**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| 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. 16-1223-EL-USF |

**REPLY COMMENTS**

**BY**

**THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

# I. INTRODUCTION

The Office of the Ohio Consumers’ Counsel (“OCC”) files these Reply Comments on behalf of the 4.2 million residential electric customers who pay extra on their electricity bills to support the programs that make up the Universal Service Fund (“USF”) in Ohio. The USF provides funding for a number of programs including the Percentage of Income Payment Plan (“PIPP”) and is administered by the Ohio Development Services Agency (“ODSA”).

On May 31, 2016, ODSA filed its Notice of Intent to file an application for adjustments to the USF Riders. On June 2, the Public Utilities Commission of Ohio (“PUCO”) established a procedural schedule for this case. On July 1, the Kroger Co. (“Kroger”) filed comments seeking to change the way rates are collected for USF[[1]](#footnote-1) in a manner that inappropriately shifts more costs to residential customers. The OCC opposes those changes because they violate Ohio law and unnecessarily harm Ohio residential customers.

# II. COMMENTS

## Kroger’s proposed rate design change violates Ohio law by allocating more costs to residential customers.

Ohio law specifically states that the universal service rider “shall be set in such a manner so as not to shift among the customer classes of electric distribution utilities the costs of funding low-income customer assistance programs.”[[2]](#footnote-2) This means that a certain specific customer class cannot shift the costs associated with its universal service fund obligation away from itself and onto another customer class. But this is precisely what Kroger is seeking to do, and it is unlawful under Ohio law.

Kroger’s proposed modification unlawfully shifts costs away from large mercantile customers with multiple locations to other customers. The brunt of this cost shifting will be borne by customers who use less energy like small business and residential customers. Additionally, while only Kroger has proposed this rate design, any other similarly situated multi-site mercantile customers would be able to take advantage of this inappropriate rate design. Specifically, Kroger proposes “a modification to the application of the two-step declining block rate design methodology so that two tiers apply to mercantile customers with multiples sites on an aggregated monthly consumption basis.”[[3]](#footnote-3)

This rate design would essentially create a new class of customers for multi-site mercantile entities. They would be able to aggregate individual customer loads for the sole purpose of qualifying for significantly lower electric rates than that which an individual mercantile customer could otherwise realize. However, the total USF costs remain the same and therefore, other customers including small businesses and residential would be subject to further increased electric bills to make up the reduced cost paid by larger multi-site mercantile customers. Kroger’s proposal would shift costs from large mercantile customers to small businesses and residential customers in violation of R.C. 4928.52(C).

Not only would this proposal be illegal, it would also violate the tariffs of many utility companies. Aggregation of the usage of multiple locations in a service territory would require that the meter readings be combined in order to determine the usage across multiple locations. This is expressly prohibited by the tariffs of the Cleveland Electric Illuminating Company, Toledo Edison and Ohio Edison.[[4]](#footnote-4) Their tariffs state “[e]ven if used by the same person, firm or corporation, electricity delivered and metered separately or at different locations will not be combined for bill calculation purposes…”[[5]](#footnote-5) Kroger’s proposal would require that electricity that is metered separately would have to be combined for bill calculation purposes in order to determine the USF rider charge.

Furthermore, even if it was not prohibited by the tariff, it would likely necessitate expensive changes to the billing systems and processes of the utilities. Such administrative and software changes can be extremely costly and could in turn be passed on to consumers. It would wholly inappropriate for other consumers to subsidize a change solely to provide a discount to one customer, Kroger.

## Kroger’s new proposed allocation unnecessarily harms customers.

Kroger’s proposed rate design harms customers because it shifts costs away from their customer class rather than actually reducing the cost of the USF. Without a full examination of the actual load and billing data for Kroger and other similarly situated mercantile customers, it is impossible to fully determine the impact of shifting these costs could have on residential customers. Furthermore, it would be difficult to fully understand the impact of this rate design change if other smaller commercial and mercantile customers in a similar position took advantage of this change. Such a change could only result in an unwarranted shift of a large amount of costs onto residential customers.

In order to truly understand the impact of this illegal shifting of costs, actual billing data must be used. Moreover, this impact would grow with each multi-site mercantile customer that chose to take advantage of this data. While OCC recommends that the PUCO should not adopt this proposal, the PUCO should at least delay any implementation of this proposal until the actual USF impact of this proposal can be determined. The PUCO should also examine each individual customer class’ current obligation to fund the USF to ensure that, on a going forward basis, each customer class maintains it proportional obligation to fund the USF.

Kroger’s proposed cost shift and rate design is not an appropriate way to seek to reduce the costs of the USF Rider. The more appropriate focus should be to work to reduce the USF charges as a whole. By reducing the residential charges, the PIPP costs will be lower and there will be fewer customers on PIPP. This will in turn reduce the cost of the USF.

Kroger's proposed cost shift to residential customers could not come at a worse time. Residential bills have increased from an average of $78.07[[6]](#footnote-6) in May of 2006 to $103.76[[7]](#footnote-7) in May of 2016 (based off of 750 kWh of usage). This is an increase of 33%, which far exceeds the pace of inflation. The focus of the PUCO should be on reducing bills especially to residential customers, not trying to increase the bills (through cost shifting) of to residential customers.

# iiI. CONCLUSION

The USF Rider is intended to fund low-income assistance programs administered by the ODSA. This program provides a lifeline to low-income customers who would otherwise be unable to keep their lights on and heaters running. Kroger is now seeking to unlawfully shift its share of these costs to other customers. Kroger's proposal would likely increase the burden on other customer classes, including residential consumers. Therefore, the PUCO should reject Kroger’s proposed changes to the USF rate design.

Respectfully submitted,

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*/s/ Ajay Kumar*\_\_\_\_\_\_\_\_\_\_\_\_

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the Reply Comments have been served via electronic service upon the following parties of record this 8th day of July, 2016.

*/s/ Ajay Kumar*\_\_\_\_\_\_\_\_\_

Ajay Kumar

Assistant Consumers’ Counsel

**SERVICE LIST**

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1. Motion to Intervene and Objections and Comments by The Kroger Co. at 7 (July 1, 2016). [↑](#footnote-ref-1)
2. R.C. 4928.52(C). [↑](#footnote-ref-2)
3. Motion to Intervene and Objections and Comments by The Kroger Co. at 7 (July 1, 2016). [↑](#footnote-ref-3)
4. Schedule of Rates for Electric Service, Cleveland Electric Illuminating Company, P.U.C.O No. 13, Sheet 4, 1st Revised Page 5 of 21 (Effective June 1, 2016); Schedule of Rates for Electric Service, Ohio Edison Company, P.U.C.O No. 11, Sheet 4, 1st Revised Page 5 of 21 (Effective June 1, 2016); Schedule of Rates for Electric Service, Toledo Edison Company, P.U.C.O No. 8, Sheet 4, 1st Revised Page 5 of 21 (Effective June 1, 2016). [↑](#footnote-ref-4)
5. *Id.*  [↑](#footnote-ref-5)
6. *See* Ohio Utility Rate Survey, May 15, 2006, Public Utilities Commission of Ohio *available at* http://www.puco.ohio.gov/puco/index.cfm/industry-information/statistical-reports/ohio-utility-rate-survey/2006/. [↑](#footnote-ref-6)
7. *See* Ohio Utility Rate Survey, May 1, 2016, Public Utilities Commission of Ohio *available at* http://www.puco.ohio.gov/puco/index.cfm/industry-information/statistical-reports/ohio-utility-rate-survey/urs-05-2016/. [↑](#footnote-ref-7)