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Statewide

OMAEG Submits Comments on Solar Generation Fund Rider (Rider SGF) (Case No. 21-447-EL-UNC)

Summary: As you may recall, pursuant to House Bill 128, the Public Utilities Commission of Ohio (PUCO) authorized the creation of the non-bypassable Rider SGF. The OMAEG appealed the decision to the Supreme Court of Ohio. In a 5-2 decision, the court agreed with the OMAEG and held that the PUCO's order was not clear as to whether the Commercial Activity Tax (CAT) could be collected from customers through Rider SGF. The court remanded the issue back to the PUCO for clarification.

In accordance with the court's order, the PUCO directed interested parties to file comments regarding whether the CAT applies to Rider SGF and whether those tax amounts should be recovered from customers. The OMAEG [argued](#) that the CAT should not apply to Rider SGF – and that Rider SGF should not recover the CAT from customers since the burden of paying any CAT amounts falls on those *receiving* Rider SGF funds rather than those paying them.

Furthermore, the OMAEG urged the PUCO to explicitly exclude the CAT to ensure that the CAT is not unlawfully charged to consumers.

Other parties supported the OMAEG's position that Rider SGF should not be subject to the CAT. The utilities, on the other hand, argued that if the PUCO determined Rider SGF amounts are subject to the CAT, then such expenses should be recovered from customers.

OMAEG Submits Comments on Ohio Valley Electric Corporation (OVEC) Audit (Case No. 21-477-EL-UNC)

Summary: As you may recall, House Bill 6 created a mechanism by which Duke, AES, and AEP could collect *prudently* incurred costs related to OVEC coal plants. An audit to

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determine whether the costs incurred by these utilities for the period from Jan. 1, 2020 through Dec. 31, 2020 (audit period) were reasonable and prudent was conducted and audit reports were filed in December 2021.

The OMAEG [argued](#) that customers should not continue paying costs associated with OVEC's imprudent and unreasonable operations of aging, uneconomical, dirty coal plants in Ohio and Indiana – and that customers should not continue subsidizing these plants' operations. The OMAEG urged the PUCO to disallow all OVEC costs for the audit period.

Unsurprisingly, the utilities argued that the costs were reasonable and prudent and should be recovered, while all other commenters agreed with the OMAEG.

Duke

OMAEG Comments on Duke's Energy Efficiency & Peak Demand Reduction Rider (Case No. 21-482-EL-RDR)

Summary: In April 2022, Duke requested to recover costs purportedly associated with implementing prior energy efficiency programs.

The OMAEG and others [supported](#) staff's recommendation to disallow expenses unrelated to providing electric distribution service. Moreover, the OMAEG recommended that the PUCO conduct a more thorough audit of the revenues as Duke has demonstrated a pattern of attempting to collect from customers expenses related to incentive pay, performance awards, executive short-term incentives, and entertainment for employees.

In order to discourage such behavior, the OMAEG urged the PUCO to assess penalties against Duke for its repeated violations of multiple PUCO orders and rules.