Before

**The Public Utilities Commission of Ohio**

In the Matter of the Application of the )

Ohio Development Services Agency )

for an Order Approving Adjustments ) Case No. 17-1377-EL-USF

to the Universal Service Fund Riders of )

Jurisdictional Ohio Electric Distribution )

Utilities. )

**Initial Brief of**

**Industrial Energy Users-Ohio**

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 On June 1, 2017, the Ohio Development Services Agency (“ODSA”) filed its Notice of Intent (“NOI”) to establish the methodologies for calculating the 2018 Universal Service Fund (“USF”) revenue requirement and for establishing the rate design for the 2018 USF riders. In the NOI, ODSA proposes to extend the existing revenue methodologies for calculating the USF rider revenue requirements and to extend the two-step declining block rate design that has been in place for the USF riders since 2001. No party objected to the continuation of the revenue requirement methodology. No objection to the continued use of the two-step declining block rate design was presented during the evidentiary hearing.[[1]](#footnote-1)

 Accordingly, because the revenue requirement and rate design methodologies contained in the NOI are unopposed and are lawful and reasonable, the Public Utilities Commission of Ohio (“Commission”) should authorize those methodologies for the 2018 USF riders.

# argument

## Adjustments to the USF rider must comply with several statutory requirements contained in R.C. 4928.52

 R.C. 4928.52 governs the process to adjust the revenue collected through the USF riders. If ODSA determines that the revenues from the USF riders are insufficient to cover the costs of the USF programs (namely the Percentage of Income Payment Plan or “PIPP”), the statute requires ODSA to undertake two steps. ODSA must first consult with the Public Benefits Advisory Board (“PBAB”).[[2]](#footnote-2) After consulting PBAB, ODSA must file an application with the Commission to increase USF rates.[[3]](#footnote-3) The statute further requires that the establishment of the USF riders be done “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.”[[4]](#footnote-4)

## The existing USF rider rate design and ODSA’s proposal to extend the long-standing rate design complies with the statutory requirements of R.C. 4928.52

 In preparation of submitting its NOI to the Commission in this proceeding, ODSA consulted with PBAB at its May 17, 2017 meeting regarding its proposed methodologies to establish the revenue requirement and rate design for the 2018 USF riders.[[5]](#footnote-5) At this meeting, the board recommended that ODSA adopt the methodologies contained in the NOI.[[6]](#footnote-6)

 On June 1, 2017, ODSA filed the NOI with the Commission setting forth the specifics regarding the two-step declining block rate design methodology that ODSA proposes to utilize for the 2018 USF riders.[[7]](#footnote-7) The NOI was admitted into the record as ODSA Exhibit 1, and was further supported by the testimony of ODSA witness Meadows.[[8]](#footnote-8) No party presented evidence opposing the continuation of the two-step declining block rate design (the evidence presented by Kroger focuses solely on whether a mercantile customer can aggregate its usage across multiple accounts and subject the aggregated usage to the two-step declining block rate design).[[9]](#footnote-9) Thus, the record adequately supports the adoption of ODSA’s recommended rate design for the 2018 USF riders.

 The Commission has also repeatedly found that this rate design is lawful and reasonable. The two-step declining block rate design methodology was first adopted in 2001, and has been approved as part of a jointly-sponsored stipulation in each annual USF proceeding since then.[[10]](#footnote-10) In approving the jointly-sponsored stipulations in the prior USF proceedings, the Commission has found that the use of the recommended two-step declining block rate design does not violate R.C. 4928.52(C).[[11]](#footnote-11)

 Accordingly, the NOI is reasonable and lawful and should be adopted.

# conclusion

 The continuation of the existing two-step declining block rate design methodology proposed by ODSA for the 2018 USF riders complies with the requirements of R.C. 4928.52(B) (consultation with PBAB) and R.C. 4928.52(C) (not shifting costs among the customer classes) and is properly set forth in the record before the Commission. Therefore, the Commission should find that this rate design methodology is lawful and reasonable and should be adopted for the 2018 USF riders.

 Respectfully submitted,

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**Certificate of Service**

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO's e‑filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Initial Brief of Industrial Energy Users-Ohio* was sent by, or on behalf of, the undersigned counsel for IEU-Ohio to the following parties of record this 28th day of August 2017, *via* electronic transmission.

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1. Although Ohio Partners for Affordable Energy (“OPAE”) filed an objection to the continuation of the existing rate design, OPAE elected to not support its objection with testimony at the evidentiary hearing. *See* ODSA Ex. 2 at 5. Accordingly, the objection is not before the Commission. The Kroger Company (“Kroger”) does not object to the continuation of the existing rate design, but instead is seeking to permit mercantile customers to aggregate their usage and have that aggregated usage applied to the rates produced by the two-step declining block design. *See* Kroger Ex. 2 at 3. [↑](#footnote-ref-1)
2. R.C. 4928.52(B). [↑](#footnote-ref-2)
3. *Id.* [↑](#footnote-ref-3)
4. R.C. 4928.52(C). [↑](#footnote-ref-4)
5. *See* OCC Ex. 1 at 6-7. [↑](#footnote-ref-5)
6. *Id.* [↑](#footnote-ref-6)
7. ODSA Ex. 1 at 11; *see also* Kroger Ex. 1 at 4-5; ODSA Ex. 2 at 4; ODSA Ex. 3 at 2; OCC Ex. 1 at 4. [↑](#footnote-ref-7)
8. ODSA Ex. 1-3; Tr. at 29 (admitting ODSA Exhibits 1-3). [↑](#footnote-ref-8)
9. *See* Kroger Ex. 2 at 3. [↑](#footnote-ref-9)
10. ODSA Ex. 2 at 3-5. [↑](#footnote-ref-10)
11. *In the Matter of the Application of the Ohio Development Services Agency for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Electric Distribution Utilities*, Case No. 14-1002-EL-USF, Finding and Order at 7 (Sep. 25, 2014); *In the Matter of the Application of the Ohio Development Services Agency for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Electric Distribution Utilities*, Case No. 13-1296-EL-USF, Finding and Order at 8 (Oct. 2, 2013); *In the Matter of the Application of the Ohio Department of Development for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Electric Distribution Utilities*, Case No. 12-1719-EL-USF, Finding and Order at 9-10 (Sep. 19, 2012); *In the Matter of the Application of the Ohio Department of Development for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Electric Distribution Utilities*, Case No. 11-3223-EL-USF, Finding and Order at 9 (Oct. 3, 2011). In its order in the 2016 USF case and in its orders prior to 2011, the Commission approved stipulations that recommended the Commission find that the continued use of the declining block rate design did not violate R.C. 4928.52(C) and the Commission approved each of these stipulations without modification. *See, e.g.*, *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, Opinion and Order at 9 (Sep. 7, 2016); *In the Matter of the Application of the Ohio Department of Development for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio Electric Distribution Utilities*, Case No. 10‑725‑EL‑USF, Finding and Order at 10-11 (Oct. 27, 2010). [↑](#footnote-ref-11)