Before

**The Public Utilities Commission of Ohio**

In the Matter of the Application of )

Vectren Energy Delivery of Ohio, Inc. ) Case No. 18-49-GA-ALT

For Approval of an Alternative Rate Plan )

In the Matter of the Application of )

Vectren Energy Delivery of Ohio, Inc. for ) Case No. 18-298-GA-AIR

Approval of an Increase in Gas Rates )

In the Matter of the Application of )

Vectren Energy Delivery of Ohio, Inc. for ) Case No. 18-299-GA-ALT

Approval of an Alternative Rate Plan )

**Motion of Vectren Energy Delivery of Ohio, Inc.**

**to Strike Objections of Interstate Gas Supply, Inc. and**

**Retail Energy Supply Association and**

**Memorandum in Support**

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**Delivery of Ohio, Inc.**

Before

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**Motion of Vectren Energy Delivery of Ohio, Inc.**

**to Strike Objections of Interstate Gas Supply, Inc. and**

**Retail Energy Supply Association**

Under Rule 4901-1-12 and Rule 4901-1-28, Ohio Administrative Code, and the Entry dated October 3, 2018, Vectren Energy Delivery of Ohio, Inc. (“VEDO” or the “Company”) moves for an order striking the Retail Energy Supply Association (“RESA”) Objections 1, 3, 4, 5, 7, 8, and Objection 4 regarding the Capital Expenditure Program (“CEP”) and Interstate Gas Supply, Inc. (“IGS”) Objection A, and portions of C and D.

The reasons supporting this motion are set out in the accompanying Memorandum in Support.

Respectfully submitted,

*/s/ Matthew R. Pritchard*

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**Memorandum in Support**

# Introduction

On October 1, 2018, the Staff filed its Report of Investigation (“Staff Report”). Under R.C. 4909.19(C) and Rule 4901-1-28, Ohio Administrative Code (“OAC”), RESA and IGS filed objections to the Staff Report. RESA and IGS each respectively complain through several objections that the Staff Report is flawed in several respects but provide no explanation for these complaints. These non-specific objections are RESA Objections 1, 3, 4, 5, 7, 8, and Objection 4 to VEDO’s CEP and IGS Objection A, and portions of C and D (these objections are set forth in full in the appendix to this motion). Because these objections fail to comply with the requirement that an objection must be specific, the Public Utilities Commission of Ohio (“Commission”) should strike the objections.

# Argument

R.C. 4909.19 provides that the Commission must undertake an investigation of an application to increase rates. R.C. 4909.19(C) provides that upon publication of the report of the investigation, parties may file objections within 30 days. Rule 4901-1-28(B), OAC, contains the same requirement.

The purpose of the objections is to set the issues for hearing in a contested case.

The objections to the report … shall frame the issues in the proceeding, although the commission, the legal director, the deputy legal director, or the attorney examiner may designate additional issues or areas of inquiry. Unless otherwise ordered by the commission, the legal director, the deputy legal director, or the attorney examiner, all material findings and conclusions set forth in the report to which no objection has been filed shall be deemed admitted for purposes of the proceeding.

Rule 4901-1-28(C), OAC.

To afford parties adequate notice of the issues that will be addressed in the hearing, Rule 4901-1-28(B), O.A.C., further provides, “[a]ll objections must be specific. Any objections that fail to meet this requirement may be stricken upon motion of any party or the commission staff or upon motion of the commission, the legal director, the deputy legal director, or the attorney examiner.” The requirement that objections be specific is “to convey what is actually being placed at issue.” Entry at 2 (Oct. 3, 2018). To that end, “[t]he specificity requirement in Rule 4901-1-28 O.A.C., does necessitate that the party filing the objections inform the staff and other parties of the precise area of disagreement with the position taken in the staff report.” *In the Matter of the Application of Ohio-American Water Company for Authority to Increase its Rates for Water Service Provided to its Entire Service Area*, Case No. 01-626-WW-AIR, Entry at 2 (Jan. 4, 2002) (“*Ohio-American Water*”).

In RESA Objections 1, 3, 4, 5, 7, 8, and Objection 4 regarding the CEP and IGS Objection A, and portions of C and D, RESA and IGS assert that there are certain flaws with the Staff Report but neither party provides a substantive explanation of the supposed “flaw.” These objections’ “bare statement” of a flaw “does not sufficiently inform the parties as to the area of disagreement.” *Id.*

## RESA Objection 1 and IGS Objection A

RESA Objection 1 and IGS Objection A are nearly verbatim and assert that the Staff Report was flawed because it did not address an exit of the merchant function. The objections do not allege or demonstrate any error with the current state of things or allege or demonstrate why an exit of the merchant function should occur as part of this proceeding. At their most specific, the objections fault Staff for failing to “recommend terms and conditions under which an exit . . . would take place,” but they neither explain what terms or conditions should have been recommended, nor show that Staff had any duty to address such an issue in a rate case. Having failed to explain the alleged flaw, these objections fail the specificity requirement.

## RESA Objections 3 and 4.

RESA Objection 3 complains that the Staff Report did not address seven miscellaneous charges/requirements. RESA Objection 4 complains that the Staff Report did not address six proposed changes in language in VEDO’s tariff. In both Objections, RESA claims that VEDO did not explain the changes in its redlined tariff, application, or prefiled testimony. This claim is substantively without merit as VEDO outlined each and every one of these items in its redlined tariff, explained these and its other tariff changes in the 80-page long description and rationale of tariff changes contained in Schedule E-3 to VEDO’s application, and further addressed its tariff changes in its prefiled testimony.

Beyond the dubious claim that VEDO did not identify or explain the proposed changes to its tariff, however, RESA does not allege any issue with the charges or the magnitude of the charges, or any issue with these proposed tariff changes. Having failed even to identify, much less explain the alleged flaw, the objections fail the specificity requirement.

## RESA Objection 5

RESA Objection 5 complains that the Staff failed to address unbundling of SCO costs from distribution rates. In this objection, RESA does not allege any issue with VEDO’s current rates, VEDO’s proposed rates, or the rates proposed by Staff. RESA further failed to identify what costs it believed should have been unbundled, the rationale for any such unbundling, or any methodology to unbundle those unidentified costs and allocate them to various rate schedules. Having failed to explain the alleged flaw, the objection fails the specificity requirement.

## RESA Objection 7

RESA Objection 7 complains that the Staff Report does not address greater data access to and use of customer-specific peak day information, including peak load. RESA does not identify why greater access is warranted, explain the level of additional access it seeks, explain any flaws in VEDO’s current reliance on the data it collects, or set forth any parameters on how greater data access could be achieved for a particular purpose. Having failed to explain the alleged flaw, the objection fails the specificity requirement.

## RESA Objection 8

RESA Objection 8 complains that the Staff Report fails to address non-commodity billing. RESA indicates that it is not even sure if VEDO offers non-commodity billing but alleges that if VEDO does offer non-commodity billing, such an offering should be tariffed. RESA does not explain why the Staff should have addressed this issue. Nor does RESA identify the legal basis or reason that non-commodity billing should be set forth in VEDO’s tariff. Having failed to explain the alleged flaw, the objection fails the specificity requirement.

## RESA Objection 4 regarding the CEP

RESA Objection 4 to the CEP notes that alternative regulation plans must demonstrate substantial compliance with the state policies contained in R.C. 4929.02. VEDO did address state policy compliance in its application, exhibits, and testimony, and it is incumbent on RESA to specifically identify and explain the alleged flaws in VEDO’s direct case. RESA agrees that VEDO addressed this requirement in its alternative regulation application noting that VEDO’s application identified that it “will ensure continued and enhanced compliance with the polices [in R.C. 4929.02].”[[1]](#footnote-1)

RESA objects, however, claiming that VEDO did not demonstrate that it would be in *substantial* compliance with the policies in R.C. 4929.02. But, RESA does not allege that VEDO’s CEP Rider proposal will not result in VEDO remaining in substantial compliance with R.C. 4929.02. Nor does RESA articulate how VEDO failed to demonstrate that it is in substantial compliance with these policies. Having failed to explain the alleged flaw, the objection fails the specificity requirement.

## IGS Objection C

IGS Objection C complains that the Staff Report failed to address 7 miscellaneous charges/requirements: the Storage Non-Compliance Fee, Choice Participation Fee – UCC Lien, Choice Participation Deposit – EDI Testing, Unauthorized Gas Usage Charge, Nomination Error Charge, City Gate Allocation Non-Compliance Charge, and the Peaking Demand Charge. Except for the Unauthorized Gas Usage Charge, which is addressed in the only subpart to this Objection, IGS’ sole complaint is that the “redlined tariff, pre-filed testimony, and the Staff Report fail to explain the bases for these provisions.”[[2]](#footnote-2) This claim is substantively without merit as VEDO outlined each and every one of these items in its redlined tariff, explained these and its other tariff changes in the 80-page long description and rationale of tariff changes contained in Schedule E-3 to VEDO’s application, and further addressed its tariff changes in its prefiled testimony. Outside of its dubious claim that these tariff changes were unaddressed in VEDO’s redlined tariff, Schedule E-3 to its application, or supporting testimony, IGS does not allege any flaw in any of these charges (outside of the Unauthorized Gas Usage Charge). Having failed to explain the alleged flaw, the objection fails the specificity requirement outside of IGS’ challenge to the Unauthorized Gas Usage Charge.

## IGS Objection D.4

IGS Objection D complains that 11 portions of VEDO’s proposed tariff changes were not explained in VEDO’s redlined tariff, pre-filed testimony, or the Staff Report. In subpart 4 to this objection, IGS briefly expands on one of these areas, “Capacity Release Solely to SCO suppliers.” In subpart 4, IGS correctly identifies that VEDO proposes to alter the current capacity released to both SCO suppliers and Choice suppliers and instead to only release the capacity to SCO suppliers. IGS then claims that this change is vague and ambiguous and not justified in testimony or the Staff Report.

Initially and again, VEDO set forth each of its proposed changes in its redlined tariff, identified and explained each and every tariff change in Schedule E-3 to VEDO’s application, and provided further discussion in its prefiled testimony. Furthermore, IGS does not explain in what respect the tariff provision is “vague and ambiguous,” and IGS’ claim of vagueness is contradicted by its correct statement that VEDO proposes to only release the capacity to SCO suppliers. VEDO did provide support for this provision in its application, exhibits, and testimony, and it is incumbent on IGS to specifically identify the alleged flaws in Staff’s review of these materials. But missing from IGS’ objection is any claim that VEDO’s proposed change is unreasonable or any analysis supporting such a claim. Having failed to explain the alleged flaw, the objection fails the specificity requirement.

# Conclusion

RESA and IGS have presented numerous objections that are not specific. Because RESA Objections 1, 3, 4, 5, 7, 8, and Objection 4 regarding the CEP and IGS Objection A, and portions of C and D are not specific and fail to demonstrate why the areas addressed in each respective objection are flawed, the Commission should grant this motion to strike the objections.

Respectfully submitted,

*/s/ Matthew R. Pritchard*

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# I. RESA’s Non-Specific Objections

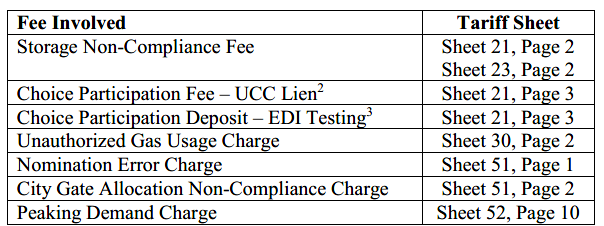
RESA’s non-specific objections that are subject to this motion to strike are set forth in full below:

**(1) The Staff Report failed to address an exit of the merchant function.**

Vectren Energy Delivery of Ohio, Inc. (“Vectren”) proposed tariff language that would allow it to recover costs associated with an exit of the merchant function (Sheet No. 41 of Schedule E-2.1), but the Staff Report failed to recommend terms and conditions under which an exit of the merchant function would take place and for which costs can be recovered. The Staff Report addressed several cost-related changes within Vectren’s tariff (Page 23-24). It, however did not address the proposed change to Vectren’s tariff that would allow it to recover costs associated with an exit of the merchant function through the Exit Transition Cost Rider. RESA objects to this omission from the Staff Report.

**(3) Many of Vectren’s proposed fee increases are not addressed.**

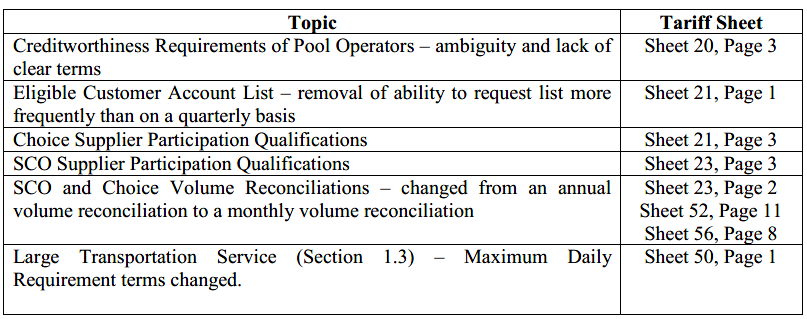
Vectren proposes multiple new fees and charges in the tariff changes in Schedule E-2.1. The redlined tariff and pre-filed testimony, however, do not explain the bases for these increases or how they were calculated. Although the Staff Report responded directly to a handful of the proposed fee changes (Staff Report at 23-24), Staff does not analyze increases for the following:



Without explanation, justification and cost support presented with the application, it was error for the Staff to recommend approval of these proposed increases in its Staff Report and RESA objects.

**(4) Changes in tariff terms and conditions are not addressed.**

Like the fees, Vectren proposes in Schedule E-2.1 multiple changes in the terms and conditions of the services it offers without explanation or justification present in the application. Staff did not directly address in its report a number of the changes proposed by Vectren for the terms and conditions of several services. Specifically, Staff failed to address the following:



Without explanation and justification from Vectren, it was error for the Staff Report to not address these changes to Vectren’s tariff. RESA objects to those omissions as well as to the changes which lack explanation and justification.

**(5) The Staff Report failed to address unbundling of Standard Choice Offer –related costs from distribution rates.**

Although the Staff analyzed the rate schedules and their designs, and noted that the schedules should be equitable and reasonable (Staff Report at 26), the Staff did not review the allocation on cost-causation guidelines as related to the Standard Choice Offer costs. Staff omitted any analysis of the SCO-related costs and any recommended corrective actions to properly allocate costs on a non-bypassable and bypassable basis. RESA objects to those omissions.

**(7) The Staff Report fails to address greater data access and use of the peak day information of individual customers.**

The Commission has recently recognized the importance of access to and use of customer-specific peak day information, including peak load (instead of reliance on average peak values). *See*, PowerForward Report at 30 issued August 29, 2018. Although the Commission has recognized its importance, the Staff, however, fails to address this improvement for the Vectren service territory. RESA objects to this omission.

**(8) The Staff Report fails to address non-commodity billing terms and conditions.**

Upon information and belief, Vectren provides non-commodity billing today. Its tariff, however, does address that offering. To the extent it is offered, it should be available on the same terms and conditions to all suppliers, which Vectren’s tariffs should reflect. RESA objects that the Staff Report failed to address non-commodity billing.

**(4) Vectren must comply with Revised Code Section 4929.05.**

Per Revised Code Section 4929.05, before an alternative rate plan can be approved, Vectren must be in substantial compliance with and expected to continue to be in substantial compliance with the natural gas policy of this state set forth in Revised Code Section 4929.02. Vectren claims that the CEP Rider proposal (along with its existing services and programs) will ensure continued and enhanced compliance with the policies (Alt Rate Application at 14). RESA objects because Vectren did not adequately demonstrate (as required by Ohio Administrative Code Rule 4901:1-19-06(A)(5)) that Vectren will be in *substantial* compliance with Ohio’s natural gas policies in Revised Code § 4929.02(A). These include the following subsections of Revised Code § 4929.02(A):

(2) Promote the availability of unbundled and comparable natural gas services and goods that provide wholesale and retail consumers with the supplier, price, terms, conditions, and quality options they elect to meet their respective needs;

(4) Encourage innovation and market access for cost-effective supply- and demand-side natural gas services and goods;

(5) Encourage cost-effective and efficient access to information regarding the operation of the distribution systems of natural gas companies in order to promote effective customer choice of natural gas services and goods;

(7) Promote an expeditious transition to the provision of natural gas services and goods in a manner that achieves effective competition and transactions between willing buyers and willing sellers to reduce or eliminate the need for regulation of natural gas services and goods under Chapters 4905. and 4909. of the Revised Code

# II. IGS’s Non-Specific Objections

IGS’s non-specific objection A, and the non-specific portions of C and D that are subject to this motion to strike are set forth in full below:

**A. The Staff Report fails to recommend that Vectren take additional steps to Exit the Merchant Function**

Vectren proposed tariff language that would allow it to recover costs associated with an exit of the merchant function (Sheet No. 41 of Schedule E-2.1). The Staff Report, however, failed to address this tariff language. Moreover, the Staff Report failed to recommend terms and conditions under which an exit of the merchant function for residential and non-residential customers would take place and for which costs can be recovered. The Staff Report addressed several cost-related changes within Vectren’s tariff (Page 23-24). It, however, did not address the proposed change to Vectren’s tariff that would allow it to recover costs associated with an exit of the merchant function through the Exit Transition Cost Rider. IGS objects to this omission from the Staff Report.

**C. Proposes Charges and Fees**

The Application proposed several new fees, charges, and penalties in Schedule E-2.1. But the redlined tariff, pre-filed testimony, and the Staff Report fail to explain the bases for these provisions:

* Storage Non-Compliance Fee (Sheet 21, P. 2; Sheet 23, P.2)
* Choice Participation Fee – UCC Lien (Sheet 21, P. 3)
* Choice Participation Deposit – EDI Testing (Sheet 21, P. 3)
* Unauthorized Gas Usage Charge (Sheet 30, P. 2)
* Nomination Error Charge (Sheet 51, P. 1)
* City Gate Allocation Non-Compliance Charge (Sheet 51, P. 2)
* Peaking Demand Charge (Sheet 52, P. 10)

Therefore, IGS objects to these fees and charges. Because the Unauthorized Gas Usage Charge is particularly egregious, IGS objects further below.

**D. New Terms and Conditions of Service**

The Application contains several proposed changes to the terms of service. But the redlined tariff, pre-filed testimony, and the Staff Report fail to not explain the bases for these modifications:

* Creditworthiness Requirements of Pool Operators
* Eligible Customer Account List – removal of ability to request list more frequently than on a quarterly basis
* Choice Supplier Participation Qualifications
* SCO Supplier Participation Qualifications
* SCO and Choice Volume Reconciliations
* Imbalance Trading – removal of the prohibition against trading to establish an imbalance in the opposite direction of the original imbalance.
* System beneficial deliveries – allows Vectren wide and vague authority to require changes to pool operator deliveries.
* Large Transportation Service (Section 1.3) – Maximum Daily Requirement modification.
* Large Transportation Service (Section 10.1) and Choice Supplier Pooling Service Force Majeure – interruptions from producers and pipelines do not qualify as force majeure.
* Choice Supplier Pooling Billing Options – option can only be changed with three months’ advance notice, and once every three years. Vectren must approve supplier’s dual bill format at before issuing.
* Choice Supplier Pooling – Vectren allowed to release capacity contracts solely to SCO suppliers.

Because these proposed changes lack explanation, discussion, or justification in testimony, the Application, or the Staff Report, IGS objects to the Staff Report’s failure to recommend their rejection. Moreover, IGS provides further discussion of the unreasonableness of certain of those provisions below.

**. . .**

**4. Capacity Release Solely to SCO suppliers**

The Application proposes to permit Vectren to release capacity solely to SCO supplier. This provision is vague and ambiguous and not justified in testimony or the Staff Report. Therefore, IGS objects to the Staff Report’s failure to address or reject this provision

(citations omitted)

**Certificate of Service**

In accordance with Rule 4901-1-05, Ohio Administrative Code, the PUCO’s e-filing system will electronically serve notice of the filing of this document upon the following parties. In addition, I hereby certify that a service copy of the foregoing *Motion of Vectren Energy Delivery of Ohio, Inc. to Strike Objections of Interstate Gas Supply, Inc. and Retail Energy Supply Association and Memorandum in Support* was sent by, or on behalf of, the undersigned counsel for Vectren Energy Delivery of Ohio, Inc. to the following parties of record this 7th day of November 2018, *via* electronic transmission.

*/s/ Matthew R. Pritchard*

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1. RESA Objections at 8. [↑](#footnote-ref-1)
2. IGS Objections at 7. [↑](#footnote-ref-2)