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Chief of Docketing
The Public Utilities Commission of Ohio
180 East Broad Street
Columbus, Ohio 43215-3793

May 3, 2007

SUBJECT: *In re Vectren Energy Delivery Service of Ohio, Inc., for Vectren Energy Delivery of Ohio, Inc., for Approval {Pursuant to Revised Code Section 4929.11, of Tariffs to Recover Conservation Expenses and Decoupling Revenues pursuant to Automatic Adjustment Mechanisms and for Such Accounting Authority as May be Required to Defer such Expenses and Revenues for Future Recovery through Such Adjustment Mechanisms,*
CASE No.: 05-1444-GA-UNC

Dear friends:

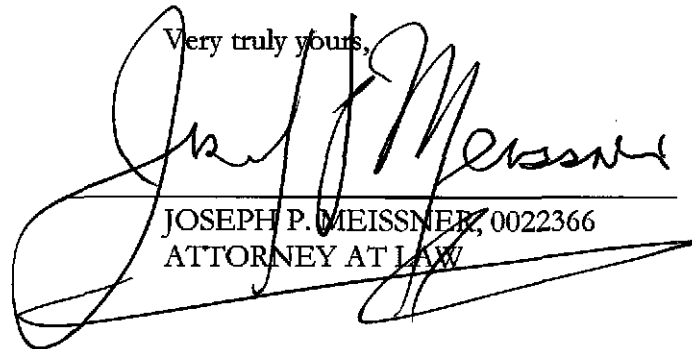
We are enclosing our Reply Brief in this case. This Reply Brief is filed on behalf of our clients, the Neighborhood Environmental Coalition and the Consumers for Fair Utility Rates, also known as the Citizens Coalition.

We are faxing this in today. Please file it today. We are mailing by overnight express the original and requisite copies. Other parties are being served.

We have also enclosed an envelope addressed back to us. Please time-stamp one of the enclosed copies and return this to us.

Let us know of any problems. Thank you.

Very truly yours,



JOSEPH P. MEISSNER, 0022366
ATTORNEY AT LAW

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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Vectren)	
Energy Delivery of Ohio, Inc. for)	
Approval, Pursuant to Revised Code)	
Section 4929.11, of Tariffs to Recover)	Case No. 05-1444-GA-UNC
Conservation Expenses and Decoupling)	
Revenues Pursuant to Automatic)	
Adjustment Mechanisms and for Such)	
Accounting Authority as May be Required)	
to Defer Such Expenses and Revenues for)	
Future Recovery through Such Adjustment)	
Mechanisms.)	

**REPLY BRIEF--
ESPECIALLY URGING ALL PARTIES TO FOCUS
ON HOW WE CAN WORK TOGETHER--
FILED ON BEHALF OF
THE "CITIZENS COALITION" OF
CONSUMERS FOR FAIR UTILITY RATES
AND
THE NEIGHBORHOOD ENVIRONMENTAL COALITION**

Now come the Consumers for Fair Utility Rates and the Neighborhood Environmental Coalition (also known as "The Citizens Coalition") who submit their Reply Brief in this case. This Reply Brief will briefly summarize and comment on various arguments made by other parties in their Initial Briefs. The central point, however, that the Citizens Coalition will emphasize is that all the parties in this case (including the Staff) have enough brains, talent, expertise, experience, and--most of all--

wisdom, in order to figure out a way in which we can all cooperate to fashion a stipulation and/or agreement that will both satisfy the law and the main self-interests and goals of each party.

Otherwise, we are headed for a disaster both in terms of procedures and final PUCO decision. This case could result in various bad precedents that will satisfy no one and will encumber Ohio Utility law for years to come. This case is already a procedural nightmare. In the beginning stages of this case, various parties may have thought this proceeding would settle quickly with a stipulation that would meet the needs of all parties, but would never have any “precedential consequences” based on the “non-precedent language” almost always stuck into every written stipulation. The language, in effect, that a stipulation would have no effect in future proceedings and the language, in effect, that any party could pull out of the stipulation if it should be substantially altered by the Commission had almost become a meaningless mantra. Unfortunately—and let us put the blame where it belongs—the PUCO so altered and “butchered” this “April” Stipulation that it was no longer acceptable to all the parties who had originally and in good faith entered into it.

The Citizens Coalition will discuss this issue and concern later in this Reply Brief. Let us now turn to other arguments discussed in the Initial Briefs of the other parties.

I. NOTWITHSTANDING VARIOUS ARGUMENTS IN THEIR INITIAL BRIEFS BY THE SIGNERS OF THE “HALF STIPULATION”, THIS DOCUMENT DOES NOT PASS THE REQUIRED THREE-PRONGED STANDARD OF REVIEW FOR STIPULATIONS. IT THEREFORE MUST BE REJECTED BY THE COMMISSION.

Some of the parties in this case—Vectren, OPAE, and the Staff—have presented a “Half-Stipulation” on December 8, 2006, similar to the one constructed by the PUCO in its September 13, 2006, “Opinion and Order.” The Citizens Coalition terms this the “Half Stipulation” for several reasons. First, it provides only about half the funding of the original April Stipulation. Secondly, only about half of Vectren’s customers (all right, 60% according to the signers) would be eligible for it. Thirdly, no representative of the residential consumers, including the poor, has signed this.

Some of the “Half Stipulation” signers defend this on the basis that it is “a modified version of the [April] Stipulation.” See page 3 of Vectren Initial Brief. The PUCO Staff in their Initial Post-Hearing Brief provide this illuminating comment, “The Commission issued its Opinion and Order approving the April 10, 2006, Stipulation with modifications on September 13, 2006.” (Emphasis supplied. See page 6 of Staff Initial Brief.) Let us be honest and face the fact of what the PUCO did in its September Order. It butchered what the parties had originally agreed to. Just like a half cow is not a full cow, so this PUCO “Half Stipulation” of September 2006 is not the full stipulation the parties agreed to in April 2006. We do understand the general OPAE strategy that a slice of bread is better than no bread, but in this case there are too many flaws in the September “Half Stipulation” for customer parties to accept it. These flaws are incorporated in the “Half Stipulation” of December, which therefore must also be discarded.

Furthermore, this Half Stipulation does not satisfy the Three Prong Test that a proposed stipulation must pass before it is accepted by the PUCO. In the Initial Brief the Citizens Coalition have already convincingly presented why this Half-Stipulation fails all

three of the stipulation criteria. The fact that no party representing directly the consumers of Vectren have signed this Half Stipulation should condemn it on that basis alone. Substantively, all three signers try to argue, in effect, that this is a good deal for the Vectren customers. Note that only 60 percent of the Vectren customers are eligible for the full conservation program. What about the other 40 percent? Don't they matter? Also what about Vectren's original commitment in the April Stipulation to changing the internal company culture, which would emphasis helping customers conserve, rather than simply push more gas sales? Or will Vectren employees carry out two contradictory corporate cultures depending whom which Vectren customer they encounter? Thus some customers will be helped to conserve gas while others will be encouraged to use more gas? Furthermore, what about the funding? Originally some \$4 million was to be available. Now the funds have been cut in half. Does this mean that half of the need has disappeared, or that each Vectren customer will only get "half" a conservation program? Or perhaps only half their house will be insulated? Or only half the furnace will be made more energy efficient? All these questions further support the conclusion that the Half Stipulation fails the Three Prong Test, including whether the "settlement, as a package, benefit[s] ratepayers and the public interest."

Finally, the Citizens Coalition is very concerned about the seeming difference between the funds available for the conservation program and the amount that Vectren will recover from its customers. The Citizens Coalition understands that about \$2 Million dollars will be available over the two year period for this conservation program. On the other hand, it appears that Vectren will be able to recover more than \$7 million each year, or a total of more than \$14 million in two years, utilizing the decoupling SRR. This is

outrageous. The Citizens Coalition has already presented arguments in their Initial Brief on the illegality and unreasonableness of the decoupling mechanism. While there is no need to repeat these, the Coalition urges the PUCO to throw out completely this decoupling mechanism if, for no other reason, than because the Company could obtain so much unjustified moneys from their customers. Furthermore, if this SRR decoupling mechanism, once allowed in this case, becomes available to other utilities, what could justify using this to impose increased utility costs on already over-burdened customers? Nice weather in Ohio during December? Worker pay increases? New furniture for executive staff? Unexpected vacation expenses for upper management? At this time, the Citizens Coalition urges the Commission—if it should accept any conservation program from any of the stipulations-- to drop the whole SRR decoupling mechanism from this proceeding.

II. THE CITIZENS COALITION RESPECTFULLY URGES ALL THE PARTIES IN THIS PROCEEDING TO WORK TOGETHER IN DEVISING A STIPULATION AND AGREEMENT THAT IS MUTUALLY ACCEPTABLE TO ALL AND BENEFICIAL FOR ALL VECTREN CUSTOMERS.

The Citizens Coalition has already in the introductory paragraphs to this Reply Brief raised this issue. Also it should be no secret to anyone that Coalition representatives have raised this privately with the various parties to this proceeding as well as publicly in their past filings. The Coalition has been very concerned about what has happened in these proceedings. Filings have been piled upon filings and upon even more filings. The nation's forests have only so many trees available for paper. More seriously, various Ohio legislative provisions have been "stretched" to cover the procedural anomalies of this

case, including alternative regulation sections. This is where good intentions to help gas customers may make some very bad law.

The Citizens Coalition is not certain what is the complete solution to all of this. But the Coalition is willing to meet and discuss the entire case with any and all of the other parties at any time in order to reach an agreement acceptable to everyone including the PUCO. We urge all other parties to work together. Hopefully such a solution would benefit all Vectren customers, provide sufficient moneys for customers to take advantage of this program, and assist Vectren in adopting a more progressive corporate culture, while also insuring Vectren can obtain the funds it needs.

III. THE CITIZENS COALITION REMAINS CONCERNED ABOUT WHETHER OUR STATE OF OHIO HAS A PROPERLY CONSTRUCTED PUCO WITH MEMBERS LEGALLY AND CORRECTLY SEATED ON THE COMMISSION. WITHOUT SUCH A PROPERLY SELECTED AND LEGAL COMMISSION, THIS "PSEUDO-COMMISSION" LACKS THE LEGAL AUTHORITY TO MAKE DECISIONS ON MATTERS THAT COME BEFORE IT.

The Citizens Coalition has already presented this argument along with the facts contained in the various News Attachments in their Initial Brief. The Commission can take administrative notice of these undeniable facts about what has happened. Four of our five PUCO commissioners were not properly and lawfully appointed. But in an effort to remedy such illegality, further illegalities were committed including an improper nominating process and undue influence by the Governor's office on the nominating process. It is the position of the Citizens Coalition that Ohioans are now weighed down with a "Pseudo Commission" which has no legal authority.

We expect that other parties may question this legal conclusion. Some may wonder whether this question can appropriately be raised in this Vectren proceeding. But if not here, then where can the citizens and Vectren customers raise this issue? It is their money that the Commission may be taking and ordering how it should be spent by its decision in this case. These customers are entitled to a properly and legally constituted PUCO.

The Citizens Coalition does acknowledge that our Hearing Examiner as well as the Commissioners themselves may not be able to resolve this issue. But the Coalition finds itself in the position of the little boy in the wonderful story of "The Emperor's New Clothes." For those who may not remember this story, "The Emperor's New Clothes" is a Danish fairy tale written by Hans Christian Anderson. (See [Wikipedia](#).) Here is the plot outline:

Many years ago, there lived an emperor who was quite an average fairy tale ruler, with one exception: he cared much about his clothes. One day he heard from two swindlers named Guido and Luigi Farabutto that they could make the finest suit of clothes from the most beautiful cloth. This cloth, they said, also had the special capability that it was invisible to anyone who was either stupid or not fit for his position.

Being a bit nervous about whether he himself would be able to see the cloth, the emperor first sent two of his trusted men to see it. Of course, neither would admit that they could not see the cloth and so praised it. All the townspeople had also heard of the cloth and were interested to learn how stupid their neighbors were.

The emperor then allowed himself to be dressed in the clothes for a procession through town, never admitting that he was too unfit and stupid to see what he was wearing. He was afraid that the other people would think that he was stupid.

Of course, all the townspeople wildly praised the magnificent clothes of the emperor, afraid to admit that they could not see them, until a small child said:

"But he has nothing on!"

This was whispered from person to person until everyone in the crowd was shouting that the emperor had nothing on. The emperor heard it and felt that they were correct, but held his head high and finished the procession. (Emphasis supplied.)

The Citizens Coalition does not intend to malign the PUCO Nominating Committee which originally failed to “clothe” their nominees in the appropriate legalities, nor to disrespect our Governor who now may be fearful of the consequences from admitting the nominees are legally naked. The Citizens Coalition, however, would be remiss if they failed to question what authority are the commissioners “wearing.” Even after the “dog and pony show” of the attempted re-appointments, the question of the authority of the four commissioners remains. Nominees were considered at that meeting who may not have been eligible or interested in being nominated as admitted by chair of the Nominating Committee. The Governor’s office furthermore, probably in an attempt to ease Wall Street’s worries, improperly influenced the nomination process. Ultimately, absent any action by the Commissioners, the Coalition understands this may be an issue which must be seen and decided by the Ohio Supreme Court.

IV. CONCLUSION

This case began with so much promise. We witnessed parties who are normally adverse coming together for an historic DSM and conservation program that would help everyone, including the company, its employees, the Commission, and all Vectren customers. Somewhere along the way, this dream was destroyed. It should be very clear to everyone who remains responsible for destroying this dream.

At this time, the Citizens Coalition—based on their Initial Brief and this Reply Brief—request the following.

First, the PUCO should reject the December “Half Stipulation” since it cut the proposed program in half, does not provide for any real beneficial change in Vectren’s corporate culture, and has not been signed by anyone directly representing the customers including the low-income customers of the Vectren company. This “Half Stipulation” fails to satisfy any of the three prongs for a proper stipulation and so it must be rejected.

Second, the Citizens Coalition is still hopeful that OPAE will understand the dangers of the proposed “Half Stipulation,” especially on the decoupling issue, and remove its signature from this “Half Agreement.”

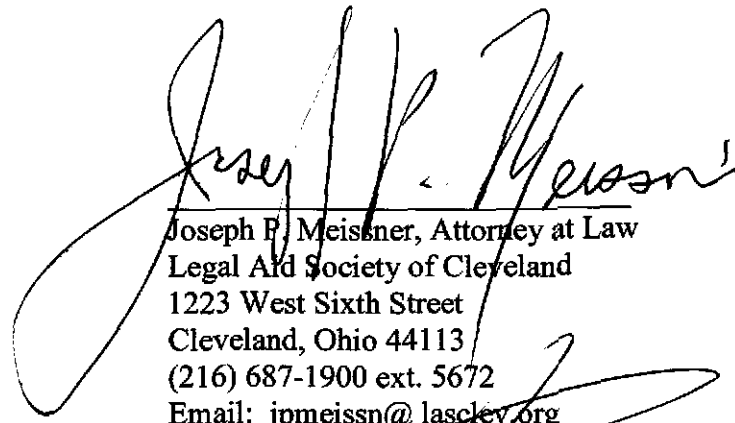
Third, if the Commission feels compelled to accept the “Half Stipulation,” the Citizens Coalition urges that the decoupling SRR mechanism be removed and other means for financing the conservation program be approved. Furthermore, the Commission should increase the funding to the original \$4 million, allow all customers to participate, and assist the Vectren company in changing its internal corporate culture to one based on service to customers, rather than only the bottom line of gross profits.

Fourth, for a \$2 million program lasting two years, a possible recovery of over \$14 million by Vectren is completely unacceptable. The Commission should insure that the Company recovers only the proper amounts for this conservation program.

Fifth, the Commission should encourage all the parties in this proceeding to use their very best legal talents in order to reach an agreement which would satisfy each as much as possible, thus avoiding bad legal precedent on a whole range of issues, including discovery, alternative regulation procedures, accounting mechanisms, and decoupling.

Sixth, if the PUCO should conclude that it cannot decide whether it is legally constituted or not, it should state that this is an important issue which the Ohio Supreme Court can and must determine.

Respectfully submitted,

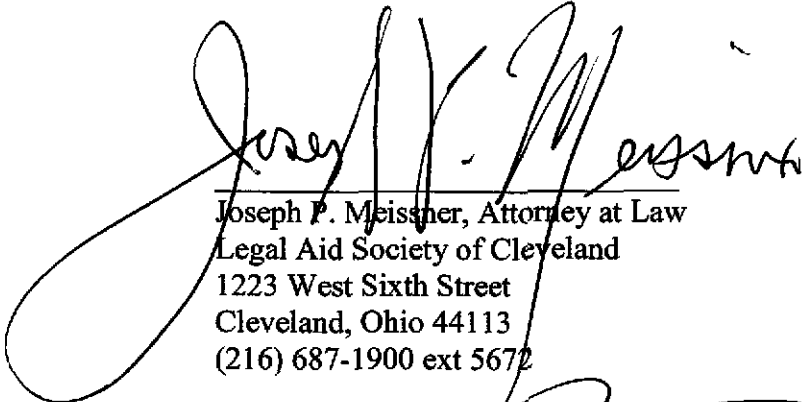


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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Brief and Comments was served upon the address of all the parties in this proceeding, by both email service and by ordinary first class mail, postage prepaid, on this 3RD Day of May, 2007.



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