

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Operations of Vectren	)	
Energy Delivery of Ohio, Inc. During the	)	Case No. 20-0649-GA-UNC
Declared State of Emergency and Related	)	
Matters.	)	

**MEMORANDUM CONTRA THE OFFICE OF THE OHIO  
CONSUMERS' COUNSEL APPLICATION FOR REHEARING  
OF VECTREN ENERGY DELIVERY OF OHIO, INC.**

Pursuant to Ohio Adm.Code 4901-1-35, Vectren Energy Delivery of Ohio, Inc. (VEDO or the Company), a CenterPoint Energy Company, hereby files its memorandum contra to the application for rehearing of The Office of the Ohio Consumers' Counsel (OCC) concerning the Commission's June 3, 2020 Order (the June 3 Order), which directed VEDO to file a plan for the safe resumption of activities that VEDO had temporarily suspended in response to the 2019 novel coronavirus (COVID-19). OCC's application for rehearing sets forth four assignments of error that were raised in connection with Columbia Gas of Ohio's (Columbia) COVID-19 proceeding and that were rejected by the Commission. *See* Case No. 20-637-GA-UNC, Entry on Rehearing (July 15, 2020). As in the *Columbia* proceeding, OCC's assignments of errors fail to demonstrate that the June 3 Order is unreasonable or unlawful, and thus OCC's application for rehearing should be denied.

**I. BACKGROUND**

The Commission previously directed all utilities to seek any necessary approval, for the duration of the state of emergency in Ohio as a result of COVID-19, to suspend otherwise applicable requirements that may impose a service continuity or service restoration hardship on residential and non-residential customers or create unnecessary risks associated with social contact. Case No. 20-591-AU-UNC, Entry (Mar. 12, 2020) ¶ 7(b); *id.*, Entry (Mar. 13, 2020)

¶ 6(b). On March 24, VEDO filed a motion requesting an order authorizing VEDO to suspend or modify certain policies and practices and granting any waiver of applicable rules, tariff provisions, or other regulatory requirements. The June 3 Order granted VEDO's Motion, subject to Staff's recommendations and other conditions in the Order, and directed VEDO to work with Staff to develop a single, comprehensive plan that would allow the Company to safely resume suspended activities. On June 30, VEDO filed its COVID-19 Transition Plan (the Plan) setting forth its timeline and conditions for resuming operations. VEDO is currently implementing the Plan.

## II. DISCUSSION

OCC raises five assignments of error concerning the June 3 Order. The Commission, however, recently rejected each of these assignments of error with respect to Columbia's COVID-19 transition plan. Case No. 20-637-GA-UNC, Entry on Rehearing (July 15, 2020). As explained below, the Commission should do the same here.

### A. **The Commission reasonably and lawfully declined to address OCC's repurposing proposal in this proceeding.**

OCC first argues that "PUCO erred by failing to use its emergency powers under R.C. 4909.16 to require Vectren to repurpose low-income weatherization funds." (OCC Reh'g App. at 3.) In its June 3 Order, the Commission declined to address OCC's recommendation in this case, "because OCC has raised this very same issue in [VEDO's] demand-side management (DSM) proceeding, which is currently pending before the Commission, and where other interested parties have been afforded the opportunity to present another perspective on OCC's proposal." Case No. 20-0649-GA-UNC, Finding and Order (June 3, 2020) ¶ 46. For that reason, the Commission stated that it will address OCC's proposal in VEDO's DSM case, Case No. 19-2084-GA-UNC. *Id.* Since the June 3 Order, certain parties to VEDO's DSM case, including

VEDO and Staff, filed a Stipulation and Recommendation on June 26 (Stipulation), providing a path forward for resolution of VEDO's application in that proceeding in the near term. The Commission's decision to address OCC's repurposing proposal in the same docket where VEDO's low-income weatherization program is at issue was not unreasonable. *See* Case No. 20-637-GA-UNC, Entry on Rehearing (July 15, 2020) ¶ 24.

**B. The Commission reasonably and lawfully found that OCC's 30-day look-back period for disconnections was unnecessary.**

OCC next argues that the Commission "erred by failing to require reconnections needed by consumers" that VEDO disconnected in the 30 days prior to the Governor's declaration of the state of emergency. (OCC Reh'g App. at 5.) OCC claims the Commission "summarily rejected" OCC's proposal "without explanation." (*Id.* at 6.) But that assertion is not true. In the June 3 Order, the Commission provided an explanation: it found that OCC's 30-day look-back period was "unnecessary" and "overly strict." Case No. 20-0649-GA-UNC, Finding and Order (June 3, 2020) ¶ 33. And the reason that it was unnecessary was because residential customers previously disconnected due to non-payment could contact VEDO for assistance reconnecting service, regardless of when the disconnection occurred. *Id.* ¶ 23. The June 3 Order made clear that this status quo should continue: VEDO is encouraged "to work with its customers to agree on terms to reconnect service, *regardless of when disconnection occurred*, and to temporarily forego the collection of deposits and fees, where it is reasonable to do so under the circumstances." *Id.* ¶ 33 (emphasis added). It was not unreasonable for the Commission to reject OCC's recommendation, and its rationale for doing so was adequately supported. OCC has not offered anything new to justify the Commission reconsidering its prior determination. *See* Case No. 20-637-GA-UNC, Entry on Rehearing (July 15, 2020) ¶ 28.

**C. The Commission reasonably and lawfully instructed utilities to work with Staff on comprehensive plans to resume activities, including service disconnections.**

OCC's third assignment of error is that the Commission erred in not suspending disconnections "for a reasonable period of time after its declared emergency has ended." (OCC Reh'g App. at 6.) As with OCC's second assignment of error, the Commission considered but ultimately rejected OCC's proposal. And again the Commission provided an explanation in the June 3 Order: "In regard to OCC's recommendation as to the duration of Vectren's suspension of disconnections, the Commission recognizes that the state has begun efforts to responsibly rescind the requirements of the Department of Health's Amended Stay at Home Order." Case No. 20-0649-GA-UNC, Finding and Order (June 3, 2020) ¶ 38. To determine when it would be suitable for VEDO to resume disconnections, the June 3 Order directed VEDO "to work with Staff to develop a single, comprehensive plan" for the resumption of suspended activities, including the resumption of service disconnections. *Id.* ¶ 54. The COVID-19 Transition Plan filed on June 30 provides that timeline: VEDO intends to resume disconnections for non-payment on or around August 15, 2020. (*Id.* at 7.) That advance notice, the four-phase approach that VEDO outlines in the Plan for engaging with customers, and the expanded payment plan terms that VEDO discusses in the Plan—these reasonable consumer safeguards will allow VEDO to appropriately resume disconnections. Given the requirement that VEDO work with Staff to develop the conditions in the COVID-19 Transition Plan, it was not unreasonable for the Commission to reject OCC's proposal for an indefinite suspension. OCC's application repeats its prior recommendation that the Commission already rejected and does not offer any basis for the Commission to change course. *See* Case No. 20-637-GA-UNC, Entry on Rehearing (July 15, 2020) ¶ 35.

**D. Contrary to OCC's assertions, the Commission's June 3 Order did not terminate the use of its emergency powers under R.C. 4909.16 related to COVID-19.**

OCC's next argument is that Commission erred "by failing to order that its declared emergency will continue indefinitely" given the ongoing risks associated with COVID-19. (OCC Reh'g App. at 8.) But nowhere in the June 3 Order does the Commission indicate that it is discontinuing the use of its emergency powers under R.C. 4909.16 in response to COVID-19. And nowhere in the June 3 Order does the Commission declare that the COVID-19 crisis is over. Contrary to OCC's assertions, the June 3 Order is not an abdication by the Commission of its duties to protect consumers. The purpose of the June 3 Order was to encourage VEDO to develop additional protocols and practices that would allow the Company to safely resume suspended activities. The COVID-19 Transition Plan, which remains under the Commission's oversight, sets forth those additional protocols and practices. OCC's suggestion that the Commission has stopped taking actions in response to COVID-19 is without basis. And OCC's criticism that the Commission is not doing enough to address COVID-19 has already been considered and rejected. *See* Case No. 20-637-GA-UNC, Entry on Rehearing (July 15, 2020)

¶ 35. OCC fails to offer any new arguments here.

**E. The Commission's decision not to adopt in full the National Consumer Law Center recommendations in this proceeding is neither unreasonable nor unlawful**

Finally, OCC asks the Commission again to adopt the recommendations of the National Consumer Law Center (NCLC) that OCC attached to its earlier comments and apply them uniformly to all utilities. (OCC Reh'g App. at 9-10.) OCC claims that the Commission did not provide the reasons for its decision to reject the NCLC recommendations. But again OCC is incorrect. The June 3 Order states: "The Commission finds that, with the Emergency Case and each utility company's emergency plan or motion for waiver, the issues of service continuity, social distancing, consumer protections, and payment arrangements, including fees and charges,

are being and will continue to be adequately addressed.” Case No. 20-0649-GA-UNC, Finding and Order (June 3, 2020) ¶ 51. In short, the Commission found that the uniform adoption in full of all of the NCLC recommendations in Attachment B to OCC’s earlier comments was unnecessary, given the actions already being taken by the Commission and each utility. *See* Case No. 20-637-GA-UNC, Entry on Rehearing (July 15, 2020) ¶ 39 (“It is not necessary, as OCC asserts, that all utilities under the Commission’s jurisdiction follow a uniform set of guidelines as presented by NCLC.”). OCC raises nothing new to justify the Commission to revisit that determination.

### **III. CONCLUSION**

For the reasons mentioned herein, the Commission should deny OCC’s application for rehearing. OCC’s assignments of error fail to demonstrate that the June 3 Order is unreasonable or unlawful. The Commission has denied OCC’s application for rehearing in Case No. 20-637-GA-UNC, where OCC raised the exact same arguments. A different result is not warranted here.

Dated: July 16, 2020

Respectfully submitted,

/s/ Christopher T. Kennedy  
Mark A. Whitt (0067996)  
Christopher T. Kennedy (0075228)  
Lucas A. Fykes (0098471)  
WHITT STURTEVANT LLP  
88 East Broad Street, Suite 1590  
Columbus, Ohio 43215  
Telephone: (614) 224-3912  
Facsimile: (614) 675-9448  
whitt@whitt-sturtevant.com  
kennedy@whitt-sturtevant.com  
fykes@whitt-sturtevant.com

(Counsel willing to accept service by email)

ATTORNEYS FOR VECTREN ENERGY  
DELIVERY OF OHIO, INC., A CENTERPOINT  
ENERGY COMPANY

**CERTIFICATE OF SERVICE**

I hereby certify that a courtesy copy of the foregoing pleading was served by electronic mail on this 16th day of July, 2020, to the following:

john.jones@ohioattorneygeneral.gov  
amy.botschner.obrien@occ.ohio.gov  
angela.obrien@occ.ohio.gov  
rdove@keglerbrown.com

Attorney Examiner:  
greta.see@puco.ohio.gov

/s/ Christopher T. Kennedy  
One of the Attorneys for Vectren Energy Delivery  
of Ohio, Inc.

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**7/16/2020 2:56:36 PM**

**in**

**Case No(s). 20-0649-GA-UNC**

Summary: Memorandum Memorandum Contra The Office of the Ohio Consumers' Counsel  
Application for Rehearing electronically filed by Christopher T Kennedy on behalf of Vectren  
Energy Delivery of Ohio, Inc.