BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Vectren Energy Delivery of Ohio, LLC d/b/a CenterPoint Energy Ohio for Approval to Continue Demand Side Management Programs	)))))	Case No. 22-1015-GA-UNC

INITIAL BRIEF OF VECTREN ENERGY DELIVERY OF OHIO, LLC D/B/A CENTERPOINT ENERGY OHIO

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Dated: September 19, 2023

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I. INTRODUCTION

In this case, Vectren Energy Delivery of Ohio, LLC d/b/a CenterPoint Energy Ohio (CEOH or the Company) asks the Commission to approve a Stipulation and Recommendation (the Stipulation) resolving its request for regulatory approvals to continue its current Demand Side Management (DSM) / Energy Efficiency (EE) Programs for another six years, from 2024 to 2029.

The record establishes that all three elements of the Commission's standard for approving stipulations have been satisfied. First, the Stipulation is the product of serious bargaining among capable, knowledgeable parties, as all parties met on several occasions to discuss possible resolution of the issues, changes and counterproposals were circulated and integrated where appropriate, and all parties were represented by experienced counsel. Second, the Stipulation is in the public interest, as it recommends the continuation of existing programs that the Commission repeatedly has found are voluntary, cost-effective natural gas DSM/EE programs that provide substantial benefits to participants and non-participants in the Company's service territory. Lastly, the Stipulation does not violate any important regulatory principle or practice – rather, as the Commission has previously determined, the continuation of CEOH's existing programs advances several Ohio policies concerning natural gas service.

Only one party – the Office of the Ohio Consumers' Counsel (OCC) – opposes the Stipulation. After changes to CEOH's proposals as originally filed, the remaining parties have either signed or not opposed the Stipulation. OCC, however, continues to argue that the Commission should ignore its prior findings and eliminate CEOH's non-low-income programs. The Commission has consistently found – including less than three years ago when approving the existing programs – that CEOH's non-low-income DSM/EE programs provide systemwide benefits to participants and non-participants. These benefits include environmental benefits resulting in reductions in pollution and greenhouse gas emissions while promoting better working and living conditions, safety and reliability benefits derived from upgraded, more efficient heating equipment and gas appliances, and economic benefits related to the creation of industry jobs, advancements in product offerings, and support for the EE supply chain. The Commission has also found that CEOH's existing non-low-income DSM/EE programs educate consumers about energy conservation and encourage them to participate in energy conservation measures. OCC's arguments that the Commission should reject or modify the Stipulation to eliminate these beneficial programs are unfounded.

For the reasons explained herein, the Commission should approve the Stipulation as filed.

II. BACKGROUND

A. Prior Approvals

Since 2005, CEOH has continuously funded low-income DSM/EE programs—a span of nearly 20 years. (App. ¶ 6.) CEOH's non-low-income programs, which were established in Case No. 07-1080-GA-AIR, have operated uninterrupted from 2009 to present—a period of 15 years. (*Id.*) Twice in the past five years, the Commission has reapproved CEOH's programs and expressly found them to be cost-effective and in the public interest. Case No. 18-298-GA-AIR, *et al.*, Opin. & Order (Aug. 28, 2019) ¶¶ 102–104; Case No. 19-2084-GA-UNC, Opin. & Order (Feb. 24, 2021) ¶¶ 59–66 & 73–77. In that precedent, the Commission has regularly found "voluntary, cost-effective programs that produce demonstrable benefits, reasonably balance total costs, and minimize the impact to non-participants," to be reasonable and consistent with Ohio's economic and energy policy objectives. Case No. 19-2084-GA-UNC, Opin. & Order ¶ 74.

Less than three years ago, in early 2021, the Commission approved ratepayer funding for CEOH's non-low-income programs through 2023. Case No. 19-2084-GA-UNC, Opin. & Order. In approving the Company's application then, the Commission found that "the landscape of natural gas EE programs has not changed," and that approval would continue programs already deemed beneficial by the Commission. *Id*. ¶ 62. At that time, the Commission also found that the Company's Market Potential Study demonstrated "a continued need for utility-led programs in the Company's territory." *Id*. Given the substantial evidence in the record and the Commission's prior precedent, the Commission found "no compelling reason" to abandon such programs. *Id*. ¶ 73.

B. Procedural History

On November 8, 2022, CEOH filed the application that initiated the current proceeding, requesting that the Commission extend CEOH's previously approved DSM/EE programs for another six years from 2024 through 2029. Based on the Commission's most recent authorization, CEOH has been approved to spend approximately $5.9 million in 2023 on its DSM/EE portfolio. (App. ¶ 14.) To continue to deliver the same programs and associated benefits to its customers beyond 2023, CEOH's Application requested similar levels of annual funding for the next six years, ranging from $5.2 to $6.0 million.[1] (*Id*. ¶ 20.) The Application did not include a request for authority to offer new programs; nor did CEOH make a request for a material increase in funding.

Along with the Application, CEOH submitted the direct testimony of Nicholas N. Kessler, Manager of CEOH's Energy Efficiency programs. (CEOH Ex. 1.0.) Mr. Kessler has been with CEOH and its predecessor company for 20 years, and currently has responsibility for managing all aspects of electric and gas EE planning, operating, and reporting, and oversight of evaluation, measurement, and verification (EM&V) for CEOH's existing programs. (*Id*. at 1–2.) Included with Mr. Kessler's testimony were several exhibits: program scorecards for 2019, 2020, 2021, and 2022 through September; historical program budgets and savings; and most importantly, the Company's Gas Potential Study & DSM Plan (Market Potential Study or MPS). (App. ¶ 34.) CEOH hired and

[1] These levels of annual funding would allow CEOH to offer the proposed programs on a standalone basis. The Application also requests separate authority and funding levels ranging from $5.9 to $6.4 million to offer joint, integrated programs, when possible, with electric utility counterparts. (App. ¶ 29.)

worked with GDS Associates, Inc. (GDS) to prepare the MPS, design the programs, estimate measure-level savings and program costs, and assess cost-effectiveness. (CEOH Ex. 1.0 at 12.)

The MPS identified, in detail, the six programs that CEOH proposed to continue to offer: Residential Prescriptive, Home Insulation, School Education, Weatherization, Commercial Prescriptive and Commercial Custom. (*See generally* Exhibit NNK-5 at 34–50.) The MPS detail included estimates of participation, incentives, and CCF savings, by program and by measure. (*Id*.) These estimates reflected, among other things, GDS's analysis of long-term market adoption rates and historical incentive levels for CEOH's service territory (*Id*. at 14–33.) And the MPS showed that each proposed non-low-income program passed both the Total Resource Cost (TRC) and Utility Cost Tests (UCT), with each program having a benefit-to-cost (B/C) ratio greater than 1.0, indicating that program benefits outweigh program costs. (CEOH Ex. 1.0 at 21–22.)

Following the filing of CEOH's Application, the Office of the Ohio Consumers' Counsel (OCC) and Ohio Partners for Affordable Energy (OPAE) moved to intervene. The Attorney Examiner granted their intervention and extended the filing of initial comments to February 23, 2023, and reply comments to April 4, 2023. *See* Entry (Feb. 2, 2023). Staff, OPAE, and OCC filed initial comments, and CEOH, OPAE, and OCC filed reply comments. In particular, the Staff Comments recommended approval of the Application, with certain modifications. (Staff Ex. 1.0.) The most significant modification that Staff proposed was the recommendation was that CEOH should reallocate funding for commercial programs to the Company's non-low-income residential programs. (*Id*. at 3–4.) The Staff Comments also found the Application to be "reasonable" and noted that the Company's non-low-income programs have been "successful" and exceeded goals with respect to both measures installed and associated gas savings achieved. (*Id*.)

After the filing of reply comments, CEOH, Staff, and the intervenors engaged in settlement negotiations. An initial settlement meeting with all parties was held on May 25, 2023. (CEOH Ex. 2.0 at 7.) Subsequent settlement meetings with all parties were held on June 15, 2023, and June 28, 2023. (*Id.*) After those discussions, the Stipulation signed by CEOH and OPAE was filed on August 1, 2023, and CEOH's testimony in support of the Stipulation was filed on August 15, 2023. Although Staff did not sign the Stipulation, Staff also did not file testimony in opposition to the Stipulation. Rather, the only party who testified in opposition to the Stipulation was OCC. A hearing was held on August 29, 2023, where CEOH's exhibits, OCC's testimony, and the Staff Comments were admitted into the record. Post-hearing briefs were scheduled, with the parties' initial briefs due September 19, 2023, and their reply briefs due October 3, 2023.

C. The Stipulation

The Stipulation expressly adopts the Staff Comments with some minor modifications. (Joint Ex. 1.0 ¶ 1.) Rather than discontinuing the Company's commercial programs immediately, the Stipulation recommends that CEOH wind down the Commercial Perspective and Custom Programs (the Commercial Programs) during the 2024 calendar year, limiting spending to 50% of the programs' budgeted amounts. (*Id.* ¶ 2; CEOH Ex. 2.0 at 2.) The remaining 50% of the 2024 commercial budget, along with the entirety of the commercial budgeted amounts for 2025–2029, would be reallocated to Residential Prescriptive Program and the Weatherization Programs. (*Id.*) To accomplish these reallocations, the Stipulation recommends that the Company's portfolio funding for 2024–2029 start with the budgeted amounts set forth in the Application. (CEOH Ex. 2.0 at 3; *see also* CEOH Ex. 1.0 at 20 (Table 5-2); Ex. NNK-5 at 3 (Table ES-1).) Table A in the Stipulation then shows the recommended reallocations across programs:

Table A[2]

	2024	2025	2026	2027	2028	2029
Commercial Programs	($147,575)	($340,232)	($374,328)	($405,211)	($434,108)	($461,210)
Residential Prescriptive Program	$60,100	$65,250	$64,850	$63,950	$49,850	$38,950
Weatherization Programs (CWP I and CWP II)	$87,475	$274,982	$309,478	$341,261	$384,258	$422,260

(Joint Ex. 1.0 ¶ 2; CEOH Ex. 2.0 at 3-4.) With these changes, CEOH would offer only *residential* low-income and non-low-income DSM/EE programs in 2025–2029. (CEOH Ex. 2.0 at 4.)

The Stipulation reallocates commercial funding in part to the Residential Prescriptive Program, which was another Staff recommendation. (CEOH Ex. 2.0 at 5.) To account for this additional funding, the Stipulation increases the incentive for the Wi-Fi (Smart) Thermostat, a measure available through the Residential Prescriptive program and highlighted in the Staff Comments, from $50 to $75. (*Id*. at 6.) The only Staff recommendation that the Stipulation does not adopt in full or in part is the Staff recommendation to expand the Residential Prescriptive program to include tankless water heaters. That measure was not shown to be cost-effective, and therefore, the Company does not believe that it should be offered as an available product. (*Id*.)

The Stipulation, however, reallocates the majority of the Commercial Program funding to the low-income weatherization programs, CWP I and CWP II. CEOH began offering low-income weatherization programs in 2009 at an annual budget of $2.1 million – a level that has remained

[2] The annual amounts for Commercial Programs in Table A are shown as (negative) to reflect the dollars reallocated to other programs. Since the 2024 commercial budget was $295,150, after reallocation of 50% of that amount, the budget for Commercial Programs in 2024 would be $147,575, if the Stipulation were approved, and $0 in 2025 through 2029. In addition, as identified in Paragraph 2(c) of the Stipulation, if CEOH were able to offer integrated programs, CEOH would similarly reallocate 50% of the annual 2024 budget and 100% of the annual 2025– 2029 budget for the Commercial Programs identified in Table A-22 in CEOH Exhibit 1.0 to the Residential Prescriptive Program and Weatherization Programs.

unchanged through program year 15, or calendar year 2023. (CEOH Ex. 2.0 at 6.) Assuming a modest 3% annual inflation rate, the budget for low-income weatherization programs would range from approximately $3.3 million in 2024 to $3.8 million in 2029. (*Id*.) Further, in recent years, supply-chain constraints and the increasing cost of energy efficiency measures have eroded the amount of energy efficiency achievable potential for low-income customers. (*Id*.) While the Stipulation does not address the entire inflation gap, it does help offset both short- and long-term price increases by increasing funding by the amounts listed in Table A in the Stipulation.[3] (*Id*.)

III. STANDARD OF PROOF

Ohio Adm.Code 4901-1-30 authorizes parties to enter into stipulations in proceedings before the Commission. *AK Steel Corp. v. Pub. Util. Comm.*, 95 Ohio St.3d 81, 82 (2002) (affirming Commission's approval of stipulation regarding utility's transition plan to competitive service as having adequate record support). The terms of such agreements, although not binding on the Commission, are given "substantial weight." *Consumers' Counsel v. Pub. Util. Comm.*, 64 Ohio St.3d 123, 125 (1992) (appellant did not refute Commission's reasoning in adopting stipulation concerning gas transportation charges); *City of Akron v. Pub. Util. Comm.*, 55 Ohio St.2d 155, 157 (1978) (Commission did not err in setting a rate of return based solely upon a stipulation between the utility and Staff).

In reviewing and approving stipulations, the Commission employs a three part-test:

1. Is the settlement a product of serious bargaining among capable, knowledgeable parties?

[3] As stated in Paragraph 2(d) of the Stipulation, the reallocations are subject to the spending flexibility requested in Paragraph 21 of the Stipulation, namely that CEOH be able to (i) adjust program attributes, including incentive levels or measures offered, based on changes in market conditions, technology, and/or government regulations and requirements; (ii) transfer funding across programs within any calendar year; and (iii) carry forward any unspent budgeted costs to future years, including any unspent budgeted costs in 2023. This spending flexibility will ensure that CEOH can adapt to change to continue to successfully deliver cost-effective programs and associated benefits to customers in its service territory.

2. Does the settlement, as a package, benefit ratepayers and the public interest?

3. Does the settlement violate any important regulatory practice or principle?

See, *e.g.*, *In re Ohio Edison Co.*, 146 Ohio St.3d 222, 229, (2016) (upholding Commission approval of stipulation as satisfying three-part test); *Consumers' Counsel v. Public Util. Comm.*, 100 Ohio St.3d 394, 398-399 (2006) (evidence supported Commission approval of stipulation as satisfying three-part test).

The Supreme Court of Ohio, in its review of challenges to Commission-approved stipulations, continues to endorse the Commission's use of these criteria to resolve cases in a manner economical to ratepayers and utilities. *See*, *e.g.*, *In re Ohio Power Co.*, Slip Opin. No. 2018-Ohio-4698, ¶ 39 (2018) (finding that the Commission did not err in approving a joint stipulation in a PPA Rider case).

IV. ARGUMENT

The manifest weight of the evidence in this record supports the Commission's approval of the Stipulation without modification because it satisfies the Commission's three-part test. The Stipulation's compliance with each element of that test is discussed in turn below.

A. The Stipulation is the product of serious bargaining among capable, knowledgeable parties.

The first measure for evaluating the Stipulation is whether it is the product of serious bargaining among capable, knowledgeable parties. The evidence shows that it was.

The record is clear that the parties engaged in serious bargaining over the course of several settlement meetings in May and June 2023. (CEOH Ex. 2.0 at 7.) These meetings were attended by all parties who intervened in the case, representing diverse interests. (*Id.*) All parties were represented by attorneys who have years of experience in regulatory matters before this Commission, and all parties either employed or had access to technical experts with comparable experience. (*Id*. at 8.) During the negotiations, the parties circulated numerous terms sheets and various drafts of the stipulation for review and comments. (*Id*. at 7.) CEOH further answered questions from the parties, and invited feedback and counterproposals to the Company's proposed terms. Counterproposals were circulated, discussed, and considered. (*Id*.) Changes to the Stipulation's drafted language were proposed and deliberated. (*Id*. at 8.) All agreed upon terms and conditions have been incorporated into the Stipulation. (*Id*.)

Although Staff did not sign the Stipulation, Staff did not testify in opposition to the Stipulation and the Staff Comments recommended approval of the Application, subject to certain modifications that the Stipulation and the Company's supporting testimony expressly address. And while OCC opposes the Stipulation, OCC's comments and participation in settlement discussions influenced the parties' negotiations and ultimately the terms of the Stipulation. Specifically, the Stipulation reallocates funding from commercial programs to residential programs, with the majority of the reallocated funding going to CEOH's low-income weatherization program. (Joint Ex. at 2.) Moreover, as discussed below, the parties' negotiations resulted in a compromise that differed materially from the proposals in CEOH's Application.

Finally, the Stipulation is supported by parties representing a range of interests, including OPAE, an Ohio non-profit corporation with a stated purpose of advocating for affordable energy policies for low-and moderate-income Ohioans, whose membership includes Community Action Agencies charged with advocating for low-income residents. Notably, Staff did not oppose the Stipulation in testimony and in fact admitted into the record the Staff Comments in support of the Application. And OCC's absence as signatory alone cannot establish that this first requirement was not satisfied. *See In re Columbia Gas of Ohio, Inc.*, Case No. 07-478-GA-UNC, et al., Opin.

and Order (Apr. 9, 2008) at 32 ("No one possesses a veto over stipulations, as this Commission has noted many times.").

For these reasons, the manifest weight of the evidence supports a Commission finding that the Stipulation is the product of serious bargaining among capable, knowledgeable parties.

B. The Stipulation, as a package, benefits ratepayers and is in the public interest.

As explained by CEOH witness Kessler, the Commission's approval of the Stipulation would benefit customers in CEOH's service territory and is in the public interest in numerous ways. Specifically, the Stipulation (1) allows for the continuation of CEOH's successful, cost-effective, and voluntary residential natural gas DSM/EE programs; (2) encourages CEOH's customers, including low-income customers, to engage in more energy efficient behavior; (3) supports energy efficiency jobs, the energy efficiency marketplace, and other economic development in Ohio; (4) promotes long-term environmental and health benefits; and (5) contributes to reduced utility costs and minimizes bill impacts. In addition, as discussed in Section IV(C), the Commission's approval of the Stipulation would advance natural gas policies embedded in Ohio law and previously recognized by the Commission.

1. <u>The Stipulation allows for the continuation of CEOH's successful, cost-effective, and voluntary residential natural gas DSM/EE programs.</u>

The Company's proposed DSM/EE portfolio for 2024–2029, as modified by the Stipulation, continues CEOH's current DSM program offerings, except for the Commercial Programs, while expanding and modifying some Residential and Weatherization program designs. The Application, the Company's testimony, and the Market Potential Study provide detailed descriptions of the objectives, design, and benefits of the proposed programs to the CEOH service territory, including the specific measures to be offered, the targeted potential participants, and the mechanisms for delivering and educating customers about the available DSM/EE products and services. (CEOH Ex. 3.0 at 6; CEOH Ex. 1.0 at 14–17; Ex. No. NNK-5 at 37–47.) This robust record evidence, in particular the updated MPS, delivers the same "tailored findings" that the Commission found "persuasive" and demonstrative of "a continued need for utility-led EE programs in the Company's territory" less than three years ago. Case No. 19-2084-GA-UNC, Opin. & Order (Feb. 24, 2021) ¶ 62.

This evidence also establishes the success of the Company's DSM/EE programs by energy savings achieved. Exhibit No. NNK-3 shows that from 2011-2020, CEOH exceeded its savings goals *every year*. In addition, as shown in the 2022 Scorecard attached to the Company's supplemental direct testimony, CEOH programs achieved *141% of planned Gross CCF Savings* in 2022. (CEOH Ex. 2.2 at 2.) The only recent year where CEOH's achieved energy savings fell short of projections (92% of goal) was 2021, when program participation and supply chains were significantly impacted by COVID-19. (CEOH Ex. 2.0 at 10.) As the Commission has recognized, and discussed further below, energy savings is not the only benefit delivered to ratepayers by the Company's DSM/EE programs. But if you focused only on energy savings, the data shows that CEOH's programs continue to deliver significant benefits to participating customers.

In addition, as noted above, the Market Potential Study (Exhibit No. NNK-5), specifically Tables 6-9, 6-20, and 6-21, shows that the non-low-income programs proposed for 2024–2029 are projected to be cost-effective. (CEOH Ex. 2.0 at 14.) Each non-low-income residential program has a benefit-to-cost ratio greater than 1.0, using the TRC and UCT tests, confirming that the benefits of the programs outweigh the costs to deliver the programs. (*Id.*) Nor would the reallocation of Commercial Program budgeted dollars to the Residential Prescriptive program materially affect the test scores for that program. (*Id.*) No party to this proceeding, including OCC, disputed the results of the GDS cost-benefit analyses. And Staff, in its review of the Application, expressly acknowledged that the GDS cost-benefit study demonstrated that the Company's program portfolio would be cost-effective. (CEOH Ex. 2.1 at 4.)

The Company's June 2003 Scorecard, which was the most recent data available at the time CEOH's supplemental direct testimony was filed, shows that the existing non-low-income residential programs continue to cause measures to be implemented and energy savings to be achieved. (CEOH Ex. 2.0 at 10; CEOH Ex. 2.3.) The Residential Prescriptive program, in particular, in the first half of the year had already reached 87% of its goal for measures and 68% of its goal for gross CCF savings. (CEOH Ex. 2.3 at 1.) Those results include over 2,500 Wi-Fi (Smart) Thermostats implemented to date – *132% of the Company's goal for the year*. (*Id.*) This data further demonstrates that there remains a strong demand for utility-sponsored DSM/EE products and services in CEOH's service territory that the Company's existing portfolio is filling.

2. <u>The Stipulation encourages CEOH's residential customers, including low-income customers, to engage in more energy efficient behavior.</u>

The typical home or building improvements that lead to energy savings opportunities for residential customers include sealing air leaks, adding insulation, improving heating and cooling systems, and upgrading appliances and thermostats. (CEOH Ex. 2.0 at 14.) The Market Potential Study establishes that there remains a demand for these products and services that the current market is not supplying. The MPS includes a detailed, bottom-up assessment of the market in 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.*) The MPS also considers market barriers, including financial (i.e., ability to pay), customer awareness, technical constraints, and willingness to participate in programs. (Ex. NNK-5 at 9.) GDS coordinated with CEOH to gather utility sales and existing market research to define *appropriate* market sectors, market segments, vintages, saturation data and end uses. (*Id.* at 11.)

CEOH evaluation report findings and other reliable regional industry sources were utilized to estimate savings and costs by measure. (*Id*. at 13.) Both new construction and retrofit opportunities were assessed. (*Id*. at 15.) All of these factors and data points contributed to the GDS estimates of market adoption rates and recommended incentive levels. (*Id*. at 17–18.) Although there may be more DSM/EE products now, as compared to 20 years ago, the MPS proves that well-designed utility-sponsored DSM/EE programs will continue to offer valuable education, choices, and incremental benefits for consumers in the Company's service territory. And no party, including OCC, challenged any of the assumptions in the MPS or offered a competing analysis.

Additionally, CEOH's DSM/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. (CEOH Ex. 2.0 at 14.) These evaluations, which are filed with CEOH's annual Energy Efficiency Funding Rider (EEFR) applications, help CEOH to verify savings and improve the delivery design of its DSM/EE programs to ensure 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*. at 14–15.) Furthermore, delivery mechanisms for the programs, including customer outreach and education, further educate and encourage customers towards making energy efficient decisions. (CEOH Ex. 1.0 at 25–27.)

3. <u>The Stipulation supports energy efficiency jobs, the energy efficiency marketplace, and other economic development in Ohio.</u>

The Commission has recognized that CEOH's existing DSM/EE programs "create and preserve job opportunities for individuals and corporate entities involved in EE products and services." Opin. & Order, Case No. 19-2084-GA-UNC (Feb. 24, 2021) ¶ 59. These opportunities include jobs for auditors, installers, designers, and manufacturers of DSM/EE products. (CEOH Ex. 2.0 at 17.) Moreover, the Company's programs support a supply chain of large and small wholesalers and distributors. (*Id.*) Energy efficiency remains an industry experiencing rapid growth that will continue to promote economic development in Ohio. In addition, employment is a contributing factor in making energy affordable (*Id.*) And when utility-sponsored DSM/EE programs are eliminated, there is a related negative impact on industry jobs. (*Id*. at 20.)

In addition to creating jobs, utility-sponsored DSM/EE programs influence the stocking practices of the retail market. (CEOH Ex. 2.0 at 16, 17) CEOH's DSM/EE programs and partnerships help to drive and transform the inventory of the Company's network of trained contractors and distributors. (*Id*. at 17.) In turn, these providers—and ultimately consumers in CEOH's service territory—gain access to and benefit from more efficient technologies and product offerings. (*Id.*) Thus, CEOH's DSM/EE programs foster innovation in the energy efficiency marketplace.

Because of the recognized economic benefits to Ohio's citizens, ratepayer funding for CEOH's DSM/EE programs remains in the public interest.

4. The Stipulation promotes long-term environmental and health benefits.

Collective individual action to implement cost-effective, technologically feasible energy efficiency measures—whether it is installing smart thermostats, upgrading appliances, or better insulating buildings—can achieve meaningful reductions to greenhouse gas emissions, which benefits all ratepayers, and not just participating customers. (CEOH Ex. 2.0 at 17.) This reduction helps states and cities achieve carbon targets and ultimately leads to economic savings in the response to climate change. (*Id.*) In addition, to the extent that increased efficiency collectively reduces the utility's reliance on fossil fuel power, the resulting benefit is improvements in air quality through reduced air pollution. (*Id*. at 18.) Individual decisions by residential customers to invest in energy efficiency can also improve living conditions at home (e.g., through weatherization). These long-term environmental and health benefits are yet another reason that ratepayer funding for CEOH's DSM/EE programs remains in the public interest.

5. The Stipulation contributes to reduced utility costs and minimizes bill impacts.

In addition to bill savings for participating customers, to the extent that customers can lower their bills through lowered usage, they can lower accrued arrearages that are ultimately collected from all customers through rates. (CEOH Ex. 2.0 at 17.) To the extent that energy efficiency programs can contribute to reduced utility costs, all ratepayers benefit. In addition, CEOH uses its EM&V and benefit-cost analysis results to help assess whether its programs deliver reasonable, impactful, and cost-effective programs. This information helps CEOH to design programs with appropriate incentive levels that target long-term CCF savings and encourage participation, while minimizing bill impacts to non-participants. (*Id*. at 19.).

In sum, the evidence demonstrates that the Stipulation benefits ratepayers and is in the public interest. It provides for the continuation of cost-effective, successful DSM/EE programs addresses without increasing rates, delivers numerous benefits to participants and non-participants, and is consistent with the Commission's prior precedent that previously approved funding for these same programs multiple times. The second prong of the analysis is satisfied.

C. The Stipulation does not violate any important regulatory principle or practice

Finally, the Stipulation does not violate any important regulatory principle or practice. On the contrary, the Stipulation supports several important regulatory principles and practices, including (1) encouraging compromise as an alternative to litigation; and (2) furthering state policies regarding natural gas service and goods. For these reasons, and given the significant benefits provided to ratepayers described in the prior section, the Stipulation does not violate any important regulatory principle or practice.

1. The Stipulation encourages compromise as an alternative to litigation.

The Stipulation, as a settlement, encourages compromise as an alternative to litigation. As CEOH witness Kessler explained in testimony, CEOH agreed to modify the Application to reallocate funding for the Commercial Programs in direct response to the Staff recommendation to limit the number of contested issues. (CEOH Ex. 2.0 at 4.) CEOH agreed to this modification to resolve this proceeding, even though the data fully supported the continuation of these long-standing, successful programs. (*Id.*) Offered since 2009, the Company's Commercial Programs have been operational for 15 years. (*Id.*) They have been previously approved by the Commission three separate times. (*Id.*) And they have delivered benefits to CEOH's customers. Most recently, in 2022, they reached 129% of the Measures Implemented goal and 378% of the Gross CCF Savings goal. (*Id.*) And the GDS cost-benefit analysis demonstrated that each program passed the TRC and UCT tests, indicating that future benefits would exceed the program's costs. (*Id.* at 5.)

CEOH's affiliates offer, have filed to offer, or will be filing to offer, natural gas commercial DSM/EE programs in five other jurisdictions: Indiana, Minnesota, Mississippi, Louisiana, and Texas. (CEOH Ex. 2.0 at 5.) So to voluntarily defund and eliminate the same existing programs in Ohio is a significant concession. CEOH continues to believe the Application was reasonable and lawful as filed but made this concession to reallocate funding to address the Staff recommendation and attempt to reach a resolution to this proceeding. This collaborative process should be encouraged so that parties in future cases are incentivized to work together and make compromises.

2. The Stipulation advances State policies regarding natural gas services recognized by the Commission.

In February 2021, the Commission found the Company's proposed DSM/EE programs for 2021–2023 as modified by stipulation "comports with Ohio's stated public policy of encouraging conservation of energy, as well as innovation and market access for demand-side natural gas services and goods and promoting the alignment of utility and consumer interests in energy efficiency and energy conservation." Case No. 19-2084-GA-UNC, Opin. & Order ¶ 74 (*citing* R.C. 4905.70; R.C. 4929.02(A)(4) and (A)(12)). The Company's proposed DSM/EE programs for 2024–2029, as modified by the Stipulation in this case, further those same policies.

The Commission has continuously found value in CEOH's DSM/EE programs, including its non-low-income programs, as voluntary, cost-effective programs that produce demonstrable benefits, reasonably balance total costs, and minimize the impact to non-participants. *Id*. Consistent with this precedent, R.C. 4905.70, and R.C. 4929.02, the Stipulation presents 2024–2029 programs that promote energy conservation and encourage reduced energy consumption by providing opportunities for customers to reduce their energy usage and make more educated choices about natural gas consumption. Historically, these same programs have been consistently successful in achieving CEOH's goals of measures implemented and energy savings realized. And the Market Potential Study has been updated to address existing market barriers to customer adoption, measure the demand for newer energy efficient technologies, and establish (again) that the benefits of CEOH's programs exceed the costs. It furthers Ohio's natural gas policies to keep supporting sustained conservation and innovation efforts with respect to DSM/EE programs.

In sum, the Stipulation does not violate any regulatory principle, and the third prong is satisfied.

V. 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.

Dated: September 19, 2023

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 this 19th day of September, 2023, to the following:

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