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BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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In the Matter of the Application of)
Vectren Energy Delivery Company of)
Ohio, Inc. for Approval of a General)
Exemption of Certain Natural Gas)
Commodity Sales Services or Ancillary)
Services from Chapters 4905, 4909, and)
4935 Except Sections 4905.10, 4935.01,)
and 4935.03, and from Specified Sections)
of Chapter 4933 of the Revised Code.)

PUCO

Case No. 07-1285-GA-EXM

**MEMORANDUM CONTRA
VECTREN ENERGY DELIVERY OF OHIO, INC.'S
MOTION TO STRIKE
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

I. INTRODUCTION

On January 8, 2010, the Office of the Ohio Consumers' Counsel ("OCC") filed Comments and Statements ("Comments") regarding the impacts upon residential customers from the differences between wholesale Standard Service Offer ("SSO") and retail Standard Choice Offer ("SCO") auctions. On January 11, 2010, Vectren Energy Delivery Company of Ohio, Inc ("Vectren" or "the Company") filed a Motion to Strike the OCC Comments. Pursuant to 4901-1-12 (B)(1) and 4901-1-07 (B) of the Ohio Adm. Code, the OCC submits this Memorandum Contra the Vectren Motion to Strike. Vectren's Motion to Strike should be denied for the reasons set forth below.

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II. ARGUMENT

A. The Motion To Strike Should Be Denied Because There Is No Procedural Barrier To Filing Comments.

In its Motion to Strike (“Motion”), Vectren argues that there was no procedural provision for the filing of the OCC’s Comments.¹ However, in making this claim, Vectren fails to identify any procedural provision that would preclude the OCC from filing its Comments. A review of the docket in this proceeding shows that there is, and was, no procedural schedule that set specific dates or deadlines for the filing of the type of pleading submitted by the OCC. Absent any procedural prohibition or deadline established by the Commission or Attorney Examiner, there is no basis for the Commission to strike the OCC Comments. Rather, the Commission should accept and consider the Comments.

B. The OCC Comments Are Relevant To The Issue Of Standard Choice Offer (“SCO”) Service.

Vectren claims that the OCC’s Comments are not relevant to this proceeding.² Vectren claims that the OCC’s Comments respond to questions raised by Commissioner Centolella in a different docket (Columbia Gas, Case No. 08-1344-GA-EXM).³ Vectren claims that because the questions were not posed in the Vectren docket, they are irrelevant to the Vectren situation.⁴ Vectren attempts to obfuscate the fact that the Vectren SCO (and standard service offer, “SSO”) auctions were in large part based on the

¹ Vectren Motion at 3.

² Id. at 4.

³ Id.

⁴ Id.

SCO and SSO auctions developed and held by other Ohio gas companies in other dockets. Vectren does not deny that its SCO and SSO auctions have been, in part, modeled after the Dominion East Ohio auctions. The Columbia SSO auction is modeled, in part, on the Dominion and Vectren auctions. Thus, the information learned from one SCO or SSO auction is not only relevant, the information is vital to consideration and possible modification of later auctions.

Vectren denies the relevance of the OCC's Comments regarding the transition from an SSO to an SCO.⁵ The relevance is the higher sales tax imposed on customers in an SCO auction over the lower gross receipts tax that SSO customers pay.⁶ The impact of a higher sales rate is relevant to the PUCO's evaluation of the transition from the SSO to the SCO.

In the Columbia Gas docket referred to above, Commissioner Centolella raised questions to gather information regarding the SCO auction process. The OCC responded to the Commissioner's desire for such information by submitting its Comments in the above-captioned case. At the Commission Meeting held on January 13, 2010, Commissioner Centolella specifically stated his appreciation for the Comments filed by the OCC in this docket and stated that the Comments led directly to the Commission's requirement that the Company perform the migration study.⁷ Thus, at least one Commissioner considers the information contained in the OCC Comments to be relevant

⁵ Id. at 3.

⁶ See OCC Comments (October 26, 2009) at 5-7.

⁷ Entry (January 13, 2010) at 4. ("In order to judge the impact of the SCO on Choice program participation, we direct Staff to work with VEDO to develop information on SCO customer migration from the SCO to a direct contractual relationship with a Choice provider. Staff shall file a report summarizing its findings by October 1, 2010.").

and useful. The information was relevant and informative, and was appropriately submitted to the Commission by the OCC.

III. CONCLUSION

For the reasons stated above, the Commission should deny Vectren's Motion to Strike and should permit the public record to contain the important, relevant information contained in the OCC's Comments.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the *Memorandum Contra Vectren Energy Delivery of Ohio, Inc.'s Motion to Strike by the office of the Ohio Consumers' Counsel*, was provided to the persons listed below via first class U.S. Mail, postage prepaid, this 29th day of January 2010.



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