BEFORE

THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of Vectren Energy Delivery of Ohio, Inc. for Approval, pursuant to Section 4929.11, Revised Code, 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

THIRD ENTRY ON REHEARING

The Commission finds:

(1) On November 28, 2005, Vectren Energy Delivery of Ohio, Inc. (VEDO) filed an application for approval, pursuant to Section 4929.11, Revised Code, 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.

(2) On June 27, 2007, the Commission issued its Supplemental Opinion and Order in this case, approving a stipulation (January 2007 Stipulation) entered into between VEDO, Ohio Partners for Affordable Energy (OPAE) and the Commission staff.

(3) Section 4903.10, Revised Code, states that any party to a Commission proceeding may apply for rehearing with respect to any matters determined by the Commission, within 30 days of the entry of the order upon the Commission's journal.

(4) On July 27, 2007, the Ohio Consumers' Counsel filed an application for rehearing alleging that the Supplemental Opinion and Order in this case was unreasonable and unlawful on the following grounds.

(a) The Commission erred because it had no jurisdiction to approve the January 2007 Stipulation. The Commission lacked jurisdiction because the Commission did not meet the statutory requirements of Section 4929.05,

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Revised Code, including that VEDO's application was not filed "as part of an application filed pursuant to" Section 4909.18, Revised Code, in violation of Section 4929.05, Revised Code.

(b) The Commission erred in allowing VEDO to implement alternative regulation while it remains subject to rate of return regulation, contrary to Section 4929.05, (A), Revised Code, *et seq.*

(c) The Commission lacked jurisdiction to approve the January 2007 Stipulation when the statutory requirements of Section 4929.05, Revised Code, were not met, including that it may not increase rates to customers, through a decoupling mechanism, without adhering to the statutory requirements of Section 4909.18, Revised Code, and other authority.

(d) The Commission lacked jurisdiction to allow VEDO to avail itself of (and subject customers to) alternative regulation without establishing that VEDO has met the following requirements of alternative regulation under Section 4929.05, Revised Code, and Rule 4901:1-19-07, Ohio Administrative Code (O.A.C.): notice sufficient to satisfy Sections 4929.05, 4909.19, and 4909.43(B), Revised Code; investigation and staff report issuance under Section 4929.05, Revised Code and Rule 4901:1-19-07, O.A.C; and the determination of just and reasonable rates under Sections 4909.19 and 4929.05, Revised Code.

(e) The Commission erred when it approved accounting changes to retroactively increase utility rates that customers pay, when VEDO did not file an application under Section 4909.18, Revised Code, and the Commission did not determine just and reasonable rates under Section 4909.15, Revised Code.

(f) The Commission erred in finding the settlement, as a package, benefits ratepayers and is in the public interest. This determination was against the manifest weight of the evidence.

(g) The Commission erred in approving a settlement that was not signed by any party who would pay the increased rates imposed by the settlement.

(h) The Commission erred when it found that the settlement package did not violate any important regulatory principle or practice.

(i) The Commission erred in allowing VEDO considerable regulatory freedom that is not commensurate with VEDO's minimal commitments to Section 4929.02, Revised Code.

(j) The Commission erred in finding that OCC did not raise its "procedural claims" in a timely manner, when the claims were related to the Commission's lack of jurisdiction and jurisdictional claims cannot be waived.

(k) The Commission erred when it failed to comply with Section 4903.09, Revised Code, and provide findings of fact and written opinions that were supported by record evidence.

(5) On July 27, 2007, the Neighborhood Environmental Coalition and Consumers for Fair Utility Rates (Coalition) filed[1] an application for rehearing alleging that the Supplemental Opinion and Order in this case was unreasonable and unlawful on the following grounds.

(a) The Commission should modify the January 2007 Stipulation and remove all discussions and use of any decoupling mechanism from it.

(b) If the Commission cannot eliminate decoupling from this case, the Commission should restrict any other uses of decoupling until such accounting technique has been adequately tested and its results properly researched and documented.

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[1] The Commission notes that the Coalition properly filed its application for rehearing in accordance with the requirements of Rule 4901-1-35, Ohio Administrative Code. Although the Coalition's filing, on its face, is a faxed document, the filing was not faxed to the Commission but was apparently faxed to a third party before it was properly filed, in person, with the Commission.

(6) On August 6, 2007, VEDO and OPAE filed a joint memorandum contra OCC's application for rehearing.

(7) The Commission grants OCC's and the Coalition's applications for rehearing. We believe that sufficient reason has been set forth by OCC and the Coalition to warrant further consideration of the matters specified in the applications for rehearing.

It is, therefore,

ORDERED, That the applications for rehearing filed by the Ohio Consumers' Counsel and the Coalition are granted for further consideration of the matters specified in the applications for rehearing. It is, further,

ORDERED, That a copy of this Third Entry on Rehearing be served upon all parties of record.

THE PUBLIC UTILITIES COMMISSION OF OHIO

Alan R. Schriber, Chairman

Paul A. Centolella

Ronda Hartman Fergus

Valerie A. Lemmie

Donald L. Mason

GAP:ct

Entered in the Journal
AUG 22 2007

Reneé J. Jenkins
Secretary