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## **Statewide**

### **OMAEG Seeks to Question PUCO Staff Member About “Softened” Audit Report (Case No. 24-153-EL-RDR)**

**Summary:** Public Utilities Commission of Ohio (PUCO) Staff emails revealed that the auditor charged with reviewing (1) AES, AEP, and Duke’s management actions with regard to their ownership interests in two 1950s-era coal plants (OVEC), and (2) the reasonableness and prudence of subsidies paid by Ohio customers to support those plants was pressured by Staff to “soften” the language of the utilities’ audit reports prior to filing. Among other things, after meeting with Staff, the auditor removed a finding that “it would have been prudent to allow the OVEC operators to offer the units based on economics, rather than must-run” (a position that OMAEG has consistently advocated was the prudent strategy). OMAEG and the Office of the Ohio Consumers Counsel issued a subpoena to the Staffer that was responsible for this altered language to question him as part of OMAEG’s ongoing efforts to hold Ohio’s utilities accountable for poor management decisions that negatively impact customers.

## **AES**

### **Excessive Earnings to be Refunded to Customers (Supreme Court Case No. 2021-1473)**

**Summary:** As you may recall, in 2021, the PUCO found that AES had accumulated an aggregate \$61.1 million in excessive earnings from 2018 through 2019. However, rather than ordering AES to refund those excessive earnings to customers—as required by law—the PUCO allowed AES to retain that \$61.1 million to help pay for future grid modernization investments.

The Supreme Court of Ohio reversed that ruling, holding that the law does not allow utilities to “offset” their excessive earnings by using them to fund future capital investments. Future capital investments are only a factor to determine whether the utility has excessive earnings, not a means by which utilities can avoid providing refunds to customers. The Court directed the PUCO to conduct a new excessive earnings analysis and provide refunds to customers accordingly.