

**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of the	:	
Ohio Department of Development for an	:	Case No. 22-556-EL-USF
Order Approving Adjustments to the	:	
Universal Service Fund Rider of	:	
Jurisdictional Ohio Electric Distribution	:	
Utilities	:	

INITIAL POST-HEARING BRIEF OF AES OHIO

The Dayton Power and Light Company d/b/a AES Ohio supports the November 23, 2022 Joint Stipulation and Recommendation (“Stipulation”) in this proceeding. The Stipulation (1) is a product of serious bargaining among capable, knowledgeable parties, (2) as a package, benefits customers and the public interest, and (3) does not violate any important regulatory principle or practice.¹

The Commission’s role in Universal Service Fund (“USF”) rider update cases is to facilitate the process by which the Ohio Department of Development (“ODOD”) files for and electric distribution utilities implement their respective USF rider rates so as to provide adequate funding for certain low-income customer assistance programs, including but not limited to the Percentage of Income Payment Plan (“PIPP”) program.²

The Commission has followed a two-phase process for setting USF rider rates on an annual basis:

¹ See, e.g., *In the Matter of the Application of the Ohio Department of Development for an Order Approving Adjustments to the Universal Service Fund Rider of Jurisdictional Ohio Electric Distribution Utilities*, Case No. 21-659-EL-USF (“2022 USF Update Case”), Opinion and Order (Dec. 15, 2021) at ¶¶ 25-26. *Accord: Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559, 629 N.E.2d 423 (1994) (endorsing the Commission’s analysis using these criteria to resolve cases in a manner economical to ratepayers and public utilities).

² 2022 USF Update Case, Opinion and Order (Dec. 15, 2021) at ¶ 29.

In the first phase of the USF case, the notice of intent (NOI) phase, ODOD files, by May 31 each year, an application with its proposed methodology to calculate the USF revenue requirement and rate design, as well as any other matters that ODOD deems appropriate. In the second phase of the USF proceeding, ODOD files, by October 31 each year, an application to adjust the USF rider rates of the EDUs, as necessary. The two-phase process allows the Commission and the parties to the proceedings to consider, on a timely basis, any objections that may be raised by the parties. *In re Ohio Department of Development*, Case No. 04-1616- EL-UNC, Opinion and Order (Dec. 4, 2008) at 8.³

This year, the Commission accomplished the first phase by approving the methodology for ODOD to calculate the USF revenue requirement and rate design for 2023, as recommended in the August 5, 2022 Joint Stipulation and Recommendation.⁴ That methodology was consistent with methodologies approved by the Commission in numerous prior USF cases.⁵

Now in this second phase, the Stipulation recommends that the Commission apply test period data to that approved methodology. The only witness opposing the Stipulation – Witness Williams on behalf of the Office of the Ohio Consumers’ Counsel (“OCC”) (OCC Ex. 1) – does not show that the Stipulation is unreasonable. He further provides no reason for the Commission to conclude that the test period data is incorrect or misapplied – the only relevant issues in this phase of the proceeding.

AES Ohio shares OCC’s concern about the magnitude of the USF rider increases in 2023, and the impact on all customers. However, as shown by ODOD Witness Meadows, the increases are due to a number of legitimate factors, including but not limited to an “increase in projected enrollment from the actual 2022 enrollments, an increase in the cost of PIPP, and the need to

³ *Id.* at ¶ 5.

⁴ Opinion and Order (Oct. 5, 2022).

⁵ *Id.* at ¶ 49.

anticipate possible cash flow changes in the reserve component due to increased utility costs and the increase in PIPP eligibility from 150% to 175% [of the] Federal Poverty Guidelines.” ODOD Ex. 2, p. 4:1-5. The Company also recognizes the limited scope of this proceeding and the legal obligation of ODOD to adequately fund PIPP and other low-income programs through USF rider rates. R.C. 4928.52. The Stipulation satisfies that statutory duty by following the methodology previously approved by the Commission.

The Stipulation is, therefore, reasonable and should be adopted.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was e-filed with the Public Utilities Commission of Ohio on December 6, 2022. The PUCO's e-filing system will electronically service notice of the filing of this document on the following parties:

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Summary: Brief Initial Post-Hearing Brief of AES Ohio electronically filed by Mr.
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