**BEFORE**
**THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Authority to Adjust its Distribution Replacement Rider Charges. | ) ) ) ) | Case No. 13-1121-GA-RDR |

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# COMMENTS BY THE OFFICE OF THE OHIO CONSUMERS' COUNSEL

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## I. INTRODUCTION

The Office of the Ohio Consumers' Counsel ("OCC") hereby responds to the Application ("Application") filed by Vectren Energy Delivery of Ohio, Inc. ("Vectren" or "Utility") to increase the rates customers pay for Vectren's replacement of cast iron and bare steel distribution mains and service lines, and for the replacement of prone-to-failure risers that have a propensity for leaks. Under Vectren's Distribution Replacement Rider ("DRR") Program, customers are subject to potential increases in each of the years 2010 through 2014.[1] Vectren has approximately 290,000 residential customers that would pay the rate increase it requests.

On May 1, 2013, Vectren filed to adjust its DRR Rate, from $2.01 per residential customer per month[2] to $2.77 per residential customer per month.[3] OCC responds to Vectren's Application in the sections that follow for customers.

[1] See: Stipulation and Recommendation ("Stipulation"), Case No. 07-1080-GA-AIR et al. (September 8, 2008); Order, Case No. 07-1080-GA-AIR et al. (January 7, 2009).

[2] *In re 2012 Vectren DRR Case*, Case No. 12-1423-GA-RDR, Stipulation at Exhibit No. SEA-S1 page 3 of 5 (August 27, 2012).

[3] Application at 3 (May 1, 2013).

## II. RESERVATION OF RIGHTS

OCC reserves the right to file additional comments and to file expert testimony on any matters not resolved by the Utility by August 2, 2013, as set forth in the procedural schedule in the Attorney Examiner's Entry.[4]

## III. BURDEN OF PROOF

The burden of proof regarding the Application rests upon Vectren. In a hearing regarding a proposal that involves an increase in rates, R.C. 4909.19[5] provides that, "[a]t any hearing involving rates or charges sought to be increased, the burden of proof to show that the increased rates or charges are just and reasonable shall be on the public utility." Inasmuch as the current case arose from Vectren's rate case, and Vectren is requesting an increase in rates, Vectren in this case bears the burden of proof.[6] Therefore, neither OCC nor any other intervenor bears any burden of proof in this case.

## IV. COMMENTS

### A. Vectren's Proposed Operations and Maintenance Cost Savings are Inadequate for Providing the Intended Benefit to Customers.

The Public Utilities Commission of Ohio ("PUCO") has emphasized the importance of the cost savings component of gas utilities' accelerated infrastructure replacement programs. This emphasis was made clear in the PUCO's Order in a Dominion East Ohio Pipeline Infrastructure Replacement ("DEO PIR") case. There the PUCO modified the accelerated mains replacement program cost savings calculation in

[4] Entry at 2 (June 12, 2013).

[5] See also R.C. 4909.18.

[6] *In re Vectren Rate Case,* Case No. 07-1080-GA-AIR, et al. Stipulation at 12 (September 8, 2008). ("The [Utility] shall: bear the burden of proof of demonstrating the justness and reasonableness of the level of recovery proposed by the [Utility] for the successor DRR charge * * *.)

order to ensure that customers received the intended cost savings benefit. The PUCO stated:

> In evaluating the arguments of the parties, **the Commission is mindful of the goal, articulated in the [Dominion] Distribution Rate Case, of using the O&M baseline savings to reduce the fiscal year-end regulatory assets, which allows customers a more immediate benefit of the cost reductions achieved as a result of the PIR program** (Staff Ex. 2 at 5). Moreover, the Commission agrees that, if O&M baseline savings are calculated using the methodology suggested by the company, it is possible that consumers will not realize any immediate savings as the result of the PIR program and could incur additional expenses. **Because immediate customer savings were articulated as a goal of the PIR program,** the Commission finds that, consistent with Staff's proposal, the O&M baseline savings should be calculated using only the savings from each category of expenses, such that O&M savings will total $554,300.64 for the PIR year under consideration in this proceeding.[7]

The PUCO took this action to ensure that the cost savings component of the accelerated replacement program was included for the benefit of customers when considering the accelerated cost recovery component of the program. In the current case, Vectren has reported cost savings of $274,919,[8] which is a reduction from its reported cost savings of 322,652 last year.[9] However, the level of $274,919 in cost savings still pales in comparison to the $8.5 million in cost savings achieved by Duke during the first five years of its AMRP Program.[10] The fact that Duke could achieve an average cost savings of $1.5 million per year for customers during the first five years of its AMRP, while Vectren could only achieve $274,919 in the fourth year of its DRR Program

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[7] *In re Dominion East Ohio PIR Case,* Case No. 09-458-GA-RDR, Opinion and Order at 11 (December 16, 2009). (Emphasis added).

[8] Direct Testimony of James M. Francis at 11 (May 1, 2013).

[9] *In re 2012 Vectren DRR Case, Case No. 12-1423-GA-RDR, Amended Direct Testimony of James M. Francis at 16 (July 17, 2012).*

[10] *In re Vectren Rate Case*, Case No. 07-1080-GA-AIR, et al., Staff Report at 30-40 (June 16,2008).

requires the PUCO to more closely scrutinize Vectren's DRR to make sure all possible O&M cost savings are being passed to customers.

It can be agreed that achieving the same dollar level O&M costs savings as Duke is unrealistic for Vectren. However, achieving the same level of O&M cost savings in relation to the O&M baseline should not be unrealistic. Therefore, OCC recommends that O&M cost savings of $429,463 should be used in the calculation of the Vectren DRR revenue requirement in this case instead of $274,919.[11]

OCC's recommended amount of O&M cost savings would be equivalent to the $2.3 million in O&M savings that Duke had experienced in the fourth year of its Accelerated Mains Replacement Program ("AMRP"). The $2.3 million in O&M savings that Duke experienced during the fourth year of its AMRP was 36% of Duke's baseline O&M established in Case No. 01-1228-GA-AIR.[12] Vectren's O&M baseline is $1,192,000. O&M cost savings of $429,463 would represent 36% of Vectren's O&M baseline since increasing the O&M costs savings by $154,544 ($429463 - $274,919) is just and reasonable in that Vectren is in the fourth year of its DRR Program also. Hence, OCC recommends that the residential DRR rate as proposed by Vectren be reduced by

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[11] *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Authority to Adjust Its Distribution Replacement Rider Charges.* Case No. 13-1121-GA-RDR. Direct Testimony of James M. Francis at Exhibit No. JMF-4 (May 1, 2013).

[12] *In the Matter of the Application of the Cincinnati Gas & Electric Company for an Increase in Gas Rates in its Service Area.* Case No. 01-1228-GA-AIR, Application at Schedule 15. Total baseline O&M of $6,373.344 on line 4 divided by 2006 Savings of $2,275,779.92 equals 36%. Multiplying this 36% by the Vectren Total O&M Maintenance Expenses of $1,192,953 shown on Exhibit No. JMF-4 of the Application would result in O&M savings for the 2012 test year of $429,463.

$0.03 from $2.77 to $2.74 per month.[13] OCC also recommends that in future DRR cases, Vectren should reflect at least a 36% of Vectren's O&M baseline.

The PUCO has recognized that cost savings are to provide a significant portion of the benefits for customers from the DRR Program.[14] The cost savings achieved by Vectren are minimal—too minimal for approval by the PUCO. The program is intended to balance customer and Utility interests. The customer benefits of Vectren's program have lagged far behind the Utility and shareholder benefit of accelerated cost recovery. Vectren's program is out of balance. It is unjust and unreasonable for Vectren to provide an inadequate level of O&M cost savings to its customers. The Application, as proposed, should be denied, and the Commission should establish a minimum level of O&M Cost Savings to be provided to Vectren's customers.

### B. Vectren's Proposal to Collect from Customers the Cost of the Replacement of Plastic Pipe Should be Exempted from DRR Recovery.

Vectren has, once again, included in the DRR Application recovery from customers for costs associated with the removal and replacement of plastic pipe.[15] That proposal is a violation of the Stipulation. The Stipulation states:

> The Parties agree and recommend that the [Utility] be authorized to establish a Distribution Replacement Rider * * *, to enable the recovery of and return on investments made by the [Utility] to

[13] The difference between the OCC proposed O&M reduction of $429,463 and that proposed by Vectren of $274,919 is $154,544. Multiplying the $154,544 by the residential allocation factor of 61.48% from Vectren Exhibit SMK-1, page 2 of 5 results in an O&M reduction to the residential revenue requirement of $94,997. To arrive at the $0.03 reduction to the residential DRR rate, $94,997 was divided by the number of residential customers of 285,461 from Exhibit SMK-1, page 1 of 5 then the resulting product was divided by 12 months. The $0.03 is rounded up to the nearest penny.

[14] *In re Dominion East Ohio PIR Case*, Case No. 09-458-GA-RDR, Opinion and Order at 11 (December 16, 2009). (Emphasis added).

[15] Direct Testimony of James M. Francis at 5-6 (May 1, 2013).

> accelerate implementation of a bare steel and cast iron pipeline replacement program * * *.[16]

There is no expectation in the Stipulation that Vectren would recover the costs for the replacement of plastic mains through the DRR mechanism.[17]

Vectren witness Francis states that 8,189 feet of plastic main has been replaced within the projects completed in 2012[18] and further, that:

> There are a number of reasons why plastic main segments are retired as part of the Replacement Program, which are discussed in my testimony in the Rate Case and also in previous DRR filings. Some short segments of plastic main are interspersed in the bare steel or cast iron systems, and it would have been more costly to salvage such main rather than replace it. Also, sections of plastic main at the ends of some distribution systems being retired no longer served any customers; therefore, there was no reason to continue to maintain those segments.[19]

These Vectren arguments in support of accelerating customer payments do not change the fact that the Stipulation Vectren negotiated and signed did not contemplate the recovery of plastic main replacement costs through the DRR. Therefore, the PUCO should protect customers from paying for the costs of plastic main replacement in this case. Vectren has the traditional opportunity that exists in law, for rate cases, to collect from customers its reasonable costs for whatever plastic pipe it needs to replace now and in the future.

In its Application, Vectren does not break out its mains and services by pipe composition (cast iron, bare steel, plastic, etc.). Hence, the determination of the costs of new plastic mains to be removed (that replace the existing plastic mains) from the DRR calculation was accomplished by dividing the total feet of all mains replaced by the total

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[16] *In re Vectren Rate Case,* Case No. 07-1080-GA-AIR, et al. Stipulation at 8 (September 8, 2008). See also Opinion and Order at 5 (January 7, 2009).

[17] Id., Stipulation at 8-14 (September 8, 2008).

[18] Direct Testimony of James M. Francis at 5 (May 1, 2013).

[19] Id. at 5.

feet of plastic main replaced to arrive at 4.1%.[20] The ratio of plastic mains to total mains replaced was applied as a reduction to the DRR revenue requirement.. This ratio was also used to reduce the total expense and annualized return on rate base that comprise the revenue requirement to be collected from customers.

For these reasons, the PUCO should reduce Vectren's proposed rate for residential customers by $0.03[21] to exclude the costs of the replacement of existing plastic mains with new plastic mains. This result would reduce the residential DRR rate proposed by Vectren from $2.77 to $2.74 per residential customer per month.

### C. At the Current Pace of Main Replacement, Vectren's DRR Program will not be Completed within the Projected 20-Year Term.

In this case, Vectren reported that it replaced 27.11 miles of bare steel and 9.30 miles of cast iron mains (for a total of 36.41 miles) as part of the DRR program in 2012.[22] The 36.41 miles is comparable to the target of 35 miles of main replacement per year Vectren would need in order to meet the projected 20-year period to complete the DRR program.[23] In its testimony filed in this case, Vectren stated that, in 2013, the rate of replacement is expected to increase to 42 miles of bare steel and cast iron main per year.[24]

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[20] Id. at Exhibit No. JMF-1.

[21] Vectren replaced 8,189 feet of plastic pipe which equates to 4.1% of the total footage replaced (8,189 feet divided by 200,440 feet). Applying 4.1% to the revenue requirement for mains $3,560,447 (4.1% x $3,560,447 = $145,978) yields a $145,978 reduction. ($89,730 of the total reduction represents the residential share which is derived by multiplying the total reduction of $145,978 by 61.48% which is the residential share of the total revenue requirement shown on Exhibit SMK-1, page 2 of 5. To arrive at the $0.03 reduction to the residential DRR rate, the $89,730 was divided by the number of residential customers of 285,461 from Exhibit SMK-1, page 1 of 5 then the resulting product was divided by 12 months. The $0.03 is rounded up to the nearest penny).

[22] Direct Testimony of James M. Francis at 4 (May 1, 2013).

[23] Id. at 3.

[24] Id. at 4.

Through 2012, however, the Utility should have replaced a total of 140 miles of pipe to stay on target for the 20-year replacement period of the DRR Program.[25] Instead, Vectren has replaced a total of 112.5 miles of cast iron and bare steel pipe through 2012, which is an average of about 28.1 miles per year.[26] Based on a targeted replacement pace of 35 miles per year, the DRR Program is currently lagging a year behind schedule. The total mileage of cast iron and bare steel pipe to be replaced under the DRR Program is 708 miles.[27] The remaining amount of cast iron and bare steel mileage yet to be replaced as of the end of 2012 was 595.5 miles. Dividing the target of 35 miles of pipe replaced per year into the 595.5 miles remaining in the DRR Program yields a time period of 17 years remaining for the DRR Program. At the beginning of 2013 (start of the fifth year of the DRR Program), there should only be 16 years left in the DRR Program.

Even at the current rate of 36.4 miles of main replaced for 2012, the Utility may not meet the 20-year time period for completion of the DRR Program. As the revised replacement target of 42 miles[28] per year has yet to be experienced, the PUCO should require Vectren to explain, in a publicly filed document, how the Utility plans to make up the 27.5-mile[29] shortfall and remain within the 20-year time period for the DRR Program.

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[25] Id. at 3.

[26] Vectren response to OCC Interrogatory Nos. 10 and 11. Cast Iron and Bare Steel miles of main replaced in years 2009, 2010, 2011 and 2012 are 24.47, 16.91, 34.7 and 36.41 for a total of 112.5 miles.

[27] *In re Vectren Rate Case*, Case No. 07-1080-GA-AIR. Stipulation and Recommendation at Stipulation Exhibit 3 (September 8, 2008).

[28] Direct Testimony of James M. Francis at 4 (May 1, 2013).

[29] Target miles of 140 (4 years x 35 miles/Year) less 112.5 actual miles replaced in 4 years = (27.5) mile shortfall.

### D. The Claimed Need For The DRR Program Should Be Further Scrutinized, to Protect Customers.

Vectren's DRR was initially approved for a five-year term. That term will be expiring next year. In an attempt to renew the DRR program without delaying any cost recovery, Vectren filed on July 2, 2013, a Notice of Intent to file an application for approval of an alternative rate plan under R.C. 4929.05. Vectren will request approval to extend and adjust the scope of the DRR.[30] However, considering (1) the low level of cost savings reported to date and (2) the fact that Vectren has not addressed or made up the 27.5-mile shortfall in mains replacement to date, and (3) the DRR is consuming resources to replace mains outside the intent of the program (i.e. plastic). The PUCO should further scrutinize the DRR Program before authorizing an extension to this program.

Vectren has in large part relied on safety and reliability as the basis for justifying the need for the DRR Program.[31] Vectren's 2007 rate case, which gave rise to the DRR program, included testimony which supports this contention. In the 2007 rate case, Vectren witness James M. Francis stated:

> Q. Is there a difference in the operational performance of bare steel and cast iron mains when compared to protected steel or plastic mains?
>
> A. Yes. Bare steel and cast iron mains have significantly higher leakage rates than do protected steel and plastic mains. This increased incidence of leakage results in higher operating and maintenance expenses, greater line losses and safety and reliability risks. * * *.[32]

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[30] *In the Matter of Vectren Energy Delivery of Ohio, Inc.'s Notice of Intent to File an Application for Approval of an Alternative Regulation Plan in Accordance with R.C. 4929.05,* Case No. 13-1571-GA-ALT, Notice of Intent at 1 (July 2, 2013).

[31] For example see, *In re Vectren Rate Case,* Case No. 07-1080-GA-AIR, et al. Direct Testimony of James M. Francis at 6, 8, 9, 12, 14-15 (December 4, 2007).

[32] *In re Vectren Rate Case,* Case No. 07-1080-GA-AIR, et al. Direct Testimony of James M. Francis at 7 (December 4, 2007).

> Q. Does the increased likelihood of leakage on a bare steel or cast iron main create potentially serious issues for [Vectren] and its customers?
>
> A. When considering only those leaks repaired since 2003 that are directly attributable to bare steel or cast iron mains, 13% of those leaks were identified as being hazardous to public or employee safety, requiring immediate repair. Exhibit JMF-5 provides a count of the leaks repaired by hazard type. Approximately another 45% of the repaired leaks were under hard surface and thus are prone to migration into buildings or sewer systems, which can be problematic. * * *.[33]
>
> Q. Why does [Vectren] believe it is prudent to pursue the Program at this time?
>
> A. There are numerous benefits to the Program beyond the replacement of [Vectren's] most aged assets. First, the Program will replace the pipes that contribute most to system leaks. The resulting benefits to service reliability and safety are clear. * * *.[34]

Thus, at the time the DRR Program was proposed, safety and reliability factors seemed to play an important role in Vectren's justification of the program.

The Utility proposed completing the DRR program within twenty years, and stated in testimony that it could potentially shorten the program. Vectren witness James Francis stated:

> Q. Why is [Vectren] proposing a 20 year replacement program, rather than a shorter Program period?
>
> A. The 20 year program was developed when considering distribution system replacement needs throughout VUHI, not only the [Vectren] system. Vectren has proposed a similar program for its Indiana utilities. In total, the planned annual mileage to be replaced across Vectren service territories is approximately 90 miles. Additionally, there are a number of other utilities in the Midwest, including Duke Energy Ohio, who have in place a significant replacement program that will constrain

[33] Id. at 8.

[34] Id. at 12.

> construction resource availability for some time. The 20 year program reflects the amount of resources [Vectren] believes would be reasonably available to implement and execute the Program. However, [Vectren] would consider shortening the length of the Program if resources were to become available. * * *.[35]

It is noteworthy that throughout his testimony, Mr. Francis did not discuss or contemplate a DRR Program lasting longer than 20 years. Yet, experience through the first four years of the DRR Program demonstrates that Vectren has replaced significantly less pipeline than originally proposed. Therefore, there is the very real possibility that the DRR program will extend beyond the twenty years originally proposed, or that it may not be completed early as Vectren potentially contemplated.

In its Application, Vectren discussed the activity that would be required in order to complete the program in twenty years. Vectren witness James Francis stated:

> As of the end of 2011, [Vectren] had a total of 470 miles of bare steel and 156 miles of cast iron main remaining in its system. In its Rate Case, [Vectren] proposed to replace its remaining bare steel and cast iron infrastructure over a twenty-year period at a rate of approximately 35 miles per year. The actual replacement rate has been less than this, due to a variety of circumstances, including an economic downturn following the approval of the DRR.[36]

As stated above, Vectren explained that the slower pace of pipeline replacement was in response to the economic downturn and a variety of other circumstances.[37] It should be pointed out that the DRR Program was designed in a manner to reduce Vectren's risk and regulatory lag associated with pipeline investment. Despite this

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[35] *In re Vectren Rate Case,* Case No. 07-1080-GA-AIR, et al. Direct Testimony of James M. Francis at 9-10 (December 4, 2007).

[36] Direct Testimony of James M. Francis at 3-4 (May 1, 2013).

[37] Id. at 4.

framework, cost apparently was the impediment keeping the Utility from meeting the projected pipeline replacement schedule.

There are numerous problems with Vectren's rationale. First, if the program is necessary for the improvement of safety to the public and reliability, then Vectren's cost concerns do not adequately explain its delay. Second, Vectren has been given a very generous accelerated cost recovery mechanism designed to provide the Utility with a return of and on the plant investment. The DRR recovery mechanism should more than adequately cover the risk of increased capital costs that worries Vectren. Finally, if the Utility is indeed prioritizing accelerated cost recovery (from customers) ahead of accelerated main replacement (to benefit customers), then the PUCO should recognize that the underpinnings used by Vectren to justify the DRR Program -- safety and reliability -- are secondary to the cost considerations for the Utility.

The pipeline replacement program was designed to permit Vectren to maintain a safe and reliable distribution system for customers, and to do so in an accelerated manner. But it now appears that cost concerns have become the over-riding factor, and not safety. And it has been seen that the expected costs savings for customers, to offset some of customers' accelerated payments, have not materialized from Vectren.

Vectren is obligated by law and regulation to provide a safe and reliable system for the public, regardless of the manner the PUCO allows for cost recovery from customers. Vectren can accelerate a pipeline replacement program with or without acceleration of customer payments to Vectren. Under the circumstances, the PUCO should evaluate whether this program's acceleration of the customers' payments to Vectren is fair to customers.

## V. CONCLUSION

The PUCO should reduce the DRR rate Vectren proposes, consistent with the OCC recommendations regarding plastic pipe replacement and O&M cost savings. OCC recommends that the DRR rate should be reduced by $0.05 per month for each residential customer. This change in the DRR rate would lower the monthly bill of an average residential customer from approximately $64.87 to $64.81.[38]

Respectfully submitted,

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[38] Assumes that the average residential usage is 8 Mcf per month.

## CERTIFICATE OF SERVICE

I hereby certify that a copy of these *Comments* was provided to the persons listed below via electronic service this 26th day of July 2013.

*/s/ Larry S. Sauer*
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