

**BEFORE  
THE OHIO POWER SITING BOARD**

In the Matter of the Application of **Vectren Energy**     )  
**Delivery of Ohio, Inc.** for a Certificate of             )  
Environmental Compatibility and Public Need for     ) Case No. 13-1651-GA-BTX  
its Dayton Airport Z-167 Pipeline Rerouting Project   )

---

**MOTION FOR A WAIVER OF  
OHIO ADMINISTRATIVE CODE RULE 4906-5-05**

---

Applicant, Vectren Energy Delivery of Ohio, Inc. (“Vectren” or “Applicant”), pursuant to Ohio Administrative Code (“OAC”) Rule 4906-01-03, respectfully moves the Ohio Power Siting Board (“Board”) or its Administrative Law Judge (“ALJ”) for a waiver of OAC Rule 4906-5-05(A) pertaining to the 60 day period within which the Chairman of the Board is required to issue a letter indicating whether the application is complete. For the reasons given below, this motion requests that the deadline for issuance of the letter referred to in OAC Rule 4906-5-05(A) be extended to November 25, 2013 or seven days from the original completeness letter deadline and nine days from the time it files an amended application on November 13, 2013 (“Amended Application”). This extension will permit the Staff to review the new information in the Amended Application.

---

**MEMORANDUM IN SUPPORT**

---

On September 20, 2013 Vectren filed its application in the above referenced matter (“Application”). Both before and after the filing of the Application, Vectren has met with various officials of the Dayton International Airport, the Cities of Dayton and Union, and

agencies of Montgomery County about the Preferred and Alternate Routes that are the subject of the Application. Meetings subsequent to the filing of the Application resulted in a proposal to change the Preferred Route to a new one that was favored by the Dayton International Airport, the Cities of Dayton and Union, and the Montgomery County Transportation Improvement District. Thus, no later than November 13, 2013, Vectren will file an Amended Application to include the new Preferred and Alternate Routes. The Preferred Route listed in the Application will become the Alternate Route and a new Preferred Route, which has the backing of officials of the above referenced governmental entities, will be proposed in the Amended Application.

OAC Rule 4906-5-05(A) sets a 60 day time period for the Board Chairman to issue a letter determining whether an application is complete. Ohio Revised Code Chapter 4906, governing the jurisdiction of the Board, is silent on the length of time the Board may take in the processing of an application. The Board's rules, rather than statutes, establish a 60 day period for the issuance of a letter informing an applicant about whether its application is complete.

The Board's rules specifically permit the Board or the ALJ to grant waivers from the Board's rules. OAC Rule 4906-1-03 permits the Board to waive "any requirement, standard, or rule set forth in Chapters 4906-1 to 4906-17 of the Administrative Code, except where precluded by statute." As noted, the 60 day period is not set forth in the statute; indeed, the completeness letter itself is not set forth as a requirement in Chapter 4906. Thus, the Board or the ALJ<sup>1</sup> has complete authority to waive the time period for the issuance of the completeness letter.

The Board's rules anticipate a fairly speedy process for the processing of applications. The time frames set forth by the rules are beneficial to applicants who require timely regulatory decisions. Since the 60 day period grants applicants a date certain by which applicants are given notice whether an application is complete, the Applicant is the only party who will be

---

<sup>1</sup> The ALJ, pursuant to OAC Rule 4906-7-12 has authority to rule on motions.

disadvantaged if the process of review is extended. There is no party, other than the Applicant, who will be affected adversely by the extension of the time for the completeness review. The Board Staff has represented that it has no objections to the waiver. In addition OAC Rule 4906-7-12(F) provides that notwithstanding the provisions concerning the formal requirements for an expedited ruling, “the board, administrative law judge, may, upon their own motion, issue an expedited ruling on any motion, with or without the filing of memoranda, where the issuance of such ruling will not adversely affect a substantial right of any party.” Applicant requests an expedited ruling pursuant to paragraph (F) and believes that it is reasonable and just for the Board to grant this waiver.

WHEREFORE, Vectren requests the Board or its Administrative Law Judge grant an extension of time for the issuance of the letter contemplated by OAC Rule 4906-5-05(A) from November 13, 2013 until November 25, 2013, or seven days from the original completeness deadline and nine days from the date the Applicant files its Amended Application.

Respectfully submitted on behalf of  
VECTREN ENERGY DELIVERY OF OHIO, INC.



---

Sally W. Bloomfield (Reg. No. 0022038)

Dane Stinson (Reg. No. 0019101)

BRICKER & ECKLER LLP

100 South Third Street

Columbus, OH 43215-4291

Telephone: (614) 227-2368; 227-4854

Facsimile: (614) 227-2390

E-Mail: [sbloomfield@bricker.com](mailto:sbloomfield@bricker.com)  
[dstinson@bricker.com](mailto:dstinson@bricker.com)

**CERTIFICATE OF SERVICE**

I hereby certify that the foregoing Motion was served upon the following parties of record via electronic mail this 29<sup>th</sup> day of October 2013.



---

Sally W. Bloomfield

Christopher L. Miller  
Gregory J. Dunn  
Christopher W. Michael  
Ice Miller, LLP  
250 West Street  
Columbus, Ohio 43215  
[Christopher.Miller@icemiller.com](mailto:Christopher.Miller@icemiller.com)  
[Gregory.Dunn@icemiller.com](mailto:Gregory.Dunn@icemiller.com)  
[Chris.Michael@icemiller.com](mailto:Chris.Michael@icemiller.com)

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

**Commission of Ohio Docketing Information System on**

**10/29/2013 2:54:53 PM**

**in**

**Case No(s). 13-1651-GA-BTX**

Summary: Motion of Vectren Energy Delivery of Ohio, Inc. for a Waiver of Ohio Administrative Code Rule 4906-5-05 electronically filed by Teresa Orahod on behalf of Sally Bloomfield