

IN THE SUPREME COURT OF OHIO

ORIGINAL

The Office of the Ohio Consumers' Counsel,)	Case No. 09-1547
)	
Appellant,)	
)	Appeal from the Public
v.)	Utilities Commission of Ohio
)	Case Nos. 07-1080-GA-AIR
The Public Utilities Commission of Ohio,)	and 07-1081-GA-ALT
)	
Appellee.)	

**MOTION TO SUPPLEMENT RECORD ON APPEAL
BY
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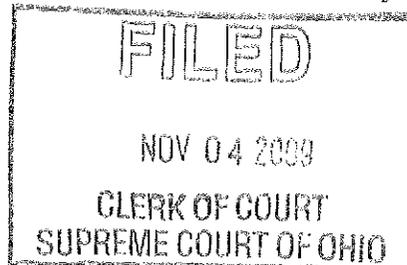
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Vectren Energy Deliver of Ohio, Inc.*

PUCO Case No. 07-1080-GA-AIR is being appealed in this case and the record was transmitted to the Court on September 25, 2009.¹ However, the Report was filed in the Commission's case docket after the record was transmitted to the Court. Thus, the Report is not part of the record before the Court in the present appeal.

The Report is a detailed document filed by VEDO to comply with the directive of the Commission, in its January 7, 2009 Order, the Order under appeal in this proceeding.² It provides information on the economic and achievable potential for energy efficiency. Notably the report contains undisputed information on actual residential customer gas usage for 2008, derived from Vectren's Revenue Ledger reports. It will provide the Court with updated residential customer gas usage data -- data that the Court should consider when determining whether there is justification for the straight fixed variable rate design.

Gas usage shown in the report verifies that residential customer usage is increasing, not decreasing, from the rate case test year³ usage the PUCO was confronted with in the case below. The PUCO had justified its move to straight fixed variable rate design, in large part, based on reduced gas usage by residential customers. Thus, part of the justification for implementing the straight fixed variable rates may no longer be valid.

¹ *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Service and Related Matters*, Case No. 07-1080, Supreme Court Transmittal Papers (Sept. 25, 2009).

² In the Opinion and Order the Commission required Vectren to file the report within nine months of its Order. *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Authority to Amend its Filed Tariffs to Increase the Rates and Charges for Gas Service and Related Matters*, PUCO Case No. 07-1080 (January 7, 2009), Opinion and Order at 12. (R.114).

³ The rate case test year was 12 months ending May 31, 2008, and was comprised of actual and projected data for that period.

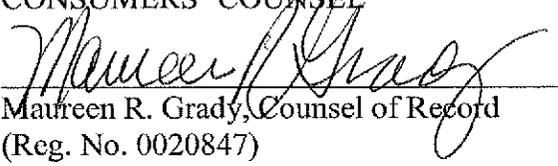
The gas usage data contained in the Report materially affects one of the principle arguments of the OCC in this case -- that the straight fixed variable rate design is unjustified.

Thus, in order for the Court to have the most complete and timely facts, the latest actual gas usage of residential customers should be considered. This undisputed information will complete the record and provide additional information that will further the resolution of this appeal. Moreover, there will be no delay in justice caused by supplementing the record at this time.

For these stated reasons, OCC moves the Court to order the PUCO to supplement the record by certifying and transmitting the Report within a timely fashion to enable parties to the proceeding to address the additional information in briefs and oral argument.

Respectfully submitted,

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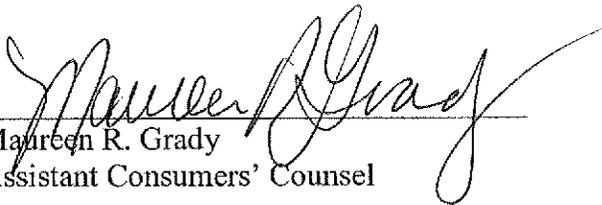
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion to Supplement Record on Appeal by the Office of the Ohio Consumers' Counsel was served upon all parties of record by hand-delivery or regular U.S. Mail this 4th day of November, 2009.


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