources. Among those challenging the new MOPR were FirstEnergy, DP&L, Duke, AEP, ELCON, Sierra Club, PJM Industrial Consumers, various state commissions, and

OCC. The PUCO also attempted to file a challenge, but it was rejected for a filing defect.

## AEP

### **Supreme Court of Ohio Upholds AEP's OVEC Rider on Technical Error**

**Summary:** The Supreme Court of Ohio rejected OCC's challenge to AEP's PPA Rider, which subsidizes the OVEC plants. In the majority opinion (Justice O'Connor concurred in judgment only), Justice Kennedy declined to rule on whether the subsidies interfered with FERC's jurisdiction and the Federal Power Act because the issue was not raised by OCC in its rehearing request before the PUCO.

The Court also upheld AEP's SmartCity Rider, reasoning there was not evidence before the Court demonstrating that the rider was unrelated to distribution service and thus unlawful. OCC had challenged the SmartCity Rider as an impermissible customer-funded subsidy, but the Court found that unpersuasive because subsidizing the program was within the PUCO's lawful policy-making discretion.

The Court also held that AEP's Renewable Generation Rider could not be challenged by OCC because OCC had not been prejudiced by implementation of a "placeholder" rider (i.e., a rider set to a charge of zero).

### **AEP Updates its Basic Transmission Cost Rider (BTCR) (Case No. 20-0095-EL-RDR)**

**Summary:** AEP requested to update its Basic Transmission Cost Rider, which will result in significant increases across customer classes. Through its BTCR, AEP is proposing to charge .04501 cents per kWh (previously .03914) and \$5.45 per kW (previously 3.85) for demand metered secondary customers; .04344 cents per kWh (previously .037780) and \$6.18 per kW (previously 4.50) for demand metered primary customers; and .04257 cents per kWh (previously .037030) and \$5.60 per kW (previously 4.10) for sub-transmission/transmission customers. AEP also stated that its BTCR pilot program is oversubscribed, and customer-members will receive less savings than expected due to the reallocation. The demand charge for the pilot program was increased to \$8.80, \$8.49, and \$8.32 per kW for secondary, primary, and sub-

transmission/transmission customers, respectively, while the kWh increase was consistent with the above tariffs for regular customers.