

FILE

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

RECEIVED-DOCKETING DIV

2007 DEC 12 PM 2:00

PUCO

In the Matter of the Application of)
Vectren Energy Delivery of Ohio, Inc.)
for Authority to Amend its Filed Tariffs)
to Increase the Rates and Charges for)
Gas Services and Related Matters.)

Case No. 07-1080-GA-AIR

In the Matter of the Application of)
Vectren Energy Delivery of Ohio, Inc.)
For Approval of an Alternative Rate)
Plan for a Distribution Replacement)
Rider to Recover the Costs of a)
Program for the Accelerated)
Replacement of Cast Iron Mains and)
Bare Steel Mains and Service Lines, a)
Sales Reconciliation Rider to Collect)
Differences between Actual and)
Approved Revenues, and Inclusion in)
Operating Expense of the Costs of)
Certain System Reliability Programs.)

Case No. 07-1081-GA-ALT

**REPLY TO OCC'S MEMORANDUM CONTRA MOTION FOR WAIVER
OF STANDARD FILING REQUIREMENTS BY
VECTREN ENERGY DELIVERY OF OHIO, INC.**

Samuel C. Randazzo (Trial Attorney)
Gretchen J. Hummel
Lisa G. McAlister
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, OH 43215
Telephone: 614-469-8000
Telecopier: 614-469-4653
sam@mwncmh.com

Lawrence K. Friedeman
Vice President and Deputy General Counsel
Vectren Energy Delivery of Ohio, Inc.
PO Box 209
Evansville, IN 47709-0209
Telephone: (812) 491-4284
Telecopier: (812) 491-4238

December 12, 2007

**Attorneys for Vectren Energy Delivery
of Ohio, Inc.**

This is to certify that the images appearing are an
accurate and complete reproduction of a case file
document delivered in the regular course of business
date processed 12/12/07
Technician

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)	
Vectren Energy Delivery of Ohio, Inc.)	
for Authority to Amend its Filed Tariffs)	Case No. 07-1080-GA-AIR
to Increase the Rates and Charges for)	
Gas Services and Related Matters.)	

In the Matter of the Application of)	
Vectren Energy Delivery of Ohio, Inc.)	
For Approval of an Alternative Rate)	
Plan for a Distribution Replacement)	Case No. 07-1081-GA-ALT
Rider to Recover the Costs of a)	
Program for the Accelerated)	
Replacement of Cast Iron Mains and)	
Bare Steel Mains and Service Lines, a)	
Sales Reconciliation Rider to Collect)	
Differences between Actual and)	
Approved Revenues, and Inclusion in)	
Operating Expense of the Costs of)	
Certain System Reliability Programs.)	

**REPLY TO OCC'S MEMORANDUM CONTRA MOTION FOR WAIVER
OF STANDARD FILING REQUIREMENTS BY
VECTREN ENERGY DELIVERY OF OHIO, INC.**

I. INTRODUCTION

On November 20, 2007, Vectren Energy Delivery of Ohio, Inc. ("VEDO"), Applicant herein, filed an application with the Public Utilities Commission of Ohio ("Commission") to seek an increase in its gas rates. In connection with such Application, in accordance with Rule 4901-7-01, Ohio Administrative Code, Appendix A, Chapter II, (A)(4), VEDO filed a Motion for Waiver of Standard Filing Requirements and Memorandum in Support (hereinafter "Motion for Waiver"). On December 5, 2007, the Office of the Ohio Consumers' Counsel ("OCC") filed a Memorandum Contra VEDO's

Motion for Waiver (hereinafter "Memo Contra"). For the reasons discussed herein, the Commission should deny OCC's Memo Contra and grant the waiver requested by VEDO in its Motion for Waiver.

II. ARGUMENT

OCC makes three arguments as to why VEDO's Motion for Waiver should not be granted: 1) the projected financial data required by Rules 4901:1-19-05(C)(2)(h) and (i), Ohio Administrative Code, is necessary for a thorough analysis of the Application by the Commission and parties; 2) OCC does not believe that VEDO has demonstrated good cause for filing the Motion for Waiver concurrently with the Application, as opposed to 30 days in advance; and 3) VEDO failed to include a cover sheet in violation of Rule 4901-1-3(A), Ohio Administrative Code.

VEDO's Alternative Rate Plan consists of three parts: 1) the system integrity and reliability portion, which seeks inclusion in the revenue calculation of the annualized amount of budgeted test period expenses related to enhanced system maintenance and improvement activities, as well as replacement of experienced workers; 2) the Sales Reconciliation Rider-B ("SRR-B"), which will replace the Sales Reconciliation Rider-A previously approved in Case No. 05-1444-GA-UNC, and; 3) the Distribution Rate Rider ("DRR") to recover identified costs associated with a twenty-year program for the accelerated replacement of certain mains and service lines and riser replacements arising from the Commission's investigation of riser performance. For the reasons set forth below, none of OCC's reasons for denying VEDO's Motion for Waiver justify such a denial.

A. OCC Does Not Have Standing to Contest the Motion for Waiver.

First and foremost, OCC does not have standing to raise issues concerning the grant or denial of waivers to the standard filing requirements ("SFRs") for an alternative rate plan application. The Commission has consistently held that:

SFR[s] specify the kind of information and the format in which it should be filed to assist the Commission and its Staff in its required investigation of the application or complaint and appeal. Intervenors do not have standing to raise objections to a waiver from the SFR[s] as they have the right of discovery to request additional information not required by the SFR.

In the Matter of the Amendment of Appendix A to Chapter 4901-7-01 of the Ohio Administrative Code, Case No. 84-152-AU-ORD, Entry at 2 (April 19, 1984). See also, *In the Matter of the Application of Seneca Utilities, Inc. for an Increase in Rates and Charges*, Case No. 85-27-WW-AIR, Entry at 1 (April 16, 1985) where the Commission held that motions to dismiss should be denied as "intervenors cannot properly raise issues concerning the grant or denial of waiver to the Standard Filing Requirements... as such a determination is solely within the discretion of the Commission and its Staff." The same is true for alternative regulation rules. See *In re Ohio Bell Telephone Company*, Case No. 93-487-TP-ALT, Entry on Rehearing at 1 (July 22, 1993).

Further, the Commission has indicated that if an intervenor "wants the Commission to consider additional evidence... in a particular rate case beyond what may be required by rule or Staff data request, it can obtain such information through discovery and present it, if properly authenticated, at the hearing." *In the Matter of the Amendment of Appendix A to Chapter 4901-7-01 of the Ohio Administrative Code*, Case No. 84-152-AU-ORD, Entry at 2 (April 19, 1984). Similarly, OCC is free to submit discovery requests for information it believes is required to assist it in evaluating the

impact of the plan. However, OCC does not have standing to properly raise issues concerning the grant or denial of waiver to the SFRs for alternative regulation plans. Accordingly, OCC's request to deny VEDO's Motion for Waiver should be denied.

B. Notwithstanding OCC's Lack of Standing, its Arguments Still Fail to Support its Request to Deny VEDO's Motion for Waiver.

The information that VEDO provided in its Application is sufficient to allow Commission Staff and others to evaluate this subject matter. While OCC claims that the projected financial data required by the above rules is necessary for a thorough analysis of the Application, OCC either misunderstands VEDO's Application and Motion for Waiver or has disregarded several important facts. Specifically, the financial data required to evaluate the system integrity and reliability portion is reflected in the operating income, which is a test year revenue requirement calculation, contained in the Application. Similarly, as the SRR-B is merely designed to replace the SRR-A, the financial data required to evaluate the SRR-B is likewise contained in the SFRs included in VEDO's Application.

While the information for the DRR is not contained within the traditional ratemaking SFRs, as VEDO made clear in its Motion for Waiver, VEDO does not normally maintain the information at issue in a form that would readily allow VEDO to comply with the filing requirements, nor is the information readily available to VEDO in such form, and it would require a substantial amount of management time to compile this information in a suitable form. Nonetheless, in the Motion for Waiver, VEDO identified the type of information and location within the information filed with the Application to give parties alternative information to evaluate the financial impact of

these proposals. The Commission routinely grants waiver to specific filing requirements when the information required is in a form not kept by the applicant and when the purpose of the information can be otherwise met. Moreover, the DRR proposal and the related waiver request is substantially similar to the Accelerated Main Replacement Program ("AMRP") proposal sought and granted in the pending rate case of Duke Energy Ohio, Inc. ("Duke") in Case No. 07-589-GA-AIR. OCC did not oppose Duke's waiver.

Finally, VEDO made clear that if Commission Staff should require any additional information to evaluate this subject matter, VEDO will work with Staff to timely provide such information in response to inquiries or data requests allowing the process to proceed in an effective and efficient manner.

C. OCC's Argument that VEDO Failed to Comply with the Commission's Rules on the Filing of Documents and Tried to Hide the Motion for Waiver is Simply Specious.

OCC states that VEDO consolidated its filing of its Application and Motion for Waiver under a cover sheet that only referenced the Application. This is simply not true. VEDO's filing was made and served on all parties in two bound volumes. Both of the volumes included a cover sheet on the front and the spine with the following heading, "APPLICATION, MOTION FOR WAIVER OF RULES 4901:1-19-05(C)(2)(h) AND (i), OHIO ADMINISTRATIVE CODE, ALTERNATIVE REGULATORY FILING REQUIREMENTS, AND SCHEDULES A THROUGH S" (capitalization in original). The cover sheet is attached hereto as Attachment A. Additionally, VEDO's Motion for Waiver included its own cover sheet that also complies with all Commission rules, which is attached hereto as Attachment B.

OCC states that the Commission's Docketing Information System is the tool upon which it relied to obtain information about VEDO's filing. While VEDO commends the Commission's docketing department for its thoroughness and promptness in uploading filings for public access and review online, docketing is a service provided to the public - not a foolproof method for parties represented by counsel to obtain documents they consider necessary for the advocacy of their clients' interests. While the docketing department uploaded the vast majority of VEDO's voluminous filing, only the cover sheet (Attachment A) does not appear on the Commission's website.¹ Nonetheless, OCC's reliance on the Docketing Information System is particularly troubling for two reasons. First, while all parties have the option of receiving service of documents by email, which would speed up the receipt and subsequent review of information, OCC has repeatedly indicated to parties in various cases that it will not accept service of documents by email. Thus, it would appear that OCC will not accept complete service copies electronically, but rather will rely on an unofficial public service. Second, in accordance with Ohio law, the Commission's rules and OCC's desire to receive service by hard copy, the entire package, including the Motion for Waiver, its separate cover page (Attachment B) and the cover sheet for the entire package including a cite to the rule (Attachment A), was properly served on OCC. OCC's suggestion that VEDO tried to hide the Motion for Waiver is simply specious.

¹ Contrary to OCC's assertion, the Motion for Waiver is already posted on the Docketing Information System.

WHEREFORE, for the reasons and on the basis set forth above, VEDO respectfully requests that the Commission deny OCC's Memo Contra and grant waiver of the SFRs as requested in the Motion for Waiver.

Respectfully submitted,


Samuel C. Randazzo (Trial Attorney)
Gretchen J. Hummel
Lisa G. McAlister
McNees Wallace & Nurick LLC
21 East State Street, 17th Floor
Columbus, OH 43215
Telephone: 614-469-8000
Telecopier: 614-469-4653
sam@mwncmh.com
ghummel@mwncmh.com
lmcaster@mwncmh.com

Lawrence K. Friedeman
Vice President and Deputy General Counsel
Vectren Energy Delivery of Ohio, Inc.
PO Box 209
Evansville, IN 47709-0209
Telephone: (812) 491-4284
Telecopier: (812) 491-4238
LFriedeman@Vectren.com

**Attorneys for Vectren Energy Delivery
of Ohio, Inc.**

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing, *Reply To OCC's Memorandum Contra Motion for Waiver of Standard Filing Requirements by Vectren Energy Delivery of Ohio, Inc.*, was served upon the following parties of record this 12th day of December 2007, via electronic transmission, hand-delivery or ordinary U.S. mail, postage prepaid.



Lisa G. McAlister

Maureen Grady
Office of the Ohio Consumers' Counsel
10 West Broad Street
Suite 1800
Columbus, Ohio 43215

John Bentine
Chester, Willcox & Saxbe LLP
65 E. State Street
Suite 1000
Columbus, OH 43215

David Rinebolt
Ohio Partners for Affordable Energy
231 West Lima Street
Findlay, OH 45839-1793

John Dosker
Stand Energy
1077 Celestial Street
Rockwood Building, Suite 110
Cincinnati, OH 45202

Vern Margard
Assistant Attorney General
Public Utilities Commission of Ohio
180 East Broad St, 9th Floor
Columbus, OH 43215

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Vectren)	
Energy Delivery of Ohio, Inc. for Authority)	
To Amend Its Filed Tariffs to Increase the)	Case No. 07-1080-GA-AIR
Rates and Charges for Gas Service and)	
Related Matters.)	

In the Matter of the Application of Vectren)	
Energy Delivery of Ohio, Inc. for Approval)	Case No. 07-1081-GA-ALT
Of an Alternative Rate Plan for a Distribution)	
Replacement Rider to Recover the Costs of)	
A Program for the Accelerated Replacement)	
Of Cast Iron Mains and Bare Steel Mains)	
And Service Lines, a Sales Reconciliation)	
Rider to Collect Differences between Actual)	
And Approved Revenues, and Inclusion in)	
Operating Expense of the Costs of Certain)	
System Reliability Programs.)	

STANDARD FILING REQUIREMENTS

APPLICATION, MOTION FOR WAIVER OF RULES 4901:1-19-05(C)(2)(h) AND (i),
OHIO ADMINISTRATIVE CODE, ALTERNATIVE REGULATORY FILING
REQUIREMENTS, AND SCHEDULES A THROUGH S

VECTREN ENERGY DELIVERY OF OHIO, INC.

SAMUEL C. RANDAZZO, TRIAL ATTORNEY
GRETCHEN HUMMEL
McNEES, WALLACE AND NURICK
FIFTH THIRD CENTER
21 EAST STATE STREET, SUITE 1700
COLUMBUS, OH 43215
PHONE: 614-469-8000
FAX: 614-469-4653
SAM@MWNCMH.COM
GHUMMEL@MWNCMH.COM

COUNSEL FOR VECTREN ENERGY DELIVERY OF OHIO, INC.

<input type="checkbox"/>	Management policies, practices, and organization
<input type="checkbox"/>	Operating income
<input type="checkbox"/>	Rate Base
<input type="checkbox"/>	Allocations
<input type="checkbox"/>	Rate of return
<input type="checkbox"/>	Rates and tariffs
<input checked="" type="checkbox"/>	Other: -- Application
	-- Standard Filing Requirements

Date: November 20, 2007

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Vectren Energy Delivery of Ohio, Inc.)
for Authority to Amend its Filed Tariffs)
to Increase the Rates and Charges for)
Gas Services and Related Matters.)

Case No. 07-1080-GA-AIR

In the Matter of the Application of)
Vectren Energy Delivery of Ohio, Inc.)
For Approval of an Alternative Rate)
Plan for a Distribution Replacement)
Rider to Recover the Costs of a)
Program for the Accelerated)
Replacement of Cast Iron Mains and)
Bare Steel Mains and Service Lines, a)
Sales Reconciliation Rider to Collect)
Differences between Actual and)
Approved Revenues, and Inclusion in)
Operating Expense of the Costs of)
Certain System Reliability Programs.)

Case No. 07-1081-GA-ALT

**MOTION FOR WAIVER OF RULES 4901:1-19-05(C)(2)(h) AND (i),
OHIO ADMINISTRATIVE CODE, AND MEMORANDUM IN SUPPORT**

Samuel C. Randazzo (Trial Attorney)
Gretchen J. Hummel
Lisa G. McAlister
MCNEES WALLACE & NURICK LLC
21 East State Street, 17th Floor
Columbus, OH 43215
Telephone: 614-469-8000
Telecopier: 614-469-4653
sam@mwncmh.com
ghummel@mwncmh.com
lmcAlister@mwncmh.com

Lawrence K. Friedeman
Vice President and Deputy General Counsel
Robert Berntsen
Corporate Counsel
Vectren Energy Delivery of Ohio, Inc.
PO Box 209
Evansville, IN 47709-0209
Telephone: (812) 491-4284
Telecopier: (812) 491-4238
lfriedeman@vectren.com
rberntsen@vectren.com

Attorneys for Vectren Energy Delivery
of Ohio, Inc.