

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION  
OF THE OHIO DEVELOPMENT SERVICES  
AGENCY FOR AN ORDER APPROVING  
ADJUSTMENTS TO THE UNIVERSAL  
SERVICE FUND RIDER OF JURISDICTIONAL  
OHIO ELECTRIC DISTRIBUTION UTILITIES.

CASE NO. 20-1103-EL-USF

### ENTRY

Entered in the Journal on August 20, 2020

{¶ 1} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health (DOH) to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the DOH regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The DOH is making COVID-19 information, including information on preventative measures, available via the internet at [coronavirus.ohio.gov/](https://coronavirus.ohio.gov/).

{¶ 2} On May 29, 2020, consistent with the Joint Stipulation and Recommendation approved by the Commission in Case No. 19-1270-EL-USF, the 2019 Universal Service Fund (USF) case, the Ohio Development Services Agency (ODSA), in accordance with R.C. 4928.52, filed a notice of intent (NOI) to file an application to adjust the USF riders of all Ohio jurisdictional electric distribution utilities, namely, Cleveland Electric Illuminating Company (CEI), Dayton Power and Light Company (DP&L), Duke Energy Ohio, Inc. (Duke), Ohio Edison Company (OE), Ohio Power Company (AEP Ohio), and Toledo Edison Company (TE) (collectively, EDUs). *In re ODSA*, Case No. 19-1270-EL-USF, Opinion and Order (Dec. 18, 2019) at 16. The function of the NOI phase is to provide interested stakeholders with an opportunity to raise and pursue objections to the methodology ODSA intends to use to develop the USF rider revenue requirement and rate design.

{¶ 3} Each of the above-named entities, CEI, DP&L, Duke, OE, AEP Ohio, and TE, is an electric distribution utility, as defined in R.C. 4298.01(A)(6), and a public utility, as defined in R.C. 4905.02, and, as such, is subject to the jurisdiction of this Commission.

{¶ 4} By Entry issued June 8, 2020, the above-noted EDUs were joined as indispensable parties to this proceeding. The June 8, 2020 Entry also established a procedural schedule for the NOI phase of this case such that motions to intervene and comments or objections to the NOI were due by June 26, 2020, responses to comments or objections were due by July 6, 2020, direct testimony was due by July 21, 2020, reply testimony was due by July 28, 2020, and the hearing scheduled to commence on August 10, 2020. Further, the procedural schedule provided that should any party request a prehearing conference, the conference would be held on July 31, 2020.

{¶ 5} Consistent with the procedural schedule, on June 26, 2020, comments and objections to the NOI were filed by The Kroger Company (Kroger) and jointly by CEI, OE, and TE (FirstEnergy EDUs). On July 6, 2020, replies to the comments and objections were filed by ODSA, Ohio Consumers' Counsel (OCC), Ohio Partners for Affordable Energy (OPAE), and jointly by the EDUs.

{¶ 6} On July 20, 2020, ODSA filed a motion for a continuance of the procedural schedule, including the hearing, and a request for expedited ruling. The motion was granted, in part, by Entry issued July 21, 2020, and the procedural schedule revised such that direct testimony was due July 28, 2020, reply testimony was due August 4, 2020, and a prehearing conference was scheduled for August 7, 2020. As noted in the July 21, 2020 Entry, the purpose of the prehearing conference was to determine a mutually agreeable hearing date and briefing schedule, as well as to address other issues which may be raised by the parties regarding the proposed revenue requirement and rate design methodologies. The Entry also granted the motions to intervene filed by OCC, OPAE, Kroger, and Industrial Energy Users-Ohio (IEU).

{¶ 7} On July 28, 2020, a Joint Stipulation and Recommendation (Stipulation), executed by ODSA, DP&L, IEU, AEP Ohio, OP&E, and Duke, as signatory parties, and by Kroger and the FirstEnergy EDUs, as non-opposing parties, was filed. Further, as indicated in the Stipulation, Staff neither supports nor opposes the Stipulation.

{¶ 8} On July 28, 2020, ODSA also filed the testimony of Michael Frazier, Interim Chief of ODSA's Community Services Division, in support of the Stipulation. No reply testimony was filed.

{¶ 9} The prehearing conference was held, as scheduled, on August 7, 2020.

{¶ 10} By correspondence filed August 12, 2020, OCC states that it neither supports nor opposes the Stipulation.

{¶ 11} On August 17, 2020, ODSA and all the other parties to the proceeding (Movants) filed a joint motion for a modified procedural schedule and a request for an expedited ruling. Movants request that, in compliance with the Executive Order, and in consideration of the passage of Am. Sub. H.B. 197 and the unopposed Stipulation, the hearing in the NOI phase of this case be processed via a paper hearing as opposed to an in-person hearing. Further, Movants propose that the Stipulation and the direct testimony of Mr. Frazier be admitted into the record and serve as the basis of the Commission's order in this phase of the proceeding. Movants specifically agree to waive cross-examination of ODSA witness Frazier, waive objections to the admissibility of Mr. Frazier's testimony and the Stipulation, as well as waive written and oral motions to strike the testimony and the Stipulation. Movants believe their proposal provides due process for all parties during the state of emergency and allows this phase of the USF case to proceed without the need for an in-person hearing. Further, this motion, according to the Movants, facilitates the issuance of a decision by the Commission in time for ODSA to prepare its adjustment application by the due date, October 31, 2020, for the next phase of this proceeding. No party objects to the modification of the procedural schedule or an expedited ruling.

{¶ 12} Upon review, the attorney examiner finds that the modified procedural process set forth by the Movants is reasonable. The modified procedural process presented allows the Commission to fully consider the merits of the NOI, the Stipulation, and the parties' respective positions as to both, while honoring due process concerns. Considering that the parties have agreed to the admission of the Stipulation and the testimony of Mr. Frazier, the attorney examiner finds it is not necessary to conduct a hearing via remote-access technology for the purpose of admitting evidence into the record, with the clarification that the NOI filed May 29, 2020, also be admitted into the record. Accordingly, the attorney examiner finds that Movants' motion to modify the procedural process is reasonable and the motion and the waivers agreed to by the Movants should be granted.

{¶ 13} It is, therefore,

{¶ 14} ORDERED, That Movants' motion to modify the procedural process and waivers be granted, consistent with Paragraph 12. It is, further,

{¶ 15} ORDERED, That a copy of this Entry be served on all parties of record in this case.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Greta See

By: Greta See  
Attorney Examiner

SJP/hac

**This foregoing document was electronically filed with the Public Utilities**

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**Case No(s). 20-1103-EL-USF**

Summary: Attorney Examiner Entry ordering Movants' motion to modify the procedural process and waivers be granted electronically filed by Heather A Chilcote on behalf of Greta See, Attorney Examiner, Public Utilities Commission