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 Riders of Jurisdictional Ohio Electric Distribution Utilities.	)))))	Case No. 17-1377-EL-USF

REPLY COMMENTS OF THE KROGER CO. TO OHIO PARTNERS FOR AFFORDABLE ENERGY'S MOTION TO INTERVENE AND OBJECTIONS

I. Introduction.

On June 1, 2017, the Ohio Development Services Agency (ODSA) submitted its Notice of Intent to file an Application (NOI) to adjust the Universal Service Fund (USF) Rider of all Ohio jurisdictional electric distribution utilities.[1] On June 7, 2017, the Public Utilities Commission of Ohio (PUCO) established a procedural schedule for this case. On June 30, 2017, Ohio Partners for Affordable Energy (OPAE) filed objections asserting that the two-block rate design should be abandoned.[2] While Kroger agrees that some changes to the rate design need to be made,[3] Kroger opposes OPAE's proposal to completely abandon the two-step declining block rate design embedded in the NOI that has been approved by the PUCO since 2001. Further, the PUCO already has considered identical arguments and rejected them:

> In each USF NOI proceeding since adoption of the two-step declining block rate design, the Commission has adopted the stipulation endorsing the same rate design. **We continue to find OPAE's arguments that the two-step declining block USF rate**

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[1] NOI at 1 (June 1, 2017).

[2] OPAE's Motion to Intervene and Memorandum in Support and Objections at 3-7 (June 30, 2017) (OPAE Objections).

[3] Kroger's Motion to Intervene and Objections and Comments at 5-10 (June 30, 2017) (Kroger's Comments).

design violates Section 4928.52(C), Revised Code, to be unpersuasive.

(emphasis added).[4] Nothing has changed. As such, consistent with its prior rulings, the PUCO should reject OPAE's objections.

II. Reply Comments.

A. The Two-Block Rate Design Serves an Important Function to Minimize the Financial Impact on Large Consumers and Does Not Violate Section 4928.52(C), Revised Code.

ODSA proposes to recover the annual USF rider revenue requirement for each electric distribution utility (EDU) through a USF rider that utilizes a two-step declining block rate design of the type approved by the Commission in prior ODSA USF rider adjustment application.[5] Just as in prior PUCO-approved cases, the first block of the rate will apply to all monthly consumption up to and including 833,00 kWh. The second rate block will apply to all consumption above 833,000 kWh per month.[6] 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. Where the EDU's October 1999 PIPP charge exceeds the per kWh rate that would apply if the EDU's annual USF rider revenue requirement was to be recovered through a single block per kWh rate, the rate for both consumptions blocks will be the same.

In its objections, OPAE objects to the two-step declining block rate design, approved in other ODSA USF rider adjustment applications, claiming that the rate methodology causes a shift of USF costs from very large industrial customers to all other customers.[7] Further, OPAE

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[4] *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, Opinion and Order at 9 (October 3, 2011) (2011 USF Proceeding).

[5] NOI at 11.

[6] Id.

[7] OPAE Objections at 3.

argues that the USF rider rate should be set using a single kWh that does not shift costs among customer class.[8] OPAE refers to and relies upon Section 4928.52(C), Revised Code.[9] Section 4928.52(C), Revised Code, states, in pertinent part, that the USF 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."

First, the PUCO already rejected identical arguments by OPAE and the Office of the Ohio Consumers' Counsel (OCC) in past USF proceedings.[10] The two-step declining block rate design has been approved by the PUCO in prior ODSA NOI proceedings. Further, the proposed two-step declining block rate design does not violate Section 4928.52(C), Revised Code. As documented in the stipulations accepted in each of the previous USF rider adjustment cases, the impact of using the two-step declining block riders, as opposed to a single per-kWh rate, is *de minimis* and results in a revenue distribution that is well within the range of estimates of error inherent in any inter-customer class cost-of-service analysis and does not negatively impact the principal of revenue distribution continuity. Further, the cost of funding low-income customer assistance programs is only a portion of the USF rider revenue requirement. Therefore, the PUCO has found that "the magnitude of the impact of utilizing a two-step declining block USF rate design, as opposed to a uniform USF rate per kWH, is insufficient, in this case, to constitute a material shift among the customer classes to violate Section 4928.52(C), Revised Code."[11]

The two-step declining block rate design first implemented in Case No. 01-2411-EL-UNC was intended to limit the substantial financial impact on the state's largest electric

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[8] OPAE Objections at 4.

[9] Id.

[10] See *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 (October 27, 2010); 2011 USF Proceeding, Opinion and Order at 9 (October 3, 2011).

[11] 2011 USF Proceeding at 9.

consumers that would otherwise occur if the USF rider revenue requirements were to be recovered through a single per kWh rate. The PUCO found that the stipulation in that case proposing a two-step declining block rate design was reasonable and that the two-step declining block USF rider set forth in the stipulation "reflect the minimum level necessary to produce the required revenues for ODOD to cover the administrative costs of the low-income customer assistance programs and the customer education programs and provide adequate funding for those programs."[12] By approving stipulations in prior USF rider adjustment proceedings, the PUCO has found that the two-step declining block rate design does not violate any important regulatory principle or practice.

Second, the General Assembly has approved using a similar declining block rate to collect revenue. In Section 5727.81, Revised Code, the General Assembly mandated a three-step declining block rate for the recovery of the kWh excise tax imposed on Ohio's EDUs. Further, the two-step declining block rate design, proposed in this proceeding, has been adopted by the PUCO numerous times.[13]

Lastly, the rate for the second block of the proposed two-step USF rider rate is supported by principles of fairness and revenue stability. OPAE argues that industrial customers using 833,000 kWh per month bear the maximum burden.[14] However, OPAE fails to mention that large electric consumers pay the identical USF rider per-kWh rate for the first 833,000 kWh consumed just like all other customers *including* the "subsidy" OPAE states is paid by all customers. Even at the 833,000 kWh threshold, these large energy consumers are already paying

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[12] Id., Opinion and Order at 13 (December 15, 2010) (the Ohio Department of Development was the predecessor agency to ODSA); see *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 (December 21, 2016).

[13] See 2001 USF Case.

[14] OPAE Objections at 3.

hundreds of thousands of dollars per year to support the USF rider revenue requirements which directly benefit and protect the low and moderate income Ohioans OPAE represents.

IV. Conclusion.

The PUCO previously has considered the issues OPAE raises in its objections and has rejected them, finding that the two-step declining block USF rate design does not violate Revised Code Section 4928.52(C). The PUCO also has found that the two-step declining block USF rate design does not violate any important regulatory principle or practice. Therefore, the PUCO should reject OPAE's objections and approve a two-step declining block USF rate design in this proceeding.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on July 10, 2017.

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