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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Review of)
Chapters 4901:1-17 and 4901:1-18 and Rules)
4901:1-5-07, 4901:1-10-22, 4901:1-13-11,)
4901:1-15-17, 4901:1-21-14, and 4901:1-29-12)
of the Ohio Administrative Code.)

Case No. 08-723-AU-ORD

**VECTREN ENERGY DELIVERY OF OHIO, INC.'S
MEMORANDUM CONTRA APPLICATIONS FOR REHEARING**

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January 26, 2009

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I. INTRODUCTION

On June 25, 2008, the Public Utilities Commission of Ohio ("Commission") issued an Entry requesting comments on Commission Staff's proposed revisions to the Commission's rules and appendices related to credit and collections, extended payment programs and low-income payment programs, namely the Percentage of Income Payment Plan ("PIPP") program. Additionally, Staff conducted a workshop on July 8, 2008 to allow interested stakeholders to ask questions to clarify the proposed rule amendments and appendices. Vectren Energy Delivery of Ohio, Inc. ("VEDO") participated in the workshop and filed Initial and Reply Comments on September 10, 2008 and October 14, 2008, respectively. The Commission issued its Finding and Order in this proceeding on December 17, 2008. On January 16, 2009, VEDO, among others, filed an Application for Rehearing of the December 17, 2008 Order. Specifically, VEDO requested that the Commission provide for adequate time to make and test the system modifications required to implement the fundamental changes to payment plans in the adopted rules. Pursuant to Rule 4901-1-35(B), Ohio Administrative Code, VEDO respectfully submits this Memorandum Contra Applications

for Rehearing of the December 17, 2008 Opinion and Order for the reasons discussed below for the Commission's consideration.

II. ARGUMENT

A. Ohio Consumer Advocates

AARP-Ohio, the Coalition on Homelessness and Housing in Ohio, Ohio Association of Community Action Agencies, Ohio Association of Second Harvest Food Banks, and Ohio Partners for Affordable Energy (collectively "Ohio Consumer Advocates" or "OCA") argues in its Application for Rehearing that the Commission should conform the gas PIPP program to the Ohio Department of Development's ("ODOD") electric PIPP program by allowing arrearage forgiveness for customers who make their payments at the due date plus five days.¹ OCA asserts that "the five extra days from the due date should be easy for utilities to program into their systems, a task that the electric utilities must complete in any event, given that ODOD has already adopted the additional five days rule."

Contrary to OCA's unsupported assertion, tracking additional days is not an easy programming task, particularly when making all of the other billing system modifications necessary to implement the adopted rules. As importantly, under the rules as adopted by the Commission, PIPP customers are getting not only their PIPP arrearage credited, but also the difference between the PIPP amount and what is actually owed for the

¹ The Office of the Ohio Consumers' Counsel ("OCC"), the Appalachian People's Action Coalition, Cleveland Housing Network, Empowerment Center of Greater Cleveland, the Neighborhood Environmental Coalition, Consumers for Fair Utility Rates, United Clevelanders Against Poverty, Supports To Encourage Low-Income Families, Cleveland Tenants' Organization, Communities United For Action, May Dugan Center, Pro Seniors, Inc., Harcatus Tri-County Community Action Organization, the Ohio Farm Bureau Federation, and the Edgemont Neighborhood Coalition (collectively, "Consumer Groups") makes a substantially similar argument. Accordingly, VEDO's response to OCA on this issue should be applied to Consumer Groups' argument as well.

service the customer used in return for making a timely payment. Surely the reward offers sufficient incentive for a customer to get the payment in by the due date.

Because OCA's request would put additional time and cost burdens on the local distribution utilities ("LDCs") and because the Commission has already struck a balance that requires minimal effort on PIPP customers for a substantial reward, the Commission should deny OCA's request for rehearing on this issue.

Next, OCA argues that the Commission should give customers a six-month waiver of the minimum bill requirement to customers who are determined at the time of enrollment in the PIPP program to have a monthly household income of zero. Currently, zero-income PIPP customers must reverify every 90 days. A longer reverification period than is currently required would be counter-productive to the Commission's stated goals. Accordingly, the Commission should deny OCA's request for rehearing.²

OCA also argues that the Commission should give the community action agencies the authority and ability to provide a hardship waiver for zero-income PIPP customers who may be unable to pay the minimum bill for an unspecified time. OCA's recommendation does not include enough information to determine if it is reasonable. For example, it does not propose any program parameters, reverification requirements or communication processes between the community action agencies and LDCs. Moreover, it would require LDCs to further track and maintain customer-specific information that its current billing system is not equipped to handle. VEDO believes that

² Consumer Groups makes a substantially similar argument. Accordingly, VEDO's response to OCA on this issue should be applied to Consumer Groups' argument as well.

the Commission was right that such a program is too onerous. Accordingly, the Commission should reject OCA's request for rehearing.

B. Consumer Groups

Consumer Groups filed a 40-page Application for Rehearing that seeks rehearing on most rules adopted by rehashing arguments it made in its Initial and Reply Comments. However, at the outset, it must be noted that Consumer Groups has raised no substantive matters not already considered and resolved by the Commission in its December 17, 2008 Order. For this reason, Consumer Groups' request for rehearing should be denied. Nonetheless, VEDO addresses several of Consumer Groups' arguments below. VEDO's failure to respond specifically to each of Consumer Groups' 18 arguments should not be construed as agreement with any argument.

Despite acknowledging that credit checks are appropriate as one option for consumers to demonstrate financial responsibility, Consumer Groups argues that the Commission may not lawfully and should not prioritize credit checks as a method to establish financial responsibility. Consumer Groups' Application for Rehearing at 3-4. Consumer Groups notes that the Commission has added options for demonstrating financial responsibility that are in addition to and more lenient than those provided in the statute, which Consumer Groups finds lawful. However, Consumer Groups then asserts that prioritizing the options is unlawful. Consumer Groups' argument is inconsistent and without support. Moreover, on a practical level, customers are used to credit checks as a method of demonstrating financial responsibility in obtaining other necessary and important services and commodities, like renting housing and purchasing or leasing a car. This method does not require affirmative action on the

customer's part and is a fast and reliable method from VEDO's perspective as well. Additionally, customers still have the other options available. The Commission's prioritization is reasonable and Consumer Groups' request for rehearing should be denied.

Consumer Groups also argues that the Commission should require LDCs to offer the one-sixth payment plan, the modified one-sixth payment plan with a negotiable down payment, the one-twelfth payment plan, some other unspecified payment plans and to consider on a case-by-case basis a payment that would be affordable for each specific customer. As VEDO noted in its comments, VEDO currently offers a host of payment plans for its customers, from budget bill annualized payments to customized payment plans. Moreover, LDCs are already required to "inform the customer that it will make extensions or other extended payment plans appropriate for both the customer and the company." Consumer Groups' request would simply add redundancy to an already-existing rule. Accordingly, the Consumer Groups' request should be denied.

Consumer Groups argues that the Commission should not delay the reconnection of service for customers who are disconnected for more than ten days. However, Consumer Groups' bases are contradictory to its argument. First, Consumer Groups point out that 40% of customers that were reconnected between November 2007 and October 2008 were disconnected for more than one week. This actually supports the Commission's assertion that LDCs are over-burdened with requests to reconnect service on the same day that payment is made, particularly when the winter reconnection order takes effect each year and customers that have been disconnected may pay \$175 to be reconnected. However, Consumer Groups claims that there is no

support for the fact that customers engage in seasonal disconnection and reconnection of their utility services. Surely, Consumer Groups is aware of the pattern of customer behavior whereby customers only take service in the winter by paying \$175 every year. There was no need for commenters to specifically discuss this pattern as it was acknowledged up-front by Staff when Staff set forth as one of the goals of its proposed rules "interrupting the seasonal cycle of disconnection." Because Consumer Groups has not presented any reason why the Commission's adopted rules are unjust or unreasonable, the Commission should deny the request for rehearing.

Based upon a similarly flawed rationale, Consumer Groups also argues that PIPP customers should not be required to pay the PIPP amounts for the months when they did not have service to be reconnected. Consumer Groups states that there is no record that PIPP customers are engaged in a cycle of disconnection, that PIPP customers are being treated in a discriminatory manner and that the average monthly PIPP customer usage in August was higher than for non-PIPP customers. VEDO has already addressed the record claim. Next, the statistics cited by Consumer Groups are irrelevant because they do not demonstrate how many more PIPP customers there are in winter than summer. Of course no one has claimed that every PIPP customer is engaged in a disconnection pattern to game the system. For those PIPP customers that make regular PIPP payments, this rule will not affect them. However, there are some customers who are engaged in a disconnection cycle that this rule will affect. Finally, Consumer Groups' argument that PIPP customers are treated differently from non-PIPP customers borders on an absurdity. Of course they are – otherwise they would not receive the benefits of the PIPP program – which is paying only a percentage

of the customer's income regardless of the gas service used. It is reasonable and logical to extend treatment to all months. And of course non-PIPP customers are not required to pay for the months they are not receiving service – because there is no charge if there is no service. However, unlike PIPP customers, when non-PIPP customers are receiving service, they are held accountable for the full amount of service used. Consumer Groups wants to have it both ways for PIPP customers – getting the benefit of being responsible for only the PIPP amount when consuming services and the benefit of not paying for anything when no services are consumed. As Consumer Groups has not demonstrated that the Commission's rules are unjust or unreasonable, the request for rehearing should be denied.

Consumer Groups reiterates its arguments that the Commission should require LDCs to credit 50% of PIPP arrearage and provide an annual PIPP account statement. Additionally, Consumer Groups requests that the Commission initiate a Commission Ordered Investigation ("COI"). As the Commission has already considered and rejected these arguments, the Commission should deny Consumer Groups' requests for rehearing.

Finally, Consumer Groups argues that the Commission should modify the graduate PIPP program such that graduate PIPP customers are required to pay only their budget bill amount to receive a credit of one-twelfth of their arrearage amount over a 24-month period. As Consumer Groups does not identify any reasons why the Commission's adopted rules are unreasonable or unlawful, the Commission should deny its request for rehearing.

III. CONCLUSION

For the reasons stated herein, VEDO respectfully requests that the Commission deny the Applications for Rehearing of OCA and Consumer Groups inasmuch as neither has demonstrated the Commission's Finding and Order and adopted rules in this proceeding are unreasonable or unlawful.

Respectfully submitted,




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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Vectren Energy Delivery of Ohio, Inc.'s Memorandum Contra Applications for Rehearing* was served upon the following parties of record this 26th day of January, 2009, via electronic transmission, hand-delivery or first class mail, postage prepaid.



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