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## **Federal**

### **Ohio, Pennsylvania Oppose PJM's Proposed MOPR Revisions (Docket No. ER21-2582-000)**

**Summary:** The PUCO and the Pennsylvania Public Utility Commission (PAPUC) filed a joint protest in response to PJM's proposed revisions to the Minimum Offer Price Rule (MOPR). PJM's proposal makes significant revisions to the tariff that largely defers to federal authority to determine whether market power has been or could have been exercised.

The proposal exempts from the MOPR: (1) new natural gas units that do not receive state support; (2) state default service proceedings which are non-discriminatory, resource-neutral, and competitive; (3) "legacy" state policies/programs that are currently in effect; and 4) unit-specific exceptions that are submitted to PJM and the independent market monitor at least 120 days before the offer period for an auction.

The joint protest asserted that PJM's Proposal "fails to provide the necessary check and balances to ensure that sufficient market power protections exist." More specifically, the joint protest stated that PJM's method for verifying whether resources exercise buyer-side market power uses unclear definitions and does not allow enough time to review an offer prior to a capacity market auction. The joint protest further stated that there is no economic or legal reason to exempt state legacy policies from review. The joint protest critiqued the unit-specific exemption for lacking consistent criteria and allowing market participants to evade proper review. Finally, the joint protest recommended that while PJM's proposal should be rejected, the December 2021 Base Residual Auction should not be delayed.

PJM's July 30 proposal was filed pursuant to the Federal Power Act's Section 205, which subjects the proposal to an automatic approval process. The proposal could be approved through operation of law 30 days after comments are filed, unless a majority of FERC commissioners reject the filing. Courts have ruled that Section 205 filings are subject to an "all or nothing" approach, which would restrict FERC's ability to modify the proposal.

## Statewide

### **Yost and Randazzo Spar in HB 6 Civil Suit (Case Nos. 20-CV-6281, et al.)**

**Summary:** Last week in the state's civil HB 6 suit, the Franklin County Court of Common Pleas granted Ohio Attorney General Dave Yost's request to freeze certain accounts in the name of former PUCO Chair Sam Randazzo and his consulting firm, Sustainability Funding Alliance of Ohio, Inc. (SFA).

Randazzo/SFA requested reconsideration of the freeze order, arguing that it was improper because the state's civil suit is stayed until the federal criminal HB 6 suit is resolved and the order deprives Randazzo/SFA of their constitutional rights.

This week, a contentious legal battle ensued. The state dispelled Randazzo's claims, arguing that "[a]s with many fiery arguments that are grounded in passion rather than the law, [Randazzo's] claims are little more than hot air." The state said that the court has discretion to act during the stay and the state could have simply filed a new lawsuit in which the stay would have no effect. The state further explained that the freeze is justified given that Randazzo transferred \$3 million from his brokerage account to two law firms, sold fixed assets, and moved titles into family members' names since the FBI raid of his home. Finally, the state asserted that Randazzo/SFA are not afforded the same constitutional protections as criminal defendants.

Randazzo responded by saying "[t]he State's *ad homonym* attacks . . . do nothing to cure either the state's disregard for this court's orders or the resulting legal defects." Randazzo also argued that his transfer of property to family members was "an obvious estate planning technique by a married couple. . . ." Randazzo also filed a motion opposing a subpoena to appear in court and the production of documents and asked that the court "punish the State of Ohio" for acting in contempt of the stay.

### **Legislator Asks PUCO Chair for Outside Probe Into Randazzo's Activities**

**Summary:** In a [letter](#) to PUCO Chair Jenifer French, state Rep. Jeff Crossman (D-Parma) requested an independent investigation into whether Randazzo manipulated the PUCO for the benefit of FirstEnergy. The letter requested that the PUCO produce documents related to HB 6, the proposed Icebreaker wind farm on Lake Erie, and "other projects Randazzo personally involved himself with." Lastly,

the letter requested that the PUCO ask the Supreme Court of Ohio's disciplinary arm to determine whether Randazzo's law license should be revoked.

### **AES Ohio (formerly DP&L)**

#### **OMAEG Submits Objections in AES Ohio Rate Case (Case Nos. 20-1651-EL-AIR, et al.)**

**Summary:** OMAEG submitted its [objections](#) to the staff report in the AES Ohio distribution rate case, opposing the recommended \$312 million revenue requirement, the recommended rate of return of 7.15% to 7.70%, and the recommended increase of customer charges, particularly for secondary and primary service customers.

### **Duke**

#### **PUCO Grants OMAEG and OCC's Request for OVEC Hearing (Case No. 20-167-EL-RDR)**

**Summary:** The PUCO granted OMAEG's request for an evidentiary hearing to determine whether Duke can show that Ohio Valley Electric Corporation (OVEC) coal plants were operated in customers' best interests and consistent with the practices of a competitive market. The hearing is scheduled for Nov. 9, 2021.

### **FirstEnergy**

#### **PUCO to Audit FirstEnergy Grid Modernization Plan (Case Nos. 16-481-EL-UNC, et al.)**

**Summary:** As part of a settlement resolving various FirstEnergy cases, the PUCO approved FirstEnergy's grid modernization plan. According to FirstEnergy, the plan was designed to be completed over a three-year period to provide enhanced reliability and timelier outage restoration. The PUCO also announced that it will conduct an "operational benefits assessment" to evaluate whether the actual functionality and performance of the first phase of the plan are consistent with the settlement's terms.