

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

NANCY S. TOLIVER,)	
)	
Complainant,)	
)	
v.)	Case No. 12-3234-GA-CSS
)	
VECTREN ENERGY DELIVERY OF)	
OHIO, INC.,)	
)	
Respondent.)	

MOTION FOR CLARIFICATION

In accordance with Ohio Adm. Code 4901-1-12(A), Vectren Energy Delivery of Ohio, Inc. (“VEDO” or “the Company”) requests that the Commission clarify the following matters:

(1) whether VEDO is authorized to disconnect Complainant’s utility service, if necessary and otherwise appropriate; and

(2) given that Ms. Toliver is apparently pursuing participation in the PIPP program, what payment should be required of her in order to participate.

Good cause for granting this motion is set forth in the following memorandum in support.

Dated: September 4, 2013

Respectfully submitted,

/s/ Andrew J. Campbell
Mark A. Whitt (Counsel of Record)
Andrew J. Campbell
Gregory L. Williams
WHITT STURTEVANT LLP
The KeyBank Building
88 East Broad Street, Suite 1590
Telephone: (614) 224-3946
Facsimile: (614) 224-3960
whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com
williams@whitt-sturtevant.com

ATTORNEYS FOR
VECTREN ENERGY DELIVERY OF
OHIO, INC.

MEMORANDUM IN SUPPORT

I. BACKGROUND

On July 16, 2013, the Commission entered its Opinion and Order (“Order”) finding that VEDO did not provide unjust or unreasonable service in its application of the PIPP rules to the Complainant, Nancy Toliver. Pertinent here, the Order set forth two other provisions. First, it prohibited VEDO from disconnecting Ms. Toliver’s utility service “unless and until the Commission or the assigned Attorney Examiner orders otherwise.” (Order at 19.) Second, the Order required Ms. Toliver to notify the Commission by July 31, 2013, whether she intended to remain on PIPP. (*Id.*)

Ms. Toliver did not clearly explain her intentions as required by the Order, and on August 21, 2013, the Commission issued an Entry on Rehearing. It found that it was “unclear whether Ms. Toliver wishe[d] to continue her participation in PIPP,” and given this “lack of clarity,” it ordered that VEDO “terminate Ms. Toliver’s participation in the PIPP program and reverse the PIPP benefits received on [her] account since her reenrollment in September 2012, which is \$130.74.” (Entry on Reh. at 8–9.) The Entry on Rehearing also noted that “since Ms. Toliver failed to make up her monthly PIPP installments due as a result of reenrollment, her participation in PIPP may be terminated and her gas utility service disconnected.” (*Id.* at 8.)

The same day that the Commission issued the Entry on Rehearing, VEDO received from Ms. Toliver a letter dated August 16, 2013. (*See* Attachment A.) The letter states that Ms. Toliver applied for a Home Energy Assistance Provider (“HEAP”) payment on July 23, 2013, and suggests that Ms. Toliver intends to apply for the PIPP program. (*See id.* at 1 (noting the reverification requirements “to stay on the PIPP Plus program”).)

II. ARGUMENT

Given the facts set forth above, VEDO requests clarification of the Order and Entry on Rehearing regarding two points: first, whether VEDO is presently authorized to disconnect Ms. Toliver if that proves necessary and is otherwise appropriate; and second, given that Ms. Toliver is apparently pursuing participation in the PIPP program, what payment should be required of her in order to participate.

A. VEDO seeks clarification regarding whether it may disconnect Ms. Toliver's service if necessary and otherwise appropriate.

As noted above, the Order "direct[ed] that Vectren shall not disconnect Ms. Toliver's gas utility service unless and until the Commission or the assigned Attorney Examiner orders otherwise." (Order at 19.) The Entry on Rehearing noted that Ms. Toliver had failed to make up missed monthly PIPP installments and thus that "her participation in PIPP may be terminated and her gas utility service disconnected." (Entry on Rehg. at 8.) In context, it is not clear to VEDO whether this statement was intended to authorize VEDO to disconnect Ms. Toliver's service or whether it was speaking hypothetically.

VEDO does not wish to risk violating the earlier Order's prohibition against disconnecting service. Therefore, it requests that the Commission clarify whether the Order's prohibition on disconnection has been lifted. And if the prohibition has not been lifted, VEDO would request that the Commission issue an entry doing so.

B. VEDO seeks clarification regarding what payment should be required of Ms. Toliver in the event she applies for PIPP for the 2013–14 heating season.

VEDO also requests clarification regarding how it should respond to Ms. Toliver's apparent decision to participate in PIPP for the 2013–14 heating season.

1. Although Ms. Toliver did not make it clear in her July 26 filing, she appears to be seeking to participate in the PIPP program.

As noted above, the Order required Ms. Toliver to notify the Commission by July 31 whether she intended to continue as a PIPP customer. Ms. Toliver did not clearly disclose that she intended to remain on PIPP, and in the Entry on Rehearing, the Commission ordered VEDO to “terminate Ms. Toliver’s participation in the PIPP program and reverse the PIPP benefits received on Ms. Toliver’s account since her reenrollment in September 2012, which is \$130.74.” (Entry on Rehg. at 9.)

Nevertheless, although not disclosed to the Commission, it appears that Ms. Toliver may have elected to continue participation in PIPP. On July 23, 2013—*before* the deadline to notify the Commission—Ms. Toliver applied for HEAP assistance, apparently to enable participation in PIPP for the upcoming year. (*See* Attachment A at 1 (asserting “I completed and sent the application for HEAP on July, 23, 2013” and noting her intent to complete verification).) Why Ms. Toliver took these apparent steps to participate in PIPP but yet did not inform the Commission is not clear. But her actions suggest that notwithstanding her earlier silence, she does want to participate in PIPP.

This, in turn, puts VEDO in a conflict. Ms. Toliver may be actively pursuing what the Entry on Rehearing instructed VEDO to terminate—namely, participation in PIPP. For this reason, VEDO requests clarification regarding how to treat Ms. Toliver’s apparent decision to participate in PIPP.

2. Under the terms of the Order, Ms. Toliver should be required to pay her missed monthly PIPP installments.

The Order contemplated precisely the current situation, and VEDO believes the situation should be resolved according to the terms of the Order.

The Order specifically “remind[ed] Ms. Toliver that, should she elect to terminate her participation in the PIPP program . . . and subsequently reenrolls in PIPP on or before July 17, 2014, . . . she will be required to pay the difference between any missed PIPP installments and the customer payments made during the same period.” (Order at 19–20.) When Ms. Toliver failed to clearly disclose her intentions regarding PIPP to the Commission, she effectively ensured her termination from PIPP. And now she is trying to reenroll in PIPP before July 17, 2014. Thus, as the Order provided, Ms. Toliver should be required to make up her missed PIPP payments if she wishes to participate in PIPP. If that is correct, VEDO would restore the \$130.74 incentive crediting that was reversed per the Entry on Rehearing.

VEDO seeks clarification to confirm whether its understanding and proposed application of the Order is correct.

III. CONCLUSION

For the reasons set forth above, VEDO respectfully requests that the Commission grant VEDO’s Motion for Clarification.

Dated: September 4, 2013

Respectfully submitted,

/s/ Andrew J. Campbell
Mark A. Whitt (Counsel of Record)
Andrew J. Campbell
Gregory L. Williams
WHITT STURTEVANT LLP
The KeyBank Building
88 East Broad Street, Suite 1590
Telephone: (614) 224-3946
Facsimile: (614) 224-3960
whitt@whitt-sturtevant.com
campbell@whitt-sturtevant.com
williams@whitt-sturtevant.com

ATTORNEYS FOR
VECTREN ENERGY DELIVERY OF
OHIO, INC.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion for Clarification was served to the following person by U.S. mail on this 4th day of September, 2013:

Nancy S. Toliver
614 Kenilworth Ave.
Dayton, Ohio 45405

/s/ Andrew J. Campbell
One of the Attorneys for
Vectren Energy Delivery of Ohio, Inc.

August 16, 2013

Andrew J. Campbell, Counsel
Whit Sturtevant, LLP,
The Key Bank Bldg,
88 East Broad St, Ste 1590
Columbus, Ohio 43215

RE: In re the Complainant of Nancy S. Toliver v. VECTREN Energy Delivery of Ohio,
Inc., Case No. 12-3234-GA-CSS

Dear Mr. Campbell,

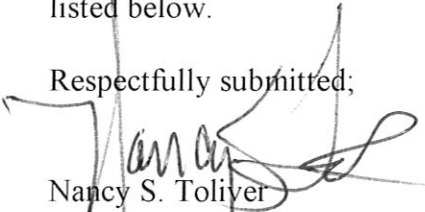
IN accordance with the good faith doctrine and newly discovered evidence rules,
enclosed for your review is the letter received from the Ohio Development Service
Agency and its Office of Community Assistance Division with a mailing date of August
11, 2013.

The letter is a reminder of the re verification requirements to stay on the PIPP Plus
program as the re verification due date is September 6, 2013. I completed and sent the
application for HEAP on July 23, 2013. The application was processed on August 16,
2013 by the administrative agency and will send out the verification to the appropriate
utility(s) and Complainant within two weeks.

The letter also states in pertinent part: you will be billed for any arrearage that
accumulated while enrolled in the program. The letter does not require any alleged past
due minimum PIPP payments when a customer is terminated by the Ohio Development
Services agency for failure to re verify with a HEAP provider within thirty days.

If you are standing in for Mr. Williams and would like to introduce your self, have any
questions or concerns or would like to discussion any issues, the contacted information is
listed below.

Respectfully submitted;


Nancy S. Toliver
614 Kenilworth Ave
Dayton, Ohio 45405
937.278.4407

Enclosure



Development Services Agency

Sent 7/23/2013
process 8/16/2013

Mailing Date: August 11, 2013

Nancy S Toliver
614 Kenilworth Ave
Dayton, OH 45405

Please refer to the
following number when
making inquiries:

Client No: 01668979

Dear Nancy S Toliver,

Currently, you are enrolled on the Percentage of Income Payment Program Plus (PIPP Plus). One of the requirements to stay on the program is that you must reverify your eligibility every 12 months. In order to complete this requirement, you need to call your local Home Energy Assistance Program (HEAP) provider to reverify. You will also need to bring copies of your utility bills and documentation of income for all household members. (For a complete list of HEAP providers and included sources of income and exclusions from income, please visit energyhelp.ohio.gov or call the toll-free number below.)

This is important! If you fail to call your local HEAP provider within the thirty-day period, you will be removed from PIPP and you will be billed for any arrearage that accumulated while enrolled in the program. If you do not reenroll in PIPP, please contact your utility company regarding available arrearage payment plans including the new Graduate PIPP Plus plan.

If you move after submitting your application or you have any questions, please call the HEAP toll-free number (1-800-282-0880). Hearing impaired applicants should call 1-800-686-1557.

Sincerely,
Office of Community Assistance

Website: energyhelp.ohio.gov

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

9/4/2013 4:27:42 PM

in

Case No(s). 12-3234-GA-CSS

Summary: Motion for Clarification electronically filed by Mr. Andrew J Campbell on behalf of Vectren Energy Delivery of Ohio