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# BEFORE
# THE PUBLIC UTILITIES COMMISSION OF OHIO

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| In the Matter of the Application of<br>Vectren Energy Delivery of Ohio, Inc.<br>for Approval of a General Exemption of<br>Certain Natural Gas Commodity Sales<br>Services or Ancillary Services from<br>Chapters 4905, 4909, and 4935 except<br>Sections 4905.10, 4935.01, and 4935.03,<br>and from specified sections of Chapter 4933<br>of the Revised Code. | )<br>)<br>)<br>)<br>)<br>)<br>)<br>)<br>) | Case No. 07-1285-GA-EXM |

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## VECTREN ENERGY DELIVERY OF OHIO, INC.'S REPLY TO THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S COMMENTS ON AMENDED JOINT STIPULATION

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# VECTREN ENERGY DELIVERY OF OHIO, INC.'S REPLY TO THE OFFICE OF THE OHIO CONSUMERS' COUNSEL'S COMMENTS ON AMENDED JOINT STIPULATION

## I. BACKGROUND

On April 30, 2008, the Commission issued its Opinion and Order ("Order") in this proceeding, in which it approved a Joint Stipulation and Recommendation ("Stipulation") executed by Vectren Energy Delivery of Ohio, Inc. ("VEDO") and various stakeholders ("Exit Working Group") including the Office of the Ohio Consumers' Counsel ("OCC") which provided, *inter alia*, for Standard Sales Offer ("SSO") and Standard Choice Offer ("SCO") auctions in two stages. Pursuant to the Stipulation and the Commission's Order, approved tariffs provide that SCO service will become effective on February 22, 2010.

Subsequent to the implementation of SSO service, VEDO and its Exit Working Group continued discussions which resulted in a number of refinements to the previously-approved SCO service based on VEDO's SSO service experience and the

SCO experience of other companies. Accordingly, on September 23, 2009, VEDO filed an Amendment to Joint Stipulation and Recommendation ("Stipulation Amendment") executed by most of the signatories to the Stipulation, which requested approval for a number of administrative and operational revisions to the previously-approved SCO tariffs. More than a month later and two days before the Commission was scheduled to consider the Stipulation Amendment, OCC filed Comments on the Stipulation Amendment ("Comments") for the purpose of asking the Commission to "reject the SCO modification and instead direct Vectren to conduct its next scheduled auction as an SSO or wholesale auction." OCC Comments at 8.

VEDO will briefly respond to OCC's Comments below.

## II. DISCUSSION

The Commission has explicitly authorized the SCO service OCC seeks to nullify by its Comments. Order at 16. The Stipulation Amendment does not seek to amend that authority, but merely revises only a few administrative and operational aspects of the SCO service to accommodate improvements suggested by VEDO's SSO experience and other utility SCO experience. Yet, rather than addressing any of the revisions sought in the Stipulation Amendment., OCC uses the Commission's ongoing regulatory authority over SCO service as an excuse to renege on its commitment to SCO service as provided for in the Stipulation which it signed and which was approved in the Commission's Order. (OCC Comments at 2-4). OCC provides no basis for disapproval of the Stipulation Amendment.

Particularly enlightening in this regard is OCC's discussion of the tax aspects of the evolution to SCO service. Noting that SCO service is subject to sales tax instead of gross receipts tax, OCC speculates that, "...it is possible that a customer could be forced to pay a higher total bill due to the higher sales tax rate...." *Id.* at 7. However, as noted above, OCC was a signatory to the Stipulation which explicitly requested that the Commission approve VEDO's Application in this case. Order at 12. As a feature of SCO service, the Application noted, "...that the disparity between customers who currently pay gross receipts tax because they are utility customers and those who pay state and local use taxes because they are customers of a non-utility will be eliminated in the SCO phase because all customers will receive service from a nonutility." Order at 15. Apparently, the tax aspect OCC originally viewed as a positive feature of SCO service has mutated into a basis for retreating from it. It is clear that the tax aspect about which OCC now complains is not new; only the use to which OCC puts it has changed.

OCC's remaining bases for asking the Commission to withdraw its previously-granted approval of SCO service are likewise based on speculation and unrelated to the specific revisions contained in the Stipulation Amendment. OCC claims that there have been no measurable benefits to residential customers resulting from SCO service. As OCC admits, the only SCO service currently offered in Ohio became effective on April 1, 2009 for the period ending March 31, 2010. OCC Comments at 2. There is simply no basis to ascertain at this point the scope of benefits of this service on any customers and simply no basis upon which such a presumptuous conclusion can be founded. In fact, in approving VEDO's SCO service, the Commission said that the phased SSO and SCO services proposed by VEDO "...represent a reasonable structure through which to test the potential benefits of market-based pricing of the commodity sales by the company." Order at 16. The benefits of VEDO's SCO service cannot be, and were not intended to be, determined prior to the implementation already approved by the Commission.

Additionally, OCC's suggestion that the SCO auction will attract "...fewer Marketers ... resulting in a higher auction price than might otherwise have been achieved" is contraindicated by the fact that certified competitive retail natural gas suppliers ("CRNGS") have been active and essential participants in previous SSO auctions. This suggests that a prescribed transition from SSO service to SCO service, with the ultimate potential for a full choice environment, breeds CRNGS participation in the SSO auctions that would not otherwise occur as an entrée to participation in SCO service and, in the end, full choice. In contrast to OCC's conclusion, it is just as likely that SCO auctions will continue to attract a significant level of CRNGS participation in support for and anticipation of a final transition to a full choice environment.

Finally, OCC notes that there was customer confusion accompanying the implementation of Dominion's SCO service. VEDO's Exit Working Group has a *Communications Sub-Group* which has worked for several months to create a communications plan to provide customer education about the transition to SCO service. These efforts have benefitted from and accounted for lessons learned during VEDO's SSO service and from observing Dominion's SCO service transition. OCC, as a routine participant in the Communications Sub-Group, has participated in the development and approval of all communications materials that will be used for customer education when VEDO transitions to SCO service on February 22, 2010.

## III. CONCLUSION

OCC's comments are a constructive appeal of the original Commission Order approving an SCO auction for the implementation of SCO service on February 22, 2010. OCC ignores discussion of the particulars of the Stipulation Amendment it uses as an excuse for its Comments in favor of a request that the Commission reverse the decision that OCC originally endorsed by Stipulation. In support of its request, OCC relies on speculation about CRNGS behavior and the ultimate consequences of SCO service and now describes a tax effect it previously found supportive of SCO service as detrimental to customers. OCC's comments have no factual basis and lack sufficient substance to compel the Commission to reverse its previous approval for VEDO's SCO auction.

WHEREFORE, VEDO respectfully requests that the Commission disregard OCC's Comments.

Respectfully Submitted,

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## CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing *Vectren Energy Delivery of Ohio, Inc.'s Reply to the Office of the Ohio Consumers' Counsel's Comments on Amended Joint Stipulation* was served upon the following parties of record this 28th day of October 2009, *via* electronic transmission, hand-delivery or ordinary U.S. mail, postage prepaid.

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