

THE PUBLIC UTILITIES COMMISSION OF OHIO

IN THE MATTER OF THE APPLICATION OF
VECTREN ENERGY DELIVERY OF OHIO,
INC. FOR APPROVAL OF A TAX SAVINGS
CREDIT RIDER.

CASE NO. 19-29-GA-ATA

ENTRY

Entered in the Journal on September 3, 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} R.C. 4909.18 provides, in part, that a public utility may file an application to establish or change any rate, charge, regulation, or practice. If the Commission determines that an application filed pursuant to R.C. 4909.18 is not for an increase in any rate and does not appear to be unjust or unreasonable, the application may be approved without a hearing. If a hearing is required, however, the burden of proof to show that the proposals in the application are just and reasonable shall be upon the public utility.

{¶ 3} Signed into law on December 22, 2017, the Tax Cuts and Jobs Act of 2017 (TCJA) provides for changes in the federal tax system. Most notably, the federal corporate income tax rate was substantially reduced from 35 percent to 21 percent, effective January 1, 2018.

{¶ 4} On January 10, 2018, the Commission opened an investigation to study the impacts of the TCJA on the Commission's jurisdictional rate-regulated utilities and to determine the appropriate course of action to pass the benefits of the TCJA on to ratepayers. *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 (*Tax COI Case*), Entry (Jan. 10, 2018), Second Entry on Rehearing (Apr. 25, 2018). Subsequently, the Commission directed all rate-regulated utilities such as VEDO "to file applications 'not for an increase in rates,' pursuant to R.C. 4909.18, in a newly initiated proceeding, to pass along to consumers the

tax savings resulting from the TCJA.” *Tax COI Case, Finding and Order* (Oct. 24, 2018) at ¶ 29.

{¶ 5} On January 7, 2019, VEDO initiated this proceeding by filing an application for approval of a Tax Savings Credit Rider (TSCR) through which the Company would flow back to customers the benefits of the TCJA (the Application).

{¶ 6} On May 8, 2019, Ohio Consumers’ Counsel (OCC) filed a motion to intervene in the proceeding.

{¶ 7} On March 4, 2020, Staff filed its review and recommendation regarding VEDO’s Application.

{¶ 8} 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/.

{¶ 9} By Entry dated April 24, 2020, the attorney examiner granted OCC’s motion to intervene and issued a procedural schedule. Subsequently, on May 11, 2020, the attorney examiner granted, with modification, a joint motion to suspend that procedural schedule citing the parties’ representations that a settlement was imminent.

{¶ 10} On May 28, 2020, VEDO filed a stipulation and recommendation (Stipulation) executed by all three parties. The Stipulation proposed a resolution to all but one of the substantive issues raised in this proceeding (Component D), requested the Commission to approve the proposed TSCR tariff rates reflected in the Stipulation, and sought to litigate Component D before the Commission in the future. Along with the Stipulation, the parties filed a joint motion to waive testimony and hearing.

{¶ 11} By Entry dated June 8, 2020, the attorney examiner deferred to the Commission the determination as to the necessity of a hearing and denied the parties' motion to waive testimony, instructing at least one signatory party file testimony in support of the Stipulation within ten days. On June 18, 2020, both OCC and VEDO submitted testimony in support of the Stipulation.

{¶ 12} On July 1, 2020, the Commission issued a Finding and Order adopting and approving the Stipulation. Finding and Order (July 1, 2020) at ¶ 21, 23. In so doing, the Commission found that no hearing was necessary for that phase of the proceeding. *Id.* at ¶ 21. The Commission also instructed the parties to take all necessary steps to carry out the terms of Section IV.B of the Stipulation, in which the parties had outlined their plan to resolve Component D via litigation before the Commission. *Id.* at ¶ 17, 24. Briefly stated, the parties agreed to provide the attorney examiner with a status update by the end of July 2020 regarding their requested timing for a procedural schedule to resolve Component D.

{¶ 13} On July 30 and 31, 2020, VEDO and OCC provided status updates via email suggesting conflicting time frames. In return, the attorney examiner provided guidance on scheduling, asked the parties to endeavor to reach an agreed upon schedule in consideration of that direction, and instructed the parties follow up with a filing by the end of August.

{¶ 14} On August 31, 2020, VEDO filed a motion to establish a procedural schedule. Therein, VEDO requests that the Commission adopt a paper-hearing schedule agreed to by the Company, Staff, and OCC by which initial briefs and testimony are due on October 9, 2020, and reply briefs and reply testimony are due on October 23, 2020. The Company further indicates that the parties have agreed to waive cross-examination of any initial or reply testimony and to waive motions to strike. VEDO represents that the proposed schedule will allow for timely resolution of Component D, avoid the need for an in-person or virtual hearing, and generally strikes a reasonable balance under the circumstances.

{¶ 15} In light of the directives set forth in the March 9, 2020 Executive Order and present circumstances, the attorney examiner finds that the parties' proposed schedule for a paper hearing presents a reasonable course of action that will allow the parties to fully present their positions for the Commission's consideration. Accordingly, VEDO's motion should be granted and the parties shall file initial briefs and testimony by October 9, 2020, and reply briefs and testimony by October 23, 2020. Cross-examination and motions to strike are waived.

{¶ 16} It is, therefore,

{¶ 17} ORDERED, That VEDO's motion to establish a procedural schedule be granted. It is, further,

{¶ 18} ORDERED, That the parties file initial briefs and testimony by October 9, 2020. It is, further,

{¶ 19} ORDERED, That the parties file reply briefs and testimony by October 23, 2020. It is, further,

{¶ 20} 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

SJP/hac

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Case No(s). 19-0029-GA-ATA

Summary: Attorney Examiner Entry granting motion to establish a procedural schedule, ordering that the parties file initial briefs and testimony by October 9, 2020, and ordering that the parties file reply briefs and testimony by October 23, 2020 electronically filed by Heather A Chilcote on behalf of Patricia Schabo, Attorney Examiner, Public Utilities Commission