BEFORE

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.16-1223-EL-USF

JOINT COMMENTS OF DUKE ENERGY OHIO, INC., CLEVELAND ELECTRIC ILLUMINATING COMPANY, OHIO EDISON COMPANY, TOLEDO EDISON COMPANY, DAYTON POWER AND LIGHT COMPANY AND OHIO POWER COMPANY IN RESPONSE TO OBJECTIONS AND COMMENTS OF THE KROGER COMPANY

I. INTRODUCTION

This case concerns the notice of an intent to file an application of the Ohio Development Services Agency (ODSA) to adjust the Universal Service Fund (USF) riders of the state's jurisdictional electric distribution utilities (EDUs). ODSA filed on May 31, 2016, giving notice of its intent to submit its annual USF rider adjustment application on or before October 31, 2016. ODSA further described elements of the to-be-filed application. In an Entry on June 2, 2016, the Attorney Examiner established a procedural schedule directing that motions to intervene, objections and comments all be submitted on June 30, 2016, and that responses to objections and comments be filed on July 8, 2016. The Entry also stated that all jurisdictional EDUs shall be joined as indispensable parties to the proceeding.[1] Accordingly, Duke Energy Ohio, Inc., The Cleveland Electric Illuminating Company, Ohio Edison Company, The Toledo Edison Company,

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[1] Entry, June 2, 2016, at p.3.

The Dayton Power and Light Company and Ohio Power Company, jointly submit these objections and comments.

On June 30, 2016, The Kroger Company (Kroger) moved to intervene and submitted objections and comments. In its comments, Kroger objects to ODSA's proposed rate design methodology in respect to how such rate design is applied to customers such as Kroger[2]. Kroger states that it should qualify as a "mercantile customer" pursuant to the definition contained in R.C. 4928.01(A) (19) because "Kroger's facilities consume electricity for nonresidential purposes and are part of a national account involving multiple facilities in Ohio and elsewhere."[3] Kroger admits that it will only qualify as a mercantile customer if individual Kroger retail locations are "allowed to aggregate [their] load within the EDU's service territory and apply that aggregated load to the USF Rider kWh rates proposed by ODSA in its NOI." And through aggregating its locations, Kroger will be able to avoid costs that would otherwise be borne by it under ODSA's proposal. For the reasons set forth below, Kroger's request is unjust and unmanageable and should be denied.

II. DISCUSSION

In its Comments, Kroger claims that the special treatment that it is seeking is consistent with the rate design proposed by ODSA and will only alter the "application" of the rate design. But in this argument, Kroger fails to explain how and why it should be treated differently than innumerable other franchise locations across the state that are similarly situated. Kroger argues, without providing any examples, that its proposal is firmly based on the principle embedded in the current rate design and on prevailing regulatory concepts. However, Kroger neglects to account for the difficulties inherent in its novel proposal.

[2] Although Kroger's Comments are only filed on behalf of Kroger and seek special treatment for Kroger, similarly situated customers could likewise seek the same relief.
[3] Motion to Intervene and Objections and Comments by The Kroger Company at p.6.

A. Kroger's proposal is difficult, costly and burdensome.

Prior to making its proposal, Kroger did not discuss its comments with any of the EDUs to establish if it was even possible for the EDUs to carry out the proposal. In fact, the process of aggregating monthly consumption from multiple Kroger facilities (and even more so if extended to other similarly situated customers) contained within each of the EDU service territories, determining within a given month whether the aggregate load falls within the mercantile class, and then preparing an aggregated bill for locations that are currently billed individually, would require either lengthy manual processing or internal system changes that would be costly and time consuming. Such a process would be further complicated by the common occurrence of Kroger opening and closing locations. This complication would also have to be remedied via costly system changes or manual intervention, which are impractical and unreasonable options. The costs associated with accommodating this individual benefit for Kroger would presumably be borne by other customers as one must find that (i) Kroger will not absorb the costs necessary to accommodate its request and (ii) this proposal would likely apply to other mercantile customers, who would similarly seek to aggregate their consumption. Indeed, it is easy to anticipate that additional grocery and other types of chains would follow suit, as well as many other franchise businesses that could also qualify as mercantile customers if aggregated. Multitudes of such customers cannot be manually billed and system changes to accomplish such processes would be costly. It is not necessarily possible to even automate the billing portion of the aggregation proposal submitted by Kroger let alone identifying and/or verifying the "multi-site customers" that could allegedly be linked to a single account for purposes of the USF Rider. This process would likely require applications by mercantile customers and some form of verification by the EDUs that can also only be done manually and would add to the cost and administrative burden. These additional costs would require additional cost recovery for the EDUs and possibly ODSA as well.

B. Kroger's proposal shifts costs to other customers, including residential customers.

ODSA's notice provides an explanation of its proposed rate design methodology that includes a two-step declining block rate design, consistent with rate design methodologies approved by the Commission in all prior ODSA USF rider adjustment applications. The first block applies to all monthly consumption up to and including 833,000 Kwh per month. The second rate block applies to all consumption above 833,000 Kwh per month. As explained by ODSA, for each EDU, the rate per Kwh for the second block will be set at the lower of the Percentage of Income Payment Plan (PIPP) charge in effect in October 1999 or the per Kwh rate that would apply if the EDU's annual rider revenue requirement were to be recovered through a single block per Kwh. The rate for the first block rate will be set at the level necessary to produce the remainder of the EDU's annual USF rider revenue requirement.

If the Commission were to permit Kroger (and other similarly situated customers) to receive this uniquely favorable treatment, it would effectively move Kroger from the first block to the second block for billing purposes. This would cause customers in the first block, *e.g.* residential customers, to pay more. Such an outcome would be unprecedented and contrary to the standard rate design that has pertained since the USF was first established. And as Kroger would be receiving a benefit at the expense of other customers, including residential customers, no doubt other similarly situated franchise businesses would likewise qualify to receive the same advantage. There is no compelling reason to make such a change and the Commission should decline to do so.

C. Kroger's Proposal Would Cause Additional Difficulties to ODSA.

In its comments, Kroger does not state that it has discussed the proposal with the ODSA in order to determine whether the ODSA can likewise accommodate the changes requested. Aggregating Kroger consumption on a monthly basis, as well as that of other entities within Ohio that would likewise receive this special treatment, may significantly impact operations involving accounting for USF revenue supporting the PIPP program at ODSA as well. Neglecting to consider the impact of the proposal on the very agency charged with managing much of the USF revenue flow supporting the PIPP program renders this proposal flawed and ill considered. In addition to being unmanageable for utility billing systems and internal operations, it is likewise potentially unmanageable for ODSA. For these reasons, the concept is ill conceived, unjust and impractical.

III. CONCLUSION

For the reasons set forth above, the Joint Ohio EDUs respectfully requests that the Commission deny the proposal set forth by Kroger in its Comments and Objections.

Respectfully submitted,
On behalf of the Joint Ohio EDUs

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was delivered by U.S. mail (postage prepaid), personal delivery, or electronic mail on this 8th day of July, 2016, to the following parties.

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