

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of the Ohio)
Development Services Agency for an Order)
Approving Adjustments to the Universal) Case No. 14-1002-EL-USF
Service Fund Riders of Jurisdictional Ohio)
Electric Distribution Utilities.)

OPINION AND ORDER

The Commission, considering the Ohio Development Services Agency's (ODSA) Notice of Intent (NOI) to file its annual application for adjustment to the Universal Service Fund (USF) riders, the pleadings, and the applicable law, finds:

APPEARANCES:

Bricker & Eckler LLP, by Dane Stinson and J. Thomas Siwo, 100 S. Third Street, Columbus, Ohio 43215-4291, on behalf of the ODSA.

Mike DeWine, Attorney General of the State of Ohio, by Thomas W. McNamee, Assistant Attorney General, 180 East Broad Street, Columbus, Ohio 43215-3793, on behalf of the Staff of the Public Utilities Commission of Ohio.

McNees, Wallace & Nurick, LLC, by Matthew R. Pritchard, Fifth Third Center, 21 East State Street, Suite 1700, Columbus, Ohio 43215-4228, on behalf of the Industrial Energy Users-Ohio.

Carrie M. Dunn, Attorney, FirstEnergy Corporation, 76 South Main Street, Akron, Ohio 44308, on behalf of Ohio Edison Company, Toledo Edison Company, and Cleveland Electric Illuminating Company.

Judi L. Sobecki and Randall V. Griffin, Senior Counsel, Dayton Power and Light Company, 1065 Woodman Drive, Dayton, Ohio 45432, on behalf of The Dayton Power and Light Company.

Steven T. Nourse and Matthew J. Satterwhite, Attorneys, American Electric Power Service Corporation, One Riverside Plaza, 29th Floor, Columbus, Ohio 43215-2373, on behalf of Ohio Power Company.

Elizabeth H. Watts, 155 East Broad Street, 21st Floor, Columbus, Ohio 43215, on behalf of Duke Energy Ohio, Inc.

I. UNIVERSAL SERVICE FUND BACKGROUND

The USF was established, under the provisions of R.C. 4928.51 through 4928.58 for the purposes of providing funding for the low-income customer assistance programs, including the consumer education programs authorized by R.C. 4928.56 and for payment of the administrative costs of those programs. The USF is administered by ODSA, in accordance with R.C. 4928.51. The USF is funded primarily by the establishment of a universal service rider on the retail electric distribution service rates of Cleveland Electric Illuminating Company (CEI), Dayton Power & Light Company (DP&L), Duke Energy Ohio, Inc. (Duke), Ohio Edison Company (OE), Ohio Power Company (OP),¹ and Toledo Edison Company (TE) (all of which may be referred to, individually or collectively, as electric utilities). The USF rider rate for each electric utility was initially determined by ODSA and approved by the Commission.²

R.C. 4928.52(B) provides that, if ODSA, after consultation with the Public Benefits Advisory Board, determines that revenues in the USF and revenues from federal or other sources of funding for those programs will be insufficient to cover the administrative costs of the low-income customer assistance programs and the consumer education programs and to provide adequate funding for those programs, ODSA shall file a petition with the Commission for an increase in the USF rider rates. R.C. 4928.52(B) also provides that the Commission, after reasonable notice and opportunity for hearing, may adjust the USF riders by the minimum amount required to provide the necessary additional revenues. To that end since 2001, the Commission has approved USF rider rate adjustments each year for each of the Ohio jurisdictional electric utilities.³

¹ By Entry issued on March 7, 2012, the Commission approved and confirmed the merger of Columbus Southern Power Co. (CSP) into OP, effective December 31, 2011. The USF rates of OP and CSP have not been consolidated. *In re AEP Ohio*, Case No. 10-2376-EL-UNC, Entry (Mar. 7, 2012).

² *In re FirstEnergy Corp. on Behalf of Ohio Edison Company, Cleveland Electric Illuminating Company, and Toledo Edison Company*, Case No. 99-1212-EL-ETP, Opinion and Order (July 19, 2000); *In re Cincinnati Gas & Electric Co.*, Case No. 99-1658-EL-ETP, Opinion and Order (August 31, 2000); *In re Columbus Southern Power Co.*, Case No. 99-1729-EL-ETP, Opinion and Order (September 28, 2000); *In re Ohio Power Co.*, Case No. 99-1730-EL-ETP, Order (September 28, 2000); *In re Dayton Power & Light Co.*, Case No. 99-1687-EL-ETP, Order (September 21, 2000); and *In re Monongahela Power Co.*, Case No. 00-02-EL-ETP, Order (October 5, 2000).

³ Case No. 01-2411-EL-UNC, Opinion and Order (December 20, 2001); Case No. 02-2868-EL-UNC, Opinion and Order (January 23, 2003); Case No. 03-2049-EL-UNC, Opinion and Order (December 3, 2003); Case No. 04-1616-EL-UNC, Opinion and Order (December 8, 2004); Case No. 05-717-EL-UNC, Opinion and Order (December 14, 2005), and Finding and Order (June 6, 2006); Case No. 06-751-EL-UNC, Opinion and Order (December 20, 2006), and Finding and Order (January 10, 2007); Case No. 07-661-EL-UNC, Opinion and Order (December 19, 2007) and Finding and Order (May 28, 2008); Case No. 08-658-EL-UNC, Opinion and Order (December 17, 2008); Case No. 09-463-EL-UNC, Opinion and Order (December 16, 2009); Case No. 10-725-EL-USF, Opinion and Order (December 15, 2010); Case No. 11-3223-EL-USF, Opinion and Order (December 14, 2011); Case No. 12-1719-EL-USF, Opinion and Order (December 12, 2012); and Case No. 13-1296-EL-USF, Opinion and Order (December 18, 2013).

In accordance with the Stipulation filed on November 27, 2013 (2013 Adjustment Stipulation) and approved by the Commission in *In re Application of Ohio Depart. of Dev. for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Elec. Distrib. Util.*, Case No. 13-1296-EL-USF, Opinion and Order (December 18, 2013) (2013 USF Adjustment Order), ODSA must file a NOI, in advance of filing a USF rider adjustment application. The function of the NOI is to provide parties with an opportunity to raise and pursue objections to the specific methodology ODSA intends to use in developing the USF rider revenue requirement and the USF rider rate design, both of which will be utilized in preparing its application for USF rider adjustments.

II. HISTORY OF THIS PROCEEDING

On May 30, 2014, ODSA filed its NOI (2014 NOI) to file an application to adjust the USF riders of all jurisdictional Ohio electric utilities, CEL, DP&L, Duke, OE, OP, and TE, in accordance with the terms of the 2013 Adjustment Stipulation approved by the Commission pursuant to the 2013 USF Adjustment Order. The 2014 NOI included ODSA's Exhibit A in support of its proposed allowance for the 2015 projected costs associated with the Electric Partnership Program (EPP).

To summarize, ODSA's 2014 NOI indicates that its subsequent adjustment application will request that each of the USF riders be revised to more accurately reflect the current costs of operating the Percentage of Income Payment Plan (PIPP) Plus program, EPP including consumer education programs, and associated administrative costs and to reflect known and measurable changes that take effect during the test period and the post-test period. ODSA also proposes an adjustment to capture the impact of the anticipated increase in PIPP enrollment and a reserve component to address PIPP-related cash flow fluctuations as a result of the weather-sensitive nature of electric service. ODSA proposes, as approved by the Commission in each USF proceeding since 2006, that the reserve will be based on the highest monthly deficit during the test period.

Next, ODSA, consistent with the Commission approved ODSA-OCC settlement agreement filed on August 26, 2005, in *In re Application of Ohio Depart. of Dev. for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Electric Distrib. Util.*, Case No. 05-717-EL-UNC, proposes an EPP allowance of \$14,946,196 based on its projection of payments to service providers and associated administrative costs during the 2015 collection period (See Exhibit A, Table 1 to the 2014 NOI application). As in prior USF rider adjustment proceedings, ODSA will allocate this component of the revenue requirement among the electric utilities based on each electric utility's ratio of the cost of PIPP to the total cost of PIPP.

ODSA, consistent with the ODSA-OCC settlement agreement, as approved in each USF NOI proceeding since Case No. 05-717-EL-UNC, proposes an allowance for administrative costs based on the administrative costs incurred during the test period,

subject to adjustments for reasonably anticipated post-test period costs, to assure, to the extent possible, that the administrative cost incurred are collected during the collection year. The requested allowance for administrative costs will be allocated among the electric utilities based on the relative number of PIPP customer accounts as of the month of the test period exhibiting the highest PIPP customer account totals.

As in the past, ODSA proposes to include in the USF revenue requirement an allowance for under-collection, as a result of the difference between the amounts billed through the rider and the amount collected from customers. The allowance will be based on each electric utility's actual collection experience as projected through December 31, 2014. ODSA's exposure to carrying charges for late reimbursement payments to the electric utilities is insignificant, and, therefore, ODSA does not propose an allowance for interest costs.

Last, ODSA indicates that it plans to employ the same USF rider revenue requirement and rate design methodology approved by the Commission in prior USF proceedings, which incorporates a two-step declining block rate design. More specifically, as proposed, the first block of the rate will apply to all monthly consumption up to and including 833,000 kilowatt hours (kWh). The second block rate will apply to all consumption above 833,000 kWh per month. For each electric utility, the rate per kWh for the second block will be set at the lower of the PIPP rate in effect in October 1999 or the per kWh rate that would apply if the electric utility's annual USF rider revenue requirement were to be recovered through a single block per kWh rate. The rate for the first block rate will be set at the level necessary to produce the remainder of the electric utility's annual USF rider revenue requirement. Thus, in those instances where the electric utility's October 1999 PIPP rider rate exceeds the per kWh rate that would apply if the electric utility's annual USF rider revenue requirement were to be recovered through a single block per kWh rate, the rate for both consumption blocks will be the same.

The Commission notes that the function of the NOI is to provide parties with an opportunity to raise and pursue objections to the specific methodology ODSA intends to use in developing the USF rider revenue requirement and the USF rider rate design, to be utilized in preparing the USF rider adjustments. Accordingly, the Commission will issue two orders in this proceeding: one regarding the 2014 NOI, including the methodology proposed by ODSA for developing the USF rider revenue requirement, the USF rate design, and the issues raised by the parties concerning these items; and one regarding ODSA's subsequent application proposing USF rider adjustments, as necessary, for each of the six electric utilities.

On May 30, 2014, Industrial Energy Users-Ohio (IEU) filed a motion to intervene. By entry issued August 20, 2014, IEU's motion to intervene was granted.

By entry issued on June 20, 2014, the procedural schedule was established for the NOI phase of this case, which included an evidentiary hearing to be held on August 27, 2014. The June 20, 2014, entry also joined the electric utilities as indispensable parties to this proceeding. Pursuant to the procedural schedule, motions to intervene, and objections or comments on the 2014 NOI application were due by July 11, 2014, and responses to objections or comments were due by July 18, 2014. No party filed a request for a prehearing conference and no objections or comments were filed to ODSA's 2014 NOI application. The hearing on the NOI was held, as scheduled, on August 27, 2014. At the hearing, ODSA presented the testimony of one witness.

III. JOINT STIPULATION AND RECOMMENDATION

On August 22, 2014, ODSA filed a Joint Stipulation and Recommendation (Joint Ex. 1 or 2014 NOI Stipulation) that addresses all of the issues related to the 2014 NOI. The 2014 NOI Stipulation was signed by all the parties to this case except the Staff.⁴ While Staff did not sign the 2014 NOI Stipulation, Staff does not oppose the Stipulation (Tr. at 11).

The Signatory Parties assert that the 2014 NOI Stipulation represents a just and reasonable resolution of all issues presented in the 2014 NOI, does not violate any regulatory principle, and is the product of serious discussions among knowledgeable and capable parties in a cooperative process in which all parties were provided the opportunity to participate. Lastly, the Signatory Parties offer that, although the 2014 NOI Stipulation is not binding on the Commission, it is entitled to careful consideration because it is sponsored by parties representing a wide range of interests and is not opposed by any party. The Signatory Parties request that the Commission issue an order adopting the Stipulation.

A. 2014 NOI Stipulation - USF Rider Revenue Requirement Methodology

The 2014 NOI Stipulation provides that the USF rider revenue requirement, to be recovered by the USF rider rates of the Ohio electric utilities during the 2015 collection period, should include the following elements, each of which will be determined in the manner proposed in ODSA's 2014 NOI application, and which is consistent with the revenue requirement methodology approved by this Commission in prior USF proceedings: (a) cost of PIPP; (b) EPP costs and, if updated projections for the EPP allowance suggest the EPP allowance is no longer appropriate, ODSA will, consistent with its obligations, perform any necessary adjustments and document the basis for the adjustment in the adjustment phase of this USF proceeding; (c) administrative costs; (d)

⁴ Pursuant to Ohio Adm.Code 4901-1-10(C), Staff is a party in this proceeding for the purpose of entering into this Stipulation.

December 31, 2014, PIPP account balances; (e) reserve; (f) allowance for undercollection; (g) no cost for electric utility audits to be conducted; and (h) USF interest offset.

B. 2014 NOI Stipulation - USF Rider Rate Design Methodology

The 2014 NOI Stipulation also provides that ODSA should use the current rate design methodology, as previously approved by the Commission in all prior ODSA applications, to recover the annual USF rider revenue requirement, in this proceeding. This rate design is a two-step, declining block rate design; the first block of which applies to all monthly consumption up to and including 833,000 kWh per month. The second block of the rate, which applies to all consumption over 833,000 kWh per month, will be set at the lower of the PIPP rider rate in effect in October 1999 or the per kWh rate that would apply if the electric utility's annual USF rider rate were to be recovered through a single-block volumetric (per kWh) rate. The first block rate will be set at the level necessary to produce the remainder of the electric utility's annual USF rider revenue requirement. The Signatory Parties submit that this rate design methodology provides for a reasonable contribution by all customer classes to the USF revenue requirement and does not violate R.C. 4928.52(C).

IV. COMMISSION DISCUSSION

Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into stipulations. Although the stipulation is not binding on the Commission, the terms of such agreements are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 NE.2d 480 (1978). This concept is particularly valid where the stipulation is supported or unopposed by the vast majority of parties in the proceeding in which it is offered.

The standard of review for considering the reasonableness of a stipulation has been discussed in numerous prior Commission proceedings. See, *In re Ohio-American Water Co.*, Case No. 99-1038-WW-AIR, Opinion and Order (June 29, 2000); *In re Application of the Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR, Order on Remand, (April 14, 1994); *In re Application of the Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT, Opinion and Order (March 30, 1994); *In re the 1991 Long Term Forecast Report Filed on Behalf of Ohio Edison Co.*, Case No. 91-698-EL-FOR et al., Opinion and Order (December 30, 1993); *In re Notice of Intent of the Cleveland Electric Illum. Co. to File an Application for Authority to Amend and Increase Its Filed Schedules for Electric Service*, Case No. 88-170-EL-AIR, Opinion and Order (January 30, 1989); *In re Restatement of Accounts and Records of the Cincinnati Gas and Electric Company, et. al. (Zimmer Plant)*, Case No. 84-1187-EL-UNC, Opinion and Order (November 26, 1985). The ultimate issue for the Commission's consideration is whether the stipulation, which embodies time and effort by the signatory parties, is reasonable and

should be adopted. In considering the reasonableness of a stipulation, the Commission has used the following criteria:

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?

The Ohio Supreme Court has endorsed the Commission's analysis using these criteria to resolve issues in a manner economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm'n* (1994), 68 Ohio St.3d 559 (citing *Consumers' Counsel, supra*, at 126). The Court stated that the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission. (*Id.*) We find that this matter is properly before the Commission in accordance with R.C. 4928.52(B) and Ohio Adm.Code 4901-1-30.

The Commission finds that the Stipulation adopts the proposed USF rider revenue requirement methodology and USF rider rate design methodology submitted in ODSA's 2014 NOI rider application and is consistent with the methodologies previously approved by the Commission. The Commission also recognizes that Staff is the only party to this USF proceeding that is not a signatory to the 2014 NOI Stipulation; however, Staff does not oppose the Stipulation. (ODSA Ex. 1 at 3-6; Tr. at 9, 11.)

After reviewing the 2014 NOI application, the Stipulation and the testimony offered at hearing, the Commission finds that the process involved knowledgeable, capable parties familiar with the USF and other Commission proceedings. The parties to this case have been actively participating in the USF proceedings and numerous other Commission cases for several years. Further, we find that the 2014 NOI Stipulation is in the public interest as it provides ODSA with a process to ensure adequate funding for the low-income customer assistance programs and the consumer education programs administered by ODSA. (ODSA Ex. 1 at 5; Tr. at 10.)

Last, the Commission concludes the Stipulation does not violate any important regulatory principle or practice. In each USF NOI proceeding since adoption of the two-step declining block rate design, the Commission has adopted the stipulation endorsing the same rate design. We observe that the magnitude of the impact of utilizing a two-step declining block USF rate design, as opposed to a uniform USF rate per kWh, when the second block is activated, is insufficient to constitute a material shift among customers or the customer classes to violate R.C. 4928.52(C). (ODSA Ex. 1 at 5-6; Tr. at 9-10.)

Accordingly, the Commission finds that the 2014 NOI Stipulation is reasonable and should be approved in its entirety.

ORDER:

It is, therefore,

ORDERED, That the 2014 NOI Stipulation filed on August 22, 2014, be approved in its entirety. It is, further,

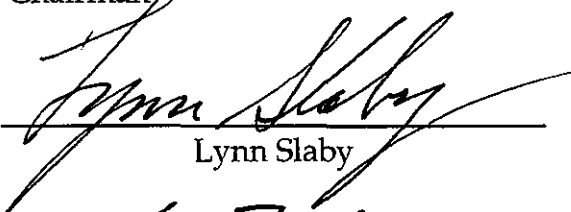
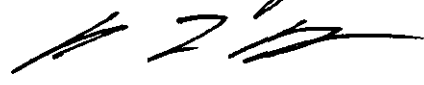
ORDERED, That a copy of this Opinion and Order be served upon ODSA, the electric-energy list serve, and all persons of record in this case.

THE PUBLIC UTILITIES COMMISSION OF OHIO


Thomas W. Johnson, Chairman

Steven D. Lesser

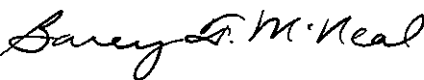

M. Beth Trombold


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Asim Z. Haque

GNS/dah

Entered in the Journal

SEP 25 2014



Barcy F. McNeal

Barcy F. McNeal
Secretary