

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the Ohio)
Department of Development for an Order)
Approving Adjustments to the Universal)
Service Fund Riders of Jurisdictional Ohio)
Electric Distribution Utilities.)

Case No. 08-658-EL-UNC

10
RECEIVED-DOCKETING DIV
2008 JUL 25 PM 3:52
PUCO

JOINT STIPULATION AND RECOMMENDATION

Pursuant to the stipulation accepted by the Commission in Case No. 07-661-EL-UNC, the Ohio Department of Development ("ODOD") opened this docket on May 31, 2008 by filing its Notice of Intent ("NOI") setting forth the revenue requirements and rate design methodology it proposes to employ in connection with its 2008 Universal Service Fund ("USF") rider adjustment application, which, pursuant to said stipulation, is to be filed on or before October 31, 2008. The purpose of the NOI process is to provide parties an opportunity to raise and pursue objections relating to the proposed revenue requirements and rate design methodology in advance of the filing of the application, so as to permit ODOD to incorporate the Commission's disposition of those issues in developing the USF rider rates to be proposed in the application. Consistent with the process contemplated by the stipulation in Case No. 07-661-EL-UNC, the Attorney Examiner's entry in this docket of July 8, 2008 established a procedural schedule for the NOI phase of this proceeding that included, *inter alia*, the due date for the filing of objections and comments relating to the proposals contained in the NOI, replies thereto, and, if a party requested a hearing, the timetable for discovery and the filing of testimony with respect to issues raised by the objections or comments in question.

This is to certify that the images appearing are an accurate and complete reproduction of a case file document delivered in the regular course of business.
Technician TM Date Processed 7/25/2008

On July 18, 2008, in accordance with the approved procedural schedule, the Office of the Ohio Consumers' Counsel ("OCC") filed objections and comments regarding the NOI and Exhibit A thereto,¹ which sets forth the basis for the allowance for Electric Partnership Program ("EPP") costs that ODOD proposes to include in developing the USF rider revenue for purposes of its application. No other party filed objections or comments

Rule 4901-1-30, Ohio Administrative Code, provides that any two or more parties to a proceeding before the Commission may enter into a written stipulation resolving the issues presented in such proceeding. The purpose of this Joint Stipulation and Recommendation ("Stipulation") is to set forth the agreement of the signatories hereto ("Signatory Parties") as to the appropriate resolution of the issues presented by the NOI and to recommend that the Commission approve and adopt this Stipulation as its decision with respect to those issues. Because OCC did not include a request for a hearing in its objections and comments, approval of this Stipulation will eliminate the need for discovery and further filings in the NOI phase of this proceeding.² Although OCC is not a signatory to this Stipulation, OCC has represented to the Signatory Parties that it will not contest the adoption of the Stipulation in this case.

This Stipulation represents a just and reasonable resolution of all issues presented, violates no regulatory principle, and is the product of serious bargaining among knowledgeable and capable parties in a cooperative process undertaken by the parties to settle the issues involved. Although this Stipulation is not binding on the Commission, it is entitled to careful consideration by the Commission, particularly where, as here, it is sponsored by Signatory

¹ Exhibit A to the NOI was filed by ODOD on June 5, 2008.

² If the Commission rejects the Stipulation, the Signatory Parties reserve their right to file written replies to the OCC objections and comments.

Parties representing a wide range of interests, including the Commission Staff,³ and is not opposed by any party. For purposes of resolving all issues presented in NOI as filed, as well as certain issues raised by the OCC objections and comments, the Signatory Parties stipulate, agree, and recommend that the Commission make the following findings and issue its Opinion and Order in this phase of the proceeding as set forth below.

I. USF RIDER REVENUE REQUIREMENT METHODOLOGY

The Signatory Parties agree that the USF rider revenue requirement to be recovered by the USF rider rates of the state's electric distribution utilities (EDUs) to be effective during the 2009 collection period should include the following elements, each of which shall be determined in the manner set forth below. ODOD shall document its proposed allowance for each of these elements as a part of its application and/or in the written supporting testimony filed in conjunction with the application.

a. Cost of PIPP

The cost of PIPP component of the USF rider revenue requirement shall be determined as proposed by ODOD at pages 3-4 of the NOI.

b. Electric Partnership Program Costs

The EPP cost component of the USF rider revenue requirement shall be determined as proposed by ODOD at pages 4-5 of the NOI. Consistent with its obligation to adjust the allowance for EPP costs of \$14,946,196 proposed in the NOI if updated projections suggest that this allowance is no longer appropriate, ODOD shall, as requested in OCC's objections and comments, specifically

³ Rule 4901-1-10(C), Ohio Administrative Code, provides that Commission Staff is a party for the purpose of entering into stipulations.

address the reasonableness of the indirect costs and outside consultant costs cited in Exhibit A to the NOI as justifications for the overall allowance for EPP costs proposed in the NOI in its application and/or supporting testimony in this case. This requirement shall not be construed as precluding ODOD from presenting additional justification for the allowance for EPP costs ultimately proposed in its application.

c. **Administrative Costs**

The allowance for administrative costs associated with low-income customer assistance programs to be included in the USF Rider revenue requirement shall be determined as proposed by ODOD at page 5 of the NOI.

d. **December 31, 2008 PIPP Account Balances**

The December 31, 2008 PIPP account balances shall be reflected in the determination of the USF rider revenue requirement as proposed by ODOD at pages 6-7 of the NOI. Consistent with the discussion of this element in the NOI, the USF riders shall be implemented on a bills-rendered basis effective with the EDUs' January 2009 billing cycles so as to synchronize the new USF riders with the December 31, 2008 PIPP balances as of their effective date.

e. **Reserve**

The reserve component of the USF revenue requirement shall be determined as proposed by ODOD at pages 7-8 of the NOI.

f. **Allowance for Interest Expense**

The allowance for interest expense to be included in the USF rider revenue requirement shall be determined as proposed by ODOD at page 9 of the NOI.

g. Allowance for Undercollection

The allowance for undercollection to be included in the USF rider revenue requirement shall be determined as proposed by ODOD at page 9 of the NOI.

h. EDU Audit Costs

As proposed at pages 9-11 of the NOI, the USF rider revenue requirements of The Cleveland Electric Illuminating Company, The Dayton Power and Light Company, Ohio Edison Company, and Toledo Edison Company shall include an allowance for the cost of the third-party audits of the PIPP-related accounting and reporting of those EDUs to be conducted in 2009 pursuant to the recommendation of the USF Rider Working Group and the stipulation in Case No. 06-751-EL-UNC.

i. Universal Service Fund Interest Offset

For those reasons set forth at pages 11-12 of the NOI, the projected end-of-test-period USF interest balances, if any, shall not be deducted from the calculation of the proposed USF rider revenue requirement.

2. USF RIDER RATE DESIGN METHODOLOGY

As proposed at pages 12-13 of the NOI, ODOD shall employ the rate design methodology previously approved by the Commission in all prior ODOD applications to recover the annual USF rider revenue requirements determined 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. The second block 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 EDU's annual USF rider rate was to be recovered through a single block volumetric rate. The first block rate will be set at the level necessary to produce the remainder of the EDU's annual rider revenue requirement. The Signatory Parties agree that this rate design methodology provides for a reasonable contribution by all customer classes to the USF revenue requirement.⁴

3. EDU AUDIT RESULTS

As explained at page 10 of the NOI, ODOD shall file a supplement to the NOI ("Supplement") that will include the Schneider Downs reports of the results of its application of agreed-upon procedures to test the reasonableness and reliability of the PIPP-related accounting and reporting of Columbus Southern Power Company, Duke Energy Ohio, and Ohio Power Company. The Supplement shall also include those measures ODOD proposes to address any issues raised by the Schneider Downs reports, and may include requests that the subject EDUs provide additional information relating to any such issues. The subject EDU's shall file written responses to the measures proposed by ODOD in the Supplement, and shall provide requested information, subject to the scope of discovery set forth in Rule 4901-1-16 of the Ohio Administrative Code. The Signatory Parties recommend that a separate procedural schedule be established for addressing issues raised by the Supplement and responses thereto, and will propose a recommended schedule once the Schneider Downs reports have been issued. The Signatory Parties recognize that it may not be possible for ODOD to incorporate the impact of a Commission decision with respect to these issues in developing its 2009 USF rider rate

⁴ Intervenor Ohio Partners for Affordable Energy ("OPAE"), although a signatory to the Stipulation, does not join in this paragraph of the Stipulation. However, OPAE will not oppose the adoption of the stipulated USF rider rate design methodology set forth above for purposes of this proceeding.

adjustment application or in the amended application customarily filed by ODOD to include additional actual data in its cost of PIPP calculation. However, the Signatory Parties also recognize that it is imperative that new USF rider rates be applied in January 2009 to assure, to the extent possible, that the USF riders will recover their associated revenue requirements over the 2009 collection period. Accordingly, the Signatory Parties recommend that the Commission issue its order on the application or amended application as filed, but allow this docket to remain open for the purpose of resolving any issues raised by the Supplement and responses thereto by a subsequent order, in the event that a decision on those issues has not been rendered in time to permit ODOD to incorporate that decision in its application or amended application in this case.

4. ODOD-EDU AGREEMENTS

The stipulation approved by the Commission in its December 19, 2007 opinion and order in Case No. 07-661-EL-UNC established milestone dates for renegotiating the current ODOD-EDU agreements relating to the operation of the electric PIPP program and provided that the new agreements would be effective October 1, 2008. The stipulation recognized that ODOD, in conjunction with other stakeholders, was engaged in a PIPP rule reform initiative, and that new ODOD-EDU agreements might well have to be revised to conform to the PIPP rules ultimately adopted by ODOD. Although ODOD anticipates issuing its proposed electric PIPP rules in the near future, the proposed rules have not yet been released. The Signatory Parties agree that, under these circumstances, the milestone dates approved by the Commission in Case No. 07-661-EL-UNC for renegotiating the ODOD-EDU agreements should be vacated, and that, rather than proposing new milestone dates at this time, the new timeline should be determined subsequent to the completion of the ODOD rulemaking proceeding, or, if appropriate, in the context of ODOD's 2009 USF rider rate adjustment proceeding.

5. COMMISSION APPROVAL

Except for enforcement purposes, this Stipulation shall not be cited as a precedent in any future proceeding for or against any Signatory Party, or the Commission itself, if the Commission approves the Stipulation. This Stipulation represents a compromise involving a balancing of competing positions, and it does not necessarily reflect the position that one or more of the Signatory Parties would have taken if these issues had been fully litigated. The Signatory Parties believe that this Stipulation represents a reasonable compromise of varying interests. This Stipulation is expressly conditioned upon adoption in its entirety by the Commission without material modification. Should the Commission reject or materially modify all or any part of this Stipulation, a Signatory Party shall have the right, within thirty (30) days of the issuance of the Commission's order, to file an application for rehearing. Upon the Commission's issuance of an entry on rehearing that does not adopt the Stipulation in its entirety without material modification, any Signatory Party may terminate and withdraw from the Stipulation by filing a notice with the Commission within thirty (30) days of the Commission's entry on rehearing. Prior to any Signatory Party seeking rehearing or terminating and withdrawing from this Stipulation pursuant to this provision, the Signatory Parties agree to convene immediately to work in good faith to achieve an outcome that substantially satisfies the intent of the Commission or proposes a reasonable equivalent thereto to be submitted to the Commission for its consideration. Upon notice of termination or withdrawal by any Signatory Party, pursuant to the above provisions, the Stipulation shall immediately become null and void. In such event, a hearing shall go forward and the Signatory Parties will be afforded the opportunity to present evidence through witnesses, to cross examine all witnesses, to present rebuttal testimony, and to

brief all issues which shall be decided based upon the record and briefs as if this Stipulation had never been executed.

WHEREFORE, the Signatory Parties respectfully request that the Commission issue an order adopting this Stipulation as its resolution of all issues relating to the NOI as filed.

Respectfully submitted,

Ohio Department of Development

By: BER

The Cincinnati Gas & Electric Company,
d/b/a Duke Energy Ohio

By: Paul Albert **

Staff of the Public Utilities Commission of
Ohio

By: Thomas M. Munnell *

The Dayton Power and Light Company

By: Jeani Sobechski *

Industrial Energy Users - Ohio

By: Lisa Macalister **

Ohio Partners for Affordable Energy

By: David Rimbolt ****

Ohio Edison Company, The Cleveland
Electric Illuminating Company, and
The Toledo Edison Company

By: Kathy Kolich *

[Ohio Partners for Affordable Energy does
not join in Paragraph 2 of this Joint
Stipulation and Recommendation.]

Columbus Southern Power Company and
Ohio Power Company

By: Marvin Resnick ***

* By BER PER EMAIL AUTHORIZATION 7/24/08
** BY BER PER EMAIL AUTHORIZATION 7/25/08
*** BY BER PER PHONE AUTHORIZATION 7/25/08
**** BY BER PER EMAIL AUTHORIZATION 7/24/08

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing has been served upon the following parties by first class mail, postage prepaid, and/or by electronic mail this 25th day of July 2008.


Barth E. Royer

Marvin I. Resnik
Steven T. Nourse
AEP Service Corporation
1 Riverside Plaza
Columbus, Ohio 43215

Randall Griffin
Judi L. Sobecki
The Dayton Power & Light Company
MacGregor Park
1065 Woodman Avenue
Dayton, Ohio 45432

Paul Colbert
Duke Energy Ohio, Inc.
155 East Broad Street
Columbus, Ohio 43215

Kathy Kolich
FirstEnergy Corp.
76 South Main Street
Akron, Ohio 44308

Janine Migden-Ostrander
Ann Hotz
Richard Reese
Ohio Consumers' Counsel
10 West Broad Street
Suite 1800
Columbus, Ohio 43215-3485

Samuel C. Randazzo
Gretchen J. Hummel
Lisa J. Macalister
McNees, Wallace & Nurick
Fifth Third Center
Suite 910
21 East State Street
Columbus, Ohio 43215

David C. Rinebolt, Esq.
Ohio Partners for Affordable Energy
PO Box 1793
Findlay, Ohio 45839-1793