

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's  
Investigation into Verde Energy USA  
Ohio, LLC's Compliance with the Ohio  
Administrative Code and Potential  
Remedial Actions for Non-Compliance

CASE NO.: 19-0958-GE-COI

**EXPEDITED RULING REQUESTED**

**MOTION FOR WAIVER OF RULES GOVERNING CUSTOMER  
INFORMATION AND FOR NOTICE PRIOR TO PUBLIC DISCLOSURE OF  
CONFIDENTIAL INFORMATION**

Verde Energy USA Ohio, LLC ("Verde Energy") hereby respectfully requests waiver of Ohio Adm.Code 4901:1-21-10 and 4901-1-29-09(A)(1), relating to the non-disclosure of retail electric and gas customer information, for purposes of this Investigation. Because such waiver is necessary to facilitate discovery and settlement negotiations in this Investigation, there is "good cause" for such waiver pursuant to Ohio Adm.Code 4901:1-21-02(C) and 4901:1-29-02(C). Verde Energy further respectfully moves for the entry of a Commission order providing that if any party intends to publicly file any documents or information bearing a confidentiality designation, then that party must give all other parties 48 hours' notice before doing so, to allow the parties time to (1) negotiate an agreement as to the treatment of such confidential documents or information, or (2) file a motion for a protective order.

Given the time-sensitive nature of this motion, Verde Energy respectfully requests expedited consideration thereof pursuant to Ohio Adm.Code 4901-1-12(C). Specifically, Verde Energy is unable to produce information requested by proposed

intervenor Interstate Gas Supply, Inc. (“IGS”) until the entry of the requested waiver order, and the exchange of such information is necessary not only for the preparation of testimony presently due in four days on May 17, 2019, but for continued settlement discussions. Given this pressing procedural schedule, Verde Energy respectfully requests an expedited ruling as requested by this motion.

Verde Energy sent a draft of this motion to counsel for IGS, counsel for the Office of the Ohio Consumers’ Counsel (“OCC”), and counsel for the Commission Staff, and counsel for IGS indicated that IGS does not oppose this motion. As of this filing, Verde Energy has not received a response from counsel for the OCC or counsel for the Commission Staff.

A memorandum of points and authorities in support of this motion is included below.

Dated: May 13, 2019

Respectfully submitted,

/s/ David F. Proaño

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**MEMORANDUM IN SUPPORT OF MOTION FOR WAIVER OF RULES  
GOVERNING CUSTOMER INFORMATION AND FOR NOTICE PRIOR TO  
PUBLIC DISCLOSURE OF CONFIDENTIAL INFORMATION**

Verde Energy USA Ohio, LLC ("Verde Energy") and the other parties must engage in discovery in order to address the factual and legal issues that form the basis of this Investigation and to conduct settlement negotiations. This Investigation involves contacts with and complaints to the Public Utility Commission of Ohio (the "Commission") by electricity and gas customers and will inevitably result in some disclosure of customer-specific information between and among the parties. Disclosure of retail natural gas customer information and, to some extent, retail electric customer information is prohibited by the Ohio Administrative Code without an appropriate order by a court or the Commission. *See* Ohio Adm.Code 4901:1-21-10; 4901-1-29-09(A)(1).

Notwithstanding these provisions, the Commission may waive requirements of the Code falling within its jurisdiction "for good cause shown," Ohio Adm.Code 4901:1-21-02(C); 4901:1-29-02(C). There is good cause for a waiver of the Code provisions preventing disclosure of customer information, for the limited purpose of allowing discovery and settlement discussions during this Investigation. The text of

the non-disclosure provisions, Ohio Adm.Code 4901:1-21-10 and 4901-1-29-09(A)(1), explicitly assume that an order from an appropriate authority—such as the Commission—will permit such disclosure under certain circumstances. Therefore, the Commission should waive the non-disclosure provisions of the Code for the purpose of this Investigation and related negotiations and proceedings.

Discovery in this case will require the production not only of customer-specific information protected by the Ohio Administrative Code, but also internal business records, competitively sensitive business information, and trade secrets. Verde Energy is producing such information to other parties under a confidentiality designation. To protect customer-specific information and as well as sensitive commercial information that has been designated confidential by any party, Verde Energy's motion further requests that the Commission enter an order requiring that, from this point forward, any party that intends to publicly file any document or information designated as confidential by any other party in this Investigation provide 48 hours' advance notice to the party or parties that have designated such information as confidential. This advance notice will give the parties time to (1) negotiate an agreement as to the treatment of such confidential documents or information, or (2) file a motion for a protective order before the confidential documents or information are publicly disclosed. Because of the inherent sensitivity of many of the documents at issue in this Investigation, and the fact that two of the parties are competitors in the retail energy space in Ohio, such an order will be necessary to balance the protection of confidential information with the need for

discovery and constructive settlement discussions.

Given the accelerated procedural schedule adopted by the Commission, it is imperative that the parties conduct discovery without delay. For that reason, Verde Energy respectfully maintains that the Commission has good cause under Ohio Adm.Code 4901-12(C) to consider and grant this motion on an expedited basis.

Dated: May 13, 2019

Respectfully submitted,

/s David F. Proaño

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## **CERTIFICATE OF SERVICE**

I certify that a true copy of the foregoing document was served by e-mail upon the persons listed below this 13th day of May, 2019.

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Dated: May 13, 2019

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**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**5/13/2019 9:52:19 PM**

**in**

**Case No(s). 19-0958-GE-COI**

Summary: Motion EXPEDITED RULING REQUESTED - Motion For Waiver Of Rules Governing Customer Information And For Notice Prior To Public Disclosure Of Confidential Information electronically filed by Mr. David F. Proano on behalf of Verde Energy USA Ohio, LLC