**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 Approval to Implement a Capital Expenditures Program. | )))) | Case No. 12-530-GA-UNC |
| In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval to Change Accounting Methods. | ))) | Case No. 12-531-GA-AAM |
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**REPLY COMMENTS OF**

**VECTREN ENERGY DELIVERY OF OHIO, INC.**

1. IntroDUCTION

In accordance with the procedural entry of March 5, 2012, Vectren Energy Delivery of Ohio, Inc. (“VEDO”) now files its reply comments, first to Staff, then to the Office of the Ohio Consumers’ Counsel (“OCC”), and finally to the Ohio Partners for Affordable Energy (“OPAE”). All three parties have filed comments that include recommended changes to VEDO’s filing that either ignore or add to the requirements of R.C. 4929.111. Such proposed conditions and limitations on deferrals and subsequent recovery of VEDO’s proposed capital expenditure (“CAPEX”) program that are without statutory basis are unreasonable, would lead to a violation of law were they adopted, and should be disregarded.

1. Reply to Staff Comments
2. Incremental Revenue Associated with CAPEX Program Assets Must Be Properly Determined and Approved by the Commission in this Proceeding.

In its first comment, Staff states that VEDO’s “deferred regulatory asset should be net of any incremental revenue.” (Staff Comments 7.) VEDO is not opposed to this recommendation in principle, but (as Staff also recognizes) the key is correctly matching incremental revenue to the expenditures under the CAPEX Program.

VEDO agrees that its last rate case provides the correct baseline to identify what revenue is incremental. (*See* Staff Comments 7.) VEDO believes a methodology for determining incremental revenue should be determined and approved by the Commission in this proceeding. Failing to resolve this issue now could lead to disagreement and confusion in a future proceeding. VEDO believes that an appropriate methodology, with minor exceptions, was proposed in Case No. 11-5351-GA-UNC on page 5 of Staff’s Comments, regarding the similar capital expenditure program of Columbia Gas of Ohio.

VEDO proposes the following methodology be adopted to allow for the appropriate matching during the deferral period. The incremental revenue formula allows VEDO to earn a return on the incremental investment and properly credits the regulatory asset for the cost of providing service (i.e., depreciation, property tax and carrying costs). VEDO defines the incremental revenue and each of the formula components as follows:

**Incremental Revenues**

[(Current Month’s Customers – Baseline Customers) x (Cost Portion of Rate)] + [Consumption for Other Revenues directly attributable to program investment x Cost Portion of Other Revenue Tariff]

**Current Month Customers**

Actual end of month customers by month by rate class.

**Baseline Customers**

Customer count by rate class in last base rate case or Case No. 07-1080-GA-AIR.

**Cost Portion of the Rate**

This rate will be derived by reducing the revenue requirement in the last base rate case by the equity return and income tax gross up. The adjusted revenue requirement is allocated to each rate class using the allocation method defined in the last base rate case.

**Other Revenues**

Consumption generated from a tariff established subsequent to the last base rate case and associated with an investment in the Company’s CAPEX program will be multiplied by the cost portion of the newly developed tariff rate to derive incremental revenues. Cost portion will represent the newly created tariff’s revenue requirement less equity return and income tax gross up. An example of other revenues would be revenues generated from VEDO’s CAPEX program CNG station investment discussed in response to OCC Comment H (below).

This formula and methodology would fully satisfy the concerns raised in Staff’s comment.

1. Monthly Deferred Post-In-Service Carrying Costs (“PISCC”) Should Not Be Calculated on Plant Balances Net of Retirements, Cost of Removal, or Accumulated Depreciation.

In Staff Comment B, Staff “recommends that the Commission direct VEDO to modify its proposed PISCC calculation to net out accumulated depreciation and retirement and the cost of removal of existing plant.” (Staff Comments 8.) OCC makes a similar comment. (OCC Comments 8.) VEDO proposes to calculate PISCC based on accumulated gross plant balances, consistent with the calculations of PISCC in its Distribution Replacement Rider (“DRR”) Program. VEDO, however, does not agree that PISCC should be calculated net of retirements or accumulated depreciation.

As to netting out the cost of removal, Staff is operating from an incorrect assumption. VEDO’s program expenditures do not contain any costs of removal. Staff cites VEDO’s response to Staff Data Request No. 2, but this response does not state VEDO is proposing to recover the cost of removal. There is accordingly nothing to net out.

As to netting out retirements and depreciation, there are several problems. First, this approach is foreclosed by law. If the Commission approves an application, R.C. 4929.111(D) requires it to authorize deferral or recovery of both PISCC *and* depreciation:

(D) In approving an application under division (C) of this section, the commission *shall* authorize the natural gas company to defer or recover in an application that the natural gas company may file under section 4909.18, 4929.05, or 4929.11 of the Revised Code, *both* of the following:

1. A regulatory asset for the post-in-service carrying costs on that portion of the assets of the capital expenditure program that are placed in service but not reflected in rates as plant in service;
2. A regulatory asset for the incremental depreciation directly attributable to the capital expenditure program and the property tax expense directly attributable to the capital expenditure program.

(Emphases added.) Far from suggesting that VEDO’s PISCC should be offset by depreciation, the statute requires recovery of both and states that PISCC is applicable to plant in service not reflected in rates, which represents the gross plant balance of VEDO’s CAPEX program as the Company has only requested deferral authority not recovery in this proceeding. Staff’s recommendation is inconsistent with R.C. 4929.111 and on that basis alone should be rejected.

Staff also suggests that applying PISCC to gross plant balances is inconsistent with past practices and Commission rulings on this topic. Staff cites in support a single case from roughly twenty years ago, but more recent Commission rulings have gone the other way. For example, the PISCC calculations approved in VEDO’s Distribution Replacement Rider (“DRR”) cost-recovery filings do not reduce the plant balance by retirements or accumulated depreciation. *See* Case No. 11-2776-GA-RDR, Exhibit No. JMB-S2 and JMB-S3 (Stipulation and Recommendation). The same goes for Columbia Gas of Ohio and Dominion East Ohio. *See* Case No. 10-2353-GA-RDR, Jt. Stip., Att. 2, Sch. AMRP-1 (Apr. 7, 2011), and 11-3238-GA-RDR, Replacement Sched. 6 (Sept. 15, 2011), respectively.

Since the Commission has now approved cost-recovery adjustments reflecting VEDO’s proposed PISCC accrual methodology in multiple applications affecting multiple companies, the Commission has plainly adopted a different approach than that contained in Case No. 92-555-GA-AAM. Contrary to Staff’s suggestion, the four-page entry in that case was not a path-marking decision. But even if it were, R.C. 4929.111 has been enacted since then, speaks directly to this issue, and must be heeded.

Finally, with regard to retirements, it is not appropriate to include only the gross value of retirements in the PISCC calculation.  Retirements should be reflected at net book value, presumably fully depreciated, so net book value is zero.  Consistent with utility accounting practice, if net book value is not zero, any remaining book value is adjusted through accumulated depreciation such that the net impact on net plant is zero. *See*, *e.g.*, Case No. 11-2776-GA-RDR, DRR Application (Apr. 29, 2011) at Exhibit No. JMB-2.

1. The Duration of CAPEX Program Deferrals Is Established by R.C. 4929.111.

In Staff Comment D, Staff asserts that the “program deferral should have a time limit,” to be established by the Commission as a fixed date. (Staff Comments 9.) OPAE and OCC make similar comments. (*See* OPAE Comments 4–5; OCC Comments 10–11.) These recommendations propose arbitrary time limits that are not supported by the statute.

The statute directly addresses when(i.e., the point in time)deferrals must cease. “Any accruals for deferral or recovery under division (D) of this section . . . shall cease when rates reflecting the cost of those assets are effective.” R.C. 4929.111(H). The statute uses mandatory language (“shall”) to require that deferrals cease upon the occurrence of a particular event (“when rates reflecting the cost of those assets are effective”), not after a given period of time or by a certain date. This specific, mandatory provision rules out an absolute expiration date such as those that Staff and OCC recommend. “[T]he express inclusion of one thing implies the exclusion of the other.” *Myers v. Toledo*, 110 Ohio St.3d 218, 2006 Ohio 4353, 852 N.E.2d 1176, ¶ 24.

Staff’s recommendation in this area would undermine one of the key benefits of House Bill No. 95, which gave rise to R.C. 4929.111, in that it would require more frequent rate adjustments rather than fewer. The General Assembly could have imposed an absolute expiration period or date on deferrals, or it could have left it up to the Commission to establish such a date. But it did neither, and that legislative decision must be respected. Therefore, this provision rules out Staff’s recommendation that deferrals should expire on a specific date.

1. VEDO Is Not Opposed to Annual Informational Filings.

In its final comment, Staff states that VEDO should make “annual informational filings detailing the CAPEX Program investment deferrals recorded on its books.” (Staff Comment E.) VEDO is willing to make such filings with the information requirements defined in Staff Comment E by the March timeframe recommended by Staff.

Staff also states that “a capital budget for the upcoming year should also be provided.” (*Id*. at 10.) VEDO is also willing to provide the capital budget with the annual information report previously described.

1. Reply to OCC comments
2. Response to OCC General Comments.
3. VEDO Did Not File Its Application as an “Alternative Regulation” Case.

In the first page of its comments, OCC states that VEDO’s application “was filed as an Alternative Regulation case.” That is not true. VEDO filed its application “[p]ursuant to R.C. 4909.18” as an application “not for an increase in rates.” (Appl. 2.) R.C. 4929.05 permits “alternative rate plans,” and it is one of the statutory filing options under R.C. 4929.111(D). It is unclear what exactly OCC means by “Alternative Regulation case,” but VEDO neither filed under R.C. 4929.05 nor characterized its application the way OCC does. To the degree OCC’s comments suggest the contrary, they misstate the facts and should be disregarded.

1. OCC Provides No Reason to Reject VEDO’s Application.

One of OCC’s comments is that VEDO’s application should simply be rejected. OCC contends that VEDO has not provided a detailed and itemized accounting of capital expenses. The statute does address the nature of the filing that is to be made. First, VEDO must “specify the total cost,” R.C. 4929.111(B), and show that the “program”—not each and every proposed expenditure—is just and reasonable, R.C. 4929.111(C). VEDO has set forth the cost of each program and explained why the programs are reasonable. (Appl. Ex. A, and 2–4.) The statute does not go on to require the detailed, predictive itemization sought by OCC as a condition of granting VEDO deferral authority. The General Assembly certainly could have required detailed program descriptions, but it did not, and that legislative choice must be respected. All of the Program expenses described in VEDO’s Application pertain directly to serving customers and will allow VEDO to continue to provide service at the level required by law. VEDO provided more than enough detail to satisfy the requirements of R.C. 4929.111.

OCC’s assertions about the necessary level of detail—besides failing to show any violation of law—are beside the point. Now is not the time to review VEDO’s actual expenditures, because they are to be made over the requested deferral period. Contrary to OCC’s apparent misunderstanding, VEDO’s application does not seek cost recovery, but deferral authority. (Appl. 1.) This, of course, is permitted under R.C. 4929.111(D). *See id*. (applications may “defer *or* recover” costs related to capital expenditures) (emphasis added). And VEDO proposed in its application that cost “recovery [is] to be requested in a separate, subsequent proceeding.” (Appl. 1.) That means customers will not pay any costs related to any program expenditures until the Commission examines them in a future proceeding.

Staff recognized this point, and stated that it would “investigate and recommend any necessary adjustments to the deferral when VEDO applies to recover the deferred asset.” (Staff Comments 6.) OCC also seems to recognize this at points. (*See, e.g.*, OCC Comments 3 (“final determination as to the used and useful nature of the spending under the CAPEX program will not be made until some future rate case”).) Nevertheless, it does not recognize that this fact eliminates its concerns. Were VEDO seeking to come out of this proceeding with millions of dollars in cost recovery, OCC might have a point. But VEDO is not, and OCC does not.

The only specific failure OCC alleges regarding VEDO’s application is that the proposed expenditures are not “safety-related.” (OCC Comments 4.) Assuming for sake of argument that this conclusory statement is true—and VEDO does not concede that it is—it is irrelevant. Such a limitation is notably absent from R.C. 4929.111, and OCC cites no authority in its favor.

Finally, even if any information were missing from VEDO’s application, the solution would be to supplement, not reject, the application. As already discussed, however, OCC has not shown this to be the case. The Commission should disregard these comments.

1. VEDO’s Later Cost-Recovery Options Are Not Limited to Rate Cases under R.C. 4909.18.

Several of OCC’s comments suggest that the only way VEDO may recoup deferred expenses is through “a rate case.” (OCC Comments 3, 7, 11.) If OCC is using the phrase “rate case” simply as shorthand for a cost-recovery proceeding permitted by R.C. 4929.111, then there is no problem. But if OCC means to limit VEDO to a proceeding to increase rates under R.C. 4909.18, then OCC is wrong.

When the time comes to seek cost recovery, VEDO has options besides R.C. 4909.18. The statute expressly states that “the natural gas company may file under section 4909.18, 4929.05, or 4929.11” to recover program costs. R.C. 4929.111(D). The statute places the choice of recovery mechanism with the company. And two of the options—alternative rate regulation or an automatic adjustment mechanism—are not rate-increase proceedings under R.C. 4909.18. OCC’s implied limitation would conflict with the law and should be rejected on that basis.

1. Incremental Revenue Issues Are Addressed in the Reply to Staff.

Regarding OCC Comment A, VEDO addressed issues regarding incremental revenue that may arise from capital expenditures in its response to Staff’s Comment A, and that discussion pertains here, too. The formula and methodology proposed by VEDO in its response to Staff Comment A would alleviate the concerns expressed by OCC.

1. VEDO Should Not Be Held to a Strict Retirement Program.

Regarding OCC Comment B, OCC states that “Post-In-Service Carrying Charges Should be Applied to Net Plant Balances.” (OCC Comments 8.) VEDO disagrees for the reasons stated in response to Staff Comment B.

OCC also recommends that VEDO “should be required to adhere to a strict retirement program.” (*Id*.) OCC does not spell out what this means, which is grounds alone for disregarding the comment, as it deprives VEDO of a fair opportunity to respond. In any event, plant should be retired in the normal course of business, as warranted by actual conditions and service needs, and not whenever necessary to achieve the accounting results that OCC may desire.

1. VEDO’s Application Made Clear that CAPEX and DRR Costs Would Be Kept Separate.

In Comment C, OCC states that the Commission “should ensure that any of the CAPEX spending is not included in the DRR program. (OCC Comments 9.) This concern is well accounted for in VEDO’s application, which stated that “excluded from the CAPEX Program are capital expenditures associated with . . . VEDO’s distribution replacement rider.” (Appl. 2.) VEDO already has procedures in place to ensure that expenditures are segregated in its accounting systems. That being the case, OCC’s concerns regarding double recovery have been fully addressed in the application.

1. OCC’s Comment Regarding Blanket Work Orders Is Nothing More than Groundless Speculation.

OCC’s Comment D amounts to the following: VEDO uses blanket work orders; therefore, VEDO might (“[t]he potential exists”) miscategorize certain expenses. (OCC Comments 9–10.) Then it asks the Commission to “exclude these items”—that is, items potentially miscategorized in the future—from the application. (*Id*.)

VEDO agrees that it should properly categorize expenditures; it has ample procedures and experienced personnel in place to ensure that it does so; and whether it has done so will surely be a topic explored in the later cost-recovery proceeding. OCC’s comment amounts to mere speculation and identifies no problem with the application. It is impossible to do what OCC asks and exclude items miscategorized in the future. This comment should be disregarded.

1. R.C. 4929.111 Speaks for Itself, and OCC’s Paraphrase Is Unnecessary.

In Comment E, OCC argues that deferrals should not begin until certain requirements are satisfied—it is essentially paraphrasing the statute without actually addressing VEDO’s application. (OCC Comments 10.) First, what standards must be satisfied is addressed by R.C. 4929.111, and OCC cannot add to or subtract from those requirements. OCC does not actually complain in this comment that anything in VEDO’s application violates the law, but simply paraphrases the statute in the abstract. VEDO fails to see the point of that exercise; the law speaks for itself.

And regardless, this is yet another matter that cannot be addressed until later. VEDO cannot make any of the requested deferrals until it receives authority from the Commission. Whether VEDO implements that authority properly can be determined after the fact, most likely in the cost-recovery proceeding.

1. R.C. 4929.111 Does Not Impose a Time Limit on Deferrals.

In Comment F, OCC states that deferrals “must have some time limit,” and suggests they should “cease when the costs are reflected in rates or by December 31, 2013.” (OCC Comments 11 (capitalization omitted).) OCC is wrong for the reasons stated in VEDO’s reply to Staff Comment D.

1. VEDO Is Not Opposed to Periodic Information Filings.

In Comment G, OCC recommends annual informational filings. (OCC Comments 11.) VEDO is willing to make an annual informational filing on the terms set forth in its response to Staff Comment E. VEDO, however, does not agree with OCC’s proposed items to include, which are repetitive and vague.

1. The Portion of the Application Pertaining to the Proposed Compressed Natural Gas Fueling Station Should Be Approved.

In its final comment (H), OCC states that the portion of the program pertaining to VEDO’s proposed compressed natural gas (“CNG”) fueling station should be rejected for several reasons. None of OCC’s arguments justify rejecting the program.

OCC’s first argument is that VEDO did not show the CNG program to be “consistent with [VEDO’s] obligation to serve its customers as set forth in R.C. 4905.22.” (OCC Comments 11–13.) OCC is plainly wrong that the proposed station would not serve VEDO’s customers. VEDO’s application stated that the CNG facilities would be “available to serve commercial fleets.” (Appl. 2.) If VEDO’s customers are seeking CNG fueling opportunities, VEDO is within its rights to seek to serve them, which is wholly consistent with R.C. 4905.22. VEDO, as a provider of service to the public, acts prudently when it stays apprised of the changing needs of its customers who respond to fuel costs and environmental concerns. The nation, and Ohio, through legislation and regulatory initiatives, are promoting diversification of energy sources. Fleet vehicles that utilize natural gas are becoming more prevalent—helping to build the infrastructure required to support this proliferation of natural gas as an alternative fuel is in the interest of customers and the State. The timing of building this infrastructure is addressed below.

OCC also asserts that CNG represents an unregulated business opportunity. To the contrary, this will be a regulated tariff service, with appropriate rate schedules to be submitted for Commission approval in a future proceeding. Furthermore, the proposed station, while developed primarily for commercial customers, will be available to residential customers as well. In fact, a key objective of deploying CNG stations is to encourage greater use of CNG by *all* VEDO customers.

OCC also criticizes the program on the grounds that “it is for the use of potential customers” and not current customers, which (it says) “shift[s] the risk and cost of investment from shareholders to its current customers.” (OCC Comments 12–13.) These concerns are both incorrect and unripe. VEDO is committed to pursuing the program, and approval of deferral authority is a key step to enable it to do so. But VEDO will also closely examine market conditions, and if those conditions suggest that the program should not be pursued at this time, VEDO will not pursue it. In that event, customers will not be asked to pay anything. To the extent OCC faults VEDO simply for pursuing a new program, it runs afoul of state policy. The State of Ohio has made clear that the Commission should “[e]ncourage innovation and market access for cost-effective supply- and demand-side natural gas services and goods.” R.C. 4929.02(A)(4). These are not vain words, and nothing in R.C. 4929.111 countermands them. OCC might equate innovation with imprudence; Ohio does not.

Further, given Ohio’s apparent abundance of natural gas, it makes sense to promote programs that can take advantage of a local resource and potentially promote local, related industries at the same time. The VEDO program is entirely consistent with the Kasich administration’s recently announced energy policy. Pillar six of that policy states in part that “to encourage examination and adoption of alternatives fuels,” the Governor’s Office, Commission, and ODOT will:

* sign an agreement with other states to develop CNG refueling infrastructure and promote usage of CNG vehicles in Ohio;
* assess converting all or part of the state fleet to CNG; and
* develop a flexible revolving loan fund for alternative fuels (CNG, biodiesel, and ethanol).

Finally, OCC several times raises issues concerning who should pay what rates if investment in a CNG station is ultimately recovered. (*E.g.,* OCC Comments 12.) Questions of rate design are premature. If the Commission approves VEDO’s program, and when VEDO then makes the investment and applies for cost recovery, that will be the time to address matters of cost allocation and rate design. There is no reason to address it now.

1. reply to OPAE Comments
2. VEDO’s Application Is Sufficiently Detailed.

In its first comment (A), OPAE alleges that VEDO’s Application should be rejected because it lacks sufficient detail. VEDO responded to this concern in response to OCC in Section III.A.2 above; VEDO’s response pertains here as well.

1. R.C. 4929.111 Is Not Limited to Incremental Expenditures.

In Comment B, OPAE states that the Commission “must determine whether the expenditures in the capital expenditure program are incremental to the level of capital expenditures already included in [VEDO’s] current base distribution rates.” (OPAE Comments 2–3.) In OPAE’s view, if VEDO is not proposing to spend more than it is currently spending, it should not be allowed a CAPEX program.

 This comment must be rejected. R.C. 4929.111 does not contain the condition recommended by OPAE, and it should go without saying that neither OPAE nor the Commission may rewrite the statute. The General Assembly surely knew, in enacting R.C. 4929.111, that utilities were already engaged to some degree in making capital expenditures. The self-evident purpose of the statute is to encourage continued, and potentially *more*,capital investment in the state. That being the case, there is no reason to limit the availability of R.C. 4929.111’s benefits based on past levels of investment and hence increase the cost of that investment.

The plain purpose of R.C. 4929.111 is to allow beneficial accounting and rate treatment and thus encourage capital investment; OPAE’s recommendation would pare it all back. Lacking support in either the text or purpose of the law, OPAE’s recommendation should be rejected.

1. OPAE’s Concerns Regarding Incremental Revenue Are Addressed Above.

Regarding OPAE Comment C, VEDO addressed issues regarding incremental revenue that may arise from capital expenditures in its response to Staff’s Comment A, and that discussion pertains here, too. The formula and methodology proposed by VEDO in its response to Staff Comment A would alleviate the concerns expressed by OPAE.

1. OPAE’s Concerns Regarding Time Limits Are Addressed Above.

In Comment D, OPAE states that deferrals “should have a time limit.” (OPAE Comments 4.) OPAE is wrong for the reasons stated in VEDO’s reply to Staff Comment D.

1. VEDO Is Not Opposed to Periodic Information Filings.

In Comment E, OPAE, like Staff and OCC, recommends annual informational filings. (OPAE Comments 5.) VEDO is willing to make an annual informational filing on the terms set forth in its response to Staff Comment E.

1. Conclusion

In conclusion, VEDO respectfully requests that the Commission grant its application in accordance with VEDO’s comments and disregard those comments of OCC, OPAE, and Staff that would undermine the accounting treatment required by R.C. 4929.111.

Dated: April 27, 2012 Respectfully submitted,

/s/ Andrew J. Campbell

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**CERTIFICATE OF SERVICE**

 I hereby certify that a copy of Vectren Energy Delivery of Ohio, Inc.’s Reply Comments was served by electronic mail this 27th day of April, 2012, to the following:

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/s/ Andrew J. Campbell

One of the Attorneys for Vectren Energy Delivery of Ohio, Inc.