

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Vectren)
Energy Delivery of Ohio, Inc., for Approval)
of an Alternative Rate Plan for Continuation)
of Its Distribution Replacement Rider) 13-1571-GA-ALT

MOTION FOR WAIVER AND REQUEST FOR EXPEDITED RULING

On or after August 1, 2013, Vectren Energy Delivery of Ohio, Inc. (“VEDO”) intends to file an application for approval of an alternative rate plan under R.C. 4929.05 and 4929.051. In accordance with Ohio Adm. Code 4901-1-12 and 4901:1-19-03, VEDO respectfully requests that the Commission waive all current requirements of Ohio Adm. Code 4901:1-19-05 and in place of these requirements, VEDO requests that it be permitted to comply with the requirements of the newly adopted version of Ohio Adm. Code 4901:1-19-06, attached to the Commission’s April 24, 2013 Entry on Rehearing in Case No. 11-5590-GA-ORD. VEDO will comply with all statutory requirements applicable to its application. VEDO also requests an expedited ruling on this motion. Reasons to grant this motion are set forth in the attached memorandum in support.

Dated: July 2, 2013

Respectfully submitted,

/s/ Andrew J. Campbell
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MEMORANDUM IN SUPPORT

Ohio Adm. Code 4901:1-19-03 provides that the Commission may waive any provision in the alternative regulation rules upon a motion for good cause shown or upon its own motion. Good cause exists to grant VEDO's motion for the reasons explained below.

I. ARGUMENT

A. The Commission should grant VEDO's request for waiver and apply the newly revised, recently adopted rules applicable to alternative rate plans.

As noted in a letter filed today in this docket, VEDO intends on or after August 1, 2013, to file an application with the Commission seeking approval of the continuation and expansion of its Distribution Replacement Rider ("DRR"), which was approved in Case No. 07-1081-GA-ALT. VEDO will file its application under R.C. 4929.05, among other statutes. The General Assembly substantially amended these statutes in 2011, *see* House Bill 95, and corresponding to these statutory changes, the Commission recently and substantially revised its rules applicable to alternative rate plans. *See* Case No. 11-5590-GA-ORD, Entry on Rehg. (Apr. 24, 2013) (adopting newly revised and renumbered Ohio Adm. Code 4901:1-19-06). The new rules have not yet become effective, but VEDO expects that they will become effective before the Commission rules on this application, perhaps as soon as August 25.

VEDO requests by this motion that the Commission waive the requirements of the soon-to-be-superseded rules (Ohio Adm. Code 4901:1-19-05) and instead apply the newly adopted rule (Ohio Adm. Code 4901:1-19-06). The old rules reflect the pre-amendment language of R.C. 4929.05. Among other things, they contemplate that an alternative rate plan would be filed only in conjunction with a full base-rate proceeding and that the Commission would be required to determine "just and reasonable" base rates under R.C. 4909.15. Now, however, the passage of House Bill 95 makes clear that companies may file for an alternative rate plan *without* filing a

base rate case and that the Commission need not determine “just and reasonable” rates. And the newly adopted rules reflect the statute’s less burdensome requirements.

The new rules should be applied to this case. First, while the newly adopted rules are not yet officially effective, they are essentially final. The rehearing deadline has passed on the decision to adopt the new rules, and VEDO expects they will become effective before the Commission rules upon this application. In adopting these new rules, the Commission has already recognized that they better reflect the currently applicable statutory requirements. Moreover, the old rules no longer reflect mandatory statutory requirements, meaning that the Commission has full authority to waive them. *See, e.g., Toledo Coalition for Safe Energy v. Pub. Util. Comm.*, 69 Ohio St.2d 559, 560 (1982) (the Commission “has the discretion to decide how, in light of its internal organization and docket considerations, it may best proceed to manage and expedite the orderly flow of its business, avoid undue delay and eliminate unnecessary duplication of effort”). Given the recent revisions to Chapter 4929, and the Commission’s own recognition that the new rules are more appropriate in light of those revisions, good cause exists for the Commission to exercise its procedural discretion to apply the new rules to VEDO’s application.

Application of the new rules will also avoid the imposition of unnecessary costs. There is no need in this case for the voluminous filing contemplated under the prior statutory regime. And VEDO is not seeking approval of a broad-based alternative rate plan that would effectively replace its base rates; rather, it is filing a more narrowly tailored request to continue and adjust the scope of its DRR automatic adjustment mechanism. So its proposal may be fully reviewed without the information required by the standard filing requirements.

In short, as the Commission recognized in adopting them, good cause exists to apply the new rules under the current law.

B. VEDO will comply with the prefiling notice requirements of R.C. 4909.43(B) and the notice requirement of newly revised Rule 4901:1-19-06(A).

VEDO would specifically note that it includes within its motion a request for waiver of certain prefiling requirements under current Ohio Adm. Code 4901:1-19-05(A)(1) and (2).

VEDO has provided both the pre-filing notice required under statute and under the new rule. As required by R.C. 4909.43(B), VEDO has served a written notice of intent to file its application to “the mayor and legislative authority of each municipality included in [its] application.” And in accordance with newly adopted Rule 4901:1-19-06(A), VEDO has today “notif[ied] the commission staff by letter addressed to the utilities department and service monitoring and enforcement department.”

VEDO seeks a waiver of all other requirements of current Ohio Adm. Code 4901:1-19-05(A)(1) and (2). As discussed above, these requirements largely reflect the previous requirement that an alternate rate plan occur in the context of a base rate case. There is no independent reason to require this information under the newly revised statute, as the Commission recognized by revising the rules, but providing this information will impose substantial burdens and costs on VEDO.

C. VEDO requests an expedited ruling on this motion.

Ohio Adm. Code 4901-1-12(C) provides that “[a]ny motion may include a specific request for an expedited ruling.” VEDO requests an expedited ruling on this motion. The process of reviewing VEDO’s application begins with compliance with the Commission’s prefiling notice requirements. Timely review of the application may be hindered if the Commission denies VEDO’s motion for waiver and requires additional information in and

refiling of VEDO's prefiling notice. VEDO believes that its motion to waive the additional requirements is reasonable and should be granted, but if the Commission believes otherwise, an expedited ruling will minimize any delay in reviewing its application.

II. CONCLUSION

For the foregoing reasons, good cause exists to grant VEDO's motion, and the Company respectfully requests that the Commission do so.

Dated: July 2, 2013

Respectfully submitted,

/s/ Andrew J. Campbell

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CERTIFICATE OF SERVICE

I hereby certify that a copy of VEDO's Motion for Waiver and Request for Expedited

Ruling was served by electronic mail this 2nd day of July, 2013 to the following:

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Summary: Motion for Waiver and Request for Expedited Ruling electronically filed by Mr. Gregory L. Williams on behalf of Vectren Energy Delivery of Ohio, Inc.