

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Vectren)	
Energy Delivery Ohio, Inc. for Approval of)	Case No. 18-0049-GA-ALT
an Alternative Rate Plan.)	

In the Matter of the Application of Vectren)	
Energy Delivery Ohio, Inc. for Approval of)	Case No. 18-0298-GA-AIR
an Increase in Gas Rates.)	

In the Matter of the Application of Vectren)	
Energy Delivery Ohio, Inc. for Approval of)	Case No. 18-0299-GA-ALT
an Alternative Rate Plan.)	

**MOTION OF
THE RETAIL ENERGY SUPPLY ASSOCIATION
TO ACCEPT TESTIMONY AS TIMELY FILED
OR IN THE ALTERNATIVE,
FOR LEAVE TO FILE TESTIMONY OUT-OF-TIME**

Pursuant to Rule 4901-1-12, Ohio Administrative Code, the Retail Energy Supply Association requests that the Public Utilities Commission of Ohio accept the testimony of James L. Crist filed in these proceedings as timely filed on November 7, 2018, for the reasons set forth in the attached memorandum in support. In the alternative, the Retail Energy Supply Association requests that the Public Utilities Commission of Ohio grant it leave to file the testimony out-of-time.

Respectfully Submitted,

/s/ Gretchen L. Petrucci
Michael J. Settineri (0073369), Counsel of Record
Gretchen L. Petrucci (0046608)
Vorys, Sater, Seymour and Pease LLP
52 East Gay Street
Columbus, OH 43215
Telephone: 614-464-5462
mjsettineri@vorys.com
glpetrucci@vorys.com

Counsel for the Retail Energy Supply Association

MEMORANDUM IN SUPPORT

The Retail Energy Supply Association respectfully requests that the Public Utilities Commission of Ohio accept the testimony of James L. Crist as timely filed in these proceedings on November 7, 2018. Good cause exists for accepting the testimony as timely filed and no harm will occur.

By Entry issued October 3, as amended on October 26, 2018, the Attorney Examiner establishing the deadline for the parties (except Staff) to file pre-filed testimony in these proceedings. The Attorney Examiner established a deadline of November 7, 2018.

Counsel for RESA made multiple attempts to electronically file the testimony of James L. Crist before the deadline on November 7, 2018. Due to technical difficulties, however, RESA was not able to electronically file the testimony. Counsel received multiple error messages after each attempt to electronically file the testimony. Counsel contacted the Commission's Docketing Division to determine if there was a technical problem with the electronic-filing system. Counsel then personally delivered the testimony, but arrived just after the 5:30 deadline and the testimony was filed at the Commission offices shortly after the 5:30 deadline. The testimony was served on the parties thereafter on November 7, 2018. Good cause exists and RESA requests that the testimony be accepted as timely filed.

There is no harm or prejudice to the parties by accepting this testimony as timely filed. Also, the few minutes of delay in filing the testimony does not delay these proceedings. By contrast, not accepting this testimony would harm and prejudice RESA by precluding its evidence as the Commission considers the applications filed by Vectren Energy Delivery of Ohio, Inc. in these proceedings.

Late filings have been accepted as timely in the past. *See e.g. In the Matter of the Application of American Transmission Systems, Inc. for a Certificate to Construct the East Springfield-London-Tangy 138 Kilovolt Transmission Line*, Case No. 11-4884-EL-BTX, Entry dated December 12, 2012 at ¶4 (accepting proofs of publication filed four days after deadline as timely filed) *and see In the Matter of the Application of the Application of American Transmission Systems, Inc. for a Certificate of Environmental Compatibility and Public Need for Construction of the Fulton Substation*, Case No. 11-4152-EL-BSB, Opinion and Order dated December 17, 2012 at 5 (staff report filed one business day late accepted as timely filed), *but see In the Matter of the Commission’s Investigation of the Financial Impact of the Tax Cuts and Jobs Act on Regulated Ohio Utility Companies*, Case No. 18-47-AU-COI, Entry on Rehearing dated March 8, 2018 at ¶7 (denying request to treat pleading filed one minute late due to technical issues as timely filed, but granting leave for filing out-of-time).

In the alternative, RESA requests that the Commission grant it leave to file the testimony out-of-time. Rule 4901-1-13(A), Ohio Administrative Code, allows for extensions of time for filings “for good cause shown.” Additionally, pursuant to Rule 4901-1-38, Ohio Administrative Code, the Commission can waive the deadline for filing such a request. RESA has demonstrated good cause due to the technical difficulties. Since the filing occurred shortly after the deadline and all parties were served soon thereafter, no party is harmed or prejudiced by granting RESA leave to file the testimony out-of-time.

The Commission granted a party leave to file a pleading out-of-time in circumstances similar to those present here. In *Commission’s Investigation*, a party experienced technical difficulties with the Commission’s electronic filing system and its pleading was filed one minute after the deadline. The Commission found no prejudice and granted leave to file that pleading

out-of-time. *Commission's Investigation, supra* at ¶7. See also, *In the Matter of the Application of The East Ohio Gas Company dba Dominion East Ohio for Approval of a Plan to Restructure Its Commodity Function*, Case No. 05-474-GA-ATA, Entry dated November 30, 2005 at ¶5 (granting leave to file a memorandum contra that was filed several days late).

For all of these reasons, RESA has demonstrated good cause to accept the testimony of James L. Crist as timely filed, or alternatively to grant it leave to file the testimony out-of-time. RESA respectfully requests that this motion be granted and to the extent necessary, a waiver granted as to Rule 4901-1-13(B).

Respectfully Submitted,

/s/Gretchen L. Petrucci

Michael J. Settineri (0073369), Counsel of Record

Gretchen L. Petrucci (0046608)

Vorys, Sater, Seymour and Pease LLP

52 East Gay Street

Columbus, OH 43215

Settineri: 614-464-5462

Petrucci: 614-464-5407

mjsettineri@vorys.com

glpetrucci@vorys.com

Counsel for the Retail Energy Supply Association

CERTIFICATE OF SERVICE

The Public Utilities Commission of Ohio's e-filing system will electronically serve notice of the filing of this document on the parties referenced on the service list of the docket card who have electronically subscribed to the case. In addition, the undersigned certifies that a courtesy copy of the foregoing document is also being served (via electronic mail) on the 8th day of November 2018 upon all persons/entities listed below:

/s/ Gretchen L. Petrucci
Gretchen L. Petrucci

Vectren Energy Delivery of Ohio, Inc.	<p>Mark A. Whitt Andrew J. Campbell Shannon K. Rust Christopher T. Kennedy Whitt Sturtevant LLP 88 East Broad Street, Suite 1590 Columbus, OH 43215 whitt@whitt-sturtevant.com campbell@whitt-sturtevant.com rust@whitt-sturtevant.com kennedy@whitt-sturtevant.com</p> <p>P. Jason Stephenson Vectren Corporation One Vectren Square 211 N.W. Riverside Drive Evansville, IN 47708 jstephenson@vectren.com</p> <p>Frank P. Darr Matthew R. Pritchard McNees Wallace & Nurick LLC 21 East State Street, 17th Floor Columbus, OH 43215 fdarr@mcneeslaw.com mpritchard@mcneeslaw.com</p>
---------------------------------------	---

City of Dayton	<p>Steven D. Lesser N. Trevor Alexander Mark T. Keaney Calfee, Halter & Griswold LLP 41 S. High Street 1200 Huntington Center Columbus, OH 43215 sless@calfee.com mkeaney@calfee.com alexander@calfee.com</p>
Environmental Law & Policy Center	<p>Madeline Fleisher Environmental Law & Policy Center 21 West Broad Street, 8th Floor Columbus, OH 43215 mfleisher@elpc.org</p>
Federal Executive Agencies	<p>Andrew J. Unsicker Thomas A. Jernigan Federal Executive Agencies (FEA) AFLOA-JACE-ULFSC 139 Barnes Drive, Suite 1 Tyndall AFB, FL 32403 Andrew.Unsicker@us.af.mil Thomas.Jernigan.3@us.af.mil</p>
Honda of America Mfg., Inc.	<p>Steven D. Lesser N. Trevor Alexander Mark T. Keaney Calfee, Halter & Griswold LLP 41 S. High Street 1200 Huntington Center Columbus, OH 43215 sless@calfee.com mkeaney@calfee.com alexander@calfee.com</p>
Interstate Gas Supply, Inc.	<p>Joseph Olier Michael Nugent IGS Energy 6100 Emerald Parkway Dublin, OH 43016 jolier@igsenergy.com mnugent@igsenergy.com</p>

Ohio Consumers' Counsel	<p>William J. Michael Bryce McKenney Amy Botschner-O'Brien Office of the Ohio Consumers' Counsel 65 East State Street, 7th Floor Columbus, OH 43215-4213 william.michael@occ.ohio.gov bryce.mckenney@occ.ohio.gov amy.botschner.obrien@occ.ohio.gov</p>
Ohio Partners for Affordable Energy	<p>Colleen L. Mooney Ohio Partners for Affordable Energy P.O. Box 12451 Columbus, OH 43212-2451 cmooney@ohiopartners.org</p>
Staff of the Public Utilities Commission of Ohio	<p>Werner Margard Assistant Attorney General Ohio Attorney General's Office Public Utilities Section 30 East Broad Street, 16th Floor Columbus, OH 43215 werner.margard@ohioattorneygeneral.gov</p>

This foregoing document was electronically filed with the Public Utilities

Commission of Ohio Docketing Information System on

11/8/2018 12:30:22 PM

in

Case No(s). 18-0049-GA-ALT, 18-0298-GA-AIR, 18-0299-GA-ALT

Summary: Motion Motion to Accept Testimony as Timely Filed or in the Alternative, For Leave to File Testimony Out-of-Time electronically filed by Mrs. Gretchen L. Petrucci on behalf of Retail Energy Supply Association