

**BEFORE  
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Application of Vectren Energy )  
Delivery of Ohio, Inc., for Approval of an ) Case No. 18-0049-GA-ALT  
Alternative Rate Plan. )

In the Matter of the Application of Vectren Energy )  
Delivery of Ohio, Inc., for Approval of an Increase ) Case No. 18-0298-GA-AIR  
in Gas Rates. )

In the Matter of the Application of Vectren Energy )  
Delivery of Ohio, Inc., for Approval of an ) Case No. 18-0299-GA-ALT  
Alternative Rate Plan. )

**SUPPLEMENTAL DIRECT TESTIMONY  
OF  
RAPLH C. SMITH**

**IN OPPOSITION TO THE JOINT STIPULATION AND RECOMMENDATION**

**On Behalf of**  
**The Office of the Ohio Consumers' Counsel**  
*65 East State Street, 7<sup>th</sup> Floor*  
*Columbus, Ohio 43215-4213*

**January 28, 2019**

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On Behalf of the Office of the Ohio Consumers' Counsel  
PUCO Case No. 18-0298-GA-AIR, et al.*

1   **I.       INTRODUCTION**

2

3   ***Q1.   PLEASE STATE YOUR NAME, POSITION, AND BUSINESS ADDRESS.***

4   ***A1.***   Ralph C. Smith. I am a Senior Regulatory Consultant at Larkin & Associates,  
5            PLLC, 15728 Farmington Road, Livonia, Michigan 48154.

6

7   ***Q2.   ARE YOU THE SAME RALPH C. SMITH WHO SUBMITTED DIRECT***  
8            ***TESTIMONY ON BEHALF OF THE OFFICE OF THE OHIO***  
9            ***CONSUMERS' COUNSEL ("OCC") IN THIS MATTER?***

10   ***A2.***   Yes, I am.

11

12   ***Q3   WHAT IS THE PURPOSE OF YOUR TESTIMONY?***

13   ***A3.***   The purpose of my testimony is to make recommendations to the Public Utilities  
14            Commission of Ohio ("PUCO") regarding the Stipulation and Recommendation  
15            ("Settlement") filed by Vectren Energy Delivery of Ohio, Inc. ("Vectren,"  
16            "VEDO," or "Utility"), the PUCO Staff and others in this case on January 4,  
17            2019. I recommend that the PUCO disapprove or modify the Settlement, with the  
18            result of a lower base rate revenue increase for customers to pay.

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1   ***Q4. PLEASE SUMMARIZE YOUR OPINIONS REGARDING THE***  
2   ***SETTLEMENT.***

3   ***A4.*** I recommend that the PUCO not approve the Settlement as filed. The proposed  
4   Settlement, as a package, does not benefit customers and is not in the public  
5   interest. Additionally, the package violates important regulatory principles and  
6   practices.

7

8   **II. CRITERIA FOR REVIEW**

9

10   ***Q5. WHAT ARE THE PUCO'S STANDARDS OF REVIEW FOR EVALUATING***  
11   ***PROPOSED SETTLEMENTS?***

12   ***A5.*** The PUCO uses three criteria for evaluating the reasonableness of a proposed  
13   settlement:

- 14           1. Is the settlement a product of serious bargaining among  
15           capable, knowledgeable parties?
- 16           2. Does the settlement, as a package, benefit customers and  
17           the public interest?
- 18           3. Does the settlement package violate any important  
19           regulatory principle or practice?

20

21   The PUCO also routinely considers whether the parties represent a diversity of  
22   interests.

**III. EVALUATION OF THE PROPOSED SETTLEMENT**

***Q6. WHO ARE THE SIGNATORY PARTIES TO THE SETTLEMENT?***

**A6.** The Signatory Parties are the PUCO Staff and Vectren, the City of Dayton, Ohio ("Dayton"), the Federal Executive Agencies ("FEA"), and Interstate Gas Supply, Inc. ("Interstate") (collectively, the "Signatory Parties").

***Q7. IN YOUR OPINION, DOES THE SETTLEMENT, AS A PACKAGE, BENEFIT VEDO'S CUSTOMERS AND THE PUBLIC INTEREST?***

**A7.** No.

***Q8. WHY DOES THE SETTLEMENT NOT BENEFIT VEDO'S CUSTOMERS AND THE PUBLIC INTEREST?***

**A8.** If adopted, the Settlement will result in VEDO charging customers rates for gas distribution service that are unjust and unreasonable.

***Q9. WHAT AMOUNTS OF REVENUE INCREASE WAS REQUESTED BY VEDO AND RECOMMENDED BY STAFF IN STAFF'S ORGIINALLY FILED COMMENTS?***

**A9.** In its filing dated February 21, 2018, VEDO requested a revenue increase to be charged to consumers of \$34.02 million. VEDO proposed a return of 7.97%, which incorporated a Utility-requested return on equity (ROE) of 10.75%.

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1 In its report dated October 1, 2018 ("Staff Report"), the PUCO Staff  
2 recommended two-revenue requirement ranges for VEDO. Staff recommended a  
3 "lower bound" revenue increase of \$12.09 million. In addition, Staff also  
4 recommended an "upper bound" revenue increase of \$16.19 million, using a  
5 recommended rate of return of 7.49%.

6  
7 ***Q10. HOW HAS THE PUCO STAFF'S POSITION IN THE SETTLEMENT***  
8 ***CHANGED FROM ITS POSITION IN FILED COMMENTS?***

9 ***A10.*** The Settlement provides that VEDO shall be granted a net base rate increase of  
10 \$22.73 million. This is \$11.3 million below VEDO's originally filed request.  
11 However, the Settlement base rate increase is \$6.54 million or 40.4% above the  
12 \$16.19 million Staff "upper bound" noted above. It is \$10.64 million or 88%  
13 above the \$12.09 million Staff "lower bound" noted above. The public interest is  
14 harmed by having a base rate revenue increase that exceeds the Staff Report  
15 upper bound which is already too high.

16 The Settlement produces a base rate increase that is too high by failing to reflect  
17 all of these proper recommendations from the PUCO Staff report.

18  
19 ***Q11. DOES THE SETTLEMENT VIOLATE THE PUBLIC INTEREST IN***  
20 ***ADDITIONAL WAYS?***

21 ***A11.*** Yes. As described in my Direct Testimony, and as shown on Exhibit RCS-2,  
22 Schedule A, filed with my Direct Testimony, at a 7.82% ROE, I calculated a base

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1 rate revenue increase of \$1.08 million and a revenue increase of \$5.09 million at  
2 an 8.82% ROE. The Settlement provides for a base rate revenue increase of  
3 \$22.73 million, which is unjust and unreasonable because it is too high to be in  
4 the public interest.

5  
6 ***Q12. DOES THE SETTLEMENT VIOLATE ANY IMPORTANT REGULATORY***  
7 ***PRINCIPLES?***

8 ***A12.*** Yes. The Settlement fails to establish an amortization period for the Utility's  
9 unprotected excess accumulated deferred income taxes ("EADIT") of five years  
10 or to reflect the impact of that amortization as a reduction to the Utility's base rate  
11 revenue requirement. Failure to establish an amortization period for the Utility's  
12 unprotected EADIT or to reflect that impact in determining Utility's base rate  
13 revenue requirement is not in the public interest because it results in a base rate  
14 revenue requirement that is too high. It also violates important regulatory  
15 principles by failing to use information that is known and measurable.

16 Additionally, providing for rate treatment in a rider for an amortization that, once  
17 established will be occurring on a straight-line basis and will not fluctuate from  
18 year to year, violates an important regulatory principle of failing to recognize  
19 expense savings impacts in base rates for items that are known and measurable  
20 and which are not expected to fluctuate between Utility base rate cases. The  
21 Settlement should be modified to use an amortization period for the Utility's  
22 unprotected EADIT of five years and to reduce the base rate revenue requirement

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1           accordingly. The five-year amortization period for unprotected EADIT is  
2           representative of the Utility's rate case filing cycle.

3  
4   ***Q13. HOW WAS THE UTILITY'S EADIT CREATED?***

5   ***A13.*** As described in my Direct Testimony, the Tax Cuts and Jobs Act of 2017  
6           ("TCJA") reduced the federal corporate income tax rate to 21% from 35 %. This  
7           reduction in the federal income tax rate has resulted in VECO having Excess  
8           Accumulated Deferred Income Taxes ("EADIT").

9  
10   ***Q14. WHAT ARE THE UTILITY'S AMOUNTS OF EADIT?***

11   ***A14.*** VEDO's EADIT can be appropriately classified into "protected" (subject to  
12           Internal Revenue Code and TCJA normalization requirements, which prescribes  
13           using the Average Rate Assumption Model ("ARAM")) and "unprotected" (i.e.,  
14           not subject to Internal Revenue Code or TCJA normalization requirements and  
15           thus subject to an amortization period or application to be determined by the  
16           PUCO). VEDO has identified protected EADIT of \$57.465 million and  
17           unprotected EADIT of \$20.080 million for total EADIT of \$77.545 million.<sup>1</sup>

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<sup>1</sup> These amounts are identified in VEDO's response to INT-4-117.



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1   ***Q15. WHAT IS PROVIDED FOR IN THE SETTLEMENT CONCERNING THE***  
2       ***UTILITY'S EADIT?***

3   ***A15.*** The Settlement at page 12, paragraph 9, provides that the EADIT would be  
4       flowed back to customers through a Tax Savings Credit Rider ("TSCF").  
5

6   ***Q16. IS PART OF THAT TREATMENT APPROPRIATE AND CONSISTENT***  
7       ***WITH IMPORTANT REGULATORY PRINCIPLES?***

8   ***A16.*** Yes. The use of a TSCF to flow back the protected portion of the EADIT, which  
9       is based on the application of the ARAM, is appropriate because those amounts  
10      will fluctuate from year to year.  
11

12   ***Q17. SHOULD THE UNPROTECTED EADIT AMORTIZATION BE***  
13       ***RECOGNIZED IN THE UTILITY'S CURRENT BASE RATE PROCEEDING,***  
14       ***RATHER THAN IN A RIDER?***

15   ***A17.*** Yes. The unprotected EADIT amortization should be on a straight-line basis,  
16       over a period of five years, and the amortization of the unprotected EADIT  
17       should be recognized in this rate case to reduce the revenue requirement. A rider  
18       is not needed for the amortization of unprotected EADIT because once the  
19       amortization period is set, the amounts of annual amortization will not fluctuate.

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1   ***Q18. DOES THE SETTLEMENT ESTABLISH THE AMORTIZATION PERIOD***  
2       ***FOR UNPROTECTED EADIT?***

3   ***A18.*** No. Paragraph 9 of the Settlement provides that the annual amortization of "non-  
4       normalized" EADIT shall be addressed in a different proceeding, Case No. 19-  
5       0029-GA-ATA.

6

7   ***Q19. IS FAILURE TO ESTABLISH AN AMORTIZATION PERIOD FOR***  
8       ***UNPROTECTED EADIT IN THE CURRENT VEDO BASE RATE CASE IN***  
9       ***THE PUBLIC INTEREST OR CONSISTENT WITH IMPORTANT***  
10      ***REGULATORY PRINCIPLES?***

11   ***A19.*** No, it is not. It would be in the public interest and consistent with regulatory  
12       principles to establish the amortization period for VEDO's unprotected EADIT in  
13       the current base rate proceeding and to reflect the impact of such amortization in  
14       establishing base rates for gas distribution service. That is because unprotected  
15       EADIT amounts are known and measurable now and should be passed back to  
16       consumers as part of the resolution of this case.

17

18   ***Q20. WHAT AMORTIZATION PERIOD SHOULD BE USED FOR VEDO'S***  
19      ***UNPROTECTED EADIT?***

20   ***A20.*** The amortization period for VEDO's unprotected EADIT is subject to the  
21       discretion of the PUCO. VEDO had proposed to amortize the unprotected  
22       EADIT over 30 years. Staff recommended that the unprotected EADIT be

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1 amortized over a period no greater than ten years. I continue to recommend that  
2 the unprotected EADIT be amortized on a straight-line basis over five years and  
3 flowed through the Utility's test year revenue requirement as a credit to income  
4 tax expense. I note that five years is also the Utility's proposed cycle for  
5 amortizing rate case expense<sup>2</sup> and can thus be viewed as being consistent with the  
6 Utility's base rate case filing cycle. This approach benefits consumers and is in  
7 the public interest by returning the unprotected EADIT sooner than under Staff's  
8 and the utility's proposal. Reflecting known and measurable amounts of an  
9 amortization that, once established, would not fluctuate between rate cases, in  
10 determining a Utility's base rate revenue requirement is also consistent with  
11 important regulatory principles, whereas the failure to do so is not.

12  
13 ***Q21. SHOULD THE AMORTIZATION OF THE UTILITY'S UNPROTECTED***  
14 ***EADIT BE REFLECTED IN DETERMINING THE REVENUE***  
15 ***REQUIREMENT IN THIS BASE RATE CASE?***

16 ***A21.*** Yes. A special ratemaking tracking mechanism, such as the TSCR, is not needed  
17 for the unprotected EADIT amortization, which should be done on a straight-line  
18 basis over the recommended period of five years, corresponding with the Utility's  
19 rate case filing cycle. Failing to address and incorporate the amortization of  
20 unprotected EADIT in the current rate case would not be in the public interest.  
21 As noted above, because the amortization of the unprotected EADIT would be on

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<sup>2</sup> See page 15 (lines 21-24) of the Direct Testimony of Utility witness J. Cas Swiz.

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1 a straight-line basis, the amortization amount would not vary from year to year.  
2 The amortization of unprotected EADIT can be reasonably determined in the  
3 context of the current Utility rate case, and thus should be reflected in the  
4 determination of the test year revenue requirement, not deferred into a different  
5 proceeding.

6  
7 ***Q22. WHAT IMPACT ON INCOME TAX EXPENSE DOES AMORTIZATION OF***  
8 ***THE UNPROTECTED EADIT HAVE?***

9 ***A22.*** As shown on Exhibit RCS-2, Schedule C-1, which was filed with my Direct  
10 Testimony, amortizing the Utility's unprotected EADIT of \$20.080 million over  
11 five years, and flowed through base rates results in a credit to income tax expense  
12 of \$4.016 million. That income tax impact amount is grossed-up to determine the  
13 impact on the Utility's revenue requirement. Multiplying the \$4.016 million  
14 income tax amount by the 1.2658228 revenue conversion factor indicates a  
15 reduction to the revenue requirement provided for in the Settlement of \$5.083  
16 million.

1 **Q23. IS THE SETTLEMENT ALSO CONTRARY TO THE PUBLIC INTEREST**  
2 **AND RATEMAKING PRINCIPLES BY OMITTING THE IMPACT OF AN**  
3 **OCC-PROPOSED ADJUSTMENT FOR INVESTOR RELATIONS**  
4 **EXPENSE?**

5 **A23.** Yes. Investor Relations is a term that describes the division of the Utility that is  
6 devoted to responding to inquiries from shareholders and investors (or others)  
7 who may be interested in a Utility's stock price or financial stability. In VEDO's  
8 case, investor relations are a means by which the Utility's shareholders can  
9 receive and review information about the Utility for things such as capital  
10 spending and VEDO's ability to access debt and/or equity markets to finance such  
11 capital spending. As such, a significant portion of VEDO's investor relations  
12 expenses are for the benefit of the Utility's shareholders. Services provided by  
13 investor relations benefit shareholders and consumers and should be adjusted.  
14 The allowance for Investor Relations Expense should be 50% to provide for an  
15 equal sharing of such costs, and therefore provides an appropriate balance  
16 between the benefits attained by both shareholders and customers. As shown on  
17 Exhibit RCS-2, Schedule C-2, filed with my Direct Testimony, exclude 50% of  
18 the Utility's investor relations expense from the test year reduces VEDO's  
19 requested O&M expense by \$96,143. For this reason, in addition to those  
20 identified earlier, the Settlement does not benefit customers and is not in the  
21 public interest. Consequently, it should not be approved by the PUCO.

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1    ***Q24. DOES THIS CONCLUDE YOUR DIRECT TESTIMONY IN OPPOSITION***  
2            ***TO THE SETTLEMENT?***

3    ***A24.***   Yes, it does. However, I reserve the right to incorporate new information that  
4            may subsequently become available through outstanding discovery or otherwise.  
5            Additionally, I reserve the right to supplement my testimony if other parties  
6            submit new or corrected information in connection with this proceeding.

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing *Supplemental Direct Testimony of Ralph C. Smith on behalf of the Office of the Ohio Consumers' Counsel* has been served upon those persons listed below via electronic service this 28<sup>th</sup> day of January 2019.

/s/ William J. Michael

William J. Michael  
Counsel of Record

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Summary: Testimony Supplemental Direct Testimony of Ralph C. Smith in Opposition to the Joint Stipulation and Recommendation electronically filed by Ms. Jamie Williams on behalf of Michael, William Mr.