

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Vectren)	
Energy Delivery of Ohio, Inc. for Authority to)	Case No. 20-0099-GA-RDR
Adjust its Capital Expenditure Program Rider)	
Charges.)	

INITIAL BRIEF OF VECTREN ENERGY DELIVERY OF OHIO, INC.

Dated: August 13, 2020

I. INTRODUCTION

The purpose of this proceeding is to request Commission approval of annual adjustments to the rates and charges for Vectren Energy Delivery of Ohio, Inc.'s (VEDO or the Company) Capital Expenditure Program (CEP) Rider based on CEP investments and deferrals through December 31, 2019. There is a single issue that remains contested: the rate for deferred post-in-service carrying costs (PISCC) that should be applied to the 2018 and 2019 CEP deferrals. Prior to the Company's last base rate case, the PISCC rate for CEP deferrals was calculated at VEDO's approved long-term debt rate, 7.02 percent. VEDO continued that accounting treatment on its books for CEP deferrals, until the Commission approved a modified PISCC rate for the CEP of 5.07 percent in its August 28, 2019 Order approving new base rates. Based on that effective date, VEDO recommends that the new PISCC rate of 5.07 percent be applied to CEP deferrals from September 1, 2019 through December 31, 2019, and the previously approved rate of 7.02 percent be applied to CEP deferrals from January 1, 2018 through August 31, 2019. This accounting treatment is consistent with the Commission's prior authorization allowing VEDO to continue its CEP and the associated deferrals until the deferral cap was reached or the utility filed a request for recovery of the deferrals, which VEDO did in Case No. 18-0049-GA-ALT. Absent that treatment for 2018 and 2019 CEP deferrals *prior to the effective date* of the Commission's Order in VEDO's 2018 Rate Case, VEDO will not fully recover—and would have to write-off a portion of—the CEP costs that the Company incurred and reflected on its books during 2018 and 2019.

II. BACKGROUND

In 2012, the Commission approved VEDO's CEP, finding it "consistent with the Company's obligation under Section 4905.22, Revised Code, to furnish necessary and adequate

services and facilities, which the Commission finds to be just and reasonable.” *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 12-0530-GA-UNC, Finding & Order (Dec. 12, 2012) at ¶ 43 (the 2012 CEP Order). The Commission also approved the use of VEDO’s long-term debt rate, 7.02 percent, as the PISCC rate for CEP deferrals. *Id.* at ¶ 43(f) (“VEDO should calculate the PISCC on assets placed in service under the CEP as recommended by Staff, and should use the long-term cost of debt rate that was set in the VEDO Rate Case.”). VEDO was permitted to “accrue CEP deferrals up until the point where the accrued deferrals, if included in rates, would cause the rates charged to Residential (Rate 310, 311, and 315) and General Default Sales Service, Group 1 (Rate 320, 321, and 325) customers to increase by more than \$1.50 per month.” *Id.* at ¶ 43(i). The Commission then retained the use of that PISCC rate when it approved VEDO’s subsequent request to continue the CEP and the associated deferrals until the deferral cap was reached. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 13-1890-GA-UNC, Finding & Order (Dec. 4, 2013) at ¶ 13 (the 2013 CEP Order) (authorizing VEDO “to modify its accounting procedures as necessary to carry out the implementation of an on-going CEP”).

The Commission approved the CEP Rider, when it approved the January 4, 2019 Stipulation and Recommendation in Case No. 18-298-GA-AIR (the 2018 Rate Case Stipulation). *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 18-298-GA-AIR, Opin. & Order (Aug. 28, 2019). The CEP deferred balance and underlying CEP assets, as of December 31, 2017, were reflected in stipulated base rates. The initial CEP Rider rates were then set at zero when VEDO filed compliance tariffs implementing new base rates. Paragraph 8(g) of the 2018 Rate Case Stipulation provided: “To the extent included within the CEP, PISCC shall be accrued and recovered at the rate of 5.07 percent.” Paragraph 8(d) provided that VEDO’s deferral authority would continue until such time as the rate charged residential customers reached \$1.50 a month.

On February 28, 2020, VEDO filed its annual Application for Commission approval of new CEP rates and charges to recover 2018 and 2019 deferrals.¹ Prior to the filing, the Commission selected Blue Ridge Consulting Services, Inc. (Blue Ridge) to review, among other things, the 2018 and 2019 CEP deferred balances. Blue Ridge filed its audit report (Audit) on June 17, 2020 identifying five adjustments and four recommendations specific to the CEP. The Staff of the Public Utilities Commission of Ohio (Staff) filed its Review and Recommendation on June 30, 2020 (Staff Report), which noted full acceptance of the Blue Ridge Audit report. VEDO then filed comments to the Staff Report on July 15, 2020.

VEDO and Staff resolved four of the five Blue Ridge adjustments to the CEP revenue requirement. (VEDO Ex. 2.0 at 3.) VEDO and Staff also resolved the four non-revenue Recommendations. (*Id.* at 4-5.) A single issue remained unresolved: the PISCC rate that should be applied to 2018 and 2019 CEP deferrals. The Staff Comments adopt Blue Ridge CEP Adjustment No. 4, which recommends that VEDO apply the new PISCC rate of 5.07 percent for CEP deferrals recorded January 1, 2018 through December 31, 2019. (*Id.* at 5.) In accruing PISCC on 2018 and 2019 CEP deferrals, VEDO utilized the previously approved rate of 7.02 percent for deferrals from January 1, 2018 through August 31, 2019, and the modified 5.07 percent rate approved in the 2018 Rate Case for deferrals from September 1, 2019 through December 31, 2019. (*Id.*) VEDO filed the Supplemental Direct Testimony of J. Cas Swiz (VEDO Exhibit 2.0) in support of its recommendation that CEP rates approved in this proceeding reflect that accounting treatment. Staff filed no testimony in support of its position.

¹ Included with the Company's Application was the Direct Testimony and Exhibits of J. Cas Swiz (VEDO Exhibit 1.0).

III. ARGUMENT

As VEDO places each CEP work order in service, the Company ceases the accrual of allowance for funds used during construction (AFUDC) and begins accruing PISCC on the CEP plant until the investment is reflected in rates. (VEDO Ex. 3.0 at 6.) Before the Commission's decision in the 2018 Rate Case, the Commission in the 2012 and 2013 CEP Orders approved the use of 7.02 percent, VEDO's approved long-term debt rate, as the PISCC rate for CEP deferrals. (*Id.*) The 2012 and 2013 CEP Orders also authorized VEDO to continue the CEP and the associated deferrals until the deferral cap was reached or until VEDO filed to seek recovery of the deferrals.

The Company's accounting treatment did not change until the Commission approved the modified PISCC rate of 5.07 percent in the 2018 Rate Case Order. Up until that point, VEDO continued to apply the previously approved 7.02 percent PISCC rate to 2018 and 2019 CEP deferrals, which were not included in the Company's proposed new base rates. VEDO then began applying the new 5.07 percent PISCC rate to 2019 CEP deferrals after the effective date of the Commission's August 28, 2019 Order approving the 2018 Rate Case Stipulation. This accounting treatment was consistent with the Company's understanding at the time it signed the 2018 Rate Case Stipulation. VEDO witness Swiz, who was also a witness for the Company in the 2018 Rate Case and sponsored supplemental direct testimony in support of the 2018 Rate Case Stipulation, states: "My understanding of the CEP provisions in the 2018 Rate Stipulation is that they would take effect when and if the Commission approved the Stipulation. Until that time, the PISCC rate to be applied to CEP plant for deferrals in 2018 and 2019 would remain the prior rate of 7.02 percent that the Commission had previously approved." (VEDO Ex. 3.0 at 7.)

Blue Ridge acknowledges that VEDO's application of the last approved long-term rate (7.02 percent) for the period prior to the effective date of the 2018 Rate Case Order is "not unreasonable." (Audit at 10, 29, & 41.) Despite that recognition however, Blue Ridge goes on to state: "Be that as it may, the Parties to the Stipulation in the 2018 Rate Case agreed to different terms under the current CEP program. Blue Ridge read and understood the PISCC accrual rate to be 5.07 percent, regardless of ratemaking conventions that may be alternatively acceptable in absence of less explicit direction. Blue Ridge recommends reflecting the Stipulation and Order as written." (*Id.*) The Audit does not explain the basis for Blue Ridge's position, and does not identify any legal or accounting authority that supports its recommendation. Nowhere in the Audit is there an explanation why the Commission should apply the 5.07 percent PISCC rate to 2018 and 2019 CEP deferrals *before* the Commission actually approved the rate. Blue Ridge was not even involved in VEDO's last rate case such that the auditor could have a credible basis for the parties' understanding of the intent of the 2018 Rate Case Stipulation. (VEDO Ex. 3.0 at 8.)

The Staff Report is similarly devoid of any explanation. All the Staff Report says is that The Company should "[a]djust and apply the PISCC rate of 5.07 percent to reflect the rate approved in the stipulation in Case No. 18-298-GA-AIR." (Staff Rep. at 3.) Absent from the Staff Report is any rationale in support of its recommendation. Staff also chose not to file testimony in support of its recommendation. The manifest weight of the evidence in the record cannot support Staff's recommendation, when its supporting evidence is so woefully insufficient. *See, e.g., Cincinnati Gas & Elec. Co. v. Pub. Util. Comm.*, 86 Ohio St.3d 53, 711 N.E.2d 670, 678 (1999) (no evidence in the record to support Commission's decision to substitute the price it thought CG&E should charge industrial customers for service, in calculating test period revenues, and ignore the contract revenues that were representative of normal operations). In

contrast, VEDO offers the testimony of the understanding of the Company's Director of Regulatory and Rates, who previously submitted testimony in support of the 2018 Rate Case Stipulation. That evidence indicates that VEDO recorded 2018 and 2019 CEP deferrals on its books until the Commission authorized deferrals to be calculated at the new rate. The Commission cannot ignore the Company's evidence, when Staff offers no evidence to support its opposing recommendation.

VEDO's treatment of PISCC is also entirely consistent with how both VEDO and Blue Ridge applied depreciation accrual rates to plant balances through August 2019. As the Audit notes, "the depreciation accrual rates applied before September 1, 2019, matched those approved in Case No. 04-0571-GA-AIR and the Company's financial system of record. Beginning September 1, 2019, the depreciation accrual rates applied matched those approved in Case No. 18-0298-GA-AIR and the Company's financial system of records." (Audit at 30; *see also id.* at 25 ("The depreciation accrual rates applied to the plant balances, net of retirements, prior to September 1, 2019, reflect those approved in Case No. 04-0571-GA-AIR. Thereafter, the calculation applies the updated rates approved in Case No. 18-0298-GA-AIR.")) Blue Ridge, however, offers no explanation for why the 2018 Rate Case Order's effective date would control the depreciation accrual rates to be applied to 2018 and 2019 CEP plant, but would not control the PISCC rate to be applied. The same approach should apply to both depreciation and PISCC rates: apply the rates used in VEDO's financial system for accounting purposes until the effective date of new rates in the 2018 Rate Case. (VEDO Ex. 3.0 at 9.) Notably, Staff, in the 2019 DRR proceeding, *was* consistent in its approach to PISCC and depreciation rates. *See In re Vectren Energy of Ohio, Inc.*, Case No. 19-1011-GA-RDR, Finding and Order (Aug. 28, 2019) at ¶ 12 ("Staff asserts that, because the terms of the DRR for 2018 investment are provided by the

Stipulation, the filing should be consistent with its terms and, therefore, recommends that the Stipulation's *modified PISCC rate and depreciation* rates be applicable on all DRR investments beginning in 2018.") (emphasis added). In this proceeding however, Staff has not explained that inconsistency in its Report here, and chose not to file testimony to justify why the prior depreciation rates in effect before the 2018 Rate Case Order, but not the prior PISCC rate, should be applied to CEP costs through August 2019. Again, VEDO's evidence on the appropriate accounting treatment for CEP deferrals substantially outweighs the Staff evidence.

The plain language of the 2018 Rate Case Stipulation also supports VEDO's position. Paragraph 8(g) provides: "To the extent included within the CEP, PISCC shall be accrued and recovered at the rate of 5.07 percent." The only reasonable interpretation of Paragraph 8(g) is that the new PISCC rate should be applied prospectively to calculate CEP deferrals after the effective date of the 2018 Rate Case Order. Staff's reading of Paragraph 8(g), however, would require VEDO to go back and recalculate 2019 CEP deferrals prior to September 1, 2019 at the new PISCC rate. Staff's interpretation would also mean that VEDO would have needed to recalculate all 2018 CEP deferrals before the 2018 Rate Case Stipulation was even signed. Paragraph 8(g) as written, however, does not mandate that VEDO *retroactively* apply the new PISCC rate to recalculate CEP deferrals from January 2018 through August 2019. And there is no other term in the 2018 Rate Case Stipulation or finding in the 2018 Rate Case Order that expressly addressed retroactivity of the CEP provisions. VEDO's Director of Regulatory and Rates testified that, in order for the Company to retroactively recalculate 2019 CEP deferrals, it would have needed to see "specific clear language that required VEDO to go back and apply the new rate" to 2018 and 2019 CEP deferrals that had accrued on its books before the Commission approved the 2018 Rate Case Stipulation. (VEDO Ex. 3.0 at 11.)

Staff, in the 2019 DRR proceeding, argued that “the terms of the DRR for 2018 investment are provided by the Stipulation.” *See In re Vectren Energy of Ohio, Inc.*, Case No. 19-1011-GA-RDR, Finding & Order (Aug. 28, 2019) at ¶ 12. To the extent that Staff raises this argument again for the CEP, that assertion is only true, however, in that the 2018 Rate Case Stipulation approved the CEP Rider *as a cost recovery mechanism* for 2018 and 2019 CEP deferrals. The Stipulation did not dictate the terms of the deferrals that VEDO had already recorded before it was approved. Deferrals begin to accrue on VEDO’s books *after* the assets are placed in service. Thus, CEP deferrals were accruing during 2018 and 2019 at the previously authorized PISCC rate, while the 2018 Rate Case was pending, just like depreciation on 2018 and 2019 CEP plant was being recorded—from the date the assets are placed in service until the assets are included in rates. The Stipulation does not expressly apply Paragraph 8(g) to 2018 and 2019 CEP deferrals that had already accrued on VEDO’s books. The reasonable reading of Paragraph 8(g) is that, once the 2018 Rate Case Stipulation was approved, the modified 5.07 percent rate would apply to CEP deferrals going forward, just like the new depreciation rates would apply to CEP plant going forward. Staff’s alternative reading of Paragraph 8(g), which would have required VEDO to recalculate CEP deferrals before the Commission even authorized a new PISCC rate, is unreasonable and should not be adopted in this proceeding.

VEDO’s position on the intent and application of Paragraph 8(g) of the 2018 Rate Case Stipulation is analogous to the position that VEDO held in the 2019 DRR proceeding. *See In re Vectren Energy of Ohio, Inc.*, Case No. 19-1011-GA-RDR, Finding & Order (Aug. 28, 2019) at ¶ 16 (“rates in place in 2018, which reflect those approved in the 2007 Rate Case (depreciation) or continued under the 2013 DRR Extension (PISCC) should be used until the Commission approves updated rates in the 2018 Rate Case.”). The Commission ultimately approved an

updated DRR revenue requirement that reflected this position for 2018 DRR deferrals. And Staff has yet to articulate a reason why the Commission should deviate from that prior treatment.

IV. CONCLUSION

For the reasons identified above, the Commission should adopt VEDO's recommendation on the appropriate PISCC rates to be applied to 2018 and 2019 CEP deferrals: 7.02 percent for deferrals prior to September 1, 2019, and 5.07 percent for deferrals after September 1, 2019. The Commission's adoption of VEDO recommendation results in the following CEP rates and charges, as reflected in Exhibit No. JCS-1-R, page 1 of 1.

Rate Schedule	\$ Per Month	\$ Per Billing Ccf
310, 311 and 315	\$0.14	
320, 321 and 325 (Group 1)	\$0.19	
320, 321 and 325 (Group 2 and 3)		\$0.00111
345		\$0.00042
360		\$0.00019

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a courtesy copy of the foregoing pleading was served by electronic mail upon the following individuals on August 13, 2020:

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