

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. 09-463-EL-UNC

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JOINT STIPULATION AND RECOMMENDATION

Pursuant to the stipulation accepted by the Commission in Case No. 08-658-EL-UNC, the Ohio Department of Development ("ODOD") opened this docket on June 1, 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 2009 Universal Service Fund ("USF") rider adjustment application, which, pursuant to said stipulation, is to be filed on or before October 31, 2009. 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. 08-658-EL-UNC, the Attorney Examiner's entry in this docket of September 4, 2009 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.

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On September 18, 2009, in accordance with the approved procedural schedule, the Office of the Ohio Consumers' Counsel ("OCC"), in conjunction with its motion to intervene, filed comments regarding the NOI and Exhibit A thereto.¹ In its comments, OCC objected to the USF rate design methodology proposed in the NOI, noted that it had not been provided a complete version of the EPP impact evaluation referred to in Exhibit A to the NOI, and urged the Commission to initiate a workshop process, including the parties to this proceeding, in conjunction with its review of the OSCAR reporting process that was deferred by the Commission in its December 17, 2008 order in its credit and disconnection rulemaking proceeding, Case No. 08-723-AU-ORD. Intervenor Industrial Energy Users-Ohio filed a reply to OCC's objection to the rate design methodology on September 25, 2009. No other party filed objections or comments, and no party has requested a hearing in this matter.

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 no party has requested a hearing, 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

¹ Exhibit A to the NOI was filed by ODOD on August 18, 2009. Exhibit A sets forth the analysis supporting the proposed allowance for Electric Partnership Program ("EPP") costs that ODOD proposes to include in developing the USF rider revenue for purposes of its application.

² If the Commission rejects the Stipulation, the Signatory Parties reserve their right to litigate the issues raised by the OCC comments.

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 Parties representing a wide range of interests, and is not opposed by any party.⁴ For purposes of resolving all issues presented in NOI as filed, as well as one of the issues raised by the OCC comments, the Signatory Parties stipulate, agree, and recommend that the Commission issue an order adopting the following.

1. 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 2010 collection period should include the following elements, each of which shall be determined in the manner set forth below. Except as otherwise noted, the methodology for determining these elements is consistent with the methodology utilized by ODOD and authorized by the Commission in prior USF rider rate adjustment proceedings. ODOD will 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.

⁴ The Signatory Parties are authorized to represent that, although the Commission Staff ("Staff") is not a signatory, Staff does not oppose the Stipulation.

a. **Cost of PIPP**

The cost of PIPP component of the USF rider revenue requirement shall be determined as proposed by ODOD at pages 3-5 of the NOI, and shall include the new adjustment for projected increases in PIPP enrollment during the collection period as proposed at pages 4-5 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 5-6 of the NOI and as supported by Exhibit A thereto. 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 will perform any necessary adjustments, and will document the basis for same in its application and/or supporting testimony to be filed in this case. In response to the concern raised in OCC's comments, once the EPP impact evaluation referred to in Exhibit A to the NOI is finalized, ODOD will provide copies to all parties to this proceeding.

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 pages 6-7 of the NOI.

d. **December 31, 2009 PIPP Account Balances**

The December 31, 2009 PIPP account balances shall be reflected in the determination of the USF rider revenue requirement as proposed by ODOD at

pages 7-8 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 2010 billing cycles so as to synchronize the new USF riders with the December 31, 2009 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 8-9 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 pages 9-10 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 10 of the NOI.

h. **EDU Audit Costs**

Each EDU shall be subject to a third-party audit of its PIPP-related accounting and reporting in 2010 as proposed at pages 10-11 of the NOI. An allowance for the cost of these audits will be included as an element of the USF rider revenue requirement. As provided at page 11 of the NOI, any difference between the allowance for the cost of these studies and the actual cost of the audits will be trued-up in next year's application by virtue of the projected year-end balance component of the revenue requirement.

i. **Universal Service Fund Interest Offset**

For those reasons set forth at pages 12-13 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 page 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. **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

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.

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 waive any right to a hearing they may have, and respectfully request that the Commission issue an order forthwith adopting this Stipulation as its resolution of all issues relating to the NOI as filed.

Respectfully submitted,

Ohio Department of Development

By: BER

Industrial Energy Users – Ohio

By: Geetha J. Hummel*

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

By: Kathy Kolich*

Columbus Southern Power Company and
Ohio Power Company

By: Marvin J. Keanich*

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

By: Elizabeth Watts*

The Dayton Power and Light Company

By: Jacqui Saberski*

Ohio Partners for Affordable Energy

By: Colleen Morrey*

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

* By BER, PER 10/13/09 EMAIL AUTHORIZATIONS

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 13th day of October 2009.


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