THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF VECTREN ENERGY DELIVERY OF OHIO, INC. FOR APPROVAL OF 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**
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**

OPINION AND ORDER

Entered in the Journal on August 28, 2019

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I. Summary

{¶ 1} The Commission adopts the stipulation resolving all issues related to Vectren Energy Delivery of Ohio, Inc.'s combined applications for an increase in rates and for alternative rate plans.

II. Applicable Law

{¶ 2} Vectren Energy Delivery of Ohio, Inc. (VEDO or the Company) is a natural gas company and a public utility as defined by R.C. 4905.03 and R.C. 4905.02, respectively. As such, VEDO is subject to the jurisdiction of this Commission pursuant to R.C. 4905.04, 4905.05, and 4905.06.

{¶ 3} The fixation of rates for public utilities in the state of Ohio is governed by R.C. Chapter 4909. The statutory requirements for an application to increase a public utility's rates are enumerated in R.C. 4909.17, 4909.18, 4909.19, and 4909.43. Additionally, pursuant to R.C. 4929.05(A), a natural gas company may request approval of an alternative rate plan by filing an application to establish or change a rate under R.C. 4909.18. After an investigation, the Commission shall approve the alternative rate plan if the natural gas company demonstrates, and the Commission finds, that the company is in compliance with R.C. 4305.35, is in substantial compliance with the policy of the state as set forth in R.C. 4929.02, and is expected to continue to be in substantial compliance with that state policy after implementation of the plan. The Commission must also find that the alternative rate plan is just and reasonable. R.C. 4929.05.

III. History of Proceedings

{¶ 4} On January 3, 2018, VEDO filed notice of intent to file an application for an alternative rate plan under R.C. 4929.05 to recover the costs associated with its capital expenditure program (CEP). *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 (*CEP Rider Case*).

{¶ 5} On February 21, 2018, VEDO filed two additional notices of intent. First, the Company filed notice of intent to file an application for an increase in its natural gas distribution rates. Second, the Company filed a notice of its intent to file an application for approval of an alternative rate plan to extend its distribution replacement rider (DRR), among other proposals. *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval of an Increase in 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 (together, *Combined Filings Case*).

{¶ 6} Subsequently, on February 23, 2018, VEDO filed a motion to establish a test year and date certain and for waiver from the administrative rule requiring all testimony in support of an application for an alternative rate plan be filed with the application. By Entry issued March 14, 2018, the Commission approved the Company's proposed date certain of December 31, 2017, and the proposed test year as the 12-month period ending September 30, 2018. The March 14, 2018 Entry also granted the requested waiver and directed VEDO to file direct testimony in support of both its application for an alternative rate plan and its application for an increase in rates no later than 14 days after the filing of the applications.

{¶ 7} On March 30, 2018, VEDO filed a combined application for an increase in rates and charges and for approval of an alternative rate plan pursuant to R.C. 4909.18 and R.C. 4929.05, respectively, in the *Combined Filings Case*. On April 13, 2018, VEDO filed its application for an alternative rate plan in the *CEP Rider Case*. By Entry issued May 24, 2018, the attorney examiner granted a motion filed by VEDO to consolidate all three cases into a single proceeding (*Rate Case*).

{¶ 8} Meanwhile, on May 23, 2018, the Commission found that the March 30, 2018 combined application met the requirements of R.C. 4909.17 to 4909.19, as well as the Standard Filing Requirements and Ohio Adm.Code 4901:1-19-06, and accepted the Company's combined application as of its filing date. The Commission also ordered VEDO to begin publication of the newspaper notice required by R.C. 4909.19.

{¶ 9} On October 1, 2018, Staff filed a comprehensive written report of its investigation (Staff Report) as directed by R.C. 4909.19 in the docket for Case No. 18-298-GA-AIR. The Staff Report was filed in the remaining two case dockets, Case Nos. 18-49-GA-ALT and 18-299-GA-ALT, on October 2, 2018.

{¶ 10} On October 3, 2018, the attorney examiner issued an Entry directing that objections to the Staff Report be filed in accordance with R.C. 4909.19 and Ohio Adm.Code 4901-1-28(B), with motions to strike objections and related memoranda contra being due on or before November 7, 2018, and November 14, 2018, respectively. In the same Entry, the attorney examiner established a procedural schedule for the *Rate Case* under which pre-filed testimony was to be filed pursuant to Ohio Adm.Code 4901-1-29, motions to intervene were to be filed by October 31, 2018, a prehearing conference was set for November 14, 2018, and the evidentiary hearing was scheduled for December 4, 2018. The attorney examiner added three local public hearings to the schedule of events by Entry issued October 5, 2018.

{¶ 11} Prompted by a motion filed by Ohio Consumers' Counsel (OCC) on October 19, 2018, related briefing by VEDO, and an October 22, 2018 motion filed by Staff, the attorney examiner issued an Entry dated October 26, 2018, that extended the deadline for submitting pre-filed testimony to November 7, 2018, and continued the prehearing conference to November 15, 2018.[1]

{¶ 12} On October 31, 2018, the City of Dayton (Dayton or City) and Honda of America Mfg., Inc. (Honda); Ohio Partners for Affordable Energy (OPAE); Environmental Law & Policy Center (ELPC); Interstate Gas Supply, Inc. (IGS); VEDO; OCC; and Retail Energy Supply Association (RESA) filed timely objections to the Staff Report. On November 7, 2018, VEDO moved to strike certain objections filed by IGS and RESA, and OCC moved

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1 On November 5, 2018, the attorney examiner issued an Entry that changed the time, but not the date, of the prehearing conference.

to strike objections filed by VEDO and IGS. VEDO, RESA, and IGS responded with memoranda contra the motions to strike.

{¶ 13} On November 9, 2018, the attorney examiner granted motions to intervene filed by OCC, OPAE, ELPC, Honda, Dayton, IGS, RESA, and Federal Executive Agencies FEA).[2] With the same entry, the attorney examiner granted the motions of P. Jason Stephenson and Andrew J. Unsicker to appear and participate as counsel pro hac vice for VEDO and FEA, respectively. The attorney examiner also granted a motion filed by RESA to accept as timely filed the testimony of James L. Crist, P.E., and accepted to the record the corrected testimony of Tamara Dzubay submitted by ELPC and the refiled direct testimony of Brian C. Collins submitted by FEA.

{¶ 14} The Commission held three local public hearings in order to elicit testimony from VEDO's customers. The first hearing was held November 15, 2018, in Dayton, Ohio. The second hearing was held November 26, 2018, in Washington Court House, Ohio, and the third hearing was conducted on November 28, 2018, in Sidney, Ohio. All told, 11 witnesses testified at the local public hearings. Additionally, over the course of the *Rate Case*, 30 public comments were filed to the docket, including one filing that amassed over 200 comments from individuals identified as VEDO customers. A majority of the public testimony and comments expressed concern regarding the Company's proposed increase to fixed monthly charges.

{¶ 15} The adjudicatory hearing was called as scheduled on December 4, 2018. At that time, the attorney examiner granted a November 28, 2018 motion to continue filed by VEDO. As indicated in the transcript, the attorney examiner continued the hearing to January 7, 2019.

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2 The attorney examiner clarified that, although three entities filed their motions to intervene in the *Combined Filings Case* before they were consolidated with the *CEP Rider Case*, all intervenors are treated as parties to all three cases in the consolidated *Rate Case*.

{¶ 16} On January 4, 2019, VEDO filed a stipulation and recommendation (Stipulation). On January 7, 2019, RESA filed correspondence and a copy of a signature page indicating that it, too, joined the Stipulation; and, on January 17, 2019, Honda filed correspondence indicating its non-opposition to the Stipulation. Ultimately, the Stipulation was executed by the Company, Staff, Dayton, FEA, IGS, and RESA (Signatory Parties) and unopposed by Honda.

{¶ 17} Also on January 4, 2019, VEDO and Staff filed a joint motion for continuance of the evidentiary hearing in order to provide parties in opposition to the Stipulation additional time to prepare. Once again, the attorney examiner called the hearing to order as scheduled and, while on the record, granted the motion to continue.[3]

{¶ 18} Ultimately, the evidentiary hearing proceeded in three phases over the course of six total days. First, from January 29 through February 1, 2019, the parties presented testimony in support of the Stipulation. Second, on February 19 and February 20, 2019, the parties presented testimony in opposition to the Stipulation. Finally, on March 12, 2019, the evidentiary hearing concluded with the presentation of rebuttal testimony.

{¶ 19} Initial post-hearing briefs were timely filed by FEA, OPAE, Staff, VEDO, RESA and IGS, OCC, and ELPC.[4] On April 8, 2019, OCC filed a corrected version of its initial brief. On April 9, 2019, VEDO filed a motion to strike portions of OCC's initial brief, request for expedited treatment, and request for shortened response period. On April 11, 2019, the attorney examiner ordered that any response to VEDO's motion to strike be filed by April 12, 2019. Pursuant to that mandate, OCC filed its memorandum contra motion to strike; RESA and IGS also filed a responsive memorandum in support of the motion to strike. On

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3 While on the record, the attorney examiner also granted a motion for admission pro hac vice filed by ELPC and a motion for substitution and excusal of counsel filed by FEA.

4 On April 22, 2019, ELPC submitted a corrected initial post-hearing brief with correspondence explaining the basis for the correction. No party objected to the corrected version. The Commission accepts the corrected filing.

April 23, 2019, Staff, OPAE, VEDO, OCC, Dayton, ELPC, and RESA and IGS filed post-hearing reply briefs.

IV. Discussion

A. Objections to the Staff Report

{¶ 20} Together, the parties in opposition to the Stipulation—ELPC, OCC, and OPAE (collectively, the Opposition)—filed 36 objections to the Staff Report. In initial briefing, however, only two of those objections were briefed independently from the parties' arguments regarding the Commission's three-part test for analyzing the reasonableness of the Stipulation. In this section of our discussion, the Commission will concentrate on those two objections. Following the parties' lead, the Commission will address all other briefed objections in the context of our scrutiny of the Stipulation.[5]

1. Investor Relations Expense

{¶ 21} OCC objects that, in adjusting miscellaneous expenses in the test year to eliminate certain operations and maintenance (O&M) expenses, the Staff Report failed to recommend that a portion of investor relations expense be removed. In support of this objection, OCC points to the testimony of its witness Ralph C. Smith, who stated that investor relations expenses are generally those costs incurred informing shareholders and other investors about the utility's capital spending and ability to access debt and/or equity markets to finance capital spending. As such, Mr. Smith concludes that a significant portion of VEDO's investor relations expenses are for the benefit of VEDO's shareholders. And, given this testimony that the expenses primarily benefit shareholders, OCC states that it is unjust and unreasonable that customers pay 100 percent of investor relations expenses in the test year. OCC argues that there should be a 50 percent reduction to the investor relations expense, which would result in the removal of $96,143 from the test year O&M

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[5] Pursuant to Ohio Adm.Code 4901-1-28(D), in rate case proceedings, an objection to a staff report is deemed withdrawn if a party fails to address the objection in its initial brief.

expense and would demonstrate a more appropriate balance between shareholders and customers. (OCC Ex. 2A at 11.)

{¶ 22} Staff and VEDO disagree with OCC. Staff concedes that, in principle, a 50/50 apportionment of investor relation expenses would be reasonable. Regardless, Staff's position remains that the inclusion of the full investor relations expense in test-year O&M is also reasonable, especially in light of the result as a whole. (Staff Ex. 4 at 2; Tr. Vol. IV at 371-372.) Similarly, VEDO contends that, while OCC may disagree with the Staff Report, OCC did not effectively discredit or otherwise discount its reasonableness. (*Id.*) VEDO adds that Ohio law does not draw a distinction between expenses that benefit ratepayers versus shareholders; instead, VEDO is simply permitted to recover its prudent expenses. To support this contention, VEDO states that, under R.C. 4909.15(A)(4), it is entitled to recover the "cost of * * * rendering the public utility service for the test period," including "revenues and expenses" under division (C)(1), and that such "operating expenses are recoverable if they were incurred in rendering service during the test period and are prudent." *In re Duke Energy Ohio, Inc.*, 150 Ohio St.3d 437, 2014-Ohio-328, 82 N.E.3d 1148, ¶ 16, 19. Thus, argues VEDO, there is no legal basis for OCC's demand that the investor relations expense be reduced by half.

{¶ 23} The Commission finds that the expense for investor relations should not be adjusted and that the stipulated expense is part of a fair compromise between the parties. We agree with VEDO that recovery of the investor relations expense is consistent with our decision in *In re Ohio American Water Co.*, in which we determined that investor relations expenses provide a direct and primary benefit to customers by promoting a strong and healthy company and are thus a necessary cost of doing business. *In re Ohio American Water Co.,* Case No. 09-391-WS-AIR, Opinion and Order (May 5, 2010) at 19-20. Moreover, the entire investor relations expense for the test year was less than $100,000 (OCC Ex. 1B at 19). VEDO, on the other hand, agreed in the Stipulation to a reduction in the proposed increase in the revenue requirement from the Company's application of over $11 million (Jt. Ex. 2 at 1, line. 9). Thus, we agree with Staff that recovery of the full expense for investor relations is a reasonable component of a settlement, which, as a package, benefits ratepayers and the public interest (Tr. Vol. IV at 372).

2. Straight Fixed Variable Rate Design

{¶ 24} The Opposition raise multiple objections to Staff's acceptance and adoption of VEDO's proposed straight fixed variable (SFV) rate design. Although each party frames its arguments differently, the focus of the objections is similar. The Opposition allege that the SFV rate design should be rejected because it negatively impacts low-income and low-usage customers, sends improper price signals, and discourages conservation. Additionally, these parties intersperse throughout their objections the notion that factors which the Commission previously used to justify the SFV rate design have changed significantly; thus, they allege that it is unreasonable to continue the design.

a. Impact on Low-Income/Low-Usage Customers

{¶ 25} All three parties of the Opposition argue that placing the base rate increases into the fixed portion of residential customers' bills negatively impacts low-income and low-use residential customers.

{¶ 26} According to OCC, the strict SFV rate design—in which all distribution costs are included in a fixed charge as opposed to funneling some distribution costs through a volumetric component—skews the burden of rate increases toward low-use customers. In other words, OCC believes that low-usage customers (i.e., customers with less than average consumption) who maintain current usage patterns bear a disproportionate increase in their natural gas bills. Thus, OCC characterizes the SFV rate design as regressive, meaning it causes a greater impact on low-use and low-income customers, as well as low-use elderly customers on fixed incomes. (OCC Ex. 6A at 8-13.) OPAE fully joins OCC in this argument.

{¶ 27} Coming at it from a slightly different angle, ELPC first stresses that Commission precedent by which the SFV rate design was adopted displayed careful consideration of whether the rate design would have negative impacts for natural gas customers. As described by ELPC, the Commission placed great importance on how the SFV rate design would affect customers and customer bills. For example, the Commission found that the levelized rate design would produce more stable customer bills throughout the year; determined that a wholly fixed charge would be easier for customers to understand than the alternative: a decoupling rate design in which a low customer charge is paired with a true-up rider; and concluded that, on average, low-income customers would enjoy lower bills under the rate design due to their tendency to use more natural gas than all but the highest income residential customers in the service area. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 07-1080-GA-AIR, et al. (*2007 Rate Case*), Opinion and Order (Jan. 7, 2009) at 11-12.

{¶ 28} Yet here, contends ELPC, the Staff Report (and ultimately the Stipulation) continues to embrace the SFV design despite the fact that VEDO failed to present evidence of these noted customer impacts in support of its application. ELPC asserts that testimony presented by the Opposition—such as the testimony of ELPC witness Ron Nelson—demonstrates that increased fixed customer charges disproportionately harm low-income and low-usage customers (ELPC Ex. 2). Further, according to ELPC, VEDO's own analysis shows significant bill increases for a majority of its residential customers, especially low-income and low-usage customers. Thus, ELPC notes that, while VEDO may assert that low income does not equate to low usage, the data used to support the assertion demonstrates that more than half of the low-income customers included in the analysis use lower-than-average amounts of natural gas (VEDO Ex. 11.3 at 18; ELPC Ex. 7). ELPC characterizes the underlying data as being in agreement with the independent analysis its own witness provided, which concludes that high fixed charges hurt the majority of customers and that the majority of customers are low use (ELPC Ex. 2A at 8).

{¶ 29} Moreover, ELPC observes that the information VEDO initially provided regarding customer usage levels in connection with energy efficiency programs suggests that the Company's position may actually constitute a significant understatement of the negative impacts of the SFV rate design on low-income, low-usage customers. Comparing the testimony of VEDO witnesses Harris and Swiz, ELPC notes that Mr. Swiz found significantly fewer low-income households consuming significantly larger amounts of gas as compared to Ms. Harris; ELPC states that the discrepancies between the Company's own information regarding low-income customers cannot be attributable to chance. Joining in, OCC argues that, in part, the discrepancy is attributable to the methodology implemented by Mr. Swiz, which excluded from the data any premises that did not have a full 12 months of usage data in the examined timeframe. OCC declares that, while the Company acknowledged that many of the excluded premises may have been missing months due to disconnection, it failed to consider the degree to which those disconnects were related to non-payment. OPAE raises similar concerns. Thus, the Opposition argue that the data provided by VEDO regarding the true impact of the SFV rate design on low-income customers, regardless of usage, is inconclusive and that VEDO has failed to meet its burden.

{¶ 30} On this point, OPAE further argues that the Commission's previous conclusion regarding the impact of the SFV rate design on low-income customers is invalid because it is based on inaccurate information and should not be relied upon. OPAE characterizes the Commission's use of percentage of income payment plan customers as a proxy for low-income customers in the *2007 Rate Case* as obviously erroneous. Thus, having argued to discredit both VEDO's current and the Commission's previous data points, OPAE urges that the more reliable evidence is presented by ELPC witness Nelson, whose analysis indicates that a majority of residential customers consume a low amount of natural gas, with 70 percent of residential customers consuming less than the average single-family home (ELPC Ex. 2A at 7-8). Further, OPAE contends that the data shows that low-use and low-income customers will be worse off under the SFV rate design, while a relatively few high-use customers will benefit (*Id.* at 18). Accordingly, in agreement with ELPC, OPAE stresses that the only reasonable conclusion to be drawn is that the SFV rate design hurts the majority of customers (*Id.* at 8).

{¶ 31} In addition to arguing that the SFV rate design creates harm, ELPC asserts that VEDO has not adequately established any benefit of the SFV design to low-income customers. Harkening back to the Commission's findings in the *2007 Rate Case* that the SFV rate design produces more stable customer bills throughout the year, ELPC argues that VEDO does not sufficiently address the fact that budget billing mechanisms give customers the same opportunity to levelize bills (Tr. Vol. VI at 480). Per ELPC, the only difference VEDO could cite between a bill being levelized through SFV design versus budget billing is the potential for unexpected costs related to the annual true-up inherent to the latter (Tr. Vol. VI at 484-485). This distinction fails to impress ELPC, who observes that VEDO's witness did not do an analysis of the amount of these true-ups; nor could he speak to the number of customers who participate in the budget billing program (Tr. Vol. VI at 510). ELPC asserts, and OPAE agrees, that, absent such evidence, there is nothing in the record to support the conclusion that expanding the SFV rate design will materially benefit customers.

b. Price Signals

{¶ 32} ELPC also objects to the SFV rate design on the basis that it does not reasonably reflect VEDO's cost of service and sends improper price signals. ELPC begins its argument with the assertion that VEDO's own evidence demonstrates that the SFV rate design inappropriately treats significant demand-related costs as fixed costs. ELPC notes that, while VEDO witness Feingold states that a wholly fixed customer charge is appropriate for residential customers as a matter of principle because all costs in the Company's rate base are fixed costs, the cost-of-service study reflects that a significant portion of those "fixed" costs are demand-related and, therefore, vary over time and between individual customers. (ELPC Ex. 6C.) ELPC explains that the Company calculated demand-related costs based on "design day demand," which looks at customers' connected loads, i.e., major gas-using appliances and the maximum volume of gas required to service those connected loads. Further explaining, ELPC states that design day demand increases can require investments in new or replacement distribution assets, which is why VEDO recovers these costs through a volumetric charge with larger commercial and industrial customers. ELPC, therefore, questions why recovery of these demand-related costs through the fixed customer charge SFV rate design is acceptable for residential and small commercial customers.

{¶ 33} According to ELPC, the SFV design fundamentally ignores the fact that, while demand-related costs may be static in the short timeframe of a single, company-chosen test year, most demand-related costs are variable in the grand scheme because the distribution system is built to meet the peak demands of customers, which vary over time. ELPC supposes that recovering these costs through a fixed charge tells customers that increased consumption will not increase system costs, which it labels an improper price signal. (ELPC Ex. 2 at 8, 14.) In support of its conclusion, ELPC points to, and urges the Commission to adopt, the views of public utility regulators in other states who have denounced rate designs that permit the recovery of all distribution costs, including demand-related costs, through a fixed charge that does not vary with consumption. In short, ELPC argues that the uniform, high fixed charge inherent to the SFV design fails to reflect significant amounts of variable, demand-related costs and, therefore, sends an inaccurate price signal. This is true, states ELPC, even within the separate customer classes, where a residential customer with a single, efficient gas-powered appliance must pay the same fixed charge as a residential customer with multiple, inefficient gas-powered appliances despite the fact that the latter customer puts greater demand on the system.

{¶ 34} OPAE joins ELPC in condemning the continued use of the SFV rate design due to the design's allegedly improper price signals. OPAE stresses that, when the Commission first adopted the SFV rate design, gas prices were three times higher than they are now (ELPC Ex. 2 at 13; ELPC Ex. 2A at 12). Thus, OPAE notes that, at that time, the commodity portion of the gas bill comprised 75 to 80 percent of the total bill and, therefore, gas usage would still have the biggest influence on price signals received by customers. *2007 Rate Case*, Entry on Rehearing (Aug. 26, 2009) at 7. OPAE points out that, now, however, gas prices are so low that the commodity portion of the average residential customer's bill is less than 50 percent. OPAE asserts that the significant decreases in natural gas prices have significantly changed the impact of high fixed charges on the price signals they convey to customers. (ELPC Ex. 2 at 13.) As such, OPAE argues that price signals are no longer sent, and certainly not received, through the commodity portion of the bill; instead, those signals are muted by the dominant fixed charges. Moreover, says OPAE, high fixed charges for little or no usage does not square with customer expectations; the price signal broadcasted is that the customer's usage does not affect the customer's bill, at least not in a meaningful way.

c. Conservation

{¶ 35} Tied to their arguments regarding price signals, ELPC and OPAE also object that the rising fixed charges inherent to the SFV rate design will significantly decrease customer incentives for conservation and efficiency. ELPC again directs the Commission's attention to its previous observations in the *2007 Rate Case*, wherein the Commission decided that the SFV rate design would not pose an unreasonable obstacle to customer conservation because the commodity cost would continue to represent 75 to 80 percent of the customer bill. *2007 Rate Case*, Opinion and Order (Jan. 7, 2009) at 12. But here, states ELPC, the evidence shows that continuation of the SFV design would leave an average customer with the commodity portion being just 28 to 35 percent of the monthly bill by 2024 (ELPC Ex. 2A at 12). According to ELPC, it is unreasonable for the Commission to rely on its previous adoption of the SFV design where its negative impact on conservation is no longer hedged by high commodity prices, and the Commission cannot rely on the Company's energy efficiency programs to mitigate the impact because the Company's own witness testified that rate design and potential bill savings play an important role in customer preferences, marketing of efficiency programs, and program effectiveness (Tr. Vol. VI at 566, 578). With high fixed charges and low commodity costs, ELPC argues that consumers will be less likely to conserve for the simple fact that conservation efforts will not result in noticeably lower bills. Moreover, according to ELPC, customers who invested in energy efficiency measures are less likely to see the value of those investments come to fruition with the SFV rate design.

{¶ 36} OPAE also argues that the SFV rate design undermines investments in efficiency by reducing the potential bill savings and, thus, the effectiveness of demand side management programs. Indeed, OPAE asserts that the SFV design penalizes customers who have undertaken energy efficiency investments because the higher fixed charge results in a lower commodity-based charge and lower volumetric charges encourage consumption. Further, OPAE contends that investment returns are diminished and payback periods increased as a result of the SFV design. (OCC Ex. 6A at 15.)

d. Opposition's Alternative Suggestion

{¶ 37} According to the Opposition, the solution to the harm caused by the SFV rate design is a rate design that includes a volumetric component. Though its preferred course of action would be the elimination of any fixed charge, OCC alternatively suggests that the Commission maintain the current fixed residential charge and apply any approved base rate increases, as well as the DRR and CEP, to a volumetric component. OCC additionally recommends that the Commission approve a volumetric revenue decoupling component to the residential rate design; this symmetrical mechanism would reconcile VEDO's revenue through an annual true-up and provide residential customers with a credit when the Company's authorized revenue requirement is exceeded. (OCC Ex. 6 at 5-6, 10-11, 18; OCC Ex. 6A at 6, 8, 20-22.)

{¶ 38} ELPC agrees with OCC in this regard. While recognizing that some bill increase is inevitable, ELPC asserts it is inequitable to implement the SFV rate design that will shift the greater impact of that increase to low-income, low-usage customers when a rate design that includes a volumetric component can be used. Here, ELPC points to OCC witness Gonzalez's testimony, which shows that a customer consuming 50 hundred cubic feet (CCF) per month would experience a rate increase of only 4.28 percent (instead of 9.36 percent) in the first year if only the alternative rate structure was used to collect the same revenue requirement (OCC Ex. 6A at 10). And, states ELPC, the percentage differential only grows as the total fixed charge increases through 2024 (*Id.*).

{¶ 39} ELPC further argues that this approach would more reasonably reflect VEDO's cost of service, i.e., it would permit VEDO to recover demand-related costs through a volumetric component, and send proper price signals to customers (ELPC Ex. 2 at 11-12). Additionally, ELPC contends that a rate design that embraces a volumetric component recognizes the importance of sending long-term price signals in favor of conservation.

{¶ 40} OPAE joins in this push for a volumetric component and champions the use of a decoupling rider. OPAE notes that VEDO's existing Sales Reconciliation Rider-A (SRR-A) is a decoupling rider and urges the Commission to consider using the mechanism to ensure recovery of the revenue requirement in a manner that would not harm low-use, low-income customers as an alternative to the SFV rate design. OPAE argues that decoupling through the SRR-A better aligns ratepayers' interests with those of the Company. (OPAE Ex. 1A at 8; OCC Ex. 6A at 6.)

e. Response

{¶ 41} Staff and VEDO filed briefs responding to the Opposition's objection on this issue. Staff opines that the Opposition place the emphasis of a rate case proceeding on the wrong issue. Staff agrees that the Commission must be mindful of consumer behavior and the impact that the cost of providing service has on bills, but disagrees with the Opposition's tendency to make consumer behavior and bill impacts the primary focus. Instead, according to Staff, utilities must provide safe, reliable service at a reasonable cost. Therefore, the primary focus must be ensuring that the utility recovers its costs of service in order to meet that goal. In Staff's view, the SFV rate design accomplishes this goal in a manner that promotes state policies, delivers customer benefits, and ensures that the Company recovers the fixed costs associated with natural gas distribution. Thus, Staff urges the Commission to exercise its discretion to continue the SFV rate design adopted and applied over the last decade.

{¶ 42} VEDO similarly seeks to refocus the discussion. The Company asserts that, contrary to the Opposition's stance, no single portion of a rate class is harmed by the SFV design that equitably allocates the share of fixed costs of delivery service. Instead, the Company asserts that the cost of serving a customer does not change based on how much gas is consumed or the customer's level of income. VEDO further argues that, despite the Opposition's attempt to muddy the analytical waters, the evidence in the record confirms that there is no direct correlation between income and usage in VEDO's residential class (VEDO Ex. 11.2 at 13-20).

{¶ 43} Moreover, VEDO states that the bill impact figures presented by the Opposition misstate and exaggerate immediate bill impacts by inappropriately wrapping not only the proposed base rate increase but also existing fixed DRR charges into a volumetric component without explaining how or why the DRR would be moved from its current fixed-rate rider form to a volumetric rider. VEDO argues that the weight of the evidence still shows that low-income customers tend to be higher-than-average users. VEDO further contends that the analytical discrepancies allegedly identified by ELPC and OCC simply do not exist; instead, the Company fully explained the differences between the market potential study data in support of energy efficiency programs and the income and usage analysis performed by VEDO witness Swiz (VEDO Ex. 9.2 at 6-7). Finally, VEDO asserts that rate designs implementing a volumetric component presented by the Opposition are poor alternatives to the SFV rate design in that volumetric designs cause greater cross subsidies between low-use and high-use customers, materially skew price signals, and further remove the delivery rate away from the actual cost to serve.

{¶ 44} VEDO submits that the Opposition's objections to the SFV rate design based on price signals are incorrect. First, VEDO asserts that, even assuming ELPC's argument is true, which it denies, and changes in peak demand would actually cause VEDO to construct a different sized gas distribution system, such a result is irrelevant to this proceeding. According to VEDO, ELPC's scenario looks to the future, not to the test year upon which rate recovery is designed. (VEDO Ex. 12.1 at 23.) Furthermore, VEDO notes that ELPC's argument assumes that individual customer differences in peak demand cause VEDO to incur different costs in constructing its gas distribution system, but there is no evidence to support that conclusion. To the contrary, states VEDO, variations in individual customers' demands do not translate into different demand-related costs of service; it is neither feasible nor efficient to segregate or calculate the actual cost to serve each member of a class. Therefore, VEDO's gas distribution system is designed to meet the aggregate design day demand of its residential class and, as such, the cost of gas delivery is the same for low-demand and high-demand residential customers. (VEDO Ex. 12.1 at 32-34.)

{¶ 45} With regard to the Opposition's attention to commodity costs, VEDO argues that changing the design of gas delivery rates based on current market prices of the commodity does not send the proper price signal on avoidable costs. Similar to its previous contention that the cost of distribution does not change based on the customer's income level, VEDO states that the fact that delivery costs are fixed has not, and will not, change with the cost of gas. (VEDO Ex. 12.1 at 5-6, 8-10, 13, 15-16.) VEDO further states that a rate design that recovers fixed costs volumetrically will signal customers to make inaccurate and inefficient energy conservation and efficiency decisions; indeed, the SFV design was intended to correct an overstatement of gas bill savings due to a portion of VEDO's fixed costs of gas delivery service being recovered through a volumetric component. (VEDO Ex. 12.1 at 8, 10-11, 16-17, 36-39.) VEDO urges that the two concepts—delivery and supply/commodity—must be priced separately to recognize that their cost-causation characteristics are dissimilar. Therefore, VEDO believes that limiting the volumetric portion of the bill to the recovery of commodity costs continues to be the more economically efficient price signal that reflects the value and utilization of the natural resource. (VEDO Ex. 12.1 at 10-11.) And VEDO adds that, while a customer can still benefit from the lower price of gas with a lower commodity charge, the same customer cannot avoid paying its fair share of the delivery cost of that gas.

{¶ 46} Finally, in response to ELPC's and OPAE's contention that the SFV rate design discourages conservation, VEDO states that the evidence proves otherwise. The Company argues that the SFV design has been in place over the past decade and has not adversely affected its or its customers' efforts to reduce usage or recognize energy savings. In fact, states VEDO, while the design has been in place, the average use per customer has decreased by almost ten percent even though the price of gas has declined (VEDO Ex. 12.1 at 39). Further, over the same time period, VEDO has consistently met its energy savings goals (VEDO Ex. 9.2 at 11-12). In VEDO's view, the Opposition simply has not shown that continuation of the SFV rate design will cause an increase in consumption or, for that matter, that movement away from the SFV design will generate additional savings or efficiency.

f. Commission Conclusion

{¶ 47} The Commission finds that the evidence in the record of this case supports the retention of the SFV rate design as recommended by Staff and as agreed to in the Stipulation. We note that the Commission established that the SFV rate design is the appropriate rate design for natural gas company distribution rates through a series of decisions, beginning with Case No. 07-589-GA-AIR, et al., and including the *2007 Rate Case*. *In re Duke Energy Ohio, Inc.*, Case No. 07-589-GA-AIR, et al., Opinion and Order (May 28, 2008), *aff'd, Ohio Consumers' Counsel v. Pub. Util. Comm.*, 125 Ohio St.3d 57, 2010-Ohio-134, 926 N.E.2d 261; *In re The East Ohio Gas Company dba Dominion East Ohio*, Case No. 07-829-GA-AIR, et al. (*Dominion East Ohio*), Opinion and Order (Oct. 15, 2008), *aff'd, Ohio Consumers' Counsel*, 125 Ohio St.3d 57, 2010-Ohio-134, 926 N.E.2d 261; *In re Columbia Gas of Ohio, Inc.*, Case No. 08-72-GA-AIR, et al., Opinion and Order (Dec. 3, 2008); *2007 Rate Case*, Opinion and Order (Jan. 7, 2009), *aff'd, Ohio Consumers' Counsel v. Pub. Util. Comm.*, 127 Ohio St.3d 524, 2010-Ohio-6239, 941 N.E.2d 757. We see no basis in the record of this case for deviating from these precedents (VEDO Ex. 12.1 at 6-10; Staff Ex. 10 at 5). However, we also note that, notwithstanding our precedents on rate design, VEDO bears the burden of proof in this proceeding, and we find that the weight of the evidence in this case decisively favors retention of the SFV rate design.

{¶ 48} In *Dominion East Ohio*, the Commission recognized that SFV rate design provided a more equitable cost allocation among residential customers because the costs of providing distribution service are principally fixed and each residential customer should bear an equal proportion of the distribution costs. *Dominion East Ohio*, Opinion and Order

(Oct. 15, 2008) at 24-25. The evidence in the record in this case demonstrates that SFV rate design results in rates that track embedded costs more accurately, eliminating intra-class subsidies and undue discrimination in the residential and small commercial classes (VEDO Ex. 12.1 at 12). The record also confirms that SFV rate design promotes cost causation because the Company's costs of providing distribution service to the residential class are relatively uniform (VEDO Ex. 12.1 at 15-16, 25, 29-30). The testimony of VEDO witness Feingold explains why such costs recognize the sizing of a gas utility's distribution facilities and the economies of scale in the design of a gas system (VEDO Ex. 12.1 at 25-27). Moreover, ELPC witness Nelson's objections to the recovery of demand-related costs through a customer charge (ELPC Ex. 2 at 9, 10) were effectively rebutted by Mr. Feingold, who explains that the use of the utility's distribution service does not influence how the fixed costs of gas delivery are incurred in order to serve different sized residential customers and to satisfy their design capacity requirements (VEDO Ex. 12.1 at 25-26, 27, 31-32).

{¶ 49} In disputing the SFV rate design, OCC and OPAE continue to conflate low-usage customers with low-income customers. However, the record demonstrates that low-income customers are not necessarily low-usage customers. We are not persuaded by the efforts to use the energy efficiency market study as evidence that low-income customers are low-usage customers. ELPC witness Nelson, OCC witness Gonzalez, and OPAE witness Rinebolt all rely upon an energy efficiency market potential study and action plan (MPSAP) as evidence that low-income customers are low-usage customers (ELPC Ex. 2; ELPC Ex. 3; OCC Ex. 6; OCC Ex. 6A; OPAE Ex. 1; OPAE Ex. 1A; VEDO Ex. 11.3 at 12-13). The MPSAP was included in VEDO's application in this proceeding but was not offered for admission by VEDO.[6] Instead, the MPSAP was offered for admission by OCC (OCC Ex. 8). The MPSAP contains a table (Table 3-1) which purports to show gas usage for low-income

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6 In its application, VEDO sought recovery of its energy efficiency programs through base rates, and the MPSAP was intended to support that request. However, in the Stipulation, the Signatory Parties agreed that the energy efficiency programs would be recovered through a separate rider and that the amount of that rider would be determined in a subsequent proceeding. Therefore, the MPSAP was no longer relevant for its intended purpose and was not offered for admission by VEDO.

customers. Table 3-1 indicates that low-income households in single-family housing use an average of 737 CCF per year and that low-income households in multi-family housing use an average of 509 CCF per year. (OCC Ex. 8, Attachment A at 24, Table 3-1). VEDO witness Harris testified that the MPSAP was prepared under her supervision and is used by VEDO to identify and implement cost-effective energy efficiency programs (Tr. Vol. VI at 563; VEDO Ex. 9.2 at 4). Ms. Harris contended that data in Table 3-1 was not compiled to determine or draw any conclusions regarding the relationship between income and usage. Instead, Table 3-1 was intended to provide "directional guidance" on the nature of VEDO's residential customer market. According to Ms. Harris, a survey-based market characterization is reasonable for a general understanding of the residential market. Ms. Harris claimed that, in order to study the relationship between income and usage in residential customers, a different set of assumptions and data should be used to estimate usage and income levels with a higher degree of accuracy. Ms. Harris further testified that low-income participants in VEDO's energy efficiency programs have an average annual energy use of 800-1100 CCF, based on the last five years of participation. This estimate is based upon billing data of actual participants in VEDO's low-income energy efficiency program (VEDO Ex. 9.2 at 8-9). The Commission notes that Ms. Harris' estimate of usage for low-income customers based upon participation may be subject to sample bias (Tr. Vol. VI at 571-573, 587). Nonetheless, the Commission finds that Ms. Harris' testimony regarding the deficiencies in using the MPSAP for purposes other than designing energy efficiency programs is uncontroverted either by testimony of other witnesses or on cross-examination. We sympathize with the position of ELPC, OCC, and OPAE, having found a Company study which appears to establish that low-income customers are low-usage customers. However, the fact that a study is sufficiently reliable for one purpose, the design of energy efficiency programs, does not mean that the same study is sufficiently reliable for another purpose, such as rate design. Therefore, the Commission finds that testimony offered in this proceeding which relied upon the relationship between income and usage as described by the MPSAP should be given little weight.

{¶ 50} The arguments conflating low-income customers with low-usage customers were refuted by the testimony of VEDO witness Swiz (VEDO Ex. 11.3). Mr. Swiz described an analysis using actual residential customer bills for the 12 months ending June 2018, which included 77 percent of VEDO's active customers (VEDO Ex. 11.3 at 12-13). This analysis demonstrates that low-income customers use, on average, more natural gas than the average customer on an annual basis and use more natural gas than all but the highest-income customers (VEDO Ex. 11.3 at 14-15). We note that this analysis used 2015 Census data to estimate the annual income of each customer premises (VEDO Ex. 11.3 at 14). Mr. Swiz also testified that this analysis was consistent with the approach of the analysis offered by VEDO in its last rate case and that the results were also consistent (VEDO Ex. 11.13 at 13, 15). We find that this analysis is more credible than the study relied upon by opposing parties and, thus, should be given greater weight. In particular, we note that the analysis included 77 percent of VEDO's customers in its sample size and relied upon Census data for customer premise income estimates. We also find the credibility of this analysis is bolstered because the analysis in this case replicated the study conducted by VEDO for its last rate case, and the analysis produced consistent results. *2007 Rate Case*, Opinion and Order (Jan. 7, 2009) at 13.

{¶ 51} With respect to arguments raised regarding price signals and conservation, the Commission finds that the SFV rate design sends a true and accurate price signal to customers for the purpose of making energy efficiency investments. At the hearing, Staff witness Snider testified that the SFV rate design is a more accurate price signal and that customers can still save money on commodity by reducing their usage of natural gas (Staff Ex. 10 at 4; Tr. Vol. V. at 458). We reject ELPC's claim that the increases to the fixed charges over the next five years will significantly decrease customer incentives for conservation and efficiency. The evidence demonstrates that proposals for a decoupling mechanism would send a false price signal to customers, leading customers to believe that paying for distribution costs can be avoided by reducing consumption (VEDO Ex. 12.1 at 3, 8-9, 16, 37-38). These distribution costs are generally fixed (VEDO Ex. 12.1 at 5), and customers would simply see increased rates in the future through the decoupling mechanism to collect the unrecovered fixed distribution costs (Tr. Vol. V at 484-485). Moreover, the evidence demonstrates that the decline in commodity prices since the *2007 Rate Case* should have no impact upon the continuation of the SFV rate design (VEDO Ex. 12.1 at 39-40, 44-45).

{¶ 52} We also note that OCC's rate design proposal includes a decoupling rider under which there is an annual true-up which reconciles revenues when actual sales are different than test-year levels (OCC Ex. 6 at 16-17). OCC witness Gonzalez uses the decoupling mechanism implemented by AEP Ohio as an example of the decoupling rider envisioned by OCC in this proceeding (OCC Ex. 6, Attachment WG-2). OCC's proposal in this case also includes a three percent annual cap on the amount that the decoupling rider can be adjusted to make up a revenue shortfall, similar to the cap adopted by AEP Ohio (OCC Ex. 6 at 17, footnote 12). Any rate increase that exceeds the three percent cap remains in a balancing account and accrues interest; in the case of AEP Ohio, interest accrues at AEP Ohio's long-term debt rate (OCC Ex. 6, Attachment WG-2 at 2). However, Mr. Gonzalez never explained how these unrecovered amounts in the balancing account are to be recovered by VEDO, particularly in the event that actual sales are consistently below test-year sales, due to energy efficiency measures, conservation, or other factors (VEDO Ex. 12.1 at 39). These under-recovery amounts can be significant, and the balances ultimately will need to be recovered. For residential customers of AEP Ohio, *$48.2 million* in tax savings from the Tax Cuts and Jobs Act of 2017 (TCJA), which otherwise would have been returned as a credit to residential ratepayers, was used as a one-time offset to AEP Ohio's existing under-recovery from its decoupling rider. *In the Matter of Ohio Power Company's Implementation of the Tax Cuts and Jobs Act of 2017*, Case No. 18-1007-EL-UNC, et al., Finding and Order (Oct. 3, 2018) at ¶ 16. The Commission finds that the failure of OCC's proposal to prevent significant under-recovery balances from occurring and the failure to explain how such under-recovery balances will be paid off in the future are sufficient reasons to reject OCC's proposal.

B. *Summary of the Stipulation*

{¶ 53} The Stipulation filed January 4, 2019, was intended by the Signatory Parties to resolve all issues raised in the *Rate Case* (Jt. Ex. 1.0). The following is a summary the terms otherwise agreed to by the Signatory Parties; this summary is not intended to replace or supersede the Stipulation:

1. The Signatory Parties agree that VEDO's current rates no longer yield a reasonable compensation for services rendered and are, therefore, unreasonable.

(Jt. Ex. 1.0 at 2.)

2. Unless otherwise specifically provided for in the Stipulation, all rates, terms, and conditions shall be treated in accordance with the October 1, 2018 Staff Report. If not addressed in the Stipulation or the Staff Report, all rates, charges, terms, and conditions shall be treated in accordance with VEDO's collective applications (collectively, the Application) in this *Rate Case*.

(Jt. Ex. 1.0 at 2.)

3. VEDO shall be granted a net base rate increase of $22,730,487. The value of all of VEDO's property used and useful as of the approved date certain of December 31, 2017, is $622,297,988. The revenue requirement reflects 7.48 percent as a reasonable rate of return on rate base.

(Jt. Ex. 1.0 at 2-3.)

4. *Property Tax Expense.*

    a. The amount of property tax expense included in the stipulated base rates is $16,505,566, which includes property tax expense reasonably expected to be paid within the 12 months following the test period.

b. In the event that VEDO's actual property tax expense in the 12 months following the test period, represented as the total of all property tax bills received and paid through September 30, 2019, is less than the amount included in stipulated base rates, VEDO shall, no later than 90 days after actual data regarding the actual property tax expense becomes known, submit to the Commission proposed base rate adjustments that provide for the recalculation of the stipulated base rates.

c. In the event VEDO's actual property tax expense is greater than the amount included in the stipulated base rates, there will be no proposed rate or charge adjustment.

(Jt. Ex. 1.0 at 3-4.)

5. *Late Filed Exhibits: Rate Case Expense and Remaining Distribution Accelerated Risk Reduction (DARR) Program Deferral Balance.* The Signatory Parties recommend that the following provisions applicable to the recovery of rate case expense and deferred DARR balances be approved.

   a. The revenue increase described in Stipulation paragraph 3 incorporates the expense associated with a five-year amortization of (i) an assumed level of rate case expenses as specified in Joint Exhibit 2.0, Schedule C-3, and (ii) the deferred DARR balance as of December 31, 2018.

   b. VEDO shall file an updated Schedule C-3 within ten days of the date that the hearing is concluded or that reply briefs are filed, whichever is latest. Any increase or decreases in the assumed level of rate case expense shall be flowed through to the revenue requirement recommended for approval in the Stipulation and reflected in base rates.

   c. In accordance with Case No. 15-1741-GA-AAM, the Company is authorized to defer DARR expenses until the date new base rates are placed into effect.

The Signatory Parties recommend that the Commission authorize in this case the recovery in base rates of the remaining DARR expenses deferred from January 1, 2019, until no later than the effective date of rates and charges stipulated in this proceeding (the Remaining DARR Balance). At the time it files compliance tariffs, VEDO may incorporate the Remaining DARR Balance into the stipulated base rates. At that time, VEDO shall file a late-filed exhibit providing (i) the DARR costs incurred from January 1, 2019, through a date no later than the date rates are placed into effect and (ii) a schedule or other information demonstrating that the stipulated base rates were properly adjusted.

d. Any update or adjustment under this paragraph shall be subject to the same five-year amortization period, class allocations, and other rate treatment accorded to those items in the stipulated revenue requirement reflected in Joint Exhibit 2.0.

e. VEDO shall confer with Staff before adjusting and filing base rates under this paragraph.

(Jt. Ex. 1.0 at 4-5.)

6. *Conservation Program*. The Signatory Parties recommend that the following provisions applicable to VEDO's gas conservation and energy efficiency programs (EE Programs) and the associated expenses (EE Expenses) be approved.

a. The stipulated base rates include no EE Expenses.

b. Following approval of the Stipulation, VEDO shall adjust the Energy Efficiency Funding Rider (EEFR) to reflect the removal of $4 million from base rates. At this point, the EEFR will recover 100 percent of previously approved EE Expenses. Unless otherwise ordered by the Commission, the EEFR shall thereafter be the means by which VEDO recovers all approved EE Expenses.

VEDO shall annually file to update the EEFR under the timeline and procedures currently in effect. In addition to any other reconciliation or adjustment that may be appropriate, the update filed in 2020 shall include any adjustment or reconciliation necessary to account for an over- or under-recovery of EE Expenses related to the transition in recovery from base rates to the EEFR in 2019, which amounts shall be accounted for in the variance calculation.

c. Unless the Commission orders otherwise, the VEDO Collaborative will continue to meet and function under its existing responsibilities and procedures regarding the selection, management, and review of EE Programs for programs delivered through December 31, 2020. Beginning not later than July 31, 2019, VEDO shall confer with Staff and any interested parties, including OCC, regarding its EE portfolio and EE funding. If VEDO, Staff, OCC, and any other interested parties are able to negotiate and file an unopposed stipulation by October 1, 2019, VEDO agrees that such stipulation shall request Commission approval of an EE portfolio and EE funding to take effect beginning January 1, 2020. If an unopposed stipulation is not filed by that time, EE programs and EE funding through December 31, 2020, shall continue under the existing model and procedures, and VEDO shall file an application or similar pleading by November 30, 2019, in accordance with the following:

   i. Such application shall seek Commission approval of an EE portfolio and EE funding to take effect beginning 2021.

   ii. VEDO may propose an annual performance incentive in the 2019 application, which any Signatory Party may support or oppose.

   iii. VEDO may propose annual funding in excess of $5.6 million in the 2019 application, which any Signatory Party may support or oppose.

(Jt. Ex. 1.0 at 5-6.)

7. *Distribution Replacement Rider*. The Signatory Parties recommend that the following provisions applicable to the DRR and Bare Steel/Cast Iron Replacement Program (Replacement Program) be approved:

   a. The DRR balance as of December 31, 2017, is included in stipulated base rates. At the time it files compliance tariffs in the *Rate Case*, VEDO shall file an updated DRR reflecting the removal of DRR investments through December 31, 2017, leaving any remaining unrecovered over- or under-recovery variances within the DRR. VEDO shall provide supporting schedules for this adjustment to Staff on request.

   b. The extension of the DRR and Replacement Program for six years (for investment from January 1, 2018, through December 31, 2023) and the following rate caps shall be approved as proposed by the Application:

Rate Effective Period	**DRR Investment Period**	**Residential Rate Cap** (per customer, per month)
September 1, 2019 – August 31, 2020	As of December 31, 2018	$2.50
September 1, 2020 – August 31, 2021	As of December 31, 2019	$5.00
September 1, 2021 – August 31, 2022	As of December 31, 2020	$7.50
September 1, 2022 – August 31, 2023	As of December 31, 2021	$10.00
September 1, 2023 – August 31, 2024	As of December 31, 2022	$12.00
September 1, 2024 – August 31, 2025	As of December 31, 2023	$13.75

   c. VEDO shall continue to employ prudent and reasonable cost controls, including competitive bidding processes; system planning; and negotiation with municipalities regarding permitting, restoration, fees, and other requirements. Staff may investigate and make recommendations regarding such measures in VEDO's annual cost recovery filings.

d. Unless the Commission orders otherwise, the Company shall attempt to complete the Replacement Program by December 31, 2023, and VEDO's authority to recover the Replacement Program costs via the DRR shall terminate with investments made after that date. In each annual filing to update the DRR, VEDO shall provide testimony updating the Commission on the progress of the Replacement Program and expectations for completion by December 31, 2023. VEDO may at any time propose to extend the Replacement Program beyond 2023, to expand the scope of the Replacement Program, and/or to modify the terms and conditions of the Replacement Program and the DRR.

e. The Company shall accrue and recover post-in-service carrying costs (PISCC) at the rate of 5.07 percent (the long-term cost of debt) for the accumulated infrastructure investment amounts in the DRR from the date that the applicable assets are placed in service until the effective date of the next DRR monthly charge.

(Jt. Ex. 1.0 at 6-8.)

8. *Capital Expenditure Program (CEP) Rider.*

a. The CEP Rider shall be approved. VEDO shall file a CEP Rider, set at zero, at the time it files compliance tariffs implementing the stipulated base rates. The CEP deferred balance as of December 31, 2017, and the assets underlying such balance, are included in the stipulated base rates.

b. VEDO's initial filing to establish a rate for the CEP Rider shall reflect the remaining deferred balance as of December 31, 2018. VEDO shall propose that the CEP Rider be recovered via a fixed charge per customer per month for residential customers (Rates 310/311/315) and General Service—Group 1, and via a volumetric charge (per CCF) for all other Rate Schedules.

c. As reflected in the illustrative calculation attached to the Stipulation as Joint Exhibit 3.0, the CEP Rider will recover:

   i. A return on the cumulative deferred balance, inclusive of deferred depreciation, property tax expense, and PISCC, offset by any incremental revenue generated by CEP investments. Starting in year 2, the deferred balance will be reduced by the amortization (see 8.c.ii) recovered in the CEP Rider over the previous year. The total deferred balance will be reduced by accumulated deferred income taxes, representing 21 percent of the deferred depreciation and deferred PISCC balance. The rate of return will be set at the pre-tax rate of return of 8.81 percent.

   ii. The deferred balance, amortized over the life of the investment, at an annual rate of 1.61 percent.

d. The CEP Rider shall be subject to a cap of $1.50 per month per residential customer (Rates 310/311/315) (the CEP Rate Cap). The CEP Rider Annual Revenue Requirement will reflect the return on and recovery of the cumulative deferred balance, starting January 1, 2018, through the date of each filing of the CEP Rider. At such time as the CEP Rate Cap is reached, VEDO shall cease accruing CEP-related deferrals until VEDO files an application or applications under R.C. 4909.18, 4929.05, or 4929.11 (i) to incorporate into base rates the CEP Rider revenue requirement, and (ii) to recover a return on and of the assets underlying the CEP deferrals. For purposes of this requirement, VEDO's application shall be considered filed as of the date VEDO files a notice of its intent to file a recovery application or applications.

e. Subject to R.C. 1.14, the following schedule shall apply to all annual CEP Rider recovery filings thereafter unless modified by the Commission, with the exception of the initial filing, as discussed below:

Date	Activity
March 1	File CEP Rider Application
July 1	Staff Report
July 15	Motions to Intervene and Comments by VEDO and Other Parties
July 31	Notification Whether Issues Raised in Comments Have Been Resolved
August	Hearing
September 1	Rate Effective Date

f. If an Order approving the Stipulation has not been issued on or before March 1, 2019, VEDO shall confer with Staff to determine an agreed-upon procedural schedule and include a request to establish such schedule as part of the 2019 CEP Rider Application.

g. To the extent included within the CEP, PISCC shall be accrued and recovered at the rate of 5.07 percent.

h. VEDO shall not be required to create a depreciation offset as recommended in the Staff Report, provided that VEDO continues to net out retired assets in the calculation of deferred depreciation expense, as described in the Supplemental Testimony of VEDO witness J. Cas Swiz in this proceeding and as approved in Case No. 12-530-GA-UNC and 13-1890-GA-UNC.

i. VEDO shall not propose that the CEP Rider include a Shared Asset Charge (SAC), or a charge similar to the SAC, as described in VEDO's application and direct testimony in the *CEP Rider Case*. VEDO may propose the inclusion of an SAC or a similar charge in the CEP Rider or a similar rider in its next application to increase base rates.

j. Staff or its designee will perform a review of VEDO's filing, every one to two years in Staff's discretion, to determine the necessity, prudence, lawfulness, and reasonableness of the CEP Investment for the prior calendar year. The new CEP Rider rate shall become effective by the September 1 following the filing of that year's application unless the Staff Report finds VEDO's filing to be unjust or unreasonable, or if any other party granted intervention by the Commission files an objection to VEDO's annual filing or Staff's review that is not resolved by VEDO by July 31 of each year (or other deadline for resolution of issues, if applicable). If the Staff Report finds that VEDO's application is unjust or unreasonable, or any other party granted intervention by the Commission files an objection to VEDO's annual filing or Staff's review that is not resolved by July 31 (or other applicable deadline), VEDO may propose an expedited hearing process in order to effectuate, to the extent practicable, the implementation of CEP Rider rates by September 1, or the first day following the Commission's decision. Each application to review the CEP Rider rates through the use of this process shall true-up revenues collected with revenues estimated in future filings.

(Jt. Ex. 1.0 at 8-12.)

9. *Tax Reform*. The Signatory Parties acknowledge that VEDO's application in Case No. 19-29-GA-ATA proposes to amortize and flow back to customers through a Tax Savings Credit Rider (TSCR) the Company's net normalized and non-normalized accumulated excess deferred income tax (EDIT) savings and the Company's federal income tax expense savings from January 1, 2018, until new rates are approved in this *Rate Case*. The annual amortization of the respective normalized and non-normalized EDIT balances, the rate design of the TSCR, and other issues associated with the flow back of tax savings shall be addressed in the application in Case No. 19-29-GA-ATA and implemented in accordance with the Commission's Order in that case.

(Jt. Ex. 1.0 at 12.)

10. *Rate Case Filing Requirement*. VEDO shall be required to file an application to increase base rates with a date certain no later than December 31, 2024. For purposes of this requirement, VEDO's application shall be considered filed as of the date VEDO files a notice of intent to file an application for an increase in rates. VEDO shall comply with the following provisions in submitting such application:

    a. With respect to the Staff Report's recommendation at page 12, VEDO shall submit a depreciation study for all its gas plant accounts as part of the application to increase base rates.

    b. With respect to the Staff Report's recommendation at page 9, VEDO shall confer with Staff prior to filing regarding the presentation and treatment of rider revenues.

    c. With respect to the Staff Report's recommendation at page 45, VEDO shall include as part of the S-4.2 Schedule in the application a description of any material alteration in the budgeting processes reviewed by Staff in this case.

    d. The base rates for which VEDO seeks approval shall additionally incorporate both (i) the CEP Rider revenue requirement as of the date certain of that case and (ii) a return on and of the assets underlying the CEP deferrals that are used and useful on the date certain of that case. In the event VEDO fails to timely file an application to increase base rates in accordance with this paragraph 10, or fails to comply with the requirements of this paragraph 10.d., VEDO shall cease accruing CEP-related deferrals, and shall promptly file revised tariff sheets that revise CEP Rider rates to $0.00, until such time that VEDO files an application in compliance with these requirements. VEDO's deferral authority granted in Case Nos. 12-530-GA-UNC, 12-531-GA-AAM, 13-1890-GA-UNC, and 13-1891-GA-AAM shall remain unchanged for assets placed in service beginning January 1, 2025, and beyond so long as VEDO meets the commitments in this paragraph 10 and 10.d.

e. VEDO shall commit to discuss with Staff and any interested Signatory Parties: (a) adjusting the timing of filing the annual DRR so that it coordinates with the filing of the annual CEP Rider; (b) whether the CEP Rider and the DRR should be combined into one rider; (c) the future of the CEP Rider and DRR; and (d) how audits of the rider charges could be improved for consumers.

(Jt. Ex. 1.0 at 12-13.)

11. *VEDO Tariff*. The Signatory Parties recommend that the Commission approve the following provisions regarding VEDO's Tariff for Gas Service (Tariff):

a. VEDO shall include a provision in its Tariff authorizing one meter test every three years without charge to the customer even if the meter is deemed accurate. VEDO shall include in its customer rights and responsibilities updated information regarding the provision of such test, and include information regarding such test in call center scripts or other customer service job aids applicable to speaking with customers of the right to request a meter test. VEDO shall confer with Staff regarding the contents of such information within 60 days of the approval of the Stipulation by the Commission. The Signatory Parties acknowledge that VEDO's test year includes neither estimated nor actual costs—and that VEDO is not prohibited from requesting the authority to defer and/or recover incremental costs—associated with implementation of this provision.

b. The following language proposed for inclusion in VEDO's tariff shall not be approved: "Company may, prior to initiating Gas Service and at other reasonable times, require Applicant to establish that Applicant is the owner or bona fide lessee of the Premises."

c. The proposal to adopt the Multi-Family Pilot Program shall not be approved. VEDO may propose the approval of the same or a similar program no sooner than the time it files its next application to increase base rates.

d. The proposal to adopt the Energy Conversion Factor shall be approved in accordance with the recommendations in the Staff Report.

e. The proposal to adopt SFV rate design for General Service Group 1 customers shall be approved subject to the following modifications:

   i. The amount of the Group 1 charge shall be as set forth in Joint Exhibit 4.0.

   ii. Group 1 customers using more than 300 thousand cubic feet (MCF) during the test period shall be transferred to General Service Group 2 as soon as practicable and not later than 90 days after the date that the stipulated base rates are placed into effect.

   iii. As reflected in Joint Exhibit 4.0, in addition to other eligibility requirements, the General Service Group 1 rate schedule shall be limited to customers with estimated load of 300 MCF or less per year.

(Jt. Ex. 1.0 at 14-15.)

12. *Community Support Commitments*. VEDO shall commit to partner with the City of Dayton with respect to the following community support initiatives:

a. Beginning within 30 days of the Commission's approval of the Stipulation, VEDO will make available, including through an affiliate, not less than $75,000 per calendar year until an order is issued by the Commission approving new rates in VEDO's next base rate case to be used at the City's reasonable discretion to assist in or support economic development within Dayton, as set forth below and subject to the following terms and conditions:

i. Subject to paragraph 12.a.iii., these funds will be provided directly towards the economic or neighborhood development projects identified by Dayton, provided that such neighborhood development projects involve neighborhoods that VEDO currently serves or to which VEDO plans to provide service. Those projects could include contributions to the Montgomery County Port Authority PACE program for qualifying projects in the City of Dayton, charitable contributions to economic and neighborhood development programs targeted at low-income residents, or other projects to be identified by Dayton.

ii. If any funds remain unspent during any calendar year, then those unspent funds will roll forward to the following calendar year and remain available during that succeeding year. In no event, however, shall any unspent funds in excess of $75,000 roll forward into the succeeding calendar year. Any such unspent funds in excess of $75,000 shall be retained by VEDO.

iii. While the parties intend for Dayton to decide where these economic development funds should be spent, VEDO has the right to refuse to make any payments that in VEDO's reasonable discretion would constitute, result in, or otherwise support a violation of any written corporate policy that has been adopted by the board of directors of VEDO, or any company to which VEDO is subsidiary, including VEDO's ultimate parent company, or of the Vectren Foundation or a successor entity. In that circumstance, the parties will work together using reasonable efforts to identify mutually agreeable alternative project(s).

iv. Beginning not later than December 31, 2019, and continuing annually thereafter in any year in which funding has been provided under this section, Dayton shall provide an annual report to VEDO that does all of the following:

1. Provides a status update on any projects for which any funding has been provided at any time under paragraphs 12.a.i. or 12.a.iii; and

2. Addresses any other matter that may be reasonably requested by VEDO.

Notwithstanding any other provision in the Stipulation to the contrary, VEDO shall have no obligation to make additional funding available in 2020 or any subsequent year if an annual report has not been provided for any prior year.

b. VEDO agrees to engage in discussions with Dayton to formalize mutually agreeable terms to establish a committed partnership in furtherance of economic development in Dayton, including such terms as may be necessary and desirable to foster community sustainability and volunteerism.

(Jt. Ex. 1.0 at 15-17.)

13. *Economic Development Projects*. VEDO shall consult with Dayton regularly or on request to identify economic development projects eligible for inclusion within an infrastructure development rider and located within the boundaries of Dayton or at such other locations as Dayton may desire.

a. Within a reasonable time after identifying a mutually agreeable economic development project or projects, VEDO shall file both of the following:

i. If such a rider has not been previously established, an application to establish an infrastructure development rider under R.C. 4929.161 and Ohio Adm.Code 4901:1-43-04.

ii. An application for approval of the economic development project(s), including Site Ohio certified projects, under R.C. 4929.163 and Ohio Adm.Code 4901:1-43-03.

b. If requested by VEDO, Dayton shall reasonably cooperate with and support the filing of such applications, including the filing of written comments in support of such applications. Dayton shall not be required to intervene in any Commission proceeding as part of this cooperation, although VEDO may request that Dayton do so.

c. VEDO shall use reasonable efforts to file and prosecute such applications at VEDO's sole cost.

d. Notwithstanding paragraph 13.c., Dayton acknowledges that the approval or denial of such applications is within the power of the Commission and VEDO makes no guarantee or representation that the same shall be approved.

(Jt. Ex. 1.0 at 17-18.)

14. *Dayton EE Program Workshops*. VEDO shall endeavor to sponsor EE workshops within the City of Dayton in accordance with the following:

a. In its 2019 filing to establish an EE portfolio pursuant to Stipulation paragraph 6.c., VEDO shall propose the following programs:

i. Up to two workshops per year on energy efficiency within Dayton targeted to eligible industrial and commercial customers to be scheduled at times and places to be determined following consultation with Dayton and other interested Signatory Parties.

ii. Up to two workshops per year on energy efficiency within Dayton targeted to residential customers scheduled at times and places to be determined following consultation with Dayton and other interested Signatory Parties.

iii. Any other programs that VEDO and Dayton mutually agree on proposing for inclusion within VEDO's EE Program portfolio.

b. Notwithstanding anything contrary in the Stipulation, VEDO shall propose such funding levels as may be necessary to accommodate the programs described in paragraph 14.a.

c. If requested by VEDO, Dayton shall reasonably cooperate with and support the filing of the application described in paragraph 6.c. The Company shall use reasonable efforts to file and prosecute such applications at VEDO's sole cost, although Dayton acknowledges that the approval or denial of such application is within the power of the Commission, and VEDO makes no guarantee or representation that the same shall be approved.

(Jt. Ex. 1.0 at 18-19.)

15. *Marketer and Supplier Provisions*. The Signatory Parties recommend approval of the following provisions on the condition that both IGS and RESA have either signed this Stipulation or filed a letter in these dockets submitting a signature on the Stipulation before the start of the hearing in this proceeding.

a. <u>Tariff Issues</u>. The Signatory Parties recommend that the Commission adopt certain tariff changes reflected in Joint Exhibit 5.0 to the Stipulation, the redline changes to which modify in some instances and are incremental in other instances to the proposed tariff changes reflected in Schedule E-2.1 in the Company's Application.

b. <u>SCO Supplier Coordination Issues</u>. The Company agrees to continue its coordination with Standard Choice Offer (SCO) Suppliers and customers served under the SCO. The Company agrees that its call center will transfer a call from an SCO customer to its SCO Supplier, or identify the relevant SCO Supplier contact information for the SCO customer, when in the Company's reasonable discretion the Company determines that the SCO customer has specific questions with respect to or in relation to the SCO and that it is reasonable under the circumstances of the call to either transfer the call or direct the SCO customer to the applicable SCO Supplier. Staff shall inquire whether SCO suppliers are currently sending welcome letters to customers as required and provide the results of such inquiry to Signatory Parties.

c. Exit the Merchant Function. The Company agrees to meet periodically with interested parties to discuss in good faith an exit of the merchant function. The Company agrees to participate in the first of these interested party meetings within 120 days of the approval of the Stipulation and at least three times annually thereafter until the earlier of the filing of an application to exit the merchant function or the filing of the Company's next rate case. Notwithstanding any provision of the Stipulation to the contrary, the Company agrees to participate in these meetings with interested parties regardless of the outcome of the Commission's review of the Stipulation.

d. Billing Enhancements. The Company agrees to meet periodically with interested parties to discuss in good faith billing enhancements for which implementation and/or resolution will support the policies enumerated in R.C. 4929.02. The Company agrees to participate in the first of these interested party meetings within 120 days of the approval of the Stipulation and at least three times annually thereafter until the filing of the Company's next rate case. Discussions will include, but are not limited to: billing system upgrades (e.g., fixed bill through a rate-ready code, additional rate-ready billing codes, bill-ready billing, billing a rate based on New York Mercantile Exchange prices, plus or minus a value, permitting pre-payment of the commodity portion of the bill, and allowing a "zero price" rate-ready code), and access to more granular individual customer information (e.g., peak day information, customers with highest rates, plant protection level, Maximum Daily Requirements, etc.). Notwithstanding any provision of the Stipulation to the contrary, the Company agrees to participate in these interested party meetings regardless of the outcome of the Commission's review of the Stipulation.

The Company also agrees to review the feasibility (including availability of Company information technology (IT) resources), cost, including cost-effectiveness, and prudence of upgrading its current billing system to allow the submission by Choice Suppliers of a rate code with a zero charge for the commodity of natural gas to enable each Choice Supplier to submit a dual bill for a portion of the customers in its pool, while utilizing rate-ready billing for the remainder of the customers in its pool. The Company agrees to share and discuss this review at the first customer choice and billing improvements issues interested party meeting and to review and share the feasibility, cost, and prudence of including this functionality in a successor billing system once such successor system is known or being developed.

e. Top 25 Percent List. The Company agrees to review the feasibility (including the availability of Company IT resources and compliance with regulatory requirements), cost (including cost-effectiveness), and prudence of including in customer lists, or otherwise providing Choice Suppliers, as defined in the Company's tariff, a list of Choice customers whose current commodity rates are in the top 25 percent of all Choice customer rates. VEDO agrees to conduct this review within 90 days of the approval of the Stipulation and to share and discuss the Company's review with Signatory Parties and other interested parties. Actual customer rates will not be included in the lists. Customers that opt out of inclusion in the customer lists available to Choice Suppliers pursuant to the Company's tariff will be excluded from any lists that may ultimately be provided in accordance with this paragraph. To the extent determined feasible, cost-effective, and prudent, the Company will review the estimated cost and work required to make the lists available to Choice Suppliers and will provide that information to Signatory Parties and other interested parties. Costs associated with this provision shall be recovered through the customer list fee, and to the extent such fees do not cover the incremental costs associated with the provision of the top 25 percent list, the Company has no obligation to implement this provision unless the requesting Choice Supplier pays for any incremental costs. To the extent that the top 25 percent list is not includable in the customer list, the Company has no obligation to implement this provision unless the requesting Choice Suppliers pay for any incremental costs.

f. Customer Peak Day Information. The Company agrees to review the feasibility (including the availability of Company IT resources and compliance with regulatory requirements), cost (including cost-effectiveness), and prudence of providing Pool Operators with peak day information for Rate 345 and Rate 360 customers under the Company's current and subsequent IT infrastructure as part of an electronic file or similar approach. Within 120 days of approval of the Stipulation, the Company agrees to share and to discuss the results of its review with Signatory Parties and other interested stakeholders. If the Company determines that such date sharing is feasible, cost-effective, and prudent, the Company agrees to use good faith efforts to implement such a change. The sharing of customer peak day information is also contingent on Pool Operators having or obtaining customer consent for the release of information.

g. Customer Choice and Billing Upgrades in Exit Transition Cost (ETC) Rider. The Signatory Parties acknowledge that cost recovery under the ETC Rider can include billing system upgrades described above or identified pursuant to the sections titled Customer Peak Day Information and Billing Enhancements. If an identified improvement or upgrade under those sections is determined to be feasible, cost-effective, and prudent by the Company, the Company shall use good faith efforts to implement the improvement before the next base distribution rate case. Operation and maintenance expenses and capital investments recoverable under the ETC Rider for such improvements are subject to an audit and an aggregate cap not to exceed $850,000. The return associated with the capital investment is not subject to the $850,000 cap. To the extent that implementation of any such improvement and upgrade would exceed the $850,000 cap, VEDO may but has no obligation to implement any such improvement or upgrade. In the event the Company elects not to implement any improvement or upgrade as a result of the cap, it will meet with interested Signatory Parties to discuss its rationale and to discuss options for cost recovery, including the filing of an application seeking approval for cost recovery for the amounts that exceed the $850,000 cap.

(Jt. Ex. 1.0 at 19-24.)

16. The Signatory Parties agree and recommend that the Commission approve final tariffs in the form of Joint Exhibit 4.0 to go into effect on a service-rendered basis immediately after the Commission approves the Stipulation.

(Jt. Ex. 1.0 at 24.)

C. Consideration of the Stipulation

{¶ 54} Ohio Adm.Code 4901-1-30 authorizes parties to Commission proceedings to enter into stipulations. Although not binding upon the Commission, the terms of such an agreement are accorded substantial weight. *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125, 592 N.E.2d 1370 (1992), citing *Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157, 378 N.E.2d 480 (1978). This concept is particularly valid where the stipulation is supported or unopposed by the vast majority of parties and resolves all issues presented in the proceeding in which it is offered.

{¶ 55} The standard of review for considering the reasonableness of a stipulation has been discussed in a number of prior Commission proceedings. *See, e.g.*, *Dominion Retail v. Dayton Power and Light*, Case Nos. 03-2405-EL-CSS, et al., Opinion and Order (Feb. 2, 2005); *In re Cincinnati Gas & Elec. Co.*, Case No. 91-410-EL-AIR, Order on Remand (Apr. 14, 1994); *In re Western Reserve Telephone Co.*, Case No. 93-230-TP-ALT, Opinion and Order (Mar. 30, 1994); *In re Cleveland Elec. Illum. Co.*, Case No. 88-170-EL-AIR, et al., Opinion and Order (Jan. 31, 1989); *In re Restatement of Accounts and Records*, Case No. 84-1187-EL-UNC, Opinion and Order (Nov. 26, 1985). The ultimate issue for our consideration is whether the agreement, which embodies considerable time and effort by the signatory parties, is reasonable and should be adopted. In considering the reasonableness of the stipulation, the Commission has used the following criteria:

(1) Is the settlement a product of serious bargaining among capable, knowledgeable parties?

(2) Does the settlement, as a package, benefit ratepayers and the public interest?

(3) Does the settlement package violate any important regulatory principle or practice?

The Supreme Court of Ohio has endorsed the Commission's analysis using these criteria to resolve cases in a manner economical to ratepayers and public utilities. *Indus. Energy Consumers of Ohio Power Co. v. Pub. Util. Comm.*, 68 Ohio St.3d 559, 629 N.E.2d 423 (1994), citing *Consumers' Counsel* at 126.

{¶ 56} Each of the Signatory Parties urge the Commission to approve the Stipulation in its entirety. ELPC, OCC, and OPAE advocate a different outcome. The Commission addresses the parties' specific arguments in the context of the three criteria for evaluating the reasonableness of the Stipulation below.

1. Is the Stipulation the Product of Serious Bargaining Among Capable, Knowledgeable Parties?

{¶ 57} VEDO and Staff argue that there is no question that this first prong is satisfied by the uncontested evidence. Indeed, as noted by Staff in its reply brief, no party comprising the Opposition argues against this finding. However, as VEDO bears the burden of proof in this case, it is incumbent upon the Commission to review the evidence to ensure that the record supports the necessary conclusion.

{¶ 58} VEDO witness J. Cas Swiz (VEDO Ex. 11.2) and Staff witness David Lipthratt (Staff Ex. 1) each provided testimony in support of the first prong of the Commission's test for evaluating the reasonableness of a stipulation. Mr. Swiz averred that the Stipulation is supported by parties representing a wide range of interests, including natural gas suppliers, the largest single-site employer within VEDO's service area, and the largest city within that service area. Mr. Swiz also averred that all parties to this proceeding were represented by counsel well versed in regulatory matters before the Commission and either employed or had access to technical experts. Additionally, all parties participated in, or had the opportunity to participate in, the settlement negotiations that culminated in the Stipulation. Mr. Swiz explained that negotiations open to all parties took place on seven separate days over more than a month's time both in person and via telephone; the parties were also invited to contact VEDO directly in order to engage in separate discussions with the Company. Ultimately, Mr. Swiz states that all parties made extensive comments, and all Signatory Parties made compromises. (VEDO Ex. 11.2 at 7-9.) Mr. Lipthratt testified much to the same effect, stating that the Stipulation is the product of an open process in which all parties, representing a diverse group of interests and each represented by experienced, competent counsel, were given an opportunity to participate. Mr. Lipthratt also testified that the Stipulation represents a comprehensive compromise of the issues raised within the *Rate Case*. (Staff Ex. 1 at 2-3.) On the other hand, the Opposition did not challenge Mr.

Swiz's or Mr. Lipthratt's testimony on this issue. Nor did the Opposition present any evidence or argument to support a different conclusion. Accordingly, upon review of the record, the Commission finds that the Stipulation is the product of serious bargaining among capable, knowledgeable parties.

2. DOES THE STIPULATION, AS A PACKAGE, BENEFIT RATEPAYERS AND THE PUBLIC INTEREST?

{¶ 59} The Signatory Parties assert that the Stipulation, as a package, benefits ratepayers and the public interest. As with the first prong, VEDO and Staff contend that Mr. Swiz and Mr. Lipthratt presented ample testimony to support that conclusion. Staff points the Commission's attention to Mr. Swiz's testimony, in which he identifies 11 specific public benefits to the Stipulation: the continuation of safe and reliable service; a reduction to VEDO's proposed revenue requirement; facilitation of VEDO's continued accelerated replacement and retirement of bare steel/cast iron pipelines, which will accelerate the reduction of system risks and compliance with federal pipeline safety regulations; a reduction in the federal income tax rate pursuant to the TCJA; a rate of return significantly below that proposed by the Company; direct benefits, such as funding economic and neighborhood development, to Dayton and its residents; establishing procedural mechanisms and cost controls for several important programs that benefit customers and the public (e.g., replacing at-risk pipeline, fostering economic development and investment in local infrastructure, or improving energy efficiency); ensuring that VEDO will file a base rate case with a date certain no later than December 31, 2024; updating the tariffs to reflect changes to miscellaneous charges, such as providing a free meter test once every three years; attention to various marketer and supplier concerns; and a reduction to the cost of litigation, which would otherwise increase rate case expense (VEDO Ex. 11.2 at 10-12). Mr. Lipthratt similarly noted that, in addition to executing the TCJA's lower federal income tax rate, the Stipulation establishes a framework for returning EDIT resulting from the TCJA and the full balance of the regulatory liability ordered by the Commission in Case No. 18-47-AU-COI (Staff Ex. 1 at 4). Additional benefits identified by Mr. Lipthratt are a smaller revenue increase and lower customer charge than that proposed by VEDO; sufficient funding for programs such as the DARR program, Integrity Management (IM) programs, and CEP Rider; and commitments to various community support initiatives for economic and neighborhood development projects in Dayton (Staff Ex. 1 at 3-4).

{¶ 60} The Opposition disagree and assert that the Stipulation fails to pass the second prong of the reasonableness test. In fact, many of the benefits touted by Staff and VEDO are identified by the Opposition as flaws that will harm ratepayers and the public interest. For example, in addition to raising objections to the SFV rate design, the Opposition argue that the Stipulation implementing the design will harm ratepayers and the public interest. Supplementing the themes discussed above—i.e., that the SFV rate design harms low-income/low-use customers, reduces cost savings from and is a disincentive to energy efficiency efforts, fails to reflect present market circumstances or VEDO's actual cost of service, and is a poor option compared to a decoupling mechanism—OPAE raises a new argument. OPAE suggests that the Stipulation's inclusion of the SFV design encourages customers to disconnect from the system or switch to electric heat and appliances in order to avoid high fixed charges during traditionally low-usage months. OPAE worries that this will cause the utility to experience revenue erosion, which would result in fewer customers having to pay even higher fixed rates. (OPAE Ex. 1A at 9; OCC Ex. 6A at 18.) Citing this potential "vicious cycle of ever-increasing costs" as customer numbers decline, OPAE asserts that it is not in the public interest to continue to promote the SFV rate design.

{¶ 61} We recognize the Opposition's arguments. However, the Stipulation does not change the SFV rate design contained in the Staff Report. Because we thoroughly addressed all of the Opposition's arguments regarding rate design in the discussion of the objections to the Staff Report above, it is unnecessary to repeat our conclusions here. Therefore, we find that the SFV rate design benefits ratepayers and the public interest.

{¶ 62} Notwithstanding the Opposition's focus on the SFV rate design, OCC raises numerous challenges to the Stipulation on the basis that it does not benefit ratepayers or the public interest. We now turn our attention to those criticisms.

a. The CEP Rider

{¶ 63} OCC asserts that provisions regarding VEDO's proposed CEP Rider will harm ratepayers and are contrary to the public interest. Specifically, OCC draws the Commission's attention to the Stipulation's provisions that permit VEDO to defer CEP costs from 2018 through 2024 subject only to a monthly rate cap of $1.50 for residential customers with Staff or its designee reviewing the prudence, necessity, lawfulness, and reasonableness of a prior year's expenditures only every one-to-two years, at Staff's discretion. OCC states that it is unclear what VEDO's actual annual capital expenditure levels will be for the 2018-2024 period under the proposed $1.50 per month cap because the Stipulation merely provides an "illustrative example" of how CEP deferrals will be converted into rates. Additionally, OCC complains that nothing in the Stipulation identifies any actual, budgeted, or projected annual capital spending levels for the contemplated timeframe. Because these amounts are not explained or identified, OCC contends that the Stipulation provides an incentive for VEDO to over-invest in its distribution network and artificially escalate costs for recovery. Given these alleged deficiencies, OCC further argues that the stipulated audit process is inadequate to protect customers from inflated CEP Rider rates. Instead, OCC advocates for an annual necessity, prudence, and lawfulness review of the CEP investments to be conducted by an independent third party and charged to shareholders, not ratepayers. (OCC Ex. 3A at 6-12.)

{¶ 64} In response, Staff argues that the foundation of OCC's argument, i.e., that VEDO's CEP investments were imprudent, is without merit. Staff explains that those investments were evaluated as part of Staff's investigation of VEDO's rate base, which included a thorough plant review (Staff Ex. 8 at 4; Tr. Vol. II at 142-143). Similar to Staff, VEDO asserts that OCC's argument has no basis in reality. Adding to Staff's observations, VEDO contends that OCC overlooks or ignores the cost control function of the rate cap (Tr.

Vol. II at 142) and offers no credible reason to doubt the effectiveness of the formal audit process outlined in the Stipulation. Here, both Staff and VEDO point out that the Stipulation indicates Staff "or its designee" is responsible for the audit; thus, the Stipulation itself contemplates the possibility of what OCC demands: that an independent third-party auditor be employed.

{¶ 65} We find that the evidence demonstrates that the provisions for the CEP in the Stipulation are in the public interest. OCC claims that there is no evidence that VEDO's past CEP investments were necessary, prudent, or reasonable. However, the record reflects that Staff conducted a thorough review of all plant investments in this case (Staff Ex. 8 at 4-5; Tr. Vol. II at 143). OCC has not presented any evidence indicating that this review was in any way inadequate. Further, consistent with the Staff Report, the Stipulation caps the monthly charge for the recovery of CEP expenses at $1.50 per month for residential customers, which Staff views as a cost control mechanism (Jt. Ex. 1 at 9-10; Tr. Vol. II at 142).

{¶ 66} OCC further states that it is imperative for the Commission to require regular annual reviews of the necessity, prudence, and reasonableness of VEDO's CEP investment. However, the Stipulation, in fact, already provides that Staff or an outside auditor will perform regular reviews of future CEP filings in order to determine the necessity, prudence, lawfulness, and reasonableness of CEP investments (Jt. Ex. 1 at 11-12). Staff witness Lipthratt also testified that a one or two year cycle for such reviews is appropriate (Tr. Vol. II at 147). With respect to OCC's suggestion that these reviews should only be conducted by an independent third party, the Commission is confident in the capability and expertise of the Staff to conduct these reviews, and, as the Stipulation provides, we will determine whether these reviews will be conducted by the Staff or an outside auditor at the appropriate time and in our sole discretion.

b. DARR Deferral

{¶ 67} OCC next asserts that the DARR deferral included in the Stipulation does not benefit customers or the public interest, pointing to Stipulation provision 5.c. as the offending language. There, the Signatory Parties recommend that the Commission authorize recovery in base rates of the Remaining DARR Balance—any remaining DARR expenses deferred from January 1, 2019, until no later than the effective date of rates and charges approved in this *Rate Case* (Jt. Ex. 1.0 at 4-5). OCC argues that this provision is contrary to the public interest because there is no mechanism for the Commission to review VEDO's DARR expenses after January 1, 2019, to determine whether those expenses are prudently incurred or just and reasonable. Instead of this allegedly unfettered cost recovery, OCC recommends that VEDO should be permitted to collect only the DARR deferral expenses actually incurred in 2016 and originally planned for 2017 and 2018, be directed to discontinue DARR deferrals after December 31, 2018, and be precluded from any further rate increase after approval of the rates in this proceeding. OCC further recommends that any future increases in DARR spending beyond 2018 should be reviewed in an application for an increase in rates under R.C. 4909.15. (OCC Ex. 4A at 2-6.) Finally, OCC complains that the Stipulation fails to require VEDO to continue to track compliance and progress of DARR programs with performance measures, performance measures that Staff's witness testified should be in place (Tr. Vol. IV at 364). OCC asserts that, absent these performance measures, the Stipulation fails to adequately protect consumers and is not in the public interest.

{¶ 68} Staff and VEDO counter that OCC misunderstands Section 5 of the Stipulation regarding the DARR Deferral Balance when it argues that there is no mechanism for review of the Remaining DARR Balance. Sections 5.c. through 5.e. require VEDO to submit a late-filed exhibit providing DARR costs incurred from January 1, 2019, through a date no later than the date rates are placed into effect and a schedule or similar information demonstrating that the stipulated base rates were properly adjusted (Jt. Ex. 1.0 at 4-5). The Stipulation further requires that VEDO confer with Staff before adjusting and filing base rates for the Remaining DARR Balance, at which time Staff will review the expenses included in the late-filed exhibit (*Id.*; Tr. Vol. V at 434-436.) Moreover, Staff and VEDO believe that OCC misunderstands the nature and purpose of the performance measures associated with DARR programs. Staff and VEDO explain that the performance metrics are ending because the deferral is ending, and there is no reason to examine a deferral against performance measures when that deferral no longer exists (Tr. Vol. V at 437). Furthermore, test-year expenses are not generally subject to performance metrics (Tr. Vol. V at 433). In addition, VEDO rejects the notion that the Commission should prematurely end the DARR deferral as of December 31, 2018; absent any showing of imprudence, VEDO asserts that such a course of action amounts to a substantively unreasonable retroactive modification of the DARR program. *In re East Ohio Gas Co.*, 141 Ohio St.3d 336, 2014-Ohio-3073, 24 N.E.3d 1098. In short, Staff and VEDO submit that OCC's arguments that the DARR provisions render the Stipulation unreasonable are without merit.

{¶ 69} The Commission finds that the DARR provisions of the Stipulation are in the public interest. Although OCC contends that the levels of existing DARR expenses are too high, Staff witness Lipthratt testified that the existing deferrals are reasonable and appropriate to include in base rates (Staff Ex. 8 at 4; Tr. Vol. V at 422-426, 440). OCC also complains that the DARR performance metrics were not continued. However, OCC fails to recognize that the DARR expenses will no longer be deferred but now will be recovered through base rates, and performance metrics generally have not been not imposed on expenses recovered through base rates (Tr. Vol. V at 433, 437). Further, we are not persuaded by OCC's argument that recovery of the DARR expenses incurred after January 1, 2019, does not benefit the public interest. OCC questions whether such expenses will be reviewed by Staff, but the record is clear that Staff will review the post-January 1, 2019 DARR expenses after VEDO files an update containing those expenses (Tr. Vol. V at 434-435).

c. Dayton Contribution

{¶ 70} OCC also briefly takes aim at the Stipulation's community support commitments. Essentially, OCC argues that it is neither in the public interest nor beneficial to VEDO's customers for the Stipulation to require VEDO to make an annual contribution to the City of Dayton's general fund for use in its "reasonable discretion" for economic and neighborhood development projects that are not, in turn, actually required to benefit VEDO's customers. OCC asserts that there is nothing in the Stipulation that requires the contributions to benefit VEDO ratepayers and, as such, it is unfair to require VEDO ratepayers to fund the commitments. Thus, OCC recommends that the Stipulation be rejected or modified to require these annual support contributions to be applied specifically for the benefit of VEDO's residential customers; better yet, OCC believes the "incentive" being paid to Dayton would be better suited as a shareholder-funded bill payment assistance program available to all VEDO customers regardless of where those customers reside (OCC Ex. 4A at 8-9).

{¶ 71} Responding directly, Dayton submits that OCC misstates the relevant portions of the Stipulation and otherwise puts forth a nonsensical argument. According to Dayton, OCC ignores that portion of the Stipulation indicating funds may be directed to neighborhood development projects only if those projects involve neighborhoods that VEDO currently serves or to which VEDO plans to provide service. In other words, the Stipulation requires the funds to be used to the benefit of VEDO customers. Dayton also denies that that the community support funds go to Dayton's general fund for use as the City sees fit; instead, Dayton explains that the Stipulation places terms and conditions on the funds' use. For example, as stated above, the funds must be targeted at neighborhood development in areas VEDO serves or plans to serve; Dayton is required to report to VEDO regarding the use of the funds; and the funds can be terminated if Dayton fails to do so. Finally, Dayton counters that the annual community support commitments are not funded by ratepayers as OCC indicates; instead, the payment may be funded through shareholder dollars or from a VEDO affiliate (Jt. Ex. 1.0 at 15; Tr. Vol. II at 137).

{¶ 72} Staff adds that, contrary to OCC's interpretation of the Commission's three-prong test for reasonableness, not every element of a Stipulation must directly benefit ratepayers. Instead, as a whole, the Stipulation must benefit ratepayers and the public interest. Certainly, argues Staff, there can be no doubt that investments in economic and neighborhood development projects are in the public interest, and there is no legitimate cause to take issue with the Stipulation's community support commitments.

{¶ 73} VEDO suggests that OCC is simply unhappy that the funds made available through the community support commitments are not guaranteed for use as bill assistance for residential customers. VEDO observes, and Dayton agrees, that failure to grant OCC's wishes is not grounds for rejection of the Stipulation, especially where the provisions at issue, at face value, are clearly beneficial to the public (Tr. Vol. II at 137-138). Dayton, Staff, and VEDO note that terms such as these within a stipulation reflect compromise between parties of competing interests.

{¶ 74} The Commission is not persuaded by OCC's claim that the annual contribution from VEDO to the City of Dayton does not benefit the public interest. As a preliminary matter, we note that there was some ambiguity in the Stipulation regarding whether these contributions are shareholder dollars or whether VEDO can seek recovery for the contributions from ratepayers. However, the evidence in the record demonstrates that these contributions will be made from shareholder dollars and that VEDO will not seek recovery from ratepayers (Tr. Vol. II at 137). In light of that clarification, OCC's arguments that the contributions are not in the public interest appear to be misguided. The contributions from VEDO will be used to support economic development in areas of Dayton served, or planned to be served, by VEDO (Jt. Ex. 1 at 15). The funds are required to be spent to support economic development, and the City of Dayton has an obligation to annually report to VEDO on the projects for which funding has been provided (Jt. Ex. 1 at 16). These provisions have the potential to enhance economic development in the City of Dayton at no cost to ratepayers. Further, VEDO and the City will consult regularly to identify economic development projects which may be eligible for inclusion within an infrastructure development rider and to be located in or near the City (Jt. Ex. 1 at 17).

d. Marketer and Supplier Provisions

{¶ 75} OCC challenges portions of Section 15 of the Stipulation, captioned Marketer and Supplier Provisions, as unnecessary, harmful to customers, and contrary to the public interest. RESA and IGS, on the other hand, jointly argue that these provisions will further develop the competitive retail natural-gas service (CRNGS) market in Ohio and enhance customer knowledge, which is both beneficial to the public interest and the ratepayers. VEDO and Staff proffer the Marketer and Supplier Provisions as the result of extensive bargaining and compromise that neither harm the public nor violate any regulatory policy or practice.[7]

{¶ 76} First, as to Section 15.b.—in which VEDO agrees to continue its coordination with SCO Suppliers and customers served under the SCO by, among other things, agreeing that its call center will transfer a call from an SCO customer to its SCO supplier or identify the relevant SCO Supplier contact information for the SCO customer—OCC complains that the Stipulation does not sufficiently indicate under what circumstances that call transfer would occur. Instead, the Company is to use its "reasonable discretion" to identify when the SCO customer has specific questions with respect to the SCO and the transfer is otherwise reasonable under the circumstances. OCC contends that SCO customers' relationship with VEDO is for both supply and delivery, especially as it is the Company that assigns the SCO customer to an SCO supplier (OCC Ex. 4A at 10; Tr. Vol. II at 87). Thus, the Company should be responsible for providing customers with information regarding supply services, rather than indiscriminately passing the customer along to the SCO supplier. OCC further contends that the transfer of calls under Section 15.b. will cause customer confusion and force unwilling customers to become captive audiences to marketing pitches for non-SCO services and other products. (OCC Ex. 4A at 9-10.)

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7 The Commission recognizes that portions of OCC's argument with regard to the Marketer and Supplier Provisions may be better suited to our analysis of the third prong of our reasonableness test. In the interest of addressing OCC's arguments regarding Section 15 of the Stipulation as a whole, however, we address it here.

{¶ 77} Contrary to OCC's position, RESA and IGS submit that the SCO Supplier Coordination Issues present in Section 15.b. will enhance SCO customer contacts with their CRNGS supplier and further competitive markets. RESA and IGS note that the transfer of calls from the VEDO call center to the relevant SCO supplier is a current practice—not a new requirement of the Stipulation—that reminds the customer of its relationship with the supplier, making the customer more aware of the competitive market (Tr. Vol. II at 124). Staff and VEDO join in the observation that the call-transfer provision is merely a continuation of current practices. Similarly, RESA, IGS, Staff, and VEDO assert that OCC's concerns that SCO customers will become confused or subjected to unwanted marketing are purely speculative: the practice already exists, but OCC presents no evidence that the alleged harmful effects have materialized. Additionally, RESA and IGS point out that OCC's own witness acknowledged that there are times in which it is appropriate for VEDO to transfer an SCO customer's call to the SCO supplier, and a customer who is unhappily transferred to the SCO supplier can always end the call (Tr. Vol. IV at 247-249). On a final note, RESA and IGS submit that Section 15.b. also benefits customers by requiring Staff to inquire whether SCO suppliers are sending welcome letters to customers as required (RESA Ex. 2 at 5).

{¶ 78} OCC briefly argues that Section 15.c., "Exit the Merchant Function," is another element of the Marketer and Supplier Provisions that is contrary to the public interest. OCC holds the SCO in high regard, calling it an important option for customers that establishes a competitive benchmark price for natural gas. In short, OCC states that this provision, which would require VEDO to consider eliminating the SCO, provides no benefit to customers.

{¶ 79} In response, RESA and IGS assert that the Stipulation does not require that an exit of the merchant function must occur; it merely provides for good-faith discussion of the topic. Regardless, RESA and IGS state that Section 15.c will further the competitive market for natural gas, which benefits customers because suppliers are competing for their business on a larger field (Tr. Vol. II at 98).

{¶ 80} Next, OCC urges that Section 15.d., in which VEDO agrees to explore the feasibility and costs of making certain billing enhancements, will provide benefits to marketers and suppliers but not to customers. OCC states this is particularly true because the marketers have no obligation to pay for implementing the billing system upgrades. To the contrary, OCC argues that the Stipulation places the burden of these billing enhancements on customers by allowing cost recovery, subject to an annual cap of $850,000, from VEDO's customers through the ETC Rider.[8] (OCC Ex. 4A at 12; Tr. Vol. II at 110.)

{¶ 81} RESA and IGS deny that the anticipated benefits of the billing enhancements discussed in Section 15.d. will accrue only to the marketers and suppliers. Instead, they assert that the enhancements will benefit customers by ensuring that VEDO's billing system is capable of billing for consumer-oriented product offerings, which will in turn create more choices for consumers (RESA Ex. 2 at 6; Tr. Vol. II at 105). Additionally, RESA and IGS indicate that the Commission has already rejected the notion that the type of billing enhancements contemplated in the Stipulation provide no customer benefits. *In re Columbia Gas of Ohio, Inc.*, Case No. 12-2637-GA-EXM, Opinion and Order (Jan. 9, 2013) at 39.

{¶ 82} Finally, OCC asserts that Section 15.e.—in which VEDO agrees to review the feasibility, including availability of resources and compliance with regulatory requirements, cost, and prudence of providing Choice Suppliers a list of Choice customers whose current commodity rates are in the top 25 percent of all Choice customer rates (Top 25% List)—is contrary to the public interest and established regulatory principles. Specifically, OCC worries that sharing customer information with suppliers in the form of the Top 25% List could be discriminatory, which would run afoul of R.C. 4929.22(F). OCC further worries

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[8] Here, the Commission notes that OCC made arguments regarding proposed alternative uses for ETC Rider funds in its initial post-hearing brief. Those arguments, however, were the subject of a motion to strike filed by VEDO and responded to by OCC, RESA, and IGS. Upon review, the Commission is persuaded that the arguments challenged by VEDO in that motion to strike are based on testimony that was stricken by the attorney examiners at hearing. The Commission is further persuaded that the attorney examiners did not err in striking the testimony. Accordingly, VEDO's motion to strike is granted, and the Commission will not consider or address the arguments.

that the information could be used by suppliers to market additional products and services; could subject unwitting customers to unknown termination fees; and could introduce opportunities for customers to suffer harm by accepting an artificially low introductory offer with subsequent higher rates or termination fees. Finally, OCC asserts that the benchmark comparison rate should be the SCO and use of the Top 25% List may skew that comparison to the detriment of customers. (OCC Ex. 4A at 14; Tr. Vol. II at 116, 117, 120.)

{¶ 83} VEDO, RESA, and IGS argue that OCC's worries are for naught. Initially, as with the preceding provisions, VEDO, RESA, and IGS note that the Stipulation does not require the Top 25% List to be compiled and shared; it merely requires VEDO to review the feasibility of such action and to share the results of the review to interested parties. Here, VEDO makes special note that the feasibility review is to include an inquiry into whether the list would comply with regulatory requirements. RESA and IGS also make note of the consumer protections put into place by the Stipulation, such as the omission of actual rates from the list, a customer opt-out provision, and associated costs being collected from Choice Suppliers through the current customer list fee. Continuing, RESA and IGS characterize OCC's concern that the Top 25% List "could be discriminatory" as speculative and wholly unsupported by the record. RESA, IGS, and VEDO all point out that the statute OCC cites as possibly prohibiting the Top 25% List actually encourages the dissemination of information. Specifically, R.C. 4929.22(F) mandates that the Commission establish rules to require natural gas companies to "make customer information available to a retail natural gas supplier or governmental aggregator * * * on a comparable and nondiscriminatory basis unless, as to customer information, the customer objects." Notably, state RESA and IGS, there is no limitation on the type of customer information a natural gas company can provide to suppliers under the statute. And RESA and IGS add that, because the Top 25% List would be provided to all CRNGS suppliers in VEDO's territory, there is no danger of the information being disseminated in a discriminatory manner.

{¶ 84} With respect to the call transfer provision, we agree that this poses minimal risks to customers as it is a continuation of current practice. However, there is little evidence in the record of protections for consumers in this current practice (Tr. Vol. IV at 249-250, 251-252, 269-270). Although we will not modify the Stipulation to restrict this provision, the Commission finds that VEDO can take two proactive steps in order to monitor this practice. First, VEDO should log each call transferred to an SCO supplier, including the name, customer account number, and address of each customer transferred, as well as a summary of the issue or question which the VEDO representative was unable to address. The Commission will not prescribe the manner in which VEDO maintains these records; however, these records should be maintained in a manner in which this information can be readily provided to the Staff upon request, and VEDO should provide Staff with a quarterly report of all calls transferred to SCO suppliers that includes all information set forth above. Second, within 90 days after the issuance of this Opinion and Order, VEDO should file an application to amend its supplier coordination tariff. These amendments must include provisions which require SCO suppliers to maintain records of customer sales where the solicitation is made directly following any customer call transferred to the SCO supplier by VEDO. We will clarify that a solicitation is made "directly" if the representative of the SCO supplier to whom the call is transferred either: makes the solicitation or transfers the customer to a sales representative or agent who makes the solicitation. These records shall include the customer name, address, account number, contract price, contract term, type of contract (i.e., fixed, variable, introductory, or other appropriate description), and termination fee, if any, as well as a recording of the full sales call. The tariff amendments shall require that all of these records shall be made available to Staff by the SCO supplier upon request. In addition, the tariff amendments shall require each SCO supplier to provide a monthly report to VEDO on the number of sales made following the transfer of a call under this provision, and VEDO shall provide Staff with a quarterly report including the number of sales, by SCO supplier, made each quarter following the transfer of a customer call.

{¶ 85} With respect to the provision regarding discussion of exiting the merchant function, the Commission notes that this provision simply requires VEDO to begin preliminary discussions with stakeholders regarding exiting the merchant function. Exiting the merchant function has proven to be a complex and lengthy process, but we cannot find that mere preliminary or exploratory talks are not in the public interest. However, our approval of this provision should not be construed to: require VEDO to file an application to exit the merchant function; restrict the position taken by the Staff in these discussions or in the event an application is filed; indicate support by the Commission for the filing of an application to exit the merchant function or for VEDO to exit the merchant function; or bind the Commission in any way in the event an application is filed by VEDO. Our decision today approves preliminary or exploratory discussions regarding exiting the merchant function and nothing more.

{¶ 86} The Commission finds that the provisions for billing enhancements have the potential to enhance the competitive market in the VEDO service area, and, thus, are consistent with state policy to promote the availability to consumers of adequate, reliable, and reasonably priced natural gas services and to promote the availability of unbundled and comparable natural gas services and goods that provide wholesale and retail consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs. R.C. 4929.02(A)(1) and (A)(2). In addition, the Commission finds that the provisions allowing VEDO to recover the costs of the billing enhancements from all ratepayers benefit customers and the public interest. An efficient competitive market benefits both shopping customers and non-shopping customers, and it is fair to continue to recover the costs of improving the competitive market from all customers.

{¶ 87} With respect to the provision for the Top 25% List, the Commission shares the concerns of OCC that this potential new sales tool may be vulnerable to misuse or, worse, abuse (Tr. Vol. II at 116-120; Tr. Vol. IV at 270-271). While we acknowledge the downward price pressure which may be brought to bear on the market and applaud the effort to introduce competitive price discipline into the market, the purpose of this potential sales tool can be realized only if its implementation serves to clarify and educate rather than confuse and obfuscate. However, we also acknowledge that this provision was part of a settlement package containing compromises on various issues by parties representing a wide variety of stakeholders. Therefore, instead of modifying the Stipulation in order to eliminate this potential sales tool, we will take steps, outside of the Stipulation, to ensure that retail customers are properly protected and that retail sales resulting from this new avenue are carefully and properly monitored.

{¶ 88} Therefore, if VEDO proceeds with the implementation of the Top 25% List, VEDO must file an application to amend its supplier tariffs with, at a minimum, the following terms and conditions. The tariff amendments shall require each CRNGS supplier who uses the Top 25% List for marketing and solicitation to keep records for all sales made from soliciting customers on the Top 25% List. These records shall include the customer name, address, account number, contract price, contract term, type of contract (i.e., fixed, variable, introductory, or other appropriate description), and termination fee, if any, as well as a recording of the full sales call, direct mail solicitation, or other form of solicitation, as applicable. The tariff amendments shall require that all of these records shall be made available to Staff by the CRNGS supplier upon request, and any failure to timely respond to such request by Staff will be grounds to terminate the CRNGS supplier's participation in the Top 25% List program. Further, the tariff amendment shall require each CRNGS supplier to provide VEDO monthly the names, account numbers, and dates of enrollment of those customers appearing on the Top 25% List identified by date or other effective list identifier who have accepted an offer made by the CRNGS supplier; and, VEDO shall attach to each customer's record the rate charged which placed the customer on the applicable Top 25% List. VEDO will also make these records available to the Staff upon request. VEDO shall keep all of these records confidential, and if a CRNGS supplier indicates that any information such as price or other term or condition is confidential, VEDO shall note that confidentiality claim on any records provided to Staff. Staff will maintain the confidentiality of such records in accordance with usual Commission practice.

{¶ 89} Finally, the Commission notes that we have approved this new sales avenue as a demonstration project, subject to future review by the Staff and stakeholders as to whether, as implemented, the benefits to customers outweigh the risks. It is not our intent that this potential new sales tool be replicated by the other Ohio gas utilities and electric distribution utilities, and, until the results in VEDO's service area have been thoroughly reviewed, we will scrutinize any future requests to implement a similar new sales avenue as part of any other utility's choice program.

e. Base Rate Increase

{¶ 90} OCC next contends that the Stipulation's base rate increase of $22.73 million is excessive, will result in unjust and unreasonable rates, and should be rejected. OCC also contends that the record is devoid of evidence to justify the stipulated figure. OCC notes that VEDO's application requested a base rate increase to $34.02 million and rate of return of 7.97 percent, which the Staff Report rejected in favor of a revenue increase with a recommended range of $12.09 million to $16.19 million and a rate of return of 7.49 percent. (OCC Ex. 2A at 3.) OCC states that the Stipulation "scraps" Staff's recommendation, allowing VEDO the $22.73 million increase. Through its witness Ralph Smith, OCC asserts that the public interest is harmed by having a base rate revenue increase that exceeds the upper bound of Staff's recommendation, which in OCC's opinion is already too high (*Id*. at 4). OCC recommends using a more modest return on equity than that used by VEDO's application, which in turn would lead to a more modest base rate increase of $1.08 to $5.09 million (*Id*. at 4-5).

{¶ 91} VEDO counters that the stipulated revenue requirement, including the stipulated increase to rate base, is the product of thorough investigation by Staff, vigorous settlement negotiations, and numerous mutual concessions by the parties. VEDO asserts that the record is replete with evidence to support the stipulated rate base. For example, the Company cites to the schedules supporting the Stipulation and to Mr. Lipthratt's testimony on cross-examination, in which he confirmed that Staff finds the amounts included in the Stipulation to be reasonable (Tr. Vol. II at 137). According to VEDO, Mr. Lipthratt also confirmed and corroborated the reasonableness of each challenged cost item that would affect rate base and of Staff's investigation (Tr. Vol. II at 143-144, 148-149, 152, 154).

{¶ 92} The Commission notes that, although OCC claims that there is no evidence in the record to justify granting VEDO a base rate increase that exceeds the upper bound recommended by Staff in the Staff Report, OCC ignores (and thus fails to address) the testimony in support of the Stipulation by Staff witness Lipthratt, who explains, in detail, the adjustments agreed to by Staff to arrive at the revenue requirement in the Stipulation. Mr. Lipthratt meticulously explains seven adjustments to the revenue requirement agreed to in the Stipulation. (Staff Ex. 1 at 4-6). The single largest adjustment, which relates to property tax expense, amounted to approximately $4.0 million, out of the total of $6.54 million in adjustments provided by the Stipulation (Staff Ex. 1 at 5-6). Neither the property tax adjustment nor any other adjustment agreed to in the Stipulation is addressed by the testimony of OCC witness Smith (OCC Ex. 2A at 3-5). Instead, Mr. Smith responds to the Stipulation with the vague claim that the Stipulation produces a base rate increase that is "too high" (OCC Ex. 2A at 4). In light of the detailed and uncontroverted testimony of Mr. Lipthratt, we are not persuaded by Mr. Smith's claim that the recommended base rate increase, as part of the entire settlement package, is not in the public interest.

{¶ 93} OCC also claims that, if the rate of return is based upon a lower return on equity, the base rate increase would be lower than that provided by the Stipulation. OCC's arguments regarding rate of return and return on equity will be addressed below.

f. Rate of Return

{¶ 94} In addition to its attack on the rate base increase, OCC criticizes the Stipulation's rate of return (ROR). Specifically, OCC states that the Commission should reject the Stipulation's 7.48 percent ROR as unreasonable and should instead adopt a reasonable ROR in the range of 6.47 to 6.98 percent. OCC avers that allowing a 7.48 percent ROR, as opposed to one in its suggested range, will cost residential customers $2.7 to $5.4 million more in base distribution revenue (OCC Ex. 5A at 6-7). OCC argues that the use of an unreasonable and overstated ROR will also unreasonably increase rider rates paid by VEDO's customers (*Id.*). As part of its argument, OCC further criticizes the manner in which the ROR was calculated, stating that the only difference between the Stipulation's and

OCC's ROR is the different return on equity (ROE). Instead of using what OCC calls the typical method, where the ROE is based on a historical average of the daily 10-year and 30-year treasury yield for a "risk free" rate, OCC complains that Staff calculated the risk free rate by using a forecast of the 10-year Treasury Notes and adding 50 basis points (OCC Ex. 5A at 5). OCC asserts that this method is not supported by current market conditions, reflects a fundamental misunderstanding of setting an ROR for public utilities, and should be rejected. In sum, OCC contends that its witness—using a traditional and widely-accepted methodology—demonstrated that a reasonable ROR would be no greater than 6.98 percent, which OCC urges the Commission to adopt in lieu of the Stipulation's 7.48 percent ROR.

{¶ 95} VEDO and Staff, on the other hand, argue that the stipulated ROR is reasonable, supported by the record, and otherwise reflects a position of compromise. As an initial matter, VEDO and Staff note that the 7.48 percent stipulated ROR falls within the range recommended in the Staff Report. Continuing, Staff states that its calculation of the ROR is not flawed or otherwise suspect; rather, Staff witness Joseph Buckley explained that using forecasted interest rates is appropriate given recent policy shifts at the Federal Reserve (Staff Ex. 7 at 3; Tr. Vol. V at 398-404). In addition to Mr. Buckley's testimony, VEDO offers that of its rate-of-return expert, Dr. Michael Vilbert, who observed that the stipulated ROR is reasonable, especially in the context of the Stipulation (VEDO Ex. 5.2 at 3; Tr. Vol. III at 194). Similarly, Dr. Vilbert testified that he believes the Stipulation is in the public interest (Tr. Vol. III at 188). VEDO also submits that Mr. Hecker's ROE range is an unreasonable outlier, where Dr. Vilbert's analysis supported an ROE of 10.75 percent and the midpoint of the Staff Report's ROE (9.3 percent) is approximately 100 basis points higher than OCC's midpoint (VEDO Exs. 5.0, 5.3; Staff Ex. 2 at 21-22). Concluding, VEDO asserts that the ROR is an element firmly within the Commission's discretion and that the manifest weight of the evidence demonstrates that the stipulated ROR of 7.48 percent is reasonable.

{¶ 96} We find that the evidence in the record supports the stipulated ROR of 7.48 percent. In support of its application in this case, VEDO provided testimony through its witness Vilbert, who persuasively supported an ROE of 10.75 percent (VEDO Ex. 5.0 at 62).

The Commission notes that Dr. Vilbert's testimony in support of an ROE of 10.75 percent was not impeached or otherwise undermined through cross-examination by OCC or any other party. An ROE of 10.75 percent would result in an ROR in this case of 7.97 percent. On the other hand, OCC proposed a range for the ROR in this proceeding of 6.47 percent to 6.98 percent (OCC Ex. 5A at 5).

{¶ 97} The Staff Report provided a range of reasonable rates of return of 6.97 percent to 7.49 percent. Staff witness Buckley responded to OCC's objections to the Staff Report (Staff Ex. 7 at 3-5). We note that Mr. Buckley responded to OCC's objection that Staff's risk free interest rate is unreasonably high; Mr. Buckley observed that the Federal Reserve's interest rate policy had shifted recently, with the end of quantitative easing and with increases in interest rates and, thus, that it is appropriate to use forecasted interest rates due to the policy shift (Staff Ex. 7 at 3; Tr. Vol. V at 398-400). At the hearing, OCC witness Hecker acknowledged that the Federal Reserve has increased interest rates numerous times since 2015 (Tr. Vol. IV at 307). Mr. Hecker also conceded that, in a rate case, base rates are intended to apply prospectively and that a goal of ratemaking is to develop rates that reflect the costs to be incurred during the effective rate period (Tr. Vol. IV at 306). Mr. Buckley also effectively rebutted OCC's objections regarding the adjustment for equity issuance and other costs and the alleged failure by Staff to reduce the recommended ROE due to reduced risks to the Company resulting from the SFV rate design (Staff Ex. 7 at 3-5).

{¶ 98} The Commission notes that the ROR of 7.48 percent recommended by the Stipulation is within the range provided by the Staff Report and is supported by the testimony of VEDO witness Vilbert (VEDO Ex. 5.2 at 3). We also note that an ROR of 7.48 percent represents the average of OCC's upper bound recommendation of 6.98 percent and VEDO's proposed ROR of 7.97 percent. Accordingly, we find that the ROR is a reasonable compromise and, as part of the entire settlement package, is in the public interest.

g. Energy Efficiency Programs

{¶ 99} OCC also urges the Commission to reject what OCC deems to be subsidies that fund non-low-income natural gas energy efficiency (EE) programs. OCC states that the Stipulation includes funding for EE programs and contends, through the testimony of Colleen Shutrump, that it is unreasonable to charge all customers for EE programs where only a small percentage use, and therefore benefit from, those programs (OCC Ex. 1A at 5, 7-8). Because only a small percentage of customers participate in the non-low-income EE programs, yet all customers pay for the programs, OCC deduces that the larger group of non-participating customers is, in effect, paying an unfair subsidy. OCC further argues that it is not necessary for consumers to fund services that are available in the competitive marketplace (OCC Ex. 1A at 9). Finally, OCC objects that the Stipulation errs in including a provision for VEDO to fund EE programs and associated expenses without a specified spending level. OCC believes that the Commission should identify and approve any EE programs instead of leaving the task to the VEDO Collaborative (OCC Ex. 1A at 10-11).

{¶ 100} ELPC, Staff, and VEDO present counter-arguments. Initially, Staff and VEDO note that the Stipulation removes all EE funding from base rates and provides that any recovery of EE expenses will be through the EEFR. Further, any cost recovery will be pursuant to an application or similar pleading and dependent upon Commission approval (Jt. Ex. 1.0 at 6). To that degree, VEDO asserts that any challenge to EE funding should be lodged not here, but in the Company's annual EEFR proceedings. Staff and ELPC respond more directly to OCC's characterization of the EE programs as subsidies. They concede that all customers pay for the EE programs but disagree with OCC's conclusion that non-participating customers receive no benefits. ELPC notes that, contrary to the assertion that the EE programs serve a very small proportion of residential customers, VEDO has proposed EE programs that could reach over 77,000 participants annually, a much larger number than the 11,000 cited by Ms. Shutrump (OCC Ex. 8 at 13). ELPC further notes that the Commission has previously recognized that EE programs play an important role in providing customer education and incentives for conservation. And, ELPC observes that the Commission recently rejected OCC's current arguments. *See In re Columbia Gas of Ohio, Inc.*, Case No. 16-1309-GA-UNC, et al., Opinion and Order (Dec. 21, 2016) at 63. Staff adds that OCC's concerns about a lack of specified funding levels are misplaced because recovery of expenditures will be evaluated through the EEFR, which is subject to the Commission's audit process.

{¶ 101} On a related matter, ELPC also recommends that the Commission formally establish better avenues for stakeholder input into VEDO's EE programs as soon as possible. ELPC states that, historically, only voting members of VEDO's Collaborative have had formal input into the design of its EE programs and that historical practice is not immediately subject to change under the Stipulation. ELPC asserts that this approach presents significant obstacles to input from stakeholders that were not designated as members of the Collaborative when it was created in 2007. ELPC believes that it and other interested stakeholders have valuable insight to share as VEDO's EE programs are designed and implemented. Thus, ELPC urges the Commission to alter VEDO's collaborative structure to allow for participation by all interested stakeholders immediately. ELPC represents that modifying the Stipulation as it suggests would not represent a material alteration to the Stipulation and could result in better EE programs for VEDO's customers (Tr. Vol. I at 63). In response, VEDO states that it would not object to the Commission using this proceeding to designate ELPC as a voting member of the Collaborative, but the Company does not agree that "all interested stakeholders" should be automatically given such a designation.

{¶ 102} The Commission finds that the provisions of the Stipulation to continue EE programs are in the public interest and that OCC's recommendation to eliminate funding for non-low-income EE programs should be rejected. R.C. 4905.70 provides that the Commission shall initiate programs that will promote and encourage conservation of energy and a reduction in the growth rate of energy consumption, promote economic efficiencies, and take into account long-run incremental costs. Further, the availability of efficiency programs for all customers is consistent with the policy of this state to promote an alignment of natural gas company interests with consumer interest in energy efficiency and energy conservation. R.C. 4929.02(A)(12). We have long recognized that EE programs that are cost-effective, produce demonstrable benefits, and produce a reasonable balance between reducing total costs and minimizing impacts on non-participants are consistent with this state's economic and energy policy objectives. *Dominion East Ohio*, Opinion and Order (Oct. 15, 2008) at 22-23; *In re Columbia Gas of Ohio, Inc.*, Case No. 16-1309-GA-UNC, et al., Opinion and Order (Dec. 21, 2016) at 63.

{¶ 103} The evidence in the record demonstrates that VEDO's EE programs are cost-effective (OCC Ex. 8 at 12-13; OCC Ex. 8 at Attachment A, page 57 of 97, Table 6-1). The evidence also demonstrates that VEDO's EE programs produce demonstrable benefits; VEDO has achieved or exceeded its savings goal for the past eight years (OCC Ex. 8 at 12; OCC Ex. 8 at Attachment B; VEDO Ex. 9.2 at 11). Moreover, VEDO has proposed a new Home Energy Report program to substantially increase the number of participants annually (OCC Ex. 8 at 11-12, 13; Tr. Vol. VI at 581-582). This new program should address any concerns regarding the balance between reducing total costs and minimizing impacts on non-participants by significantly increasing participation in the EE programs.

{¶ 104} With respect to the participation in the Collaborative, the Commission agrees with VEDO's suggestion that ELPC be made a voting member of the Collaborative. We also agree that the Collaborative should be as open and transparent as possible and that participation in the Collaborative should not be limited to the original stakeholders from 2007. However, we are not prepared to order VEDO to allow participation in the Collaborative to any transient "interested stakeholder." Instead, the Commission directs VEDO to consult with Staff when it receives any new requests for participation in the Collaborative. If VEDO and Staff are unable to agree whether a new stakeholder should be a voting participant in the Collaborative, Staff should bring the issue to the attention of the Commission in an appropriate forum.

{¶ 105} Having addressed the specific issues raised in opposition to the Stipulation, the Commission finds that the Stipulation benefits ratepayers and the public interest. We agree with Staff witness Lipthratt that the Stipulation implements the TCJA's reduced federal income tax rate and establishes a framework for returning EDIT resulting from the TCJA and the full balance of the regulatory liability ordered by the Commission in Case No. 18-47-AU-COI (Staff Ex. 1 at 4). We also note the additional benefits identified by Mr. Lipthratt, such as the smaller revenue increase and lower customer charge than that proposed by VEDO, funding for important safety and reliability programs such as the DARR program, Integrity Management (IM) programs, and CEP Rider, and commitments to various community support initiatives for economic and neighborhood development projects in Dayton (Staff Ex. 1 at 3-4). We also note the specific public benefits to the Stipulation identified by VEDO witness Swiz: the continuation of safe and reliable service; a reduction to VEDO's proposed revenue requirement; facilitation of VEDO's continued accelerated replacement and retirement of bare steel/cast iron pipelines, which will accelerate the reduction of system risks and compliance with federal pipeline safety regulations; a reduction in the federal income tax rate pursuant to the TCJA; a rate of return significantly below that proposed by the Company; direct benefits, such as funding economic and neighborhood development, to Dayton and its residents; establishing procedural mechanisms and cost controls for several important programs that benefit customers and the public (e.g., replacing at-risk pipeline, fostering economic development and investment in local infrastructure, or improving energy efficiency); ensuring that VEDO will file a base rate case with a date certain no later than December 31, 2024; updating the tariffs to reflect changes to miscellaneous charges, such as providing a free meter test once every three years; attention to various marketer and supplier concerns; and a reduction to the cost of litigation, which would otherwise increase rate case expense (VEDO Ex. 11.2 at 10-12).

3. DOES THE STIPULATION VIOLATE ANY IMPORTANT REGULATORY PRINCIPLE OR PRACTICE?

{¶ 106} The final inquiry into the reasonableness of a stipulation presented to the Commission for approval is whether that stipulation violates any important regulatory principle or practice. The Signatory Parties assert that the Stipulation passes this test (Jt. Ex. 1.0 at 2). More specifically, Staff submits that the Stipulation is consistent with and "complies with all relevant and important regulatory principles and practices" (Staff Ex. 1 at 7). As examples, Staff witness Lipthratt cites to the recommendation of reasonable rates that are appropriate to ensure reliable service for customers and to ensure that the company has a reasonable opportunity to earn a return on prudent investments, adherence to cost-causation principles, and avoidance of improper subsidization. Mr. Lipthratt also identified protecting residential Ohioans and conservation as relevant and important regulatory principles. (Tr. Vol. II at 163.) The Company adds that the Stipulation encourages compromise as an alternative to litigation and proposes the continuation or implementation of riders that will support policies and goals approved by the Commission in prior orders. Furthermore, the Company asserts that utilization of the SFV design previously approved by the Commission signals conformity to regulatory practice and principles. (VEDO Ex. 11.2 at 14-15.)

{¶ 107} The Opposition, however, identify two areas in which they believe the Stipulation fails this element: the continuation of the SFV rate design and the treatment of unprotected EDIT.

a. SFV Rate Design

{¶ 108} The Opposition complete their challenge to the Stipulation's continuation of the SFV rate design by alleging that the inclusion of the design violates important regulatory principles and practices.

{¶ 109} Here, each side of this proceeding insists that the same Commission precedent mandates a different conclusion. The Opposition cite to the Commission's 2008 and 2009 decisions implementing SFV rate design for Ohio's major natural gas utilities as cause for the Commission to question the same design now.[9] They insist that, in those cases, the Commission did not endorse the SFV rate design regardless of relevant circumstances but on a number of specific factual findings. And, they further insist that the specific facts underlying those decisions—most notably the comparatively high price of natural gas—have changed; thus, the Commission should revisit its position.

{¶ 110} Building on that argument, OCC states that, whereas it may have made sense to protect consumers from high gas prices through a fixed charge a decade ago, that concern is no longer relevant today. Instead, OCC believes that, now, consumers should be given the benefit of low commodity prices through a rate design that implements a volumetric component. OCC advocates that the Commission is not bound to continue the use of a SFV rate design because it has done so in the past. Instead, as do OPAE and ELPC, OCC submits that the Commission must base its decision in this proceeding on the evidence presented in this proceeding. And, as succinctly argued by ELPC, a reasonable fixed charge accompanied by a volumetric rate is the appropriate policy given the facts in this proceeding. ELPC urges the Commission to follow the lead of other state regulators that have rejected the use of a fixed charge that does not vary with consumption.

{¶ 111} On the other hand, Staff and VEDO submit that the regulatory validity of the SFV rate design has been thoroughly reviewed and repeatedly affirmed. *2007 and 2008 SFV Cases*; *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 127 Ohio St.3d 524, 2010-Ohio-6239; *Ohio Consumers' Counsel v. Pub. Util. Comm.*, 125 Ohio St.3d 57, 2010-Ohio-134. Indeed, notes Staff, the Commission favorably cited the *2007 and 2008 SFV Cases* in approving an alternative rate plan implementing an SFV rate design for one of Ohio's smaller natural gas companies. *In re Suburban Natural Gas Co.*, Case No. 17-594-GA-ALT, Finding and Order

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9 *2007 Rate Case*, Opinion and Order (Jan. 7, 2009); *In re Columbia Gas of Ohio, Inc.*, Case No. 08-72-GA-AIR, et al., Opinion and Order (Dec. 3, 2008); *Dominion East Ohio*, Opinion and Order (Oct. 15, 2008); *In re Duke Energy Ohio, Inc.*, Case No. 07-589-GA-AIR, et al., Opinion and Order (May 28, 2008) (collectively, *2007 and 2008 SFV Cases*).

(Nov. 1, 2017) at ¶ 32. As such, Staff believes that the Commission should look to its own precedent for guidance, not to other states as urged by ELPC.

{¶ 112} VEDO additionally contends that no sound regulatory principle justifies adjusting the distribution rate design based on the current supply price of the commodity. This is so, says VEDO, because commodity costs are volatile and unpredictable, but the rate design for determining the base distribution rates paid by customers is static over the course of the intended rate period. In short, VEDO submits that, although commodity prices may change, the benefits of the SFV rate design are constant and consistent with important regulatory practices and principles.

{¶ 113} OPAE, with similar mention by ELPC, further contends that the high fixed charges resulting from the SFV rate design violate the important regulatory principles of gradualism and cost causation. As to the latter, for the most part, OPAE repeats its arguments (discussed above) that the Stipulation assumes costs are fixed where they are not and that recovering all distribution costs through a fixed charge is not good policy when compared to recovery through volumetric charges. As to the former, OPAE asserts that fixed charges increase dramatically and quickly under the Stipulation rather than modestly over time. OPAE avows that this rapid increase in fixed charges will result in rate shock for customers who have not increased consumption, especially low-use, low-income consumers.

{¶ 114} Responding, VEDO contends that OPAE's cost-causation and gradualism arguments have been addressed and discarded by the Supreme Court of Ohio and, similarly, should be discarded here. *Ohio Consumers' Counsel,* 127 Ohio St.3d 524, 2010-Ohio-6239, , 941 N.E.2d 757; and *Ohio Consumers' Counsel,* 125 Ohio St.3d 57, 2010-Ohio-134, 926 N.E.2d 261. Staff agrees that the Commission's past precedent in authorizing the SFV rate design refutes OPAE's arguments. In addition, Staff observes that the Commission is vested with broad discretion in designing rates, *Payphone Assn. v. Pub. Util. Comm.*, 109 Ohio St.3d 453, 2006-Ohio-2988, 849 N.E.2d 4, ¶ 25, and, while the concept of gradualism is important, the Commission is not bound to apply it as a factor in every rate design case. *Ohio Consumers' Counsel*, 125 Ohio St.3d 57, 2010-Ohio-134, 926 N.E.2d 261, at ¶ 20.

{¶ 115} As a preliminary matter, we note that the Stipulation did not materially alter Staff's recommendation to continue the SFV rate design. Therefore, arguments against the SFV rate design should have been raised, and subsequently briefed, as objections to the Staff Report. Nonetheless, even though these arguments by opposing parties are misplaced, we will address these arguments in our consideration of the Stipulation.

{¶ 116} We are not persuaded that the shift in the balance of costs in customers' bills between distribution and commodity costs requires a change in rate design. To be sure, the total balance of costs between distribution and commodity costs was a factor relied upon by the Commission when we authorized VEDO to implement SFV. *2007 Rate Case,* Opinion and Order (Jan. 7, 2009) at 12, Entry on Rehearing (Aug. 26, 2008) at 7-9 (citing *Dominion East Ohio*, Entry on Rehearing (Dec. 19, 2008) at 14). However, the Commission primarily relied upon principles of cost causation and upon the need to send proper price signals to customers for the purposes of energy efficiency and conservation (*2007 Rate Case*, Opinion and Order (Jan. 7, 2009) at 12, 13-14, Entry on Rehearing (Aug. 26, 2008) at 5-6, 6-7). In this case, the testimony of VEDO witness Feingold cautions against unwinding SFV rate design based upon variations in the price of natural gas over time (VEDO Ex. 12.1 at 10-11, 44-45). We do not believe that it is necessary or appropriate to dramatically change rate designs solely upon short-term natural gas market conditions. Natural gas prices have been historically volatile and the balance between distribution costs and commodity costs may shift again in the future.

{¶ 117} With respect to gradualism, the Commission finds that the Stipulation is consistent with the principle of gradualism. Currently, VEDO residential customers are paying fixed charges in the amount of $27.62 per month, which consists of a monthly charge for base rates of $18.37 per month and the current DRR charge of $9.25 per month. The Stipulation provides for a new monthly charge of $32.86. (VEDO Ex. 11.3 at 4-5; OCC Ex.

6a at 10.) This monthly charge includes the fixed costs previously recovered through the DRR and now *included* in base rates. Thus, the total increase in the fixed monthly charge for residential customers would be $5.24 per month (VEDO Ex. 11.3 at 4-5). The Commission finds that this increase is consistent with principles of gradualism, but we note that VEDO claims that the Commission should also consider the proposed monthly credit of $3.72 for tax savings under the TCJA currently pending before the Commission. *In the Matter of the Application of Vectren Energy Delivery Co. for Approval of a Tax Savings Credit Rider,* Case No. 19-29-GA-ATA (*Tax Case*). This would reduce the amount of fixed charges to $29.14 per month, an increase of $1.52 over current fixed charges (VEDO Ex. 11.3 at 4-5).

{¶ 118} Opposing parties note that, under the Stipulation, VEDO will continue to make investments under the DRR and the CEP and that, according to the caps in the DRR and CEP under the Stipulation, the fixed charges could increase to $48.11 (OCC Ex. 6a at 9). However, the Commission notes that these increases would be gradual; the $48.11 charge posited by OCC cannot take effect until September 1, 2024 (Jt. Ex. 1 at 7). We find that recovering the costs of these investments under the DRR and CEP will mitigate the potential increases in base rates in VEDO's next rate case and reduce the possibility of rate shock. We further note that opposing parties have not disputed the need to continue to make investments for safety and reliability under the DRR and CEP.

{¶ 119} OCC and OPAE stress the impact of SFV on low-usage customers but their arguments elide the impact on higher-use customers of OCC's proposal to implement a volumetric charge. OCC's witness Gonzalez illustrates the impact of OCC's proposal on higher-use customers; he estimates that, under OCC's proposed rate design (and using the stipulated revenue increase), distribution charges for customers using 100 CCF per month would see a monthly increase of $14.70 (18.40 percent increase), and a customer using 150 CCF per month would see a monthly increase of $26.26 (25.79 percent increase). By contrast, according to Mr. Gonzalez, under the SFV rate design, a customer who maintains gas service but uses 0 CCF would see a monthly increase of $5.50 (18.97 percent increase) and a customer who uses 25 CCF would see a monthly increase of $5.27 (12.81 percent increase).

(OCC Ex. 6a at 10.) We find that the testimony of OCC witness Gonzalez demonstrates that OCC's proposed rate design violates the principle of gradualism. Customers with above-average gas usage would face increases that range from 18.40 percent to 26.26 percent and above. We acknowledge that, under the SFV rate design, zero use customers face an increase of 18.97 percent; however, Mr. Gonzalez never identifies how many customers maintain gas service but consume no gas each month.

{¶ 120} With respect to the principle of cost causation, the Commission thoroughly addressed cost causation in response to the objections to the Staff Report filed by the parties. There is no need to repeat the Commission's discussion here, but we note that the testimony of OCC witness Gonzalez demonstrates that the Stipulation is consistent with cost causation. According to Mr. Gonzalez's testimony, the rate increases for customers under the SFV design range from $5.50 to $4.12 per month (a difference of $1.38); but, under OCC's proposed rate design, the impact on rates varies from a decrease of $9.71 to an increase of $26.26 (a difference of $35.97). (OCC Ex. 6a at 10, 12.) As noted above, the evidence in the record shows that the cost of providing service to residential customers is relatively uniform. Therefore, the Commission finds that the SFV rate design is more consistent with principle of cost causation; under the SFV rate design, the difference in the increase in rates for customers, based on usage, is only $1.38 per month, while, under OCC's proposed rate design, the difference in the rate change for customers, based on usage, is $35.97 per month. Thus, we find that the SFV rate design contained in the Staff Report and adopted by the Stipulation is consistent with the principle of cost causation.

{¶ 121} Finally, we note that it is the policy of the state to promote an alignment of natural gas company interests with consumer interest in energy efficiency and energy conservation. R.C. 4929.02(A)(12). The SFV rate design proposed by Staff and adopted by the Stipulation eliminates any conservation disincentive to VEDO and properly aligns VEDO's interests with consumer interest in energy efficiency and conservation (VEDO Ex. 12.1 at 12, 17).

b. Unprotected EDIT

{¶ 122} OCC submits that returning unprotected EDIT to customers through a credit rider violates important regulatory principles. The Stipulation proposes returning to customers both protected and unprotected EDIT through the TSCR. OCC claims that, while it is appropriate to use the TSCR to return protected EDIT—the amount of which is unknown and will fluctuate year to year—it is inappropriate to similarly return unprotected EDIT—the amount of which is known and will not fluctuate. Instead, states OCC, unprotected EDIT can be amortized on a straight-line basis and returned to customers through a reduction in VEDO's base rates. OCC asserts that its approach is more consistent with important regulatory principles of using known and measurable information when calculating base rates and that establishing an amortization period of five years is reasonable and consistent with the Company's proposed cycle for amortizing rate case expenses and its cycle for filing base rate cases. OCC additionally argues that failing to follow its recommendation to amortize and return VEDO's unprotected EDIT as a reduction in base rates will result in customers paying more than necessary for their natural gas service. (OCC Ex. 2A at 6-10.) Thus, OCC urges that the Stipulation is unlawful and should be rejected or modified in accordance with its recommendations.

{¶ 123} Staff and VEDO reject OCC's assertions. VEDO and Staff instead submit that establishing and using the TSCR to refund EDIT is the more reliable method of ensuring that the exact amount of EDIT is refunded to customers (Staff. Ex. 6 at 4). VEDO contends that OCC cites no legal authority for its assertion that unprotected EDIT must be recognized in base rates and cannot be recognized in a rider. Staff further submits that the TSCR process is reasonable and consistent with the Commission's consideration of the effects of the TCJA. VEDO agrees, noting that it has complied with the Commission's directive to file an application to pass along to consumers the tax savings resulting from the TCJA[10] by filing the application in the *Tax Case* for approval of the TSCR as contemplated

[10] *In re the Commission's Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI, Finding and Order (Oct. 24, 2018) at ¶ 29.

by the Stipulation. On a final note, both Staff and VEDO insist that OCC's arguments regarding the proper length of the applied amortization period are better made in the *Tax Case*.

{¶ 124} The Commission finds that the TCJA provisions of the Staff Report, which were adopted by the Stipulation, do not violate any important regulatory principle or practice. As a preliminary matter, with respect to the amortization period, we agree with VEDO that the question of the amortization period is best left to VEDO's pending *Tax Case*. In addition, we agree with the testimony of Staff witness Borer that refunding the tax savings through a tax savings credit rider provides a more reliable method of ensuring that the appropriate amount of EDIT is refunded to customers and that refunding the tax savings through a tax savings credit rider has the same effect on customer bills as refunding the tax savings through a reduction in base rates. In addition, the Commission notes that the base rates approved in this case will reflect the lower federal income tax rates. Finally, we note that, contrary to violating an important regulatory principle or practice, refunding the tax savings through a tax savings credit rider is consistent with Commission precedent in refunding the TCJA tax savings. *In re the Commission's Investigation of the Financial Impact of the Tax Cuts and Jobs Act of 2017 on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI, Finding and Order (Oct. 24, 2018) at ¶ 29 (directing all Ohio rate-regulated utilities to file applications "not for an increase in rates" to pass along savings resulting from the TCJA).

{¶ 125} Based on the foregoing, we find that the Stipulation does not violate any important regulatory principles or practices. Accordingly, we find that the Stipulation is reasonable and should be adopted.

D. Rate of Return and Authorized Increase

{¶ 126} Given VEDO's current rates, the Company has a current operating income of $28,590,805 and a stipulated rate base of $622,297,988, which yields a 4.59 percent earned rate of return. This rate of return is insufficient to provide VEDO with reasonable compensation for distribution of natural gas service provided to its customers. (Jt. Ex. 1.0 at 3; Jt. Ex. 2.0, Schedule A-1.)

{¶ 127} The negotiated rate of return recommended by the Stipulation is 7.48 percent. In order to realize this agreed to rate of return on the stipulated rate base of $622,297,988, VEDO requires net operating income of $46,547,889. Thus, the stipulated revenue increase, or base rate increase, amounts to $22,730,487, reflecting a total stipulated revenue requirement of $172,969,453. (Jt. Ex. 1.0 at 2-3; Jt. Ex. 2.0, Schedule A-1.)

E. Effective Date and Tariffs

{¶ 128} As part of its investigation in this matter, Staff reviewed the various rates, charges, and provisions governing terms and conditions of service contained in VEDO's proposed tariffs and, ultimately, joined the Stipulation recommending that the Commission approve the final tariffs filed as Joint Exhibit 4.0. Upon review, the Commission finds the stipulated proposed tariffs to be reasonable. Consequently, VEDO shall final file the tariffs, subject to final review by the Commission. The new tariffs will become effective on a service-rendered basis on or after the effective date of the tariffs.

V. FINDINGS OF FACT AND CONCLUSIONS OF LAW

{¶ 129} VEDO is a natural gas company and a public utility as defined by R.C. 4905.03 and R.C. 4905.02, respectively. As such, the Company is subject to the Commission's jurisdiction pursuant to R.C. 4905.04, 4905.05, and 4905.06.

{¶ 130} On January 3, 2018, VEDO filed a notice of intent to file an application for an alternative rate plan under R.C. 4929.05 in the *CEP Rider Case*.

{¶ 131} On February 21, 2018, VEDO filed a notice of intent to file an application for an increase in natural gas distribution rates and a notice of intent to file a second application for approval of an alternative rate plan in the *Combined Filings Case.*

{¶ 132} On February 23, 2018, VEDO filed a motion to establish a date certain of December 31, 2017, and a test year spanning the 12-month period ending September 30, 2018. By Commission Entry dated March 14, 2018, the proposed test period and date certain were approved and a requested waiver of Ohio Adm.Code 4901:1-19-06(B)(1) was granted.

{¶ 133} On April 13, 2018, VEDO filed its application for approval of an alternative rate plan in the *CEP Rider Case*.

{¶ 134} On March 30, 2018, the Company filed a combined application for an increase in rates and charges and for approval of an alternative rate plan in the *Combined Filings Case*.

{¶ 135} On May 23, 2018, the Commission issued an Entry accepting the Company's combined application as of its filing date. And, on May 24, 2018, the attorney examiner granted a motion to consolidate the *CEP Rider Case* and the *Combined Filings Case* into this single *Rate Case* proceeding.

{¶ 136} On October 1, 2018, Staff filed its written report of investigation.

{¶ 137} The following parties were granted intervention: Dayton, ELPC, FEA, Honda, IGS, OCC, OPAE, and RESA. Several motions for counsel to be admitted pro hac vice were also granted.

{¶ 138} On October 31, 2018, Dayton and Honda, OPAE, ELPC, IGS, VEDO, OCC, and RESA filed objections to the Staff Report.

{¶ 139} On November 7, 2018, VEDO moved to strike objections filed by IGS and RESA, and OCC moved to strike objections filed by VEDO and IGS. VEDO, RESA, and IGS responded with memoranda contra the motions to strike on November 14, 2018.

{¶ 140} Following public notice, the Commission conducted three local public hearings—one in Dayton, Ohio on November 15, 2018; one in Washington Court House, Ohio on November 26, 2018; and one in Sidney, Ohio on November 28, 2018.

{¶ 141} On December 4, 2018, the adjudicatory hearing was called to order as scheduled but, upon granting a motion for continuance filed by VEDO, immediately continued to January 7, 2019.

{¶ 142} On January 4, 2019, a Stipulation was filed. VEDO, Staff, Dayton, FEA, IGS, and RESA are Signatory Parties to the Stipulation. On January 17, 2019, Honda declared its non-opposition to the Stipulation.

{¶ 143} After being called and continued on January 7, 2019, the evidentiary hearing was conducted in three phases over six days: January 29 through February 1, 2019; February 19 and February 20, 2019; and March 12, 2019.

{¶ 144} The stipulated value of VEDO's property which is used and useful in the rendition of natural gas distribution service, or the rate base, is $622,297,988.

{¶ 145} VEDO's stipulated operating income for the test year was $28,590,805, which represents a rate of return of 4.59 percent earned on the rate base.

{¶ 146} A 4.59 percent rate of return is insufficient to provide VEDO with reasonable compensation for distribution of natural gas service rendered to its customers.

{¶ 147} The stipulated increase to VEDO's revenue requirement is $22,730,487, which is just and reasonable.

{¶ 148} VEDO is entitled to the opportunity to earn the stipulated overall rate of return of 7.48 percent.

{¶ 149} VEDO's application to increase rates was filed pursuant to, and this Commission has jurisdiction over the application under, the provisions of R.C. 4909.17, 4909.18, and 4909.19; the application complies with the requirements of these statutes.

{¶ 150} A Staff investigation was conducted, and a report of that investigation duly filed and mailed, in accordance with R.C. 4909.19.

{¶ 151} Public hearings were noticed and held in compliance with the requirements of R.C. 4909.19 and 4903.083.

{¶ 152} The Stipulation meets the three criteria used by the Commission to evaluate stipulations, is reasonable, and should be adopted.

{¶ 153} The existing rates and charges for natural gas distribution service are insufficient to provide VEDO with adequate net annual compensation and return on its property used and useful in the provision of natural gas distribution services.

{¶ 154} A rate of return of 7.48 percent is fair and reasonable under the circumstances of this proceeding and is sufficient to provide VEDO just compensation and return on its property used and useful in the provision of natural gas distribution services.

{¶ 155} VEDO's applications for approval of alternative rate plans were filed pursuant to, and the Commission has jurisdiction over the applications under, R.C. 4929.05. VEDO's applications, as modified by the Stipulation, meet the conditions for approval of an alternative rate plan as set forth in R.C. 4929.05(A).

{¶ 156} VEDO is authorized to withdraw its current tariffs and to file, in final form, revised tariffs as approved by the Commission herein.

VI. ORDER

{¶ 157} It is, therefore,

{¶ 158} ORDERED, That the Stipulation filed January 4, 2019 in this consolidated proceeding is approved and adopted by the Commission. It is, further,

{¶ 159} ORDERED, That VEDO's applications for an increase in rates and for approval of alternative rate plans are granted to the extent provided in this Opinion and Order. It is, further,

{¶ 160} ORDERED, That VEDO is authorized to file, in final form, two complete copies of tariffs consistent with this Opinion and Order and to cancel and withdraw its superseded tariffs upon the effective date of the final tariffs. One copy shall be filed in these case dockets and one copy shall be filed in the Company's TRF docket. The Company shall also update its tariffs previously filed with the Commission's docketing division. It is, further,

{¶ 161} ORDERED, That VEDO shall notify all affected customers of the tariffs via bill message or bill insert within 30 days of the effective date of the revised tariffs. A copy of this customer notice shall be submitted to the Commission's Service Monitoring and Enforcement Department, Reliability and Service Analysis Division, at least ten days prior to its distribution to customers. It is, further,

{¶ 162} ORDERED, That the effective date of the revised tariffs shall be a date not earlier than the date of this Opinion and Order and the date upon which two complete copies of the final tariffs are filed with the Commission. It is, further,

{¶ 163} ORDERED, That a copy of this Opinion and Order be served upon all parties of record.

COMMISSIONERS:
Approving:
Sam Randazzo, Chairman
M. Beth Trombold
Lawrence K. Friedeman
Daniel R. Conway
Dennis P. Deters

GAP/PAS/hac