

**BEFORE
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) Case No. 19-2084-GA-UNC
for its Residential, Commercial, and Industrial)
Customers.)

**INITIAL BRIEF
BY
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I. INTRODUCTION

This case offers the PUCO an opportunity to provide money to people who need it, including to people in the Dayton area who desperately need it for assistance paying their Vectren natural gas bills. Before the coronavirus, many people in the Dayton area faced financial distress and poverty, and many had inadequate access to food. Many of these Ohioans already struggled to pay their utility bills. The coronavirus pandemic has made matters worse for many people, and many will face difficulties unlike any seen in their lifetimes.

The Office of the Ohio Consumers' Counsel ("OCC") is proposing that about \$1 million in 2020 and \$2.2 million in 2021 be repurposed to a new bill-payment assistance program for low and moderate income people in the Dayton area (instead of using it for weatherization). It does not make sense in this health crisis to spend more than \$2 million to weatherize a mere 334 homes per year when that money can instead be used to provide bill payment assistance to as many as 10,000 customers in the Dayton area.

The Settlement reached between Vectren, the PUCO Staff, Ohio Partners for Affordable Energy, and the Environmental Law & Policy Center rejects the repurposing that would provide

relief for the neediest of the needy. On top of that, the Settlement would require customers to pay \$17.5 million in subsidies to Vectren over the next three years for natural gas energy efficiency programs. Energy efficiency is a good thing. But energy efficiency is available to consumers in local stores and online without any need for involvement by Vectren or the government. If Vectren wants to run an energy efficiency program for its corporate sustainability efforts, it should do so—on its own dime. But Vectren should not ask its customers to pay for it.

In this time of crisis, customers need lower natural gas bills, not higher ones. The Settlement should be rejected.

II. RECOMMENDATIONS

- A. The Settlement does not meet the PUCO’s standard of benefits for customers and the public interest because it adds \$17.5 million to customers’ bills for unnecessary energy efficiency programs during a time where Ohio families are struggling to pay for necessities.**

The Settlement is largely a wholesale adoption of Vectren’s application. The only monetary concessions that Vectren made were (1) the elimination of the request for utility profits on energy efficiency (“shared savings”), which Vectren has never gotten in the past, and (2) the elimination of a single program (the multi-family direct install program run jointly with DP&L) that Vectren was unlikely to be able to run anyway because of the impending termination of DP&L’s energy efficiency programs.¹

Otherwise, the Settlement calls for customers to pay about \$17.5 million from 2021 to 2023 for energy efficiency programs: \$6.3 million for low-income programs and \$11.2 million for non-low-income programs.² If approved, residential customers would have no choice about

¹ See *In re Application of the Dayton Power & Light Co.*, Case No. 17-1398-EL-POR, Finding & Order (February 26, 2020) (ordering DP&L and other electric distribution utilities to wind down their programs by December 31, 2020).

² See Application at 8, Table 1.

paying for these programs. Customers would be required to pay for them even if they don't participate in the programs. Customers would be required to pay for them even if they can't participate in the programs. Customers would be required to pay them even if they can't afford to—for example, if they are one of the many Ohioans recently unemployed as a result of the coronavirus pandemic.

1. Many Ohioans already were suffering from poverty and lack of access to adequate food in the Dayton area, even before the coronavirus emergency worsened their plight.

OCC witness Williams, an expert in low-income consumer issues, testified that pre-coronavirus, more than 32% of Dayton, Ohio citizens lived in poverty.³ And Mr. Williams testified that 17.5% of Ohioans in Montgomery County do not have sufficient financial resources to maintain a healthy supply of food at their household.⁴ This was *before* the coronavirus emergency—before businesses began closing in droves, and before unemployment claims in Ohio skyrocketed.

As of June 2020, the Dayton-area unemployment rate was 10.7%.⁵ This is more than double the June 2019 unemployment rate of 4.3%.⁶ This rampant unemployment has hit every county that Vectren serves.⁷

The struggle will continue. OCC witness Williams testified to the concern that Ohio's food insecurity problems have nearly doubled in many areas across the state due to the pandemic.⁸ Ohio families will continue to feel the financial impacts of the virus for years, not

³ Williams Testimony at 9.

⁴ *Id.* at 9.

⁵ Shutrump Testimony at 6.

⁶ *Id.* at 6.

⁷ *Id.* at 8.

⁸ Williams Testimony at 10.

months. As OCC witness Williams explained, “it is likely that the fallout from the coronavirus and ensuing financial emergency will extent to 2022 or even later.”⁹ Among many other financial worries, “many Ohioans will struggle to pay their utility bills.”¹⁰ This includes customers “who have historically paid their bills in full and on time but who may be unable to continue doing so following the economic fallout of the coronavirus pandemic.”¹¹

In short, many Ohioans were already struggling before the coronavirus emergency, and their struggles will increase during and after the emergency. There will also be a whole new set of Ohioans who face new and unforeseen health and financial difficulties as a result of the coronavirus emergency. The PUCO, along with other government agencies, should be looking for any and all opportunities to help these consumers. This includes not adding millions of dollars in needless new subsidies to their natural gas bills.

2. In an era of historically low natural gas prices that are expected to stay low for many years, the value proposition for energy efficiency has been much diminished, even before the coronavirus emergency created a greater need for bill payment assistance instead of energy efficiency.

As OCC witness Shutrump explained, “natural gas energy efficiency programs were initiated largely as a response to high natural gas prices.”¹² Between 2000 and 2010, natural gas prices were substantially higher than they are now—more than triple current prices at their peak.¹³ As a result, natural gas energy efficiency programs made more sense than they do now. The math is simple. If you reduce your usage by 1 Mcf when gas costs \$14 per Mcf, you save \$14. But when gas costs \$3 per Mcf, you only save \$3. As OCC witness Shutrump explained,

⁹ *Id.* at 7.

¹⁰ *Id.* at 10.

¹¹ Williams Testimony at 10.

¹² Shutrump Testimony at 11.

¹³ *Id.* at 10 (graph showing natural gas prices from 2000 to 2020, plus projections to 2050).

“When gas prices are low, the programs are less cost-effective and the payback period for energy efficiency equipment is much longer.”¹⁴

And as Ms. Shutrump further explained, gas prices are projected to stay low for the foreseeable future, with the Federal Energy Information Administration projecting prices below \$4 per million BTU in its reference case for the next *30 years*.¹⁵ This is consistent with the opinion of regulatory expert Kenneth Costello, who recently wrote that “the rationales for EE programs of both electric and gas utilities are less valid today than when they were first implemented” because “natural gas prices are low and expect to remain so for the next several years.”¹⁶

In short, natural gas energy efficiency no longer makes economic sense for consumers when natural gas prices are so low—even without facing a once-in-a-lifetime health and financial crisis.

3. The involvement of Vectren and the government in charging consumers subsidies for natural gas energy efficiency programs is not needed where consumers can choose energy efficiency measures in their local stores and online at competitive prices.

In a capitalist society, competitive markets work if consumers have the right to decide how to spend their own money. In a recent article, regulatory expert Kenneth Costello challenged the belief that the government must step in and *require* customers to pay for utility-run energy efficiency programs rather than letting customers make energy efficiency decisions for themselves in the competitive market.¹⁷

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.* at 11 (quoting Costello, Kenneth, A Cautionary Tale about Energy Efficiency Initiatives (Spring 2019)).

¹⁷ See Kenneth W. Costello, A Cautionary Tale About Energy Efficiency Initiatives, attached as Attachment CLS-2 to the Shutrump Testimony.

According to Mr. Costello:

It seems that the rationales for [energy efficiency] programs of both electric and gas utilities are less valid today than when they were first implemented. Their customers have better information on [energy efficiency] programs, and natural gas prices are low and expect to remain so for the next several years. Presumably, the most cost-effective actions have already been exploited. Thus, market failures for [energy efficiency] have decreased over time, lessening the need to have utility or government intervention to advance [energy efficiency].

...

[S]ociety should rely more heavily on the marketplace to influence [energy efficiency] investments, or the role of utilities should be increasingly displaced by better-functioning market mechanisms that rely on the self-interest of individual customers to reduce their energy bills.¹⁸

As OCC witness Shutrump explained, “there is a thriving competitive market for the provision of energy-efficient technologies, numerous manufacturers producing those technologies, and many retailers offering those technologies.”¹⁹ The market for energy efficient products has developed substantially in the last 20 years. More than 80% of Americans now recognize the Energy Star label, and there are more than 70 categories of Energy Star certified products.²⁰ Consumers “have options to choose among a variety of energy efficient options depending on how much they choose to save and at what price.”²¹ In this case, the PUCO must determine whether the settlement, which provides for unnecessary subsidies and bill charges, is reasonable given the market provides numerous options for customers. And in fact, the settlement harms non-participating customers who desperately need the PUCO to make decisions based on the public interest during a once-in-a-lifetime pandemic crisis.

¹⁸ *Id.* at 4.

¹⁹ Shutrump Testimony at 12.

²⁰ *Id.* at 12.

²¹ *Id.*

Mr. Costello found that when utilities hire third parties to evaluate their programs, those third parties “often yield results that are much more optimistic about energy savings than subsequent academic, peer-reviewed studies of the programs once they are in place.”²² Indeed, these academic studies “find that utilities grossly overstate energy savings from [energy efficiency] programs,” perhaps by as much as 50% or more.²³ Further, benefits that do accrue result in benefits to “only a relatively few customers, most of whom can afford to pay for higher [energy efficiency] without any financial assistance.”²⁴

It is unjust and unreasonable for customers to keep paying to subsidize natural gas utility energy efficiency programs when those same customers can go to the store and purchase energy efficient equipment without subsidies. “The market has transformed and utility involvement in offering programs is no longer needed.”²⁵

B. The Settlement lacks the benefit that is needed now for customers, which is bill-payment assistance in 2020 and 2021, rather than charging customers for low-income weatherization programs.

1. The best use of funds during and after the coronavirus pandemic and financial emergency is bill payment assistance.

As OCC witness Williams explained, “Vectren consumers have an immediate need for direct bill payment assistance during the current global pandemic that far outweighs any benefits that might result from the Settlement.”²⁶ From March to June 2020, Vectren issued disconnection notices to more than 94,000 residential customers—nearly a third of Vectren’s residential

²² Costello at 2.

²³ *Id.*

²⁴ *Id.* at 3.

²⁵ Shutrump Testimony at 13.

²⁶ Williams Testimony at 3.

customers.²⁷ These customers owed more than \$54 million to Vectren.²⁸ To avoid disconnection, the average customer would need to pay Vectren \$451.²⁹

Weatherization cannot help anywhere near 94,000 residential customers. To the contrary, Vectren's weatherization program helps just 334 customers per year.³⁰ And weatherization is expensive. Vectren projects a cost of more than \$6,200 to weatherize a single home.³¹ The calculus is simple: does it make more sense to spend more than \$2 million to weatherize 334 homes per year, or does it make sense to use this money to provide bill payment assistance to as many as 10,000 customers?³²

Customers need help now. Not next year. Not years from now. The benefits of weatherization are not benefits that the customer would see right now. To do the greatest good for the greatest number of consumers now, OCC proposes that money currently earmarked for weatherization in 2020 be repurposed for bill payment assistance. This could make upwards of \$1 million immediately available for customer bill payment assistance.³³ This could help over 5,000 Vectren customers avoid disconnections right now.³⁴ That same money, if used for weatherization, would help perhaps 140 customers.³⁵ OCC similarly proposes that Vectren's proposed weatherization funds for 2021 be repurposed for bill payment assistance.³⁶

²⁷ *Id.* at 6.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Application at 8, Table 1.

³¹ Application at 8, Table 1 (\$2,102,145 in 2021 to weatherize 334 homes; $\$2,102,145 / 334 = \$6,293$).

³² Williams Testimony at 6-7.

³³ *Id.* at 6.

³⁴ *Id.*

³⁵ *Id.* at 6-7.

³⁶ *Id.*

OCC's proposal is set forth in the expert testimony of James D. Williams. Mr. Williams is a regulatory expert with more than 24 years of experience protecting Ohio consumers.³⁷ He is an authority on protections for low-income and non-low-income customers, bill affordability and utility bill payment assistance programs.³⁸ He has testified as an expert witness regarding the Ohio Development Service Agency's Universal Service Fund, which funds programs for low-income Ohioans.³⁹ He is intimately familiar with the various types of assistance that are available to Ohio consumers. His testimony demonstrates deep knowledge of the Percentage of Income Payment Plan ("PIPP"), the Federal Low-Income Home Energy Assistance Program ("LIHEAP"), Ohio's Home Weatherization Assistance Program ("HWAP"), the PUCO's Winter Reconnection Order ("WRO"), payment plans available to consumers under the PUCO's Minimum Service Standards, and utility-specific payment assistance programs.⁴⁰

His experience makes him exceptionally qualified to develop a bill payment assistance program that will maximize the benefits to residential consumers during and after the coronavirus emergency.

OCC's proposal would work as follows:

- 1) Any customer up to 300% of the Federal Poverty Guidelines would be eligible for bill payment assistance.⁴¹
- 2) PIPP customers could receive up to \$100 and non-PIPP customers could receive up to \$300.⁴²

³⁷ Williams Testimony at 1.

³⁸ *Id.* at 2.

³⁹ Williams Testimony, Attachment JDW-1.

⁴⁰ *See generally* Williams Testimony.

⁴¹ *Id.* at 8, 22-23.

⁴² *Id.* at 8.

- 3) A customer would be eligible for bill payment assistance under OCC's proposal once per year.⁴³ Customers who participate in other assistance programs (HEAP, PIPP, HWAP, etc.) would also be allowed to participate in OCC's proposed program.⁴⁴
- 4) Customers could participate in OCC's recommended program even if they have not received a disconnection notice.⁴⁵ In contrast, this criterion must be met to obtain crisis assistance under the HEAP guidelines.⁴⁶
- 5) Vectren would work with OCC and other parties⁴⁷ to develop a system for distributing the funds, which would include:
 - a. Contacting the appropriate United Way offices to determine interest in distributing the repurposed funds. If the United Way offices are unable to distribute the funds, Dollar Energy can be contacted to arrange organizations to distribute the funds to Vectren customers in need.⁴⁸
 - b. A standard grant application form will be used to document customer eligibility as well as the customer specific requests for assistance.⁴⁹
 - c. Vectren will designate contacts to process the grants from United Way and any other organizations that are distributing funds.⁵⁰
- 6) Vectren's remaining weatherization funds for 2020 should be repurposed immediately for this bill payment assistance program, as should Vectren's proposed charges for 2021.⁵¹
- 7) Any funds not ultimately used for OCC's proposed program would be used to offset Vectren's uncollectible expense rider, which would reduce the amount that all customers pay when customers do not pay their utility bills.⁵²

⁴³ *Id.*

⁴⁴ *Id.* at 9.

⁴⁵ *Id.* at 24.

⁴⁶ *Id.*

⁴⁷ *Id.* at 26.

⁴⁸ *Id.*

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.* at 6.

⁵² *Id.* at 9.

2. OCC's proposed bill payment assistance would provide tangible benefits for consumers that other available public assistance programs aren't providing.

OCC's proposal for a new Vectren bill payment assistance program is necessary because it will supplement programs already in place and fill gaps for consumers that other programs do not fill.

One important consumer protection benefit provided by OCC's proposal is that the benefit would be available to consumers up to 300% of the Federal Poverty Guidelines.⁵³ The other primary assistance programs do not reach these customers. As OCC witness Williams testified, "there are a substantial number of households with incomes above 175% of the federal poverty guidelines that have few (if any) available options for assistance in paying their gas bill."⁵⁴ Ohio's primary bill payment assistance program (the Federal LIHEAP program) only assists customers in Ohio with incomes up to 175% of the Poverty Guideline.⁵⁵ And Ohio's PIPP program is only available for consumers up to 150% of the Poverty Guideline.⁵⁶

OCC's proposal provides other benefits as well. For example, the HEAP summer crisis program is only available for electric customers and thus does not help Vectren customers.⁵⁷ Under OCC's proposal, consumers can obtain assistance with their gas bills during warmer months when natural gas usage is lower, but gas bills can still be high.

In short, other assistance programs will not be sufficient. There are many consumers who could be eligible *only* for OCC's proposed program, thus making it a potential lifeline for those

⁵³ *Id.* at 8.

⁵⁴ *Id.* at 22.

⁵⁵ *Id.* at 6.

⁵⁶ *Id.* at 20.

⁵⁷ *Id.* at 21.

consumers. And those consumers who *are* eligible for other programs will need as many options as possible to stay afloat now and even after the coronavirus emergency formally ends.

3. OCC's proposed bill payment assistance program can help about 11,000 customers compared to just 334 for weatherization, using the same budget.

Under OCC's proposal, about \$2.2 million in additional funding would be made available in 2021, plus up to \$1 million in 2020, for bill payment assistance to consumers.⁵⁸ With this funding, about 11,000 customers per year could receive financial assistance under OCC's proposal (assuming about \$200 per customer, as explained by OCC witness Williams).⁵⁹ In contrast, Vectren's low-income weatherization, while it helps people, is projected to help 334 customers per year.⁶⁰ In fact, as a result of Vectren's weatherization program being suspended in 2020, through June 2020, Vectren has only weatherized 32 homes this year.⁶¹

During and after this formal health emergency and for some time thereafter, many more than 334 customers will need assistance and need it for much longer than the period of the formal emergency. Sadly, many more than 11,000 consumers will need more assistance too. OCC's proposal to increase the number of customers receiving benefits must be part of a more comprehensive approach to consumer assistance.

4. OCC's proposed bill payment assistance will help PIPP customers and reduce what all other customers pay to fund PIPP.

It is extremely important for PIPP customers to pay their bills in full and on time so that they can remain enrolled in the program, can take advantage of arrearage credits, and avoid

⁵⁸ *Id.* at 7.

⁵⁹ *Id.* at 6, footnote 12.

⁶⁰ Application at 8, Table 1.

⁶¹ Shutrump Testimony, Attachment CLS-1 at 2.

building future debt.⁶² The repurposed funds can allow PIPP customers to pay their bills in full and on time.⁶³ Further, the repurposed funds will help avoid increases in uncollected PIPP charges, thus reducing the potential impact of future increases in what all customers pay to fund the PIPP rider as additional customers enroll in PIPP.⁶⁴ This benefits PIPP customers by allowing them to stay on the program, and it benefits all customers by reducing the amount that they pay for the PIPP program.

5. Under OCC’s proposal, there would still be substantial funding available for weatherizing houses, with potential increases for weatherization at the expense of bill payment assistance.

OCC is not proposing an end to weatherization. Far from it. Under OCC’s proposal, if implemented, there would still be substantial funding available for weatherization in Ohio.

Ohio receives a block grant from the Federal Government for the Home Energy Assistance Program (“HEAP”). Traditionally, federal law allows 15% of this funding to be made available for weatherization, with the balance for bill payment assistance.⁶⁵ In recently passed House Bill 166, the Ohio General Assembly allowed the Ohio Development Services Agency to seek an increase that would enable ODSA, in its discretion, to use 20% of HEAP funding for weatherization.⁶⁶ ODSA has requested a waiver from the U.S. Department of Health and Human Services (“HHS”) to use 20% (up from 15%) of HEAP funds for weatherization.⁶⁷ If the waiver is granted, approximately \$30 million will become available in Ohio for low-income

⁶² Williams Testimony at 17.

⁶³ *Id.* at 17.

⁶⁴ *Id.*

⁶⁵ 42 U.S.C. 8624(k). *See also* Williams Testimony at 26.

⁶⁶ Williams Testimony at 26.

⁶⁷ *Id.* at 26-27.

weatherization. Any claim that OCC’s proposal would leave low-income customers without weatherization options is therefore unfounded.

6. Trying to predict the precise needs of consumers in 2022 and 2023 is impossible, so the PUCO should not predetermine, at this time, that millions of dollars be spent on weatherization in those years.

OCC witness Williams recommends that the PUCO repurpose Vectren’s remaining 2020 weatherization funds, as well as its 2021 weatherization funds.⁶⁸ As he further testified, “it is likely that the fallout from the coronavirus and ensuing financial emergency will extent to 2022 or even later.”⁶⁹ Accordingly, he testified that any decision regarding weatherization beyond 2021 “should be delayed until an assessment is completed on the state of the coronavirus emergency in mid-2021 and the availability and level of federal funding for the Home Weatherization Assistance Program (‘HWAP’) are known.”⁷⁰ The PUCO will have better information in the future to decide what is best for consumers.

C. The Settlement violates the PUCO’s settlement standard requiring compliance with regulatory principles and practices.

1. The Settlement violates the regulatory principle requiring “reasonably priced” natural gas service for consumers.

R.C. 4929.02(A) provides that it is state policy to “promote the availability to consumers of adequate, reliable, and reasonably priced natural gas services and goods.” R.C. 4905.22 also provides that “no unjust or unreasonable charge shall be made or demanded for, or in connection with, any service...” As OCC witness Shutrump testified, “[r]easonably priced gas service cannot be achieved in 2021, 2022, and 2023 if the PUCO approves a Settlement that continues a

⁶⁸ See generally Williams Testimony.

⁶⁹ Williams Testimony at 7.

⁷⁰ Williams Testimony at 7-8.

charge for programs that are unrelated to adequate and reliable service.”⁷¹ By rejecting the Settlement, customers would still have access to energy efficiency in the marketplace but will not have to pay subsidies for energy efficiency programs through their natural gas bills.⁷² This would be consistent with state regulatory policy under R.C. 4909.02(A) and 4905.22.

2. The Settlement violates the regulatory principle and policy of promoting equity.

Good regulatory policy requires the PUCO to consider equity among consumers. The PUCO considers the impact that rates will have on a customer class “in order to promote equitable results among all utility customers.”⁷³

The Settlement fails to promote the important regulatory principle of equity. It fails to do the most good for the most people. The lack of equity applies when assessing the low-income weatherization program as compared to using the same money for bill-payment assistance. Weatherization helps just 334 customers per year, while bill-payment assistance can help 10,000 or more for the same budget. Bill-payment assistance does substantially more to promote equity among Vectren’s customers. Under the regulatory principle of equity, the PUCO should adopt OCC’s proposal for repurposing money to help the neediest of the needy.

III. CONCLUSION

A great many Ohioans need money and they need it now. The PUCO has an opportunity to make a positive difference for residential consumers right now. OCC’s bill payment assistance proposal achieves the greatest good for the greatest number of Ohio families, by repurposing consumer funds during the coronavirus emergency.

⁷¹ Shutrump Testimony at 14.

⁷² *Id.*

⁷³ *In re Ohio Edison Co.*, Case No. 16-481-EL-UNC, Opinion & Order ¶ 107 (July 17, 2019).

Customers need money to help pay their utility bills. The best way to help Ohioans during and after the coronavirus emergency is through utility bill payment assistance for the many, not weatherization for the few. The PUCO should reject the Settlement and (1) unburden customers from paying for unnecessary energy efficiency programs, (2) repurpose the remaining 2020 weatherization funds for bill payment assistance, (3) repurpose Vectren's proposed 2021 weatherization funds for bill payment assistance, and (4) postpone any decision on funding for 2022 and 2023 until more is known about the state of the coronavirus and financial emergency.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of this Initial Brief was served on the persons stated below *via* electronic transmission, this 3rd day of September 2020.

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