

## THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF  
VECTREN ENERGY DELIVERY OF OHIO,  
INC. FOR APPROVAL TO CONTINUE  
DEMAND SIDE MANAGEMENT  
PROGRAM FOR ITS RESIDENTIAL,  
COMMERCIAL, AND INDUSTRIAL  
CUSTOMERS.

CASE NO. 19-2084-GA-UNC

### ENTRY

Entered in the Journal on April 28, 2020

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

{¶ 2} Pursuant to R.C. 4929.02(A)(12), it is state policy to “[p]romote an alignment of natural gas company interests with consumer interests in energy efficiency and conservation.” Furthermore, under R.C. 4905.70, the Commission is tasked to “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.”

{¶ 3} VEDO’s current demand side management (DSM) programs were established as part of a stipulation and recommendation adopted and approved by the Commission that provided for the creation of an energy efficiency funding rider (EEFR). *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). The EEFR would be used to fund VEDO’s DSM energy efficiency (EE) programs, the implementation of which would be monitored by the VEDO Collaborative originally established in *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 05-1444-GA-UNC, Supplemental Opinion and Order (June 28, 2007). 2007 Rate Case, Opinion and Order (Jan. 7, 2009) at 4.

{¶ 4} Subsequently, as part of VEDO's most recent rate case, the Commission approved a stipulation and recommendation (Stipulation) that altered the landscape of VEDO's DSM programs by, among other things, removing all funding for such programs from base rates in favor of the EEFR. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 18-298-GA-AIR, et al. (2018 Rate Case), Opinion and Order (Aug. 28, 2019). Specifically, the approved Stipulation removed all EE funding from base rates; directed that all approved EE expenses will be recovered through the EEFR, subject to application and Commission approval; and provided that the Commission would approve VEDO's EE programs and funding via a separate application. 2018 Rate Case, Opinion and Order (Aug. 28, 2019) at ¶ 53.

{¶ 5} The Stipulation further provided that the VEDO Collaborative would continue to select, manage, and review EE programs through December 31, 2020, and beginning not later than July 31, 2019, VEDO would confer with Staff and any interested parties regarding the Company's EE programs and funding. If the participating parties were able to negotiate and file an unopposed stipulation by October 1, 2019, that stipulation would request Commission approval of an EE portfolio and EE funding through calendar year 2020. If an unopposed stipulation was not filed by that date, however, EE programs and funding through December 31, 2020, will continue under the existing model and procedures. Additionally, VEDO agreed to file an application by November 30, 2019, seeking Commission approval of an EE portfolio and EE funding to take effect beginning 2021; the application could also propose an annual performance incentive and could request annual funding in excess of \$5.6 million, with each proposal being subject to support or opposition from any signatory party to the Stipulation.

{¶ 6} On November 22, 2019, following unsuccessful Collaborative discussions, VEDO filed the instant application (Application) requesting that the Commission approve a triannual Gas DSM Program Plan for calendar years 2021 through 2023 (the DSM EE Plan). VEDO asserts that the DSM EE Plan is designed to attract approximately 57,000 annual participants, proposes to invest approximately \$5.8 to \$6 million annually, and is designed

to cost-effectively reduce energy use by approximately 1.4M hundred cubic feet (Ccf) to 1.45M Ccf each year over the three-year plan. Though much of the DSM EE Plan remains similar to years past, the Application does propose modifications; for example, the Company seeks to include performance incentives based on a shared savings approach. The Application advocates for an accelerated procedural schedule, which aims for a decision from the Commission on or before November 30, 2020. In the event no Commission decision is issued by that date, VEDO requests that EE programs and funding continue beyond December 31, 2020, through the existing Collaborative model and procedures until the Commission acts on the Application.

{¶ 7} By Entry dated January 10, 2020, the attorney examiner issued a procedural schedule establishing February 3, 2020, as the deadline for filing motions to intervene and instructing parties to file initial comments by March 6, 2020, and reply comments by April 3, 2020.

{¶ 8} Motions to intervene were timely filed by Ohio Consumers' Counsel (OCC), Environmental Law and Policy Center (ELPC), Ohio Partners for Affordable Energy (OPAE), Interstate Gas Supply, Inc. (IGS), and Retail Energy Supply Association (RESA). Each of the motions asserts that the filing party has a real and substantial interest in the case, which interest is not adequately represented by VEDO or any other party, and will positively contribute to a just and expeditious resolution without undue delay. None of the motions are opposed. Upon review, and pursuant to R.C. 4903.221 and Ohio Adm.Code 4901-1-11, the attorney examiner finds that the motions to intervene are reasonable and should be granted.

{¶ 9} On March 6, 2020, Staff filed its Review and Recommendation regarding VEDO's Application. Initially, Staff reiterates the DSM EE Plan's total cost and estimated gas savings and confirms that the Company provided information to support the portfolio's cost-effectiveness. Staff next describes its review of the DSM EE Plan, conducted through document reviews, interviews, and interrogatories, as consisting of a prudency review of

proposed costs related to projected natural gas savings and a confirmation of the calculations to verify the accuracy of projected expenditures. Ultimately, Staff's Review and Recommendation concludes that, except for the proposed implementation of a shared savings incentive, the Application should be approved.

{¶ 10} OCC also filed initial comments on March 6, 2020.<sup>1</sup> Generally, OCC urges the Commission to reject VEDO's proposals for non-low-income programs and a shared savings program while supporting continued assistance for low-income customers. OCC closes its initial comments by more specifically recommending that the Commission deny VEDO's proposed shared savings incentive, limit any non-low-income programs to education-based programs, limit eligibility of residential programs to low-income customers and those challenged by affordable bills, and require the Company to lower its administrative costs or protect consumers by disallowing unreasonably high administrative costs from rider charges.

{¶ 11} On March 9, 2020, the governor signed Executive Order 2020-01D (Executive Order), declaring a state of emergency in Ohio to protect the well-being of Ohioans from the dangerous effects of COVID-19. As described in the Executive Order, state agencies are required to implement procedures consistent with recommendations from the Department of Health to prevent or alleviate the public health threat associated with COVID-19. Additionally, all citizens are urged to heed the advice of the Department of Health regarding this public health emergency in order to protect their health and safety. The Executive Order was effective immediately and will remain in effect until the COVID-19 emergency no longer exists. The Department of Health is making COVID-19 information, including information on preventative measures, available via the internet at [coronavirus.ohio.gov/](https://coronavirus.ohio.gov/).

{¶ 12} On April 3, 2020, OCC, OPAGE, and VEDO each filed reply comments in this proceeding. Of note to this Entry, OCC's reply comments raise new suggestions to amend

---

<sup>1</sup> OPAGE filed correspondence advising the Commission that OPAGE would not file initial comments while reserving the right to file reply comments.

the DSM EE Plan to address the current coronavirus pandemic and its impact on consumers. First, OCC reemphasizes its position that non-low-income programs are not effective or necessary in this time of historic or near-historic low natural gas prices and a sound free-market environment for energy-efficient products, especially where the General Assembly has called a halt to similar programs for electric utilities in Amended Substitute House Bill Number 6 (House Bill 6). OCC then segues into commentary offering new suggestions to repurpose the remainder of 2020 weatherization and home audit program funding, and further convert any 2021 low-income weatherization funding, to direct bill payment assistance in light of the wide-spread financial hardships experienced by all consumers during the current coronavirus pandemic and the uncertain years to come. OCC further recommends that the Commission refrain from approving any DSM EE Plan programs for 2022 and 2023; instead, OCC asserts that the Commission should require VEDO to file a new application for those years at a later date—sometime in 2021—when all concerned have more information regarding the pandemic’s long-range effects on the economy.

{¶ 13} On April 9, 2020, VEDO and OPAE (Movants) jointly filed a motion to strike portions of OCC’s reply comments or, in the alternative, for leave to file comments in sur-reply. Movants assert that OCC’s suggestions to convert 2020 and 2021 programming funds to direct bill assistance and to require a future application for 2022 and 2023 funding are improperly raised for the first time in reply comments, thus depriving Movants of the opportunity to respond. Thus, Movants request that the Commission strike the three new proposals and related commentary. Alternatively, Movants seek leave to file sur-reply comments that directly address OCC’s new recommendations.

{¶ 14} On April 17, 2020, OCC filed a memorandum contra the motion to strike. OCC urges the Commission to permit the challenged comments to stand. Further, OCC does not oppose the Movants’ request for an opportunity to file sur-reply comments addressing recommendations that were not included in the scope of OCC’s initial comments, i.e., recommendations 3, 4, and 5 on page 3 and the associated discussion in sections C, D, and E of OCC’s reply comments (Recommendations 3, 4, and 5).

{¶ 15} In an April 24, 2020 reply in support of the joint motion to strike, Movants restate their wish to have the challenged comments stricken as improper and untimely. In the alternative, however, Movants remain open to the opportunity to file sur-reply comments and agree with OCC that such comments, if permitted, should be limited to Recommendations 3, 4, and 5 offered by OCC on reply.

{¶ 16} The attorney examiner finds that the prudent course is to deny the motion to strike and, instead, permit all parties the opportunity to submit sur-reply comments on Recommendations 3, 4, and 5. While Movants insist that OCC erroneously failed to seek leave to supplement its initial comments and otherwise delayed in raising concerns about the near and long-term effects of the pandemic, the attorney examiner finds that there is no indication that OCC delayed in bringing its pandemic-related concerns to the Commission. Furthermore, while the question of how circumstances arising from the pandemic may affect this case remains unanswered, it is reasonable to consider the arguments on this issue once each participant has been given equal voice. Additionally, the timeline for this case will be no more affected by the addition of a brief sur-reply period than it would have been had initial comments been supplemented and additional time needed before typical reply comments were filed.

{¶ 17} Accordingly, the attorney examiner finds that Movants' motion to strike should be denied, but that the parties should be given leave to file sur-reply comments limited to Recommendations 3, 4, and 5 and related commentary contained in OCC's reply comments. To be considered timely, sur-reply comments must be filed on or before May 12, 2020.

{¶ 18} It is, therefore,

{¶ 19} ORDERED, That the motions to intervene filed by OCC, ELPC, OPAE, IGS, and RESA be granted as stated in Paragraph 8. It is, further,

{¶ 20} ORDERED, That the motion to strike be denied, but that the parties be permitted to file sur-reply comments to Recommendations 3, 4, and 5 as raised in OCC's reply comments in accordance with Paragraph 17. It is, further,

{¶ 21} ORDERED, That a copy of this Entry be served upon all interested persons and parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

/s/Patricia A. Schabo

By: Patricia A. Schabo  
Attorney Examiner

GAP/hac

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**4/28/2020 10:59:19 AM**

**in**

**Case No(s). 19-2084-GA-UNC**

Summary: Attorney Examiner Entry granting motions to intervene and denying motion to strike but that the parties be permitted to file sur-reply comments to Recommendations 3, 4, and 5 as raised in OCC's reply comments electronically filed by Heather A Chilcote on behalf of Patricia Schabo, Attorney Examiner, Public Utilities Commission