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Federal

FirstEnergy Discloses Negotiations With Feds in HB 6 Criminal Case (Case No. 1:20-MJ-00526)

Summary: In a new regulatory [filing](#), FirstEnergy Corp. has disclosed that its officials are discussing a deferred prosecution agreement with the U.S. Department of Justice to avoid potential criminal charges in the ongoing federal criminal HB 6 proceeding. Through a deferred prosecution agreement, a company could take actions, such as paying a fine or cooperating with an investigation, to avoid criminal charges. FirstEnergy further disclosed that because the negotiations are preliminary, “it cannot currently predict the timing, the outcome, or the impact of a possible resolution of the ongoing investigation.”

Statewide

PUCO Opens New Case to Implement HB 6 Solar Generation Fund Rider (Case No. 21-447-EL-UNC)

Summary: After the PUCO opened a new case last week, the PUCO staff on Monday provided comments and recommendations on the implementation of the House Bill 6 Solar Generation Fund Rider (Rider SGF), a non-bypassable mechanism that will collect \$20 million annually from customers. The recently passed House Bill 128, among other things, repealed the nuclear subsidy provision of HB 6, while leaving intact the \$20 million annual revenue requirement for qualifying solar resources. Due to the repeal of the nuclear provision, the per-customer monthly charges under HB 6’s solar provision is now limited to \$0.10 for residential customers and \$242 for industrial customers eligible to become self-assessing purchasers.

Staff said the start date for the collection of the solar charge is still Jan. 1, 2020 and the solar payments were still set to begin April 21, 2021. While HB 6 allows qualifying resources to earn generation subsidies in 2020, no subsidies were earned last year because the solar facilities were not operating and generating electricity. It is our understanding the qualifying solar facilities are still not operating, so the revenue

requirement established for 2021 should be less than \$20 million. The PUCO should not base Rider SGF's revenue requirement on unearned generation subsidies in 2020 or 2021.

Staff recommendations include:

- Monthly charge for residential customer is \$.010, including Commercial Activity Taxes (CAT);
- Annual revenue requirement for non-residential customers should be calculated by subtracting the revenue projected to be collected from residential customers from the total revenue requirement;
- Monthly charge for all non-residential customers should be a \$/kWh charge for all kWh used up to 833,000 kWh per customer per month;
- Monthly charges for customers eligible to become self-assessing purchasers should equal the non-residential monthly charge and not exceed \$242, including CAT;
- Electric Distribution Utilities (EDUs) should update Rider SGF annually, and the revenue requirement for the annual updates will be adjusted for over/under recovery during the prior periods;
- Each EDU shall provide staff the data to calculate the non-residential charge 60 days prior to the effective date of Rider SGF (including projected annual number of residential bills and projected non-residential annual kWh for all kWh up to 833,000 kWh per customer per month);
- Each EDU must fill its annual application no later than 45 days prior to the effective date of the proposed Rider SGF; and
- Each EDU must file monthly reports regarding revenue collected from customers.

Given the PUCO staff's recommendations that the full \$20 million be collected from customers for 2020 and 2021 when no generation has occurred and the qualifying solar facilities could not claim subsidies in those years; that there is no cap for non-residential customers that are not self-assessors; and that the charge be based on kWh charge up to 833,000 kWh per customer, it is recommended that OMAEG intervene to protect member interests.

OMAEG Asks PUCO to Strike Objections Supporting Funding of ‘Voluntary’ EE/DSM Programs Through Mandatory Rates and Charges (Case Nos. 20-585-EL-AIR, et al.)

Summary: In the ongoing AEP distribution rate case, OMAEG requested that the PUCO strike objections to the staff report that advocated for the funding of “voluntary” energy efficiency or demand side management (EE/DSM) programs through distribution rates and mandatory charges.

Specifically, OMAEG advocated that the proposal is unsupported by Ohio law or regulations, conflicts with PUCO precedent, and concerns statewide issues that should not be addressed in a single utility’s distribution rate case.

DP&L

OCC Asks Supreme Court to Force PUCO Decision on Rate Stabilization Charge (Case Nos. 08-1094-EL-SSO, et al.)

Summary: The Ohio Consumers’ Counsel (OCC) filed a writ with the Supreme Court of Ohio asking the court to force the PUCO to act on OCC’s outstanding request for rehearing. After DP&L (now AES Ohio) withdrew its ESP III and reverted to ESP I, the PUCO reinstated DP&L’s Rate Stabilization Charge (RSC), which compensates the company roughly \$73 million per year for being the provider of last resort for its customers. In January 2020, OCC requested that PUCO reconsider its decision on the RSC, which the PUCO has yet to grant or deny.

OMAEG and others have opposed the continuation of the RSC several times, but due to the PUCO’s decisions, have found it more constructive to end the RSC through a recently filed global settlement. Under the global settlement, the RSC would end when DP&L implements a new ESP and the settlement would also prohibit DP&L from seeking the same or similar charge in its next ESP.

OCC is currently opposing that settlement.