BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of Vectren Energy Delivery of Ohio, Inc.	))))	18-1027-GA-UNC

REPLY COMMENTS
OF VECTREN ENERGY DELIVERY OF OHIO, INC.

On June 15, 2018, Vectren Energy Delivery of Ohio, Inc. (VEDO or the Company) filed a notice of the execution of a merger agreement between Vectren Corporation (Vectren) and CenterPoint Energy, Inc. (CenterPoint Energy) (the Notice). Although Commission review and approval of the merger is not required by law, VEDO provided the Notice in the event the Commission wished to review the transaction and any impacts it might have on VEDO or its customers. VEDO requested that the Commission take any action deemed necessary no later than January 31, 2019.[1]

After the filing of the Notice, the Commission's Staff engaged in a review of the transaction and the impact on VEDO and its customers, as well as a number of discussions regarding plans and commitments following the closing of the merger. On January 17, 2019, Staff filed its Comments. Staff has not identified any merger impacts that will have an adverse impact on VEDO or its customers as a result of its investigation. However, it recommends the imposition of certain conditions as a prerequisite to approval of the merger.

VEDO appreciates the opportunity to discuss Staff's concerns, and VEDO appreciates the thoughtful review of the transaction and potential impacts reflected in Staff's comments. VEDO

[1] VEDO's affiliated utilities, Indiana Gas Company, Inc. and Southern Indiana Gas and Electric Company filed similar petitions in Indiana. The Indiana Utility Regulatory Commission recently concluded that proceeding. *See, e.g.*, *Joint Petition of Indiana Gas Co., Inc., et al.*, Cause No. 45109 (IURC 1/16/2019) *available at* https://iurc.portal.in.gov/legal-case-details/?id=d490b8fd-ab70-e811-8128-1458d04eaba0.

and Staff reached general consensus on several of the conditions reflected in the Staff comments, which VEDO will adhere to when it files its next base rate case. However, Staff does propose the imposition of one condition VEDO believes is inappropriate.

The objectionable provision pertains to the recommended treatment of "Transition Costs." Specifically, VEDO disagrees with Staff's recommendation that "VEDO shall demonstrate that the Transition Costs sought for recovery from Ohio customers do not exceed the benefits received or to be received by Ohio customers." VEDO does not agree with this recommendation, which raises a number of legal and practical concerns: it is inconsistent with Ohio law, it is not necessary, its application is problematic and it raises issues not ripe for Commission review at this time.[2]

Ohio law does not impose special standards that must be met before costs related to or resulting from a merger may be recovered. The imposition of such a standard by the Commission would effectively change the ratemaking statutes and exceed the Commission's statutory powers. *See, e.g.*, *In re Alt. Energy Rider Contained in Tariffs of Ohio Edison Co.*, 153 Ohio St.3d 289, 2018-Ohio-229, ¶ 67 ("As a creature of statute, the commission has no authority to act beyond its statutory powers.").

Nor would such standards be necessary in light of Ohio's existing ratemaking laws. In a rate case, the burden is already on the utility "to show that the increased rates or charges are just and reasonable." R.C. 4909.19. Rate base investment is not recoverable unless "used and useful" in the rendition of service, R.C. 4909.15(A)(1), and operating expenses are not recoverable if "incurred by the utility through management policies or administrative practices that the

[2] Even assuming a different standard could properly be applied to Transition Costs in a future rate filing, VEDO believes the definition is too broad. Any cost that merely "resulted from" the merger would be covered, and this could be construed to cover any cost chronologically following the closing.

commission considers imprudent," R.C. 4909.154. These statutes, among others, give the Commission (and Staff) ample authority to review future investments and expenses and determine whether they are appropriate for recovery in rates.

The specific standard proposed by the Staff would also be problematic in application. While quantifying the cost of initiatives resulting from the transition might be straightforward, monetizing the benefits is not. As an example, the billing system utilized by VEDO may be transitioned to CenterPoint Energy's billing system. There will be costs incurred to enable VEDO to operate on this new billing system and it will provide many benefits to customers. The new billing system may provide greater flexibility, new services to customers, and benefits in the user experience. VEDO's billing system was developed many years ago and support is limited because the system is no longer commercially available whereas significant support is available for CenterPoint Energy's more modern system. VEDO believes that it would be very difficult to put a monetary value on many of these benefits—at least in a fashion that would not be subject to significant dispute—such that the costs incurred could be shown to exceed the value of the benefits.

Regardless, it is not necessary to delve into such issues. VEDO believes that it would be premature for the Commission to address the recovery of Transition Costs at this time. VEDO is not seeking to defer or recover *any* costs in this proceeding, and a future rate case is not expected for a number of years. Staff's apparent concern is to ensure adequate power to review future costs. But again, the Commission already has that power, and any dispute over the scope of that power, or how it should be applied to unknown future costs in unknown future cases, is not ripe for review. *See, e.g.*, *In re Ohio's Retail Elec. Serv. Mkt.*, Case No. 12-3151-EL-COI, Entry in Rehg. ¶ 33 (May 21, 2014) (where challenged programs were not before the Commission, but to be included in future applications, issue was "not ripe for consideration").

Although VEDO does not agree with the recommended conditions regarding Transition Costs, this does not affect VEDO's general consensus with Staff's position. VEDO agrees to comply with most of the prohibitions and commitments contained within the Staff Report—none of which, it bears noting, find any support in an Ohio statute.[3] Most notably, Staff does *not* conclude that approval of the merger will result in an adverse effect on the rates, terms, conditions, or quality of VEDO's service. Given that the only area of disagreement is not ripe for review, VEDO respectfully requests that the Commission issue an order disposing of this case and including findings to the following effect:

- VEDO requests that the Commission find, based on the facts made known to it and the representations made by VEDO, that the merger is not expected to adversely impact VEDO or its customers and that there is no reason for the Commission to further investigate the transaction at this time.
- VEDO requests that the Commission determine that the concerns raised by Staff regarding Transition Costs are not ripe for consideration at this time, and that concerns regarding the recoverability of future costs may be addressed in future proceedings.
- VEDO requests that the Commission determine that no hearing, formal notice, or other additional formal process is necessary.
- Finally, VEDO requests that the Commission, having made these findings and determinations, either dismiss this proceeding for lack of jurisdiction, or adopt Staff's finding that the merger will promote the public convenience and result in the provision of adequate natural gas service.

VEDO respectfully requests that such order be issued no later than January 31, 2019, and that it grant any other necessary and proper relief.

[3] VEDO would clarify that (1) it is not aware of any categories of Transaction Costs other than those listed in the Staff Report; and (2) its commitment to maintain capital investment levels assumes that the same or similar regulatory treatment continues to be accorded such investments.

Dated: January 18, 2019

Respectfully submitted,

/s/ Andrew J. Campbell

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served by electronic mail, to the following on this 18th day of January, 2019:

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Summary: Reply Comments electronically filed by Mr. Andrew J Campbell on behalf of Vectren Energy Delivery of Ohio