

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Vectren	)	
Energy Delivery of Ohio, Inc. for Authority	)	
to Amend Its Filed Tariffs to Increase the	)	Case No. 07-1080-GA-AIR
Rates and Charges for Gas Service and	)	
Related Matters.	)	

**MEMORANDUM CONTRA  
MOTION OF THE OFFICE OF THE OHIO CONSUMERS' COUNSEL  
TO REDUCE WI-FI THERMOSTAT REBATE  
OF VECTREN ENERGY DELIVERY OF OHIO, INC.**

On January 12, 2016, the Office of the Ohio Consumers' Counsel (OCC) filed a motion asking the Commission to order modifications to the 2016 Demand Side Management (DSM) Operating Plan of Vectren Energy Delivery of Ohio, Inc. (VEDO). In accordance with Ohio Adm. Code 4901-1-12(B)(1), VEDO files this memorandum contra.

**I. INTRODUCTION**

OCC asks the Commission to overrule the decision of VEDO's DSM Collaborative concerning rebates for Wi-Fi-enabled thermostats. The Collaborative, however, reasonably resolved this issue, and the Commission should respect that decision and deny OCC's motion.

The other Collaborative members—VEDO, Staff, Gas Suppliers, and the Ohio Partners for Affordable Energy (OPAE)—considered OCC's objections regarding the amount of Wi-Fi thermostat rebates. None was persuaded, and all agreed with the approval of VEDO's 2016 Operating Plan. The facts supported this decision. Wi-Fi-enabled thermostats have been top performers in VEDO's DSM portfolio in terms of energy savings, and are projected to be one of the leaders in energy savings again in 2016. More importantly, *even before OCC complained*, VEDO had already proposed an independent, third-party evaluation of this particular element of

the program in 2016. That evaluation will begin soon and results are expected early in the fourth quarter of 2016.

VEDO has not disregarded OCC's perspective, but it simply wishes to allow the independent analysis to be completed and then to continue an informed discussion with other Collaborative members to determine if changes to the program are necessary. Ideally, program changes should occur *after* an independent evaluation. Making changes before an evaluation could result in yet more changes afterward, which could in turn cause customer and vendor confusion. Rather than allow the evaluation to be completed, OCC filed this motion seeking to overrule the Collaborative and to compel acceptance of its views.

As the movant, OCC bears the burden of proving that it is entitled to the requested relief. *See, e.g., In re Purchased Gas Adjustments Clause of the E. Ohio Gas Co.*, Case No. 82-87-GA-GCR, 1983 Ohio PUC LEXIS 73, Opin. & Order, at \*20 (Apr. 13, 1983) (“[A]s we have noted before, once a party raises an issue the burden of proof then falls upon the party who raised that issue.”). OCC has not carried that burden here. OCC's motion alleges no issues concerning the legality of the program or its compliance with Commission orders—the issue is purely a question of judgment about a single sub-component of the overall DSM plan. Out of a total program budget of \$5.75 million, the total 2016 incentive budget for Wi-Fi thermostat rebates is \$170,000, which OCC merely wishes to reduce, not eliminate. This matter simply does not warrant the Commission's attention. It is already being reviewed by the Collaborative. Granting OCC's motion would short circuit that process.

For these reasons, as discussed in more detail below, VEDO respectfully requests that the Commission deny OCC's motion and allow the Collaborative to resolve these issues.

## **II. ARGUMENT**

### **A. The DSM Collaborative reasonably approved the 2016 DSM Operating Plan.**

VEDO's 2016 DSM Operating Plan comprises eight separate programs, one of which is the Residential Prescriptive Rebate Program. The point of the rebate program is to "reduce the incremental cost of purchasing higher efficiency and higher priced products" and "foster sustainable improvements in the local VEDO market for these products." (VEDO 2016 Plan at 5.)

Within the rebate program, six different technologies are eligible, including the one at issue here, Wi-Fi-enabled thermostats. Wi-Fi-enabled thermostats are programmable thermostats that can connect to the internet via computers or mobile devices. In addition to the benefit of programmability, these thermostats can be controlled and accessed remotely. Some models are also "adaptive" and can learn the resident's preferences and habits. There are many different models aimed at different types of users.

#### **1. Wi-Fi thermostats have been highly successful in enabling consumers to reduce consumption.**

Pertinent here, Wi-Fi-thermostat rebates have shown strong energy-savings performance relative to the associated costs. The overall residential prescriptive rebate program is expected to make up 34% of the DSM portfolio's cost while producing 50% of the savings. And within the rebate program, Wi-Fi-enabled thermostats have delivered among the greatest savings. In 2015, Wi-Fi thermostats were a key driver in VEDO's achievement of savings goals. Residential rebates for Wi-Fi-enabled thermostats achieved a score of 4.39 on the Utility Cost Test (UCT), which includes the \$100 rebate amount in its calculation, in the modeling of the 2016 Operating Plan. (*See* 2016 DSM Operating Plan at 25.) This was one of the highest scores in the portfolio, and this performance is projected to continue for 2016.

In view of this performance, it is not surprising that four out of five members of the Collaborative were not persuaded by OCC's objections. The facts and projections justified continued support of the Wi-Fi program and gave solid reasons not to heed OCC's opposition.

**2. VEDO simply wants an opportunity to evaluate the program as designed before making changes.**

This is not to say that the Wi-Fi thermostat program should not be monitored and reviewed. Far from it—*before* OCC even complained about these rebates, VEDO was already planning to evaluate the prescriptive rebate program this year.

VEDO's 2016 DSM Operating Plan stated that "VEDO plans to evaluate the following programs in 2016: \* \* \* Wi-Fi Enabled Thermostat." (2016 DSM Operating Plan at 24.) The evaluation is to be carried out by the Cadmus Group, a national company recognized for its expertise in evaluating energy programs. When OCC requested a modification of this element of the plan, VEDO explained that it was being reviewed and that it would be "premature and somewhat arbitrary to make the recommended changes prior to the evaluation" of the program. The Company believed—and still believes—that any changes in the design of the program should be undertaken with the insights provided by the third-party evaluation. VEDO is also concerned that frequently changing a program could generate confusion among customers and other participants. To aid the deliberative process, VEDO also committed to sharing monthly updates on the program as 2016 moved forward.

Despite these efforts, OCC opted to pursue litigation. The Commission, however, should allow the scheduled evaluation to be completed and allow the Collaborative to resolve this issue in light of the insights that the evaluation provides.

**B. OCC’s motion provides no basis for special intervention by the Commission.**

The foregoing discussion shows that the Collaborative had a reasonable basis for approving the 2016 DSM Operating Plan. Turning to OCC’s motion, it shows nothing to the contrary, and certainly no issue that demands extraordinary Commission action.

OCC does not allege that there is any systemic issue with the Collaborative, such as a refusal to share information, evidence of collusion, or a blatant misuse of DSM funds. This is a good-faith difference of opinion about the specific design of a relatively small element of VEDO’s DSM program—an element, again, that has performed well and was already planned for independent review. This issue simply does not warrant any Commission action, other than the denial of OCC’s motion. If every point of disagreement is elevated to the Commission, the incentive to form new collaborative groups, or to continue existing ones, is greatly diminished. These stakeholder groups are intended to reduce litigation, not become a source of it.

**1. The recent decline in gas prices does not provide any reason for questioning rebates for Wi-Fi thermostats.**

OCC’s argument leads off with the point that natural gas prices have declined, and “[t]hus, the justification for having consumers subsidize natural gas DSM programs was stronger some years ago.” (OCC Memo. at 7.) This argument is overbroad and does not support OCC’s motion.

It is true that natural gas prices have decreased, and this can affect the payback period for efficiency investments. That being said, VEDO’s Residential Wi-Fi Thermostat program was modeled based on a Total Resource Cost (TRC) Test of 2.08 with TRC Net Benefits of \$439,286—among the highest scores in the portfolio. Of course, there is no guarantee that gas prices will stay at present levels, and even with low prices, efficiency investments still provide benefits, including environmental ones. More importantly, OCC’s argument applies to *all* DSM

investments and to the DSM program *as a whole*, not merely Wi-Fi-enabled thermostats. So this is an overbroad argument. Whether this concern will be relevant when VEDO's DSM program is next reviewed remains to be seen. But it is not relevant to this issue.

**2. OCC's comparison of rebate amount to overall price is not the most pertinent one.**

OCC also repeatedly faults the rebate program for potentially providing rebates "at or nearly 100% of the full price of a thermostat." (OCC Memo. at 8.) According to OCC, this "is contrary to the idea of a rebate, which is to encourage a consumer to make a purchase where the customer uses some of his or her own money." (*Id.*) OCC cites no authority for these statements, which merely represent OCC's opinion.

This is no basis for granting OCC's motion. To begin with, a customer must make a purchase to receive a rebate, so this is not a "giveaway," contrary to OCC's characterization. (*See id.* at 7.) VEDO is not simply shipping thermostats to unsuspecting customers, and the rebate program *does* encourage customer engagement. As OCC also acknowledges, many models are priced well above \$100.

Moreover, VEDO disagrees that the ratio of rebate to purchase price is the key metric. The ultimate point of a rebate program is to encourage the *implementation* of beneficial technologies. So the key focus in evaluating the value of a rebate, in VEDO's view, is not rebate as a percentage of purchase price, but savings per dollar of investment. As discussed above, the Wi-Fi program has shown excellent results on that front, and has scored well both on the TRC Test and the UCT. (*See* 2016 DSM Plan at 25.) This is why VEDO wants to encourage adoption of this technology.

OCC also points out that lesser rebates (in proportion to purchase price) apply to furnaces and boilers. Given the drastic price difference between a furnace and a thermostat, the difference

in the proportion of the rebate is not surprising. In any event, there are specific reasons to give a proportionally higher rebate to encourage the purchase of Wi-Fi thermostats. Thermostats have much longer expected lives than furnaces, and thus are less likely to be updated. A higher rebate amount acts as an incentive to replace an existing thermostat before it fails. Furnaces typically are only replaced when they fail, and a furnace rebate acts as an incentive for the customer to purchase a more efficient option. These factors, coupled with the demonstrated benefits of the technology, support a proportionally greater rebate for Wi-Fi thermostats.

In short, there are good reasons for the design of the program, and this is another element of the program that may be considered by the Collaborative after the independent evaluation is completed.

**3. There are sound reasons for the three-rebate-per-household limit.**

Finally, OCC questions the limit of three thermostats per household, asking the Commission to reduce the number of eligible thermostats to one. (OCC Memo. at 9 (“the Vectren/Collaborative allowance of up to three rebates (\$300 in total) per household should be limited to a single rebate per household”).)

OCC does not specifically explain why the limit of three is objectionable, and once again, there is a good reason for it. This element of the program enables homes with more than one HVAC system to benefit from the program. Homes with multiple systems tend to consume higher quantities of gas, so it makes sense to ensure that such households are encouraged to implement the technology. And yet again, this is a question of degree that will be reviewed once a full evaluation has been completed.

**III. CONCLUSION**

To be clear, the Company is not inflexibly opposed to OCC’s recommendation to adjust rebate levels under the program, and VEDO appreciates OCC’s review and interest in VEDO’s

programs. But given that the Wi-Fi-thermostat program has performed well to date, and given that an independent evaluation of this program will soon be underway, VEDO does not believe that it makes sense to significantly modify the program prior to a third-party evaluation being completed. VEDO respectfully asks the Commission to deny OCC's motion and allow the Collaborative to review this issue *after* the planned evaluation of the program has been completed.

Dated: January 27, 2016

Respectfully submitted,

/s/ Andrew J. Campbell

Mark A. Whitt (0067996)

Andrew J. Campbell (0081485)

Rebekah J. Glover (0088798)

WHITT STURTEVANT LLP

The KeyBank Building, Suite 1590

88 East Broad Street

Columbus, Ohio 43215

Telephone: (614) 224-3946

Facsimile: (614) 224-3960

whitt@whitt-sturtevant.com

campbell@whitt-sturtevant.com

glover@whitt-sturtevant.com

(Counsel willing to accept service by email)

ATTORNEYS FOR VECTREN ENERGY  
DELIVERY OF OHIO, INC.



**CERTIFICATE OF SERVICE**

I hereby certify that a copy of this Memorandum Contra was served by electronic mail to the following persons on this 27th day of January, 2016:

Larry.sauer@occ.ohio.gov  
Kyle.kern@occ.ohio.gov  
ghummel@mwncmh.com  
sam@mwncmh.com  
trent@theoec.org  
werner.margard@puc.state.oh.us  
drinebolt@aol.com  
jdosker@stand-energy.com

/s/ Rebekah J. Glover  
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**

**1/27/2016 4:43:36 PM**

**in**

**Case No(s). 07-1080-GA-AIR**

Summary: Memorandum Contra Motion of the Office of the Ohio Consumers' Counsel to Reduce Wi-Fi Thermostat Rebate electronically filed by Ms. Rebekah J. Glover on behalf of Vectren Energy Delivery of Ohio, Inc.