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**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of)
Vectren Energy Delivery of Ohio, Inc., for) Case No. 07-1080-GA-AIR
Authority to Amend its Filed Tariffs 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) Case No. 07-1081-GA-ALT
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 Difference Between Actual and)
Approved Revenues, and Inclusion in)
Operating Expense of the Costs of Certain)
Reliability Programs.)

**MOTION FOR AN EXTENSION OF TIME TO FILE TESTIMONY
AND
REQUEST FOR EXPEDITED RULING
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

The Office of the Ohio Consumers' Counsel ("OCC"), on behalf of the approximately 293,000 residential utility consumers of Vectren Energy Delivery of Ohio, Inc. ("Vectren" or "Company"), moves the Public Utilities Commission of Ohio ("PUCO" or "Commission") for a two-week extension of time for the filing of intervenor testimony.¹ Specifically, the OCC requests the due date for intervenor testimony be extended from July 16, 2008 to July 30, 2008. OCC seeks an expedited ruling on its

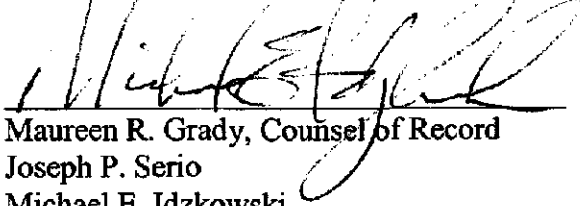
¹ Ohio Adm. Code 4901-1-12 and 4901-1-13(A).

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Motion, under Ohio Adm. Code 4901-1-12(C). The reasons supporting this motion and request for expedited ruling are set forth in the attached Memorandum in Support.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL



Maureen R. Grady, Counsel of Record
Joseph P. Serio
Michael E. Idzkowski
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
614-466-8574 (Telephone)
grady@occ.state.oh.us
serio@occ.state.oh.us
idzkowski@occ.state.oh.us

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**MEMORANDUM IN SUPPORT OF MOTION FOR AN EXTENSION OF TIME
TO FILE TESTIMONY
AND
REQUEST FOR EXPEDITED RULING**

I. INTRODUCTION

Vectren's applications in these cases will set the utility rates paid by the approximately 293,000 residential gas service customers of Vectren in Ohio. The rate application was set in motion when, on September 28, 2007, the Company filed a Notice of Intent. Vectren subsequently filed its Application on November 20, 2007, that, among other matters, sought to increase its distribution rates. OCC, the state's advocate for residential utility consumers, moved to intervene in this case on November 5, 2007.

On June 16, 2008, the PUCO Staff's Report of Investigation ("Staff Report") was filed, as well as the Financial Audit Report rendered by Eagle Energy LLC. Currently, intervenor testimony is due to be filed on July 16, 2008, along with objections to the Staff Report. Pursuant to Ohio Adm. Code 4901-1-13(A), OCC seeks an extension of time to file its testimony two weeks later than currently scheduled. This extension of time would extend the due date for written testimony from July 16, 2008 to July 30, 2008. OCC proposes that the extension apply to all intervenors, as well as the Company.

II. ARGUMENT

While the deadline for filing objections to the Staff report is controlled by statute (R.C. 4909.19), the deadline for filing direct expert testimony is controlled by rules contained in the Ohio Administrative Code. Under O.A.C. 4901-1-29(A)(1)(b), "unless otherwise ordered by the commission, the legal director, the deputy legal director, or an attorney examiner[,]" direct intervenor testimony is to be filed and served no later than when objections to the Staff Report are filed. Hence, it is within the province of the Commission, legal director, deputy legal director or an attorney examiner to set the filing of intervenor testimony at some date other than the date of objections. Additionally, Ohio Adm. Code 4901-1-13(A) permits parties to move for extensions of time to file "pleadings and other papers," including testimony. That rule provides for the granting of such motions for "good cause shown."

A. There is Good Cause to Grant OCC's Motion for an Extension.

This extension is requested because of several reasons. First, an extension is appropriate due to the concurrent timing of the Dominion East Ohio ("DEO") rate case, where the Staff Report was issued on May 23, 2008. OCC analytical staff and at least one

of its counsels in this case is presently preparing objections and assisting in the preparing testimony. The timing of these cases creates a distinct hardship on parties such as OCC who are preparing both cases at the same time and who must split their time between the cases.

Second, Vectren has repeatedly served delayed responses to OCC's written discovery requests.² Vectren's delays have severely hindered OCC's ability to prepare its testimony in this case. As shown in the chart below, Vectren has routinely missed the twenty-day discovery response deadline, set in Ohio Adm. Code Rule 4901-1-19, and currently has not provided responses to OCC's 8th, 9th, and 10th discovery requests— responses which are overdue under the twenty-day discovery response time period.

OCC Discovery Set	Date Served	Responses Due	Responses Received
Second	1/18	2/11	2/27
Fourth	3/10	4/2	4/7
Fifth	3/28	4/21	4/28
Sixth	4/24	5/19	6/5 and 6/13
Seventh	5/5	5/28	6/5 and 6/13
Eighth	5/14	6/6	Outstanding
Ninth	5/21	6/13	Outstanding
Tenth	5/23	6/16	Outstanding

With respect to Vectren's currently overdue responses to OCC's 8th, 9th and 10th sets of discovery, even if OCC were to immediately receive the responses, OCC would not have sufficient time to analyze and use the responses to prepare its testimony before the July 16, 2008 deadline. With the extension of two weeks, it is anticipated that the majority of the discovery will have been answered, and thus the need to supplement testimony, or make further motions to incorporate later received discovery, will be minimized.

² OCC has availed itself of the ample discovery rights granted to it under R.C. 4903.082, in order to facilitate its thorough and adequate preparation for participation in this case. OCC understands that there are only a small number of Company employees that are responsible for responding to discovery. Nonetheless, the fact remains that delays beyond the twenty day period have negatively impacted OCC's ability to present its case.

Finally, the pre-existing vacation schedule of two of OCC's attorneys assigned to this case warrant consideration. In particular, OCC's lead counsel is out of the country from June 25, 2008 through July 12, 2008, which constitutes eighteen of the thirty days OCC has to prepare and submit its testimony under the present schedule. In addition, an OCC co-counsel assigned to this case is scheduled to be on vacation from July 4, 2008 through July 13, 2008.

This Commission has in the past found grounds similar to those existing here to be good cause to extend case deadlines, including testimony filing deadlines. A number of the Commission's orders found good cause to exist where the extension was sought due to delays in discovery affecting the filing of testimony. For instance, in PUCO Case No. 05-219-GA-GCR, the Commission extended the time for OCC to file testimony due to delayed discovery responses to OCC.³ In Case No. 06-751-EL-UNC, the Commission granted an extension in order to allow OCC to hire a consultant and complete discovery.⁴ An extension of the case schedule was granted in Case No. 04-1129-EL-CSS due to "the continuing motion practice as well as unexpected delays in the discovery process."⁵

Good cause has been also found to exist where extensions were needed due to holidays and/or vacations by parties to the cases. Extensions were granted in Case No. 07-

³ *In the Matter of the Regulation of the Purchased Gas Adjustment Clause Contained Within the Rate Schedules of the East Ohio Gas Company dba Dominion East Ohio and Related Matters*, Case No. 05-219-GA-GCR Entry (Aug. 30, 2006).

⁴ *In the Matter of the Application of the Ohio Department of Development for an Order Approving Adjustments to the Universal Service Fund Riders of Jurisdictional Ohio electric Distribution Utilities*, Case No. 06-751-EL-UNC Entry (July 6, 2006).

⁵ *In the Matter of the Complaint of Industrial Energy Users-Ohio v. Northeast Ohio Public Energy Council*, Case No. 04-1129-EL-CSS Entry (Nov. 10, 2004).

1100-TP-CSS⁶ (extension of time to file reply memorandum due to vacation schedules and the Thanksgiving holiday), Case No. 07-551-EL-AIR⁷ (extension of time for filing intervenor testimony due to the holiday season), Case No. 05-1305-TP-ORD⁸ (extension of time to file initial and reply comments to Staff's proposal due to Thanksgiving holiday and the press of other business), Case No. 04-658-TP-CSS⁹ (extension of time to file briefs due to commitments in other cases and the Thanksgiving holiday), and Case No. 07-589-GA-AIR¹⁰ (extension of time to file intervenor testimony due to the workload burden caused by concurrence of the issuance of the Staff Report, a consultant's report and the Christmas holiday). In Case 07-755-TP-CSS¹¹, the Commission granted an extension of time for the utility to file a memorandum contra to a motion to dismiss due to a scheduled vacation by the utility's counsel.¹²

As discussed above, OCC believes there is good cause to support its motion. Moreover, a two-week extension granted to all parties should not unduly delay the proceeding and will not prejudice the parties to this case. There is an Entry setting a procedural schedule for, among other things, a pre-hearing conference and the evidentiary

⁶ *In the Matter of the Complaint of Verizon North et al. v. Century Tel of Ohio*, Case No. 07-1100-TP-CSS Entry (Nov. 29, 2007).

⁷ *In the Matter of the Application of Ohio Edison et al. for Authority to Increase Rates for Distribution Service, Modify Certain Accounting Practices and for Tariff Approvals*, Case No. -7-551-EL-AIR Entry (Dec. 21, 2007).

⁸ *In the Matter of the Implementation of H.B. 218 Concerning Alternative Regulation of Basic Local Exchange Service of Incumbent Local Exchange Telephone Companies*, Case No. 05-1305-TP-ORD Entry (Nov. 30, 2005).

⁹ *In the Matter of the Complaint of Communications Options, Inc. v. ValTech Communications*, Case No. 04-658-TP-CSS Entry (Nov. 23, 2005).

¹⁰ *In the Matter of the Application of Duke Energy Ohio, Inc. for an Increase in Gas Rates*, Case No. 07-589-GA-AIR, Entry at 2 (Jan. 7, 2008).

¹¹ *In the Matter of the Complaint of AT&T Ohio v. United Telephone Company of Ohio dba Embarq*, Case No. 07-755-TP-CSS, Entry (Oct. 3, 2007).

hearing.¹³ None of the dates in the Entry would need to be changed in the event that OCC's motion was granted.

Nor would the company be prejudiced by granting OCC's motion. The Company (and other parties) would still have sufficient time to consider OCC's testimony. There will be no hardship or prejudice to the parties if OCC's motion is granted. Although the company has indicated it will oppose the extension, the PUCO Staff has indicated that it will remain neutral on this motion—neither supporting nor opposing it.

B. An Expedited Ruling Should be Granted on OCC's Motion

Ohio Adm. Code 4901-1-12(C) allows parties to request an expedited ruling on their motions. If the moving party certifies that it has contacted all the other parties and that all the parties do not object to the granting of the motion without the filing of memorandum contra, the Commission or the Attorney Examiner may issue an immediate ruling. OCC requests an expedited ruling on its Motion.

OCC contacted the Company and the Staff. Staff agreed to the expedited ruling and Company Counsel indicated they would agree to an expedited ruling provided they would be permitted two business days to respond to the motion and provided OCC would not object to this. OCC does not object to permitting the company two business days to respond. The other parties to the case were contacted as well and indicated they had no objection to the request for expedited ruling.

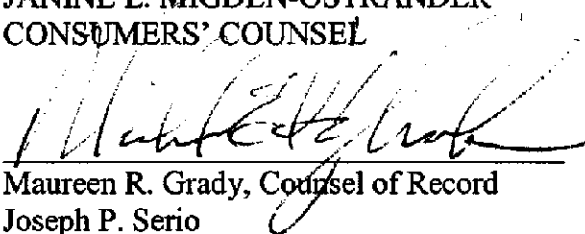
¹³ See Entry (June 1, 2008).

III. CONCLUSION

For the reasons stated above, the Commission should grant OCC's Motion based upon the fact that OCC has shown good cause to grant the extension. The Commission should expeditiously grant this Motion so that OCC can adjust its case preparation accordingly.

Respectfully submitted,

JANINE L. MIGDEN-OSTRANDER
CONSUMERS' COUNSEL

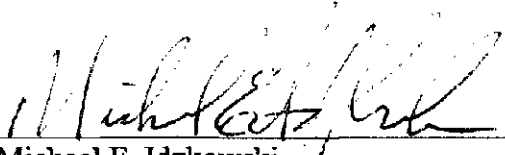


Maureen R. Grady, Counsel of Record
Joseph P. Serio
Michael E. Idzkowski
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel
10 West Broad Street, Suite 1800
Columbus, Ohio 43215-3485
614-466-8574 (Telephone)
grady@occ.state.oh.us
serio@occ.state.oh.us
idzkowski@occ.state.oh.us

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing *Motion for Extension of Time to File Testimony and Request for Expedited Ruling* was served by Regular U.S. Mail Service (also electronically as a courtesy copy, where possible), postage prepaid, to all parties this 23rd day of June, 2008.


Michael E. Idzkowski
Assistant Consumers' Counsel

Werner Margard
Attorney General's Office
Public Utilities Section
180 East Broad Street, 9th Floor
Columbus, OH 43215

John W. Bentine
Counsel for Interstate Gas Supply
Chester, Wilcox & Saxbe, LLP
65 East State Street, Ste. 1000
Columbus, OH 43215-4259

John Dosker
General Counsel
Stand Energy Corp.
1077 Celestial Street Suite 110
Cincinnati, OH 45202-1629

Samuel C. Randazzo
Gretchen J. Hummel
Lisa G. McAlister
McNees Wallace & Nurick LLC
Fifth Third Center
21 East State Street, 17th Floor
Columbus, OH 43215

Ronald E. Christian
Executive Vice President, General Counsel
& Corporate Secretary
Vectren Corporation
P.O. Box 209
Evansville IN 47702-0209

David C. Rinebolt
Ohio Partners for Affordable Energy
231 West Lime Street
P.O. Box 1793
Findlay, OH 45839-1793