**BEFORE**

**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. to Implement a Capital Expenditure Program.  In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Authority to Change Accounting Methods. | )  )  )  )  )  ) | Case No. 12-530-GA-UNC  Case No. 12-531-GA-AAM |

**SUPPLEMENTAL REPLY COMMENTS**

**BY**

**THE OFFICE OF THE OHIO CONSUMERS’ COUNSEL**

# I. INTRODUCTION

On February 3, 2012, Vectren Energy Delivery of Ohio (“Vectren” or “the Company”) filed an Application for an estimated $24.9 million Capital Expenditure Program (“CAPEX”), a program that could ultimately result in significant rate increases for its more than 310,000 Ohio customers.[[1]](#footnote-2) The Application was the third CAPEX Application filed by a Local Distribution Company (“LDC”) pursuant to R.C. 4909.18 and 4929.111.[[2]](#footnote-3) The CAPEX Application was filed as an Alternative Regulation case, not for an increase in rates,[[3]](#footnote-4) for the period October 1, 2011 through December 31, 2012.[[4]](#footnote-5) A CAPEX case presents an opportunity for a gas utility to defer and subsequently seek to collect, from customers, Post in Service Carrying Charges (“PISCC”). The carrying charges are on assets that are placed in service but not yet included in the Company’s rates as plant in service, depreciation expenses of those facilities, and property taxes associated with those facilities.

On February 9, 2012, the Office of the Ohio Consumers’ Counsel (“OCC”) filed a Motion to Intervene in the above-captioned cases. On February 13, 2012 Ohio Partners for Affordable Energy (“OPAE”) filed a Motion to Intervene. On March 5, 2012, the Attorney Examiner issued an Entry that established a procedural schedule for Initial Comments (due April 16, 2012) and Reply Comments (due April 27, 2012). On April 16, 2012, Staff, OPAE and OCC filed Comments. On April 27, 2012 OCC and Vectren filed Reply Comments.

On September 14, 2012, Vectren filed Supplemental Reply Comments. On October 26, 2012, the PUCO Staff filed Sur-Reply Comments. Vectren filed Second Supplemental Reply comments on December 4, 2012. The Attorney Examiner’s March 5, 2012 procedural Entry did not allow for, or contemplate, such additional Reply Comments. However, in light of their filing, OCC is submitting these Supplemental Reply Comments.

# II. SUPPLEMENTAL REPLY COMMENTS

## Vectren Should File Annual Informational Reports

There is certain information, in addition to what Vectren has agreed to report, that the PUCO should require Vectren to file. By way of background, in its Comments the PUCO Staff recommended that Vectren should make annual filings, each March 15th, that detail the monthly CAPEX capital investments as well as the calculations used to determine the deferred amounts to be recorded.[[5]](#footnote-6) In its Supplemental Reply Comments, Vectren agreed with the Staff’s recommendation.[[6]](#footnote-7) Upon OCC’s review, the content of the information to be provided proposed in Vectren’s Supplemental Reply Comments appears to mirror the items that Staff had requested in its initial comments.[[7]](#footnote-8)

In Sur-Reply Comments, the Staff recommends that Vectren should also provide a breakdown of CAPEX investments by budget class, a capital budget for the year succeeding the year covered in the informational filing, a schedule showing the potential impact on customers’ rates if the deferrals were included in rates, and schedules showing the calculations and inputs for the deferrals. [[8]](#footnote-9)OCC agrees with the PUCO Staff that the informational filing is needed for the ratemaking process that affects customers. The information is needed because it will make for an easier audit trail during the Company’s next rate case when Vectren is expected to request collection of the deferred costs from customers.

However with respect to the proposed deferral cap,, as explained more fully below, the schedule showing the potential impact on Residential customers’ rates should reflect the impact of both the deferrals themselves, and also the actual investment being included in rates in order to more fairly recognize the actual impact on customers.

## Vectren’s Proposed Deferral Cap Is Inadequate for Protecting Customers Because it Does Not Include the Cost of The Actual Investment that Will be Collected from Customers.

While Vectren has agreed in its Second Supplemental Reply Comments to a $1.50 per customer cap on deferrals, the PUCO should protect customers by establishing a more reasonable deferral cap. A more reasonable and complete deferral cap would include both the deferral of PISCC, depreciation expenses, and property taxes and the amount of the actual investment itself that will be collected from customers. In other words, at the time (month) that the projected total charges (investment costs and PISCC deferrals, depreciation expenses, and property taxes) to consumers exceeds $1.50 per month, the accrual of deferrals for PISCC should end (whether or not Vectren has filed a rate case).

In its Initial Comments, OCC suggested that the deferrals associated with Vectren’s CAPEX program be limited to the date of new base rates going into effect or December 31, 2013, whichever date comes first.[[9]](#footnote-10) As OCC stated in its Initial Comments, imposing a reasonable time limit for the deferrals would ensure that they do not grow to unreasonable levels. In its Initial Comments, the Staff recommended that the Commission set a deadline by which Vectren must apply for recovery of the deferred assets or the deferral authority would cease.[[10]](#footnote-11) The PUCO Staff further recommended a deadline of December 31, 2014, up to which Vectren could apply for recovery, from customers, of the deferred assets.[[11]](#footnote-12) In its Supplemental Reply Comments, Vectren proposed a monetary cap on its deferrals of $2.50 per month.[[12]](#footnote-13)

OCC believes that a limit on deferrals is consistent with the Commission’s recent pronouncement that “\* \* \* this Commission is generally **opposed to the creation of deferrals**, \* \* \*.”[[13]](#footnote-14) The Commission further clarified this statement by explaining that the deferrals in the AEP ESP Case were in response to “extraordinary circumstances presented before us, which allow for AEP-Ohio to fully participate in the market in two years and nine months as opposed to five years, necessitate that we remain flexible and utilize a deferral to ensure we reach our finish line of a fully-established competitive electric market.”[[14]](#footnote-15) Thus, the extraordinary circumstance in the AEP ESP case is that the deferral would help accomplish market-based electric rates (and ensuing customer benefits) much sooner than would otherwise have been possible.

OCC’s proposal is that the deferral cap should include both the deferral of PISCC, depreciation and property taxes, and the amount of the actual investment in order to have the benefit of protecting customers from unwarranted rate shock. If the establishment of some deferral cap is to have value for customers -- as the PUCO has noted[[15]](#footnote-16) -- then the cap should be inclusive of both the PISCC, depreciation and property tax deferrals, **and** the actual amount of the CAPEX investment.

Through Supplemental Reply Comments, Vectren stated that it still believes a time limit on deferrals is contrary to Ohio Revised Code 4929.111.[[16]](#footnote-17) However, initially Vectren proposed to cap its CAPEX deferrals at $2.50 per month. In Vectren’s Supplemental Reply Comments, the Utility recommends continuing to carry the deferral on its books until the rate impact of recovering a return of and on the CAPEX regulatory asset from its Residential customers would exceed $2.50 per month.[[17]](#footnote-18) This is similar to the proposals that both Dominion and Columbia Gas made in their Supplemental Reply Comments except that Dominion and Columbia both proposed a cap of $1.50 per month.[[18]](#footnote-19) In its Second Supplemental Reply Comments, Vectren accepted the $1.50 per month cap pending the ability to further modify the cap in the future if necessary.[[19]](#footnote-20)

Under Vectren’s proposal, and based on its estimates of spending in its Capital Expenditure Program, the impact of the deferrals on rates for Vectren’s Residential and Default Sales Service (Group 1) customers would reach $1.50 in 2018.[[20]](#footnote-21) However, this time estimate is incomplete because it only considers the impact of the deferrals on customers’ rates and not the much greater impact of the plant investments, which are the reason for the deferrals. Using Vectren’s own analysis provided in response to informal discovery, if both the effect of the deferrals and the investment are considered, the $1.50 per month cap as proposed by Vectren would be exceeded in the Year 2014.[[21]](#footnote-22)When considering the investment along with the deferrals, the customer bill impact in Year 2015 would be $2.44 per month ($29.48 per year).[[22]](#footnote-23) The deferrals would accrue for the time period from October 2011 through December 2014 and grow to $7.438 million,[[23]](#footnote-24) while the capital investments would grow even greater, to $85.069 million.[[24]](#footnote-25) Thus, under Vectren’s proposal, which considers only the deferrals, the proposed time period covered by Vectren’s $1.50 per month cap is simply too long.

Instead, the PUCO should keep in mind that as significant as this impact from the PISCC, property tax and depreciation deferrals would be on customer bills, that impact cannot be viewed in a vacuum. The impact on customers should include the totality of other known and expected charges. In addition to the current monthly customer charge[[25]](#footnote-26) of $18.37 per month, customers also face other monthly charges including: the monthly Distribution Replacement Rider (“DRR”) of $1.27,[[26]](#footnote-27) and numerous usage-based Riders. The usage-based Riders include: Percentage of Income Payment Plan (“PIPP”) Rider, Excise Tax Rider, Uncollectible Expense Rider, Exit Transition Cost Rider, Energy Efficiency Funding Rider and Gross Receipts Tax.[[27]](#footnote-28) Moreover, although the DRR Rider is currently $1.27, the charge is expected to increase each year for the foreseeable future by up to $1.00 per month. This means that by Year 2019, customers could face monthly fixed rate charges of up to $27.64, and yearly fixed costs of $331.68 before ever consuming even one Ccf of gas.[[28]](#footnote-29)

Given this new paradigm of utilities levying charges on customers outside of base rate cases (where formerly customers were protected from single-issue ratemaking), and consistent with the Commission’s recent ruling in the AEP ESP case on the issue of the applicability of deferrals on a Retail Stability Rider, the Commission should place a reasonable limit on the deferrals requested in this case, especially if any per-customer cap amount is adopted. OCC recommends that the deferrals associated with Vectren’s CAPEX should end on the earlier of the date of new base rates going into effect or when the combined impact of the investment recovery and the deferrals for PISCC have reached a cap of $1.50 per month for residential customers.

**III. CONCLUSION**

In conclusion, OCC reiterates three points with regard to Vectren’s Supplemental Reply Comments. First, Vectren’s annual informational filing should also include a breakdown of CAPEX investments by budget class, a capital budget for the year succeeding the year covered in the informational filing, a schedule showing the potential impact on Residential customer rates if the deferrals were included in rates, and schedules showing the calculations and inputs for the deferrals. Second, OCC recommends that the $1.50 cap be based on both the effect of the deferrals and the investment itself, because including both amounts in the deferral calculation is a more accurate measure of the future impact on Vectren’s customers. And third, the deferrals should cease on the date new base rates go into effect or when the $1.50 cap is reached, whichever date comes first.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Supplemental Reply Comments* was served via electronic service to the persons listed below on this 10th day of December 2012.

*/s/ Joseph P. Serio*

Joseph P. Serio

Assistant Consumers’ Counsel

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1. Vectren Application at Attachment A (February 3, 2012). [↑](#footnote-ref-2)
2. The initial Capital Expenditure Cases were filed by Columbia Gas of Ohio Inc. on October 3, 2011 in Case Nos. 11-5351-GA-UNC and 11-5352-GA-AAM (“Columbia CEP Case”), and Dominion East Ohio Gas on December 23, 2011, in Case Nos. 11-6024-GA-UNC and 11-6025-GA-AAM. [↑](#footnote-ref-3)
3. While characterized under the statute as being not an increase in rates, in actuality the filing will result in an increase in the bills paid by customers. [↑](#footnote-ref-4)
4. Vectren Application at 3 (February 3, 2012). [↑](#footnote-ref-5)
5. Staff Comments at 10 (April 16, 2012). [↑](#footnote-ref-6)
6. Vectren Supplemental Reply Comments at 7-8 (September 14, 2012). [↑](#footnote-ref-7)
7. Staff Comments at 10 (April 16, 2012). [↑](#footnote-ref-8)
8. Staff Sur-Reply Comments at 16 (October 26, 2012). [↑](#footnote-ref-9)
9. OCC Initial Comments at 10 (April 16, 2012). [↑](#footnote-ref-10)
10. Staff Initial Comments at 9 (April 16, 2012). [↑](#footnote-ref-11)
11. Id*.* at 9. [↑](#footnote-ref-12)
12. Vectren Supplemental Reply Comments at 5 (September 14, 2012) [↑](#footnote-ref-13)
13. *In the Matter of the Application of Columbus Southern Power Company and Ohio Power Company for Authority to Establish a Standard Service Offer Pursuant to Section 4928.143, Revised Code, in the Form of an Electric Security Plan*, Case No. 11-346-EL-SSO, Opinion and Order (August 8, 2012) at 36 (“AEP ESP Case”). Emphasis added. [↑](#footnote-ref-14)
14. Id. [↑](#footnote-ref-15)
15. Columbia CEP Case, Entry on Rehearing at 4-5 (October 24, 2012). [↑](#footnote-ref-16)
16. Vectren Supplemental Reply Comments at 5 (September 14, 2012). [↑](#footnote-ref-17)
17. Id. at 5. [↑](#footnote-ref-18)
18. Case Nos. 11-6024-GA-UNC and 11-6025-GA-AAM Dominion Supplemental Reply Comments at 4 (August 3, 2012) and Case Nos. 11-5351-GA-UNC and 11-5352-GA-AAM Columbia Supplemental Reply Comments at 4-5 July 26, 2012). [↑](#footnote-ref-19)
19. Vectren Second Supplemental Reply Comments at 2 (December 4, 2012). [↑](#footnote-ref-20)
20. See Attachment A, Vectren response to OCC informal discovery. [↑](#footnote-ref-21)
21. See OCC Attachment B, OCC analysis of Vectren response to informal discovery. [↑](#footnote-ref-22)
22. Id. [↑](#footnote-ref-23)
23. Id. [↑](#footnote-ref-24)
24. Id. [↑](#footnote-ref-25)
25. Tariff Sheet No. 10 issued March 29, 2011. [↑](#footnote-ref-26)
26. Tariff Sheet No. 45 issued August 24, 2011. [↑](#footnote-ref-27)
27. Tariff Sheet Nos. 37, 39, 40, 41, 42, 45 and 46 effective as of September 20, 2012. [↑](#footnote-ref-28)
28. $18.37 + $1.27 + ($1.00 per year x 8 years) = $27.64. [↑](#footnote-ref-29)