

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Vectren	)	
Energy Delivery of Ohio, Inc., for Approval	)	18-0049-GA-ALT
of an Alternative Rate Plan	)	

In the Matter of the Application of Vectren	)	
Energy Delivery of Ohio, Inc. for Approval of	)	18-0298-GA-AIR
an Increase in Gas Rates	)	

In the Matter of the Application of Vectren	)	
Energy Delivery of Ohio, Inc., for Approval	)	18-0299-GA-ALT
of an Alternative Rate Plan	)	

**MEMORANDUM CONTRA  
OHIO CONSUMERS' COUNSEL MOTION TO STRIKE  
OF VECTREN ENERGY DELIVERY OF OHIO, INC.**

**I. INTRODUCTION**

On November 7, 2018, the Office of the Ohio Consumers' Counsel (OCC) filed a motion to strike two of the Objections to the Staff Report filed by Vectren Energy Delivery of Ohio, Inc. (VEDO). In accordance with the Commission's October 5, 2018 Entry, VEDO files this memorandum contra OCC's request.

**II. ARGUMENT**

OCC's motion does not demonstrate good cause to strike either of VEDO's objections.

**A. OCC provides no legitimate basis to strike VEDO's objection to the requirement to engage in "rigorous" cost controls and negotiations.**

OCC first recommends striking VEDO's Objection 10(c). In that objection, VEDO objected to the Staff Report's recommendation that VEDO implement "rigorous" cost controls, engage in "rigorous negotiations with municipalities," and take "other similar measures." (VEDO Obj. at 10.) VEDO acknowledged that it "supports the overarching goal of cost control," but objected that "these recommendations require clarification and could be interpreted to

impose unreasonable and counterproductive obligations on the Company, which could result in project delays.” (*Id.*) OCC seems to allege two problems with this objection.

**1. Contrary to OCC, VEDO’s general support for cost controls is not a basis for striking its objection to potentially extreme applications of that goal.**

OCC’s primary argument is to fault VEDO for acknowledging its general support of cost control: “While Vectren objects to Staff’s recommendation, it notes that it supports the overarching goal of cost control. So, while Vectren objects to the Staff Report on this issue, Vectren also concedes its agreement with the goal the issue intends to address.” (OCC Memo. in Supp. at 4.)

VEDO does not follow OCC’s point. VEDO explained its *general* support for “cost controls” to bring out its *specific* concern, namely, the need to clarify superlative words like “rigorous” and expansive conditions like “other similar measures.” An extreme application of the goal of cost control could, as VEDO explained, actually be counterproductive and cause delays. This is common sense, and there is nothing inconsistent or contradictory in VEDO’s position.

OCC’s position implies that VEDO should have taken an all or nothing approach—object to cost controls in principle, or don’t object at all. But what purpose would that serve, if that is not VEDO’s position? Requiring parties to attack every element of a Staff recommendation, if only part of it raises concerns, would defeat the purpose of the objections. The point of objections is to convey what is actually at issue and thereby narrow the issues. OCC’s approach would have the opposite effect; requiring parties to take overbroad, excessively combative positions would make it harder to determine what the issue actually is.

**2. The remainder of OCC’s argument to strike Objection 10(c) is entirely unsupported.**

The second assertion offered to strike Objection 10(c) is this: “Further, Vectren’s assertion that Staff’s recommendation could be interpreted to impose unreasonable and counter-

productive obligations is vague and lacking evidentiary support.” (OCC Memo. at 4.) This is the entirety of OCC’s argument.

Regarding the allegation of “vagueness,” OCC asserts it but provides no supporting explanation or argument. As the party requesting relief, OCC bears the burden of supporting its motion, and the failure to provide any explanation of the alleged vagueness is sufficient basis for denial. Regardless, VEDO’s objection was not vague. VEDO specifically quoted the language in the Staff Report that it was concerned about; explained what was objectionable (that the use of expansive, superlative terms like “rigorous” could be subject to unreasonable interpretations); and stated consequences that could follow. VEDO clearly conveyed what it was placing at issue, which is all that is necessary in an objection.

OCC’s other allegation—a lack of evidentiary support—is puzzling. VEDO is not aware of when or how it could have presented evidentiary support for its objections. There has been no hearing. Direct testimony was filed about six-and-a-half months before the deadline for objections, and the deadline for supplemental testimony was after the objections. As it happens, VEDO has presented testimony in support of this Objection. (*See* VEDO Ex. 7.1, Vyvoda Supp. at 8–9.) But VEDO was under no obligation to present that testimony at the time it filed its objections.

In sum, OCC fails to demonstrate good cause to strike VEDO Objection 10(c).

**B. OCC’s disagreement with VEDO Objection 12(b) is not a basis for striking it.**

OCC also seeks to strike VEDO Objection 12(b), namely, “that the CEP Rider should not be made subject to annual caps and cost controls.” (OCC Memo. at 4.)

The only apparent basis for this request is OCC’s disagreement with VEDO’s position. According to OCC, the caps and cost controls to which VEDO objects “are necessary to protect

consumers,” are “reasonable checks on Vectren’s spending,” and “nothing in the Ohio Revised Code prohibits or prevents such caps.” (*Id.* at 4–5.)

OCC is certainly entitled to make these points at hearing or on brief. But OCC cannot eliminate VEDO’s opportunity to make its case just because OCC disagrees with it. It seems unnecessary to point out that disagreement with an objection is not a basis for striking it. If every objection that at least one party disagreed with were stricken, it would certainly streamline things, but it would also be a senseless and unfair way to resolve a rate case.

### **III. CONCLUSION**

For the foregoing reasons, OCC’s motion to strike VEDO’s objections should be denied.

Dated: November 14, 2018

Respectfully submitted,

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## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served by electronic mail upon the following this 14th day of November, 2018:

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Summary: Memorandum Contra OCC Motion to Strike electronically filed by Mr. Andrew J Campbell on behalf of Vectren Energy Delivery of Ohio