

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**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  
\_\_\_\_\_  
Mark A. Whitt (Counsel of Record)  
Andrew J. Campbell  
Gregory L. Williams  
WHITT STURTEVANT LLP  
The KeyBank Building, Suite 1590  
88 East Broad Street  
Columbus, Ohio 43215  
Telephone: (614) 224-3911  
Facsimile: (614) 224-3960  
whitt@whitt-sturtevant.com  
campbell@whitt-sturtevant.com  
williams@whitt-sturtevant.com

ATTORNEYS FOR VECTREN ENERGY  
DELIVERY OF OHIO, INC.

## 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 Reh'g. (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  
Mark A. Whitt (Counsel of Record)  
Andrew J. Campbell  
Gregory L. Williams  
WHITT STURTEVANT LLP  
The KeyBank Building, Suite 1590  
88 East Broad Street  
Columbus, Ohio 43215  
Telephone: (614) 224-3911  
Facsimile: (614) 224-3960  
whitt@whitt-sturtevant.com  
campbell@whitt-sturtevant.com  
williams@whitt-sturtevant.com

ATTORNEYS FOR VECTREN ENERGY  
DELIVERY OF OHIO, INC.

**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:

Maureen Grady  
Assistant Consumers' Counsel  
Office of the Ohio Consumers' Counsel  
10 West Broad Street, 18<sup>th</sup> Floor  
Columbus, OH 43215  
grady@occ.state.oh.us

Vern Margard  
Assistant Attorney General  
Public Utilities Commission of Ohio  
180 East Broad Street, 9<sup>th</sup> Floor  
Columbus, OH 43215  
Werner.Margard@puc.state.oh.us

Colleen Mooney  
Ohio Partners for Affordable Energy  
231 West Lima Street  
PO Box 1793  
Findlay, OH 45839-1793  
cmooney2@columbus.rr.com

Trent Dougherty, Attorney  
Ohio Environmental Council  
1207 Grandview Ave.  
Columbus, OH 43212-3449  
trent@theoec.org

Mark Yurick  
Taft Stettinius & Hollister LLP  
65 East State Street, Suite 1000  
Columbus, OH 43215-4213  
myurick@taftlaw.com

W. Jonathan Airey  
Gregory D. Russell  
Vorys, Sater, Seymour and Pease LLP  
52 E. Gay Street, PO Box 1008  
Columbus, OH 43216-1008  
wjairay@vorys.com  
gdrussell@vorys.com

John M. Dosker  
Stand Energy Corporation  
1077 Celestial Street  
Suite 110  
Cincinnati, OH 45202-1629  
JDosker@stand-energy.com

/s/ Andrew J. Campbell  
\_\_\_\_\_  
One of the Attorneys for Vectren Energy  
Delivery of Ohio, Inc.

**This foregoing document was electronically filed with the Public Utilities**

**Commission of Ohio Docketing Information System on**

**7/2/2013 5:08:51 PM**

**in**

**Case No(s). 13-1571-GA-ALT**

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.