



ENVIRONMENTAL LAW & POLICY CENTER
Protecting the Midwest's Environment and Natural Heritage

April 22, 2019

Via electronic filing

Tanowa Troupe, Secretary
Public Utilities Commission of Ohio
180 East Broad Street, 11th Floor
Columbus, Ohio 43215

Re: PUCO Case Nos. 18-0298-GA-AIR, *et al.*, *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval of an Increase in Gas Rates, et al.*, Corrected Initial Brief of the Environmental Law & Policy Center

Dear Ms. Troupe:

The Environmental Law & Policy Center (“ELPC”) submits this correspondence to provide a corrected version of its Initial Brief originally filed on April 2, 2019. Due to inadvertent error, page 9 of ELPC’s original Initial Brief quoted language from a proposed order of the Illinois Commerce Commission in *N. Shore Gas Co. & the Peoples Gas Light & Coke Co.*, Case Nos. 11-0280 *et al.*, rather than the final order addressing the relevant issues in the case, which includes only portions of the quoted excerpts.

ELPC is now submitting the enclosed Corrected Initial Brief edited solely on page 9 to remove references to language from the proposed order and correct the surrounding description of the case in accordance with that change. There are no other alterations from the original version. Please feel free to contact me with any questions regarding this corrected filing.

Respectfully,

/s/ Madeline Fleisher
Madeline Fleisher
Environmental Law & Policy Center
21 W. Broad St., 8th Floor
Columbus, OH 43215
(614) 569-3827
Mfleisher@elpc.org

Attachment

cc: Service List, Case Nos. 18-0298-GA-AIR *et al.*

21 W. Broad Street, 8th Floor • Columbus, OH 43215
(614) 569-3827 • www.ELPC.org

Harry Drucker, Chairperson • Howard A. Learner, Executive Director
Chicago, IL • Columbus, OH • Des Moines, IA • Duluth, MN • Grand Rapids, MI • Indianapolis, IN
Jamestown, SD • Madison, WI • Minneapolis/St. Paul, MN • Sioux Falls, SD • Washington, D.C.



**BEFORE THE
PUBLIC UTILITIES COMMISSION OF OHIO**

In the matter of the Application of Vectren)	
Energy Delivery of Ohio, Inc. for)	Case No. 18-49-GA-ALT
Approval of an Alternative Rate Plan.)	
)	
In the Matter of the Application of)	
Vectren Energy Delivery of Ohio, Inc. for)	Case No. 18-0298-GA-AIR
Approval of an Increase in Gas Rates.)	
)	
In the Matter of the Application of)	
Vectren Energy Delivery of Ohio, Inc., for)	Case No. 18-0299-GA-ALT
Approval of an Alternative Rate Plan.)	

**CORRECTED INITIAL BRIEF OF THE ENVIRONMENTAL LAW & POLICY
CENTER**

April 22, 2019

(Originally filed April 2, 2019)

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	FACTS	2
	A. Vectren’s Existing Rate Design.....	2
	B. The Proposed Stipulation Rate Design.....	3
	C. Vectren’s Energy Efficiency Programs	4
III.	STANDARD OF REVIEW	6
IV.	ARGUMENT.....	6
	A. Vectren’s Proposed Rate Design Will Not Benefit Ratepayers and the Public Interest	6
	1. Vectren’s Proposed SFV Rate Design Does Not Reasonably Reflect Its Cost of Service	7
	i. Vectren’s Own Evidence Shows that Imposing a Straight Fixed Variable Rate Design Would Inappropriately Treat Significant Demand-Related Costs as Fixed Costs	7
	ii. A Base Distribution Rate with a Volumetric Component Would More Reasonably Reflect Vectren’s Cost of Service	11
	2. Vectren’s Own Analysis Shows That the Proposed SFV Rate Design Will Negatively Impact the Majority of Residential Customers, Including Low- Income Customers.....	13
	i. Vectren’s Own Analysis Shows that, at the Least, the Majority of Low-Income and All Residential Customers Would See Significant Bill Increases Under the Stipulation	14
	ii. The Information Vectren Initially Provided Suggests the Company’s Analysis May Understate the Probable Impacts of the Stipulation’s Fixed Charge Increases.....	18
	iii. Vectren Has Not Adequately Established Other Benefits of SFV Rate Design for Low-Income Customers	19
	3. Fixed Charges that Rise to \$42.89 Over the Next Five Years Will Significantly Decrease Customer Incentives for Conservation and Efficiency, Driving Higher System Costs in the Long Term	20
	B. The Commission Should Formally Establish Better Avenues for Stakeholder Input into Vectren’s Energy Efficiency Programs as Soon as Possible	23
V.	CONCLUSION	24

I. INTRODUCTION

Over the decade since the Public Utilities Commission of Ohio (“PUCO” or “Commission”) ordered Vectren Energy Delivery of Ohio (“Vectren” or “Company”) to adopt a straight-fixed variable (“SFV”) rate design for residential customers, the fixed monthly charges paid by those customers have risen from \$18.37 per month to \$27.62. Meanwhile, natural gas commodity prices are a half to a third of what they were during Vectren’s last rate case in 2007. The result is that the fixed charge is becoming the predominant, component of Vectren’s residential customer bills. Because the Company’s residential customers pay \$27.62 every month regardless of how much gas they use, they have less control over their bills and less incentive for conservation.

Now, through the Stipulation and Recommendation filed in this case (“Stipulation”), Vectren proposes a significant expansion of SFV rate design, which provides for the Company to recover all of its distribution costs through a fixed “customer charge,” for both residential and small commercial customers. Under the Stipulation, the fixed monthly charges for residential customers would jump to \$42.89 – an increase of more than \$15 – over the next five years, while small commercial customers would be newly subject to SFV with fixed monthly charges of \$42.71 plus additional fixed charges under Vectren’s Distribution Replacement Rider. Vectren’s own evidence shows these fixed charges would have disproportionately negative impacts on most of Vectren’s residential customers, including the majority of its low-income customers. Meanwhile, these increased fixed charges would further undermine customers’ ability to control their bills and their incentives for conservation, driving increased gas consumption and ultimately overinvestment in Vectren’s distribution system. The Commission should recognize

those negative consequences of expanding SFV rate design for Vectren's customers, disapprove the Stipulation, and require a distribution rate design that includes a volumetric component.

II. FACTS

A. Vectren's Existing Rate Design

The Commission established Vectren's current straight-fixed variable rate design for base distribution rates in Case Nos. 07-1080-GA-AIR *et al.* ("2007 Vectren Rate Case"). In that proceeding, the Commission approved a stipulation that increased Vectren's fixed residential customer charge from \$7.00 to \$18.37 based on SFV principles. *2007 Vectren Rate Design Case, Opinion and Order* (Jan. 7, 2008) at 8. In making that decision, the Commission did not endorse SFV rate design regardless of relevant circumstances. Rather, that case rested on a number of specific factual findings.

First, the Commission "recogniz[ed] that the stipulated rate of return includes a reduction to the return on equity to account for risk reduction associated with rate design change." *2007 Vectren Rate Design Case, Opinion and Order* at 11. Second, the Commission found that "a levelized rate design has the added benefit of producing more stable customer bills throughout the year because fixed costs will be recovered evenly throughout the year." *Id.* Third, the Commission took the view that a wholly fixed charge would be easier for customers to understand than the alternative proposed by the opposing intervenors: a decoupling rate design where a low customer charge would be paired with a true-up rider. *Id.* at 11, 12. Fourth, the Commission held that an SFV rate design would "send[] better price signals to consumers" by avoiding the misleading suggestion "that reductions in consumption will allow them to avoid the fixed costs of the distribution system." *Id.* at 12. The Commission believed that customers would "still receive the appropriate benefits of any conservation efforts" since commodity costs

would still be the biggest driver of their bills – “75 to 80 percent of the total bill.” *Id.* Finally, the Commission rested its holding in part on evidence showing that “low-income customers in VEDO’s service area consume, on average, more natural gas annually than all but the highest income residential customers in its service area,” and thus “low-income customers, on average, would actually enjoy lower bills under the levelized rate design.” *Id.* at 13. As discussed in detail below, many of the facts underlying these determinations have since changed.

The *2007 Vectren Rate Case* also established Vectren’s Distribution Replacement Rider (“Rider DRR”), which allows the Company to recover and receive a return on investments in an accelerated program to replace bare steel and cast iron pipelines. *2007 Vectren Rate Case*, Opinion and Order at 5. The Commission approved a stipulated rate design for Rider DRR providing for cost recovery through a fixed distribution charge, originally subject to a monthly cap of \$1.00 for residential customers that would rise by \$1.00 each year. In 2014, the Commission approved a continuation of Rider DRR with the monthly cap on residential charges increasing to its current level of \$9.25 per month. *In re Application of Vectren for Approval of an Alternative Rate Plan for Continuation of Its Distribution Replacement Rider*, Case No. 13-1571-GA-ALT, Opinion and Order (Feb. 19, 2014) at 8.

The combined effect of these cases is that the Commission imposed fixed distribution charges totaling \$19.37 on Vectren’s residential customers in 2008, and those charges have risen to \$27.62 in the 11 years since – an average increase of about 75 cents per year.

B. The Proposed Stipulation Rate Design

The Stipulation in this case proposes additional, substantial increases in Vectren’s fixed distribution charges. With respect to Vectren’s base distribution customer charge for residential customers, the Stipulation would increase that charge from \$18.37 to \$32.86. VEDO Ex. 11.3,

Swiz Rebuttal Test. at 5. The Stipulation also proposes reauthorization of Rider DRR, with a monthly residential rate cap starting at \$2.50 and increasing to \$13.75 by September 1, 2024. Joint Ex. 1.0, Stipulation at 7. The combined effect of these two charges means that, upon approval of the Stipulation, Vectren’s residential customers would be subject to total monthly fixed charges of \$35.36, rising to \$46.61 as of September 1, 2024.

Vectren has filed a separate application in Case No. 19-29-GA-ATA proposing to pass back excess deferred income taxes that are no longer needed to meet the Company’s tax obligations due to the Tax Cuts and Jobs Act of 2017 (“TCJA”). That application proposes a fixed monthly credit of \$3.72 for residential customers. VEDO Ex. 11.3, Swiz Rebuttal Test. at 5. Accordingly, if the Commission approves the Stipulation without modification, along with the Company’s TCJA refund application, Vectren’s residential customers will pay at least \$31.64 in fixed monthly charges, and that amount will go up to \$42.89 by the end of 2024.¹ The net effect is that monthly residential fixed charges will grow by \$15.27 (\$27.62-42.89) over the next five years – an average increase of more than three dollars per year.

The Stipulation also proposes to move small business (“Group 1”) customers who use less than 3000 ccf of natural gas per year to SFV rate design, imposing a base monthly customer charge of \$42.71 (more than double the current level of \$20.00) along with a fixed monthly charge under Rider DRR. VEDO Ex. 13.2, Albertson Second Supp. Test. at 3; Joint Ex. 4.0, Stipulation Tariff at 9; Staff Ex. 2, Staff Report at 35.

¹ In order to simplify the Commission’s analysis, these calculations do not include the effect of the Capital Expenditure Program (“CEP”) Rider also proposed in the Stipulation. The Stipulation provides for a monthly \$1.50 rate cap on the CEP Rider for residential customers, which if met would of course increase the total monthly fixed charges paid by those customers.

C. Vectren's Energy Efficiency Programs

The Stipulation proposes to allow Vectren to recover up to \$5.6 million annually for implementation of its energy efficiency programs, a continuation of conservation efforts that the Commission initially approved in 2007. In Case No. 05-1444-GA-UNC, the Commission adopted a stipulation that established a stakeholder collaborative that would provide input into Vectren's energy efficiency programs and vote on their approval, with the ability to raise disputed issues for resolution by the Commission. *In re Application of Vectren for Approval of a Tariff to Recover Conservation Expenses*, Case No. 05-1444-GA-UNC, Supplemental Opinion and Order (June 27, 2007) at 6-7. The voting membership of that collaborative is limited to Vectren, Commission Staff, the Ohio Consumers' Counsel ("OCC"), and Ohio Partners for Affordable Energy. *Id.* at 6; *see also* Tr. I at 62:14-18.

Under the Stipulation, that collaborative "will continue to meet and function under its existing responsibilities and procedures regarding the selection, management, and review of EE [energy efficiency] Programs for programs delivered through December 31, 2020." Joint Ex. 1.0, Stipulation at 6. Meanwhile, the Stipulation also provides that Vectren must meet with interested parties and PUCO Staff beginning no later than July 31, 2019, with the aim of filing an unopposed stipulation regarding 2020 energy efficiency programs by October 1, 2019. *Id.* In the event that the parties are not able to unanimously agree on a stipulation, the existing collaborative process will continue to govern until December 31, 2020. *Id.* By November 30, 2019, the Stipulation requires Vectren to file an application for Commission approval of an energy efficiency portfolio plan and funding for 2021 and beyond. *Id.*

III. STANDARD OF REVIEW

The Commission's traditional standard of review for stipulations looks at three criteria:

- (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?

In re Columbus S. Power Co., Case Nos. 11-346-EL-SSO, *et al.*, Opinion and Order (Dec. 14, 2011) at 27. The burden is on the signatory parties to satisfy all three prongs of this standard. *In re Ohio Power Co.*, Case Nos. 14-1693-EL-RDR *et al.*, Opinion and Order (Mar. 31, 2016) at 18.

IV. ARGUMENT

A. Vectren's Proposed Rate Design Will Not Benefit Ratepayers and the Public Interest

A central component of the Stipulation is the proposed continuation of straight-fixed variable rate design for Vectren's residential customers, as well as the extension of that rate design to small business customers. The Commission originally approved Vectren's use of SFV rate design in a 2008 decision – more than a decade ago – with respect to monthly charges of approximately \$19. Vectren now contends that SFV rate design remains appropriate even as its net fixed charges are set to rise to almost \$43 per month over the next five years, with a base customer charge of \$32.86. That level of fixed charge would make Vectren, and Ohio, an outlier in imposing high fixed charges on residential natural gas customers.

As of 2015, the median monthly residential customer charge for natural gas utilities was only \$11.25 nationally, and \$11.38 across Ohio's East North Central census region. ELPC Ex. 3, Am. Gas Ass'n, Natural Gas Utility Rate Structure: The Customer Charge Component – 2015

Update (“AGA 2015 Customer Charge Report”) (May 28, 2015) at 2-3, App. 2. Vectren’s two sister utilities in Indiana had customer charges of \$11.00 and \$11.25 in 2015, while in Ohio’s neighboring states of Michigan, Indiana, Kentucky, and Pennsylvania no gas distribution utility had a customer charge above \$20.90, with most far below that level. *Id.* at App. 1. Ohio’s current level of monthly customer charges already put it well above the norm, and the Stipulation proposal to move to a customer charge of \$32.86 and net fixed monthly charges of \$42.89 appears to be unprecedented.

Neither Vectren nor the other stipulating parties meet their burden to prove that this extreme result will benefit ratepayers and the public interest. Rather, the record shows that fixed charges at that level will drive increases in customer consumption and lead to higher distribution costs, while disproportionately harming tens of thousands of low-income customers. Therefore, the Commission should disapprove the expansion of SFV rate design proposed in the Stipulation and instead provide for any rate increase to be collected through a volumetric component of residential and small business distribution rates.

1. Vectren’s Proposed SFV Rate Design Does Not Reasonably Reflect Its Cost of Service

i. Vectren’s Own Evidence Shows that Imposing a Straight Fixed Variable Rate Design Would Inappropriately Treat Significant Demand-Related Costs as Fixed Costs

Vectren places significant weight on the testimony of its expert Russell Feingold that a wholly fixed customer charge is appropriate for residential customers as a matter of principle because all of the costs in the Company’s rate base are fixed costs. VEDO Ex. 12.0, Feingold Direct Test. at 8-9; *see also* VEDO Ex. 13.0, Albertson Direct Test. at 23. However, that

assertion rests on an artificially narrow definition of “fixed” costs that will unnecessarily drive long term increases in Vectren’s distribution system costs and, ultimately, costs for customers.

Company witness Feingold testified that, in his view, all of Vectren’s gas transportation costs are “fixed” because they do not vary in the timespan of the Company’s test year. Tr. VI at 511. At the same time, the cost-of-service study that he prepared for this proceeding reflects that significant proportions of Vectren’s costs are demand-related, and therefore vary over time and between individual customers – including for residential and small commercial customers. *See* ELPC Ex. 6c. The Company calculates these demand-related costs based on “design day demand,” looking at customers’ “connected loads” (*i.e.*, their major gas-using appliances and the maximum volume of gas required to serve those connected loads). VEDO Ex. 12.1, Feingold Rebuttal Test. at 39; Staff Ex. 2, Staff Report at 27; Tr. VI at 517:16-518:15. Company witness Feingold agreed that design day demand increases can require investments in new or replacement distribution assets. Tr. VI at 515:13-16. In keeping with this fact, for larger commercial and industrial customers, Vectren seeks to recover these demand-related distribution costs through a volumetric charge. ELPC Ex. 2, Nelson Direct Test. at 14. By contrast, under the Stipulation Vectren would recover even these demand-related costs for residential and small commercial customers through the fixed customer charge under an SFV rate design.

Fundamentally, this proposed SFV rate design ignores the fact that, although demand-related costs may not vary in the short timeframe of one test year, “most, or all, demand related costs are variable in the long-term . . . because the gas distribution system is built (and rebuilt) to meet the peak demands of customers—which vary over time.” ELPC Ex. 2, Nelson Direct Test. at 8. Accordingly, “[b]ecause demand changes over time, encouraging customers to reduce demand can decrease the cost to build the system over time.” *Id.* Conversely, “[r]ecovering

those costs through a fixed charge sends the signal to customers that increased consumption will not increase system costs, which may in fact result in increased customer demand and thus greater system costs (i.e., rate base) in the long-run.” *Id.* at 14.

This view of appropriate rate design for demand-related costs has been adopted by other public utility regulators. For example, the Illinois Commerce Commission (“ICC”) has rejected the idea that a utility should recover all transportation costs, including demand-related costs, through a fixed charge that does not vary with consumption. As the ICC explained in detail:

The Companies' own data show that they incur substantial costs related to the peak demand that each residential customer places on the system. These demand-related costs are apparent in the sizing of distribution mains, storage facilities, and other types of distribution facilities and related operations and maintenance costs. In addition, the Companies' data show that some residential customers require substantially more expensive meters and regulators than the typical residential customer. In other words, the Companies incur millions of dollars in costs each year that are directly related to the demands residential customers place on the systems. These costs should be allocated to customers in proportion to the amount of natural gas they demand, and it appears that is the methodology employed by the Company in its ECOSs. Further, larger heating customers place greater demands on the system than smaller heating customers. Compare, for example, the demand for natural gas from a small apartment to the demand from a large single-family home that may be heating thousands of square feet.

N. Shore Gas Co. the Peoples Gas Light & Coke Co., Case Nos. 11-0280 et al., 2012 WL 681749, Order at 186 (ICC Jan. 10, 2012).

Likewise, the uniform, high fixed charge that Vectren proposes for residential and small commercial customers fails to reflect the significant amounts of variable, demand-related costs attributable to those customer classes, and therefore will result in an inaccurate price signal.

Company witness Feingold did not know Vectren’s timeframe in applying design day demand forecasts for purposes of investing in the distribution system (Tr. VI at 517:11-15), yet his definition of “fixed” costs assumes that increases in design day demand will not drive increased distribution investments before the next rate case with a result of a higher revenue requirement

and higher costs for customers. This assumption is inconsistent with the record, including his own cost-of-service study. Thus, the application of strict SFV rate design unreasonably sends the price signal that changes in design day demand will not affect Vectren's costs to serve residential or small business customers over time.

Because of the SFV proposal's uniform treatment of all residential and small business customers regardless of individual variations in their design day demand, it also does not meet Commission Staff's criterion that rates be "fair, equitable and reasonable." Staff Ex. 2, Staff Report at 26. In fact, individual residential customer's demands may vary significantly, depending on whether they live in a multifamily household with only a gas water heater versus "an extremely large, inefficient house that runs multiple gas-reliant appliances, such as a gas dryer, gas furnace and gas water heater." ELPC Ex. 2, Nelson Direct Test. at 9. Under Vectren's approach of analyzing connected loads, such customers would have different design-day demand and thus different demand-related costs of service, yet the Company wants to charge both the same \$42.89 every month for distribution service. Vectren has customers with significantly different levels of usage reflecting significant variations in demand – with 2,970 customers using over 2000 ccf annually versus 5,548 customers using less than a tenth of that, 200 ccf or less per year.² Regardless of whether those low-usage customers have reduced their design day demand by choosing non-gas appliances or paying more for efficient ones, or

² See ELPC Ex. 7, Swiz Workpapers at 3. As shown in the final three columns "cat" (representing annual natural gas usage), "ove30" (representing number of customers at each usage level with annual incomes above \$30,000), and "under30" (representing number of customers at each usage level with annual incomes under \$30,000), 2,970 equals the sum of 2,303 customers and 667 customers from the two income columns using 2000 or more ccf per year, and 5,548 is the sum of the number of customers in the two income columns using 200 or less ccf per year.

choosing to live in a smaller home with smaller space heating needs, under the Stipulation they will pay the same fixed monthly charges.

ii. A Base Distribution Rate with a Volumetric Component Would More Reasonably Reflect Vectren's Cost of Service

Vectren could use an alternative approach to SFV that would more reasonably reflect its cost of service: recovering demand-related costs through the volumetric portion of customer bills. ELPC Ex. 2, Nelson Direct Test. at 11-12. In fact, across the country many natural gas utilities continue to have significant volumetric components in distribution bills. ELPC Ex. 3, AGA 2015 Customer Charge Report at 2 (summarizing industry data showing that, as of 2015, the fixed customer charge for natural gas distribution utilities across the country typically collected only about 46% of “fixed” costs). In a number of cases, this reflects the judgment of public utility regulators that such a rate design is reasonable and appropriate.

Just last year, the Montana Public Service Commission explained a decision to order recovery of demand-related costs through a volumetric charge as the sensible approach:

In the absence of a demand charge, that costs allocated on the basis of demand are best approximated by a rate design that attributes these to the volumetric gas consumption component of the bill; the Commission reasons that most customers of these utilities are likely to use the most gas at the same time other customers are doing so, on very cold days.

In re Joint Application for Approval to Change & Establish Nat. Gas Delivery Serv. Rates for Energy W. Montana, Inc. & Cut Bank Gas Co., Case No. 7575C, 2018 WL 4698046, at *48 (Mont. PSC Sept. 26, 2018).

The Michigan Public Service Commission has similarly rejected SFV in favor of its longstanding rate design approach excluding costs from the customer charge where they are “not directly associated with the attachment of customers to the system, including capacity related costs.” *In the Matter of the Application of DTE Gas Co. for Auth. to Increase Its Rates*, Case No.

U-17999, 2016 WL 7245316, at *39 (Mich. PSC Dec. 9, 2016). That decision noted, in response to utility arguments that SFV represented a more modern and better rate design, that “[t]he Commission does not continue to follow this precedent simply because it is there, but because the reasoning relied upon in determining that customer charges should be limited to costs associated directly with supplying service to a customer remains as viable today as it was then.” *Id.* at *40.

Finally, building on its 2011 decision discussed above, in 2015 the Illinois Commerce Commission rejected another proposed move toward SFV rate design where it would result in unreasonably high customer charges. *N. Shore Gas Co. and the Peoples Gas Light & Coke Co.*, Case Nos. 14-0224 *et al.*, 2015 WL 402256 (ICC Jan. 21, 2015). The ICC explained:

It is patent that high customer charges mean the Companies’ lowest users bear the brunt of rate increases, and subsidize the highest energy users. Steadily increasing customer charges diminish the incentives to engage in conservation and energy efficiency because a smaller portion of the bill is subject to variable usage charges and customer efforts to reduce usage.

The Commission rejects the Companies’ claim that customer charges must be raised to ensure cost recovery. The Commission finds that SFV based rates that assume that non-storage demand related distribution costs should be allocated on a per customer basis are inconsistent with the public policies of attributing costs to cost causers, encouraging energy efficiency and eliminating inequitable cross-subsidization of high users by low users of natural gas.

Id. at *177.

Alternatives to SFV rate design that recognize the importance of sending long-term price signals in favor of conservation are consistent with historical norms, dating back to Professor James C. Bonbright’s explanation of the need to account for such long-term costs in setting rates:

I conclude this chapter [on marginal costs] with the opinion, which would probably represent the majority position among economists, that, as setting a general basis of minimum public utility rates and of rate relationships, the more significant marginal or incremental costs are those of a relatively long-run variety—of a variety which treats even capital costs or “capacity costs” as

variable costs. Short-run marginal costs should not be ignored. But they should be used with caution

James C. Bonbright, *PRINCIPLES OF PUBLIC UTILITY RATES* 336 (Columbia Univ. Press 1961), available at <https://www.raponline.org/wp-content/uploads/2016/05/powellgoldstein-bonbright-principlesofpublicutilityrates-1960-10-10.pdf>. Many regulators have since adopted this pragmatic approach and recognized that SFV rate design is not the only or the best approach, especially when it would shift collection of significant demand-related costs into a high fixed charge. Here, the fixed charge contemplated in the Stipulation would be higher than almost any in recent history across the United States. *See* ELPC Ex. 3, AGA 2015 Customer Charge Report, App. 1. The Commission should therefore give due consideration to alternatives, especially because the record shows that application of a strict SFV rate design would have large, negative impacts on low-income customers and on customer conservation, as detailed below.

2. Vectren’s Own Analysis Shows That the Proposed SFV Rate Design Will Negatively Impact the Majority of Residential Customers, Including Low-Income Customers.

When originally deciding to shift towards SFV rate design for Vectren and other Ohio utilities, the Commission first carefully considered whether that approach would have negative effects for natural gas customers based on the evidence in the record before it. *Infra* at 2-3. Nevertheless, Vectren initially failed to present evidence in support of its Application, and then the Stipulation in this case, to address the likely impacts of the proposed expansion of SFV rate design on its customers. However, as explained in the testimony presented by multiple parties opposing the Stipulation, the evidence in the record indicates that increasing fixed customer charges to the level proposed here would disproportionately harm Vectren’s low-income and low-usage customers. *See, e.g.*, ELPC Ex. 2, Nelson Direct Test. While Vectren belatedly presented a new analysis of this issue on rebuttal, even that analysis shows the same thing:

application of SFV rate design over the next five years would produce significant bill increases for a majority of Vectren's residential customers, including low-income and lower-usage customers.

i. Vectren's Own Analysis Shows that, at the Least, the Majority of Low-Income and All Residential Customers Would See Significant Bill Increases Under the Stipulation.

On rebuttal, Vectren offered two sets of information for the Commission to consider in gauging the bill impacts of the proposed fixed charge increase. First, the Company provided an analysis modeled on one submitted in the *2007 Vectren Rate Case* to show usage levels of its low-income and non-low-income customers, using 2015 projected census tract income data and consumption data from July 2017-June 2018. VEDO Ex. 11.3, Swiz Rebuttal Test. at 13-14. Vectren's main assertion based on this analysis is that "low income does not equate to low usage," and "that a greater percentage of the overall customer premises use more gas than the average customer when compared to both the higher income customers and the overall rate class." *Id.* at 18. The problem is, the underlying data that Mr. Swiz utilized shows that the majority of both low-income customers, and residential customers as a whole, use *less* than the average consumption level that he relies on to show the lack of disproportionate impacts from SFV.

As a closer look at Mr. Swiz's own workpapers reveals, his reliance on average usage numbers hides the fact that the majority of low-income customers use less than average while a smaller subset of higher-income customers use significantly higher-than-average amounts of gas. Mr. Swiz calculated that average annual usage for customers with incomes below \$30,000 per year is 823 ccf. ELPC Ex. 7, Swiz Workpapers at 2. Summing the customer counts for low-income customers with usage at or below 825 ccf, Mr. Swiz's workpaper indicates that 21,192 of

the 37,062 total that he tallied, or 57% of low-income customers, consume gas at levels below average for their income level. *Id.* at 1, 3 (sum of column “under30,” entries corresponding to “cat” rows 25 through 825). Even looking at the overall residential average of 791 ccf per year, Mr. Swiz’s analysis shows that 20,249, or 55% of low-income customers, use less than that total residential average. *Id.* at 1, 3 (same for “under30” entries corresponding to “cat” rows 25 through 800). In other words, more than half of the low-income customers included in Mr. Swiz’s analysis do in fact use lower-than-average amounts of natural gas. The data for customers with annual incomes above \$30,000 shows a similar pattern, with 113,105 customers using 800 ccf or less annually and just 76,839 using more. *Id.* at 1, 3 (sum of column “ove30,” entries corresponding to “cat” rows 25 through 800). Examining the data even more closely, the highest-income customers with median household incomes of \$80,000 or more per year – representing 23,630 of the 227,006 households analyzed by Mr. Swiz, or just 10% – use 955 ccf per year, far above the class average of 791 ccf. *Id.* at 1. In total, 133,354 of the 227,006 customers considered in Mr. Swiz’s analysis, or almost 59%, are “lower-usage” customers who consume 800 ccf or less per year. *Id.* at 3 (sum of “ove30” and “under30” entries corresponding to “cat” rows 25 through 800). These facts accord with the independent analysis that ELPC witness Nelson conducted using Vectren’s actual monthly residential customer usage data from 2016, which shows “that high fixed charges hurt the *majority of customers*, [and] that the majority of customers are low-use.” ELPC Ex. 2a, Nelson Supp. Test. at 8; *see also id.* at 7, Fig. 1.

What are the impacts of expanding SFV rate design as proposed in the Stipulation on these lower-than-average-usage customers? Attachment A to the Rebuttal Testimony of Company witness Swiz purports to show the percent bill increase from the Stipulation for

customers at various usage levels. For residential customers, Vectren's calculations show a bill percent increase (excluding gas commodity charges) of between 5.49% (at 0 ccf monthly usage) and 11.01% (at 300 ccf monthly usage). VEDO Ex. 11.3, Swiz Rebuttal Test., Att. A at 1-2. However, as Mr. Swiz explained, those percentages reflect only the initial Rider DRR level of \$2.50 per month. Tr. VI at 595:12-25. Adding another \$11.25 to the proposed monthly bill for each residential customer in Mr. Swiz's analysis, to reflect the ultimate Rider DRR cap of \$13.75 in 2024, shows that the same customers will see the distribution portion of their monthly bills increase by much more. Assuming average monthly gas usage of 60 ccf,³ Mr. Swiz's testimony suggests a bill increase of 6.89% excluding gas commodity charges and a total bill increase of 3.69% at current gas commodity prices. VEDO Ex. 11.3, Swiz Rebuttal Test., Att. A at 1. However, adding \$11.25 to the proposed bill amount (which already includes the \$2.50 charge for the first year), to reflect the full \$13.75 charge under Rider DRR that will apply in 2024, shows that the average 60 ccf customer would experience a 43% increase in monthly distribution charges and a 23% increase in the total monthly bill including commodity charges.⁴

Some bill increase is inevitable with an increase in Vectren's overall revenue requirement. However, the SFV rate design proposed in the Stipulation shifts that increase toward lower-usage customers who are putting the least demand on the system. That impact is

³ Mr. Swiz provides two separate numbers for annual customer usage: 733 ccf in the body of his rebuttal testimony (VEDO Ex. 11.3, Swiz Rebuttal Test. at 10), and 791 ccf in the workpapers supporting his analysis of low-income usage in the same testimony. ELPC Ex. 7 at 1. Dividing these by 12 produces monthly average usage estimates of 61.1 and 65.9 ccf respectively. Since ELPC's analysis of all residential Vectren usage data for 2016 shows an average monthly usage of 61.1 ccf, ELPC applied that more consistent number (rounded down to 60 ccf) for these calculations.

⁴ Using the numbers from VEDO Ex. 11.3, Att. A at 2: 43% results from adding \$11.25 to the proposed bill amount for 60 ccf in column C and recalculating the percent increase in column E; 23% results from adding \$11.25 to the proposed bill amount for 60 ccf in column H and recalculating the percent increase in column I.

evident from the testimony of OCC witness Gonzalez, who compared the bill increase from the proposed rate design to the bill increase resulting from an alternative rate design of an \$18.37 monthly customer charge with all other costs recovered volumetrically. OCC Ex. 6A, Gonzalez Supp. Test. at 10-11, Tbl. 3. That change showed that, under OCC's alternative proposal based on the same revenue requirement, lower-usage customers consuming 50 ccf per month would experience a rate increase of 4.28% rather than 9.46% (\$55.55 instead of \$58.31) even in the first year of Stipulation implementation – solely due to the change in rate design. *Id.* at 10. The disparity becomes even greater when considering the effect of a full \$13.75 fixed charge under Rider DRR in 2024, which would result in a monthly rate increase of more than 30% for a 50 ccf usage customer (\$74.32 versus the \$55.55 proposed by OCC). *Id.* at 10-11. Over 12,000 of the low-income customers considered by Mr. Swiz use 50 ccf per month or less (600 ccf annually). ELPC Ex. 7, Swiz Workpapers at 3. Those customers, and many other low-usage customers like them, will be significantly worse off under the proposed Stipulation rate design compared to alternatives that preserve a lower fixed charge.

Such impacts on low-income, low-usage customers were clearly relevant to the Commission in its initial move to SFV in the *2007 Vectren Rate Case*. Other public utility regulators have balked where the evidence shows, as here, that SFV would have a “disproportionately harsh impact on small users.” *In Re Sourcegas Distribution LLC*, Case No. 12450, 2011 WL 941272, ¶ 104 (Wyo. PSC Feb. 10, 2011). Accordingly, the Commission should not endorse the proposed expansion of SFV rate design where it would similarly lead to such harsh and unfair results.

ii. The Information Vectren Initially Provided Suggests the Company’s Analysis May Understate the Probable Impacts of the Stipulation’s Fixed Charge Increases.

The Commission should also weigh the fact that the information initially provided by Vectren in this proceeding about customer usage levels, in connection with its energy efficiency programs, suggests that the Company’s rebuttal testimony may actually constitute a significant *understatement* of the negative impacts of its proposed rate design on low-income, low-usage customers. Vectren commissioned a contractor to prepare that information as part of Vectren’s market potential study underlying its energy efficiency program proposal. VEDO Ex. 9.2, Harris Rebuttal Test. at 3-4. The relevant data indicate that, as of 2016, the Company had approximately 115,000 low-income customers (with incomes under \$35,000 per year) of its total 292,000 residential households. ELPC Ex. 2a, Nelson Supp. Test. at 5, Tbl. 2; VEDO Ex. 9.2, Harris Rebuttal Test. at 6. The market potential study also indicated that, on average, those low-income customers used less than 737 ccf per year (just 509 ccf per year for low-income multifamily households). *Id.* at 5. By contrast, Mr. Swiz’s analysis found only 37,062 low-income households – just a third as many as the market potential study – using on average 823 ccf per year. ELPC Ex. 7, Swiz Workpapers at 1. Mr. Swiz thus found significantly fewer low-income households, consuming significantly larger amounts of gas, than in the Company’s own market potential study. At the same time, Mr. Swiz’s data regarding *non*-low-income households is relatively consistent with the Company’s market potential study. He found 189,944 households earning more than \$35,000 per year, versus the market potential study figures of about 177,000 households earning more than \$30,000 per year. *Compare* ELPC Ex. 7, Swiz Workpapers at 1 *with* ELPC Ex. 2a, Nelson Supp. Test. at 5, Tbl. 2.

The unique discrepancies in Vectren’s information regarding low-income customers do not appear to be attributable to mere chance. Rather, it appears Mr. Swiz’s methodology may have inadvertently excluded significant numbers of low-income customers. The vast majority of households that Mr. Swiz left out of his analysis – more than 67,000 – were omitted because they did not have a full 12 months of usage data in the 2017-2018 time period he examined. VEDO Ex. 11.3, Swiz Rebuttal Test. at 13-14 & n.3. Mr. Swiz acknowledged that “many” of these customers may have been missing months of usage data because they had been disconnected during that time. Tr. VI at 621:8-9. Yet he never looked at Vectren’s annual reports on disconnections for non-payment to determine whether his methodology might inadvertently exclude a significant segment of customers having trouble paying their bills even under the Company’s current rate design. *Id.* at 622-624. Given that Vectren’s market potential study also shows significantly lower average annual consumption for low-income customers than reflected in Mr. Swiz’s data, it is also unclear whether Mr. Swiz in fact disproportionately excluded *low-usage*, low-income customers and thus skewed his own analysis of the correlation between low income and low usage. The Commission thus has no way to know whether Mr. Swiz’s data adequately addresses the bill impacts of the Stipulation on customers in difficult financial circumstances who may face even greater economic hardship due to a bill increase, including more frequent disconnections, regardless of their level of usage. In this context – where Vectren and the other stipulating parties have the burden of proof to show their settlement will benefit ratepayers – this gap in the evidence means that Vectren has failed to meet its burden.

iii. Vectren Has Not Adequately Established Other Benefits of SFV Rate Design for Low-Income Customers.

Vectren’s witnesses on SFV rate design emphasized that one of its major advantages over volumetric pricing, even with decoupling, is that it results in “levelized” bills that are consistent

every month. However, Vectren has not adequately addressed the fact that its “budget billing” mechanism offers residential customers the opportunity to levelize their bills without sacrificing the ability to control the overall amount of their bills through conservation.

In a budget billing program, customers can request consistent monthly charges subject to annual true-ups to ensure accurate recovery of the relevant portion of the revenue requirement. Tr. VI at 480:5-13. Vectren offers such a program for both delivery and commodity portions of the bill. *Id.* at 479-480, 536:7-16. Company witness Feingold nevertheless supported SFV as an improvement on the basis that it can lower annual true-ups that may lead to unexpected costs for customers. VEDO Ex. 12.1, Feingold Rebuttal Test. at 10; Tr. VI at 484:23-485:3. He had not, however, done any analysis of the amount of such true-ups actually faced by Vectren customers. *Id.* at 510:17-20. Nor could he testify to the number of Vectren customers who have actually decided to enroll in a budget billing program. *Id.* at 510:7-16. Accordingly, Vectren has not provided any record evidence that would indicate an expansion of SFV rate design materially benefits customers compared to its budget billing program.

3. Fixed Charges that Rise to \$42.89 Over the Next Five Years Will Significantly Decrease Customer Incentives for Conservation and Efficiency, Driving Higher System Costs in the Long Term.

Given that SFV rate design sends the inappropriate price signal that customer usage does not affect distribution costs regardless of impacts on design day demand, *infra* at 7-10, the Commission rightly considered in the *2007 Vectren Rate Case* whether high fixed monthly charges would undermine the overall price signal from customer bills in favor of conservation. In that case, the Commission decided that SFV rate design would not pose an unreasonable obstacle to customer conservation because commodity costs would continue to represent 75% to 80% of the customer’s bill. *2007 Vectren Rate Design Case*, Opinion and Order at 12. In this

proceeding, by contrast, the evidence shows that approval of the Stipulation would leave an average customer with gas consumption as just 28% to 35% of the monthly bill by 2024.⁵ ELPC Ex. 2a, Nelson Supp. Test. at 12.

Mr. Swiz's rebuttal testimony offers only minimal opposition on this point. Even he acknowledged that with gas prices significantly lower than in 2008, commodity charges will be only "approximately 45% of the total bill for a residential customer with average annual usage (733 CCF)," and a maximum of 60%-65% in high-usage winter months. VEDO Ex. 11.3, Swiz Rebuttal Test. at 10. Furthermore, by Mr. Swiz's own admission, his analysis only considers the customer charges applicable in the first year after approval of the Stipulation. Tr. VI at 615:11-23. As discussed in detail above, those calculations do not capture the total impact of the Stipulation, which allows for steep increases in the fixed monthly charge under Rider DRR over the next five years. *Infra* at 3.

The Commission has recently recognized that decreases in natural gas prices over the last several years have eroded customer incentives to adopt energy efficiency measures. Responding to an argument by OCC in Columbia Gas's 2016 energy efficiency proceeding that the Commission should consider the lower price of natural gas as a reason to reduce Columbia's expenditures on conservation programs since they were originally approved in 2008, the Commission explained:

We note that natural gas prices are currently at historic lows and are projected to remain low through 2040 (OCC Ex. 12 at 10-11, MPH Ex. 2). We recognize that, while the current low price of natural gas is unlikely to incent a customer to install

⁵ Although those percentages may change if the price of gas goes up sharply in the next five years, as Company witness Swiz testified, he doesn't "have a crystal ball" and could only predict that "it's unlikely that prices are going to stay the same." Tr. VI at 643:12-644:2. Nor did any other Vectren witness offer any commodity price forecasts for 2024. Accordingly, it is reasonable for the Commission to consider this issue based on an assumption that natural gas prices will not increase enough in the next five years to significantly alter these proportions.

or implement energy conservation measures, such programs need to be continuously encouraged. Even ELPC/NOAC, who oppose the stipulation, advocate that energy efficiency measures and DSM programs be encouraged, in times of low gas prices, because customers may have money in their budget to purchase or install energy efficiency measures and DSM programs that can protect the customer when gas and energy prices rise (Tr. II at 210-211). Further, the Commission recognizes that certain of Columbia's DSM programs involve measures that provide long-term energy conservation benefits that may accrue over decades, such as the construction of energy efficient homes, weatherization, and the installation of furnaces and boilers, hot water heaters, and other energy efficient appliances (Co. Ex. 1 at 9). Accordingly, the Commission finds this period of low gas prices may present a particularly appropriate time to encourage and incentivize customer participation through the DSM programs.

In re Columbia Gas of Ohio, Inc. Demand-Side Management Programs, Case Nos. 16-1309-GA-UNC *et al.*, Opinion and Order (Dec. 21, 2016) at 55. As of the filing of this case, gas prices were 2-3 times lower than in 2008. ELPC Ex. 2a, Nelson Supp. Test. at 13. Thus, the same considerations mean that it remains important for the Commission to consider the impact of high fixed charges in discouraging customer conservation.

The Commission cannot rely on the existence of Vectren's energy efficiency programs to mitigate this impact. Foremost, high fixed charges and the corollary of low volumetric charges will provide a significant disincentive for *all* affected Vectren customers to conserve gas. ELPC Ex. 2, Nelson Direct Test. at 14-17. Vectren's energy efficiency programs will not reach all of these residential and small business customers affected by an SFV rate design. Tr. VI at 581-582. Moreover, as Company witness Harris testified, rate design and potential bill savings play an important role in customer preferences, marketing of efficiency programs, and program effectiveness. Tr. VI at 566:7-10, 578:4-22. With customers facing high fixed charges and low commodity costs, they may be less willing to conserve both as program participants and on their own. Additionally, the Commission should consider the fact that customers who have already invested in energy efficient measures have potentially helped to reduce demand-related

distribution costs, yet without a volumetric component to the distribution bill Vectren does not recognize that contribution. OCC Ex. 6a, Gonzalez Supp. Test. at 13.

Maintaining a robust price signal for conservation is also important in light of the discussion above about the treatment of demand-related costs. As the Pennsylvania Public Utilities Commission has observed in rejecting an SFV rate design proposal:

By shifting virtually all distribution costs to the fixed customer charge component of the rates as proposed by Columbia, we may be stunting the incentives for consumers to take charge of their energy costs by reducing usage. . . . Merely increasing customer charges, as OCA noted, may have long term implications in dampening incentives for energy efficiency investments — which will cause long term costs to increase.

Penn. Pub. Util. Comm'n Office of Consumer Advocate v. Columbia Gas, Case Nos. R-2010-2215623 *et al.*, 2011 WL 5026079 (Penn. PUC Oct. 14, 2011). Designing rates to avoid unnecessary roadblocks to conservation plays a vital role in minimizing distribution costs for all customers, not merely those who actually adopt efficiency measures or conservation behaviors.

B. The Commission Should Formally Establish Better Avenues for Stakeholder Input into Vectren's Energy Efficiency Programs as Soon as Possible.

Historically, only members of Vectren's exclusive stakeholder collaborative have had formal, prospective input into the design of its energy efficiency programs – including the ability to vote on those programs. Under the Stipulation, that may continue to be the case through December 31, 2020, since Vectren's current programs will remain in place during that time unless all interested parties are able to unanimously agree on a replacement efficiency plan by October 1, 2019.

This approach presents significant obstacles to input from stakeholders that were not designated as members of Vectren's collaborative in 2007. ELPC and other stakeholders may have valuable input as to the design and implementation of Vectren's programs, as represented

by the testimony of ELPC witness Dzubay. *See* ELPC Ex. 1, Dzubay Direct Test. While the Company has indicated that it would “be willing to consider” perspectives on energy efficiency programs from non-collaborative members, Tr. I at 69:22-70:14, that general statement provides no guarantee that stakeholders outside the collaborative can have input. Non-collaborative members also lack the right established in Case No. 05-1444-GA-UNC to raise disputed issues for resolution by the Commission. *Infra* at 5. Accordingly, the Commission should alter Vectren’s collaborative structure to allow for participation by all interested stakeholders starting immediately. Such an order would not represent a material alteration of the Stipulation, Tr. I at 63:9-14, and may well result in better energy efficiency programs for Vectren’s customers.

V. CONCLUSION

Vectren starts this case with a high fixed customer charge of \$27.62 per month, and wants to increase that charge to \$42.89 by the end of 2024. That charge places an undue burden on low-income customers and low-use customers. Moreover, it sends the wrong price signal to customers, because over time when customers increase their usage it does cause increased costs to the delivery system. In addition to these equity issues, it reduces customer benefits from energy efficiency and conservation and it reduces customers’ ability to control their bills.

Vectren casts the Stipulation proposal to extend SFV rate design to 2024 across residential and small business customers as a logical continuation of the Commission’s decision in the 2007 Vectren Rate Case. However, that case dealt with much lower fixed charges at a time when gas commodity prices were much higher, and cannot govern here. Accordingly, the burden was on Vectren and the other stipulating parties to support the SFV rate design proposal, but they have failed to do so. The record evidence in this case shows that SFV rate design would inappropriately charge significant demand-related costs as fixed costs even though they are

variable; would disproportionately assign rate increases to low-usage customers, both low-income and otherwise; and would substantially undermine customer incentives to adopt energy efficiency measures and conserve overall.

In the final analysis, Vectren and the signatory parties fail to demonstrate that the settlement, as a package, benefits ratepayers and the public interest. Therefore, the Commission should reject the SFV rate design proposed in the Stipulation and require Vectren to collect any distribution rate increase through a volumetric charge.

April 23, 2019

Respectfully submitted,

/s/ Madeline Fleisher

Madeline Fleisher

Robert Kelter

Environmental Law & Policy Center

21 W. Broad St., 8th Floor

Columbus, OH 43215

(614) 569-3827

(312) 795-3749

mfleisher@elpc.org

rkelter@elpc.org

*Counsel for the Environmental Law &
Policy Center*

CERTIFICATE OF SERVICE

I hereby certify that a true copy of the foregoing Correspondence and Corrected Initial Brief submitted on behalf of the Environmental Law & Policy Center was served by electronic mail, upon all Parties of Record, on April 22, 2019.

/s/ Madeline Fleisher
Madeline Fleisher

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

4/22/2019 5:07:42 PM

in

Case No(s). 18-0049-GA-ALT, 18-0298-GA-AIR, 18-0299-GA-ALT

Summary: Correspondence Correspondence and Corrected Initial Brief by the Environmental Law & Policy Center electronically filed by Madeline Fleisher on behalf of Environmental Law & Policy Center