

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

**REPLY BRIEF
SUBMITTED ON BEHALF OF THE STAFF OF THE
PUBLIC UTILITIES COMMISSION OF OHIO**

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INTRODUCTION

The Stipulation and Recommendation (Stipulation) submitted in this case requests that the application filed by Vectren Energy Delivery of Ohio, Inc. (VEDO or Company) on November 22, 2019 be approved as filed, subject to the findings and recommendations contained in the Review and Recommendation (Staff Report) and certain other modifications. In light of the current global coronavirus, or COVID-19, pandemic, the Office of the Ohio Consumers' Counsel (OCC) asks the Commission to deny the application. Moreover, OCC essentially asks this Commission to modify its previous authorizations to repurpose previously approved weatherization funding to provide direct bill assistance to customers in need. While the Commission Staff (Staff) agrees that the Commission must be sensitive to the impacts of the COVID-19 crisis, Staff believes that the Commission, and the Company, have already taken responsible actions to address customer bill relief. The Stipulation is adequately supported by the evidence of record and satisfies the time-honored three-part test for reasonableness. The Commission should approve the Stipulation without modification.

DISCUSSION

The Commission's rules authorize parties to enter into stipulations. Ohio Admin. Code § 4901-1-30. In evaluating a stipulation, the Commission applies its familiar three-pronged test. Under this test, the Commission reviews a stipulation to determine whether (1) it is the product of serious bargaining among capable, knowledgeable parties; (2) as a package, it benefits ratepayers and the public interest; and (3) it violates any important

regulatory principle or practice. OCC did not, nor could it have, dispute that the Stipulation satisfied the first prong of this test. Staff respectfully submits that the Stipulation satisfies all three prongs of this test, and requests that it be approved as filed.

1. The settlement as a package benefits ratepayers and the public interest.

The Stipulation benefits ratepayers and is in the public interest. The Stipulation in this case offers numerous benefits, and thoroughly outlined in the briefs submitted by the Company and Staff, as further detailed by the testimony filed in this case. OCC opposes that Stipulation because it does not offer the particular benefits that it believes are needed during this extraordinary time. While OCC's concerns may be laudable, the benefits that it seeks do not define the standard by which the Commission must judge the settlement agreement before it.

Staff acknowledges that poverty is an issue in our society, and that financial need has been exacerbated by the current pandemic crisis. Many do, and many more will, have difficulty paying bills, including utility bills. There are, of course, numerous programs available for budget billing, payment plans, bill assistance and even bill forgiveness. All customers pay for programs in which they do not or cannot participate, all customers share in some measure to assist those who cannot afford to pay. While the Commission should be concerned, it must also balance the interests of all affected by the services that the Company provides.

OCC acknowledges that energy efficiency is a good thing. And while the need for energy efficiency may be more apparent in times when prices are high, it is not only good policy to pursue efficiency in the consumer's interest, it is the Commission's mission and

responsibility to do so. The Commission is charged to implement the policies set forth by the General Assembly. Indeed, it is the express policy of the state to promote an alignment of natural gas company interests with consumer interest in energy efficiency and conservation. R.C. 4929.02(A)(12).

Ironically, OCC argues that Company “subsidies” for efficiency are not needed in a “capitalist society” where consumers, including those who arguably cannot even pay their utility bills, “can choose energy efficiency measures in their local stores and online at competitive prices.” Encouraging customers, including lower-income customers, to engage in more energy efficient behavior and invest in more energy efficient products to decrease their natural gas usage and potentially lower their bills as a result of energy savings was precisely one of the benefits cited by VEDO witness Harris. VEDO Ex. 2. The standard by which the Stipulation is to be judged is not whether these programs are needed, but whether they benefits ratepayers and the public interest as a whole.

Similarly, the test for evaluating a settlement is not whether “better” or different benefits could have been achieved. Staff is not questioning the benefit of providing direct bill payment assistance. But numerous efforts have already been undertaken to address just this issue. There have been of course, many actions that have been taken, at both the federal and state level, in response to the COVID-19 crisis. As the Company noted in its brief, it suspended disconnections for non-payment and the collection of late payment charges, and expanded its payment plan offerings. It has already provided significant bill relief for its customers. That is could do more by “repurposing” its current weatherization funding does not negate the benefits that would be achieved by the programs identified in

the Company's application and the Stipulation. Rather, OCC's proposal asks the Commission to substitute one set of benefits for another.

2. The settlement does not violate any important regulatory principle of practice.

The Stipulation does not violate any important regulatory principle or practice. It neither renders the prices for natural gas services unreasonable, nor does it produce inequitable results.

OCC relies on a statement from witness Shutrump that reasonably priced service cannot be obtained if the Stipulation is approved. Her opinion is apparently based on the premise that energy efficiency programs, programs that OCC acknowledged are "a good thing," impose subsidies for programs that are unrelated to adequate and reliable service. OCC Brief at 14-15.

But providing such programs is among the goals with which the Commission is charged. Nor does OCC challenge Staff's finding that the program portfolio was cost-effective using both the Total Resource Cost (TRC) Test and Utility Cost Test (UCT). As Oho Partners for Affordable Energy (OPAE) witness Rinebolt noted in his testimony:

The general powers of the PUCO, as detailed in R.C. Chapter 4905, also make clear that energy efficiency is a distribution utility function and utility programs are required. R.C. 4905.70 directs that "[t]he public utilities commission shall 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."

Direct Testimony of David C. Rinebolt at 8. Moreover, Mr. Rinebolt, in part relying on testimony from an OCC witness in a prior case, testified that efficiency programs can lower gas costs by reducing demand, and can also help reduce the cost of electricity generation. Contrary to Ms. Shutrump's assertion, demand side management is directly related both to adequate and reliable service.

OCC's argument that the settlement fails to promote the important regulatory principle of equity is equally unavailing. While "doing the greatest good for the greatest number" may be a utilitarian ideal, doing so is neither necessarily nor sufficient to promote an equitable result. Moreover, the benefits enumerated by the Company, OP&A, and Staff, on the other hand, inure both to all ratepayers and to the general public, and not merely to those homeowners who receive a direct benefit of weatherization. A standard definition of equity would be that quality of being fair or impartial. That only some homeowners may receive weatherization is no less fair or impartial than granting bill relief to some but not all ratepayers.

CONCLUSION

Based upon the foregoing, the Staff respectfully requests that the Commission adopt the Joint Stipulation and Recommendation.

Respectfully submitted,

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PROOF OF SERVICE

I hereby certify that a true copy of the foregoing Reply Brief, submitted on behalf of the Staff of the Public Utilities Commission of Ohio, was served by electronic mail, upon the following parties of record, this 17th day of September, 2020.

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Summary: Reply Brief Submitted on Behalf of the Staff of the Public Utilities Commission of Ohio electronically filed by Mrs. Kimberly M Naeder on behalf of PUCO