BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval of an Alternative Rate Plan.	)))	Case No. 18-49-GA-ALT
In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for an Increase in Gas Rates. .	)))	Case No. 18-298-GA-AIR
In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval of an Alternative Rate Plan.	)))	Case No. 18-299-GA-ALT

OHIO PARTNERS FOR AFFORDABLE ENERGY'S INITIAL BRIEF

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I. Introduction

Ohio Partners for Affordable Energy ("OPAE") herein respectfully submits to the Public Utilities Commission of Ohio ("Commission") this initial post-hearing brief in the above-captioned matters considering the applications of Vectren Energy Delivery of Ohio, Inc. ("Vectren") for approval of alternative rate plans and for an increase in distribution rates. On January 4, 2019, a Stipulation and Recommendation was filed in these cases presenting a settlement of the issues ("Settlement") on behalf of Vectren, the Staff of the Commission, the City of Dayton, the Federal Executive Agencies, and Interstate Gas Supply. The Settlement was supplemented with the signature of the Retail Energy Supply Association on January 7, 2019. On the same day, Honda of America Mfg. Inc. informed the Commission that it did not oppose the Settlement.

OPAE, the Office of the Ohio Consumers' Counsel ("OCC"), and the Environmental Law and Policy Center ("ELPC") oppose the Settlement, which does not satisfy the Commission's three-part test for the reasonableness of settlements. Herein, OPAE explains why the Commission should reject the Settlement and adopt the recommendations of OPAE, OCC, and the ELPC.

II. The Settlement as a Package Does Not Benefit Ratepayers and the Public Interest.

A. Placing the Rate Increase in the Fixed Portion of a Customer's Bill Harms Low-Use and Low-Income Customers.

The Settlement places the burden of the rate increase on low-income and low-use customers through high fixed charges. The Settlement will increase the residential and small commercial fixed charges from the current $27.62 ($18.37 service charge+$9.25 Distribution Replacement Rider ["DRR"] charge) to $32.86, a sizable 19% increase. Under the Settlement, fixed charges stand to increase beyond $32.86 with additional DRR and Capital Expenditure Program ("CEP") Rider charges in 2019 and to increase by 2024 up to a maximum of $15.25 DRR and CEP rider charges. OCC Ex. 6A at 8-9. When added to the current $32.86 fixed charges, the DRR and CEP rate caps can potentially increase fixed charges from $32.86 to $48.11 in 2024. This represents an extraordinary fixed charge increase. OCC Ex. 6A at 9.

Under the Settlement, all low-use customers (defined as customers with less than average consumption) will bear a disproportionate increase in their bills compared to high-use customers even if the low-use customers maintain their current low-use patterns. High fixed charges are regressive, because they lead to a greater impact on the low-use customer. OCC Ex. 6A at 13. A fixed charge rate design has intra-class impacts, invariably shifting cost from high-usage, high-income customers to low-usage, low-income customers. The rate design presents an undue hardship for low-use, low-income customers who can less afford it. OCC Ex. 6A at 14.

The Commission adopted high fixed charges for natural gas distribution utilities in a series of cases filed in 2007 and 2008. These cases are *Duke Energy Ohio,* Case No. 07-589-GA-AIR, et al., Opinion and Order (May 28, 2008); *Dominion East Ohio,* Case No. 07-829-GA-AIR, et al., Opinion and Order (October 15, 2008); *Vectren*, Case No. 07-1080-GA-AIR, Opinion and Order, (January 7, 2009); and *Columbia Gas of Ohio*, Case No.08-72-GA-AIR, Opinion and Order (December 3, 2008).

Circumstances have changed since the Commission first adopted the high fixed charge rate design. When circumstances change, the Commission should revisit an issue and recognize the change in circumstances. The high fixed charge rate design needs to be revisited in order for the Commission to determine whether a high fixed charge rate design is now benefiting ratepayers and the public interest.

One factor that has changed since the Commission's adoption of the high fixed charge rate design is the price of gas. In 2008, when the Commission first adopted the high fixed charge rate design, the Commission stated:

> The rate for delivering the gas to the home is only about 20 to 25 percent of the total bill. The largest portion of the bill, the other 75 to 80 percent, is for the gas that the customer uses. The commodity portion, the cost of the actual gas used, is the biggest driver of the amount of a customer's bill. Therefore, gas usage will still have the biggest influence on the price signals received by the customer when making gas consumption decisions, and customers will still receive the benefits of any conservation efforts in which they engage.

Duke, supra, at 19.

In the subsequent cases adopting high fixed customer charges, the Commission repeated the same justification. The Commission noted that the natural gas market was characterized by "sustained price increases, causing customers to increase their efforts to conserve gas." *Dominion East Ohio*, supra, at 22. The Commission found that the negative trend in sales had a negative effect on Dominion East Ohio's ongoing financial stability, its ability to attract new capital to invest in its network, and its incentive to encourage energy efficiency and conservation. Id. As in *Duke*, supra, the Commission noted that the rate for delivering gas to the home was only about 30 percent of the total bill so that the largest portion of the bill, the other 70 percent, is for the gas the customer uses. Id. at 24. Therefore, the commodity portion was the biggest driver of the amount of the customer's bill and "gas usage will still have the biggest influence on the price signals received by the customers when making gas consumption decisions." Id.

The Commission repeated this justification in adopting Vectren's high fixed charge rate design. The Commission stated that "the commodity portion of the gas bill comprises 75 to 80 percent of the total bill", and: "Therefore, gas usage will have the biggest influence on price signals received by customers when making gas consumption decisions and customers will still receive the full value of the gas cost savings resulting from any conservation efforts." *Vectren*, Case No. 07-1080-GA-AIR, et al., Entry on Rehearing (August 26, 2009) at 7.

The Commission decided these cases when gas prices were three times higher than they are now. ELPC Ex. 2A at 12. Gas prices were approximately 2 to 3 times higher depending on the month in 2008 than the cost of gas today. ELPC Ex. 2 at 13. Natural gas prices are so low today compared to 2008 that gas prices now make up less than 50% of an average residential customer's bill. These significant decreases in natural gas prices have significantly changed the impact of high fixed charges and on the price signals they convey to customers. Efforts to obtain value in gas cost savings from conservation efforts are no longer richly rewarded. The previous justifications for the high fixed cost rate design have eroded. ELPC Ex. 2 at 13.

In addition to gas prices being much lower today, alternative rate plans give utilities the ability to collect additional high fixed charges besides the high fixed customer charges. Charges such as Vectren's DDR (Distribution Replacement Rider) and CEP (Capital Expenditure Program) Rider allow Vectren to charge customers monthly for investments in their networks. If fixed charges are at $42.89 a month in 2024, gas consumption will be only 28% of a total bill with the fixed charges making up the rest. Id. at 12. The justification that price signals will be sent through the commodity portion of the bill is no longer valid when the fixed portion of the bill is dominant. The Commission's previous justification for adopting the high fixed charge rate design is no longer sound or factually correct.

Another equally invalid justification for the Commission's decision in the last Vectren case concerns the Commission's consideration of the impact of the high fixed charge rate design on low-income customers. Case No. 07-1080-GA-AIR, Opinion and Order, (January 7, 2009) at 11-15. Low-use customers are harmed by high fixed charges, while high-use customers benefit. The Commission stated that there was no direct correlation between low-use customers and low-income customers. Case No. 07-1080-GA-AIR, Entry on Rehearing at 6. The Commission based its decision using inaccurate information. ELPC Ex. 2A at 6.

The Commission's mistake about low-income customers is the result of its use of the wrong data. As here, Vectren presented census data for its service area to demonstrate that low-income customers consume, on average, more natural gas annually than all but the highest-income residential customers. Vectren, Case No. 07-1080-GA-AIR, et al., Opinion and Order at 13. The Commission stated that it was "undisputed" that Percentage of Income Payment Plan ("PIPP") customers "use more natural gas than the average of all residential customers." Id. The Commission noted that Staff witness Puican recommended the use of PIPP customers as "the best available proxy for low-income customers." Id. The Commission found that "low-income customers, on average, would enjoy lower bills under the levelized rate design." Id.

The Commission's finding is obviously erroneous because the Commission used PIPP customers as "the best available proxy for low-income customers", but PIPP customers are not typical low-income customers. The Commission should have recognized that PIPP customers' bills are based on a percentage of their income and not on usage. Therefore, PIPP customers could not "enjoy lower bills" based on their usage levels.

The data available today clearly indicates a positive correlation between income and usage. The majority of residential customers consume a low amount of natural gas, while only some residents consume a lot, pulling the average above the median. Seventy percent of residential customers consume less than the average single-family home. ELPC Ex.2A at 7. Thus, the majority of customers are low-use so high fixed charges hurt the majority of customers. Only the relatively few high-use customers benefit from the high fixed charges. In addition, a high percentage of low-income customers are lower-usage customers. Id. at 8. Low-income single households consume approximately 8 percent less and low-income multi-family households consume approximately 15% less on average than similar households. This data indicates that low-use and low-income residential customers will be worse off under the high fixed charge rate design while the relatively few high-use customers will benefit. ELPC Ex. 2 at 18. The only conclusion is that the Settlement does not benefit ratepayers or the public interest.

B. The Settlement Reduces Cost Savings from Energy Efficiency.

The Settlement does not benefit ratepayers and the public interest because it discourages the efficient use of natural resources. It is in the public interest to encourage the efficient use of natural resources and to reward residential and small business customers for reducing energy use. The Settlement encourages usage and has a disparate impact on low users, causing their rates to increase significantly, while the largest users experience a price decrease.

The most significant adverse impact from the Settlement is the reduction in cost savings from energy efficiency investments. High fixed charges undermine investments in efficiency by reducing the potential bill savings and thus the cost-effectiveness of demand-side management ("DSM") programs. This is counter to the state policy set forth in Ohio Revised Code Section 4929.02(A)(4) to encourage innovation and market access for cost-effective supply- and demand-side natural gas services and goods and (A)(12) to promote an alignment of natural gas company interests with consumer interest in energy efficiency and energy conversation. High fixed charges are a barrier to market access for DSM technologies that make customers more efficient.

A high fixed charge rate design penalizes those customers who have undertaken energy efficiency investments. The higher fixed charge results in a lower per Ccf charge and lower volumetric charges encourage consumption and discourage customer-initiated conservation. This affects the utility's and its customers' energy efficiency efforts. Customers who have invested in additional home insulation and purchased more efficient furnaces and water heaters as a rational response to gas costs will see their investment returns diminished and payback periods increased as a result of a high fixed charge rate design. OCC Ex. 6A at 15.

The high fixed charge rate design leads to less energy efficiency by lessening consumer incentives for self-initiated efficiency. Because the fixed charge rate design lengthens the payback period for energy efficiency investments, customers contemplating energy efficiency investments will be discouraged when the variable volumetric portion of their rate is less in relation to fixed charges. OCC Ex. 6A at 16. A fixed charge sends improper price signals, encouraging more natural gas consumption that may conflict with energy efficiency policy goals and the utility's and the customers' energy efficiency efforts. Id.

When the Commission first adopted the high fixed charge rate design, the Commission was confident that the high fixed charges would not negatively impact energy efficiency investments. But this confidence was based on the now incorrect finding that the commodity portion of the bill, as high as 80%, made gas usage the biggest influence on price signals received by the customer when making gas consumption decisions. The Commission believed that given high commodity charges, customers would still receive the benefits of any conservation efforts in which they engaged. *Duke*, supra, at 19. When this is no longer true and high fixed charges dominate the cost of the service, the Commission should recognize that the high fixed charges negatively impact energy efficiency investments. The Settlement fails to benefit ratepayers and the public interest.

C. The Settlement Encourages Customers to Disconnect from the System.

High fixed charges lead to customers taking steps to disconnect from the gas distribution system, especially during months when heating is not necessary. Customers may voluntarily disconnect service during certain months in order to avoid high fixed charges. OPAE Ex. 1A at 9. Customers may also find it advantageous to avoid high fixed charges by installing an electric stove or heat pump water heater, also enabling customers to disconnect from the system and avoid high fixed charges during the summer months when they are not operating their furnace. Id. In these cases, the utility experiences revenue erosion because of high fixed charges. Id.

A high fixed charge rate design may cause very low-usage customers to drop off the system entirely. These customers will simply discontinue their gas service. Customers who only use natural gas for secondary non-heating purposes may opt to switch to other energy sources. OCC Ex. 6A at 18. Fuel switching from all natural gas end uses to electric end uses may be encouraged by environmental groups as well. OCC Ex. 6A at 18. Losing more natural gas customers would then necessitate a further reallocation of fixed costs, which would contribute to remaining customers facing higher fixed rates and increased costs and potentially starting a vicious cycle of ever-increasing costs as the number of customers declines. Id.

In adopting high fixed charges, the Commission frequently referred to customers paying fixed monthly bills for numerous other services, such as telephone, water, trash, internet, and cable services. *Duke,* supra, at 18; *Dominion,* supra, at 24; *Vectren,* Opinion and Order, supra, at 12. The Commission was apparently assuming that customers had no choice but to accept high fixed charges. In reality, high fixed charges that a customer cannot control may spell disaster for a telephone, internet, or cable provider because customers can shop or avoid the service in its entirety. The only thing customers can do to avoid high, fixed monopoly natural gas distribution charges is to disconnect from the system. It is not in the public interest to establish a rate design that encourages customers to leave the system because of an unnecessary and inequitable pricing scheme.

D. A Decoupling Rider Better Aligns Ratepayer's Interests with Vectren's Interests.

In adopting high fixed charges, the Commission also rejected decoupling riders as a solution to lower revenues from declining sales. Rather than using decoupling riders, the Commission found that fixed charges have the benefit of producing more stable customer bills throughout all seasons. The Commission believed that a decoupling rider would cause customers to pay a higher portion of their fixed charges during the heating season when their bills were already the highest, and the rates would be less predictable because they would be adjusted each year to make up for lower-than-expected sales. The Commission believed that high fixed charges were easier for customers to understand. Customers would see costs that do not vary with usage recovered through a flat monthly fee. Customers would understand this. A decoupling rider was more complicated and harder to explain. The Commission stated: "It is difficult for customers to understand why they have to pay more through a decoupling rider if they worked hard to reduce their usage, the appearance is that the company is penalizing them for their conservation efforts. *Duke*, supra, at 18-19.

The Commission must now face the circumstances that high fixed charges making up the greater part of a customer's bill cannot be reduced even when the customer reduces his usage. The customer works hard to reduce his usage and still pays the high fixed charges. The appearance is that the customer is not rewarded for conservation efforts, and the reality is that their investments in efficiency are undermined. The Commission's criticism of a decoupling rider in favor of high fixed charges is no longer valid.

Decoupling is an approach that addresses the revenues that can be lost when customers use less utility service such as when they are participating in energy efficiency programs. Decoupling separates utility revenues and profits from the volume of commodity sold. The symmetrical mechanism of a decoupling rider will reconcile revenue loss with a charge annually and provide customers with a credit when the test-year authorized revenue requirement approved in a utility's last distribution rate case is exceeded. OCC Ex. 6A at 20.

Decoupling mechanisms can be designed to protect customers. There can be an annual cap on charges. Interest on the annual revenue balances can be at the long-term cost of debt. OCC Ex. 6A at 21. Consumer safeguards in decoupling mechanism are consistent with important regulatory principles. Id.

Vectren, as a local distribution company, has an opportunity to recover its revenue requirement in order to provide safe and reliable service. Given the problems with high fixed customer charges, the Commission should consider an alternative that effectively eliminates the negative aspects of the stipulated high fixed charges. That alternative is a decoupling rider. Vectren already has a Sales Reconciliation Rider ("SSR-A"). Using this rider to ensure recovery of the revenue requirement would not harm low-use, low-income customers, would not punish efficiency efforts, would not reward high users, and would not discourage efficiency investments. The decoupling rider is a simple solution to all the problems created by high fixed charges. Decoupling through the SSR-A better aligns the ratepayers' interest with those of Vectren to recover its revenue requirement. OPAE Ex. 1A at 8; OCC Ex. 6A at 6.

The Commission's justification to reject a decoupling rider on the basis of customers' understanding of fixed bills versus variable bills is not supported. The Commission had no basis to believe that customers understand fixed bills, but not variable ones. Moreover, Ohio law allows customers who prefer fixed monthly payments to request them. Under Ohio Administrative Code Rule 4901:1-18-05(B)(2), Extended Payment Plans, a customer with arrearages may request a one-ninth payment plan that requires nine equal monthly payments on the past due balances in addition to a budget payment plan for the projected monthly bills. Under Rule 4901:1-18-05(D), customers without arrearages shall be offered a budget plan, a uniform payment plan. The budget bills are fixed and trued up annually.

The various cost-recovery riders in place such as the DRR and CEP also undermine the Commission's justification that fixed charges are understandable while a decoupling rider is not. Customers are already subject to cost recovery riders that are trued up annually. The Commission annually approves new DRR and CEP Rider rates without regard to whether customers understand the annual true-up or not.

As an alternative to a decoupling rider, which is preferred, the Commission could reduce the current fixed charges to pre-fixed charge levels. OCC Ex. 6A at 6. The volumetric charges would be increased over those in the Settlement. As a secondary alternative, the Commission could maintain the current $18.37 fixed charge and reassign the base rate increase and the existing DRR and CEP Rider charges from fixed customer charges to volumetric charges in order to provide relief to low-usage customers. OCC Ex. 6A at 4.

III. The Settlement Package Violates Important Regulatory Principles.

The Settlement's high fixed charges are based on premises that violate important regulatory principles. The Settlement ignores the regulatory concepts of cost causation and gradualism by adopting a rate design that significantly increases the fixed charges paid by small-use customers. The Settlement adopts the high fixed charge rate design previously adopted by the Commission based on the idea that fixed costs should be recovered through fixed charges, while variable costs are recovered through variable charges. OPAE Ex. 1A at 10. In adopting high fixed charges, the Commission stated that fixed charges fairly apportion the fixed costs of service, which do not change with usage. *Duke*, supra, at 19, *Dominion*, supra, at 24, *Vectren*, supra, Opinion and Order at 13-14.

The problem is that the Settlement assumes costs as fixed when they are not. Ohio regulators have tended to define fixed costs broadly. The rate design adopted in the Settlement classifies variable costs as fixed in order to have high fixed charges. In fact, the only costs that should be considered fixed are interest and depreciation. All other costs, shareholder return, income taxes, labor, and revenue-sensitive costs, actually vary from month to month. OPAE Ex. 1A at 10.

Vectren has a Design Day, which is used to plan for system capacity. The Design Day is a function of customer usage. If customers use less, a smaller system could be designed. This is true of the Vectren system where reductions in heating load for residential and small commercial customers have reduced the capacity needed to serve customers safely. Those who use more than the system average force the system to be larger than it would otherwise be, so that higher usage means higher costs. OPAE Ex. 1A at 11.

Customers who create additional usage cause higher costs. The Settlement's high fixed costs include demand-related costs that are variable in the long term. ELPC Ex.2 at 8. Recovering those costs through a fixed charge sends the false signal to customers that increased consumption will not increase system costs, which may result in increased customer demand and thus greater system costs. ELPC Ex. 2A at 14. Encouraging customers to reduce demand can decrease system costs. Thus, recovering all distribution costs through a fixed charge is not good policy as compared to recovery through volumetric charges. The Settlement runs afoul of the principle of cost causation.

As regulatory principles establish, Vectren would still have an opportunity to recover its revenue requirement with a fair portion of its costs recovered through volumetric charges. If the Commission orders a lower customer charge, an offsetting amount is collected through the volumetric rate. If the Commission wishes Vectren to have more revenue certainty, it could consider a revenue decoupling rider.

A high fixed charge rate design also violates the regulatory principle of gradualism. The Settlement runs afoul of the principle of gradualism wherein a rate should increase modestly over time rather than rise dramatically. Under the Settlement, the fixed charges increase dramatically, not gradually.

For low-use customers, there will be rate shock when high fixed charges increase their bills without any increase in usage on their part. OCC Ex. 6A at 17. The high fixed charge takes away the control customers have to manage their utility bills. With distribution costs based on a fixed charge, financially stressed customers can only control the commodity portion of their bill. Current lower commodity costs are a change in circumstances since the Commission first approved the high fixed charge rate design. OCC Ex. 6A at 17. Fixed charges now make up a larger relative portion of a customer's bill than when the fixed charge rate design was first used. The ever-increasing fixed portion of the customer's bill cannot be controlled by the customer maintaining or reducing usage so that customers have little faith in the regulatory process.

Public understanding and acceptance is also a fundamental regulatory principle. As discussed above, the Commission's position that customers will not understand decoupling is unpersuasive. In fact, customers expect bills to reflect usage. With high fixed charges, customers have less ability to lower their bills by turning down the temperature or practicing efficiency. When a customer can only control 40% of the bill by becoming more efficient, customers will be confused. OPAE Ex. 1A at 11.

Customers will also react negatively to receiving high bills in the summer when they are using little to no natural gas. High fixed charges for little or no usage do not square with the expectations of customers. It sends the wrong signal to customers that it does not matter how much gas they use or whether they use any gas at all. A decoupling rider would keep price signals oriented to encourage energy efficiency and is more understandable and acceptable to customers. OPAE Ex. 1A at 11-12.

Vectren has presented no evidence that the increase in its fixed charges will be well accepted by customers. In fact, the large increase in the customer charge for all customers and the increased bills of low-usage customers may be a recipe for customer complaints and protests. OCC Ex. 6A at 17.

High fixed charges violate regulatory principles because they are not fair to customers. With high fixed charges, all residential consumers contribute equally to Vectren's distribution revenue regardless of the level of their usage. Those who make greater use of the distribution system should bear a proportionately greater share of its cost. OCC Ex. 6A at 19. The high fixed charges in the Settlement are not in the public interest and violate important regulatory principles.

IV. Conclusion

The Settlement fails the Commission's test for the reasonableness of settlements. It fails to benefit ratepayers and the public interest. It violates important regulatory principles and practice. Therefore, the Commission should reject the Settlement and adopt the recommendations of OPAE, OCC, and ELPC as set forth herein.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A copy of the foregoing Initial Brief will be served electronically by the Commission's Docketing Division upon the persons identified below who are electronically subscribed to this case on this 2nd day of April 2019.

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