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

OHIO DEVELOPMENT SERVICES AGENCY'S
INITIAL POST-HEARING BRIEF

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I. INTRODUCTION

Hearing was held in this proceeding on August 18, 2017 to resolve one party's objection to the Notice of Intent ("NOI") the Ohio Development Services Agency ("ODSA") filed with the Public Utilities Commission of Ohio ("Commission") on May 31, 2017.

The Kroger Co. ("Kroger") challenges the two-step declining block rate design that the Commission has approved in every universal service fund rider proceeding since 2001.[1] The first block of the rate applies to accounts that have a monthly consumption up to and including 833,000 kWh. The second rate block applies to accounts that have a monthly consumption above 833,000 kWh.[2]

Kroger asserts that the second block should be available to mercantile customers, as defined in R.C. 4928.01(A)(19).[3] Specifically, Kroger asserts that the consumption of individual mercantile customer accounts at various locations within an electric distribution company's

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[1] *In re Ohio Department of Development*, Case No. 01-2411-EL-UNC, Opinion and Order (December 1, 2001).

[2] ODSA Ex. 1 (NOI) at 11; ODSA Ex. 3 (Meadows Reply Testimony) at 2.

[3] R.C. 4928.01(A)(19) defines "mercantile customer" as "a commercial or industrial customer if the electricity consumed is for nonresidential use and the customer consumes more than seven hundred thousand kilowatt hours per year or is part of a national account involving multiple facilities in one or more states."

("EDU") service territory should be aggregated, but solely for purposes of the USF rider.[4] The aggregated load then would be charged the second block rate to the extent the load exceeds 833,000 kWh per month.[5]

To implement its proposal, Kroger asserts that the EDU's current billing practices would be maintained such that the EDUs would continue to charge individual accounts the tariffed first block rates. After the first month of billing, the EDUs would then calculate and issue a refund to the mercantile customers' corporate entity. The refund would equal the difference between the monthly revenues collected from all of the individual mercantile customer accounts under the first block rates, and the amount that would have been collected had the second block been applied to the aggregated consumption. The corporate entity then would be responsible for distributing the refund among the various individual mercantile accounts.[6]

ODSA does not support Kroger's proposal because it is not supported by the record.

II. ARGUMENT

A. Kroger's proposal must be rejected because it fails to demonstrate the degree to which it would shift costs among customer classes. *In re Ohio Development Services Agency*, Case No. 15-1046-EL-USF, Opinion and Order (October 28, 2015).

When the Ohio General Assembly vested ODSA with the authority to administer the collection and remittance of USF rider revenues, it made provisions for how USF rider rates initially should be set,[7] and how they should be adjusted thereafter.[8] In each case, whether it be the initial rate setting or subsequent adjustments, the General Assembly required that the USF rider "be set in such a manner so as not to shift among the customer classes of electric

[4] Tr. 41, 48 (Higgins Cross Examination).

[5] Kroger Ex. 2 (Higgins Reply Testimony) at 3.

[6] Kroger Ex. 2 (Higgins Reply Testimony) at 5; Tr. at 49, 62 (Higgins Cross Examination).

[7] R.C. 4928.52(A).

[8] R.C. 4928.52(B).

distribution utilities the costs of funding low-income customer assistance programs."[9] The two-step declining block rate structure has been in place since the initial USF rider rates were set in 2001. The issue now before the Commission is whether Kroger's proposal shifts costs that otherwise would be paid under the current rate design.

The current rate design is applied to individual customer accounts. Kroger's proposal would change the current rate design by requiring the Commission, for the first time in USF proceedings, to apply the rate design to the aggregated individual accounts of a select group of customers, mercantile customers. Although the Revised Code does not define the term "customer classes," it is clear in the broadest sense of the term that Kroger is proposing the creation of a new customer class solely for purposes of assessing the USF rider.

It is equally clear that Kroger's proposal would shift costs (that otherwise would be paid under the current rate design) away from mercantile customers. Kroger's proposal for billing and refunding mercantile customers conclusively demonstrates this shift. Under its proposal, mercantile customers would continue to be billed first block rates as though they were subject to the existing rate design. However, mercantile customers subsequently would receive a refund equal to the difference between the monthly revenues collected from all of the individual mercantile customer accounts under the first block rates, and the amount that would have been collected had the second block been applied to the aggregated consumption. The refund mechanism irrefutably demonstrates that mercantile customers would pay less of the USF's fixed revenue requirement[10] under Kroger's proposal than they would under the current rate design.

Although Kroger raised this same issue in the 2016 USF rider rate proceeding, it has yet to present information to adequately support the proposal. Specifically lacking is the number of

[9] R.C. 4928.52(C).

[10] Ex. 1 (NOI) at 3 and 11. USF rider rate are set by determining a fixed revenue requirement, which revenues are collected under the approved rate design.

mercantile customers that would be eligible under its proposal and their monthly consumption.[11] Kroger did not provide for the record the costs its aggregated accounts would avoid if its proposal were accepted. Nor did it provide, or apparently attempt even to discover, the costs other eligible mercantile customers would avoid under its proposal.[12]

ODSA would require Kroger's proposal to be available to all mercantile customers statewide.[13] The record shows that if Kroger's proposal were available to all mercantile accounts, their savings could expand "dramatically" and could cause a cost shift among customer classes.[14] Because Kroger has failed to present any evidence as to the degree of the cost shift caused by its proposal, the proposal must fail. *In re Ohio Development Services Agency*, Case No. 15-1046-EL-USF, Opinion and Order (October 28, 2015) at 20-21. ODSA, and the Commission, simply cannot conclude on this record that Kroger's proposal would satisfy R.C. 4928.52(C),

B. Based upon the evidence of record, the Commission must approve the revenue requirement and rate design methodologies ODSA proposed in the NOI.

Based upon the record in this proceeding, ODSA urges the Commission to approve the rate design and revenue requirement methodologies it proposed in the NOI filed May 31, 2017. The purpose of the NOI phase of this proceeding is to determine the revenue requirement and rate design methodologies that ODSA will use in preparing its 2017 USF rider rate adjustment application for the 2018 calendar year. The NOI proposes the same rate design methodology that the Commission has approved since 2001, and also recommends that the PUCO adopt nearly the same revenue requirement methodology.[15] The record reflects that the methodologies ensure

[11] ODSA Ex. 3 (Meadows Reply Testimony) at 3.

[12] Tr. 43 (Higgins Cross Examination); Tr. 85-88 (Ziolkowski Cross Examination).

[13] ODSA Ex. 3 (Meadows Reply Testimony) at 3.

[14] Tr. 94-96 (Ziolkowski Cross Examination).

[15] ODSA Ex. 2 (Meadows Direct Testimony) at 3-4.

adequate funding for the low-income customer assistance programs and the consumer education programs administered by ODSA, and provide a reasonable contribution by all customer classes to the USF revenue requirement. Moreover, the methodologies adopted will result in USF rider rates that represent the minimal rates necessary to collect the EDUs' USF rider revenue requirements.[16]

III. CONCLUSION & RECOMMENDATION

For the foregoing reasons, ODSA respectfully requests that the Commission reject Kroger's proposal and approve the rate design and revenue requirement methodologies it proposed in the NOI filed May 31, 2017.

Respectfully submitted,

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[16] *Id.*

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Initial Brief has been served upon the following parties by first class mail, postage prepaid, and/or electronic mail this 28th day of August 2017.

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