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 SERVICE FUND RIDER OF JURISDICTIONAL OHIO ELECTRIC DISTRIBUTION UTILITIES.	CASE NO. 17-1377-EL-USF

OPINION AND ORDER

Entered in the Journal on December 13, 2017

I. SUMMARY

{¶ 1} The Commission adopts the unopposed Joint Stipulation and Recommendation filed on November 29, 2017, to resolve all the issues presented by the Ohio Development Services Agency's application to adjust the Universal Service Fund rider rates of jurisdictional Ohio electric distribution utilities.

II. LAW AND PROCEDURAL HISTORY

A. *Universal Service Fund Background*

{¶ 2} The Universal Service Fund (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 the administrative costs of those programs. The USF is administered by the Ohio Development Services Agency (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 jurisdictional electric utilities, namely 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

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1 By Entry issued on March 7, 2012, the Commission approved and confirmed the merger of Columbus Southern Power Co. (CSP) with OP, effective December 31, 2011, with OP as the surviving entity. *In re AEP Ohio*, Case No. 10-2376-EL-UNC, Entry (Mar. 7, 2012). The USF rider rates of OP and CSP have not been consolidated. *In re ODSA*, Case No. 15-1046-EL-USF (*2015 USF Case*), Opinion and Order (Oct. 28, 2015).

Company (TE) (individually or collectively, electric utilities). Each of the entities, CEI, DP&L, Duke, OE, OP and TE, is an electric distribution utility, as defined in R.C. 4928.01(A)(6), and a public utility, as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission. The USF rider rate for each electric utility was initially determined by ODSA and approved by the Commission.[2]

{¶ 3} 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]

{¶ 4} In the most recent USF case, on November 30, 2016, a stipulation was filed regarding the adjustment of the USF rider rates of the electric utilities. *In the Matter of the Application of the Ohio Development Services Agency for an Order Approving Adjustments to the Universal Service Fund Rider of Jurisdictional Ohio Electric Distribution*, Case No. 16-1223-EL-

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2 *In re FirstEnergy Corp. on Behalf of Ohio Edison Company, Cleveland Electric Illuminating Company, and Toledo Edison Company* (FirstEnergy EDUs), 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 (Aug. 31, 2000); *In re Columbus Southern Power Co.*, Case No. 99-1729-EL-ETP, Opinion and Order (Sept. 28, 2000); *In re Ohio Power Co.*, Case No. 99-1730-EL-ETP, Order (Sept. 28, 2000); *In re Dayton Power & Light Co.*, Case No. 99-1687-EL-ETP, Order (Sept. 21, 2000); and *In re Monongahela Power Co.*, Case No. 00-02-EL-ETP, Order (Oct. 5, 2000).

3 See, e.g. *In re Application of Ohio Dept. of Dev. for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Elec. Dist. Util.*, Case No. 01-2411-EL-UNC (*2001 USF Case*), Opinion and Order (Dec. 20, 2001); *In re Application of Ohio Dept. of Dev. for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Elec. Dist. Util.*, Case No. 05-717-EL-UNC (*2005 USF Case*), Opinion and Order (Dec. 14, 2005), and Finding and Order (June 6, 2006); and *2015 USF Case*, Opinion and Order (Dec. 16, 2015) (*2015 USF Adjustment Order*). Note that starting with the 2010 proceeding, the USF case designation code was implemented.

USF, Opinion and Order (Dec. 21, 2016) (*2016 USF Adjustment Order*). In the *2016 USF Adjustment Order*, the Commission approved the stipulation which established adjustments to the USF riders of each of the jurisdictional electric distribution utilities (EDUs) in accordance with R.C. 4928.52(B). The new USF rider rates became effective on a bills-rendered basis with each EDU's first billing cycle in January 2017. *2016 USF Adjustment Order*, Opinion and Order (Dec. 21, 2015) 9, 13, 19.

B. History of This USF Proceeding

1. NOTICE OF INTENT PHASE

{¶ 5} On June 1, 2017, ODSA filed its NOI to file an application to adjust the USF riders of all the EDUs in accordance with R.C. 4928.52 and the *2016 USF Adjustment Order*. In summary, ODSA's 2017 NOI indicated that the adjustment application would 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, Electric Partnership Program (EPP) including consumer education programs, and associated administrative costs and to reflect known and measurable changes that will take effect during the test period and the post-test period. Further, in its NOI, ODSA presented the methodology to be followed to determine the USF rider revenue requirement and USF rider rate design.

{¶ 6} Motions to intervene were filed by and intervention granted to Ohio Consumers' Counsel (OCC), Industrial Energy Users-Ohio (IEU), Ohio Partners for Affordable Energy (OPAE) and The Kroger Company (Kroger).

{¶ 7} By Order issued October 11, 2017, the Commission approved ODSA's proposed methodology for determining the USF revenue requirement and USF rate design. *In the Matter of the Application of the Ohio Development Services Agency for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Electric Distribution Utilities*, Case No. 17-1377-EL-USF, Opinion and Order (Oct. 11, 2017) (*2017 NOI Order*).

2. USF ADJUSTMENT PHASE

{¶ 8} On October 31, 2017, ODSA filed its application, and supporting testimony, to adjust the USF riders of the EDUs, in accordance with the requirements of R.C. 4928.52 and the *2017 NOI Order*.

{¶ 9} By Entry issued on November 2, 2017, the procedural schedule for the adjustment phase of this case was established, including a prehearing conference scheduled for November 16, 2017, if requested by any party, and a hearing was scheduled to commence on November 30, 2017.

{¶ 10} At the request of OCC, a prehearing conference was held on November 16, 2017.

{¶ 11} On November 22, 2017, ODSA filed an amended application to adjust the USF rider rates and supplemental testimony.

{¶ 12} On November 29, 2017, a Joint Stipulation and Recommendation and testimony in support of the stipulation were filed.

{¶ 13} The evidentiary hearing for the adjustment phase of this proceeding was conducted on November 30, 2017. Admitted into the record at the hearing was ODSA's application filed on October 31, 2017 (ODSA Ex. 1), the amended application filed on November 22, 2017 (ODSA Ex. 2), the testimony of Randall Hunt (ODSA Ex. 3), the supplemental testimony of Megan Meadows filed on November 22, 2017 (ODSA Ex. 4), Ms. Meadows testimony in support of the Joint Stipulation filed on November 29, 2017, and the Joint Stipulation and Recommendation (Joint Ex. 1). The Stipulation was executed by ODSA, IEU, Duke, DP&L and OP (Signatory Parties). The 2017 Adjustment Stipulation includes, as Appendix A, a copy of the proposed customer notice regarding the adjusted USF riders (Joint Ex. 1 at 9-10).

{¶ 14} Although, Staff, OCC, the FirstEnergy EDUs, OPAE and Kroger, are not Signatory Parties to the 2017 Adjustment Stipulation, each states that they do not oppose the Stipulation (Joint Ex. 1 at 1, ODSA Ex. 5 at 1-2, Tr. at 16-18, 19-20).

III. Summary of ODSA's Adjustment Application

Current USF Rider					Proposed USF Rider	
EDU	First 833,000 kWh[4]	Above 833,000 kWh	2017 Adjusted Test Period USF Rider Revenue	2018 Required Annual USF Rider Revenue	First 833,000 kWh	Above 833,000 kWh
CEI	$0.0010497	$0.0005680	$ 17,624,226	$ 17,108,645	$0.0010366	$ 0.0005680
CSP rate zone	$0.0001430	$0.0001430	$ 2,749,767	$ 40,029,676	$0.0025116	$ 0.0001830
DP&L	$0.0007710	$0.0005700	$ 10,206,753	$ 1,343,770	$0.0000978	$ 0.0000978
Duke	$0.0002896	$0.0002896	$ 5,830,681	$ 10,330,554	$0.0005368	$ 0.0004690
OE	$0.0014456	$0.0010461	$ 33,126,476	$ 23,260,408	$0.0009914	$ 0.0009914
OP	$0.0010772	$0.0001681	$18,453,702	$ 54,879,348	$0.0034648	$ 0.0001681
TE	$0.0004615	$0.0004615	$ 4,847,342	$ 3,120,824	$0.0002991	$ 0.0002991
Totals			$92,838,947	$150,073,225		
Deficiency				$ (57,234,278)		

(ODSA Ex. 2 at 5, 11.)

{¶ 15} In the amended application, ODSA requests that each of the USF riders be adjusted to more accurately reflect the current costs of operating the PIPP program, EPP, and associated administrative costs. Based on ODSA's analysis of the revenues that the current USF rider rates would generate based on test period sales volumes, and utilizing the USF rider revenue requirement methodology approved in the *2017 USF NOI Order*, ODSA has determined that, on an aggregated basis, the total annual revenues generated by the current USF riders will be $57,234,278 less than the annual revenues required to carry out

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4 Kilowatt hours (KWh).

the objectives identified in R.C. 4928.52(A). More specifically, ODSA's analysis reveals that the revenues that would be generated by the current USF riders of DP&L, CEI, OE, and TE will exceed the annual revenues required to carry out the objectives set forth in R.C. 4928.52(A) and, therefore, ODSA requests a reduction for the USF riders of DP&L, CEI, OE, and TE. However, ODSA requests an increase in the USF rider rates of the CSP rate zone, OP, and Duke, as based on ODSA's analyses the revenue generated by current rates will fall short of the revenue requirement needed for 2018. (ODSA Ex. 2 at 4-5, 11, 12 and Ex. H; ODSA Ex. 3 at 12 and Ex. RH-1.)

{¶ 16} The amended application and the testimony of Megan Meadows and Randall Hunt state that the USF revenue requirement, which the proposed USF riders are designed to generate, consists of the following elements:

(1) Cost of PIPP. The cost of PIPP component of the USF rider revenue requirement is intended to reflect the total cost of electricity consumed by the EDU's PIPP customers for the 12-month period January 2017 through December 2017 (test period), plus pre-PIPP balances, less the monthly installment payments billed to PIPP customers, less payments made by or on behalf of PIPP customers, including agency payments, to the extent that these payments are applied to outstanding PIPP arrearages over the same period. The calculation utilizes actual data available for January 2017 through September 2017, and projected data, based on the actual data for October 2016 through December 2016, for the remaining three months of the test period. ODSA submits that the test period cost of PIPP must be adjusted for the following reasons: (1) to recognize the impact of Commission-approved EDU rate changes that will take effect on and after January 1, 2018; (2) to annualize the

impact of Commission-approved EDU rate changes that took effect during the 2017 test year; and (3) to account for projected increases in PIPP enrollment activity during the 2018 collection period. The total adjusted cost of PIPP is $215,573,095. (ODSA Ex. 2 at 5-6 and Ex. A, A.1, A.1.a through A.1.d, and A.2 (Column F); ODSA Ex. 4 at 2-11 and Ex. MM-1 - MM-7.)

(2) Electric Partnership Program and Consumer Education Costs. This element of the USF rider revenue requirement reflects the costs associated with the low-income customer energy efficiency programs and the consumer education program, referred to collectively as the EPP, and their associated administrative costs, which are recovered through the USF riders pursuant to R.C. 4928.52(A)(2) and (3). ODSA's proposed allowance for these items is $14,946,196, which is identical to the allowance for these programs previously accepted by the Commission in approving all prior USF rider rate adjustments. ODSA notes that, consistent with the 2017 USF NOI Order, this component of the USF rider revenue requirement is allocated to the EDUs based on the ratio of their respective cost of PIPP to the total cost of PIPP. (ODSA Ex. 2 at 6-7 and Ex. B; ODSA Ex. 4 at 6-7.)

(3) Administrative Costs and the Commission's Cost Incurred to Aggregate PIPP Customers. This element of the USF rider revenue requirement represents an allowance for the costs incurred by ODSA in connection with its administration of the PIPP program, which are recoverable pursuant to R.C. 4928.52(A)(3). ODSA states that the proposed allowance for administrative costs, $5,498,146 has been determined in

accordance with the standard approved by the Commission in the 2017 USF NOI Order. The requested allowance for administrative costs has been allocated to the EDUs based on the number of PIPP customer accounts as of October 2016, which is the test period month exhibiting the highest PIPP customer account totals. In addition, consistent with R.C. 4928.544(B) and the *2017 USF NOI Order*, ODSA is authorized to allocate to the EDUs the costs the Commission incurred to aggregate PIPP customers, as part of the administrative costs. (ODSA Ex. 3 at 2-12 and Ex. RH-1; ODSA Ex. 4 at 6-7 and Ex. MM-1; ODSA Ex. 2 at Exs. B and C.)

(4) December 31, 2017 PIPP Account Balances. Because the USF rider is based on historical sales and historical PIPP enrollment patterns, the cost of PIPP component of an EDU's USF rider will, in actual practice, either over-recover or under-recover its associated annual revenue requirement over the collection period. Over-recovery creates a positive PIPP USF account balance for the particular EDU, which reduces the amount needed on a forward-going basis to satisfy the USF rider revenue requirement. Conversely, where under-recovery has created a negative PIPP USF account balance as of the effective date of the new riders, there will be a shortfall in the cash available to ODSA, which will impair its ability to make the PIPP reimbursement payments due the EDUs on a timely basis. Thus, the amount of any existing positive PIPP USF account balance must be deducted in determining the target revenue level that the adjusted USF rider is to generate, while the deficit represented by a negative PIPP USF account balance must be

added to the associated revenue requirement. In this case, ODSA requests that the proposed USF riders be implemented on a bills-rendered basis effective January 1, 2018. Accordingly, the USF rider revenue requirement of each EDU has been adjusted by the amount of the EDU's projected December 31, 2017, PIPP account balance so as to synchronize the new riders with the EDU's PIPP USF account balance as of their effective date. According to ODSA, this conforms to the methodology approved by the Commission in the 2017 USF NOI Order. (ODSA Ex. 2 at 7-8 and Ex. H; ODSA Ex. 4 at 7 and Ex. MM-8 through MM-14.)

(5) Reserve. PIPP-related cash flows fluctuate significantly throughout the year, due in large measure, to the weather-sensitive nature of electricity sales and PIPP enrollment patterns. These fluctuations will, from time-to-time, result in negative PIPP USF account balances, which means that, in those months, ODSA will have insufficient cash to satisfy its reimbursement obligations to the EDUs on a timely basis. To address this problem, ODSA has previously included an allowance to create a cash reserve as an element of the USF rider revenue requirement. However, in this USF case and on the prior USF case, Case No. 16-1223-EL-USF, the Commission approved a modification to the calculation of the reserve to consider the highest monthly deficit during the test period for the EDUs in the aggregate, as opposed to individually, since the funds are deposited in one USF account for all EDUs. The approved process also requires consideration of the aggregate projected year end account balance to determine whether a

reserve allowance is needed. Based on ODSA's analysis, which projects the aggregate account balance of $88,438,560, ODSA has determined that a reserve allowance need not be included in the USF rider rate calculation in this case. (ODSA Ex. 2 at 8-9 and Ex. F and Ex. H, ODSA Ex. 1 at 8-9 and Exs. E and F; ODSA Ex. 4 at 8.)

(6) Allowance for Undercollection. This component of the USF rider revenue requirement is an adjustment to recognize that, due to the difference between amounts billed through the USF rider and the amounts actually collected from customers, the rider will not generate the target revenues. ODSA states that, in accordance with the methodology approved by the Commission in the 2017 USF NOI Order, the allowance for undercollection for each EDU is based on the collection experience of the particular EDU. The total requested allowance for undercollection is $ 2,447,649. (ODSA Ex. 2 at 9 and Ex. G; ODSA Ex. 4 at 8 and Exs. MM-15 through MM-21.)

(7) PIPP Program Audit Costs. As approved by the Commission, in the 2016 NOI Order, ODSA included an allowance of $150,000 to conduct audits of the CSP rate zone, OP, DP&L and Duke during the 2017 collection period to evaluate PIPP-related accounting and reporting by the EDUs. Initially, the audit allowance was allocated to each EDU based upon the EDU's cost of PIPP. ODSA has received the actual expenditure for each audit and the costs have been reconciled for the CSP rate zone, OP, DP&L and Duke for the 2018 collection period. In the 2017 USF NOI Order, ODSA was approved to include an allowance of $150,000 to conduct the audits of CEI, TE, and OE.

> Based on the costs of the 2017 audits, ODSA estimates the costs to audit CE, TE, and OE to be $99,000, which has been included in the revenue requirement for the 2018 collection period (ODSA Ex. 2 at 9-10 and Ex. D).

{¶ 17} Accordingly, ODSA requests that the Commission find that the USF rider rate adjustments proposed in the amended application represent the minimum adjustments necessary to provide the revenues necessary to satisfy each EDU's respective USF rider revenue requirement. ODSA further requests that the Commission direct the EDUs to incorporate the new USF rider rates in their tariffs. (ODSA Ex. 2 at 10-12.)

IV. JOINT STIPULATION AND RECOMMENDATION

{¶ 18} In the 2017 Adjustment Stipulation, the Signatory Parties agree that the methodology for determining the respective USF rider revenue requirement for each EDU is consistent with the methodology approved by the Commission in the 2017 USF NOI Order (Joint Ex. 1 at 3-4).

{¶ 19} The 2017 Adjustment Stipulation also provides, among other things, that the annual USF rider revenue requirements set forth in the Stipulation shall be collected by the respective EDUs through a USF rider that incorporates a declining block rate design consisting of two consumption blocks. The first block of the rate is to apply to all monthly consumption up to and including 833,000 kWh. The second block of the rate is to apply to all consumption above 833,000 kWh per month.[5] For each EDU, the rate per kWh for the second block is to be set at the lower of the PIPP charge in effect in October 1999, or the per kWh rate that would apply if the EDU's annual USF rider revenue requirement were to be recovered through a single block per kWh rate. The rate for the first block is to be set at the level necessary to produce the remainder of the EDU's annual USF rider revenue

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[5] Kroger does not support this provision, but agrees not to oppose it as part of the Stipulation as a package. Kroger's non-opposition shall not be relied upon in any other forum or proceeding.

requirement. The Signatory Parties agree that the resulting rider rates for each EDU should be as follows:

EDU	First 833,000 Kwh	Above 833,000 Kwh
CEI	$ 0.0010366	$ 0.0005680
CSP rate zone	$ 0.0025116	$ 0.0001830
DP&L	$ 0.0000978	$ 0.0000978
Duke	$ 0.0005368	$ 0.0004690
OE	$ 0.0009914	$ 0.0009914
OP	$ 0.0034648	$ 0.0001681
TE	$ 0.0002991	$ 0.0002991

(Joint Ex. 1 at 4-5; ODSA Ex. 4 and Ex. MM-29 through MM-35)

{¶ 20} The Signatory Parties agree that the USF rider rates set forth above for DP&L, CEI, OE and TE is lower than the utility's current USF rider rate and represents the minimum rate necessary to satisfy the respective annual USF rider revenue requirement listed below for the EDU. As part of the 2017 Adjustment Stipulation, in accordance with the requirements of R.C. 4928.52(B), ODSA consents to the resulting USF rider rate decrease for each EDU. (Joint Ex. 1 at 5.)

{¶ 21} The Signatory Parties stipulate that the two-step, declining block USF riders reflect the minimum level necessary to produce the required revenues. Further, the Signatory Parties to the 2017 Adjustment Stipulation agree that, as set forth in the amended application and as supported by the testimony of ODSA witnesses Meadows and Moser, the annual USF rider revenue requirement for each EDU should be as follows:

EDU	USF Revenue Requirement
CEI	$ 17,108,645
DP&L	$ 1,343,770
Duke	$ 10,330,554
OE	$ 23,260,408
CSP rate zone	$ 40,029,676
OP	$ 54,879,348
TE	$ 3,120,824

(Joint Ex. 1 at 3-5.)

{¶ 22} It is further agreed that the current USF rider rate of each EDU be withdrawn and cancelled and each EDU shall file its new USF rider within seven days of the Commission's Order adopting the 2017 Adjustment Stipulation. Each EDU's new USF rider will be effective upon filing with the Commission and apply on a bills-rendered basis beginning with the first billing cycle of the month following their effective date. The Signatory Parties agree that each EDU shall notify customers of the adjustments to their respective USF riders by means of the customer notice attached to the 2017 Adjustment Stipulation as Appendix A. (Joint Ex. 1 at 5-6.)

{¶ 23} The 2017 Adjustment Stipulation states that the USF riders must actually generate sufficient revenues to enable ODSA to meet its specific USF-related statutory and contractual obligations on an ongoing basis. To this end, ODSA has agreed to file, no later than October 31, 2018, an application with the Commission for such adjustments to the USF riders as may be necessary to assure, to the extent possible, that each EDU's USF rider will generate its associated revenue requirement, but not more than its associated revenue requirement, during the annual collection period following Commission approval of such adjustments. ODSA has agreed to serve copies of such application upon all other parties to this proceeding. (Joint Ex. 1 at 6.)

{¶ 24} The Signatory Parties propose and agree that ODSA should again follow the NOI process first adopted by the Commission in 2004.[6] Specifically, this process provides that, on or before May 31, 2018, ODSA shall file with the Commission a NOI to submit its annual USF rider adjustment application and shall serve the NOI on all parties to this proceeding. The NOI shall set forth the methodology that ODSA intends to employ in calculating the USF rider revenue requirement and in designing the USF rider rates and may also include such other matters as ODSA deems appropriate. Upon the filing of the NOI, the Signatory Parties request that the Commission open the USF rider adjustment application docket for 2018 and establish a schedule that would include the filing of objections or comments, responses to the objections or comments, and, if a hearing is requested, a schedule for discovery, the filing of testimony, and the commencement of the hearing. Further, the Signatory Parties request that the Commission use its best efforts to issue its decision with respect to any objections raised in the NOI phase of the USF proceeding by no later than September 30, 2018. The NOI process provides that ODSA will conform its 2018 USF rider adjustment application to any directives set forth in the Commission's NOI order, or, if the order is not issued sufficiently in advance of the October 31, 2018 filing deadline to permit ODSA to incorporate such directives, ODSA will file an amended application to do so. (Joint Ex. 1 at 6-8.)

{¶ 25} In addition, the Signatory Parties note that they support initiatives intended to control the costs that ultimately must be recovered through the USF rider. To further this objective, the Signatory Parties agree to the continuation of the USF rider working group formed pursuant to the Stipulation approved by the Commission in Case No. 03-2049-EL-UNC. The USF Rider Working Group is charged with developing, reviewing, and

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6 *In re Ohio Department of Development for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Electric Distribution Utilities*, Case No. 04-1616-EL-UNC, Opinion and Order (Dec. 8, 2004).

recommending cost control measures.[7] Although recommendations made by the working group shall not be binding upon any Signatory Party, the Signatory Parties agree to give due consideration to such recommendations and will not unreasonably oppose the implementation of such recommendations. (Joint Ex. 1 at 8.)

{¶ 26} In support of the 2017 Adjustment Stipulation, ODSA witness Meadows testified that she is the Assistant Deputy Chief of ODSA's Office of Community Assistance and has testified in two prior USF cases before the Commission. The witness testified the purpose of her testimony in support of the stipulation was to demonstrate that the 2017 Adjustment Stipulation meets the requirements of the three-part test utilized by the Commission to evaluate stipulations, that: (1) the stipulation is a product of serious bargaining among, capable, knowledgeable parties; (2) the stipulation does not violate any important regulatory principle or practice; and (3) the stipulation, as a whole, will benefit customers and the public interest. Ms. Meadows acknowledged that the parties to this matter have been actively participating in the USF proceedings, and other Commission cases, for several years, are represented by experienced, competent counsel, and were provided the opportunity to participate in the prehearing conference held on November 16, 2017 and to enter into settlement discussions on the proposed stipulation. ODSA witness Meadows notes that many of the parties in this USF proceeding are signatories to stipulations filed in prior USF cases. On that basis, Ms. Meadows reasoned the 2017 Adjustment Stipulation is the product of serious bargaining among capable, knowledgeable parties, the first criteria used by the Commission to evaluate a stipulation. (ODSA Ex. 5 at 2-3.)

{¶ 27} ODSA witness Meadows testified the 2017 Adjustment Stipulation benefits consumers, and the public interest, as the stipulation ensures adequate funding for the low-income customer assistance programs and the consumer education programs administered

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7 *In re Ohio Department of Development for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Electric Distribution Utilities*, Case No. 03-2049-EL-UNC, Opinion and Order (Dec. 3, 2003).

by ODSA at the lowest rider rates necessary to collect each EDU's USF rider revenue requirement. Accordingly, ODSA witness Meadows concluded that the stipulation complies with the second criteria used by the Commission to evaluate a stipulation. Finally, Ms. Meadows testified that the 2017 Adjustment Stipulation does not violate any important regulatory principles or practices and is consistent with the NOI methodology approved by the Commission in the 2017 USF NOI Order issued in this case. (ODSA Ex. 5 at 3.)

V. COMMISSION REVIEW

{¶ 28} The Commission notes that, unlike other proceedings before the Commission where we are charged with balancing the interest of the utilities and the public, in this matter the Commission's role is limited primarily to facilitating the process by which ODSA files for and the EDUs implement their respective USF rider rates. In USF proceedings, in accordance with R.C. 4928.52(B), the Commission cannot decrease the USF rider without the approval of the director of ODSA. Thus, in light of the Commission's limited role in these USF proceedings, our evaluation of the issues raised in this proceeding and Staff's participation in this case, is restricted. Given that there are no issues to be litigated and several of the parties to this matter have entered into a stipulation resolving all the issues raised in this case, the Commission will consider the stipulation filed. We also note that no party to the case opposes the stipulation.

{¶ 29} Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into a stipulation. Although not binding on the Commission, the terms of such an agreement are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125 (1992), citing Akron v. Pub. Util. Comm., 55 Ohio St.2d 155 (1978). This concept is particularly valid where the stipulation is unopposed by any party and resolves all issues presented in the proceeding in which it is offered.

{¶ 30} The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR (April 14, 1994); *Western Reserve Telephone Co.*, Case No. 93-230-

TP-ALT (Mar. 30, 1994); *Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al. (Dec. 30, 1993); *Cleveland Electric Illum. Co.*, Case No. 88-170-EL-AIR (Jan. 30, 1989); *Restatement of Accounts and Records (Zimmer Plant)*, Case No. 84-1187-EL-UNC (Nov. 26, 1985). The ultimate issue for our consideration is whether the agreement, which embodies considerable 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:

a. Is the settlement a product of serious bargaining among capable, knowledgeable parties?

b. Does the settlement, as a package, benefit ratepayers and the public interest?

c. Does the settlement package violate any important regulatory principle or practice?

{¶ 31} 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.*, 68 Ohio St.3d 559 (1994), citing *Consumers' Counsel*, supra, at 126. The Court stated in that case that the Commission may place substantial weight on the terms of a stipulation, even though the stipulation does not bind the Commission (*Id.*).

{¶ 32} After reviewing the 2017 Adjustment Stipulation and the evidence presented, the Commission finds that the Stipulation and proposed customer notice are reasonable. Further, the Commission concludes that the USF rider rates set forth in the 2017 Adjustment Stipulation reflect the minimum level necessary to produce the required revenues for ODSA to cover the administrative costs of the low-income customer assistance programs and the consumer education program and to provide adequate funding for those programs. We also find that the process involved serious bargaining by knowledgeable, capable parties whom were represented by counsel familiar with the USF process. The 2017

Adjustment Stipulation is unopposed. Further, we find that the 2017 Adjustment Stipulation is in the public interest to the extent it provides adequate funding, at the lowest USF rider rate feasible, for the low-income customer assistance programs and the consumer education program offered by ODSA and does not violate any important regulatory principle or practice. Accordingly, the Commission finds that the 2017 Adjustment Stipulation and the USF rider rates established therein for CEI, DP&L, Duke, OE, OP, including the CSP rate zone, and TE, should be approved.

{¶ 33} Finally, to facilitate the retrieval of USF cases in the future, the Commission directs ODSA to continue to file future USF cases with the USF purpose code.

VI. Findings of Fact and Conclusions of Law

{¶ 34} The USF was established, pursuant to R.C. 4928.51 through 4928.58, for the purposes of providing funding for the low-income customer assistance programs, including the consumer education program, authorized by R.C. 4928.56, and for payment of the administrative costs of those programs.

{¶ 35} The USF is administered by ODSA, in accordance with R.C. 4928.51.

{¶ 36} ODSA filed an application on October 31, 2017, as amended on November 22, 2017, to adjust the USF riders of the EDUs, in accordance with the requirements of R.C. 4928.52.

{¶ 37} The hearing was held on November 30, 2016. At the hearing, the 2017 Adjustment Stipulation was admitted into the record, which, if approved, purports to resolve all issues in this case. No party opposes the 2017 Adjustment Stipulation.

{¶ 38} The 2017 Adjustment Stipulation and proposed customer notice are reasonable and should be adopted.

{¶ 39} The two-step, declining block USF rider rates set forth in the 2017 Adjustment Stipulation reflect the minimum level necessary to produce the required revenues for ODSA to cover the administrative costs of the low-income customer assistance programs and the consumer education program and to provide adequate funding for those programs.

VII. ORDER

{¶ 40} It is, therefore,

{¶ 41} ORDERED, That the 2017 Adjustment Stipulation filed on November 29, 2016 and the proposed customer notice submitted by the Signatory Parties be approved. It is, further,

{¶ 42} ORDERED, That the EDUs be authorized to file, in final form, four complete copies of their tariffs consistent with this Opinion and Order, within seven days after the date of this Order. Each EDU shall file one company in its TRF docket (or may make such filing electronically as directed in Case No. 06-900-AU-WVR) and one copy in this case docket. The remaining two copies shall be designated for distribution to the Rates and Tariffs, Energy and Water Division of the Commission's Utilities Department. It is, further,

{¶ 43} ORDERED, That the effective date of the new tariffs be a date not earlier than both the date of this Opinion and Order and the date upon which the copies of the final tariffs are filed with the Commission. The new USF riders shall be effective upon filing with the Commission and apply on a bills-rendered basis in the first billing cycle of the month following their effective date. It is, further,

{¶ 44} ORDERED, That the EDUs notify all customers affected by the tariff by the customers' first bill that will include the new USF rider rate. It is, further,

{¶ 45} ORDERED, That ODSA file all subsequent USF cases under the USF purpose code. It is, further,

{¶ 46} ORDERED, That a copy of this Opinion and Order be served on ODSA, the electric-energy list serve, and all persons and parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Asim Z. Haque, Chairman

M. Beth Trombold

Thomas W. Johnson

Lawrence K. Friedeman

Daniel R. Conway

GNS/vrm

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Barcy F. McNeal
Secretary