

BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of )  
Vectren Energy Delivery of Ohio, Inc., )  
for Approval of a General Exemption of ) Case No. 07-1285-GA-EXM  
Certain Natural Gas Commodity Sales )  
Services or Ancillary Services. )

FINDING AND ORDER

The Commission finds:

- (1) Vectren Energy Delivery of Ohio, Inc. (Vectren), is a public utility as defined in Section 4905.02, Revised Code, and, as such, is subject to the jurisdiction of this Commission.
- (2) On April 30, 2008, the Commission issued its Opinion and Order in this case approving the terms of a February 4, 2008 stipulation entered into by the parties in this proceeding. The stipulation was executed by all of the parties in this case, with the exception of Ohio Partners for Affordable Energy (OPAE), which stated that it was a signatory party to five paragraphs in the stipulation and agreed not to oppose the remainder of the stipulation. The stipulation provided that Vectren would hold an auction to secure natural gas supplies for Standard Service Offer (SSO) and Standard Choice Offer (SCO) customers. By Finding and Order issued July 23, 2008, the Commission approved an amendment to the stipulation. The initial SSO rate went into effect on October 1, 2008. In the February 4, 2008 stipulation, the parties agreed to develop standard terms and conditions under which SCO commodity service would be provided and Vectren agreed to seek Commission approval of such terms and conditions in its tariffs. The initial SCO auction will take place in January 2010 with an effective date of April 1, 2010.
- (3) On September 23, 2009, the signatory parties filed an amendment to the February 4, 2008 stipulation which sets forth proposed administrative and operational revisions to Vectren's tariffs covering SCO commodity service. The September 23, 2009 amendment was executed by all of the

signatory parties to the February 4, 2008 stipulation, with the exception of the office of the Ohio Consumers' Counsel (OCC) and OPAE. Tariff changes include:

- (a) Adding residential and general service default sales service (DSS) rate schedules (now numbered as Rates 310 and 320, respectively). These two rate schedules are applicable to customers that are ineligible for the SCO by virtue of being Choice ineligible or who terminate a Choice contract and do not choose another Choice supplier;
- (b) Updating the previously approved residential and general service SCO service rate schedules (now represented as Rates 311 and 321, retrospectively) to reflect the additions of the DSS rate schedules;
- (c) Reducing the required minimum no-notice storage inventory balance from 10 percent to 5 percent of seasonal contract quantity and provide for the use of an April first-of-the-month) index price for storage transfers made by terminating and defaulting suppliers to succeeding or remaining suppliers;
- (d) Revising the monthly volume reconciliation methodology to an annual volume reconciliation with cashouts to flow through the exit transition cost rider; and
- (e) Making other minor revisions to refine the SCO program to achieve greater accuracy and efficiency.

Additionally, the signatory parties, as part of their amendment to the stipulation, set forth a contingency plan in the event that the SCO auction is not successful.

- (4) On October 26, 2009, OCC filed "Comments On The Standard Contract Offer Modification Amendment To Joint Stipulation And Recommendation." OCC urges the Commission to rescind the Commission's prior authorization of the SCO auction which was endorsed in the stipulation signed by OCC on February 4, 2008, based upon a concern OCC has with

respect to the tax implications for retail customers of an SCO. OCC suggests that it is appropriate for the Commission to rescind this authorization because in its order the Commission stated: "the Commission reserves all authority to exercise oversight during the process, including the ability to order any studies or reviews of the company plan as it deems appropriate. We also specifically reserve the right to reject an auction result and the ability to, at any time during the SSO or SCO phases, require that VEDO return to the GCR rate in the event that we believe it is no longer in the best interest to continue the SSO or SCO services."

- (5) On October 28, 2009, Vectren filed a reply to OCC's filing. Vectren submits that, rather than addressing any of the revisions sought in the proposed September 23, 2009 amendment, OCC uses the Commission's ongoing authority over the SCO service as an excuse to renege on OCC's commitment to SCO service which was evidenced by OCC's signature on the stipulation that was approved by the Commission on April 30, 2008. Vectren maintains that OCC provides no basis for disapproval of the proposed amendment. Vectren points out that, in the April 30, 2009 order, the Commission refers to Vectren's assertion in the initial application in this case that "the disparity between customers who currently pay gross receipts tax because they are utility customers and those who pay state and local use taxes because they are customers of a non-utility will be eliminated in the SCO phase because all customers will receive service from a non-utility" (Order at 15). Thus, Vectren offers that the tax issue, about which OCC now complains, is not new.
- (6) On November 2, 2009 and November 3, 2009, the Ohio Gas Marketers Group (OGMG) and Dominion Retail, Inc. (Dominion), respectively, filed replies to OCC's comments. The OGMG submits that OCC's comments are procedurally improper because they raise arguments that are outside of the record. The OGMG notes that all parties to the February 4, 2008 stipulation either signed or did not oppose the stipulation. Thus, the OGMG submits that the only facts presented to the Commission were contained within that stipulation. According to the OGMG, OCC's comments on the tax issue are an attempt to present facts outside the record of

this proceeding. Dominion asserts that, since nothing in the proposed September 23, 2009 amendment deals with the tax issues raised in OCC's comments, OCC's attempt to undo the February 4, 2008 stipulation is tantamount to an untimely application for rehearing.

- (7) Initially, the Commission notes that, while the title of the document filed by OCC suggests that it represents OCC's comments regarding the proposed September 23, 2009 modification, the filing does not, in fact, contain any comment or recommendation regarding the proposed modification. As discussed above, the Commission authorized Vectren to proceed with an SCO auction in 2010. The amendment proposed by certain parties on September 23, 2009 addresses administrative and operational issues, and does not change substantively the SCO service stipulated to by the parties in this case and adopted by the Commission on April 30, 2008. OCC's objection in its filing refers to the tax implications; however, this issue was addressed in the February 4, 2008 stipulation and there is nothing in the record on this issue for the Commission to consider. It appears that OCC has had a change of heart since the time that it signed the February 4, 2008 stipulation; but there has been no change of circumstances since our adoption of the stipulation. Essentially, it is too late for the Commission to reconsider the February 4, 2008 stipulation, as OCC suggests, and it is too early for the Commission to consider whether the SCO auction is successful, since Vectren has not yet held its first SCO auction. We are not prepared to unwrap the February 4, 2008 stipulation, which was entered into in good faith by the parties. However, the Commission agrees that we retain authority to exercise oversight of the SCO auction process and that we have the right to reject any auction result or return Vectren to a GCR rate if we find that SCO or SSO services are not in the public interest.
- (8) The Commission has reviewed the September 23, 2009 amendment to the February 4, 2008 stipulation and finds that it is reasonable and in the public interest and should be adopted and approved. Therefore, the Commission finds that the proposed tariff revisions should also be approved.

It is, therefore,

ORDERED, That the amendments to the February 4, 2008 stipulation and tariffs filed on September 23, 2009 be adopted and approved. It is, further,

ORDERED, That Vectren is authorized to file four complete copies of tariffs, as amended, in final form, consistent with this finding and order. Vectren shall file one copy in this case docket and one copy in its TRF docket (or may file electronically as directed in Case No 06-900-AU-WVR). The remaining two copies shall be designated for distribution to the Rates and Tariffs, Energy and Water Division of the Commission's Utilities Department. It is, further,

ORDERED, That the effective date of the new tariffs shall be for services rendered after the date upon which four complete copies of the final tariffs are filed with the Commission. It is, further,

ORDERED, That nothing in this finding and order shall be binding upon this Commission in any future proceeding or investigation involving the justness or reasonableness of any rate, charge, or regulation of Vectren. It is, further,

