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**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 Authority to Amend its Filed Tariffs)
To Increase the Rates and Charges)
For Gas Services and Related)
Matters.)

Case No. 07-1080-GA-AIR

In the Matter of the Application of)
Vectren Energy Delivery of Ohio, Inc.)
For Approval of an Alternative Rate)
Plan for a Distribution Replacement)
Rider to Recover the Costs of a)
Program for the Accelerated)
Replacement of Cast Iron Mains and)
Bare Steel Mains and Service Lines,)
A Sales Reconciliation Rider to)
Collect Differences between Actual)
And Approved Revenues, and)
Inclusion in Operating Expense of the)
Costs of Certain System Reliability)
Programs.)

Case No. 07-1081-GA-ALT

**MEMORANDUM CONTRA THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
MOTION FOR EXTENSION BY VECTREN ENERGY DELIVERY OF OHIO, INC.**

Gretchen J. Hummel
Lisa G. McAlister
Joseph M. Clark
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, Ohio 43215
(614) 469-8000 (T)
(614) 469-4653 (F)
ghummel@mwncmh.com
lmcaster@mwncmh.com
jclark@mwncmh.com

June 24, 2008

**Attorneys for Vectren Energy Delivery of
Ohio, Inc.**

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**MEMORANDUM CONTRA THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S
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I. INTRODUCTION

On November 20, 2007, Vectren Energy Delivery of Ohio, Inc. ("VEDO") filed an Application to increase distribution rates and for approval of an alternative rate plan in the above-captioned cases. On June 16, 2008, the Staff of the Public Utilities Commission of Ohio ("Commission") issued its Report and Investigation. On June 17, 2008, the Commission issued an Entry establishing a procedural schedule in this case including a hearing scheduled for August 19, 2008. On June 23, 2008, the Office of the Ohio Consumers' Counsel ("OCC") filed a Motion for an Extension of Time to File

Testimony and Request for Expedited Ruling ("Motion") requesting that the Commission grant a two-week extension for the filing of testimony. Pursuant to Rule 4901-1-12, Ohio Administrative Code, VEDO hereby respectfully requests that the Commission deny OCC's Motion for Extension for the reasons set forth below.

II. ARGUMENT

Section 4909.42, Revised Code, permits a utility requesting a rate increase under Section 4909.18, Revised Code, to take action to effectuate the proposed increase if the Commission has not issued an order pursuant to Section 4909.19, Revised Code, at the expiration of two hundred seventy-five days from the date of filing the application. The two hundred seventy-fifth day in this proceeding is August 21, 2008. Given that the hearing in this case is scheduled two days before the expiration of the rate case timeline, it will be virtually impossible for the Commission to issue a final order prior to the two hundred seventy-fifth day from the day VEDO filed its Application. Thus, this case is already significantly behind the statutory rate case timeline. Any further delay in any part of the timeline will most certainly interfere with the timing of the resolution of this case and, perhaps, with the necessary work associated with the Commission's obligations to implement Senate Bill 221 through the development of rules and managing the electric cases that are going to be filed on or about August 1, 2008, for rate changes to be effective January 1, 2009.¹

¹ As the Commission and OCC are aware, the electric cases must be processed in the balance of 2008 because they will determine prices effective January 1, 2009. The crunch that is coming as a result of the to-be-filed electric cases will strain resources and may retard efforts to complete VEDO's rate case.

OCC has offered no compelling reason to justify its requested extension.² There are no new regulatory issues involved in this case with which OCC is not familiar from prior VEDO cases and other recent rate cases to which it has been a party. Having been a party to VEDO's last rate case only three years ago, OCC is familiar with VEDO and its operations, as well. OCC's argument that it is disadvantaged by some delays in responses to discovery requests is particularly disingenuous given the fact that, to date, OCC has served thirteen sets of discovery consisting of 525 interrogatories (not including subparts) and nearly 180 requests for production of documents (also not including subparts) in addition to numerous informal requests. While VEDO has not precisely met a twenty-day response time in every instance, VEDO has already responded to more than 461 interrogatories and 166 requests for documents and has expended significant time and resources to do so while responding at the same time to the requirements of the required investigation of its application. VEDO will be serving responses to the remainder of the pending discovery requests in the next few days. Given the small amount of information outstanding, there exists ample time for review prior to the filing of testimony on July 16, 2008. The mere fact that an intervenor may not have time to review all discovery responses prior to the deadline for filing testimony is not persuasive in any event; the Commission rules for rate cases contemplate a deadline for the initiation of discovery, the due date for which is after the deadline for the

² Of the cases OCC cited in its Motion, only two are rate cases subject to the 275 day timeline. In the FirstEnergy rate case cited, the extension was granted because FirstEnergy did not seek to implement its rates until well after the 275th day and, thus, there was not the same urgency in the procedural timeline. *In the Matter of the Application of Ohio Edison et al. for Authority to Increase Rates for Distribution Service, Modify Certain Accounting Practices and for Tariff Approvals*, Case No. 07-551-EL-AIR, et al., Application (May 8, 2008). In the Duke rate case cited, Duke did not oppose the extension. *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Gas Rates*, Case No. 07-589-GA-AIR, Entry (January 7, 2008). Thus, the cases cited are not analogous to this case and do not lend support to OCC's argument.

filing of testimony. Parenthetically, it could be argued that the amount of OCC discovery in this case is excessive given the short period of time since its last case.

Additionally, OCC justifies its request on the basis that two of its attorneys have scheduled vacations during the next 30 days and key OCC Staff are working on other cases. Several key players on VEDO's team are also scheduled to be on vacation at various times during this period. The provisions of Section 4909.12, Revised Code, are not contingent upon the amount of work parties have undertaken or the vacations they have scheduled. VEDO has managed its resources to accommodate the procedural requirements for this proceeding; OCC should do so, as well.³

Finally, it is important to note that VEDO filed its rate case so as to permit resolution of the case prior to expiration of the authority granted to it by the Commission to defer the difference between VEDO's weather-normalized actual base revenues and the base revenues approved in VEDO's last rate case, Case No. 04-571-GA-AIR, as adjusted for customer additions, effective for two years for subsequent recovery via a Sales Reconciliation Rider.⁴ The deferral authority expires on September 30, 2008.⁵ Any delaying the timeline of this case increases the possibility that there will be an

³ It is worth noting that for every two weeks rate relief is delayed, the cost to VEDO is over \$1 million dollars (approximately \$1,051,000) in revenues at VEDO's requested rate increase and nearly half a million dollars (approximately \$485,000) at the high-end of the Staff Report.

⁴ *In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval, Pursuant to Revised Code Section 4929.11, of a Tariff to Recover Conservation Expenses and Decoupling Revenues Pursuant to Automatic Adjustment Mechanisms and for Such Accounting Authority as May Be Required to Defer Such Expenses and Revenues for Future Recovery through Such Adjustment Mechanisms*, Case No. 05-1444-GA-UNC, Supplemental Opinion and Order at 6 (June 27, 2007).

⁵ In anticipation of the possibility that a Commission order in this rate case might not have been issued prior to the expiration of VEDO's deferral authority in Case No. 05-1444-GA-UNC resulting in a period of time during which VEDO would be without the authority to defer the revenue differences for future recovery as contemplated in this rate case, on May 23, 2008 VEDO filed an Application for continued accounting authority to defer differences between actual base revenues and Commission-approved base revenues previously granted in Case 05-1444-GA-UNC in Case No. 08-632-GA-AAM.

inequitable gap between the cessation of deferral authority and the resolution of this case. Accordingly and consistent with VEDO's pending deferral application,⁶ in the unlikely event that the Commission grants OCC's Motion, VEDO respectfully requests that the Commission, at the same time, approve the accounting authority to continue deferral of the differences between actual base revenues and Commission-approved base revenues in the same manner as authorized in Case No. 05-1444-GA-UNC for the period from October 1, 2008 until final resolution of this case, as requested by VEDO in Case No. 08-632-GA-AAM.

III. CONCLUSION

Wherefore, for the reasons discussed herein, the Commission should deny OCC's Motion. However, if granted, VEDO respectfully requests the Commission to authorize VEDO to extend the deferral of decoupled revenues to the date upon which the Commission issues a final order in this case.

Respectfully submitted,



Gretchen J. Hummel

Lisa G. McAlister

Joseph M. Clark

McNees Wallace & Nurick LLC

21 East State Street, 17th Floor

Columbus, Ohio 43215

(614) 469-8000 (T)

(614) 469-4653 (F)

ghummel@mwncmh.com

lmcaster@mwncmh.com

jclark@mwncmh.com

June 24, 2008

**Attorneys for Vectren Energy Delivery of
Ohio, Inc.**

⁶ See Case No. 08-632-GA-AAM.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Memorandum Contra OCC's Motion for Extension* was served upon the following parties of record this 24th day of June 2008, via electronic transmission, hand-delivery, or ordinary U.S. mail, postage prepaid



Lisa G. McAlister

Maureen R. Grady
Joseph P. Serio
Michael E. Idzkowski
Assistant Consumers' Counsel
Office of Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, OH 43215-3485
grady@occ.state.oh.us
serio@occ.state.oh.us
idzkowski@occ.state.oh.us

Werner Margard
Assistant Attorney General
Public Utilities Commission of Ohio
180 East Broad St, 9th Floor
Columbus, OH 43215
werner.margard@puc.state.oh.us

David C. Rinebolt
Colleen L. Mooney
Ohio Partners for Affordable Energy
231 West Lima Street
P.O. Box 1793
Findlay, OH 45839-1793
drinebolt@aol.com
cmooney@columbus.rr.com

Mark S. Yurick
John Bentine
Chester Willcox & Saxbe LLP
65 East State Street, Suite 1000
Columbus, Ohio 43215
myurick@cwsllaw.com
jbentine@cwsllaw.com

John M. Dosker
Stand Energy Corporation
1077 Celestial Street, Suite 110
Cincinnati, Ohio 45202-1629
jdosker@stand-energy.com