

FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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PUCO

In the Matter of the Application of VEDO)
Energy Delivery of Ohio, Inc., for Authority)
to Amend its Filed Tariffs to Increase the) Case No. 07-1080-GA-AIR
Rates and Charges for Gas Services and)
Related Matters.)

In the Matter of the Application of VEDO)
Energy Delivery of Ohio, Inc., for Approval)
of An Alternative Rate Plan for a)
Distribution Replacement Rider to Recover)
the Costs of a Program for the Accelerated) Case No. 07-1081-GA-ALT
Replacement of Cast Iron Mains and Bare)
Steel Mains and Service Lines, a Sales)
Reconciliation Rider to Collect Difference)
Between Actual and Approved Revenues,)
and Inclusion in Operating Expense of the)
Costs of Certain Reliability Programs.)

**MOTION TO STAY THE SCHEDULED INCREASE FROM \$13.37 TO \$18.37 IN THE
MONTHLY CUSTOMER CHARGE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumer's Counsel ("OCC") moves to stay the rulings¹ of the Public Utilities Commission of Ohio ("Commission" or "PUCO") that authorize Vectren Energy Delivery of Ohio, Inc. ("VEDO," "Vectren" or "Company"), to implement full straight-fixed variable rates. Under the applicable tariffs, known as Stage 2 Residential Tariffs Rates 310 and 315 ("Stage 2 Residential Tariffs" or "Stage 2 Tariffs" or "Tariffs"), Vectren will be increasing

¹ January 7, 2009 Opinion and Order ("Order"), the subsequent February 4, 2009 Entry (ordering that Vectren's tariffs be approved), the February 11, 2009 Entry Nunc Pro Tunc (further defining the effective date of the tariffs), and the Entry on Rehearing issued August 26, 2009.

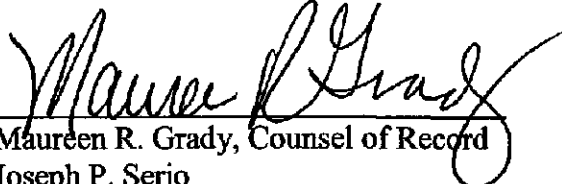
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the flat monthly rate that consumers pay for distribution service, from \$13.37 to \$ 18.37, and will eliminate the volumetric charge for that service.²

The PUCO should stay the implementation of Stage 2 Tariffs to avoid irreparable harm to consumers. Doing so would serve the public interest in energy conservation and protect Ohio's low-income, low-use consumers during these especially difficult economic times. Moreover, the stay is especially appropriate in this case because consumers were denied adequate notice of this rate design change and thus, denied the opportunity to challenge it.

Therefore, the OCC respectfully requests that the Commission grant this Motion for Stay. The stay should remain in effect until after the appeal filed at the Supreme Court, docketed as S.Ct. Case No. 09-1547, has been adjudicated. The reasons for granting the OCC's Motion are further set forth in the attached Memorandum in Support.

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² This motion is filed pursuant to Ohio Adm. Code 4901-1-12.

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Services and Related Matters.)	

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Approval of An Alternative Rate Plan for)	
a Distribution Replacement Rider to)	
Recover the Costs of a Program for the)	Case No. 07-1081-GA-ALT
Accelerated Replacement of Cast Iron)	
Mains and Bare Steel Mains and Service)	
Lines, a Sales Reconciliation Rider to)	
Collect Difference Between Actual and)	
Approved Revenues, and Inclusion in)	
Operating Expense of the Costs of Certain)	
Reliability Programs.)	

MEMORANDUM IN SUPPORT

I. INTRODUCTION

On January 7, 2009, the Commission issued an Opinion and Order ("Order") which adopted a settlement agreement signed by Vectren, OCC, and the PUCO Staff. This settlement agreement was not opposed by the other parties to the proceeding. Notably the settlement agreement left two issues to be briefed and litigated -- rate design and the adequacy of VEDO's public notice.

The Commission then adjudicated these two issues. On the rate design issue, the Commission adopted a straight-fixed variable ("SFV") rate design that modified VEDO's originally proposed rate design in significant respects. The Commission changed the level of the customer charge and rejected the Company's interim decoupling proposal. Additionally, the Commission deemed it reasonable to implement in 2010 a full SFV rate

design in the Stage 2 Residential Tariffs—with increased customer charges and no volumetric rate.

This rate design was ordered despite the fact that even VEDO did not make such a drastic proposal. VEDO's own approach to SFV was more gradual. VEDO would have maintained a volumetric rate for the next 5 to 7 years, before completely replacing it.³ Instead the Stage 2 Residential Tariffs as ordered by the PUCO are to be implemented in 2010 with a customer charge of \$18.37, and no volumetric rate. The Commission ordered VEDO to file tariffs consistent with that ruling. The tariffs were subject to final Commission approval.

The second issue decided by the PUCO related to the adequacy of notice. There, the PUCO concluded that the notice of the SFV rate design substantially complied with the applicable statutes.⁴ The Commission came to this conclusion despite the fact that VEDO failed to include its proposed Stage 2 Tariffs in the public notice to customers. Apparently, notice of Stage 1 tariffs, and the fact that the Company mentioned the term "straight fixed variable" rate design in its public notice, was deemed adequate under R.C. 4909.18 and 4909.19.

To effectuate the Commission's order, on January 21, 2009, VEDO filed tariffs. On February 4, 2009, the Commission by Entry approved VEDO's filed tariffs. On February 6, 2009, the OCC submitted an application for rehearing in this case. OCC's

³ See Ulrey Direct Testimony at 6-7 (December 4, 2007).

⁴ *In the Matter of the Application of VEDO Energy Delivery of Ohio, Inc., for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matters; In the Matter of the Application of VEDO Energy Delivery of Ohio, Inc., for Approval of An Alternative Rate Plan for a Distribution Replacement Rider to Recover the Costs of a Program for the Accelerated Replacement of Cast Iron Mains and Bare Steel Mains and Service Lines, a Sales Reconciliation Rider to Collect Difference Between Actual and Approved Revenues, and Inclusion in Operating Expense of the Costs of Certain Reliability Programs*, Case Nos. 07-1080, 07-1081, *Opinion and Order* at 15-16 (January 7, 2009).

Application for Rehearing contained six assignments of error primarily directed at the Commission's errors in adopting a SFV rate design, and the inadequate notice given with respect to Stage 2 residential tariffs.⁵

On March 4, 2009, the Commission granted, for purposes of further consideration, the OCC's application, stating that "...[S]ufficient reason has been set forth by OCC to warrant further consideration of the matters specified in the applications for rehearing."⁶ Five months later, on August 26, 2009, the Commission denied OCC's Application for Rehearing.

Residential consumers will be irreparably harmed during the potential appeal process if Stage 2 Residential Tariffs are implemented. The public interest is best served by protecting consumers during these processes; thus, the PUCO should grant this Motion to Stay the implementation of the Stage 2 Residential Tariffs. Instead of permitting the tariffs to go into effect on February 22, 2010, as proposed and approved by the Commission, the PUCO should rule that the Stage 1 tariffs will remain in effect until the final adjudication of this matter, including OCC's current appeal of this matter.

II. STANDARD OF REVIEW

Factors or "standards" that may be employed to evaluate a motion to stay were presented by Ohio Supreme Court Justice Douglas in his dissenting opinion in *MCI Telecommunications Corp. v. Public Utilities Commission* (1987):

⁵ *In the Matter of the Application of VEDO Energy Delivery of Ohio, Inc., for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matters*, Case No. 07-1080-GA-AIR, OCC Application for Rehearing at 2 (February 6, 2009).

⁶ *In the Matter of the Application of VEDO Energy Delivery of Ohio, Inc., for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matters*, Case No. 07-1080-GA-AIR, Entry on Rehearing at ¶7 (March 4, 2009).

These standards should include consideration of whether the seeker of the stay has made a strong showing of the likelihood of prevailing on the merits; whether the party seeking the stay has shown that without a stay irreparable harm will be suffered; whether or not, if the stay is issued, substantial harm to other parties would result; and, above all in these types of cases, where lies the interest of the public.⁷

Although these standards have not been adopted by the Ohio Supreme Court, the PUCO has relied upon them for determining whether to grant a stay.⁸ When these factors are applied to the circumstances in this case, it is clear that the PUCO should stay the implementation of VEDO's Stage 2 Residential rates. The arguments are set forth in detail below.

III. ARGUMENT

A. The Public Interest Lies In Encouraging Customers To Reduce Individual Household Gas Usage.

In his dissent in which Justice Douglas recommended standards for a stay of a PUCO decision, he noted that PUCO Orders "have an effect on everyone in this state -- individuals, business and industry."⁹ That effect on customers is all the more pronounced given the well documented challenges in VEDO's service territory where customers can ill afford increases in essential services such as utilities in general, and the supply of natural gas fuel, in particular. It thus was fitting that Justice Douglas emphasized the most important consideration is "above all in these types of cases, where lies the interest

⁷ *MCI Telecommunications Corp. v. Public Utilities Commission* (1987), 31 Ohio St.3d 604, 606, 510 N.E.2d 806.

⁸ See for example, *In the Matter of the Application of Columbus Southern Power Company for Approval of an Electric Security Plan; an Amendment to its Corporate Separation Plan; and Sale or Transfer of Certain Generating Assets*, Case No. 08-917-EL-SSO, Entry at 3 (March 30, 2009).

⁹ *MCI*, 31 Ohio St.3d at 606.

of the public” and that “the public interest [] is the ultimate important consideration for this court in these types of cases.”¹⁰

The difficult economic times also serve to highlight the fact that some low-income low-use customers will be effectively subsidizing larger, high-use customers.¹¹ This is certainly not in the public interest. This stay would provide some relief to customers burdened with the fragile state of the economy by allowing them to continue to pay Stage 1 Residential Tariffs. These tariffs include a volumetric charge and a smaller fixed customer charge — a general configuration that more appropriately aligns the bill with the customer’s usage. A stay, therefore, would further the public interest.

In addition, state policy encouraging conservation and energy efficiency efforts is contradicted by VEDO’s Stage 2 Residential Tariffs—rates that have a significant customer charge with no volumetric rate. The language of §4929.02(A)(4) encourages “innovation and market access for cost-effective supply- and demand-side natural gas services and goods.”¹² This policy is undermined because the SFV rate design fails to provide VEDO’s residential customers with the necessary price signals that would encourage energy efficiency investments. Instead customers are essentially told that no matter how much gas they conserve, their distribution bill will remain the same. The Stage 2 Tariffs, with no volumetric charges, assure this result.

Furthermore, the recent developments in high-efficiency furnaces and set-back thermostats, which promote conservation and energy efficiency, were all innovations that

¹⁰Id.

¹¹ *In the Matter of the Application of VEDO Energy Delivery of Ohio, Inc., for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matters*, Case No. 07-1080-GA-AIR, OCC Application for Rehearing at 13 (February 6, 2009).

¹² R.C. 4929.02(A)(4).

provide “market access” because individual consumers were motivated to conserve and more efficiently utilize purchased fuel. The price signal from an SFV design, however, discourages individual conservation, because it extends the payback period for conservation and efficiency retrofits and compromises their overall cost-effectiveness.

In addition to being contrary to state policy, discouraging energy conservation means the PUCO is not complying with R.C. 4905.70, which charges the Commission with encouraging these kinds of retrofits and innovations.¹³ The SFV rate design reduces the demand for energy conservation retrofits and energy efficiency innovations in VEDO’s service territory. Therefore, the OCC’s Motion to Stay the approval of the Stage 2 Residential Tariffs should be granted because it is in the public interest.

B. Irreparable Harm Will Be Suffered By Residential Customers In The Absence Of Action By The Commission.

Harm is irreparable “when there could be no plain, adequate and complete remedy at law for its occurrence and when any attempt at monetary restitution would be ‘impossible, difficult, or incomplete.’”¹⁴ In the context of judicial orders, the Supreme Court of Ohio traditionally looks to whether there is an effective legal remedy, if the order takes effect, to determine whether to stay the proceedings.¹⁵ In the case before the Commission, the harm caused by permitting Stage 2 Tariffs to be implemented is irreparable in a number of respects.

¹³ R.C.4905.70.

¹⁴ *FOP v. City of Cleveland* (8th Dist. 2001), 141 Ohio App.3d 63, 81, citing *Cleveland v. Cleveland Elec. Illuminating Co.* (8th Dist. 1996), 115 Ohio App.3d 1, 12, appeal dismissed, 78 Ohio St.3d 1419 (1997).

¹⁵ See, e.g., *Tilberry v. Body* (1986), 24 Ohio St.3d 117; *Sinnott v. Aqua-Chem, Inc.* (2007), 116 Ohio St.3d 158, 161.

Irreparable harm is likely to occur because customers, when faced with price signals from Stage 2 rates, will forego or limit conservation efforts that would otherwise have been undertaken. These are lost opportunities for conservation which cannot ever be remedied. Further, with the implementation of Stage 2 Tariffs, low-usage customers may migrate off of VEDO's distribution service, switching to alternative fuel. Indeed, Company witness Ulrey testified that the company had recognized the likelihood of such customer behavior, and proposed a summer/winter differential rate, along with an unavoidable customer charge to be implemented to address the issue. The loss of customers is also irreparable harm, as discussed below. Finally, irreparable harm is also found here because the hearing process itself was fundamentally flawed due to lack of notice and the denial of due process. These arguments are subsequently presented in detail.

1. Harm will result from lost opportunities for customers to conserve.

Under Stage 2 Residential Tariffs, customers will be burdened by an \$18.37 unavoidable customer charge and no volumetric charge. This rate structure will not encourage energy conservation, and may in fact provide customers an incentive to use more gas.¹⁶ Under Stage 2 Tariffs customers lose tools to reduce their gas bill. No matter how little gas a customer uses or how substantial and effective their conservation efforts are, the fact remains that their distribution bill will not go down.

Customers will begin making choices about their distribution gas service – choices of whether to engage in conservation and choices about alternatives to paying a

¹⁶ *In the Matter of the Application of VEDO Energy Delivery of Ohio, Inc., for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matters*, Case No. 07-1080-GA-AIR, Transcript of Public Hearing in Sidney, Ohio, p. 16, lines 11-25 (September 3, 2008).

large customer charge when their usage is low. Faced with these choices, customers may determine not to pursue energy efficiency programs or implement energy efficiency measures, because the new rate structure provides them no opportunity to reduce their bills. Customers may also discontinue using energy efficiency measures if the rate structure does not reward them for such past choices. Conservation is much less attractive if, no matter how much the customer conserves, the customer cannot achieve lower gas bills. Indeed, when a customer cannot achieve the reductions envisioned, that customer will likely abandon conservation efforts or forego future conservation efforts.

The opportunities for conservation and the ensuing savings on customers' bills are opportunities that will be lost if a stay is not granted. It is impossible to reach back and capture the energy conservation and savings that would have been implemented and achieved by customers under a different set of rates. These are lost opportunities that can never be made up. This is irreparable harm.

2. The SFV Stage 2 tariffs may force low-use customers to migrate off the system and cause irreparable harm to remaining customers who will be responsible for system costs.

Other customers, primarily low-usage customers, may opt to discontinue service altogether if a stay is not granted maintaining the current rate structure. Indeed Vectren Witness Ulrey testified that he expects a number of customers to leave the system when the SFV rates are implemented.¹⁷ That was the reason Vectren proposed seasonal rates, and the reason for the proposed pro forma adjustment, though neither proposal was accepted by the PUCO. Residential customers, primarily low-usage customers, may opt

¹⁷ See Ulrey testimony, Tr. III at 93-94.

to discontinue service for non-winter heating season months, or possibly altogether, if a stay is not granted maintaining the current rate structure.

Low-use, low-income customers may determine that the significantly higher fixed customer charge is too great a price to pay to have gas service. Even low-use higher income customers may reach the same conclusion. Vectren witness Ulrey estimates that there are potentially 3,000 customers who fall in the category of low-use customers that may leave VEDO's system.¹⁸ The potential loss of customers would place an even greater burden on remaining customers who might then become responsible for the recovery of the costs associated with the facilities used to serve those customers no longer taking gas service.¹⁹ It would be impossible to undo the harm from such losses.

3. Lack of due process is an irreparable harm.

VEDO in its notices to consumers did not identify the proposed Stage 2 rates movement to SFV, and its impact on customers. Thus, the notice was deficient and fatally inadequate. Because of this, customers were denied their fundamental opportunity to be heard—they were not aware of the proposed Stage 2 changes in the rate design, and thus were unable to determine whether to participate in the hearing. This is a denial of their due process rights, guaranteed by the 14th amendment to the U.S. Constitution, and reinforced under R.C. 4909.18 and R.C. 4909.19.

The notice requirements for an application for a traditional rate case and for an alternative regulation case can be found under R.C. 4909.18 and 4909.19. In this case, the Company failed to provide consumers notice with sufficient detail of the residential

¹⁸ Id.

¹⁹ See Tr. III at 93-96, where Vectren Witness Ulrey testified that the costs of approximately 3,000 customers leaving the system would be \$300,000, and the Company had proposed a pro forma adjustment to address this phenomenon.

rate design. R.C. 4909.18 provides that, unless otherwise ordered by the Commission, the public utility must file, along with its application to the Commission, “[a] proposed notice for newspaper publication fully disclosing the substance of the application.” And, irrespective of whether the utility is required to file such notice with the Commission, R.C. 4909.19 provides that the utility must publish once a week for three consecutive weeks in newspapers of general circulation throughout the affected areas **the substance and prayer of its application.**²⁰

As noted in the Application for Rehearing, VEDO provided the proposed rates and the average percentage increase in operating revenue requested on a rate schedule basis.²¹ VEDO, however, **only provided notice of the proposed charges for Stage 1 tariffs** for Rates 310 and 315.²² The Stage 2 Residential Tariffs were not presented. Therefore, the content of the notice failed to “fully disclose” the substance and prayer of the application, rendering it out of compliance with R.C. 4909.18 and 4909.19.

In addition, and as presented in OCC’s Application for Rehearing, the notice fails to comply with two components established by the Ohio Supreme Court that constitute adequate notice. First, the notice did not “fully [disclose] the essential nature or quality” of the application.²³ This is because the notice did not reveal the extent of the increase to the fixed monthly customer charge and to volumetric rates for Stage 2 Residential Tariffs. Therefore, the Court’s requirement of full disclosure was not satisfied due to the deficient

²⁰ R.C. 4909.19 (emphasis added).

²¹ *In the Matter of the Application of VEDO Energy Delivery of Ohio, Inc., for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matters*, Case No. 07-1080-GA-AIR, OCC Application for Rehearing at 5 (February 6, 2009).

²² *Id.*

²³ *Ohio Assoc. of Realtors v. Pub. Util. Comm.* (1979), 60 Ohio St.2d 172, 176.

notice. The second component established by the Court is that the notice must be understandable and in a format “that consumers can determine whether to inquire further as to the proposal or intervene in the rate case.”²⁴ As pointed out in OCC’s Application for Rehearing, the straight-fixed variable rate design is a dramatic departure from the rate design employed by utilities over the past thirty years.²⁵ It should have been explained and Stage 2 rates should have been included in the notice. They were not. Thus, the notice failed to comply with the statutory requirements of R.C. 4909.18 and 4909.19 and failed to meet standards adopted by the Ohio Supreme Court.

Because of the inadequate notice, customers could not determine whether to participate in the process, whether by comment or intervention. The fundamental requisite of procedural due process of law is the opportunity to be heard.²⁶ This right is guaranteed by the Fourteenth Amendment to the U.S. Constitution. The opportunity to be heard can have no meaning, however, if one is not informed of the issues in contention and consequently cannot make a decision as to whether to challenge or object to the matter.²⁷

Since VEDO’s notice did not sufficiently inform its customers of the contested issues, in particular impact of the proposed radical change in rate design, VEDO’s customers were unable to make an informed decision to participate in the rate case.

²⁴Id. at 176.

²⁵ *In the Matter of the Application of VEDO Energy Delivery of Ohio, Inc., for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matters*, Case No. 07-1080-GA-AIR, OCC Application for Rehearing at 9 (February 6, 2009).

²⁶ *Grannis v. Ordean* (1914), 234 U.S. 385, 394, 43 S. Ct. 779, 784., citing *Louisville & N.R. Co. v. Schmidt* (1900), 177 U.S. 230, 236; *Simon v. Craft* (1901), 182 U.S. 427, 436.

²⁷ See for example *Mullane v. Central Hanover Bank & Trust Co* (1950), 339 U.S. 306, 313, 70 S. Ct. 652, where the Court noted that “[t]he right to be heard has little reality or worth unless one is informed that the matter is pending and can choose for himself whether to appear or default, acquiesce or contest.”

Customers' opportunity to be heard could not be assured under such circumstances.

Consequently, the rights of VEDO's customers to procedural due process, in the form of an opportunity to be heard, were violated.

Some courts have judiciously ruled that when the process is flawed or biased, this may be sufficient to warrant injunctive relief, if events subsequent to the process produce irreparable harm.²⁸ Similar circumstances exist in this case. The lack of adequate notice under R.C. 4909.18 and 4909.19 caused the hearing process undertaken to be flawed. VEDO customers were not given sufficient information to determine the impact of the proposed rate design on their individual bills. Therefore, implementing Stage 2 Residential Tariffs, which resulted from a proceeding where due process was violated due to inadequate notice, will result in irreparable harm to VEDO's residential customers.

C. A Stay Of Approval Of The Stage 2 Residential Tariffs Would Not Cause Substantial Harm To The Company.

No substantial harm will inure to the Company as a result of a stay being granted. VEDO is currently collecting the revenue requirements approved by the Commission in its Order under the Stage 1 Residential Tariffs. Granting the stay would mean that the current Stage 1 tariffs will remain. The current Stage 1 tariffs reflect an increased monthly customer charge (that is itself inappropriate even if it is lower than what is scheduled for the Stage 2 increase) and a volumetric rate. Continuing Stage 1 tariffs means that the current approved revenues will continue to be collected, under a \$13.37 monthly customer charge and the variable volumetric charge of .07451 per ccf. This

²⁸ *United Church of the Medical Center v. Medical Center Commission* (1982), 689 F.2d 693, 701.

ensures the Company will not sustain substantial harm as a result of granting OCC's Motion to Stay.

Notably, the Company did not even propose Stage 2 Tariffs to begin in 2010, nor did they propose a full SFV in Stage 2 Tariffs as part of their application. Rather it was the Commission that insisted on a full SFV by 2010. Not implementing something that the Company did not ask for cannot be deemed to be harm. Therefore, the Commission should grant the OCC's Motion to Stay.

D. The OCC Has Provided A Strong Showing That It Is Likely To Prevail On The Merits.

In the Application for Rehearing, the OCC provided substantial and appropriate documentation for its positions. In granting the Application for Rehearing, the Commission agreed that the OCC supplied "sufficient reason" and desired further consideration of the matters specified by the OCC.²⁹ While the Commission almost six months later denied OCC's Application for Rehearing, the gravity of the issues presented, which include constitutional issues and public policy considerations, warrant the Commission's serious attention and consideration.

These matters, when fully weighed and addressed, make it likely that the OCC will prevail on the merits in an appeal that may follow. OCC is likely to prevail on the merits with arguments that include violations of the law regarding notice and state

²⁹ *In the Matter of the Application of VEDO Energy Delivery of Ohio, Inc., for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Services and Related Matters*, Case No. 07-1080-GA-AIR, Entry on Rehearing at ¶7, p.3 (March 4, 2009).

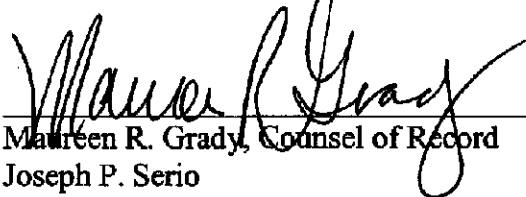
objectives for conservation. Therefore, the Motion to Stay the implementation of the Stage 2 Residential Tariffs should be granted.

IV. CONCLUSION

For the reasons set forth herein, the Commission should grant the OCC's Motion to Stay the implementation of the Stage 2 Residential Tariffs as submitted by VEDO. The OCC has demonstrated that under the factors considered by the PUCO for stays, granting the OCC's motion will prevent irreparable harm and allow the Commission to realign its orders with the public interest. In addition, no substantial harm will be sustained by Vectren if the Motion is granted. OCC is likely to prevail on the merits of a subsequent appeal given the issues present upon appeal. Therefore, the OCC respectfully requests that the Commission grant the motion to stay the implementation of VEDO's Stage 2 Residential Tariffs and spare consumers from paying the higher flat rate while this matter is pending appeal.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

A handwritten signature in black ink, appearing to read "Maureen R. Grady", is written over a horizontal line.

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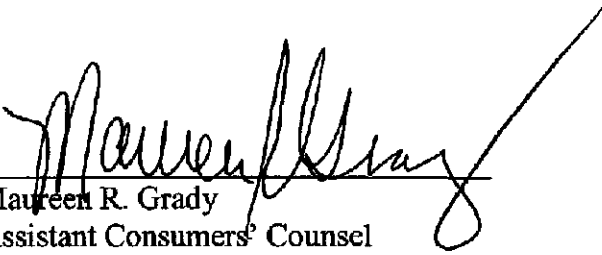
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and correct copy of the foregoing Motion by the Office of the Ohio Consumers' Counsel has been served upon the below-named persons by regular U.S. Mail Service, postage prepaid, this 30th day of September, 2009.


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