THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE 2016 REVIEW OF THE DISTRIBUTION INVESTMENT RIDER CONTAINED IN THE TARIFF OF OHIO POWER COMPANY.	**CASE NO. 17-38-EL-RDR**
IN THE MATTER OF THE 2017 REVIEW OF THE DISTRIBUTION INVESTMENT RIDER CONTAINED IN THE TARIFF OF OHIO POWER COMPANY.	**CASE NO. 18-230-EL-RDR**

OPINION AND ORDER

Entered in the Journal on June 17, 2020

I. SUMMARY

{¶ 1} The Commission adopts the stipulation and recommendation filed by Ohio Power Company d/b/a AEP Ohio and Staff, resolving all issues relating to the audits of the distribution investment rider for 2016 and 2017.

II. PROCEDURAL BACKGROUND

{¶ 2} Ohio Power Company d/b/a AEP Ohio (AEP Ohio or the Company) 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.

{¶ 3} R.C. 4928.141 provides that an electric distribution utility shall provide consumers within its certified territory a standard service offer (SSO) of all competitive retail electric services necessary to maintain essential electric services to customers, including a firm supply of electric generation services. The SSO may be either a market rate offer in accordance with R.C. 4928.142 or an electric security plan (ESP) in accordance with R.C. 4928.143.

{¶ 4} In Case No. 11-346-EL-SSO, et al., the Commission modified and approved, pursuant to R.C. 4928.143, AEP Ohio's application for a second ESP, to be effective with the first billing cycle of September 2012 through May 31, 2015. *In re Columbus Southern Power Co. and Ohio Power Co.*, Case No. 11-346-EL-SSO, et al., Opinion and Order (Aug. 8, 2012). Among other provisions of the ESP, the Commission modified and approved AEP Ohio's proposed distribution investment rider (DIR) to allow for the recovery of capital costs for distribution infrastructure investments in order to facilitate improved service reliability. The Commission also required that the DIR be reviewed annually for accounting accuracy and prudency.

{¶ 5} In Case No. 13-2385-EL-SSO, et al., the Commission modified and approved a third ESP for AEP Ohio, including modification and approval of continuation of the DIR, for the period of June 1, 2015, through May 31, 2018. *In re Ohio Power Co.*, Case No. 13-2385-EL-SSO, et al. (*ESP 3 Case*), Opinion and Order (Feb. 25, 2015) at 45-47, Second Entry on Rehearing (May 28, 2015) at 23-25, Fourth Entry on Rehearing (Nov. 3, 2016) at 50-51, Seventh Entry on Rehearing (Apr. 5, 2017) at 14.

{¶ 6} In Case No. 14-255-EL-RDR, et al., the Commission adopted a joint stipulation and recommendation that resolved all issues related to the annual audits of AEP Ohio's DIR for 2013, 2014, and 2015. *In re Ohio Power Co.*, Case No. 14-255-EL-RDR, et al. (*2013-2015 Audit Cases*), Opinion and Order (Mar. 14, 2018).

{¶ 7} In Case No. 16-1852-EL-SSO, et al., the Commission modified and approved a stipulation and recommendation filed by AEP Ohio, Staff, and numerous other signatory parties, which authorized the Company to implement a fourth ESP for the period of June 1, 2018, through May 31, 2024, including extension of the DIR, subject to certain conditions. AEP Ohio also agreed to file a base distribution rate case by June 1, 2020. *In re Ohio Power Co.*, Case No. 16-1852-EL-SSO, et al., Opinion and Order (Apr. 25, 2018) at ¶¶ 45-46.

{¶ 8} On March 22, 2017, in Case No. 17-38-EL-RDR, the Commission selected Blue Ridge Consulting Services, Inc. (Blue Ridge) to perform the annual audit of AEP Ohio's DIR for 2016. Blue Ridge filed its compliance audit report for 2016 on August 10, 2017 (Staff Ex. 1).

{¶ 9} On March 28, 2018, in Case No. 18-230-EL-RDR, the Commission selected Blue Ridge to perform the annual audit of AEP Ohio's DIR for 2017. Blue Ridge filed its compliance audit report for 2017 on August 23, 2018 (Staff Ex. 2).

{¶ 10} By Entry dated August 30, 2018, the attorney examiner established a procedural schedule, in order to assist the Commission in its review of AEP Ohio's DIR for 2016 and 2017.

{¶ 11} Consistent with the established procedural schedule, AEP Ohio, Staff, and the Ohio Consumers' Counsel (OCC) filed initial and reply comments on October 26, 2018, and November 16, 2018, respectively.

{¶ 12} On March 18, 2019, the attorney examiner established deadlines for the filing of testimony on behalf of the parties and scheduled an evidentiary hearing for June 11, 2019. The attorney examiner also granted OCC's motions to intervene in these proceedings.

{¶ 13} By Entry dated May 31, 2019, the attorney examiner granted Staff's motion to extend the deadline for testimony on behalf of Staff and OCC from May 31, 2019, to June 7, 2019, in order to provide the parties additional time to engage in settlement negotiations.

{¶ 14} On June 5, 2019, the attorney examiner granted Staff's second motion to extend the deadline for the filing of testimony on behalf of Staff and OCC to July 9, 2019, and rescheduled the evidentiary hearing to commence on July 16, 2019.

{¶ 15} On July 2, 2019, AEP Ohio and Staff filed a joint stipulation and recommendation (Stipulation) for the Commission's consideration (Joint Ex. 1).

{¶ 16} By Entry dated July 3, 2019, the attorney examiner granted Staff's third motion for an extension of the procedural schedule and directed the parties to appear for a prehearing conference on July 16, 2019.

{¶ 17} On July 15, 2019, AEP Ohio filed the supplemental testimony of Andrea E. Moore (Co. Ex. 1) and Thomas A. Kratt (Co. Ex. 2) in support of the Stipulation, while Staff filed the testimony of Doris McCarter (Staff Ex. 3).

{¶ 18} The prehearing conference occurred, as scheduled, on July 16, 2019. Consistent with the parties' discussions during the prehearing conference, the attorney examiner directed, in an Entry issued that same date, that OCC's testimony in opposition to the Stipulation be filed no later than August 20, 2019. Further, the evidentiary hearing was scheduled to commence on August 30, 2019.

{¶ 19} On August 20, 2019, OCC filed the testimony of Jeffrey P. Hecker (OCC Ex. 1) and James D. Williams (OCC Ex. 2) in opposition to the Stipulation.

{¶ 20} The evidentiary hearing was held on August 30, 2019.

{¶ 21} Initial and reply briefs were filed by the parties on October 4, 2019, and October 24, 2019, respectively.

III. DISCUSSION

A. Summary of the Audit Reports

1. 2016 AUDIT REPORT

{¶ 22} In its audit report for 2016, Blue Ridge offers the following 12 recommendations:

> 2016 Report Recommendation 1: Blue Ridge recommends that work order costs associated with cost elements 141, 143, 145, 154, and 155 be removed from the DIR. According to Blue Ridge, these are costs that are not payroll, payroll-related, or appropriate overhead that benefit the project(s). (Staff Ex. 1 at 14, 22-23, 51.)

2016 Report Recommendation 2: Blue Ridge recommends that, if the Distribution Business Rules for Authorizing Capital Projects document is still in use in its current form, it should make mention within the document of the superseding status of the 2016 new Improvement Requisition Policy and Procedures (Staff Ex. 1 at 14, 32).

2016 Report Recommendation 3: Blue Ridge recommends that AEP Ohio highlight and quantify the capitalization change regarding the establishment of a retirement unit for Energy Control Devices and Displays and any other changes to the capitalization policy in the DIR filing preceding the implementation of the change (Staff Ex. 1 at 14, 32, 40).

2016 Report Recommendation 4: Blue Ridge recommends that AEP Ohio, in compliance with the Commission's order, provide the reconciliation of the DIR account balances to the Federal Energy Regulatory Commission (FERC) Form 1 within the DIR filings, as ordered by the Commission (Staff Ex. 1 at 14, 34, 39).

2016 Report Recommendation 5: Blue Ridge recommends that AEP Ohio follow through with the error discovered regarding the retirements for work order 42263333 and reclassify the associated $145,000 to the proper work order (Staff Ex. 1 at 14, 36).

2016 Report Recommendation 6: Blue Ridge recommends that the vegetation management schedule in the DIR include the plant accounts and subaccounts (Staff Ex. 1 at 14, 38).

2016 Report Recommendation 7: Blue Ridge recommends that the issue of AEP Ohio's inclusion of capital spares in the DIR be given further review. AEP Ohio should look into borrowing capital spares, if it makes economic sense, or, at a minimum, perform an analysis to compare renting versus purchase of a capital asset. (Staff Ex. 1 at 14, 46-48.)

<u>2016 Report Recommendation 8</u>: Blue Ridge recommends that AEP Ohio, in order to complete the project justification, document all alternatives (operational and/or economic), providing the reason(s) one alternative is better than another and, if savings are estimated, indicate how those savings are to be realized. If no alternatives were considered, AEP Ohio should document its reason(s). (Staff Ex. 1 at 14, 48-49.)

<u>2016 Report Recommendation 9</u>: Blue Ridge recommends that AEP Ohio continue to manage to the budget and document reasons for overage or underage of actual charges whether those reasons are outside or within the direct control of the Company, in order to demonstrate that the budget variance did not result from lack of budget management control (Staff Ex. 1 at 14, 50).

<u>2016 Report Recommendation 10</u>: Blue Ridge recommends that, when large projects are developed, AEP Ohio place greater emphasis on ensuring that the work plan is complete and that the contractors performing the work understand the requirements from both work and safety perspectives (Staff Ex. 1 at 14, 51).

<u>2016 Report Recommendation 11</u>: Blue Ridge recommends that AEP Ohio continue to monitor inactive work orders that appear on the report, striving to resolve outstanding issues within a reasonable time frame of six months to reduce the total dollar value of inactive work orders. Blue Ridge acknowledges that work orders may remain inactive for reasons outside of AEP Ohio's control and that monitoring is conducted on the inactive work order report. However, due to the significant duration of some inactive work orders, Blue Ridge continues to stress the importance of ensuring that outstanding issues able to be resolved are resolved. (Staff Ex. 1 at 14-15, 52-53.)

<u>2016 Report Recommendation 12</u>: Blue Ridge recommends that AEP Ohio correct the Standard Fringe Factor that included the non-productive time rate twice. The impact was an overstatement of the fringe benefit loading rate by approximately 15 percent. As this rate is used for the capitalization of meter and line transformer installations and removal costs, its overstatement results in an overstatement of these capital amounts. Blue Ridge notes that AEP Ohio is developing an analysis of the impact and will provide it later. Blue Ridge recommends that AEP Ohio calculate the impact of the overstatement and adjust the DIR. (Staff Ex. 1 at 15, 55.)

2. 2017 Audit Report

{¶ 23} In its audit report for 2017, Blue Ridge makes the following five recommendations:

<u>2017 Report Recommendation 1</u>: Blue Ridge recommends that AEP Ohio, in its vegetation management policy, better define capital and expense work associated with clearing of rights of way (ROW), in order to be in accordance with the FERC Code of Accounts for those activities. Specifically, Blue Ridge advises that any vegetation management activity on an existing ROW, other than what may come about because of storm restoration, should be considered expense. (Staff Ex. 2 at 15, 34.)

<u>2017 Report Recommendation 2</u>: Consistent with its audit report for 2016, Blue Ridge recommends that AEP Ohio comply with the Commission's February 25, 2015 Opinion and Order in Case No. 13-2385-EL-SSO, et al., by including the reconciliation of the DIR account balances to the FERC Form 1 within the DIR filing (Staff Ex. 2 at 15, 35, 40).

<u>2017 Report Recommendation 3</u>: Blue Ridge recommends that the Commission consider the capital status of cost element 148, along with the other incentive-

associated cost elements identified by Blue Ridge in the audit report for 2016, in the next base distribution case to be filed by June 2020 (Staff Ex. 2 at 15, 48-50).

2017 Report Recommendation 4: Blue Ridge recommends that large projects be more closely scoped out in the field to try to mitigate potential impediments that could increase the project estimate or extend the schedule, delaying project completion (Staff Ex. 2 at 15, 56).

2017 Report Recommendation 5: Blue Ridge recommends that the next DIR audit review compliance with the Commission's final decision in AEP Ohio's tax reform docket, Case No. 18-1007-EL-UNC, to facilitate the Company's implementation of the Tax Cuts and Jobs Act (Staff Ex. 2 at 15, 65).

{¶ 24} Additionally, Blue Ridge notes that AEP Ohio has not implemented a number of the business practice recommendations offered by Blue Ridge in the audit report for 2016. Blue Ridge, therefore, reiterates that the Commission should adopt 2016 Report Recommendations 7, 8, 9, 10, and 11. (Staff Ex. 2 at 15-16.)

B. Summary of the Stipulation

{¶ 25} As stated previously, a Stipulation signed by AEP Ohio and Staff (Signatory Parties) was filed in these cases on July 2, 2019. The Stipulation was intended by the Signatory Parties to resolve all outstanding issues in these proceedings. The following is a summary of the provisions agreed to by the Signatory Parties and is not intended to replace or supersede the Stipulation:

2016 Auditor Recommendations

(1) Blue Ridge recommended that work order costs associated with cost elements 141, 143, 145, 154, and 155 be removed from the DIR. These are costs that, in Blue Ridge's opinion, are not payroll related, or an appropriate

overhead cost that benefits the projects(s). The Signatory Parties agree that the Commission-approved stipulation in the *2013-2015 Audit Cases* provided that this issue is better addressed as part of the base distribution case to be filed by June 1, 2020. (Joint Ex. 1 at 3.)

(2) Blue Ridge recommended that, if the Distribution Business Rules for Authorizing Capital Projects document is still in use in its current form, it should make mention within that document of the superseding status of the 2016 new Improvement Requisition Policy and Procedures. The Signatory Parties agree that the 2017 DIR audit report determined that no additional work is required for this 2016 recommendation because the Distribution Business Rules for Authorizing Capital Projects document is no longer in use. (Joint Ex. 1 at 4.)

(3) Blue Ridge recommended that AEP Ohio highlight and quantify the capitalization change regarding the establishment of a retirement unit for Energy Control Devices and Displays and any other changes to the capitalization policy in the DIR filing preceding the implementation of the change. The Signatory Parties agree that the 2017 DIR audit report determined that no additional work is required for this 2016 recommendation because the requirement has been agreed to as part of the stipulation approved in the *2013-2015 Audit Cases*. (Joint Ex. 1 at 4.)

(4) Blue Ridge recommended that AEP Ohio, in compliance with the Commission's order, provide the reconciliation of the DIR account balances to the FERC Form 1 within the DIR filings as ordered by the Commission. The Signatory Parties agree that, to the extent there is a difference between the FERC Form 1 and the DIR filings, AEP Ohio will state such difference in the letter accompanying the quarterly DIR filings or state that no such difference exists if that is the case. (Joint Ex. 1 at 4.)

(5) Blue Ridge recommended that AEP Ohio follow through with the error discovered regarding the retirements for work order 42263333 and reclassify the associated $145,000 to the proper work order. The Signatory Parties agree that the 2017 DIR audit report determined that no additional work is required for this 2016 recommendation because AEP Ohio has made the correction. (Joint Ex. 1 at 5.)

(6) Blue Ridge recommended that the vegetation management schedule in the DIR include the plant accounts and subaccounts. The Signatory Parties agree that the 2017 DIR audit report determined that no additional work is required for this 2016 recommendation. AEP Ohio has clarified that the vegetation management schedule in the DIR does include all the vegetation accounts and subaccount. (Joint Ex. 1 at 5.)

(7) Blue Ridge recommended that the issue of AEP Ohio's inclusion of capital spares in the DIR be given further

review and that the Company look into borrowing capital spares, if it makes economic sense, or, at a minimum, perform an analysis to compare renting versus the purchase of a capital asset. The Signatory Parties agree that a further review by the next DIR auditor of the capital spares activity will be conducted in a future DIR audit. (Joint Ex. 1 at 5.)

(8) Blue Ridge recommended that AEP Ohio, in order to complete the project justification, document all alternatives (operation and/or economic), providing the reason(s) one alternative is better than another and, if savings are estimated, indicate how those savings are to be realized. Blue Ridge further recommended that, if no alternatives were considered, AEP Ohio document the reason(s). The Signatory Parties agree that AEP Ohio should continue its current practice and no changes to that practice are necessary at this time. The documentation in the Alternatives Considered project justification will be again reviewed in a future audit to determine if AEP Ohio is consistently conducting an alternatives review. (Joint Ex. 1 at 5-6.)

(9) Blue Ridge recommended that AEP Ohio continue to manage to the budget and document reasons for overage or underage of actual charges whether those reasons are outside or within the direct control of the Company in order to demonstrate that the budget variance did not result from lack of budget management control. The

Signatory Parties agree that AEP Ohio should continue its current practice and no changes to that practice are necessary at this time. (Joint Ex. 1 at 6.)

(10) Blue Ridge recommended that, when large projects are developed, AEP Ohio place a greater emphasis on ensuring the work plan is complete and that the contractors performing the work understand the requirements from both work and safety perspectives. The Signatory Parties support this recommendation but do not believe that specific changes to AEP Ohio's processes are needed at this time. (Joint Ex. 1 at 6.)

(11) Blue Ridge recommended that AEP Ohio continue to monitor inactive work orders that appear on the report, striving to resolve outstanding issues within a reasonable time frame of six months to reduce the total dollar value of inactive work orders. The Signatory Parties agree that AEP Ohio should continue its current practice and no changes to that practice are necessary at this time. (Joint Ex. 1 at 6-7.)

(12) Blue Ridge recommended that AEP Ohio correct the Standard Fringe Factor that included the non-productive time rate twice. The Signatory Parties agree that the 2017 DIR audit report determined that no additional work is required for this 2016 recommendation. AEP Ohio has made the correction. (Joint Ex. 1 at 7.)

2017 Auditor Recommendations

(13) Blue Ridge recommended that AEP Ohio, in its vegetation management policy, better define capital and expense work associated with clearing ROW so as to be in accordance with the FERC Code of Accounts for those activities. Specifically, any vegetation management activity on an existing ROW, other than what may come about because of storm restoration, should be considered expense. The Signatory Parties note that this recommendation is addressed below. (Joint Ex. 1 at 7.)

(14) Blue Ridge recommended, as it did in the compliance audit report for 2016, that AEP Ohio comply with the Commission's order by including the reconciliation of the DIR account balances to the FERC Form 1 within the DIR filing. Specifically, the Commission's Opinion and Order in the *ESP 3 Case* stated that "we further modify the DIR to adopt the six recommendations by Staff regarding detailed account information, jurisdictional allocations and accrual rates, reconciliation between functional ledgers and FERC form filings, revenue collected by month in the DIR, highlighting and quantifying DIR capitalization policy, and the filing of an updated depreciation study by November 2016, as outlined in Staff witness McCarter's testimony." *ESP 3 Case*, Opinion and Order (Feb. 25, 2015) at 46-47. The Signatory Parties agree that, to the extent there is a difference between the FERC Form 1 and the DIR filings, AEP Ohio will state such difference in the letter accompanying the quarterly DIR filings or that no such difference exists if that is the case. (Joint Ex. 1 at 7-8.)

(15) Blue Ridge recommended that the Commission consider the capital status of cost element 148 along with the other incentive-associated cost elements in the next base distribution case. The Signatory Parties agree that the Commission-approved stipulation in the *2013-2015 Audit Cases* provided that this issue is better addressed as part of the base distribution case to be filed by June 1, 2020. (Joint Ex. 1 at 8.)

(16) Blue Ridge recommended that large projects be more closely scoped out in the field to try to mitigate potential impediments that could increase the project estimate or increase the schedule, delaying project completion. The Signatory Parties support this recommendation but do not believe that specific changes to AEP Ohio's processes are needed at this time. (Joint Ex. 1 at 8-9.)

(17) Blue Ridge recommended that the next DIR audit review the compliance of AEP Ohio's filings with the Commission's final decision in the Company's tax reform docket, Case No. 18-1007-EL-UNC, to facilitate the Company's implementation of the Tax Cuts and Jobs Act. The Signatory Parties agree with this recommendation. (Joint Ex. 1 at 9.)

(18) Regarding the first recommendation in the 2017 audit, the Signatory Parties agree to the following:

(a) AEP Ohio will start expensing inside and outside ROW tree removals starting with the new base rates becoming effective after the upcoming AIR case.[1] The period between the date of the settlement agreement and the date on which the new rates become effective as a result of the AIR filing will be referred to as the "transition period." AEP Ohio will continue its current accounting approach for tree removal during the transition period. During the transition period, outside ROW tree work will only be capitalized if it involves removal of danger trees. In this context, a danger tree is a tree that is structurally unsound (e.g., has signs of disease, extreme leaning, or other defects such as splits, etc.) and could strike the power lines when it falls. (Joint Ex. 1 at 9.)

(b) For initial clearing of ROW and for widening projects, tree removal for the expanded ROW portion may still be capitalized during and beyond the transition period. Initial clearing shall be defined as the activity to remove vegetation from a Company ROW when that ROW is first established (including tree growth regulator and first herbicide application). When a ROW is permanently expanded

[1] If FERC issues accounting guidance in the future that supports a different result, the Signatory Parties reserve the right to request Commission approval of a new capitalization policy to supersede this agreement.

beyond the previously established ROW, the activity to remove vegetation from the area necessary to widen the existing ROW to the newly expanded ROW may be capitalized. AEP Ohio will document the circumstances when it is necessary to permanently expand a ROW. (Joint Ex. 1 at 10.)

(c) During the transition period, AEP Ohio will, through a mutually acceptable process, periodically work with Staff to update and coordinate on danger tree program activity and anticipated funding levels (Joint Ex. 1 at 10).

(d) AEP Ohio will provide baseline data for outside ROW tree outages for the relevant circuits in a timely manner. During the transition period, AEP Ohio will provide data showing outside ROW tree outages for each circuit where danger tree work was performed for each year following completion of such work. (Joint Ex. 1 at 10.)

(e) AEP Ohio commits to achieving an improvement in the outside ROW tree outages based on danger tree removal work done during the transition period, as compared to the baseline outage data for the period prior to the transition period. The improvement will be measured by the Company-wide number of outside ROW outages caused by danger trees for each year during the transition period and for the two years subsequent to the transition period (the "measurement period"). AEP Ohio may, during the measurement period, exclude any outside ROW tree outage that was caused by a tree falling onto the line that was not a danger tree (e.g., a lightning strike or storm caused the tree to fall). If there is not an improvement for a given year during the measurement period, AEP Ohio will submit a written report to the Signatory Parties analyzing and explaining why there was no measured improvement for that circuit and submit a new plan for achieving an improvement. For example, one such explanation might be that the areas where danger tree work was completed improved, while other areas where work has not yet been completed deteriorated. (Joint Ex. 1 at 10-11.)

(19) Pursuant to Paragraph III.J.17 of the ESP 4 stipulation adopted by the Commission, several issues relating to the enhanced service reliability rider (ESRR) are to be revisited in conjunction with the AIR case (e.g., continuation, level of base rate funding, and whether there is an ESP cap). That exercise as part of the AIR case will also consider, on

> a going-forward basis, danger tree expense levels at that time. None of those issues are being resolved in the current settlement agreement. (Joint Ex. 1 at 11.)

C. Consideration of the Stipulation

{¶ 26} Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into a stipulation. Although not binding upon the Commission, the terms of such an agreement are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (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.

{¶ 27} The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *See, e.g.*, *Dominion Retail, Inc. v. The Dayton Power and Light Co.*, Case No. 03-2405-EL-CSS, et al., Opinion and Order (Feb. 2, 2005); *In re Cincinnati Gas & Elec. Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 1994); *In re Ohio Edison Co.*, Case No. 91-698-EL-FOR, et al., Opinion and Order (Dec. 30, 1993); *In re Cleveland Elec. Illum. Co.*, Case No. 88-170-EL-AIR, Opinion and Order (Jan. 31, 1989). 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:

(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?

{¶ 28} The Supreme Court of Ohio 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, 561, 629 N.E.2d 423 (1994), citing *Consumers' Counsel* 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.

1. IS THE SETTLEMENT A PRODUCT OF SERIOUS BARGAINING AMONG CAPABLE, KNOWLEDGEABLE PARTIES?

{¶ 29} AEP Ohio witness Moore testified that the Stipulation satisfies the first criterion. Ms. Moore explained that the Stipulation is the product of meetings and negotiations involving experienced counsel and technical experts for each party. Ms. Moore added that all parties were invited to participate in settlement discussions regarding the Stipulation and that all parties participated in multiple meetings and communications to discuss resolution of these cases. Similarly, Staff witness McCarter testified that the Stipulation is the product of an open process in which all parties were represented by able counsel and technical experts experienced in regulatory matters before the Commission. Ms. McCarter also noted that settlement meetings were noticed to all parties and that the parties' decisions were based upon thorough analysis of complex issues. Ms. McCarter concluded that the Stipulation represents a comprehensive compromise of issues raised by parties with diverse interests. (Co. Ex. 1 at 14; Co. Br. at 2-3; Staff Ex. 3 at 3; Staff Br. at 4.)

{¶ 30} Consistent with Ms. Moore's and Ms. McCarter's testimony, which OCC did not refute, the Commission finds that the Stipulation is the product of serious bargaining among capable, knowledgeable parties and that the first part of the three-part test has, therefore, been met (Co. Ex. 1 at 14; Staff Ex. 3 at 3).

2. Does the Settlement, as a Package, Benefit Ratepayers and the Public Interest?

a. Parties' Arguments

{¶ 31} Ms. Moore testified that the Stipulation meets the second part of the Commission's three-part test. Noting that customers and the public interest derive general benefit from a settlement agreement as it is less costly than litigation, Ms. Moore also asserted that the Stipulation provides for a reasonable resolution of the 2016 and 2017 DIR audits. Ms. Moore explained that, through the Stipulation, each of the audit recommendations has been considered and will be implemented in an efficient manner. Ms. Moore added that AEP Ohio has agreed to offer additional transparency on outside of ROW activity and to provide additional information to facilitate better tracking of improvement on trees outside of the ROW. Ms. Moore also opined that the Stipulation will enable AEP Ohio to focus on reliability by performing necessary removal of trees outside of the ROW, which has trended to be the number one cause of customer minutes of interruption in 2018. Ms. Moore concluded that all of these activities are designed to drive a reduction in outages and improve the customer experience, which helps to confirm that the DIR investments continue to favorably impact reliability. In its brief, AEP Ohio emphasizes that the Stipulation efficiently resolves two contested proceedings, includes significant commitments to address and improve outages caused by trees outside of the ROW, and provides certainty regarding the Company's vegetation management capitalization policy as well as future DIR audits. (Co. Ex. 1 at 14-15; Co. Br. at 3-7.)

{¶ 32} Ms. McCarter testified that the Stipulation satisfies the second part of the three-part test for three key reasons. First, Ms. McCarter stated that the Stipulation provides that several operational areas will continue to be examined in the next audit to determine AEP Ohio's adherence to good business practices, which will enable the Commission to ensure that customers are paying for expenditures by the Company that are well controlled. Second, Ms. McCarter noted that the Stipulation requires AEP Ohio to change its policy with respect to the capitalization of vegetation management costs, particularly with respect to the removal of trees. According to Ms. McCarter, AEP Ohio's modified accounting treatment will result in customers paying less for this activity. Third, Ms. McCarter testified that the Stipulation requires AEP Ohio to provide information showing the reduction of outages caused by the removal of trees outside of the ROW and an explanation for any circuit on which there has not been an improvement. Ms. McCarter stated that this information will permit the Commission to monitor and confirm that AEP Ohio's expenditures are benefitting customers by reducing outages caused by outside the ROW tree failures. (Staff Ex. 3 at 3-4; Staff Br. at 5-6.)

{¶ 33} OCC witness Hecker testified that the Stipulation fails to satisfy the second part of the three-part test, as it results in customers being overcharged for incentive pay, capitalization of excessive spare equipment, and capitalization of tree-trimming costs. First, with respect to incentive compensation, Mr. Hecker asserted that AEP Ohio's shareholders, not customers, are the primary beneficiary when the Company meets profitability or other financial targets. Mr. Hecker, therefore, recommended that Staff or an independent auditor be required to calculate the actual amount of incentive compensation that AEP Ohio has charged through the DIR since its inception in 2012, including $353,207 in incentive compensation that Blue Ridge calculated for 2016 as being inappropriately included in the DIR, and that the Company be instructed to refund that amount to customers with interest through adjustments to the DIR's quarterly revenue requirements until customers are made whole, consistent with the Company's tariff. (OCC Ex. 1 at 3-7; OCC Br. at 22-24; OCC Reply Br. at 6-8.)

{¶ 34} Staff responds that OCC's argument on this issue should be rejected, because the Commission-approved stipulation in the *2013-2015 Audit Cases*, which OCC did not oppose, provided that the issue of incentive payments would be better addressed as part of the Company's base distribution rate case to be filed by June 2020 (Staff Br. at 6-7; Staff Reply Br. at 2). AEP Ohio agrees with Staff that the Stipulation's recommendation that incentive compensation be addressed in the upcoming rate case is consistent with the stipulation approved by the Commission in the prior audit cases (Co. Br. at 7).

{¶ 35} Next, Mr. Hecker testified that, although the Stipulation addresses AEP Ohio's use of spare equipment for future audits, it fails to address Blue Ridge's conclusion that AEP Ohio could have procured approximately $1.9 million in spare equipment in a more cost-effective manner. Mr. Hecker contended that AEP Ohio should not be permitted to charge customers for large quantities of spare equipment that is not used and useful or necessary for distribution infrastructure modernization. Mr. Hecker concluded that the Commission should adopt Blue Ridge's recommendation and require an analysis of AEP Ohio's capital spares policy on a going-forward basis, while also disallowing charges to the DIR based on the Company's excessive spending on spare parts. (OCC Ex. 1 at 7-9; OCC Br. at 24-26; OCC Reply Br. at 8-10.)

{¶ 36} In response to OCC's argument, Staff states that Blue Ridge appropriately recommended that this issue be given further review and that the Stipulation provides that this review will be undertaken by the next DIR auditor. Staff asserts that OCC will have the opportunity to explore this issue in the next audit case after the additional review has occurred. (Staff Br. at 7-8; Staff Reply Br. at 3.) AEP Ohio notes that the Stipulation adopts Blue Ridge's recommendation regarding capital spares and, therefore, does not fail to address this issue, as OCC claims (Co. Br. at 7).

{¶ 37} Addressing capitalization of tree-trimming costs, Mr. Hecker recommended that AEP Ohio be directed to cease capitalizing tree-trimming costs after the initial tree clearing is completed for the construction of the distribution line. Mr. Hecker further recommended that the Commission disallow $14,114,051 collected through the DIR for danger tree removal in 2017 and that the Commission prohibit the 2019 amount of $23,396,667 (and other additional amounts that might be charged to capital for that year) from being charged to the DIR. Noting that AEP Ohio has represented that it has capitalized about $142.2 million for tree trimming from 2009 to 2019, Mr. Hecker advised that Staff or an independent auditor should determine how much of this amount was for a tree-trimming purpose other than initial tree clearing for the construction of the distribution line and that, if any other purpose is found, the Commission should require the Company to make correcting journal entries to remove the amount from the DIR. In support of his recommendations, Mr. Hecker noted that the Stipulation fails to resolve Blue Ridge's findings that AEP Ohio has potentially charged customers multiple times for certain vegetation management costs in violation of the Commission's order approving the DIR. According to Mr. Hecker, AEP Ohio should not be permitted to earn a return on and of vegetation management costs in the DIR, while also collecting over $50 million annually in vegetation management costs in base rates, as well as recovering tree-trimming costs through the ESRR. Mr. Hecker also asserted that AEP Ohio's policy of capitalizing certain tree-trimming costs is not just and reasonable because it creates an incentive for the Company to remove trees of greater than 18 inches in diameter, regardless of whether removal is needed, in order to earn a return on and of investment on the associated expenditures. Mr. Hecker added that the policy is difficult to audit, as Blue Ridge found that it was impossible to determine whether costs designated as capital by AEP Ohio should have been expensed under FERC's definition. Finally, Mr. Hecker opined that the Stipulation's danger tree mitigation program, which is expected to cost consumers over $113 million between 2018 and 2021, will encourage AEP Ohio to capitalize as many trees as possible, without any means for an auditor to confirm that the Company removed actual danger trees. Mr. Hecker also noted that the danger tree mitigation program in the Stipulation is contrary to the FERC Uniform System of Accounts, as the determination of whether a tree is a danger tree would not typically be included in the initial cost of tree clearing. (OCC Ex. 1 at 9-14; OCC Br. at 26-30; OCC Reply Br. at 4-5.)

{¶ 38} OCC witness Williams also testified that the Stipulation does not benefit customers and the public interest. According to Mr. Williams, the Stipulation results in customers paying for tree-trimming costs that should not be collected through the DIR, as such costs are collected through base rates and other riders. Contending that AEP Ohio's spending should be subject to more accountability and regulatory oversight to ensure improved service quality and reliability, Mr. Williams asserted that the Stipulation contains no special documentation requirements to substantiate the reason for the Company's determination that affected trees are categorized as "danger trees," quantification of the risk to the distribution system if the trees are not removed, methods to demonstrate that the costs were prudently incurred, and a supporting reason explaining why the trees were not previously trimmed or removed consistent with the Company's vegetation management plan. (OCC Ex. 2 at 10-11; OCC Br. at 18-20.)

{¶ 39} In support, Mr. Williams claimed that the DIR has not resulted in improvements in AEP Ohio's reliability, given that the Company's reliability performance has generally declined from 2013-2018, as measured by the system average interruption frequency index (SAIFI) and customer average interruption duration index (CAIDI), with the Company also failing to meet its minimum performance standards for both SAIFI and CAIDI in 2018 due to substantial increases in vegetation- and equipment-caused outages. Mr. Williams added that customers have generally experienced decreased reliability performance attributable to vegetation- and equipment-caused outages since the inception of the DIR. Mr. Williams also emphasized that, since 2015, AEP Ohio has not complied with its vegetation management plan, which requires a proactive four-year trimming cycle and includes the removal or pruning of trees inside and outside of the ROW, as well as the monitoring and mitigating of ash trees. Mr. Williams concluded that, consistent with its vegetation management plan, AEP Ohio should have already performed the necessary tree trimming and removal of danger trees both inside and outside of the ROW. (OCC Ex. 2 at 11-22; OCC Br. at 5-16; OCC Reply Br. at 5-6.)

{¶ 40} As a result of OCC's concerns, Mr. Williams offered three recommendations for the Commission's consideration. First, Mr. Williams advised that the Commission should reject the Stipulation and discontinue the DIR or, alternatively, direct that any future DIR spending focus on programs that demonstratively improve reliability performance for consumers, as measured by SAIFI and CAIDI. Mr. Williams testified that approval of any charges through the DIR should be conditioned on AEP Ohio's demonstration of continual annual improvement in its SAIFI and CAIDI reliability performance for consumers starting in 2019. Mr. Williams proposed that Staff and AEP Ohio be required to file a report within 45 days that describes how the DIR will be prioritized in 2020 to reduce the customer impacts of equipment-caused outages. (OCC Ex. 2 at 7, 24-25; OCC Br. at 20-21.)

{¶ 41} Second, Mr. Williams recommended that the Commission, as it has in the past, require AEP Ohio to spend shareholder dollars, as necessary, to augment the vast amount of customer-funded tree-trimming efforts made to reduce tree-caused service outages. Mr. Williams emphasized that, despite having spent over a billion dollars of customer funds collected through the DIR, ESRR, and other riders over the last ten years, AEP Ohio has failed to improve its distribution service reliability. (OCC Ex. 2 at 7-8, 24-25; OCC Br. at 21.)

{¶ 42} Third, Mr. Williams recommended that the Commission enforce AEP Ohio's current minimum reliability performance standards pursuant to Ohio Adm.Code 4901:1-10-30, if the Company fails to meet either the CAIDI or SAIFI standard for a second consecutive year in 2019, by ordering payment of a forfeiture or restitution to protect customers from the damages that are incurred as a result of unreliable service (OCC Ex. 2 at 8-9, 25; OCC Br. at 21).

{¶ 43} In response to OCC's arguments regarding tree removal costs and reliability performance, Staff states that the Stipulation includes a number of provisions that are designed to drive a reduction in outages and improve the customer experience. Staff asserts that the Stipulation is an appropriate result for settlement of these cases and for the future of AEP Ohio's reliability. Staff also notes that the Stipulation provides certainty regarding AEP Ohio's vegetation management capitalization policy and that the change in accounting treatment will result in customers paying overall less for tree removal. Staff adds that AEP Ohio's commitments in the Stipulation to reduce outages caused by trees outside of the ROW and to improve reliability are benefits to customers and the public interest. (Staff Br. at 8-9; Staff Reply Br. at 4-7.)

{¶ 44} AEP Ohio responds that OCC's argument that there is a lack of accountability and regulatory oversight of DIR spending is refuted by the fact that these are audit proceedings, while the argument also constitutes an untimely collateral attack on the Commission's approval of the DIR in prior cases. AEP Ohio argues that its reliability performance is outside the scope of these proceedings and that, in any event, OCC's claims on this issue are misleading, given that the Company has met its reliability performance standards in every year except 2018 since implementation of the DIR. AEP Ohio also notes that its system average interruption duration index (SAIDI) for the majority of outage causes has improved by approximately 16 minutes compared to pre-DIR metrics. According to AEP Ohio, its SAIDI improvement would have been even greater except for a significant increase in outages caused by trees outside of the ROW, which the Company attributes to its heavily forested service territory, as well as the proliferation of the emerald ash borer that first caused outages related to danger trees in 2017. Regarding OCC's concern that tree-trimming costs may be recovered multiple times through different rider charges, AEP Ohio points out that Blue Ridge evaluated potential double recovery in both audits and concluded that the Company excluded from the DIR capital additions recovered through other riders. (Co. Br. at 7; Co. Reply Br. at 2-4.)

b. Commission Conclusion

{¶ 45} Upon review of the Stipulation, the evidence of record, and the parties' arguments, the Commission finds that the Stipulation, as a package, benefits ratepayers and the public interest and, therefore, satisfies the second part of the Commission's three-part test. We agree with AEP Ohio witness Moore that the Stipulation represents a reasonable resolution of the Company's DIR audits for 2016 and 2017. All of the recommendations offered by Blue Ridge have been addressed and resolved through the Stipulation. Additionally, the Stipulation conveys a number of specific benefits to ratepayers that are not questioned by OCC. As Staff witness McCarter testified, the Stipulation requires continued monitoring in a number of areas to ensure that AEP Ohio adheres to good business practices and controls its costs. Further, Ms. McCarter testified that customers will benefit from decreased costs resulting from AEP Ohio's commitment to change its capitalization policy for tree removal, effective with the implementation of new rates in its upcoming distribution rate case. Finally, we agree with Ms. McCarter's contention that customers will benefit from the provision in the Stipulation that requires AEP Ohio to provide information that will enable the Commission to monitor and confirm that the Company is reducing outages caused by trees outside of the ROW. Specifically, AEP Ohio has committed to achieving an improvement in outside the ROW tree outages based on danger tree removal work done during the transition period, as compared to the baseline outage data for the period prior to the transition period. Further, if there is not an improvement for a given year during the measurement period, AEP Ohio has agreed to submit a written report to Staff that analyzes and explains why there was no measured improvement for that circuit and to submit a new plan for achieving an improvement. (Co. Ex. 1 at 14-15; Staff Ex. 3 at 3-4; Joint Ex. 1 at 9-11.)

{¶ 46} Although OCC believes that the Stipulation should be rejected, we find that OCC has not shown that the Stipulation, as a package, is unreasonable with respect to the second part of the three-part test. OCC contends that the Stipulation does not sufficiently resolve Blue Ridge's findings on three issues. First, Blue Ridge, in the 2016 audit report, recommended that work order costs associated with cost elements 141 (incentive accrual department level), 143 (other lump sum payments), 145 (stock-based compensation), 154 (restricted stock incentives), and 155 (transmission incentives) be removed from the DIR, as they are not costs associated with payroll or overhead that benefit the projects completed through the DIR (Staff Ex. 1 at 14, 23, 51).[2] Blue Ridge offered a similar recommendation in AEP Ohio's DIR audit case for 2015, which was resolved through an uncontested stipulation filed in the *2013-2015 Audit Cases*. As approved by the Commission, that stipulation provides that, upon agreement of the signatory parties,[3] Blue Ridge's recommendation is better addressed as part of the base distribution case to be filed by June 1, 2020. *2013-2015 Audit Cases*, Opinion and Order (Mar. 14, 2018) at ¶¶ 31(f), 32(s). In the present proceedings, the Signatory Parties have again agreed that Blue Ridge's recommendations regarding incentive compensation for 2016 and 2017 should be addressed in AEP Ohio's upcoming rate case.

{¶ 47} As OCC emphasizes, the Commission has previously addressed the issue of incentive compensation in a number of rate cases and rider proceedings. In these prior cases, the Commission has concluded that, to the extent that a public utility awards financial incentives to its employees for achieving financial goals, shareholders are the primary beneficiary and, therefore, that portion of the incentive compensation should not be recovered from ratepayers. *In re Duke Energy Ohio, Inc.*, Case No. 18-397-EL-RDR, Finding and Order (July 31, 2019) at ¶ 17; *In re Duke Energy Ohio, Inc.*, Case No. 16-664-EL-RDR, Finding and Order (May 15, 2019) at ¶ 16; *In re Duke Energy Ohio, Inc.*, Case No. 15-534-EL-RDR, Opinion and Order (Oct. 26, 2016) at ¶¶ 20, 44; *In re Ohio American Water Co.*, Case No. 09-391-WS-AIR, Opinion and Order (May 5, 2010) at 20-22, Entry on Rehearing (June 23, 2010) at 11-12; *In re Ohio Edison Co., The Cleveland Electric Illuminating Co., and The Toledo Edison Co.*, Case No. 07-551-EL-AIR, et al., Opinion and Order (Jan. 21, 2009) at 17, Entry on Rehearing (Feb. 2, 2011) at 4-5. In the present proceedings, the Signatory Parties

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2 In the 2017 audit report, Blue Ridge recommends that the Commission consider the capital status of cost element 148, along with the other incentive-associated cost elements identified by Blue Ridge in the audit report for 2016, in the next base distribution case to be filed by June 2020 (Staff Ex. 2 at 15, 50).

3 The signatory parties to the stipulation in the *2013-2015 Audit Cases* are AEP Ohio, Staff, and the Ohio Manufacturers' Association Energy Group. The Kroger Company signed the stipulation as a non-opposing party. OCC did not support or oppose the stipulation.

have recommended that the issue of incentive compensation be deferred for resolution in AEP Ohio's upcoming distribution rate case. We find that this recommendation, when considered as part of the overall settlement package, is not sufficient reason to reject the Stipulation, as OCC requests. Additional consideration of AEP Ohio's incentive compensation is needed, as no party, including OCC, addressed the key question of whether the DIR's incentive compensation related cost elements are tied to the attainment of financial goals by the Company's employees.

{¶ 48} Accordingly, we direct Staff, as part of its investigation of AEP Ohio's application in the rate case, to thoroughly review and evaluate the incentive compensation related cost elements identified by Blue Ridge and to address this issue in the report of investigation to be filed by Staff in the rate case.[4] Although we do not disagree with the Signatory Parties' position that incentive compensation is better addressed in the rate case, we do not believe that it would be appropriate for AEP Ohio to circumvent the Commission's precedent and avoid potential adjustments to the DIR by deferring our resolution of this issue. The Commission, therefore, notes that, following the review of AEP Ohio's incentive compensation in the rate case, the Commission will consider whether it is necessary to require adjustments to the DIR, as provided for under the Company's tariff.

{¶ 49} Turning to the issue of AEP Ohio's inclusion of capital spares in the DIR, the Commission notes that the Stipulation's resolution of this issue is consistent with Blue Ridge's recommendations. In its 2016 audit report, Blue Ridge recommended that the issue of AEP Ohio's inclusion of capital spares in the DIR be given further review and that the Company should evaluate borrowing capital spares, if it makes economic sense, or, at a minimum, perform an analysis to compare renting versus purchase of a capital asset (Staff Ex. 1 at 14, 46-48). In the audit report for 2017, Blue Ridge reiterated its

4 AEP Ohio's application to increase its base distribution rates was filed in Case No. 20-585-EL-AIR, et al.

recommendation on this issue (Staff Ex. 2 at 15). In the Stipulation, the Signatory Parties have adopted Blue Ridge's recommendation through their agreement that additional review of AEP Ohio's capital spares activity will be conducted in a future DIR audit (Joint Ex. 1 at 5). Contrary to OCC's testimony on this issue, Blue Ridge did not conclude that AEP Ohio could have procured approximately $1.9 million in spare equipment in a more cost-effective manner (OCC Ex. 1 at 7). Rather, Blue Ridge found that "all sample project work orders included justifications that were not unreasonable" and that "the spares in this case did meet the stated set of [Company policy and FERC accounting] criteria." Nonetheless, in light of its concern regarding the used and useful nature of the assets, Blue Ridge recommended further steps on this issue (Staff Ex. 1 at 46-48). We, therefore, direct that this issue be reviewed at the earliest opportunity in a subsequent DIR audit. Following that review, the Commission will consider whether it is necessary to require adjustments to the DIR, in accordance with AEP Ohio's tariff.

{¶ 50} OCC also raised concerns with the capitalization of tree-trimming costs. Although OCC argues that Blue Ridge found that there is a possibility that AEP Ohio is charging customers multiple times for certain tree-trimming costs, Blue Ridge made no such finding (OCC Ex. 1 at 9). Rather, Blue Ridge determined that, because it disagrees with AEP Ohio's vegetation management policy with respect to clearing ROW, Blue Ridge was unable to determine whether some costs included in the DIR by the Company as capital should have instead been treated as expense, according to Blue Ridge's interpretation of the FERC definitions. Blue Ridge, therefore, recommended that AEP Ohio better define capital and expense work associated with clearing ROW to conform to the FERC Code of Accounts. (Staff Ex. 2 at 9, 12, 15, 32-34.) We find that the Stipulation reasonably resolves this issue by requiring AEP Ohio to expense tree removals inside and outside the ROW, beginning with the effective date of new base rates in the upcoming rate case. Until that time, AEP Ohio will continue its current accounting approach for tree removal and tree work outside of the ROW will be capitalized only if it involves the removal of a danger tree. Additionally, tree removal during the initial clearing of the

ROW or an expansion of the ROW may also continue to be capitalized during the transition period and beyond. (Joint Ex. 1 at 9-10.) OCC has not shown that these provisions of the Stipulation are unreasonable.

{¶ 51} Finally, we are not persuaded that the recommendations offered by OCC witness Williams should be adopted. As discussed above, we find that the Stipulation reasonably resolves the issue of AEP Ohio's accounting treatment with respect to danger trees. Although Mr. Williams also proposed certain steps to condition AEP Ohio's DIR cost recovery on demonstration of continual annual improvement in the Company's SAIFI and CAIDI reliability performance, the Commission's approval of the DIR in the *ESP 3 Case* was not conditioned upon such improvement and we cannot, at this point, modify the terms and conditions of our approval. *In re Application of Ohio Power Co.*, 144 Ohio St.3d 1, 2015-Ohio-2056, 40 N.E.3d 1060, ¶ 26. Further, the question of AEP Ohio's compliance with the minimum reliability performance standards in Ohio Adm.Code 4901:1-10-10 is a matter to be addressed in a proceeding under Ohio Adm.Code Chapter 4901:1-23 and is beyond the scope of these DIR audit cases.

3. Does the Settlement Package Violate Any Important Regulatory Principle or Practice?

{¶ 52} Finally, Ms. Moore testified that the Stipulation meets the third part of the Commission's three-part test. According to Ms. Moore, the Stipulation balances customer interests, complies with the Commission's order approving the DIR, and provides a reasonable resolution of the annual audits for 2016 and 2017. Ms. McCarter testified that, based on her experience, involvement in these proceedings, and review of the Stipulation, the Stipulation complies with all relevant and important regulatory principles and practices. (Co. Ex. 1 at 15; Co. Br. at 8; Staff Ex. 3 at 5; Staff Br. at 6.)

{¶ 53} OCC witness Hecker testified that the Stipulation violates important regulatory principles and practices and should be rejected. Specifically, Mr. Hecker asserted that, given the Stipulation's inclusion of financial incentives and the costs of procuring large amounts of capital spares, as well as the capitalization of certain tree-trimming costs, customers would be paying more than just and reasonable rates for electric service, contrary to state regulatory policy providing that customers should not pay more than is just and reasonable for utilities to cover expenses and earn a reasonable profit. Mr. Hecker added that the capitalization of tree trimming after initial clearing violates the capitalization guidelines in the FERC Uniform System of Accounts. (OCC Ex. 1 at 15; OCC Br. at 30-31; OCC Reply Br. at 10-11.)

{¶ 54} Consistent with Ms. Moore's and Ms. McCarter's testimony, the Commission finds that no provision of the Stipulation violates any important regulatory principle or practice (Co. Ex. 1 at 15; Staff Ex. 3 at 5). Again, we find that the Stipulation provides a reasonable resolution of the auditor's recommendations regarding financial incentives, capital spares, and tree-trimming costs. With the adoption of the Stipulation pursuant to our directives set forth above, we conclude that the Stipulation will fully comply with all important regulatory principles and practices applicable to these proceedings.

D. Commission Conclusion

{¶ 55} After reviewing the evidence of record in these matters, the Commission finds that the Stipulation is supported by adequate information, that it represents a just and reasonable resolution of the issues raised in these proceedings, and that it violates no important regulatory principle or precedent. Further, we find that the Stipulation is the product of serious bargaining involving knowledgeable and capable parties in a cooperative process, and undertaken by parties representing the public and the utility company's interests, to resolve the aforementioned issues. In view of these findings, the Commission concludes that the Stipulation should be approved and adopted in its entirety.

IV. Findings of Fact and Conclusions of Law

{¶ 56} AEP Ohio 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. As such, AEP Ohio is subject to the jurisdiction of this Commission.

{¶ 57} Blue Ridge filed its compliance audit reports regarding the review of AEP Ohio's DIR for 2016 and 2017 on August 10, 2017, and August 23, 2018, respectively.

{¶ 58} By Entry dated March 18, 2019, OCC's motions for intervention in these proceedings were granted.

{¶ 59} On July 2, 2019, AEP Ohio and Staff filed the Stipulation in these matters.

{¶ 60} An evidentiary hearing occurred on August 30, 2019.

{¶ 61} The Stipulation submitted by AEP Ohio and Staff in these cases meets the criteria used by the Commission to evaluate stipulations, represents a just and reasonable resolution of the issues in these proceedings, and should be adopted.

V. Order

{¶ 62} It is, therefore,

{¶ 63} ORDERED, That the Stipulation be adopted and approved. It is, further,

{¶ 64} ORDERED, That AEP Ohio and Staff take all necessary steps to carry out the terms of the Stipulation and this Opinion and Order. It is, further,

{¶ 65} ORDERED, That nothing in this Opinion and Order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, rule, or regulation. It is, further,

{¶ 66} ORDERED, That a copy of this Opinion and Order be served upon all parties and interested persons of record.

COMMISSIONERS:
Approving:
Sam Randazzo, Chairman
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

SJP/mef