

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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| 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                                       | ) |                         |

**REPLY BRIEF OF VECTREN ENERGY DELIVERY OF OHIO, INC.**

Dated: September 17, 2020

## TABLE OF CONTENTS

|             |  |           |
|-------------|--|-----------|
| <b>I.</b>   | <b>INTRODUCTION .....</b>  | <b>1</b>  |
| <b>II.</b>  | <b>ARGUMENT .....</b>  | <b>4</b>  |
| <b>A.</b>   | <b>OCC fails to demonstrate that the Stipulation, as a package, does not benefit ratepayers and the public interest.....</b>                             | <b>4</b>  |
| 1.          | The Stipulation does not need to embrace OCC’s repurposing proposal to benefit ratepayers and the public interest.....                                   | 4         |
| 2.          | OCC’s repurposing proposal does not consider the significant steps that the Commission is taking to alleviate customers’ short-term energy burdens. .... | 5         |
| 3.          | OCC’s proposal to repurpose 2020 weatherization funding is beyond the scope of VEDO’s Application, which seeks approval of a 2021-2023 portfolio.....    | 8         |
| 4.          | OCC has not shown that the Commission should defund 2021 weatherization services and repurpose the related revenues for COVID-19 bill assistance. ...    | 9         |
| 5.          | OCC’s proposal to eliminate VEDO’s voluntary natural gas non-low-income programs relies on positions that the Commission has already rejected. ....      | 13        |
| <b>B.</b>   | <b>OCC fails to demonstrate that the Stipulation violates any important regulatory practice or principle. ....</b>                                       | <b>14</b> |
| 1.          | OCC’s claim that any amount of EE costs recovered in rates results in natural gas service that is not reasonably priced is simply not credible. ....     | 14        |
| 2.          | OCC’s claim that the Stipulation does not promote equity among customers is unsupported. ....  | 17        |
| <b>III.</b> | <b>CONCLUSION .....</b>  | <b>18</b> |

## I. INTRODUCTION

This proceeding came about because Vectren Energy Delivery of Ohio, Inc. (VEDO or the Company) made certain commitments in its most recent rate case. VEDO agreed to remove energy efficiency (EE) funding from base rates and recover 100 percent of EE costs through the Energy Efficiency Funding Rider (EEFR). *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 18-298-GA-AIR, Opin. and Order (Aug. 28, 2019), at ¶ 53 (the 2018 Rate Case). VEDO also agreed that the Collaborative would no longer vote on future EE program portfolios and funding. *Id.* The Commission would now decide. As a result, VEDO filed an application seeking approval of the Company’s portfolio of demand side management (DSM) programs for 2021-2023.

In the 2018 Rate Case, the Commission also found that VEDO’s EE programs should continue because they are “in the public interest,” “cost effective,” and “produce demonstrable benefits.” *Id.* at ¶¶ 102-103. A year later, that still holds true. The record here demonstrates that the DSM programs in the 2021-2023 Plan, as modified by the Stipulation and Recommendation (the Stipulation), remain cost-effective and will benefit ratepayers. (VEDO Br. at 11-15.) Lower usage, potentially lower bills, economic development, marketplace innovation, and health and environmental benefits—these are just some of the benefits that will flow from the Stipulation.<sup>1</sup>

The signatories to the Stipulation—VEDO, the Commission Staff, Ohio Partners for Affordable Energy (OPAE), and Environmental Law & Policy Center (ELPC)—agree on the EE programs and the funding levels. (Joint Ex. 1.0 at ¶ 3.) They agree that the programs support the Commission’s mandate in R.C. 4905.70 to “initiate programs that will promote and encourage

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<sup>1</sup> The testimony of Rina Harris, VEDO’s Director of Energy Efficiency, identifies all of the benefits of the Stipulation. (VEDO Ex. 2.0, pp. 9-19.) In addition to these benefits, ratepayers will also benefit from refinements to the 2021-2023 DSM programs that VEDO included in its Application. The notable refinements were the expansion of the installation of Smart Wi-Fi Thermostats and the discontinuation of energy efficiency kits being mailed to customers.

conservation of energy and a reduction in the growth rate of energy consumption.” (*Id.* at ¶ 4.) They agree that the programs support the State’s policy in R.C. 4929.02(A)(12) to promote “an alignment of natural gas company interests with consumer interest in energy efficiency and energy conservation.” (*Id.*) And they believe that the programs should continue, uninterrupted.

The Office of the Ohio Consumers’ Counsel (OCC) stands alone in opposition. In the 2018 Rate Case, OCC sought to end VEDO’s non-low-income EE programs. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 18-298-GA-AIR, Opin. and Order (Aug. 28, 2019), at ¶ 99. OCC claimed that the programs were “subsidies.” *Id.* It claimed that it was unreasonable to make all customers pay for the programs. *Id.* And it claimed that the programs were unnecessary because of the competitive marketplace. *Id.* Back then, the Commission rejected outright OCC’s arguments. Yet today, just one year later, OCC recycles these same tired arguments once again.

The only difference between now and then is that now OCC also asks the Commission to end VEDO’s low-income weatherization programs. OCC wants to take weatherization revenues for 2020 and 2021 and “repurpose” these funds as bill payment assistance, and indefinitely defer any decision on restarting the programs. Again, this “repurposing” proposal is in addition to OCC’s recycled argument that the Commission should end VEDO’s non-low-income programs. This twofold approach, if adopted, would mean shutting down all of VEDO’s EE programs. This dissolution would be harmful to eligible consumers, the public in general, and the EE industry.

The sole justification that OCC presents in support of its “repurposing” proposal is the coronavirus (COVID-19). It claims that this case, which was supposed to be about the approval of future EE programs, “offers the PUCO an opportunity to provide money to people who need it” to pay their natural gas bills. (OCC Br. at 1.) As VEDO has publicly stated in this case and in Case No. 20-649-GA-UNC, the proceeding concerning its response to COVID-19, the Company

recognizes the financial difficulties that many Ohioans have faced during the last several months. And the Commission and the Company have acted quickly to respond to those concerns to ensure service continuity, provide bill relief, and protect against accruing arrearages.<sup>2</sup> Contrary to OCC's assertions, the Commission does not need to—and should not—defund existing EE programs to provide additional COVID-19 bill payment assistance to residential customers.

As explained in the Company's Initial Brief, the flaws in OCC's opposition are obvious. On the one hand, OCC cannot credibly challenge the benefits that VEDO's EE programs provide that the Stipulation would preserve. On the other hand, OCC has not established that the State's response to COVID-19 requires the Commission to decimate these existing EE programs. No one questions OCC's laudable goal—to help those in need during the pandemic. The means that OCC proposes here to address arrearages, however, has not been justified. VEDO agrees with OCC that customers “need as many options as possible” to manage their natural gas bills. (OCC Br. at 12.) And the Commission and the Company have given customers many options so far. But ending VEDO's successful, cost-effective programs is not an option that the Commission should deploy. These programs are valuable to the industry for jobs. They are valuable to the marketplace for choices and innovation. And they are valuable to the public for the financial incentives, energy and bill savings, and long-term health and environmental benefits. The Stipulation should be approved so that ratepayers may continue to receive all of these benefits.

For the reasons stated herein and in the Company's Initial Brief, the Commission should approve the Stipulation without modification for the benefit of customers and the public interest.

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<sup>2</sup> VEDO's Annual Report of Service Disconnections for Nonpayment filed in Case No. 20-937-GE-UNC for June 2019 – May 2020 shows that the number of residential accounts in arrears by more than 60 days was higher in June 2019 (21,604) than May 2020 (19,774). The amount of such arrearages was also higher in June 2019 (\$6.99 million) than May 2020 (\$6.53 million).

## II. ARGUMENT

### A. **OCC fails to demonstrate that the Stipulation, as a package, does not benefit ratepayers and the public interest.**

OCC urges the Commission to reject the Stipulation and use EE ratepayer-funded revenues “to make a positive difference for residential customers right now.” (OCC Br. at 15.) OCC’s insinuations are clear: (a) the Commission has not been attentive to the needs of VEDO’s residential customers during COVID-19 (it most certainly has); and (b) voluntary natural gas EE programs do not benefit residential customers (they most certainly do). The Commission and the Company have been aggressively responding to COVID-19 for the past six months, and making many “positive differences” for VEDO’s customers. And the Commission repeatedly has found that voluntary natural gas EE programs are another “positive difference” for customers. As VEDO explained in its Initial Brief, this is not an “either/or” situation. The Commission does not have to choose between offering bill payment assistance and energy efficiency programs. The Commission can continue to address bill impacts and arrearages. And it also can extend VEDO’s cost-effective EE programs, including its low-income EE programs. It does not have to defund VEDO’s EE programs as part of the State’s response to COVID-19. The record demonstrates that the Stipulation, as a package, benefits ratepayers and the public interest. OCC’s suggestion that the Commission should terminate these benefits because of COVID-19 should be rejected.

#### 1. **The Stipulation does not need to embrace OCC’s repurposing proposal to benefit ratepayers and the public interest.**

OCC suggests that the Stipulation cannot benefit ratepayers unless it includes OCC’s proposal for bill payment assistance. (*See generally* OCC Br. at 7-14.) That is simply not the case. For the last decade, the Commission has found that voluntary natural gas EE programs can deliver cost-effective, demonstrable benefits to ratepayers. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 18- 298-GA-AIR, Opin. and Order (Aug. 28, 2019), at ¶¶ 102-103; *In re*

*Columbia Gas of Ohio, Inc.*, Case No. 16-1309-GA-UNC, Opin. and Order (Dec. 21, 2016), at ¶¶ 108, 126 & 127. The record here demonstrates that the 2021-2023 Plan, as modified by the Stipulation, will continue to deliver similar cost-effective benefits. (VEDO Br. at 11-15.) To suggest that VEDO runs its EE programs solely “for its corporate sustainability efforts,” (OCC Br. at 2), ignores Commission precedent and VEDO’s success in exceeding its annual energy savings goals. It is a disingenuous assertion, and it is unsupported by the record.

OCC claims that its repurposing proposal will do “the greatest good for the greatest number of consumers.” (OCC Br. at 8.) Even if that claim could be proven (and it has not been), that is not the standard for reviewing the reasonableness of a stipulation. The standard of review is whether the Stipulation represents a reasonable compromise that balances interests, benefits the public, and does not violate regulatory principles or practices. (VEDO Br. at 7-8.) This is not a competition to see which side has the better ideas. And there is not a requirement that every idea be included in the settlement. The Stipulation does not “reject” the concept of bill payment assistance to residential customers. (OCC Br. at 1.) It just recognizes that other stakeholders do not believe that EE ratepayer-funded revenues should be “repurposed” for such assistance. Again, the Stipulation, as a package, benefits ratepayers and the public interest. The absence of OCC’s repurposing proposal, even if it were sound regulatory policy, does not prove otherwise.

**2. OCC’s repurposing proposal does not consider the significant steps that the Commission is taking to alleviate customers’ short-term energy burdens.**

OCC argues that the Commission “should be looking for any and all opportunities to help” customers facing financial difficulties because of COVID-19. (OCC Br. at 4.) To suggest that the Commission has not been doing just that since the state of emergency in Ohio was declared is not credible. As the Company’s Initial Brief described, VEDO and the Commission have taken significant actions, which augment existing energy assistance programs, to further

alleviate the energy burdens that customers face in the short-term. (VEDO Br. at 20.) The suspension of disconnects, the waiver of late payment charges, and the expanded payment plan offerings—these actions specifically targeted customers who need help paying their bills. No one disputes that some consumers are not paying their bills.<sup>3</sup> But OCC also cannot deny that federal, state, and local governments, including the Commission, are responding to COVID-19.

OCC, in particular, argues that bill payment assistance is needed to help customers stay on the Percentage of Income Payment Plan (PIPP). (OCC Br. at 12-13.) But nowhere in OCC's brief is there mention of the specific actions that the Commission and the Company have already taken to ensure that active PIPP customers remain on PIPP. Reverification drops were suspended through September 7, 2020. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 20-649-GA-UNC, Supp. Finding and Order (July 29, 2020) at ¶ 53. PIPP customers are then afforded a grace period of sixty days after September 7, 2020 to reverify eligibility. Ohio Adm.Code 4901:1-18-12(D)(1). Moreover, for PIPP customers who had reverification dates between March 12 and August 19, 2020, VEDO extended reverification dates for one year to 2021. (Notice Regarding Implementation of COVID-19 Transition Plan, Case No. 20-649-UNC (Aug. 28, 2020), p. 3.) This subset of PIPP customers will maintain the 2021 reverification dates, until such time as the customer reverifies and receives a new reverification date. In addition, the Commission ordered VEDO to treat any missed installment payment due or billed for active PIPP customers, between

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<sup>3</sup> OCC claims that, from March to June 2020, VEDO issued disconnection notices to more than 94,000 residential customers. (OCC Br. at 7.) OCC also claims that these customers owed more than \$54 million to VEDO. (*Id.* at 8.) OCC misunderstands the data in Attachments JDW-02 and JDW-03, and is double counting the amounts. As explained in Attachment JDW-02 (VEDO's Response to INT-02-004), due to billing system limitations, VEDO could not remove disconnect notices from customers' bills. Thus, the number of disconnect notices by month identified in Attachment JDW-02 would include notices that appeared on bills for the same customer account for multiple months. Similarly, the total amount owed by month reflected on the disconnect notices would include amounts owed by the same customer account for multiple months.



March 12, 2020 and September 7, 2020, as part of the customers' arrearages. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 20-649-GA-UNC, Supp. Finding and Order (July 29, 2020) at ¶ 53. This action means that any missed payment during that period, if unpaid, will not cause the PIPP customer to be removed from the program. Ohio Adm.Code 4901:1-18- 12(D)(2).

The Commission also has taken additional action for PIPP customers in its recent order for special procedures to give customers with unpaid arrearages and limited financial resources the opportunity to maintain or reestablish their gas service during the 2020-2021 winter season. *See* Case No. 20-1252-GE-UNC, Finding and Order (Aug. 12, 2020) (the Winter Reconnect Order). For customers seeking to reenroll or maintain active status in PIPP, or for existing PIPP customers seeking reconnection, once the \$175 payment is made, VEDO "shall place the remaining unpaid balance into the PIPP Plus or Graduate PIPP Plus program arrearages." Winter Reconnect Order at ¶¶ 22-23. For non-PIPP customers who invoke the special reconnection procedures, once the \$175 payment is made, VEDO "shall place the remaining unpaid balance into a standard extended payment plan." Winter Reconnect Order at ¶ 15. The Commission also made the Winter Reconnect Order effective as of October 5, 2020. These special procedures for the winter season are yet another way that the Commission is responding to COVID-19.

OCC also suggests that the Stipulation does not benefit customers and the public interest because it "adds" millions of dollars in new charges to customers' bills. (OCC Br. at 2, 4.) That is not correct. No new charges will be added to customers' bills, if the Stipulation is adopted. VEDO is already collecting EE costs through the existing EEFR rate on customers' bills. The Commission approved the recovery of all EE funding through the EEFR, when it removed EE funding from base rates in VEDO's last rate case. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 18- 298-GA-AIR, Opin. and Order (Aug. 28, 2019), at ¶ 53. The Stipulation does not

recommend new charges that will lead to “higher” bills. (OCC Br. at 2.) Indeed, the Commission recently approved a decrease in the EEFR rate, based on actual EE costs through December 2019 and forecasted EE costs through December 2020. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 20-640-GA-RDR, Finding and Order (June 17, 2020), at ¶ 5. The Stipulation simply recommends that VEDO be permitted to continue to update the EEFR rate to recover EE costs. OCC’s efforts to portray the Stipulation as adding a new charge to the bill are insincere.

**3. OCC’s proposal to repurpose 2020 weatherization funding is beyond the scope of VEDO’s Application, which seeks approval of a 2021-2023 portfolio.**

The Commission, in approving the 2018 Rate Case Stipulation, approved a process whereby the Collaborative would continue to meet and function under its existing responsibilities and procedures regarding the selection, management, and review of EE programs delivered through December 31, 2020. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 18- 298-GA-AIR, Opin. and Order (Aug. 28, 2019), at ¶ 53. If the interested parties could not agree on an EE portfolio for 2020, the EE programs and funding for that year would continue to be approved under the existing Collaborative model and procedures. *Id.* That is indeed what happened—the parties could not reach agreement on EE programs and funding for 2020, and the Collaborative approved the 2020 DSM Plan. (App. at ¶ 9.) VEDO then filed a proposed updated EEFR rate consistent with that Plan, which the Commission subsequently approved. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 20-640-GA-RDR, Finding and Order (June 17, 2020), at ¶ 5.

During the course of this proceeding however, OCC has tried to undermine that process by proposing that the Commission “repurpose” 2020 DSM funding for VEDO’s weatherization programs, which the Collaborative approved, for bill payment assistance. (See OCC Rep. Cmts. at 5-6.) The Commission has indicated that it will generally consider OCC’s request to repurpose weatherization funds in this proceeding. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No.

20-649-GA-UNC, Supp. Finding and Order (July 29, 2020), at ¶ 31. But it has not yet found specifically that OCC's claim to repurpose 2020 funds (as opposed to 2021 funds) is viable and properly raised in this proceeding. What the Commission has said is that OCC's proposals "as they relate to altering the Company's EE programs ... would be better addressed in the context of VEDO's application for approval to continue its DSM programs." *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 20-640-GA-RDR, Finding and Order (June 17, 2020), at ¶ 9.

The Application in this matter seeks Commission approval to continue its EE programs in 2021-2023. It does not seek funding approval for 2020 programs. The Collaborative already approved that funding, including the funding for VEDO's weatherization programs. Repurposing 2020 EE dollars for COVID-19 bill payment assistance is inappropriate and beyond the scope of this proceeding. The Collaborative's approval of 2020 funding, as provided for in the 2018 Rate Case, should not be revisited. To the extent that VEDO is unable to spend its entire 2020 budget for weatherization services because of COVID-19, any unused dollars would be subject to a prudence and reasonableness review and trued up in the Company's subsequent EEFR rate adjustment. *Id.* And, should the Commission determine that any EE costs recovered through the EEFR are unlawful, unreasonable, or imprudent, the EEFR is subject to reconciliation, including refunds. *Id.* For these reasons alone, OCC's proposal to repurpose 2020 funds should be rejected.

**4. OCC has not shown that the Commission should defund 2021 weatherization services and repurpose the related revenues for COVID-19 bill assistance.**

OCC also proposes that the Commission repurpose VEDO's 2021 weatherization funds for bill payment assistance. (OCC Br. at 8.) OCC argues that the repurposing of 2021 EE funds is necessary because its expert witness, who is regulatory compliance officer and not an economist, believes that the financial impacts of COVID-19 will not end anytime soon. (*Id.* at 3-4.) OCC claims that the weatherization funds help too few customers and offer benefits that customers

would not realize immediately. (*Id.* at 8.) OCC outlines the loose framework of a bill payment assistance program where customers up to 300% of federal poverty guidelines, including PIPP customers, would be eligible to receive the OCC assistance at least once a year. (*Id.* at 9-10.)

There are several large holes in the support that OCC offers to support its program. First, OCC has not offered any reliable evidence about the long-term financial effects of COVID-19. Yes, unemployment in Ohio remains high today. But the Commission cannot adopt such a significant proposal—i.e., the defunding of an existing low-income weatherization program and the creation of an incremental, ratepayer-funded assistance program—based on OCC’s speculation about consumers’ future needs. OCC’s expert witness, Mr. Williams, based his opinion on general observations and a single Wall Street Journal article. (OCC Ex. 1.0 at 7.) That is hardly sufficient support to justify defunding a successful, low-income weatherization program for 2021. Indeed, Mr. Williams himself admits that it is “difficult to predict” what consumers’ financial situation will be in the future. (*Id.*) His speculative and inconsistent testimony does not constitute sufficiently reliable expert testimony to support OCC’s proposed repurposing in 2021.<sup>4</sup>

Second, although OCC offers the bare bones of its assistance program, many details have not been vetted or are simply lacking. OCC has proposed an income eligibility requirement but has not explained how that would be verified or why that percentage (300%) is the appropriate ceiling. (OCC Br. at 9.) OCC has proposed the amount of assistance (\$300), but has not provided

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<sup>4</sup> OCC’s Initial Brief is similarly inconsistent. OCC argues that it is “impossible” “to predict the precise needs of consumers in 2022 and 2023,” and thus the Commission should defer approval of EE programs for 2022 and 2023. (OCC Br. at 6.) “The PUCO will have better information in the future to decide what is best for consumers.” (*Id.*) So, according to OCC, the Commission has enough information to repurpose future weatherization revenues, but insufficient information to approve future weatherization services. These erratic, self-serving arguments are not credible. The data shows that VEDO has provided a consistent amount of weatherization services over the last decade. That data demonstrates the future need in VEDO’s service territory for similar services. OCC, in contrast, has not demonstrated a need for incremental future bill assistance.

any supporting analysis to defend that number. (*Id.*) OCC has not explained why PIPP customers should receive assistance (\$100), given the existing benefits of the PIPP program, the Winter Reconnect Order protections, and the action that the Commission took with respect to missed payments. (*Id.*) OCC has not explained why a customer receiving HEAP assistance should also receive assistance. (*Id.* at 10.) OCC has not explained why a customer who does not receive a disconnection notice should receive assistance. (*Id.*) There is minimal discussion of how the bill assistance program would be structured and by whom it would be managed, other than to contact United Way office and see if they are interested in helping. (*Id.*) And there are no details on the incremental costs to implement the program, not only for back office and IT changes that VEDO would need to implement, but also for third-party administrative fees to manage the program. It is not even clear whether recipients would have to use the funds to pay down their arrearages. The evidence in the record is woefully too incomplete to adequately support this proposal.

Third, OCC offers no explanation how or why the Commission's efforts to respond to COVID-19, in conjunction with existing assistance programs, are not sufficient to help lower income customers address their energy burdens.<sup>5</sup> There is no discussion of the directives concerning active PIPP customers that the Commission issued in the Winter Reconnect Order

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<sup>5</sup> OCC argues that its proposed program would "fill gaps" for consumers that other programs do not fill. (OCC Br. at 11.) OCC argues specifically that a benefit of its proposal is that the bill payment assistance would be available to consumers up to 300% of federal poverty guidelines, a limit that OCC claims is above other programs. (*Id.*) First, OCC has not explained why utility bill payment assistance from federal CARES Act grants would not help to cover OCC's claimed "gap," for customers whose income was adversely affected by COVID-19. Second, OCC has not done any analysis to determine the number of VEDO customer accounts that would fall into OCC's "gap," be eligible for OCC's program, and be in need of assistance. Third, if OCC was truly concerned with this "gap," it could have designed a program that narrowly targeted customers within that "gap." It did not. In any event, the fact that there are consumers who "could be eligible" for only OCC's program, (*id.*), still does not demonstrate that OCC's program is necessary at the expense of defunding VEDO's weatherization programs.

and VEDO's COVID-19 Transition Plan proceeding. There is no analysis of the impact of HEAP funding in VEDO's service territory during the pandemic. And there is no mention of the COVID-19 grants that local counties and nonprofit organizations have received through the federal CARES Act, a portion of which has been designated for mortgage, rent, and utility payments. No one challenges the notion that the unemployment and food insecurity have increased because of COVID-19. But OCC has not demonstrated that its proposed incremental bill payment assistance program is necessary or would even effectively address those concerns.

Lastly, OCC discounts the unique benefits that VEDO's low-income weatherization (VWP) programs have offered customers wanting to make energy efficient improvements to their homes. The VWP programs focus on shell measures such as insulation and air sealing, but also offer replacement of non-functioning natural gas furnaces and water heaters, and minor repairs intended to increase the health and safety of the occupants of the home. (VEDO Br. at 13.) In addition, the VWP programs provide services for customers with incomes higher than 175% of federal poverty guidelines. VWP I provides for single-family home weatherization services for customers with incomes up to 200% of federal poverty guidelines, whereas VWP II funds home weatherization for customers in the range of 201% up to 300% of federal poverty income guidelines. (*Id.*) This design allows VEDO to reach customers who traditionally are not eligible for weatherization assistance, yet do not have the disposable income to make needed energy efficiency improvements to their homes. The data in the Initial Brief shows that the VWP programs have consistently delivered services to lower income households. (*Id.* at 14.) OCC claims that its assistance program would help many more customers than the weatherization programs. (OCC Br. at 12.) That comparison, though, is the classic apples to oranges fallacy. Of course, you could reach more customers, if you gave everyone a few hundred dollars, instead of

weatherizing a house. VWP programs, however, deliver specific targeted services to lower income households that will produce long-term energy savings and improved living conditions. There is a decade of success that proves that the VWP programs add value. OCC's suggestion that its program is better simply because it reaches more customers is not convincing.<sup>6</sup>

**5. OCC's proposal to eliminate VEDO's voluntary natural gas non-low-income programs relies on positions that the Commission has already rejected.**

As for OCC's attacks on VEDO's non-low income programs, the Commission has heard and rejected these arguments before. OCC complains that ratepayer do not have a choice whether to pay the EEFR rate. (*Id.* at 2-3.) OCC contends that the programs no longer make "economic sense" when the price of natural gas is low. (OCC Br. at 4-5.) OCC claims that the "competitive market" does not require these "subsidies." (*Id.* at 5-7.) The Commission dismissed all of these arguments raised by OCC just last year in VEDO's rate case. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 18-298-GA-AIR, Opin. and Order (Aug. 28, 2019), at ¶¶ 99-103.

OCC tries to bolster these arguments by having its expert witness, Ms. Shutrump, quote and attach an article by an author, Kenneth Costello, who did not submit testimony in this case. This testimony and the attached article should be given no weight. It is hearsay. It has not been established to be reliable expert testimony. And it is not even relevant to VEDO's market. If OCC wanted Mr. Costello to offer testimony in this case, it had every opportunity to hire him.

As explained in VEDO's Initial Brief, the record shows that there is still a market for utility-sponsored EE programs. The Ohio Market Potential Study (MPS) shows a need for

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<sup>6</sup> OCC also claims that there would still be "substantial funding" for weatherization in Ohio. Although OCC mentions other available sources of funding, it has not done any sort of analysis to demonstrate that federal block grant funding would be sufficient to address the need in VEDO's service territory. More importantly, to be eligible for federal weatherization funding, the customer's income must fall below the 200% federal poverty level. OCC's proposal to defund VEDO's VWP II program would eliminate a program that targets customers above the 200% federal poverty level. OCC has not identified any other program that would fill that "gap."

efficiency that the current market for these services and products is not meeting. (VEDO Ex. 2.0 at 14-15.) The MPS includes a detailed, bottom-up assessment of the Dayton metropolitan area: projected baseline gas usage, forecasts of energy savings achievable through efficiency measures, and program designs and strategies to optimally deliver those savings. (*Id.*) In addition, VEDO's EE programs undergo a routine process and impact evaluation to assess, in part, whether its customers are properly incentivized to take action to enroll in EE programs on their own. (*Id.*) These evaluations, which will be filed with VEDO's annual EEFR applications, help VEDO to verify energy savings and improve the delivery design of its EE programs. This ensures that the Company will continue to reach customers who would not otherwise act on their own without the availability of utility-sponsored EE programs. (*Id.*) There may be more EE products now, as compared to 20 years ago, but VEDO's well-designed programs continue to offer valuable education, choices, and incremental benefits for consumers in its service territory.

**B. OCC fails to demonstrate that the Stipulation violates any important regulatory practice or principle.**

OCC attempts to argue that the Stipulation violates established regulatory principles and practices. (OCC Br. at 14-15.) But its claim that the Stipulation will result in ratepayers being charged unreasonable and inequitable costs falls well short. As explained in the Initial Briefs of the Company, Commission Staff, and OPAE, the Stipulation does not violate any important regulatory principle or practices. (VEDO Br. at 21-22; Staff Br. at 6-7; OPAE Br. at 7-8.)

**1. OCC's claim that any amount of EE costs recovered in rates results in natural gas service that is not reasonably priced is simply not credible.**

OCC claims that approval of the Stipulation violates R.C. 4929.02(A) because, in OCC's opinion, continuing a charge on the bill for EE programs, in any amount, will result in natural gas service that is not "reasonably priced." (OCC Br. at 14-15.) There is no support in the record, however, for this claim. For starters, it would mean that the existing EE charge on the bill, which



the Commission approved in Case No. 20-0640-GA-RDR, violates R.C. 4929.02(A). Indeed, it would mean that the Commission's prior approval of any charge or rate that recovers the costs of voluntary natural gas EE programs violated R.C. 4929.02(A). That is not a credible claim. The Commission has repeatedly approved the recovery of EE costs in rates for utilities' voluntary natural gas programs, over OCC's objections, because these programs benefit ratepayers.

When asked in discovery to provide any analysis behind such as claim, OCC responded that, in its witness's expert opinion, "any bill to a residential customer that includes a charge for Vectren's proposed 2021-2023 energy efficiency programs would not be 'reasonably priced.' The analysis is to look at the proposed rate, and if it is greater than zero, it is not reasonably priced." (VEDO Ex. 3.0 at 10 (OCC Resp. to Inter No. 5).) That is not reliable expert testimony. The opinion flies in the face of all past Commission precedent that approved rate recovery of costs of voluntary natural gas EE program. And it is not supported by any actual analysis. It cannot be the case that any amount of EE costs in rates, above \$0.00, violates R.C. 4929.02(A). If that were true, then for the past decade, VEDO's service has not been "reasonably priced."

The record shows that the exact opposite is, in fact, true—the Stipulation overwhelmingly supports the state policy in R.C. 4929.02(A). The continuation of VEDO's existing EE programs will "[p]romote the availability to consumers of adequate, reliable, and reasonably priced natural gas services" in a number of ways. First, the record demonstrates that these programs encourage customers to conserve energy and reduce consumption, which, all other things being equal, will lower bills. (VEDO Br. at 12-14.) From 2009 through 2019, VEDO's EE programs have helped its customers save approximately 50 million Ccfs. (*Id.* at 14.) That energy savings is undisputed. And additional annual energy savings are projected for the 2021-2023 Plan. (*Id.* at 3.) These programs will continue to encourage VEDO's customers to invest in more EE products and

participate in more EE behavior. This incremental growth in EE behavior and EE investment by customers, in turn, will lead to further decreased natural gas usage, reduced long-term energy burdens, and potentially lower bills. Lower bills also will mean lower accrued arrearages, which mean lower uncollectible rates. (*Id.* at 17.) The DSM programs in the 2021-2023 Plan therefore will directly promote “reasonably priced” natural gas service in VEDO’s service territory. To the extent that lowering customer usage, in the aggregate, also helps VEDO to manage periods of peak or high demand, the Stipulation also promotes “adequate, reliable” service to customers.

Further, the Commission recently reconfirmed that VEDO’s DSM programs deliver “cost effective” benefits to ratepayers. *In re Vectren Energy Delivery of Ohio, Inc.*, Case No. 18-298-GA-AIR, Opin. and Order (Aug. 28, 2019), pp. 68-69. From 2009-2020, the net benefits for VEDO’s DSM programs, as measured by the Total Resource Cost (TRC) Test, have exceeded \$35 million. (VEDO Br. at 14.) The net benefits over the lifetime of the measures in the 2021-2023 Plan, as modified by the Stipulation, are approximately \$7.6 million for a TRC benefit-to-cost ratio of 1.45. (*Id.* at 15.) Thus, the record demonstrates that the DSM programs in the 2021-2023 will continue to deliver cost-effective benefits to ratepayers. (*Id.*) This evidence shows that EE costs included in VEDO’s rates, not only benefit ratepayers, but are reasonable in amount.

Moreover, the Stipulation recommends changes to the review of EE costs included in the EEFR. (VEDO Br. at 5-6.) Making the annual EEFR filing later in the year, on or before July 1, allows for the EM&V, which will cover the annual prior calendar year’s costs being reconciled, to be completed and included with the filing. The additional transparency on EE costs being recovered through the EEFR further protects consumers from unjust and unreasonable rates.

The evidence in the record supports the conclusion that the Stipulation, if adopted, will promote the availability of “reasonably priced” natural gas service for VEDO’s customers. OCC

offers no reliable evidence or Commission precedent in support of its theory that any amount of EE costs above \$0.00 results in natural gas service that is no longer reasonably priced.

**2. OCC's claim that the Stipulation does not promote equity among customers is unsupported.**

OCC also argues that the Stipulation does not consider or promote “equity” among VEDO’s customers. (OCC Br. at 15.) The sole legal citation, however, in OCC’s brief for this regulatory policy concerns an issue, namely customer class cost allocations, which is entirely off the point. The Commission, in Case No. 16-481-EL-UNC, noted that it “has previously reviewed whether a customer class is excessively impacted by a proposed rate allocation in order to promote equitable results among all utility customers.” *In re Ohio Edison Co.*, Case No. 16-481-EL-UNC, Opin. & Order (July 17, 2019), at ¶ 107. This citation in no way supports OCC’s theory that the Stipulation violates “the regulatory principle of equity.” (OCC Br. at 15.) The citation does not even support OCC’s description of what “the regulatory principle of equity” is.

The EEFR Rate is applicable to all customers and is uniform across the residential and non-residential customer classes. (P.U.C.O No. 4, Sheet No. 46.) VEDO’s residential customers will pay approximately \$13.50 per year, or \$1.12 per month, to fund the DSM programs in the 2021-2023 Plan, as modified by the Stipulation. (VEDO Br. at 19.) This is a reasonable amount, given the energy savings and other benefits that these programs provide for ratepayers. And it is also an equitable amount, given the availability of non-low-income programs for every customer.

OCC argues that the Stipulation has a “lack of equity” because it “fails to do the most good for the most people.” (OCC Br. at 15.) That is not the test for reviewing the reasonableness of a stipulation, and OCC offers no authority for this standard. OCC argues that its bill payment assistance proposal will reach more customers than VEDO’s weatherization services. But that comparison is a false equivalence. The purpose of the Application is to design DSM programs

that can be made available to VEDO's customers and deliver cost-effective benefits. That is a completely different exercise than designing a bill payment assistance program. Granted, the basic math of OCC's proposition is correct; its proposal to divide up and use EE revenues will reach more customers. But the underlying premise—that revenues collected from all customers for EE programs should be used for some other purpose—is not correct. And that remains the fatal flaw at the heart of OCC's proposal, that the services that can be funded with EE revenues are fungible and essentially interchangeable. They are not. It is not sound regulatory policy to spend EE revenues on whatever present-day issue OCC considers to be the most important.

VEDO recognizes that there are disadvantaged customers in its service territory whose financial resources may be further strained by the economic effects of COVID-19—and the Company and the Commission have responded to COVID-19. The EE revenues recovered through the EEFR, however, are not used as a source of funds for charitable contributions. The Vectren Foundation, a 501(c)(3) organization funded by shareholders, already provides that type of funding for hundreds of nonprofit organizations throughout its service territory, including programs that provide utility bill assistance for families in need. The EEFR revenues are a source of funds for the continuation of VEDO's successful, cost-effective DSM programs. And it would not be good regulatory policy or beneficial to VEDO's customers to defund those programs.

### **III. CONCLUSION**

In summary, the evidence shows that the Stipulation complies with all three parts of the Commission's test. For these reasons, the Commission should approve the Stipulation as filed.

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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 September 17, 2020:

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