

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the matter of the Application of Ohio ) Power Company For an increase in Electric ) Distribution Rates )	Case No. 20-585-EL-AIR
In the Matter of the Application of Ohio ) Power Company For Tariff Approval )	Case No. 20-586-EL-ATA
In the Matter of the Application of Ohio ) Power Company For Approval to Change ) Accounting )	Case No. 20-587-EL-AAM

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**THE OHIO HOSPITAL ASSOCIATION’S POST HEARING BRIEF**

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**I. Introduction**

On June 1, 2020, Ohio Power Company (“AEP Ohio” or the “Company”) filed an application for approval to increase its electric distribution rates. After several months of settlement discussions, a Stipulation (the “Stipulation”) to resolve the above-captioned cases pending before the Public Utilities Commission of Ohio (“PUCO” or “Commission”) was formed. The Stipulation is supported by the twelve intervening parties, including the Ohio Hospital Association (“OHA”), the Company, and the PUCO Staff. OHA supports the Stipulation and believes the Commission should agree with the Signatory parties and deny the oppositions of the other intervening parties for reasons explained below.

**II. Law and Argument**

Under Ohio Administrative Code (“O.A.C.”) 4901-1-30, parties to Commission proceedings may enter into stipulations to resolve contested issues. Although stipulations are not binding on the Commission, the terms of these agreements are given substantial weight by the

Commission. In considering the reasonableness of stipulations, the Commission often relies on the following three-prong test:

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?<sup>1</sup>

The Stipulation <sup>2</sup> in this case should be adopted by the Commission because it satisfies the three-prong test. Additionally, OHA supports the Stipulation because it ensures fair access to reliable service to the members of OHA, who have struggled economically caring for their communities during the COVID-19 pandemic.

- A. The Commission should adopt the Stipulation because it meets the three prong criteria previously established by the Commission.<sup>3</sup>

The Commission has routinely evaluated stipulations using the three prong test. A stipulation must be a product of serious bargaining among knowledgeable parties, should benefit all ratepayers and the public interest, and should not violate regulatory principles. Here, the Stipulation meets the three-prong test and should be adopted in its entirety.

1. The Stipulation is a product of serious bargaining among capable, knowledgeable parties.

The Stipulation is a product of serious bargaining among the Company, staff and twelve other intervening parties. Beginning in January 2020, all intervening parties, the Company, and the PUCO Staff met and deliberated on each element of the Company's original application for a rate case. These extensive negotiations involved all intervening parties, who understand the needs and desires for their interests in the case. Additionally, these discussions lasted for several months allowing all parties adequate time to reach a settlement. The length of time and amount

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<sup>1</sup> See *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm'n*, 68 Ohio St.3d 559 (1994).

<sup>2</sup> Joint Exhibit 1.

<sup>3</sup> See *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm'n*, 68 Ohio St.3d 559 (1994).

of settlement discussions between all parties, allowed for a fair and justiciable stipulation to be formed.

2. The Stipulation as a whole benefits ratepayers and the public interest.

The Stipulation as a whole benefits ratepayers and the public interest because the Stipulation lowered the proposed rates from the Company's original application and the Stipulation was formed by a large and diverse group of intervening parties. The Company requested \$1.066 billion in revenue in their application; however, after negotiations, the Stipulation agreed to \$955.1 million, which is much lower than the originally requested revenue. All ratepayers will benefit from this decrease in revenue.<sup>4</sup>

Signatory parties to the Stipulation include a wide array of the Company's customers, including residential customers, industrial customers, manufacturers, and hospitals. These parties do not share the same interests and priorities; therefore, the Stipulation does benefit ratepayers as a whole rather than one individual class of ratepayers or customers. Additionally, the Stipulation benefits the public interest because it balances the Company's interests and the intervening parties' interests.

3. The Stipulation does not violate any important regulatory principle or practice.

Finally, the Stipulation does not violate any important regulatory principle or practice. When the Commission reviews a settlement to determine if it violates a regulatory principle or practice, the Commission considers its own precedent, and favors stipulations that follow the precedent. Here, the Stipulation does not contain any provisions that run contrary to Commission precedent and runs in line with past Commission decisions.<sup>5</sup>

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<sup>4</sup> See Testimony in Support of the Stipulation and Recommendation of David M. Lipthrott filed April 9, 2021, p. 4-5.

<sup>5</sup> See, e.g., *In the Matter of the Application of The East Ohio Gas Company dba Dominion Energy Ohio for Approval of an Alternative Form of Regulation to Establish a Capital Expenditure Program Rider Mechanism*, Case No. 19-468-GA-ALT, Opinion and Order at ¶ 79 (Dec. 30, 2020).

- B. The Commission should approve the Stipulation in its entirety because the alternate feed service fee created under the Stipulation benefits OHA member hospitals and the communities they serve.

In the past year, hospitals across the state, especially the hospitals serving metropolitan areas like Columbus in the Company's service territory, served many community members who were fighting COVID-19. Hospitals serving a large amount of patients need reliable power to ensure that the technology used during patients care can continue working properly to monitor patients and help healthcare workers save lives. Hospitals need reliable and fairly priced power to stay afloat during these economically challenging times brought on by the pandemic. The Stipulation ensures all hospitals in the Company's service territory receive reliable power through the Alternate Feed Service without being financially punished for needing that service if the Company chooses to upgrade the circuit as originally proposed in the Company's application. Instead, hospitals will be grandfathered into a waiver of the alternate feed service fees unless the hospitals' load or other activity caused by the hospital requires upgrades to the alternate circuit.<sup>6</sup> The public benefits hospitals provide to their communities are essential. This provision in the Stipulation aligns treatment for Alternate Feed Service for all hospitals and benefits the communities they serve.

### **III. Conclusion**

In conclusion, the Commission should approve the Stipulation formed with a substantial and wide variety of the intervening parties in this case. The Stipulation is a product of the diligence and thoroughness of the group of intervening parties and therefore, the Stipulation passes the Commission's three- prong test.

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<sup>6</sup> See Direct Testimony of David M. Roush in Support of Joint Stipulation and Recommendation filed April 9, 2021, p.5.

Respectfully submitted on behalf of  
THE OHIO HOSPITAL ASSOCIATION



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## **CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing Post Hearing Brief was served upon the parties of record listed below this day of June 14, 2021 *via* electronic mail.



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Summary: Brief of The Ohio Hospital Association electronically filed by Teresa Orahod on behalf of Devin D. Parram