**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 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 Approval of an Increase in Gas Rates. | ) ) ) ) ) | Case No. 18-0298-GA-AIR |
| In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc., for Approval of an Alternative Rate Plan. | ) ) ) | Case No. 18-0299-GA-ALT |

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**REPLY BRIEF OF THE ENVIRONMENTAL LAW & POLICY CENTER**

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April 23, 2019

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## I. INTRODUCTION

In this proceeding, the Environmental Law & Policy Center ("ELPC") seeks an order from the Public Utilities Commission of Ohio ("PUCO" or "Commission") to prevent fixed customer charges for residential and small business customers from rising to historically high levels over the next few years. Vectren residential customers already pay fixed charges of $27.62 per month. The proposed Stipulation and Recommendation ("Stipulation") would raise residential fixed charges by more than $15 a month, to $42.89, as of 2024 – an increase of over 50%. ELPC Initial Br. at 4. ELPC requests that the Commission reject that significant increase, as well as a proposed increase in the small commercial customer charge, which would take Vectren far beyond the level of fixed charges that the Commission originally approved in 2008. Thus, ELPC's request is not for the Commission to completely "reverse course" regarding its 2008 decision to adopt a straight-fixed variable ("SFV") rate design, as Vectren Energy Delivery of Ohio ("Vectren" or "Company") suggests. Vectren Initial Br. at 2. Rather, ELPC seeks maintenance of fixed charges at reasonable levels in order to reflect Vectren's own classification of costs, reduce drivers toward overbuilding the Company's distribution system and raising costs for customers, and mitigate the rate increases that Vectren proposes for the majority of its low-income and low-usage customers.

## II. ARGUMENT

### A. A Reasonable Fixed Charge Accompanied by a Volumetric Rate Is the Appropriate Policy Given the Facts in This Proceeding

Vectren offers four main propositions in support of the SFV rate design proposed for residential and small business customers in the Stipulation. First, Vectren argues that the merits of SFV rate design have already been litigated and resolved by the Commission in a series of cases from a decade ago. Vectren Initial Br. at 21-23. Second, the Company contends that the significant decrease in natural gas commodity prices since 2008, which makes the distribution charge a more sizeable component of a customer's bill, is irrelevant to the Commission's consideration. *Id.* at 23-25. Third, Vectren assets that a fixed charge increase will not disproportionately impact low-income customers because, on average, those customers use more natural gas than average. *Id.* at 26-28. Finally, Vectren urges the Commission to ignore the total fixed charge that customers must pay as an irrelevant "non-issue with respect to the question of rate design." *Id.* at 28. None of these points are consistent with the factual record in this proceeding, and none of them should stop the Commission from adjusting its approach to distribution rate design.

**1. The Commission's Decisions on Different Records in Different Cases a Decade Ago Are Not Determinative Here**

Both Vectren and Staff make much of the significant litigation over SFV rate design that last occurred starting more than ten years ago. Vectren Initial Br. at 21-23; Staff Initial Br. at 24-26. However, that contentious litigation history merely shows that SFV rate design is controversial and well-worth revisiting as conditions change to consider whether it remains appropriate. *See, e.g.*, *In re Application of Columbia Gas of Ohio, Inc. for an Increase in Rates*, Case Nos. 80-1155-GA-AIR *et al.*, Entry on Rehearing (Feb. 17, 1982) at XX ("[E]ach case presents a unique set of circumstances and must be determined by the record developed in that particular case."). The Commission has not revisited SFV in the natural gas context since its 2008-era cases, with the exception of one rate case for a small natural gas utility where no party objected to or litigated the merits of that rate design. *In re Application of Suburban Natural Gas Company for Approval of an Alternative Form of Regulation*, Case No. 17-594-GA-ALT, Finding and Order (Nov. 1, 2017) at 3-4, 8-9. Meanwhile, the Commission has since expanded its rate design focus beyond SFV on the electric utility side, approving stipulations that maintain low residential customer charges for AEP Ohio and Dayton Power & Light and rejecting a planned move by AEP Ohio to full SFV rate design. *See In re Application of AEP Ohio to Establish a Standard Service Offer*, Case Nos. 16-1852-EL-SSO *et al.*, Opinion and Order (Apr. 25, 2018) at 18, 117; *In re Application of Dayton Power & Light for an Increase in Its Electric Distribution Rates*, Case Nos. 15-1830-EL-AIR, Opinion and Order (Sept. 26, 2018) at 36. The Commission has also more generally recognized the range of potentially reasonable rate designs beyond SFV – including alternative decoupling mechanisms and "changes in methods of classifying costs as fixed rather than variable" – given "the many and varied interpretations and conclusions drawn from the same set of agreed upon ratemaking principles." PUCO, PowerForward: A Roadmap to Ohio's Electricity Future (Aug. 29, 2018) at 30. The Commission has by no means foreclosed distribution rate designs other than SFV for all time to come.

Moreover, neither Vectren nor Staff acknowledge that the specific factual determinations that the Commission relied on in its prior natural gas cases do, on the record in *this* case, weigh in favor of moderating the Commission's previous adoption of SFV rate design. Most importantly, the facts here undercut any continued reliance on the assumption that all of Vectren's distribution costs are fixed costs, and that SFV is the appropriate rate design to implement the principle of cost causation. Company witness Feingold specified that his testimony on what counts as a "fixed" cost reflected only whether a cost varied over the span of a single test year – not whether distribution costs might rise over the longer-term due to higher customer demand. ELPC Initial Br. at 8 (citing Tr. VI at 511). Vectren's own cost-of-service study, however, reflects that a significant component of its distribution costs – including for residential and small commercial customers – are demand-related costs that depend on customers' total "design day demand." ELPC Initial Br. at 8 (citing VEDO Ex. 12.1, Feingold Rebuttal Test. at 39; Staff Ex. 2, Staff Report at 27; Tr. VI at 517:16-518:15). Company witness Feingold expressly testified that a larger size distribution main may be required based on "a load flow analysis of VEDO's existing and projected aggregate capacity requirements on a portion of its gas distribution system" (VEDO Ex. 12.1, Feingold Rebuttal Test. at 27:2-4), and that over time demand increases can increases can require investments in new or replacement distribution assets. Tr. VI at 515:13-16. Thus, if customers purchase less efficient appliances or install more natural gas-using appliances based on a rate design that does not impose increased distribution costs for such increased demand, they will in fact be increasing distribution costs over the long term based on that incorrect economic signal.

Accordingly, Vectren's appeal for a rate design based on strict "cost causation," Vectren Initial Br. at 25-27, does not weigh in favor of placing all distribution costs in a fixed customer charge. Rather, the Commission should shift Vectren's rate design to include a volumetric component going forward. ELPC Initial Br. at 11-13.

### 2. The Commission Should Consider Overall Customer Bills to Reasonably Determine the Potential Impacts of a High Fixed Charge on Customer Conservation

Contrary to Vectren's view, cost causation is, in fact, not the only principle relevant to utility rate design. Vectren Initial Br. at 23-25. As the Commission itself has explained:

> Before strictly applying cost causation, we must consider and balance other important public policy outcomes of rate design. Would strict application of cost causation discourage conservation? Would it disproportionately impact economically vulnerable consumers, including both low-income customers and those on a fixed income? Will customers understand the rate design? Does it generate accurate price signals? Can it be implemented without rate shock — that is, with sensitivity to gradualism? On balance, what style of rate design will result in the best package of possible public policy outcomes?

*In re the Application of the E. Ohio Gas Co. d/b/a Dominion E. Ohio for Auth. to Increase Rates*, Case Nos. 06-1453-GA-UNC *et al.*, Opinion and Order (Oct. 15, 2008) at 25. Thus, the Commission has previously looked at the larger context of overall customer bills to determine how SFV or alternative rate designs would affect these policy outcomes, including conservation. *See, e.g.*, Case Nos. 07-1080-GA-AIR *et al.* ("*2007 Vectren Rate Case*"), Opinion and Order (Jan. 7, 2008) at 12.

As the Commission has also recognized, such attention is if anything more important during times of low energy prices. In approving Columbia Gas of Ohio's ("Columbia") energy efficiency programs in 2016, the Commission observed that:

> natural gas prices are currently at historic lows and are projected to remain low through 2040 . . . . We recognize that, while the current low price of natural gas is unlikely to incent a customer to install or implement energy conservation measures, such programs need to be continuously encouraged. . . . Accordingly, the Commission finds this period of low gas prices may present a particularly appropriate time to encourage and incentivize customer participation through the DSM programs.

*In re Application of Columbia Gas of Ohio, Inc. for Approval of Demand-Side Management Programs* ("*Columbia DSM Case*"), Case Nos. 16-1309-GA-UNC *et al.*, Opinion and Order (Dec. 21, 2016) at 55. As detailed in ELPC's Initial Brief, it is likely that fixed residential charges rising to $42.89 as of 2024 will seriously *discourage* conservation if customers experience little savings from efficiency measures on either the transportation or supply component of their bills. ELPC Initial Br. at 21-23.

Neither Vectren nor Staff conducted any countervailing analysis of potential impacts on conservation from approval of the Stipulation. The Staff Report and brief focus on the Commission's prior decisions in support of SFV regardless of changes in circumstances and without considering the impact of rising charges under Vectren's Distribution Replacement

Rider ("Rider DRR"). Staff Ex. 2, Staff Report at 33; Staff Initial Br. at 8. And as the Company acknowledged, its own calculation of customer bill impacts relies on the updated Schedule E-5 included with witness Swiz's rebuttal testimony, which reflects only the initial fixed charges under the Stipulation – not the full $13.75 monthly allowance for fixed Rider DRR charges that will be in effect as of 2024. Vectren Initial Br. at 29-30; Tr. VI at 595:12-25.

Finally, consideration of conservation impacts does not require revisiting Vectren's rate design every time natural gas prices change, as the Company suggests. Vectren Initial Br. at 25. In fact, the Commission has no ability to do so, unless it were to require Vectren to file a new rate case with every significant change in gas price trends. That only makes it even more important to design customer rates so that they produce reasonable results across a range of possible circumstances. The Commission must consider the need to encourage conservation as a hedge against the possibility of gas prices rising over the next several years, and also the importance of rate design that does not pose a significant disincentive to conservation if gas prices remain relatively low. Including a moderate volumetric component in Vectren's distribution rate will address both scenarios.

### 3. Vectren Unreasonably Discounts Impacts of SFV on Low-Income and Low-Usage Customers

Vectren frames the concerns of ELPC and other intervenors about the impacts of SFV on low-usage customers, especially low-income customers, as an improper attempt to create "a bill-assistance program" through charges on high-usage customers. Vectren Initial Br. at 27. That criticism does not account for the record evidence showing that, because system costs are correlated with usage to a significant extent, the subsidy may in fact run the other way if Vectren shifts costs from high-usage to low-usage customers. *Infra* at 3-4. Regardless, impacts on low-income customers have been and should continue to be of central concern to the Commission as it seeks to promote “reasonably priced natural gas services and goods” for customers in accordance with R.C. 4929.02(A)(1), and to ensure that the Stipulation benefits ratepayers and the public interest. *In re Columbus S. Power Co.*, Case Nos. 11-346-EL-SSO, et al., Opinion and Order (Dec. 14, 2011) at 27.

Looking closely at that issue, it becomes clear that Vectren’s focus on the “average” low-income residential customer misses the mark. Regardless of impacts on that “average” usage customer, the Company’s own analysis shows that – because that average is skewed by a small number of high-consumption customers while many more low-income customers use below-average levels of gas – the majority of Vectren’s low-income customers would face disproportionately high fixed charge increases under the Stipulation. For example, a customer using an average of 50 ccf per month – somewhat below Vectren’s residential average of around 60 ccf, ELPC Initial Br. at 16 & n.3 – would experience a rate increase of 4.28% off the bat, with a full impact of more than a 30% total bill increase by 2024. *Id.* at 17. Over 12,000 of Vectren’s low-income customers – almost a third of the low-income customers that Company witness Swiz addressed in his analysis – would face rate hikes at that level or even more under the Stipulation. *Id.* at 17-18. Moreover, those figures omit almost 70,000 customers that Mr. Swiz left out of his analysis, in part because some of them were disconnected for non-payment during portions of his study period. *Id.* at 18-20.

Perhaps because of Vectren’s unswerving reliance on the Commission’s past precedent supporting SFV rate design, the Company simply failed to address these important concerns in a comprehensive way. The Commission can and should do so in order to avoid SFV rate design that shifts costs away from a small number of high-usage customers and instead spreads them to low-usage and low-income customers who have done their best to minimize their natural gas consumption and can least afford to pay more for what they do use.

### 4. Rider Charges Included in the Stipulation Are Also Relevant to the Commission's Rate Design Stipulation

Vectren attempts to undercut the opposing intervenors' analyses of these holistic impacts on conservation and low-income customers by arguing that the total fixed charge that customers must pay are an irrelevant "non-issue with respect to the question of rate design." Vectren Initial Br. at 28. But the Commission has consistently considered overall bill impacts of any proposed rate increase – hence the requirement to provide a typical bill analysis among the schedules accompanying a rate increase application. Ohio Admin. Code 4901-7-01, Appendix A at 121. Consideration of Rider DRR charges is particularly appropriate because historic distribution investments under Rider DRR are a significant component of the current $27.62 fixed charge that Vectren itself uses as a point of comparison in suggesting the proposed rate increase is not that significant. Vectren Initial Br. at 28-29. Moreover, Rider DRR charges under the Stipulation will turn into base distribution charges in the next rate case, just as they have here. Just because those costs are recovered under a separate rider doesn't mean the Commission should not consider the full picture of Vectren's increasing rate base and its impacts on customers.

Examining that full picture, it is clear that fixed charges rising to $42.89 over the next five years will increase the burden on customers and send the wrong price signals. This is a recipe for higher consumption by customers, driving more demand-related investments in the distribution system and even greater distribution costs, along with unfairly high rate increases targeted at large numbers of low-usage and low-income customers who have contributed less to demand-related system costs to begin with. The Commission should moderate its application of

SFV and include a volumetric component in Vectren's residential and small business rates in order to avoid those outcomes.

### B. The Commission Should Not Reduce or Eliminate Funding for Energy Efficiency Programs for Vectren's Customers

Rate design is a central component to encouraging customer conservation, since that provides a price signal to all Vectren customers regardless of whether they participate in the Company's energy efficiency programs. Nevertheless, as the Commission has recognized in approving natural gas utility expenditures on efficiency plans in the past, those programs have an important role to play in providing additional customer education and incentives for conservation that result in cost-effective energy savings. Therefore, the Commission should reject the argument by the Ohio Consumers' Counsel ("OCC") seeking modification of the Stipulation to discontinue funding for energy efficiency programs for non-low-income customers. OCC Initial Br. at 26.

In fact, the Commission rejected exactly this argument by OCC in approving Columbia's efficiency programs in 2016, less than three years ago. The Commission explained that it "has long-recognized that conservation and energy efficiency should be an integral part of natural gas policy," as long as programs "are cost-effective, produce demonstrable benefits, and produce a reasonable balance between reducing total costs and minimizing impacts on non-participants." *Columbia DSM Case*, Case Nos. 16-1309-GA-UNC *et al.*, Opinion and Order (Dec. 21, 2016) at 63. OCC has provided no evidence that Vectren's proposal to continue moderate spending on its existing, cost-effective energy efficiency programs does not meet this standard. It is also worth noting that OCC's argument is based on at least one incorrect premise – the assertion that Vectren's energy efficiency programs serve a very small proportion of its residential customers, only 11,000 as of early 2018. OCC Initial Br. at 26-27. That figure does not reflect Vectren's proposal to institute a new Home Energy Report program as of 2019 to reach over 77,000 participants annually. OCC Ex. 8, Harris Direct Test. at 13. Therefore, Vectren has proposed energy efficiency programs that could at least provide information about energy-saving options to a significant number of its residential customers over the term of the plan. *See* OCC Ex. 1A, Shutrump Supp. Test. at 5 n.4 (Vectren has approximately 297,000 residential customers). The Commission should not deprive Vectren customers of these opportunities for cost-effective conservation.

## III. CONCLUSION

Vectren's proposal in this proceeding is designed to increase the Company's revenue certainty but will disadvantage customers and increase overall costs by sending the wrong price signal. Moreover, it ignores the already high fixed monthly charges of $27.62 that Vectren customers currently pay. Increasing those charges will lead to higher system costs in the long run and will hurt Vectren's most vulnerable customers. The fixed charge levels in the Stipulation will not benefit Vectren ratepayers and the public, and the Commission should not increase Vectren's customer charge for residential and small commercial customers.

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Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Reply Brief was filed electronically through the Docketing Information System of the Public Utilities Commission of Ohio on April 23, 2019. The PUCO's e-filing system will electronically serve notice of the filing of this document on counsel for all parties.

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