BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Annual Application of Vectren Energy Delivery of Ohio, Inc. for Authority to Adjust its Distribution Replacement Rider Charges.	))))	Case No. 12-1423-GA-RDR

COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

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I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC"), an intervenor in the above-captioned proceeding, hereby files these Comments in response to the Application filed by Vectren Energy Delivery of Ohio, Inc. ("Vectren" or "Company") to increase the rates customers pay for Vectren's replacement of cast iron and bare steel distribution mains and service lines and for the replacement of prone-to-failure risers that have a propensity for leaks. Vectren's proposal is in regards to its Distribution Replacement Rider ("DRR") Program. Pursuant to the Stipulation and Recommendation ("Stipulation") filed on September 8, 2008, in Case No. 07-1080-GA-AIR et al., and the Public Utilities Commission of Ohio's ("Commission" or "PUCO") subsequent Opinion and Order dated January 7, 2009, customers are subject to potential DRR increases in each of the years 2010 through 2014. Vectren has approximately 290,000 residential customers that would be required to pay the rate increase requested in Vectren's Application.

On April 30, 2012, Vectren filed its Application for an adjustment to its DRR Rate. OCC filed its Motion to Intervene in these cases on June 4, 2012. On May 10

2012, the Commission established a procedural schedule. OCC hereby files these Comments in accordance with the established procedural schedule.

II. RESERVATION OF RIGHTS

OCC reserves the right to file additional comments and to file expert testimony on any matters not resolved by the Company by August 9, 2012, as set forth in the procedural schedule in the Attorney Examiner's Entry.[1]

III. BURDEN OF PROOF

The burden of proof regarding the Application rests upon Vectren. In a hearing regarding a proposal that involves an increase in rates, R.C. 4909.19[2] provides that, "[a]t any hearing involving rates or charges sought to be increased, the burden of proof to show that the increased rates or charges are just and reasonable shall be on the public utility." Inasmuch as the current case arose from Vectren's rate case, and Vectren is requesting an increase in rates, Vectren in this case bears the burden of proof.[3] Therefore, neither OCC nor any other intervenor bears any burden of proof in this case.

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[1] Entry at 2.

[2] See also R.C. 4909.18.

[3] *In re Vectren Rate Case,* Case No. 07-1080-GA-AIR, et al. Stipulation at 12 (September 8, 2008). ("The Company shall: bear the burden of proof of demonstrating the justness and reasonableness of the level of recovery proposed by the Company for the successor DRR charge * * *.)

IV. COMMENTS

A. Vectren's Proposed O&M Cost Savings Pertaining To Service Lines Are Inadequate For Providing The Intended Benefit To Customers.

The Commission has emphasized the importance of the cost savings component of the accelerated infrastructure replacement programs. This emphasis was made clear in the PUCO's Order in a Dominion East Ohio Pipeline Infrastructure Replacement ("DEO PIR") case. There the PUCO modified the accelerated mains replacement program cost savings calculation in order to ensure that customers received the intended cost savings benefit. The Commission stated:

> In evaluating the arguments of the parties, **the Commission is mindful of the goal, articulated in the [Dominion] Distribution Rate Case, of using the O&M baseline savings to reduce the fiscal year-end regulatory assets, which allows customers a more immediate benefit of the cost reductions achieved as a result of the PIR program** (Staff Ex. 2 at 5). Moreover, the Commission agrees that, if O&M baseline savings are calculated using the methodology suggested by the company, it is possible that consumers will not realize any immediate savings as the result of the PIR program and could incur additional expenses. **Because immediate customer savings were articulated as a goal of the PIR program,** the Commission finds that, consistent with Staff's proposal, the O&M baseline savings should be calculated using only the savings from each category of expenses, such that O&M savings will total $554,300.64 for the PIR year under consideration in this proceeding.[4]

The PUCO took this action to ensure that the cost savings component of the accelerated replacement program did not get overlooked when considering the accelerated cost recovery component of the program. In the current case, Vectren has reported cost savings of $322,652,[5] which is an improvement over last year's reported cost savings of a

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[4] *In re Dominion East Ohio PIR Case,* Case No. 09-458-GA-RDR, Opinion and Order at 11 (December 16, 2009). (Emphasis added).

[5] *In re 2012 VEDO DRR Case,* Case No. 12-1423-GA-RDR, Amended Direct Testimony of James M. Francis at 16 (July 17, 2012).

negative 28,325[6]. However, the level of $322,652 in cost savings still pales in comparison to the $8.5 million in cost savings achieved by Duke during the first five years of its AMRP Program.[7] It remains unexplained how Duke could achieve an average cost savings of $1.5 million per year during the first five years of its AMRP, while Vectren could only achieve $322,652 in the third or fourth year of its DDR. There has been no explanation as to, why Duke – a slightly larger although similar Local Distribution Company – could achieve average annual cost savings almost five times greater than the cost savings achieved by Vectren at this point of the DRR.

To the extent that cost savings provide a significant portion of the benefits for customers from the DRR – a point the PUCO has recognized,[8] then the minimal cost savings achieved by the Vectren DRR to date compared to the level of cost savings achieved by Duke indicates that the actual benefits from cost savings from the DRR for customers have lagged far behind the Company and shareholder benefit of accelerated cost recovery. It is noteworthy that although cost savings have lagged, there has been absolutely no lag in the accelerated cost recovery achieved by the Company when compared to the projected accelerated cost recovery benefit. Vectren has achieved the same level of accelerated cost recovery as Duke, but has been unable to reach a level of cost savings that is even remotely close to the level of cost savings achieved by Duke.

[6] *In re 2011 VEDO DRR Case*, Case No. 11-2776-GA-DRD, Direct Testimony of James M. Francis at 14 (April 29, 2011).

[7] *In re Vectren Rate Case*, Case No. 07-1080-GA-AIR, et al., Staff Report at 30-40 (June 16,2008).

[8] *In re Dominion East Ohio PIR Case,* Case No. 09-458-GA-RDR, Opinion and Order at 11 (December 16, 2009). (Emphasis added).

B. Vectren's Proposal To Collect From Customers The Cost Of The Replacement Of Plastic Pipe Should Be Exempted From DRR Recovery.

Vectren has included in the DRR Application recovery from customers for costs associated with the removal and replacement of plastic pipe.[9] That proposal is a violation of the Stipulation which states:

> The Parties agree and recommend that the Company be authorized to establish a Distribution Replacement Rider * * *, to enable the recovery of and return on investments made by the Company to accelerate implementation of a bare steel and cast iron pipeline replacement program * * *.[10]

There is no expectation in the Stipulation that Vectren would recover the costs for the replacement of plastic mains through the DRR mechanism.

Vectren's testimony in this case states: 7,402 feet of plastic main has been replaced within the projects completed in 2011.[11] Vectren witness Francis further stated:

> There were a number of reasons why plastic main segments were retired, which were discussed in my testimony in the Rate Case. Some short segments of plastic main existed among the bare steel or cast iron systems. It would have been more costly to try and salvage that main rather than replace it. Also, there existed sections of plastic main at the ends of some distribution systems being retired wherein those segments no longer served any customers; therefore, there was no reason to replace and continue to maintain those segments.[12]

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[9] *In re 2012 VEDO DRR Case,* Case No. 12-1423-GA-RDR, Amended Direct Testimony of James M. Francis at 5-6 (July 17, 2012).

[10] *In re Vectren Rate Case,* Case No. 07-1080-GA-AIR, et al. Stipulation at 8 (September 8, 2008). See also Opinion and Order at 5 (January 7, 2009).

[11] *In re 2012 VEDO DRR Case,* Case No. 12-1423-GA-RDR, Amended Direct Testimony of James M. Francis at 5 (July 17, 2012).

[12] Id. at 5-6.

Vectren's arguments in support of recovery do not change the fact that the Stipulation did not contemplate the recovery of plastic main replacement costs through the DRR. Therefore, the Commission should disallow the costs of plastic main replacement.

In its Application, Vectren does not break out its mains and services by pipe composition (cast iron, bare steel, plastic, etc.). The removal of the costs of new plastic mains that replace the existing plastic mains from the DRR calculation impacts the total expense and annualized return on rate base that makes up the revenue requirement to be collected. The Commission should reduce the proposed residential DRR by $0.02[13] to exclude the costs of the replacement of existing plastic mains with new plastic mains. The DRR should not be the mechanism to collect from customers the costs of replacing old plastic with new plastic mains and services. Instead, the Company should have the opportunity to seek recovery for these costs in its next distribution rate proceeding, rather than through the DRR program.

In addition to this more general opposition to the inclusion of plastic pipe as part of the DRR, OCC notes that a 1,390 foot segment of 3 inch plastic pipe in Bellefontaine (work order no. 0948203052525)[14] was replaced with 6 inch MPP. The need to upgrade from 3 inch pipeline to 6 inch pipeline is not within the scope of the DRR program – which is to replace bare steel and cast iron pipeline.[15] The DRR was not intended to cover the cost of upgrading the size of plastic main pipeline. To this point, the

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[13] Vectren replaced 7,402 feet of plastic pipe which equates to 3.89% of the total footage replaced (7,402 feet divided by 190,474 feet). Applying 3.89% to the revenue requirement for mains $2,170,991 (3.89% x $2,170,992 = $84,452) yields a $84,452 reduction. ($66,900 of the total reduction represents the residential share).of the total reduction represents the residential share).

[14] *In re 2012 VEDO DRR Case,* Case No. 12-1423-GA-RDR, Amended Direct Testimony of James M. Francis at Ex. No. JMF2 (July 17, 2012).

[15] *In re Vectren Rate Case,* Case No. 07-1080-GA-AIR, et al. Stipulation at 8 (September 8, 2008). See also Opinion and Order at 5 (January 7, 2009).

explanation provided by Mr. Francis regarding the inclusion of plastic pipe as part of the DRR at pages 5-6 of his testimony does not include the need to upgrade the size of plastic pipeline. Instead of inclusion in the DRR, the costs associated with upgrading the size of plastic pipeline could be raised by Vectren in a future rate case.

The same specific concern also applies to a 610 foot segment of 1 inch and 1 / 4 inch plastic pipe in Greenville (work order no. 10048103052212)[16] that was replaced with 2 inch plastic pipe. The DRR Rider should be reduced by $0.005[17] to account for these two segments of plastic pipe, if the PUCO accepts the Company's general argument in support of the inclusion of plastic pipe in the DRR.

C. Vectren Should Modify Its Bidding Process Eligibility Requirements

OCC is concerned with the bidding process eligibility requirements that Vectren uses. Vectren witness Francis testified that, "If a contractor has not performed a gas distribution replacement project for Vectren with[in] the last 3 years, they were deemed a new contractor and were limited to bid on the two (2) designated entry level packages."[18] This limitation on contractors who could have previously successfully and satisfactorily performed gas distribution replacement projects for Vectren -- although not within the past three years -- has the effect of giving any current contractors an advantage in the bidding process, by unnecessarily limiting the pool of potential bidders.

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[16] *In re 2012 VEDO DRR Case,* Case No. 12-1423-GA-RDR, Amended Direct Testimony of James M. Francis at Ex. No. JMF2 (July 17, 2012).

[17] 2,000 feet of plastic pipe equates to 1.05% of the total footage replaced (2,000 feet divided by 190,474 feet). Applying 1.05% to the revenue requirement for mains $2,170,991 (1.05% x $2,170,992 = $22,765) yields a $19,538 reduction. ($18,034 of the total reduction represents the residential share).

[18] *In re 2012 VEDO DRR Case,* Case No. 12-1423-GA-RDR, Amended Direct Testimony of James M. Francis at 10 (July 17, 2012).

There are two issues of concern related to this bidding requirement. First, the bidding requirement could have the effect of reducing the number of potential bidders, thus negatively impacting any final bid price. All things being equal, the number of potential bidders should be as large as possible in order to produce the most competitive final price for the service. Second, the bidding requirements could have the impact of potentially providing an advantage to any current contractors or contractors that have worked for Vectren within the past three years. That advantage would apply to any Vectren affiliate contractor that meets the bidding requirements.

D. Pace of the DRR Program

In this case, Vectren reported that it replaced 29.4 miles of bare steel and 5.3 miles of cast iron mains (for a total of 34.8 miles) as part of the DRR program in 2011.[19] The 34.8 miles is comparable to the target of 35 miles of main replacement per year in order to meet the projected 20-year period to complete the DRR program.[20] However, as noted in the OCC Comments filed in last year's DRR proceeding, Case No. 11-2776-GA-RDR, the Company replaced a total of only 42 miles in 2009 and 2010[21] instead of the projected 70 miles.[22] Inasmuch as the Company did not begin to make up any of the resulting 38-mile shortfall in 2011, OCC remains concerned that the 2009-2010 shortfall could cause the Company to not meet the 20-year time period for completion of the DRR Program. The PUCO should require Vectren to explain, in a public document, how it

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[19] Id. at 5.

[20] Id. at 4.

[21] See *In re Vectren Rate Case,* Case No. 07-1080-GA-AIR, et al. Direct Testimony of James M. Francis at 5 (December 4, 2007).

[22] See *In re 2011 VEDO DRR Case,* Case No. 11-2776-GA-RDR, OCC Comments at 8-13 (July 31 2011).

plans to make up the 38-mile shortfall and remain within the 20-year time period for the DRR.

E. The Claimed Need For The DRR Program Should Be Further Scrutinized.

Because of the low level of cost savings reported to date, combined with the fact that Vectren has not addressed or made up the 38-mile shortfall in mains replacement to date, the PUCO should further scrutinize the DRR. Vectren has in large part relied on safety and reliability as the basis for justifying the need for the DRR program.[23] Vectren's 2007 rate case, which gave rise to the DRR, included testimony which supports this contention. In the 2007 rate case, Vectren witness James M. Francis stated:

> Q. Is there a difference in the operational performance of bare steel and cast iron mains when compared to protected steel or plastic mains?
>
> A. Yes. Bare steel and cast iron mains have significantly higher leakage rates than do protected steel and plastic mains. This increased incidence of leakage results in higher operating and maintenance expenses, greater line losses and safety and reliability risks. * * *.[24]
>
> Q. Does the increased likelihood of leakage on a bare steel or cast iron main create potentially serious issues for [Vectren] and its customers?
>
> A. When considering only those leaks repaired since 2003 that are directly attributable to bare steel or cast iron mains, 13% of those leaks were identified as being hazardous to public or employee safety, requiring immediate repair. Exhibit JMF-5 provides a count of the leaks repaired by hazard type. Approximately another 45% of the repaired leaks were under hard surface and thus are prone to migration into buildings or sewer systems, which can be problematic. * * *.[25]

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[23] For example see, *In re Vectren Rate Case,* Case No. 07-1080-GA-AIR, et al. Direct Testimony of James M. Francis at 6, 8, 9, 12, 14-15 (December 4, 2007).

[24] *In re Vectren Rate Case,* Case No. 07-1080-GA-AIR, et al. Direct Testimony of James M. Francis at 7 (December 4, 2007).

[25] Id. at 8.

> Q. Why does [Vectren] believe it is prudent to pursue the Program at this time?
>
> A. There are numerous benefits to the Program beyond the replacement of [Vectren's] most aged assets. First, the Program will replace the pipes that contribute most to system leaks. The resulting benefits to service reliability and safety are clear. * * *.[26]

Thus at the time the DRR was proposed, safety and reliability factors seemingly played an important role in the justification of the program.

The Company proposed completing the program within twenty years, and stated in testimony that it could potentially shorten the program. Vectren witness James Francis stated:

> Q. Why is [Vectren] proposing a 20 year replacement program, rather than a shorter Program period?
>
> A. The 20 year program was developed when considering distribution system replacement needs throughout VUHI, not only the [Vectren] system. Vectren has proposed a similar program for its Indiana utilities. In total, the planned annual mileage to be replaced across Vectren service territories is approximately 90 miles. Additionally, there are a number of other utilities in the Midwest, including Duke Energy Ohio, who have in place a significant replacement program that will constrain construction resource availability for some time. The 20 year program reflects the amount of resources [Vectren] believes would be reasonably available to implement and execute the Program. However, [Vectren] would consider shortening the length of the Program if resources were to become available. * * *.[27]

It is noteworthy that throughout his testimony, Mr. Francis did not discuss or contemplate a DRR program lasting longer than 20 years. Yet, experience through the first three years of the DRR program demonstrates that Vectren has replaced significantly

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[26] Id. at 12.

[27] *In re Vectren Rate Case,* Case No. 07-1080-GA-AIR, et al. Direct Testimony of James M. Francis at 9-10 (December 4, 2007).

less pipeline than originally proposed; therefore, there is created the very real possibility that the program will extend well beyond the twenty years originally proposed, or that it may not be completed early as potentially contemplated.

In its Application, Vectren discussed the activity that would be required in order to complete the program in twenty years. Vectren witness James Francis stated:

> As of the end of 2008, [Vectren] had a total of 524 miles of bare steel and 172 miles of cast iron main remaining in its system. In its Rate Case, [Vectren] proposed to replace its remaining bare steel and cast iron infrastructure over a twenty year period, or approximately 35 miles per year.[28]

However, in its 2009 DRR Application, Vectren previously explained that the slower pace of pipeline replacement was in response to the economic downturn and the greater cost of capital necessary for such a large-scale project.[29] It should be pointed out that the DRR was designed in a manner to reduce Company risk and regulatory lag associated with pipeline investment. Despite this framework, cost apparently was the impediment keeping the Company from meeting the projected pipeline replacement schedule.

There are numerous problems with Vectren's rationale. First, if the program is necessary for the improvement of system safety and reliability, then Vectren's cost concerns do not adequately explain its delay. Second, Vectren has been given a very generous accelerated cost recovery mechanism designed to provide the Company with a return of and on the plant investment. The DRR recovery mechanism should more than adequately cover the risk of increased capital costs that worries Vectren. Finally, if the Company is indeed prioritizing accelerated cost recovery (from customers) ahead of

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[28] Id. at 4.

[29] Id. at 11.

accelerated main replacement (to benefit customers), then the Commission should recognize that the underpinnings used by Vectren to justify the DRR program -- safety and reliability -- are secondary to the cost implications for the Company, and the Commission should reevaluate the program.

Inasmuch as the pipeline replacement program was designed to permit Vectren to maintain a safe and reliable distribution system, and to do so in an accelerated manner, it now appears that cost concerns have become the over-riding factor, and not safety. If, in fact, cost has now become the over-riding factor in the pipeline replacement program, then the PUCO should re-evaluate the need for such a program and the annual DRR review.

V. CONCLUSION

The Commission should reduce the DRR Rider rate that Vectren proposes, consistent with the OCC recommendations regarding plastic pipe replacement, as noted above.

Vectren's current replacement rate remains out of compliance with the rate that Vectren argued in the rate case as being necessary to maintain a safe and reliable system. Accordingly, the Commission should put Vectren on notice that the Company has the burden to prove, in future DRR proceedings, that its actions -- replacing distribution mains at a rate slower than projected -- is prudent under the Stipulation in Case No. 07-1080-GA-AIR, et al. Additionally, the Commission should consider some additional protection for customers because the level of O&M cost savings achieved by Vectren to date have been significantly lower than Duke was able to achieve in its AMRP. Finally, if it can be shown, in future DRR proceedings, that an accelerated pipeline replacement program that is focused on accelerated cost recovery at the expense of accelerated cost savings is not providing the customer benefits intended for customers, then continuation of the DRR program should be reconsidered.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these *Comments* was provided to the persons listed below via electronic service this 27th day of July 2012.

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