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 Service Fund Riders of Jurisdictional Ohio Electric Distribution Utilities.	)))))	Case No. 13-1296-EL-USF

OPINION AND ORDER

The Commission, considering the adjustment application, the Stipulation and Recommendation, the evidence of record, the applicable law, and being otherwise fully advised, hereby issues its opinion and order.

APPEARANCES:

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

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

Bruce J. Weston, Ohio Consumers' Counsel, by Joseph P. Serio, Assistant Consumers' Counsel, 10 West Broad Street, Suite 1800, Columbus, Ohio 43215, on behalf of the residential customers of the Ohio jurisdictional electric utility companies.

Matthew J. Satterwhite and Steven T. Nourse, American Electric Power Service Corporation, 1 Riverside Plaza, Columbus, Ohio 43215, on behalf of the Ohio Power Company.

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

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

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

Colleen L. Mooney, 231 West Lima Street, Findlay, Ohio 45840, on behalf of Ohio Partners for Affordable Energy.

McNees, Wallace & Nurick LLC, by Matthew Pritchard, Fifth Third Center, 21 East State Street, 17th Floor, Columbus, Ohio 43215, on behalf of Industrial Energy Users-Ohio.

OPINION:

I. Universal Service Fund Background

The universal service fund (USF) was established, under the provisions of Sections 4928.51 through 4928.58, Revised Code, for the purposes of providing funding for the low-income customer assistance programs, including the consumer education program authorized by Section 4928.56, Revised Code, and for payment of the administrative costs of those programs. The USF is administered by the Ohio Development Services Agency (ODAS), in accordance with Section 4928.51, Revised Code. The USF is funded primarily by the establishment of a universal service rider on the retail electric distribution service rates of each electric distribution utility (EDU): The Cleveland Electric Illuminating Company (CEI), Dayton Power and Light Company (DP&L), Duke Energy Ohio, Inc. (Duke), Ohio Edison Company (OE), Ohio Power Company (OP),[1] and The Toledo Edison Company (TE). The USF rider rate for each EDU was initially determined by ODSA and approved by the Commission as a part of each EDU's electric transition plan case.[2]

Section 4928.52(B), Revised Code, provides that, if ODSA, after consultation with the Public Benefits Advisory Board (PBAB), 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 program and provide adequate funding for those programs, ODSA shall file a petition with the Commission for an increase in the USF rider rates. The Commission, after reasonable notice and opportunity for hearing, may adjust the USF riders by the minimum amount necessary to provide the additional revenues. To that end, the Commission has approved USF rider rate adjustments for each EDU on an annual basis since 2001.

1 By Entry issued on March 7, 2012, in Case No. 10-2376-EL-UNC, *In the Matter of the Application of Ohio Power Company and Columbus Southern Power Company (CSP) for Authority to Merge and Related Approvals,* the Commission approved and confirmed the merger of CSP into OP, effective December 31, 2011. Although CSP and OP have merged, their USF rider rates have not been consolidated.

2 *FirstEnergy Corp.,* Case No. 99-1212-EL-ETP (July 19, 2000); *Cincinnati Gas & Electric Co.,* Case No. 99-1658-EL-ETP (August 17, 2000); *Columbus Southern Power Co.,* Case No. 99-1729-EL-ETP (August 17, 2000); *Ohio Power Co.,* Case No. 99-1730-EL-ETP (August 17, 2000); *Dayton Power and Light Co.,* Case No. 99-1687-EL-ETP (August 17, 2000); and *Monongahela Power Co.,* Case No. 00-02-EL-ETP (August 17, 2000).

The most recent USF rider adjustments were approved pursuant to the opinion and order issued on December 12, 2012, in *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. 12-1719-EL-USF (2012 USF Adjustment Order). In the 2012 USF Adjustment Order, the Commission approved a joint stipulation and recommendation filed on November 30, 2012, by ODSA, Industrial Energy Users–Ohio (IEU-Ohio), Ohio Partners for Affordable Energy (OPAE), and each of the EDUs except Duke. Duke, however, did not oppose the Adjustment Stipulation. The Stipulation recommended adjustments to the USF riders of each EDU in accordance with Section 4928.52(B), Revised Code (2012 Adjustment Stipulation).[3] Staff and OCC, the remaining parties to the USF proceeding, did not oppose the 2012 Adjustment Stipulation. The new USF rider rates became effective on a bills-rendered basis with each EDU's January 2013 billing cycle.

II. History of this Proceeding

On May 31, 2013, ODSA filed a notice of intent (NOI) to file an application to adjust the USF rider of each EDU, in accordance with the terms of the 2012 Adjustment Stipulation and the 2012 USF Adjustment Order. The NOI indicated that ODSA's subsequent application would request that each of the USF riders be adjusted to more accurately reflect the current costs of operating the PIPP program, the electric partnership program (EPP), which includes the low-income customer energy efficiency programs and consumer education program, and associated administrative costs. On September 6, 2013, ODSA, OPAE, IEU-Ohio, CEI, OE, TE and DP&L filed a joint stipulation and recommendation for the NOI phase of this proceeding (2013 NOI Stipulation). The remaining parties to the proceeding, Duke, OP, OCC and Staff did not sign the 2013 NOI Stipulation but did not oppose it. By opinion and order issued on October 2, 2013, the Commission approved the 2013 NOI Stipulation, which addressed the USF rider revenue requirement methodology and the USF rider rate design methodology to be applied in ODSA's subsequent adjustment application (2013 NOI Order).

Pursuant to the 2012 Adjustment Stipulation, ODSA agreed to file its 2013 USF adjustment application by October 31, 2013, or notify the signatory parties in writing of its anticipated filing date. On September 27, 2013, ODSA, IEU and each of the EDUs filed a joint motion for an extension of time, until November 8, 2013, for ODSA to file the USF adjustment application. By entry issued October 1, 2013, the motion for an extension of time was granted.

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3 OPAE did not join in specific paragraphs of the 2012 Adjustment Stipulation regarding the two-step, declining block rate design methodology for the USF riders.

On November 8, 2013, ODSA filed its application to adjust the USF riders of the EDUs, in accordance with the requirements of Section 4928.52, Revised Code. In the 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 its 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 2013 NOI Order, ODSA has determined that, on an aggregated basis, the total annual revenues generated by the current USF riders will be $10,686,670 more than the annual revenues required to fulfill the objectives identified in Section 4928.52(A), Revised Code (ODSA Ex. 1 at 5; ODSA Ex. 3 at 3-4). More specifically, ODSA's analysis reveals that the revenues that would be generated by the current USF riders of the CSP rate zone, CEI, DP&L, OE, and TE will exceed the annual revenues required to carry out the objectives set forth in Section 4928.52(A), Revised Code, and, therefore, ODSA requests a reduction for the USF riders of the CSP rate zone, CEI, DP&L, OE, and TE (ODSA Ex. 1 at 4-5; ODSA Ex. 3 at 4). However, ODSA requests an increase in the USF riders of OP and Duke which based on analyses by ODSA will fall short of their respective 2014 revenue requirement (ODSA Ex. 1 at 4-5; ODSA Ex. 3 at 4).

By entry issued on November 12, 2012, a prehearing conference was scheduled for November 25, 2013, to occur only if requested by any party, and a hearing was scheduled to commence on December 2, 2013. OP requested, and a prehearing conference was held, as scheduled. The evidentiary hearing was conducted on December 2, 2013.

At the evidentiary hearing, ODSA's application (ODSA Ex. 1), the testimony of Randall Hunt (ODSA Ex. 2), and the testimony and revised exhibits to the testimony of Susan M. Moser (ODSA Ex. 3 and ODSA Ex. 3-A, respectively) were admitted into the record without objection. Also admitted into the record, without opposition, was a joint stipulation and recommendation filed on November 27, 2013 (2013 Adjustment Stipulation). All the parties to the proceeding, except the Staff, OCC, and Duke are signatories to the 2013 Adjustment Stipulation, which, if approved, would resolve all outstanding issues in this case. The 2013 Adjustment Stipulation was admitted into the record (Joint Exhibit 1), and includes a copy of the proposed customer notice regarding the adjusted USF riders. OPAE, although a signatory party to the 2013 Adjustment Stipulation, does not join in certain paragraphs regarding the two-step, declining block rate design methodology (Joint Ex. 1 at 9). Although Staff, OCC, and Duke are not signatory parties, they do not oppose the 2013 Adjustment Stipulation (Tr. at 9-10).

III. ODSA's Application

In its application, ODSA proposes, after consulting with the PBAB as required by Section 4928.52(B), Revised Code, that the USF riders of the EDUs be adjusted so as to generate the required annual revenues as indicated below:

	Current USF Rider				Proposed USF Rider	
EDU	First 833,000 kWh[4]	Above 833,000 kWh	Adjusted Test Period USF Rider Revenue	Required Annual USF Rider Revenue	First 833,000 kWh	Above 833,000 kWh
CEI	$0.0016007	$0.0005680	$23,855,255	$22,643,677	$0.0015068	$ 0.0005680
CSP rate zone	$0.0046813	$0.0001830	$75,828,274	$71,115,784	$0.0043882	$ 0.0001830
DP&L	$0.0048579	$0.0005700	$55,488,188	$45,729,952	$0.0039788	$ 0.0005700
Duke	$0.0007860	$0.0004690	$14,485,548	$19,216,586	$0.0010791	$ 0.0004690
OE	$0.0026872	$0.0010461	$53,723,351	$34,467,220	$0.0015843	$ 0.0010461
OP	$0.0056727	$0.0001681	$93,319,724	$118,309,398	$0.0072152	$ 0.0001681
TE	$0.0022377	$0.0005610	$13,008,409	$7,539,462	$0.0009692	$ 0.0005610
Totals			$329,708,748	$319,022,079		
Surplus				$10,686,670		

ODSA states that the proposed USF rider rates set forth above for OP and Duke reflect the minimum increases necessary to produce the additional revenues required to satisfy the respective USF rider revenue responsibility of the EDU. The proposed USF rider rates for the CSP rate zone, CEI, DP&L, OE, and TE, which are lower than their current rider rates, also represent the minimum rates necessary to satisfy the respective USF rider revenue responsibility of those EDUs. (ODSA Ex. 1 at 5, 10, and Ex. I.)

The application and the testimony of Randall Hunt and Susan M. Moser 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 2013 through December 2013 (test period), plus pre-PIPP balances, less the monthly installment payments billed to PIPP customers, less payments made by or

[4] Kilowatt hours (KWh).

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 2013 through September 2013, and projected data, based on the actual data for October 2012 through December 2012, 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, 2014; (2) to annualize the impact of Commission-approved EDU rate changes that took effect during the 2013 test year; and (3) to account for projected increases in PIPP enrollment activity during 2014. The total adjusted cost of PIPP is $343,655,731. (ODSA Ex. 1 at 5-6 and Ex. A, A.1, A.1.a through A.1.d, and A.2; ODSA Ex. 3 at 8-13 and Revised Ex. SSM-1 through SSM-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 Section 4928.52(A)(2) and (3), Revised Code. 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 2013 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. 1 at 6-7 and Ex. B; ODSA Ex. 3 at 13-14.)

(3) Administrative Costs. 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 Section 4928.52(A)(3), Revised Code. ODSA states that the proposed allowance for administrative costs of $4,426,794 has been determined in accordance with the standard approved by the Commission in the 2013 NOI Order. The requested allowance for administrative costs has been allocated to the EDUs based

on the number of PIPP customer accounts as of April 2013, which is the test period month exhibiting the highest PIPP customer account totals. (ODSA Ex. 1 at 7 and Ex. C; ODSA Ex. 2 at 3-14 and Ex. RH-1; ODSA Ex. 3 at 15.)

(4) December 31, 2013 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 EDU in question, 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, 2014. Accordingly, the USF rider revenue requirement of each EDU has been adjusted by the amount of the EDU's projected December 31, 2013, 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 2013 NOI Order. (ODSA Ex. 1 at 7-8 and Ex. D; ODSA Ex. 3 at 15-18 and Ex. Revised SSM-8 through SSM-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 included an allowance of

$20,366,510 to create a cash reserve as an element of the USF rider revenue requirement, with the amount of the allowance determined based on the EDU's highest monthly deficit during the test period. ODSA notes that the Commission approved this methodology in the 2013 NOI Order. (ODSA Ex. 1 at 8 and Exs. E and F; ODSA Ex. 3 at 18-20.)

(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 revenue. ODSA states that, in accordance with the methodology approved by the Commission in the 2013 NOI Order, the allowance for undercollection for each EDU is based on the collection experience of that EDU. The total requested allowance for undercollection is $4,567,728. (ODSA Ex. 1 at 9 and Ex. G; ODSA Ex. 3 at 21-22 and Revised Exs. SSM-15 through SSM-21.)

(7) PIPP-Plus Program Audit Costs. In the 2013 NOI Order, as requested in the Stipulation, ODSA reserved the right to include an allowance for audit costs. The Commission approved this component of the NOI in its 2013 NOI Order. In this adjustment application, ODSA includes a one-time allowance of $60,000 for audits to evaluate the effectiveness of PIPP Plus, as implemented in November 2010, and the program objectives. The audits will focus on consistency in the EDUs data reports, customer payments, payment incentives, effectiveness of customer education, affordability of payments, and the effect the new PIPP Plus program has on the Universal Service Fund. ODSA will issue a request for proposals and engage a qualified, independent third-party to conduct the audits. The cost of the audit will be allocated to each EDU based on its cost of PIPP Plus, with any difference between the allowance and the actual costs of the audits to be trued up in the 2014 USF proceeding as part of the EDU's projected year end balance of the revenue requirement. (ODSA Ex. 1 at 9 and Ex. H; ODSA Ex. 3 at 22-23.)

ODSA requests that the Commission find that the USF rider rate adjustments proposed in the application represent the minimum adjustments necessary to provide the revenues necessary to satisfy the respective USF rider revenue requirements. ODSA further requests that the Commission direct the EDUs to incorporate the new USF rider rates in their tariffs. (ODSA Ex. 1 at 10-11.)

IV. Joint Stipulation and Recommendation

In the 2013 Adjustment Stipulation, the signatory parties agree that the methodology for determining the respective USF rider revenue requirements is consistent with the methodology approved by the Commission in the 2013 NOI Order (Joint Ex. 1 at 4).

The 2013 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 rate block is to apply to all consumption above 833,000 kWh per month. 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 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	$0.0015068	$ 0.0005680
CSP rate zone	$0.0043882	$ 0.0001830
DP&L	$0.0039788	$ 0.0005700
Duke	$0.0010791	$ 0.0004690
OE	$0.0015843	$ 0.0010461
OP	$0.0072152	$ 0.0001681
TE	$0.0009692	$ 0.0005610

(Joint Ex. 1 at 4-5; ODSA Ex. 3 and Ex. SSM-29 through SSM-35; ODSA Ex. 3-A, and Exs. Revised SSM-29 - Revised-SSM-35.)

The signatory parties agree that the USF rider rates set forth above for OP and Duke reflect the minimum increases required to produce the additional revenues necessary to satisfy the respective annual USF rider revenue requirements listed below for those EDUs. Further, the signatory parties agree that the USF rider rates set forth above for the CSP rate zone, CEI, DP&L, OE, and TE are lower than the current USF rider rates and represent the minimum rates necessary to satisfy the respective annual USF rider revenue requirements listed below for those EDUs. As part of the 2013 Adjustment Stipulation, in accordance with the requirements of Section 4928.52(B), Revised Code, ODSA consents to the resulting USF rider rate decreases for the CSP rate zone, CEI, DP&L, OE, and TE. (Joint Ex. 1 at 4-6.)

The signatory parties recognize that the proposed adjustments to the USF rider rates for OP and the CSP rate zone incorporate the actual USF rider revenues collected during October through December 2012 to determine the revenue requirement. The signatory parties also agree that the USF rider revenues collected for OP and the CSP rate zone from October through December 2012 may not be representative as forecast of revenues to be collected during October through December 2013 and may lead to a higher, unrepresentative USF rider rate for OP and CSP rate zone customers. To address this issue, during the first quarter of 2014, the parties agree to recognize the actual rider revenues received for October through December 2013 for OP and the CSP rate zone and adjust the USF rider rates accordingly, unless ODSA, OP and Staff determine the adjustment to recognize actual revenues to be de minimis. The parties agree to this one-time exception to the method adopted in the 2013 NOI Stipulation and Order in this proceeding due to the impact on the EDU's customers. (Joint Ex. 1 at 5.)

All signatory parties to the 2013 Adjustment Stipulation, except OPAE, have stipulated that the two-step, declining block USF riders reflect the minimum level necessary to produce the required revenues (Joint Ex. 1 at 4-5, 10). Further, the signatory parties to the 2013 Adjustment Stipulation agree that, as set forth in ODSA's application and supported by the testimony of ODSA witnesses Hunt and Moser, the annual USF rider revenue requirement for each EDU should be as follows:

EDU	USF Revenue Requirement
CEI	$22,643,677
DP&L	$45,729,952
Duke	$19,216,586
OE	$34,467,220
CSP rate zone	$71,115,784
OP	$118,309,398
TE	$7,539,462

(Joint Ex. 1 at 3-4).

It is further agreed that the new USF riders be filed within seven days of the Commission's order adopting the 2013 Adjustment Stipulation, to 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 2013 Adjustment Stipulation as Appendix A. (Joint Ex. 1 at 6-7.)

The 2013 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 also agreed to file, no later than October 31, 2014, 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 7.)

The signatory parties propose and agree that ODSA should again follow the NOI process first adopted by the Commission in Case No. 04-1616-EL-UNC.[5] Specifically, this process provides that, on or before May 31, 2014, 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 parties request that the Commission open the USF rider adjustment application docket for 2014 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 2013 Adjustment Stipulation requests 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, 2014. The NOI process provides that ODSA will conform its 2013 USF rider adjustment application to any directives set forth in the Commission's order, or, if the order is not issued sufficiently in advance of the October 31, 2014, filing deadline to permit ODSA to incorporate such directives, ODSA will file an amended application to do so. (Joint Ex. 1 at 8-9.)

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

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5 *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. 04-1616-EL-UNC, Opinion and Order (December 8, 2004).

formed pursuant to the stipulation approved by the Commission in Case No. 03-2049-EL-UNC, which is charged with developing, reviewing, and recommending such cost control measures.[6] 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 9.)

V. Commission Review

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 Section 4928.52(B), Revised Code, 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 most of the parties to this matter have filed a stipulation resolving all the issues raised in this case, the Commission will consider the stipulation filed.

Rule 4901-1-30, Ohio Administrative Code, 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.

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 (March 30, 1994); *Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al. (December 30, 1993); *Cleveland Electric Illum. Co.*, Case No. 88-170-EL-AIR (January 30, 1989); *Restatement of Accounts and Records (Zimmer Plant)*, Case No. 84-1187-EL-UNC (November 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:

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6 *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. 03-2049-EL-UNC, Opinion and Order (December 3, 2003).

(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.*, 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.*).

After reviewing the 2013 Adjustment Stipulation and the evidence presented, the Commission finds that the stipulation and proposed customer notice are reasonable and that the two-step, declining block USF rider rates set forth in the 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 provide adequate funding for those programs. We also find that the process involved serious bargaining by knowledgeable, capable parties. The 2013 Adjustment Stipulation is unopposed and is sponsored by most of the parties, representing a wide range of interests, and these parties are represented by able counsel. Further, we find that the 2013 Adjustment Stipulation is in the public interest by providing for adequate funding for the low-income customer assistance programs and the consumer education program offered by ODSA. Lastly, the 2013 Adjustment Stipulation does not violate any important regulatory principle or practice. Accordingly, the Commission finds that the 2013 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.

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. Further, the Commission finds that this docket shall remain open during the USF 2014 collection period to facilitate the filing of a supplemental application in the event ODSA determines an adjustment in an EDU's USF rider rate becomes necessary.

FINDINGS OF FACT AND CONCLUSIONS OF LAW:

(1) The USF was established pursuant to Sections 4928.51 through 4928.58, Revised Code, for the purposes of providing funding for the low-income customer assistance programs, including the consumer education program authorized by Section 4928.56, Revised Code, and for payment of the administrative costs of those programs.

(2) The USF is administered by ODSA, in accordance with Section 4928.51, Revised Code.

(3) ODSA filed an application on November 8, 2013, to adjust the USF riders of the EDUs, in accordance with the requirements of Section 4928.52, Revised Code.

(4) A prehearing conference was held on November 25, 2013, and the hearing was held on December 2, 2013.

(5) At the hearing, the 2013 Adjustment Stipulation was submitted which, if approved, purports to resolve all issues in this case. No party opposes the 2013 Adjustment Stipulation.

(6) The 2013 Adjustment Stipulation and proposed customer notice are reasonable and should be adopted.

(7) The two-step, declining block USF rider rates set forth in the 2013 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 provide adequate funding for those programs.

ORDER:

It is, therefore,

ORDERED, That the 2013 Adjustment Stipulation and the proposed customer notice submitted by the signatory parties be approved. It is, further,

ORDERED, That CEI, DP&L, Duke, OE, OP, and TE 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 authorized above shall file one copy 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,

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,

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

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

ORDERED, That a copy of this opinion and order be served upon ODSA, all jurisdictional Ohio electric distribution utilities, and all other parties and interested persons of record in this case.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Todd A. Snitchler

Todd A. Snitchler, Chairman

Steven D. Lesser

Lynn Slaby

M. Beth Trombold

M. Beth Trombold

Asim Z. Haque

GNS/vrm

Entered in the Journal

DEC 18 2013

Barcy F. McNeal

Barcy F. McNeal
Secretary