

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Of Vectren Energy Delivery of Ohio,)	
Inc. for Approval of Alternative Rate)	Case No. 18-49-GA-ALT
Plan		

In the Matter of the Application of)	
Of Vectren Energy Delivery of Ohio,)	
Inc. for Approval of an Increase in)	Case No. 18-298-GA-AIR
Gas Rates		

In the Matter of the Application of)	
Of Vectren Energy Delivery of Ohio,)	
Inc. for Approval of Alternative Rate)	Case No. 18-299-GA-ALT
Plan		

**POST-HEARING BRIEF
SUBMITTED ON BEHALF OF THE STAFF OF
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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**On behalf of the Staff of
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INTRODUCTION

Vectren Energy Delivery of Ohio (VEDO of Company) filed a request for authorization to increase its rates for gas distribution service. The Public Utilities Commission of Ohio (Commission) is presented with a Stipulation that resolves all the issues in the cases that were consolidated to form this proceeding. The Stipulation is reasonable and meets the Commission's three-part test for approval of stipulations. It should be adopted by this Commission.

STATEMENT OF THE CASE

On January 3, 2018 Vectren Energy Delivery of Ohio (VEDO of Company) filed a notice of intent to file an application for approval of an alternative rate plan in Case No. 18-0049-GA-ALT. On February 21, 2018, in Case Nos. 18-0298-EL-AIR and 18-0299-GA-ALT, the Applicant filed two notices of intent – one for an increase in gas rates and one for approval of an alternative rate plan. The Applicant requested that its test period begin October 31, 2017 and end September 30, 2018, and that the date certain for property valuation be December 31, 2017. The rates proposed by the Applicant, when applied to test year sales volumes, would have increased gross revenues by \$34,021,227, a total revenue increase over test year operating revenues of approximately 20 percent.

By its Entry of March 14, 2018, the Commission approved the requested test period and date certain. On March 30, 2018, the Applicant filed its combined application for an increase in rates and for an alternative rate plan. By Entry dated May 23, 2018, the Commission ordered that the application be accepted as of March 30, 2018.

On April 13, 2018, VEDO filed a motion to consolidate all three cases. On May 24, 2018, the Commission granted that request by Entry dated May 24, 2018.

The Commission Staff (Staff) investigated the applications, and issued its Report of Investigation (Staff Report) on October 1, 2018. The Staff recommends a revenue increase in the range of \$12,094,296 to \$16,187,084, an increase of 8.05 percent to 10.77 percent over test year operating revenue. Objections to the Staff Report were filed by numerous parties, including the Company, on October 31, 2018.

A procedural schedule was issued by Entry dated October 3, 2018. Among other things, that schedule established an evidentiary hearing date of December 4, 2018. Local public hearings were ordered by a subsequent Entry, and three such hearing were conducted. No member of the public were present at the first local public hearing. Nine individuals testified at the second, including the presidents of the Dayton Area Chamber of Commerce and the Miami Valley Community Action Partnership. Two gentlemen, one the mayor of Sidney, Ohio, testified at the final local public hearing.

By motion dated November 28, 2018, VEDO requested a continuance of the evidentiary hearing to allow the parties additional time to engage in settlement discussions. Hearing commenced on December 4, 2018 as originally scheduled, whereupon the Attorney Examiner granted VEDO's motion, continuing the hearing until January 7, 2019.

On January 4, 2019, a number of parties signed a Stipulation and Recommendation resolving the issues in these cases.¹ The parties signing the stipulation included: VEDO, Staff, the City of Dayton (Dayton), Federal Executive Agencies (FEA), and Interstate Gas Supply, Inc. (IGS). The Retail Energy Supply Association (RESA) submitted a letter on January 7, 2019 appending their signature to the stipulation. While it did not sign the Stipulation, Honda of America Mfg., Inc. (Honda) did not oppose the Stipulation. The Office of the Ohio Consumers' Counsel (OCC), Ohio Partners for Affordable Energy (OPAE), and the Environmental Law & Policy Center (ELPC)

¹ Stipulation and Recommendation (Stipulation), Joint Exs. 1.0 – 5.0.

opposed the Stipulation. Upon the filing of the Stipulation, VEDO and Staff jointly requested that the evidentiary hearing be further continued to afford an opportunity for the non-signatory parties to prepare for hearing on the Stipulation. The hearing was convened as scheduled, at which time the Attorney Examiner granted the request for a continuance, establishing a new hearing date of January 28, 2019.

The hearing began on January 28, 2019, and lasted for six (6) days, concluding with rebuttal testimony on March 12, 2019.

ARGUMENT

I. The Stipulation Meets the Three-Part Test for Reasonableness

Ohio Admin. Code 4901-1-30 authorizes parties to Commission proceedings to enter into stipulations. Although not binding upon the Commission, the terms of such agreements are to be accorded substantial weight.² The ultimate issue for the Commission's consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings.³ In considering the reasonableness of a stipulation, the Commission has used the following criteria:

² *Consumers' Counsel v. Pub. Util. Comm.* (1992), 64 Ohio St. 3d 123, at 125, citing *Akron v. Pub. Util. Comm.* (1978), 55 Ohio St. 2d 155.

³ See, e.g., *Cincinnati Gas & Electric Co.*, Case No. 91-410-EL-AIR (April 14, 1994); *Ohio Edison Co.*, Case No. 92-1463-GA-AIR, *et al.* (August 26, 1993); *Ohio Edison Co.*, Case No. 89-1001-EL-AIR (August 19, 1993); *The Cleveland Electric Illumination Co.*, Case No. 88-170-EL-AIR (January 31, 1989); and *Restatement of Accounts and Records* (Zimmer Plant); Case No. 84-1187-EL-UNC (November 26, 1985).

- (1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?
- (2) Does the settlement, as a package, benefit ratepayers and the public interest?
- (3) Does the settlement package violate any important regulatory principle or practice?

The Ohio Supreme Court has endorsed the Commission's analysis using these criteria to resolve cases.⁴ When the Commission reviews a contested stipulation, as is the case here, the Court has also been clear that the requirement of evidentiary support remains operative. While the Commission "may place substantial weight on the terms of a stipulation," it "must determine, from the evidence, what is just and reasonable."⁵ The agreement of some parties is no substitute for the procedural protections reinforced by the evidentiary support requirement.⁶

The signatory parties, and the Commission Staff, respectfully submit that the stipulation here satisfies the reasonableness criteria, and that the evidence of record supports and justifies a finding that its terms are just and reasonable.

⁴ *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.* (1994), 68 Ohio St. 3d 559, citing, *Consumers' Counsel*, supra, at 126.

⁵ *Consumers' Counsel v. Pub. Util. Comm.* (1992), 64 Ohio St.3d 123, 126, 592 N.E.2d 1370.

⁶ *In re Application of Columbus S. Power Co.* (2011), 129 Ohio St.3d 46.

A. The stipulation is the product of serious bargaining among knowledgeable parties.

There should be no question that the first prong is met. The list of signatory parties is diverse, and made up of entities that have been involved in Commission matters previously.⁷ The signatory and non-opposing parties are knowledgeable on regulatory matters before the Commission, regularly participate in proceedings before the Commission, employ experts in the industry, and are represented by experienced and knowledgeable counsel.⁸ Every party had the opportunity to participate. Settlement meetings were held where all were invited.⁹ Serious bargaining went on, resulting in the drafting of the Stipulation which is the focus of this case.¹⁰ In sum, there should be no dispute that the first prong of the test is met.

B. The stipulation benefits the public interest.

The Stipulation provides numerous benefits. The testimony of Company witness Swiz identified eleven benefits¹¹, including:

- (1) Enabling VEDO to continue to provide safe and reliable service

7 Second Supplemental Direct Testimony of J. Cas Swiz in Support of the Stipulation and Recommendation on Behalf of Vectren Energy Delivery of Ohio, Inc. (Swiz Second Supplemental Direct), VEDO Ex. 11.2 at 9.

8 Testimony in Support of the Stipulation and Recommendation of David M. Lipthrott (Lipthrott Stipulation Direct), Staff Ex. 1 at 2.

9 Swiz Second Supplemental Direct, VEDO Ex. 11.2 at 8.

10 Stipulation and Recommendation, Joint Exs. 1.0 – 5.0.

11 Swiz Second Supplemental Direct, VEDO Ex. 11.2 at 10-12.

- (2) Significantly reducing the Company's proposed revenue requirement, from approximately \$34 million to \$22.7 million;
- (3) Facilitating the continuation of VEDO's accelerated replacement and retirement of bare steel/cast iron pipelines, which supports the accelerated reduction of system risks and compliance with federal pipeline safety regulations;
- (4) Reflecting the reduction in the federal income tax rate under the Tax Cuts and Jobs Act of 2017 (TCJA);
- (5) Establishing a rate of return significantly below that proposed by the Company in its Application;
- (6) Providing direct benefits to the City of Dayton and its residents, including funding economic and neighborhood development
- (7) Establishing procedural mechanisms and cost controls applicable to the continuation of several important programs that benefit customers and the public, whether by replacing at-risk pipeline, fostering economic development and investment in local infrastructure, or enabling programs to improve the efficiency of homes and energy usage;
- (8) Ensuring that VEDO will file a base rate case with a date certain no later than December 31, 2024 to address a number of issues raised in the Staff Report;
- (9) Updating VEDO's tariff, including updating several miscellaneous charges in accordance with the Staff Report and the addition of a provision recommended in the Staff Report to provide for a meter test without charge once every three years;
- (10) Addressing various marketer and supplier concerns; and
- (11) Reducing the costs of litigation, which would otherwise increase rate case expense.

Staff supports these benefits, and believes that the Stipulation results in a just and reasonable resolution of the matters pending in these dockets. In addition to a reasonable

revenue requirement that benefits ratepayers, Staff witness Lipthratt specifically noted the following key benefits that are achieved by the Stipulation¹²:

- (1) Reflects the lowered federal income tax rate of the Tax Cuts and Jobs Act of 2017 (“TCJA”) and establishes a framework for returning excess accumulated deferred income taxes resulting from the TCJA, and the full balance of the regulatory liability ordered by the Commission effective January 1, 2018 in Case No. 18-47-AU-COI, to ratepayers.
- (2) Establishes a \$32.86 customer charge for VEDO’s residential customers that is lower than the \$35.31 customer charge recommended in VEDO’s Application.
- (3) Allows for sufficient funding to ensure safe and reliable service through the Acceleration Risk Reduction (DARR) Program, Integrity Management (IM) Program, Distribution Replacement, and Capital Expenditure Program (CEP).
- (4) VEDO commits to partner with the City of Dayton in various community support initiatives including providing not less than \$75,000 per calendar year for economic or neighborhood development projects.

In sum, the benefits offered by the Stipulation are many and broad. All aspects of the public are helped by the various components. The Stipulation meets the second prong of the test.

C. The stipulation does not violate any important regulatory principle or practice.

Staff respectfully submits that the Stipulation is consistent with, and complies with, all relevant and important regulatory principles and practices.¹³ When asked to explain, Staff witness Lipthratt opined that:

¹² Lipthratt Stipulation Direct, Staff Ex. 1 at 3-4.

¹³ Lipthratt Stipulation Direct, Staff Ex. 1 at 7.

[T]he rates that were recommended here are reasonable and appropriate to ensure reliable service, that customers will be served, that the company has a reasonable opportunity to earn a rate of return, a return, that the expenses included were proper for inclusion, they were prudent. That, you know, the cost causation principles had been adhered to in ratemaking, no improper subsidization, things of that nature.¹⁴

Company witness Swiz echoed that opinion, adding that the Stipulation encouraged compromise as an alternative to litigation. In addition, the DRR and CEP Riders, and the base rate design, continue policies, goals, and precedents established by prior Commission orders.¹⁵

II. Objections to the Staff Report

A. Objections related to rate base

1. Capital Expenditure Program Investments

OCC claims that Staff failed to recommend a used and usefulness, prudence, and necessity audit of Vectren's 2011-2017 Capital Expenditure Program (“CEP”) investments, a depreciation offset for retired assets, and that CEP investments as of the date certain be included in rate base.¹⁶

The CEP investments were evaluated as part of the Staff’s investigation of VEDO’s rate base. As customary, Staff conducted a standard audit of those investments, including the standard used and useful, prudence and necessity standards that OCC seeks

14 Tr. Vol II at 163.

15 Swiz Second Supplemental Direct, VEDO Ex. 11.2 at 14-15.

16 OCC Objection 1.

to apply. Staff's recommendations were the result of that audit. Staff witness Liphtratt testified that this objection was addressed by the Stipulation,¹⁷ which partly modified Staff audit recommendations. Additionally, going forward, the PUCO Staff or its designee will perform a review of VEDO's filing, every one to two years in its discretion, to determine the necessity, prudence, lawfulness, and reasonableness of the CEP Investment for the prior calendar year.

B. Objections related to operating income

1. Conservation

VEDO proposed to include \$5.6 million annually in base rates to reflect program costs of its conservation (energy efficiency or EE) initiatives for residential and general service customers. It also proposed to earn a performance incentive tied to both energy savings and net benefits as part of delivering those programs. Finally, VEDO proposed using the existing Collaborative to review, evaluate and approve the EE program portfolio.¹⁸

In the Stipulation, the signatory parties agreed with the Company's proposed \$5.6 million EE program level, but at that EE expenses would be recovered through the Energy Efficiency Funding Rider (EEFR) rather than in base rates. Any performance incentive would be considered in a future filing for approval of EE programs and

¹⁷ Testimony in Response to Objections to the Staff Report of David M. Liphtratt (Liphtratt Objections Direct), Staff Ex. 8 at 3.

¹⁸ Staff Report, Staff Ex. 2 at 15.

funding. Furthermore, while the Collaborative would continue, VEDO's EE portfolio would have to be approved by the Commission.¹⁹

OCC argued that Staff failed to address the cost-effectiveness of these programs. It claimed that DSM programs are not beneficial to non-participating customers, that customer's should only be charged for low-income DSM programs, and recommended that non-low income programs be discontinued.²⁰ ELPC objected that measures were not proposed to ensure that VEDO's DSM program maximized customer benefits.²¹

The Commission had previously determined that the efficacy of EE and demand side management (DSM) programs should the responsibility of the Conservation Working Group.²² Staff witness Williams opined that customer benefits and the cost-effectiveness of DSM programs should be determined when VEDO files its true-up application and an audit has been conducted.²³ Since cost recovery will now be evaluated through a rider, and evaluated in a regular audit process, this is the more appropriate forum for considering program effectiveness.

19 Stipulation, Joint Ex. 1.0 at 5-6.

20 OCC Objections 17 and 24.

21 ELPC Objection 2.

22 In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Service and Related Matters, Case No. 04-571-GA-AIR, et al., Opinion and Order at 6 (Apr. 13, 2005).

23 Direct Testimony of Suzanne Williams, Staff Ex. 9 at 4.

While ELPC and OPAE both argued that the funding should not be limited to \$5.6 million,²⁴ Staff witness Williams found that level, an increase over VEDO's average expenditures, to be adequate.²⁵

Previously, programs were approved and funded once approved by the Collaborative. Staff, and the signatory parties, believe that a more open, transparent process would be more appropriate, and that the Commission should approve both EE program portfolios and funding.²⁶

2. Rate Case Expense

VEDO proposed, and the Staff recommended, that the Company's rate case expenses be amortized over a five-year period. The most updated expenses are to be submitted to the Commission as a late-filed exhibit prior to issuance of a final order.²⁷

OCC objected that the Staff Report did not recommend that parties have an opportunity to object to the update expenses.²⁸ While Staff did not explicitly state that parties should be able to object, it presumed that parties understood that this was standard practice. To clarify, Staff witness Berringer testified that Staff agreed with OCC's objection, and recommended that all parties have an opportunity to object to the

24 ELPC Objection 1, OPAE Objection 1.

25 Williams Direct, Staff Ex. 9 at 3.

26 Williams Direct, Staff Ex. 9 at 3-4.

27 Staff Report, Staff Ex. 2 at 16.

28 OCC Objection 25.

Company's most recent updated rate case expense information prior to the Commission entering a final order.²⁹

3. DARR Adjustment

VEDO proposed a three-year amortization period to recover deferrals from the Distribution Accelerated Risk Reduction (DARR) program for actual amounts accumulated through December 2017 and for estimated amounts accumulated through December 2018. Staff adjusted the deferred DARR expenses to the latest known actual accumulated amount deferred, and recommended that the Company file a late-filed exhibit updating actual DARR expenses deferred. Staff also recommended that the deferral period be five years, not three. The Stipulation embodied Staff's adjustments.³⁰

VEDO also proposed increasing operating expenses associated with DARR and other integrity management programs, based on a five-year average of projected costs. Finding it inappropriate to use projected costs, Staff recommended using a five-year average of historic costs for the Distribution Integrity Management Program (DIMP) and Transmission Integrity Management Program (TIMP) expenses.

OCC objected to the recovery of the deferred DARR expenses on the grounds that Staff did not conduct a proper review of those expenses.³¹ Staff acknowledged that it did

29 Direct Testimony of John L. Berringer, Staff Ex. 4 at 3.

30 Tr. Vol. V at 437.

31 OCC Objection 4.

not conduct an isolated review of those expenses.³² Staff did, however, review those expenses, and Staff witness Lipthratt testified that Staff believed the claimed expenses to be properly includable in base rates.³³ Mr. Lipthratt based his opinion on Staff's institutional knowledge, having reviewed those expenses annually, recommendations in its annual reports, and regular interactions with the Company.³⁴ In response to questioning from the Attorney Examiner, Mr. Lipthratt opined that Staff's review of the DARR expenses was complete.³⁵

OCC also objected that Staff failed to establish reasonable ongoing costs for DARR and the integrity management programs.³⁶ In the first instance, this represents a certain misunderstanding, clarified by Mr. Lipthratt on the stand. The DARR recovery was for deferred expenses only; the DARR program itself ends with this case.³⁷ The DIMP and TIMP programs continue, and the recommended base rates reflect costs associated with those programs.³⁸

32 Testimony in Response to Objections to the Staff Report of David M. Lipthratt (Lipthratt Objections Direct), Staff Ex. 8 at 3.

33 Id. at 4.

34 Tr. Vol. V at 422-424.

35 Tr. Vol. V at 440.

36 OCC Objection 5.

37 Tr. Vol. V at 438.

38 Id.

Similarly, OCC objected that Staff failed to recommend that VEDO be required to maintain specific performance measures.³⁹ As Staff witness Lipthratt testified,

The performance metrics associated with the DARR Program will be ending as it's Staff's view given that the deferral is ending, they are no longer necessary. They were a requirement of the deferral given that they were being deferred dollars.⁴⁰

4. Miscellaneous Adjustments (Investor Relations Expense)

The Staff Report does not address the Company's recovery of investor relations expenses. OCC objected that Staff failed to remove at least a portion of those expenses from operating expenses.

Staff witness Berringer agreed in principle with OCC's objection⁴¹, and testified that 50% of those expenses should have been excluded. He also acknowledged that the issue was not addressed in the Stipulation, and that OCC's recommendation was not adopted.⁴² Because Staff believes that the Stipulation as a package represents a fair and reasonable compromise of the issues in the case, Staff does not recommend that the Stipulation be modified to remove a portion of investor relations expenses from test year operating expenses.⁴³

39 OCC Objection 6.

40 Tr. Vol. V at 437.

41 Berringer Direct, Staff Ex. 4 at 2.

42 Tr. Vol. IV at 371.

43 Berringer Direct, Staff Ex. 4 at 2; Tr. Vol. IV at 372.

5. HB95 Capital Expenditure Program (CEP)

VEDO proposed to recover expenses associated with the amortization of HB95 Capital Expenditure Program (CEP) programs, including a CEP Rider to collect future post in-service carrying charges (PISCC), depreciation, and property tax expenses associated with CEP investments. Staff recommended approval of the CEP, with modifications, and the CEP Rider.⁴⁴ Details of the recommended program provisions agreed to by the signatory parties are contained in Paragraph 8 of the Stipulation.⁴⁵

OCC raised a number of objections to Staff's recommendations on the Company's CEP proposal. None of those objections has merit.

It claimed that Staff failed to define its standards with enough specificity to achieve effective cost control.⁴⁶ As Staff witness Lipthratt noted⁴⁷, the Staff Report contains recommendations that VEDO work with Staff to develop reasonable and meaningful cost controls.⁴⁸

44 Staff Report, Staff Ex. 2 at 17-18.

45 Stipulation, Joint Ex. 1.0 at 8-12.

46 OCC Objection 18.

47 Lipthratt Objections Direct, Staff Ex. 8 at 4.

48 Staff Report, Staff Ex. 2 at 17-18.

One of those cost controls is a rate cap.⁴⁹ Staff recommended that VEDO work with Staff to develop rate caps in addition to other cost controls.⁵⁰ And a rate cap for the CEP Rider was reached and set forth in the Stipulation.⁵¹ While Staff's recommendation did not include working with OCC to develop rate caps⁵², OCC was a participant in the negotiations that resulted in the Stipulation.

OCC claims that Staff failed to recommend a prudence review of historic plant records.⁵³ As Staff witness Lipthratt testified, Staff conducted a thorough plant review in this case.⁵⁴ It considered the prudence of capital expenditures in this case.⁵⁵ Furthermore, the Stipulation provides that Staff or its designee will perform reviews of future CEP Rider filings every one to two years, at its discretion, to determine the necessity, prudence, lawfulness, and reasonableness of CEP investments for which recovery is requested.⁵⁶

49 Tr. Vol. I at 55-56.

50 Staff Report, Staff Ex. 2 at 17.

51 Stipulation, Joint Ex. 1.0 at 9-10.

52 OCC Objection 20.

53 OCC Objection 19.

54 Lipthratt Objections Direct, Staff Ex. 8 at 4.

55 Tr. Vol. II at 143.

56 Stipulation, Joint Ex. 1.0 at 11.

Staff did not recommend a minimum incremental revenue offset to CEP deferrals. A revenue offset is currently in place, however, and Staff saw no need to recommend that offset.⁵⁷

And while Staff has originally recommended that the Company initiate a discussion about a possible single rider to include all capital investments, it no longer sees a need, in light of the Stipulation, to further discuss the matter at this time.⁵⁸ OCC had objected to the proposal to create a single rider.⁵⁹ Staff would like to see such a rider discussed in future cases.

6. DRR Deferral Amortization

VEDO proposed to renew its Distribution Replacement program for a six-year period to complete replacement of priority pipe (bare steel, cast iron, ineffectively coated steel). Costs are recovered through the Distribution Replacement Rider (DRR). The program would cover investments made through 2023, with recovery through August 2025. VEDO proposed rate caps for the DRR for each year.

Staff recommended that the Commission authorize continuation of the DRR for a new five-year period.⁶⁰ The rate caps recommended by Staff were the same as those

⁵⁷ Lipthratt Objections Direct, Staff Ex. 8 at 4-5.

⁵⁸ Id. at 5.

⁵⁹ OCC Objection 22.

⁶⁰ Staff Report, Staff Ex. 2 at 18-19.

proposed by the Company, excluding the sixth year. OCC objected to Staff's review of the DRR program, and, specifically that Staff failed to limit rate caps by permitting deferrals.⁶¹

The Stipulation essentially adopts the Company's proposal. It also provides that the scope and timing of the program could be revisited in a future application.⁶²

Staff witness Lipthratt responded to OCC's objection, stating that it was Staff's opinion that the rate caps proposed by VEDO were appropriate. While OCC also objected to deferrals under the program, Mr. Lipthratt noted that deferrals had been permitted since the program's inception.⁶³

C. Objections Relating to Rate of Return

VEDO requested a rate of return of 7.97 percent. The Staff recommended a rate of return in the range of 6.97 percent to 7.49 percent. The signatory parties recommend that a rate of return of 7.48 percent, within the Staff's recommended range.

OCC raised numerous objections to Staff's recommendation. Staff has explained that its determination reflects an evolving evaluation process that it intended to be more transparent. Staff respectfully submits that OCC's objections are without merit and should be rejected.

OCC objects to the 4.66% risk-free interest rate used Staff by in its capital asset pricing model (CAPM) analysis as "unreasonably high." Staff opted to use forecasted 30-

61 OCC Objection 23.

62 Stipulation, Joint Exhibit 1.0 at 6-8.

63 Lipthratt Objections Direct, Staff Ex. 8 at 5.

year US Treasury Bills to establish a risk-free rate. In order to arrive at that rate, Staff used two different forecasted yields of 10-year U.S. Treasury Bills, averaged those together, and added 50 basis points to account for the historical difference between 10-year and 30-year Treasury yields. Staff witness Buckley opined that it was appropriate to use forecasted interest rates given recent policy shifts at the Federal Reserve.⁶⁴ On cross-examination, Mr. Buckley further testified that, “in calculating a rate of return, you’re – you’re calculating something that’s going on into the future, so I don’t believe using forecasted interest rates is inappropriate at all.”⁶⁵

OCC’s objection to Staff’s inclusion of common stock issuance costs in its analysis⁶⁶ is equally without merit. Investors are paid a return on their full investment. But that full investment is not available to the Company. It must necessarily be reduced by the costs associated with issuing the stock. Staff witness Buckley testified that a “greater return, therefore, must be earned on the lesser amount that can be invested.”⁶⁷ This is done by making an adjustment to reflect the impact of the issuance costs.

As part of OCC’s overall attack on VEDO’s straight fixed variable (SFV) rate design, it objected that Staff failed to recommend reducing the rate of return to recognize

⁶⁴ Joseph P. Buckley Direct, Staff Ex. 7 at 3.

⁶⁵ Tr. Vol. V at 398-399.

⁶⁶ OCC Objection 8.

⁶⁷ Buckley Direct, Staff Ex. 7 at 4.

the reduced risks that VEDO will face with respect to revenues and cost recovery.⁶⁸ While Staff agrees that it did not reduce its recommendation to reflect the rate design, it respectfully submits that such a reduction was neither necessary nor appropriate. Staff's analysis was focused on the overall riskiness of the firm. Rather than focusing on one factor, Staff relied "on more established factors, such as bond ratings and Value Line rankings, to assess" the risks that VEDO faces. Staff witness Buckley opined that this, and not OCC's piecemeal risk analysis, was a sounder, more appropriate policy for establishing rates of return.⁶⁹

Staff's recommended range for the Company's rate of return was determined using long-established methodologies, adapted for the sake of transparency, and to reflect changing economic conditions and policies. Contrary to OCC's objection⁷⁰, Staff's range is reasonable, for formed the basis for negotiations. The rate of return agreed to by the signatory parties is within Staff's range, albeit at the upper end, and is equally reasonable. The stipulated rate of return should be adopted.

D. Objections related to Rates and Tariffs

1. Miscellaneous Charges

VEDO requests approval to increase a number of miscellaneous charges, including the Ordinary Investigation Fee, the Extensive Investigation Fee, the After Hours Charge

68 OCC Objection 10.

69 Buckley Direct, Staff Ex. 7 at 5.

70 OCC Objection 9.

for Connection, reconnection or Disconnection, and the Trip and Labor Charges Outside of Business Hours.⁷¹ The Company eventually withdrew its requests for increases in the investigative fees. Staff accepted the proposed After Hours Charge increase, and recommended an adjustment to the Trip and Labor Charge.

OPAE objected to Staff's recommendations on the increases as neither supported nor reasonable, since Staff's rationale was not apparent from the Staff Report.⁷² While Staff agreed that the Staff Report did not detail its reasoning, Staff witness Snider explained the rationale in testimony. Mr. Snider specified that the information necessary to calculate Staff's recommended miscellaneous charges could be found in Staff Data Request #61.⁷³ Staff's recommendation should be adopted.

2. Excess Accumulated Deferred Income Taxes (EDIT)

The total balance of excess accumulated deferred income taxes (EDIT) consists of normalized (or "protected"), and non-normalized (or "unprotected"), EDIT. Staff proposed to have the EDIT be refunded through a separate credit mechanism, with the normalized and non-normalized portions amortized separately. Federal law prescribes that the normalized EDIT be amortized according to the Average Rate Assumption Method (ARAM).

71 Staff Report, Staff Ex. 2 at 23-24.

72 OPAE Objection 2.

73 Direct Testimony of Matthew Snider, Staff Ex. 10 at 4.

The Company had proposed amortizing the balance related to capital repairs deductions in accordance to ARAM, with the remaining unprotected EDIT balance being amortized over 30 years using a straight-line approach. Staff recommended that the entire balance of non-normalized EDIT be amortized over a period no greater than 10 years.⁷⁴ OCC objected to the recovery of the non-normalized EDIT through a rider mechanism, and proposed that it be amortized over a period of five years, and refunded through base rates.⁷⁵

On January 7, 2019, VEDO filed an application (Tax Case) requesting authority to implement a Tax Savings Credit Rider (TSCR).⁷⁶ The TSCR would refund the EDIT and the federal income tax expense savings deferred from January 1, 2018 until new base rates are approved in this proceeding. The signatory parties agreed that the annual amortization of the normalized and non-normalized EDIT, the rate design of the TSCR, and other issues associated with the flow back of tax savings should be addressed in the Tax Case. As Staff witness Borer testified, refunding the EDIT through the TSCR would be a more reliable method of ensuring that the exact amount of EDIT is refunded to customers.⁷⁷ To the extent that OCC, or any other party, believes that the amortization

74 Staff Report, Staff Ex. 2 at 25.

75 OCC Objection 2.

76 In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval of a Tax Savings Credit Rider, Case No. 19-29-GA-ATA.

77 Direct Testimony of Jonathan J. Borer, Staff Ex. 6 at 4.

period should be amortized over a shorter period than that recommended by Staff, it will have ample opportunity to advocate that position in the Tax Case.

3. Rate Design

In 2007, VEDO filed an application requesting an increase in rates, and proposed a residential rate design that reflected a movement toward a straight fixed variable (SFV) rate design. With modifications, the Commission approved that rate design.⁷⁸ The Commission found then that an SFV rate design “address[es] revenue and earnings stability issues in that the fixed costs of delivering gas to customers will be recovered, regardless of whether consumption is reduced.”⁷⁹ An SFV rate design removes “any disincentive to the utility to promote conservation and energy efficiency,” and “has the added benefit of producing more stable customer bills throughout the year.”⁸⁰ That decision was appealed to the Ohio Supreme Court. Noting that it had “previously upheld the [Commission’s] approval of a modified SFV rate design for Duke Energy Ohio and Dominion East Ohio,” the Court affirmed the Commission’s decision “as being within the lawful and reasonable discretion of the PUCO.”⁸¹

78 In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc., for Authority to Amend its Filed tariffs to Increase the rates and Charges for Gas Services and Related Matters, Case No. 07-1080-GA-AIR et al. (Opinion and Order) (Jan. 7, 2009).

79 *Id.* at 11.

80 *Id.*

81 *Ohio Consumers’ Counsel v. Pub. Util. Comm.*, 2010-Ohio-6239, 127 Ohio St.3d 524, 941 N.E.2d 757, ¶¶ 1, 2.

As recently as a year and a half ago, the Commission again found that the SFV rate design promotes “the state policies set forth in R.C. 4929.02(A)(1) and (12), to promote the availability of adequate, reliable, and reasonably priced natural gas services and goods to consumers and to promote the alignment of natural gas company interests with consumer interest in energy efficiency and energy conservation.”⁸² Indeed, the Commission went further, finding that:

Consistent with our prior decisions, we again find it appropriate to adopt a rate design that decouples the Company’s recovery of its fixed distribution costs from the amount of gas that customers actually consumer. As we have previously recognized, a SFV rate design provides significant customer benefits, such as more stable customer bills throughout the entire year, better price signals to consumers, and more equitable cost allocations among customers, as well as greater conservation by diminishing the utility’s incentive to increase its gas sales. *In re Duke Energy Ohio, Inc.*, Case No. 07-589-GA-AIR, et al., Opinion and Order (May 28, 2008); *In re The East Ohio Gas Co. d/b/a Dominion East Ohio*, Case No. 07-829-GA-AIR, et al., Opinion and Order (Oct. 15, 2008); *In re Columbia gas of Ohio, Inc.*, Case No. 08-72-GA-AIR, et al., Opinion and Order (Dec. 3, 2008); *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 07-1080-GA-AIR, et al., Opinion and Order (Jan. 7, 2009); *In re Eastern Natural Gas Co. and Pike Natural Gas Co.*, Case No. 08-940-GA-ALT, et al., Opinion and Order (June 16, 2010).⁸³

82 In the Matter of the Application of Suburban Natural gas Company for Approval of an Alternative Form of regulation to Initiate a Revenue Decoupling Mechanism, Case No. 17-594-GA-ALT (Finding and Order) (Nov. 1, 2017) at ¶ 32.

83 Id. at ¶ 35.

Each of the non-signatory parties has raised numerous objections opposing the SFV rate design.⁸⁴ Staff respectfully submits that the same things that the Commission found to be true a decade ago – the same things the Commission found to be true a year and a half ago – remain true today. The Commission should exercise its discretion to continue the use of the SFV rate design in approving VEDO’s request to increase its rates in this case.

E. Objections Related to Service Monitoring and Enforcement

1. Leak Detection

Staff’s Facilities & Operations Field Division was responsible, in part, for reviewing VEDO’s operation and maintenance records to verify compliance with the requirements of the Gas Pipeline Safety Regulations. During its review, Staff examined areas such as leakage surveys. Staff determined that VEDO is generally in compliance with the Pipeline Safety Regulations and did not identify any violations.⁸⁵

Staff reported that VEDO had reported eliminating or repairing a total of 1,332 hazardous leaks and 4,847 total leaks during 2017, and that it had 552 open known system leaks at the end of 2017 scheduled for repair. Staff’s Gas Pipeline Safety section generally supports continuation of VEDO’s program to replace aging infrastructure and reduce the number of gas leaks in the system. ELPC objected that Staff failed to recommend that VEDO integrate best practices for leak detection and abatement, including the use of

84 ELPC Objections 1 and 5; OCC Objections 11 through 15; OPAE Objection 3.

85 Staff Report, Staff Ex. 2 at 37.

advanced leak detection technology, leak quantification and data analytics to prioritize abatement and pipeline replacement investment decisions.⁸⁶

Staff witness Peter Chace testified that VEDO's current leak detection practices, and its Distribution Integrity Management Plan (DIMP), meet the minimum requirements of the pipeline safety regulations.⁸⁷ While Mr. Chace agreed that operators should examine available best practices, he opined that advanced leak detection technology would likely not result in program improvements significant enough to justify the cost of implementing such measures.⁸⁸ VEDO is best suited to identify what technologies would improve its compliance with pipeline safety regulations in a cost-effective manner.

2. Billing Options

OPAE raises a number of objections relating to billing and payment plans. OPAE objected that Staff did not make any recommendations to improve VEDO's customer outreach and payment plan options.⁸⁹

Staff witness Barbara Bossart testified that the appropriate venue to propose additional customer outreach and payment plan requirements would be during the rule review process for Ohio Adm.Code 4901:1-18. A workshop was conducted on February 5, 2019 to permit interested stakeholders to make comments or proposed changes to the rules

86 ELPC Objection 4.

87 Direct Testimony of Peter A. Chace, Staff Ex. 3 at 5-6.

88 Id. at 5, 7.

89 OPAE Objection 4.

in Ohio Adm.Code Chapters 4901:1-17 and 4901:1-18.⁹⁰ OP&E chose not to participate in that workshop. Once proposed rules are issued, stakeholders, including OP&E, will be permitted to submit comments for the Commission's consideration.

OP&E also objected that Staff should have considered alternatives to allow low-income customers to maintain their service.⁹¹ Ohio Adm.Code 4901:1-18 also contains provisions that govern the alternatives that may be offered to allow low-income customers to maintain service. The same workshop afforded stakeholders to offer proposals on such alternatives, and will afford OP&E an opportunity to submit comments. That is the appropriate forum to address those issues.⁹²

Similarly, the same docket will consider payment plans based on a customer's income. Ohio Adm.Code 4901:1-18 requires that Vectren offer Percentage of Income Payment Plan Plus (PIPP Plus), a payment plan based on a customer's income. It also requires VEDO to offer budget plans. The same workshop afforded stakeholders to offer proposals on such alternatives, and will afford OP&E an opportunity to submit comments. As with OP&E's other objections, that is the appropriate forum to address these issues.⁹³

90 In the Matter of the Commission's Review of Chapters 4901:1-17 and 4901:1-18 of the Ohio Administrative Code, Case No. 19-0052-AU-ORD.

91 OP&E Objection 5.

92 Direct Testimony of Barbara Bossart, Staff Ex. 5 at 5.

93 Bossart Direct, Staff Ex. 5 at 5.

CONCLUSION

The parties in these cases have reached a Stipulation that resolves the issues among the signatory parties. That Stipulation satisfies the Commission's three-part test for reasonableness.

The non-signatory parties have raised objections both to the Staff Report, and to the Stipulation. Those objections are without merit, and should be rejected.

Staff respectfully requests that the Stipulation should be approved without modification.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Motion for Extension of Time was served via e-mail upon the following parties of record, this 2nd day of April, 2019.

/s/Werner L. Margard III

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