FILE

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 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

APPLICATION FOR REHEARING FILED BY THE 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 file this Application for Rehearing of the PUCO's "Supplemental Opinion and Order" dated June 27, 2007. This Application is filed pursuant to the Ohio Revised Code, the Ohio Administrative Code, and all relevant PUCO cases.

I. INTRODUCTION

This case is a mess! This case could have been a win-win-win for all involved: the Commission, the Vectren Company (officially "Vectren Energy Delivery of Ohio, Inc."), and all the customers of that company. A stipulation signed by representatives of all interests and not opposed by the Citizens' Coalition was submitted to the PUCO over a year ago. This Stipulation and Recommendation had been presented by various parties representing varied interests, dated April 7, 2006, and. filed with the PUCO on April 10, 2006. The Citizens Coalition did submit comments, but overall the Coalition did not oppose it.

How simple it would have been for the Hearing Examiner and the PUCO to have accepted that Stipulation! The Commission should generally rejoice when stipulations involving all interests of the parties are offered to the Commission. Real Stipulations, representative of all interests in a case, save on scarce resources and time while promoting voluntary compliance from all signatory parties. Furthermore, stipulations normally never go further than that particular case, so that no one feels they have sold out vital interests forever. There is no "precedent" effect nor any commitment of the parties beyond that case.

True, the Staff in this proceeding had doubts about the April 10th Stipulation, but accepting the Stipulation as an experiment, monitoring performances and financial accounts, and demanding results in the near-term, reflected a positive way in which the Staff could have protected important legal positions while the Stipulation programs could have been implemented and benefited all Vectren customers.

Vectren could have proceeded with its conservation and energy programs for the heating season of October 2006. OPAE and OCC could have provided their excellent services for implementing the programs. The Citizens Coalition would have had substantial assistance programs to which it could have referred low-income and moderate income families. Vectren changed its internal corporate culture which would have provided positive help for how all its customers could conserve energy.

None of this has happened. It is now the middle of the summer of 2007. While the PUCO has generously accepted that families up to 300% of poverty level still qualify for the Vectren programs, we doubt that much can be done to help these customers with this coming winter's heating burdens. Furthermore, the Commission has approved a "Half-Stipulation" which does not really include direct representatives of all Vectren customers. The "Half-Stipulation" has flaws. Many of these have already been pointed out by OCC and by the Citizens Coalition. We would once again request the PUCO to review our pleadings and to change its Supplemental Order in accordance with those concerns.

We agree with the Application for Rehearing that is being filed with the PUCO--as we understand it--and we urge the PUCO to schedule hearings on the issues raised in the OCC Application. We have two particular grounds upon which we urge the PUCO to grant rehearing. These are presented below.

II. THE PUCO SHOULD MODIFY THE "HALF-STIPULATION" AND REMOVE ALL DISCUSSION AND USE OF ANY DECOUPLING MECHANISM FROM IT.

The worst part of this Half-Stipulation is its approval of "decoupling," which in effect allows Vectren to recover for alleged lost revenues due to the conservation activities of its customers. The OCC has made extensive arguments that such an approval of a decoupling mechanism is totally improper, given the procedural history of this case and the relevant legal provisions. Nowhere does the Citizens Coalition find any mention of "decoupling" in Ohio's statutes. In fact, there is a strong emphasis on using a Test Year with its revenues and expenses as the basis for establishing rates for customers. (If a decoupling allegedly does not require any increase in rates, it would seem that some kind of financial benefit—such as a rate decrease—would be proper rather than propping up a decoupling mechanism.)

The Citizens Coalition is convinced that under current Ohio law, decoupling is illegal. The fact that there is an attempt in Ohio's General Assembly to pass decoupling legislation only further supports the views of the Citizens Coalition. If decoupling is already permissible under Ohio law, why the need for any legislation? This question answers itself.

Decoupling is illegal. Furthermore, it is untested in practice and unsupported by any factual basis. A Decoupling mechanism violates appropriate utility regulatory principles and can confuse--even anger-- the public. Customers may have a hard time understanding why their conservation efforts should allow Vectren even the possibility of

imposing higher gas rates on them. In conclusion, The PUCO should follow the law and eliminate any decoupling mechanism from this "Half-Stipulation."

III. IF THE PUCO CANNOT ELIMINATE DECOUPLING FROM THIS CASE, THEN THE PUCO AT LEAST SHOULD RESTRICT ANY OTHER USES OF DECOUPLING UNTIL SUCH AN ACCOUNTING TECHNQIUE HAS BEEN ADEQUATELY TESTED AND ITS RESULTS PROPERLY RESEARCHED AND DOCUMENTED.

The Commission's position may be that "things have proceeded too far at this time" and that the decoupling mechanism cannot be eliminated from the Stipulation. If this is so, then the Citizens Coalition would at least request that the use of a decoupling mechanism be limited strictly to this case. It should be noted that the Dominion East Ohio Company, perhaps energized by this Vectren case, has already requested an enormous rate increase for its customers and at the same time DEO has demanded a decoupling mechanism as the ransom price for its plans of weatherization and energy funding.

At this time, no one knows how the decoupling mechanism will work in practice. This Vectren case could be seen as a possible testing ground for such a mechanism. Here are some questions that really can only be answered at the conclusion of the entire Vectren program. Will the decoupling mechanism be needed? Will customers conserve enough so that the mechanism is required? How will conservation due to Vectren's programs be separated from conservation that would have occurred anyway? How will

conservation due to Vectren's programs be separated from conservation dependent on other factors? How will the calculations for this work out in practice? Will Vectren's recovery for alleged losses due to conservation be fair to all parties ? What will be the burden imposed by this decoupling mechanism on all the Vectren customers, especially those who could not directly participate in the various conservation programs? How will the decoupling mechanism affect those customers who can benefit from the conservation programs, robbing them of some of their benefits? Will the proposed accounting used for this decoupling mechanism be open, transparent, and conclusive in calculating for this potential problem? Will the decoupling mechanism allow the company to recover for losses allegedly due to conservation when it turns out other factors may have been responsible? Or when other factors could be responsible? These could include loss of jobs and enforced conservation, houses that have high heating costs being abandoned, or use of other heating resources. For example, customers could resort to kerosene heaters and thus use less natural gas. We do not see this as a proper trigger for any recovery through a decoupling mechanism although undoubtedly Vectren's gas sales may fall.

In conclusion, the PUCO—absent eliminating entirely the decoupling mechanism from the Stipulation—should state that this is a pilot project including the use of a decoupling mechanism. Until the project including the decoupling mechanism have been fully tested and evaluated after the project ends, no other utility company should be permitted to seek such a mechanism.

IV. CONCLUSION

This case is very sad, perhaps the saddest case in PUCO history. Everyone started off in this case to do some good. Perhaps some parties overlooked the technical legal issues in an effort to help lower income customers. Perhaps some Commissioners failed to understand the stipulation process and the need for that process to provide a measure of stability and certainty for parties when they enter into serious negotiations. Hopefully, in future proceedings the Commission will give more weight to the terms of a stipulation as well as to the need for all interests to be represented in a stipulation. Perhaps gas and energy companies will adopt cultures of promoting conservation, DSM measures, and reducing wasteful uses of energy. One example I encountered recently: the Vice-Mayor of Beijing appeared in a short-sleeves shirt at a conference in June explaining to the participants that his entire city administration had changed their clothing habits from shirt, tie, and suit coat to short-sleeve shirts so that air conditioning could be reduced and energy could be conserved.

At this time, we would urge the Commission to drop any use of decoupling from this stipulation while all parties proceed ahead expeditiously to implement the conservation and other programs. If the Commission decides that it is too late to do this, then the Commission should limit the use of decoupling to this case until its use can be fully evaluated at the end of this program in 2010.

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 ordinary first class mail, postage prepaid, on this 27 day of July 2007.

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