

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Operations of Vectren)
Energy Delivery of Ohio, Inc. During the)
Declared State of Emergency and Related) Case No. 20-649-GA-UNC
Matters.)

**COMMENTS REGARDING THE CONSUMER TRANSITION PLAN
OF VECTREN ENERGY DELIVERY OF OHIO
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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I. INTRODUCTION

Consumers need extra regulatory protections, including the proposals by the Office of the Ohio Consumers' Counsel's ("OCC"), to preserve affordable and continued access to their essential gas utility services throughout the coronavirus emergency and for a reasonable time afterwards.¹ These protections include, among other things, extending the moratorium on disconnections for nonpayment, prohibiting the collection of late fees and reconnection deposits, and suspending non-essential in-home weatherization programs until the coronavirus is no longer a threat to consumers. These additional protections are especially needed to address the challenges of at-risk populations in Vectren's service area. Those challenges include, but are not limited to, high poverty levels, food insecurity, and the impacts of social disparities in our

¹ See OCC's Comments for Additional Consumer Protections Regarding the Temporary Plan of Vectren Energy Delivery of Ohio to Address the Coronavirus Emergency (May 20, 2020) ("OCC Emergency Plan Comments"), and consumer protection guidelines recommended by the National Consumer Law Center ("NCLC") (attached as Exhibit A), "Coronavirus Crises: How States Can Help Consumers Maintain Essential Utility Services."

country where, for example, minorities suffer from poverty at higher levels than their percentage representation in the overall population.²

In the city of Dayton, even before the crisis, residents already were at risk with poverty at 32% of the population.³ In Montgomery County, before the crisis, residents were at risk with food-insecurity at 17%.⁴ Recent pandemic-related data show food insecurity *statewide* at 23%,⁵ so circumstances no doubt are worsening for Dayton-area consumers. Further, 503,500 renters in Ohio were unable to pay their rent in June, according to a study.⁶

The coronavirus pandemic continues to take a toll on Ohioans' health and financial well-being. There have been more than 61,000 cases of coronavirus in Ohio, over 3,000 deaths,⁷ and over 1.36 million Ohioans have lost jobs and filed for unemployment during the last 13 weeks.⁸ Alarming, the state Administration recently announced that the number of Ohioans contracting the coronavirus is again rising.⁹ The financial strain that many Ohio consumers are suffering as a result of the pandemic will continue for some time, maybe years.

As utilities like Vectren seek to resume their pre-coronavirus operations, the PUCO should continue to protect consumers facing health and financial hardships.

² For example, black Americans are 11.8% of Ohio's population, yet 40.7% of black Americans in Dayton, Ohio live below the poverty line. <https://www.welfareinfo.org/poverty-rate/ohio/>; <https://www.welfareinfo.org/poverty-rate/ohio/dayton>.

³ <https://www.welfareinfo.org/poverty-rate/ohio/dayton>.

⁴ See <https://map.feedingamerica.org/county/2017/overall/ohio/county/montgomery>.

⁵ <http://ohiofoodbanks.org/files/2019-20/Press-Release-OAF-urges-SNAP-increase-6.15.20.pdf>.

⁶ See <https://www.census.gov/data/tables/2020/demo/hhp/hhp8.html>, Housing Table 1(b), Ohio tab. See also <https://cohhio.org/9561-2/>.

⁷ <https://coronavirus.ohio.gov/wps/portal/gov/covid-19/home>.

⁸ <https://www.crainscleveland.com/government/ohio-unemployment-claims-down-nearly-300000-april-peak>.

⁹ <https://www.cleveland.com/datacentral/2020/06/ohios-disturbing-new-trend-of-increasing-coronavirus-cases.html>.

II. BACKGROUND

In Case No. 20-591-AU-UNC, the PUCO addressed issues related to the coronavirus state of emergency to make sure consumers have continued access to essential utility services. The PUCO directed utilities to seek approval to suspend requirements that may “impose a service continuity hardship on residential and non-residential customers” or “create unnecessary COVID-19 risks associated with social contact.”¹⁰ The PUCO also directed utilities to seek approval to suspend requirements that may “impose a service restoration hardship on customers or create unnecessary risk of social contact.”¹¹

On March 24, 2020, in accordance with the PUCO’s directives, Vectren filed its application (“Emergency Plan”) in this case seeking suspension of certain PUCO rules during the emergency, for consumer protection. The PUCO approved Vectren’s Emergency Plan in part on June 3, 2020.¹²

The PUCO’s Emergency Plan Order directed Vectren to:

...work with Staff to develop a single, comprehensive plan for the resumption of activities and operations previously prohibited by the *Emergency Case* in furtherance of a safe return to pre-COVID-19 operations. Vectren’s plan should include specifics as to the activities considered for resumption and include timelines and provisions for safety adaptations for both residential and non-residential customers impacted by the activities proposed for resumption. The plan should also address extended payment plans for both residential and non-residential customers impacted by the emergency.¹³

¹⁰ See Case No. 20-591-AU-UNC, March 12, 2020 Entry, at ¶7.

¹¹ See March 13, 2020 Entry at ¶6(a).

¹² Finding and Order (June 3, 2020) (“Vectren Emergency Plan Order”).

¹³ Vectren Emergency Plan Order, ¶54.

The PUCO instructed interested parties to file comments within ten days of Vectren's filing of its Transition Plan. This filing is OCC's response for consumer protection from Vectren's Transition Plan that it filed on June 30, 2020.

Certain aspects of Vectren's Transition Plan, such as adopting additional safety practices to protect the health and well-being of its consumers,¹⁴ are commendable and provide some protection to Vectren's consumers during the current state of emergency. However, other aspects of Vectren's plan that are not protective of consumers should not be adopted.

Vectren's plans to resume service disconnections for non-payment after August 15, 2020¹⁵ are premature and would harm consumers who continue to suffer financially from the pandemic.

Vectren's proposal to resume in-home energy audits and low-income weatherization as of July 1, 2020¹⁶ is also premature, is not essential for consumers' gas service, and would create an unnecessary risk of transmitting the potentially deadly virus to Ohioans. Suspending these programs until a reasonable time after the state of emergency ends is necessary to protect the health and safety of Ohio consumers. The PUCO should issue an order on Vectren's Transition Plan consistent with OCC's recommendations set forth below.

¹⁴ Transition Plan, at 2-3.

¹⁵ Transition Plan, at 7.

¹⁶ Transition Plan, at 7.

III. RECOMMENDATIONS

- A. For consumer protection, Vectren’s disconnections of natural gas service and its strict compliance with the Percentage of Income Payment Plan (“PIPP”) eligibility requirements should be suspended and not resumed until a reasonable period after the coronavirus emergency has ended.**

It will take time (maybe a long time) for many consumers to recover financially from the crisis. And the coronavirus state of emergency is far from over. Indeed, the Governor’s office recently announced that the number of new cases is again spiking in areas that Vectren serves.¹⁷

Yet Vectren proposes to begin terminating consumers’ service for nonpayment after August 15, 2020 (with a full resumption of pre-coronavirus disconnection practices on October 1, 2020)¹⁸ when the state of emergency is far from over. Vectren’s plan indicates that it will issue disconnection notices to consumers with the largest outstanding balances as early as August 1, 2020.¹⁹ There are limited (if any) bill payment assistance resources available to help consumers pay their past-due gas bills. This will cause problems for at-risk Vectren consumers who need to prioritize how their limited available dollars will be used to feed their families, purchase medications, secure shelter, or pay their Vectren bills to maintain access to hot water. Vectren’s proposal is unreasonable and should be rejected.

The PUCO has not established a set time for utilities’ emergency measures to remain in place, other than to state that measures should be taken for the “duration of the emergency.”²⁰ The PUCO did recognize in the Vectren Emergency Plan Order that the issue of extending the

¹⁷ <https://www.cleveland.com/open/2020/06/gov-mike-dewine-announces-coronavirus-hotspot-in-5-counties-around-cincinnati-dayton.html>.

¹⁸ Transition Plan, at 7.

¹⁹ Transition Plan, at 8.

²⁰ See Case No. 20-591-AU-UNC, March 12, 2020 Entry, at ¶7.

duration of the suspension of disconnections needed to be considered, and directed Vectren to file a proposal as part of its Transition Plan for how long measures should stay in place.²¹

Vectren did not provide any information on the number of consumers who are currently delinquent in their payments, the past due amounts for the delinquencies, the projected financial and social impact that their transition plan will have on consumers, or any financial impact assessments on Vectren for continuing the current suspension. Vectren has just proposed in its Transition Plan to resume disconnections after August 15, 2020 with no supporting rationale, and during a time when coronavirus cases are increasing in Vectren's service area and the state of emergency is far from over, and actually could just be beginning.

Vectren also proposes to resume enforcement of the PIPP program's strict requirements within 30 days of the PUCO's issuance of an order on the Transition Plan, which can result in consumers losing their bill payment assistance.²² The PUCO's rules governing establishing and maintaining PIPP eligibility are stringent.²³ The PUCO correctly found in the Vectren Emergency Plan Order that during the emergency consumers should not be dropped from PIPP programs for failure to comply with the PUCO's eligibility rules:

The Commission finds that, during the emergency, or until otherwise specified by the Commission, PIPP participants and Graduate PIPP participants, shall not be removed or dropped from the programs or prohibited from enrolling in the programs for not being current, for failure to comply with program requirements as of the customers anniversary date, or for failure to timely reverify eligibility.²⁴

²¹ Vectren Emergency Plan Order, at ¶¶38, 54; *See also In the Matter of the Motion of East Ohio Gas Company d/b/a Dominion Energy Ohio to Suspend or Modify Certain Procedures and Processes During the COVID-19 State of Emergency and Related Matters*, Case No. 20-600-GA-UNC, Finding and Order (June 3, 2020), at ¶29.

²² Transition Plan, at 9-10.

²³ *See* Ohio Adm. Code 4901:1-18-12(C) and (D), 4901:1-18-16(D), 4901:1-18-17(A) and (B).

²⁴ Vectren Emergency Plan Order, ¶35.

The coronavirus state of emergency is still in effect. There is not a cure, nor an effective vaccine, nor immunity in the population. Consumers will continue to be struggling with unemployment and lost wages, and they may have difficulty meeting the payment obligations that allow them to keep from being disconnected. Therefore, the PUCO should deny Vectren's proposal for consumers to make payments strictly in accordance with PIPP guidelines or be shut off. Vectren's approach is too harsh and will exacerbate people's suffering.

B. Vectren should suspend the collection from consumers of late fees, reconnection fees, and deposits until after the state of emergency has ended and for a reasonable time after.

In its Transition Plan, Vectren proposes to resume the collection of late fees, down payments and deposits in mid-October, coinciding with the PUCO's Winter Reconnect Order.²⁵ The PUCO should reject this proposal as well. There should be a waiver of these fees until the coronavirus emergency has ended and for a reasonable time after.

As part of its emergency plan, Vectren waived late fees and reconnection fees to make sure consumers maintained their essential natural gas utility service.²⁶ The PUCO approved this aspect of Vectren's emergency plan and further directed Vectren to advise consumers that delinquent charges, deposits and fees may be deferred to a later bill.²⁷ The PUCO found that this would allow consumers to have "immediate bill relief" and provide Vectren the ability to enter into more liberal payment plans with consumers providing them longer terms to repay delinquent charges and fees.²⁸

²⁵ Transition Plan, at 8-9.

²⁶ See Vectren Emergency Plan (March 24, 2020), at 4.

²⁷ Vectren Emergency Plan Order, at ¶35.

²⁸ *Id.*

The PUCO should require Vectren to continue waiving late fees and deposits throughout the duration of the emergency and for a reasonable time afterwards. Payment of late fees or deposits should not be a pre-condition to service reconnection or to maintaining existing service in these difficult times of an unprecedented health emergency.²⁹ In addition, the PUCO should through its order prohibit Vectren from reporting consumers who defer late fees and delinquent charges to credit reporting agencies. This practice can result in consumers being financially harmed long after the pandemic ends.

- C. The PUCO should protect consumers by rejecting Vectren’s proposal to resume its energy efficiency programs on July 1, 2020. The programs create an unnecessary risk of spreading the coronavirus to consumers. And the in-home energy audits and weatherization programs are not essential to the provision of natural gas service.**

Vectren states in its Transition Plan that it will resume its energy efficiency programs beginning July 1, 2020, including in-home energy efficiency audits and weatherization programs.³⁰ Vectren’s proposal is premature and presents an unnecessary risk to consumers’ health and safety, especially with the state’s recent announcement that new coronavirus cases are again rising in Ohio.³¹ The PUCO should reject Vectren’s proposal now and revisit it when facts come in that the coronavirus is subsiding and there is an effective vaccine.

On March 20, 2020, the PUCO issued an Entry in Case No. 20-591-AU-UNC directing utilities “to suspend, for the duration of the emergency, any non-essential functions that would require or cause in-person contact that may create unnecessary COVID-19 spread risks, unless

²⁹ See, e.g., <https://spectrumlocalnews.com/nc/triangle-sandhills/news/2020/03/13/duke-energy-plans-to-not-cut-power-for-nonpayment-during-coronavirus-outbreak>.

³⁰ Transition Plan, at 6-7.

³¹ <https://www.cleveland.com/open/2020/06/gov-mike-dewine-announces-coronavirus-hotspot-in-5-counties-around-cincinnati-dayton.html>.

otherwise directed by the Commission.”³² According to the PUCO, “non-essential functions include, but are not limited to, in-home energy efficiency audits, weatherization programs, in premises inspections not prompted by an identified safety-related concern, and other similar initiatives.”³³

Vectren states that Community Action Program agencies will utilize “best practices” through the use of personal protective equipment.³⁴ But even so, Vectren’s plan is premature. Vectren’s in-home energy efficiency audits and weatherization programs require unnecessary social contact with consumers in their homes that could create a risk of further spreading the coronavirus in a service area that has been recognized as a “hot spot” for the virus. Further, while the PUCO found in the Vectren Emergency Plan Order that non-essential functions could continue “to remedy a safety-related concern,”³⁵ energy efficiency audits and weatherization programs are not necessary to the provision of safe utility service. Indeed, they are not necessary to the provision of essential utility services at all.

Accordingly, there is no legitimate reason (and Vectren cites no reason in the Transition Plan) for Vectren to resume these non-essential functions before the emergency is over (and the actual emergency for consumers may extend long after the formal emergency has ended). No one in Ohio should be at risk of unnecessarily contracting the coronavirus, suffering from the illness and potentially dying so that a utility can provide energy audits and weatherization.

³² Case No. 20-591-AU-UNC, March 20, 2020 Entry, at ¶10.

³³ *Id.*

³⁴ Transition Plan, at 7.

³⁵ *See* Vectren Emergency Plan Order, ¶42.

D. The PUCO should require Vectren to repurpose low-income weatherization funds to provide utility bill payment assistance to low and lower-income consumers who need money *now*.

The PUCO should also require Vectren to repurpose the funds that it collects from its consumers for energy efficiency and weatherization programs for the remainder of 2020 (as well as the \$2.1 million in consumer funding that Vectren proposes to collect in 2021). The consumer funds should instead be used to provide immediate bill payment assistance to consumers. These funds currently benefit only about 334 low income consumers annually with weatherization,³⁶ and should be repurposed to provide bill payment assistance to *12,000* low and lower-income consumers. People need money now.

E. Vectren’s premature and unreasonable proposals in the Transition Plan demonstrate the need for a uniform set of consumer protection guidelines like those proposed by the National Consumer Law Center (“NCLC”).

In OCC’s Comments on Vectren’s Emergency Plan, OCC recommended that the PUCO adopt the consumer protection guidelines developed by the National Consumer Law Center (“NCLC”), titled “Coronavirus Crises: How States Can Help Consumers Maintain Essential Utility Services.”³⁷ The NCLC guidelines are attached as Exhibit A. But the PUCO declined OCC’s recommendation, stating that these consumer protection issues are already “adequately addressed” through Vectren’s Emergency Plan.³⁸

Vectren’s premature and unreasonable proposals in its Transition Plan highlight the need for a uniform set of consumer protection guidelines applicable to all Ohio gas utilities. Dominion Energy Ohio has proposed through its Transition Plan to resume disconnecting consumers for

³⁶ See *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. 19-2082-GA-UNC, Application (Nov. 22, 2019), at 5 (Table 1 showing 1002 low income customers served over a three year period).

³⁷ See OCC Emergency Plan Comments, at 17.

³⁸ Vectren Emergency Plan Order, at ¶51.

non-payment and to resume imposing the strict eligibility requirements for participation in the PIPP program beginning August 3, 2020.³⁹ The PUCO has already and unfortunately approved Columbia Gas of Ohio's plan to resume disconnecting consumers for non-payment and to impose the strict eligibility requirements for participation in the PIPP program beginning July 29, 2020.⁴⁰ Suburban Natural Gas Company proposes that the utility will mail disconnection notices beginning August 18, with scheduled disconnections the 1st week of September.⁴¹

Utilities are intending to resume usual pre-coronavirus activities *even though there is no clear end in sight for the state of emergency*. And each utility is proposing its own deadline for resuming activities such as disconnections for non-payment. This haphazard approach should not be approved by the PUCO. The PUCO should establish a uniform set of guidelines that protect consumers statewide, applicable to all utilities, for establishing an orderly and fair transition back to pre-pandemic operations.

IV. CONCLUSION

The coronavirus continues to be a danger to the health and financial well-being of Ohio consumers, and will continue to threaten Ohioans' health and finances for a long time. The PUCO should not permit utilities to rush a return to pre-coronavirus operations, to the jeopardy of Ohioans' health, safety and welfare. The PUCO should issue an order regarding Vectren's proposed Transition Plan consistent with OCC's recommendations.

³⁹ See Dominion's Transition Plan (June 18, 2020) at 2, 5.

⁴⁰ See *In the Matter of the Motion of Columbia Gas of Ohio, Inc. to Suspend Certain Procedures and Process During the COVID-19 State of Emergency and Related Matters*, Case No. 20-637-GA-UNC, Supplemental Finding and Order (June 17, 2020), at ¶26.

⁴¹ Suburban Transition Plan, at 1.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these Comments have been served via electronic transmission upon the following parties of record this 10th day of July 2020.

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Coronavirus Crisis: How States Can Help Consumers Maintain Essential Utility Services

March 2020

KEEP RESIDENTIAL UTILITY SERVICE ON DURING THE CRISIS

Access to affordable electric, gas, water, sewer, and telecommunications (including internet) services is essential at all times, but especially during a worldwide pandemic and shelter-at-home orders. Throughout the COVID-19 emergency, states should take the following steps to ensure that consumers stay connected to essential utility networks and reduce the need for public interaction:

- Issue an emergency declaration through gubernatorial action banning all regulated and unregulated utility service shut offs, including electric, gas, water/sewer, and telecommunications services, due to inability to pay, during the crisis;
- Order all regulated and unregulated utilities to reconnect customers who were previously disconnected due to inability to pay;
- Ban all in-person marketing and sales of alternative energy supply and distributed energy products during the length of the emergency declaration;
- Encourage low-income households to apply for the federal Lifeline phone and broadband program for free or discounted voice and data service;
- Adjust state Low Income Home Energy Assistance Program (LIHEAP) application deadlines, enrollment access and eligibility certification processes; and

ENSURING THAT UTILITY SERVICE IS AFFORDABLE FOR ALL

After emergency orders have been lifted, states should ensure that utility arrearages incurred during the crisis do not trigger disconnections. States should require all utility service providers, both regulated and unregulated, to adopt more flexible credit and collections practices than currently required by state regulations and unregulated utility policies. Such protections should:

- Eliminate any customer deposit requirements;
- Eliminate down payment requirements on deferred payment arrangements (DPAs);
- Allow flexible, reasonable DPAs that are based on the customer's ability to pay;
- Eliminate any requirement that disconnected customers pay the full arrearage in order to reconnect, thereby permitting reconnection upon issuance of an affordable DPA;
- Eliminate minimum balance requirements for prepaid utility service customers;
- Require utilities to write off debt for consumers who certify that they are eligible for LIHEAP, but are unable to receive LIHEAP due to insufficient LIHEAP funds; and
- Prohibit utilities from imposing late fees and engaging in negative credit reporting

Questions? Contact National Consumer Law Center advocates Jen Bosco (jbosco@nclc.org), Charlie Harak (charak@nclc.org), John Howat (jhowat@nclc.org), Karen Lusson (klusson@nclc.org) or Olivia Wein (owein@nclc.org).

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