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Statewide

Ohio Attorney General Files Lawsuit Over HB 6 Scandal

Summary: On Sept. 23, 2020, Ohio Attorney General Dave Yost filed a civil lawsuit in the Franklin County Court of Common Pleas addressing the HB 6 scandal. The lawsuit names 14 defendants, including FirstEnergy Corporation, FirstEnergy Service, FirstEnergy Solutions, Energy Harbor, and former Speaker Larry Householder.

The defendants face allegations of corruption, money laundering, and bribery. The State of Ohio is seeking monetary damages, as well as to prevent the defendants (including parent companies, subsidiaries, and assigns) from profiting from HB 6 or holding government offices or engaging in political activities in Ohio for eight years.

Supreme Court Limits PUCO Authority Over Complaints (*In re Complaint of Direct Energy Business LLC v. Duke Energy Ohio Inc.*, Slip Opinion No. 2020-Ohio-4429)

Summary: On Sept. 17, 2020, the Supreme Court of Ohio ruled that Duke was not operating as a “public utility” when it inaccurately reported data usage for a Competitive Retail Electric Service (CRES) provider, which resulted in an overbilling by PJM. Under Ohio law, an electric company acts as a public utility when it is “engaged in the business of supplying electricity for light, heat, or power purposes.”

The court held that when providing the data usage to Direct Energy, Duke was not acting as a public utility, and therefore was not subject to the PUCO’s jurisdiction under R.C. Chapter 4905. Accordingly, the PUCO did not have authority to hold Duke liable under the Ohio law that requires utilities to provide adequate service because Duke was not acting as a public utility when it provided the requisite data.

AEP

PUCO Approves Increase to AEP's EDR Rate (Case No. 20-1340-EL-RDR)

Summary: On Sept. 23, 2020, the PUCO approved AEP's request to adjust its Economic Development Cost Recovery Rider (EDR). The EDR percentage will increase to 2.23580% from its current level of 2.09796% and is applied to a customer's base distribution bill to determine the amount to charge a customer's monthly bill. The EDR rate increase becomes effective the first billing cycle of October 2020.

Duke

PUCO Approves Increase to Duke's Rider BTR Charges (Case No. 20-1151-EL-UNC)

Summary: On Sept. 23, 2020, the PUCO approved Duke's request to increase its Base Transmission Rider (Rider BTR) charges and the regional transmission expansion plan (RTEP) credits. Rider BTR is a non-bypassable rider designed to recover all other costs billed to Duke through tariffs approved by FERC. The updated Rider BTR charges include:

- **Primary Distribution Voltage (DP):** Increased to \$2.343700/kW from \$1.867900/kW.
- **Secondary Distribution Service Small (DM):** Increased to \$0.009395/kWh from \$0.00720/kWh.
- **Secondary Distribution Voltage (DS):** Increased to \$2.682600/kW from \$2.072100/kW.

A stipulation approved by the PUCO in Case No. 11-2641-EL-RDR includes an agreement to credit customers for the first \$121 million in RTEP costs billed by PJM. The PUCO approved an increase to the following RTEP credits:

- **Primary Distribution Voltage (DP):** Increased to \$0.000549/kWh from \$0.000040/kWh.
- **Secondary Distribution Service Small (DM):** Increased to \$0.000549/kWh from \$0.000040/kWh.
- **Secondary Distribution Voltage (DS):** Increased to \$0.000549/kWh from \$0.000040/kWh.

The updates to Rider BTR charges and the RTEP credits become effective with the first billing cycle in October 2020.

**PUCO Approves Updates to Duke's Rider DSR Rates
(Case No. 20-344-EL-RDR)**

Summary: On Sept. 23, 2020, the PUCO approved Duke's request to update its Distribution Storm Recovery (DSR) Rider rates. Rider DSR is non-bypassable and designed to track annual incremental major storm expense, as compared to the amount recovered in base rates. The following rate updates will become effective the first billing cycle of November 2020:

- **Primary Distribution Voltage (DP):** Increased to \$0.03/kW from \$0.02/kW.
- **Secondary Distribution Service Small (DM):** Decreased to \$0.11/month from \$0.21/month.
- **Secondary Distribution Voltage (DS):** Increased to \$0.03/kW from \$0.02/kW.

**PUCO Approves Decrease to Duke's Rider DCI Charges
(Case No. 19-1943-EL-RDR)**

Summary: Effective the first billing cycle of October 2020, PUCO approved a reduction to Duke's Distribution Capital Investment Rider (Rider DCI) rate to 14.4% of the customer's applicable base distribution charges (i.e., customer charge plus base distribution charge) to recover costs associated with incremental distribution capital investment incurred by Duke, which will be a decrease from the current charge of 15.9%. Rider DCI is applicable to all retail jurisdictional customers, including those customers taking generation service from CRES providers.

FirstEnergy

**PUCO Approves FirstEnergy COVID-19 Transition Plan
(Case No. 20-1345-EL-WVR)**

Summary: Although FirstEnergy never filed a COVID-19 plan like the other utilities, it filed a plan to resume certain pre-COVID-19 activities and operations, which the PUCO approved on Sept. 23, 2020. Beginning Sept. 15, 2020, FirstEnergy will resume disconnections for past due customers and provide 21 days' notice.

Effective Sept. 15, 2020, FirstEnergy will resume late payment charges, but customers will not be billed for late payment charges waived between April 3 and Sept. 15, 2020. Lastly, starting Sept. 15, 2020, FirstEnergy will stop offering enhanced payment plans but will continue honoring any enhanced COVID-19-related payment plans entered prior to FirstEnergy resuming normal business activities.