

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's
Investigation into Verde Energy USA
Ohio, LLC's Compliance with the Ohio
Administrative Code and Potential
Remedial Actions for Non-Compliance

CASE NO.: 19-0958-GE-COI

VERDE ENERGY USA OHIO, LLC'S MOTION FOR PROTECTIVE ORDER

Verde Energy USA Ohio, LLC ("Verde Energy"), by its counsel and pursuant to Ohio Admin. Code § 4901-1-24, seeks an order limiting the scope of discovery from the Ohio Consumers' Counsel ("OCC") to the three-part test used by the Public Utility Commission of Ohio (the "Commission") to approve or deny stipulated resolutions. Since the Joint Stipulation and Recommendation ("Joint Stipulation") was filed in this matter on September 6, 2019, the OCC has served untimely written discovery that largely fails to relate to the Commission's test. Verde Energy seeks a protective order from the Commission in order to develop an organized process to address any reasonable concerns from the OCC while respecting the rights of Verde Energy to be free from oppressive and unduly burdensome discovery.

This request has three parts. First, Verde Energy seeks to limit the OCC's discovery to the those matters relevant to the three-prong test that will be used by the Commission to review the Joint Stipulation. Second, Verde Energy seeks to limit the OCC's written discovery to one final set of written discovery also limited to the Commission's three-part test, which would prevent the abusive tactics currently

being employed by the OCC. Third, Verde Energy seeks to limit any depositions of Verde Energy to (a) the employee responsible for verifying Verde Energy's written discovery responses and (b) any Verde Energy witnesses who will submit testimony in support of the Joint Stipulation. If the OCC is able to establish a good-faith basis as to why any other testimony may be required to assist the Commission's review of the Joint Stipulation, Verde Energy respectfully requests that information from the OCC at this time in order to avoid last-minute motion practice that will only serve to delay the settlement approval process and increase litigation costs.

I. THE OCC'S DISCOVERY IS OPPRESSIVE AND UNDULY BURDENSOME

Four months after the Report by the Staff of the Public Utilities Commission of Ohio was filed ("Staff Report") [May 3, 2019]¹ and the OCC's intervention in this matter was granted [May 16, 2019] and one week after the Joint Stipulation was filed [September 6, 2019], the OCC served three separate sets of written discovery – a total of 18 requests for admission, 28 interrogatories, and 12 requests for production. Based on the contents of this written discovery, the OCC is using this untimely written discovery to destroy the just and reasonable resolution of this matter – a product of four months of negotiations – that is articulated in the Joint Stipulation.

The subject matter of much of the written discovery is not ripe for the current procedural status of this matter. Many of the requests relate to the Staff Report rather than the Joint Stipulation. The Staff Report speaks for itself.

¹ The original Staff Report was filed on May 3, 2019. A corrected Staff Report was filed on May 29, 2019.

All of the requests for admission seek a response to allegations cited in the May 29 Staff Report. Similarly, many of the interrogatories and requests for production are cookie cutter requests that relate to the Staff Report.² These discovery requests are off the current topic in this matter, which is the three-part test used by the Commission to approve or deny stipulated resolutions.

The OCC had over four months to propound these requests following publication of the Staff Report. And, now, at the eleventh hour, after the filing of the Joint Stipulation, the OCC seeks to engage in a robust written discovery practice that is moot because it does not relate to the three-part test used by the Commission to approve or deny stipulated resolutions. This behavior should not be permitted.

II. THE COMMISSION AND ATTORNEY EXAMINERS HAVE BROAD DISCRETION TO LIMIT THE SCOPE OF DISCOVERY

Ohio Admin. Code § 4901-1-24 gives wide discretion to the Commission and attorney examiners to grant protective orders to protect a party from oppressive, unduly burdensome, or irrelevant discovery.

(A) Upon motion of any party or person from whom discovery is sought, the commission, the legal director, the deputy legal director, or any attorney examiner may issue any order that is necessary to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. Such a protective order may provide that:

- (1) Discovery not be had.
- (2) Discovery may be had only on specified terms and conditions.
- (3) Discovery may be had only by a method of discovery other than that selected by the party seeking discovery.
- (4) Certain matters not be inquired into.
- (5) The scope of discovery be limited to certain matters.

² *Id.*

Verde Energy seeks protection from the Commission and attorney examiners from the OCC's oppressive and unduly burdensome discovery. Verde Energy has provided the OCC with meaningful and complete responses to two sets of discovery – 22 interrogatories with subparts and 19 requests for production – and Verde Energy is providing even more written discovery today in response to a 3rd set of requests from the OCC. The OCC has received 3,588 pages of documents concerning communications between Staff and Verde Energy regarding the complaints underlying the investigation. The OCC cannot reasonably argue that it is prejudiced if Verde Energy is protected from oppressive discovery that is not related to the three-part test used by the Commission to approve or deny stipulated resolutions.

III. PROTECTING VERDE ENERGY FROM THE OCC'S OPPRESSIVE AND UNDULY BURDENSOME DISCOVERY IS GOOD PUBLIC POLICY AND DOES NOT PREJUDICE THE OCC

Rejection of the OCC's eleventh hour punitive discovery promotes the protection of a reasonable settlement that meets the Commission's three-part test for settlements. For four months, the OCC sat on its right to meaningfully participate in this matter. Instead, it sat on its hands and now brings tremendous prejudice to Verde Energy by causing Verde Energy to expend time and resources to respond to this untimely discovery – a total of 58 requests.

During the pendency of this matter, the Staff of the Public Utilities Commission of Ohio and Verde Energy have repeatedly requested the OCC to participate in the settlement process. The OCC has been copied on nearly all

settlement communications between the Staff of the Public Utilities Commission of Ohio and Verde Energy. Until this morning, the OCC never submitted a single comment or contribution to the proposed settlement terms. Now, after the Joint Stipulation is filed, the OCC serves an oppressive avalanche of written discovery principally related to the Staff Report, not the Joint Stipulation. The Commission will decide whether this settlement is supported by the record and represents a just and reasonable resolution of all the issues involved in this matter, violates no regulatory principle or precedent, and benefits Ohio consumers.

IV. VERDE ENERGY SUBMITS A MEMORANDUM IN SUPPORT OF THIS MOTION

A memorandum in support of this motion is attached. This memorandum articulates a reasonable resolution to the OCC's oppressive and unduly burdensome discovery practice. Specifically, Verde Energy requests any further written discovery from the OCC be limited to one additional set only that relates to the three-part test used by the Commission to approve or deny stipulated resolutions. Verde Energy requests at least seven days to answer such written discovery following a service date agreed on by the parties or, alternatively, selected by the attorney examiner. In anticipation of the OCC's practice in Case Number 19-0957-GE-COI³ and in an attempt to avoid last minute motion practice due to further abusive discovery from the OCC, Verde Energy requests that any depositions of Verde Energy employees be limited to (a) a telephonic deposition of Ms. Kira Jordan, Senior Director, Portfolio

³ *In the Matter of the Commission's Investigation into PALMco Power OH, LLC dba Indra Energy and PALMco Energy OH, LLC dba Indra Energy's Compliance.*

Management, at Spark Energy on the subject of Verde Energy's discovery responses to the OCC and (b) testifying witnesses designated by Verde Energy in support of the Joint Stipulation, if any.

V. CONCLUSION

Verde Energy should be protected from the OCC's oppressive and burdensome discovery posture. The OCC is engaged in an unreasonable campaign of disruption after largely failing over the course of 4 months to pursue discovery relating to the underlying allegations in this case.

Dated: September 19, 2019

Respectfully submitted,
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Counsel for Verde Energy USA Ohio, LLC

BEFORE THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Commission's
Investigation into Verde Energy USA
Ohio, LLC's Compliance with the Ohio
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CASE NO.: 19-0958-GE-COI

**VERDE ENERGY USA OHIO, LLC'S MEMORANDUM IN SUPPORT OF
MOTION FOR PROTECTIVE ORDER**

Verde Energy USA Ohio, LLC ("Verde Energy"), by its counsel and pursuant to Ohio Admin. Code § 4901-1-24, seeks an order limiting the scope of discovery from the Ohio Consumers' Counsel ("OCC") to the contents of the Joint Stipulation and Recommendation ("Joint Stipulation") filed in this matter on September 6, 2019.

I. PROCEDURAL HISTORY

A Report by the Staff of the Public Utilities Commission of Ohio ("Staff Report") was filed in this matter on May 3, 2019.⁴ The Commission granted the OCC's intervention on May 16, 2019.⁵

Verde Energy has provided the OCC with meaningful and complete responses to two sets of discovery – 22 interrogatories with subparts and 19 requests for production. The OCC has received 3,588 pages of documents concerning communications between Staff and Verde Energy regarding the complaints underlying the investigation. Since the Joint Stipulation was filed on September 6,

⁴ See A Report by the Staff of the Public Utilities Commission of Ohio in 19-958-GE-COI on May 3, 2019. A corrected Staff Report was filed on May 29, 2019.

⁵ See Entry in 19-958-GE-COI on May 16, 2019.

2019, the OCC has served three sets of discovery including 18 requests for admission, 28 interrogatories, and 12 requests for production, which is oppressive and unduly burdensome.⁶ On September 18, 2019, Verde Energy communicated its position to counsel for the OCC and asked the OCC to withdraw the discovery requests that do not relate to the Joint Stipulation.⁷ The responses to the OCC's Third Set of Discovery served on September 12, 2019 are due today. Absent a clear resolution by agreement, Verde Energy has exhausted all reasonable means of resolving any differences with the OCC and seeks protection.

II. APPLICABLE LEGAL STANDARD

Upon motion of any party, the Commission may issue any order necessary to protect a party from oppression or undue burden. *See* Ohio Admin. Code § 4901-1-24. A protective order may provide that discovery may not be had, may be had only on specified terms, or conditions and the scope of discovery be limited to certain matters. *See* Ohio Admin. Code § 4901-1-24(A)(1), (2), and (5).

III. VERDE ENERGY SEEKS PROTECTION FROM THE OCC'S ELEVENTH HOUR DISCOVERY

Since early May, Verde Energy and Staff of the Public Utilities Commission of Ohio ("Staff") have engaged in prolonged and substantial settlement negotiations, culminating in the Joint Stipulation. Over the course of those four months, the OCC

⁶ OCC's Third Set of Discovery is attached hereto and incorporated herein as Exhibit A; OCC's Fourth Set of Discovery is attached hereto and incorporated herein as Exhibit B; OCC's Fifth Set of Discovery is attached hereto and incorporated herein as Exhibit C.

⁷ *See* Affidavit of Rachel Palmer Hooper.

had ample opportunity to conduct discovery into the charges in the Staff Report, to participate in the settlement process, and to make its position known to Staff.

The OCC did none of those things. It served a single discovery request on April 24, to which Verde Energy responded on May 13. After that, the OCC did not serve any discovery and did not meaningfully participate in settlement negotiations. It was only after the dust had cleared – when Verde Energy and Staff reached an agreement in principle to settle the case – that the OCC began a broadside barrage of untimely discovery requests. Many of these requests are untimely because they relate to the Staff Report, not the Joint Stipulation.

On May 23, 2019, the Staff, Verde Energy, and the OCC participated in a settlement conference. The OCC was represented by Mr. Etter and Ms. O'Brien at this meeting and they were given the opportunity review and provide commentary on potential settlement terms.

After sitting on its discovery rights for four months, the OCC served one set of discovery on August 22, which Verde Energy answered completely. Then, following the filing of the Joint Stipulation, the OCC has served Verde Energy with **three discovery requests in the past week – a total of 58 requests, many with subparts**. These include requests for voluminous records with no connection to the Joint Stipulation, such as “all training documents or communications provided to Verde Energy’s sales agents that describe or explain the utilities’ default electric or natural gas supply services,”⁸ and “all contract expiration or renewal notices that

⁸ RPD-4-023.

Verde Energy provided in 2017, 2018, and 2019 to customers who enrolled in fixed rate contracts.”⁹ In fact, all of the requests for admissions specifically cite to the Staff Report. This is discovery that the OCC should have sought since May 16, 2019.

TIMELINE OF OCC DISCOVERY REQUESTS

First Set	April 24, 2019	12 interrogatories 8 requests for production
Staff Report Filed on May 3, 2019		
Second Set	August 22, 2019	10 interrogatories with subparts 11 requests for production
Joint Stipulation Filed on September 6, 2019		
Third Set	September 12, 2019	18 requests for admission 16 interrogatories 2 requests for production
Fourth Set	September 16, 2019	12 interrogatories 5 requests for production
Fifth Set	September 17, 2019	5 requests for production

This sudden barrage of discovery requests is untimely, abusive, and unnecessary. Verde Energy has been more than forthcoming with information pursuant to prior (legitimate) discovery requests, and the OCC should have everything it needs to evaluate the Joint Stipulation. The OCC has been included on most settlement discussions and knowingly made the decision to take a non-participatory approach for months. Now, at the eleventh hour, the OCC has decided to take the position of disrupter in an attempt to disturb a good faith settlement that meets the Commission’s three-part test for settlements.

⁹ RPD-4-024.

Verde Energy has provided a large amount of documents and discovery requests to the OCC pursuant to discovery requests.

VERDE ENERGY DISCOVERY PROVIDED TO THE OCC

May 13, 2019	<ul style="list-style-type: none">• The selection, training, and compensation of Verde Energy sales agents• Verde Energy's quality control process for interactions between customers and sales agents• Information on Verde Energy's licensure• Verde Energy's current activities in Ohio• 3,588 pages of documents concerning communications between Staff and Verde Energy regarding the complaints underlying the investigation• Copies of Verde Energy's standard CRES and CRNGS contracts for Ohio during the time period of the complaints underlying the investigation• Copies of Verde Energy's standard CRES and CRNGS contracts for Ohio at the time of the discovery requests• Copies of all training materials, scripts, and other instructions provided to Verde Energy representatives for training purposes
August 29, 2019	<ul style="list-style-type: none">• Verde Energy's current activities in Ohio
September 3, 2019	<ul style="list-style-type: none">• The number of natural gas customers served by Verde Energy in Ohio for each service area• The number of electric customers served by Verde Energy in Ohio for each service area• Verde Energy's parent company and affiliated companies• The re-rates contemplated by the Joint Stipulation• Verde Energy's organizational chart• A list of all Verde Energy customers in Ohio by market, including the rates paid by those customers and whether the rate is variable or fixed• Copies of all confidential financial documents filed by the Commission in Verde Energy's application for a certificate to provide competitive retail electric and natural gas service to Ohio residents

IV. VERDE ENERGY SEEKS AN ORDERLY PROCESS TO ADDRESS THE OCC'S AGGRESSIVE DISCOVERY POSTURE

Verde Energy seeks (1) entry of a protective order to limit the OCC's discovery to matters relevant to the three-prong test that will be used by the Commission to evaluate the Joint Stipulation; (2) to limit the OCC's written discovery to one final set of written discovery also limited to the Commission's three-part test, which would prevent the abusive tactics currently being employed by the OCC; and (3) to limit any depositions of Verde Energy to (a) the employee responsible for verifying Verde Energy's written discovery responses and (b) any Verde Energy witnesses who will submit testimony in support of the Joint Stipulation. If the OCC is able to establish a good-faith basis as to why any other testimony may be required to assist the Commission's review of the Joint Stipulation, Verde Energy respectfully requests that information from the OCC at this time in order to avoid last-minute motion practice that will only serve to delay the settlement approval process and increase litigation costs.

A. Verde Energy requests protection from all discovery requests not reasonably related to the Joint Stipulation.

Ohio Admin. Code § 4901-1-24 provides wide latitude for the Commission and attorney examiners to protect Verde Energy from all discovery requests not reasonably related to the Commission's three-part test used to approve or deny stipulated resolutions. Specifically, Verde Energy objects to the following pending discovery requests as untimely and unrelated to the Commission's three-part test used to evaluate the Joint Stipulation:

- RFA-3-001 through RFA-3-018;
- INT-3-023 through INT-3-026 and INT-3-028;
- INT-4-039; INT-4-046 through INT-4-048; INT-4-050;
- RFP-4-022 through RFP-4-025; and
- RFP-5-027.

Some examples of discovery requests that are moot are:

RFA-3-006	Between October 1, 2018 and April 12, 2019, a Verde sales representative sent information to consumers' Caller IDs to indicate that the calls were from Duke Energy Ohio (as described on page 11 of the May 29, 2019 Staff Report).
INT-3-023	Please identify the physical location where Verde retains customer records for its Ohio customers, and indicate how Verde maintains those records. (<i>e.g.</i> , electronic, paper, other).
INT-4-048	Please fully explain and describe the relationship between Verde and JLODGE, identified as the author of the audit description materials at VERDE 003548 [produced in May 2019].
RPD-4-023	Please provide all training documents or communications provided to Verde's sales agents that describe or explain the utilities' default electric or natural gas supply services.
RPD-5-027	Please provide copies of all formal and informal requests (<i>e.g.</i> , interrogatories, data requests) made to Verde by the Commission, the PUCO Staff, and/or the PUCO's Attorneys General related to or referenced in the PUCO Staff's Report filed in this proceeding on May 29, 2019 and Verde's responses to those requests.

These requests are untimely and moot because they relate to the Staff Report, not the Commission's test used to evaluate the Joint Stipulation. The requests for admission are facially moot as they all cite to the Staff Report. Interrogatory No. 23, Request for Production Nos. 23 and 27 are cookie cutter requests that should have

been made in April or May 2019. Interrogatory No. 48 seeks information related to documents produced in May 2019. These are representative samples of the oppressive and unduly burdensome discovery that the OCC has propounded at the eleventh hour.

Verde Energy seeks an orderly process to finally resolve this matter and end the OCC's abusive discovery tactics. Verde Energy requests that any further written discovery from the OCC be limited to one additional set *only* and that Verde Energy have seven days to answer such written discovery.

- B. Depositions should be limited to (a) a telephonic deposition of Ms. Kira Jordan and (b) testifying witnesses designated by Verde Energy in support of the Joint Stipulation, if any.

Verde Energy requests that any depositions of Verde Energy employees be limited to (a) a telephonic deposition of Ms. Kira Jordan, Senior Director, Portfolio Management, at Spark Energy on the subject of Verde Energy's discovery responses to the OCC and (b) testifying witnesses designated by Verde Energy in support of the Joint Stipulation, if any. Ms. Jordan is the employee responsible for verifying Verde Energy's written discovery responses. Since she works and resides in Houston, Texas, Verde Energy requests that her deposition occur telephonically. Any further deposition requests by the OCC should be limited to the Commission's test.

VI. CONCLUSION

Verde Energy should be protected from the OCC's oppressive and burdensome discovery posture and seeks protection and limitations in accordance with Ohio Admin. Code § 4901-1-24.

Dated: September 19, 2019

Respectfully submitted,
/s David F. Proaño
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Counsel for Verde Energy USA Ohio, LLC

CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing document was served by e-mail upon the persons listed below this 19th day of September, 2019.

SERVICE LIST

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Dated: September 19, 2019

/s David F. Proaño
David F. Proaño (0078838)
Counsel for Verde Energy USA Ohio, LLC

STATE OF TEXAS §
 §
 §
COUNTY OF HARRIS §
 §

AFFIDAVIT OF RACHEL PALMER HOOPER

Rachel Palmer Hooper, being first duly cautioned and sworn, deposes and says as follows:

1. My name is Rachel Palmer Hooper. My address is 811 Main, Suite 1100, Houston, Texas 77002.

2. I am counsel for Verde Energy USA Ohio, LLC (“Verde Energy”) in Case Number 19-0958-GE-COI styled *In the Matter of the Commission’s Investigation into Verde Energy USA Ohio, LLC’s Compliance with the Ohio Administrative Code and Potential Remedial Actions for Non-Compliance*.

3. This affidavit is provided in support of Verde Energy’s Motion for Protective Order filed on September 19, 2019. It describes, as required by Ohio Admin. Code § 4901-1-24(B)(3), the efforts that have been made to resolve any differences with the Ohio Consumers’ Counsel (“OCC”).

4. On September 17, 2019, Mr. David Proaño, lead counsel for Verde Energy in this matter, contacted Ms. Angela O’Brien, Counsel of Record for the OCC, via email¹⁰ and requested a telephone conference.

¹⁰ A true and correct copy of this email is attached hereto and incorporated herein as Exhibit 1.

5. On September 18, 2019 at 1 p.m., I participated in a telephone conference with Mr. Proaño, Ms. O'Brien, and other OCC staff. During this conference, Mr. Proaño told Ms. O'Brien that a number of the discovery requests were oppressive and unduly burdensome. Ms. O'Brien expressed an opposing view. Mr. Proaño asked Ms. O'Brien to consider the following proposal:

- Withdraw the objectionable discovery requests that do not relate to the Joint Stipulation and Recommendation filed in this matter on September 6, 2019 ("Joint Stipulation");
- One final set of written discovery from the OCC;
- Depositions of any witnesses designated by Verde Energy to testify at the October 16, 2019 hearing on the Joint Stipulation, if any; and
- A telephonic deposition of Ms. Kira Jordan, Senior Director, Portfolio Management, at Spark Energy on the subject of Verde Energy's discovery responses to the OCC.

Ms. O'Brien stated that she would consider the proposal.

6. At 3:35 p.m. on September 18, 2019, I received an email¹¹ from Ms. O'Brien rejecting the proposal.

7. At 4:11 p.m. on September 18, 2019, Mr. Proaño sent an email¹² to Ms. O'Brien requesting that the OCC withdraw the following pending discovery requests:

- RFA-3-001 through RFA-3-018
- INT-3-023 through INT-3-026 and INT-3-028

¹¹ A true and correct copy of this email is attached hereto and incorporated herein as Exhibit 2.

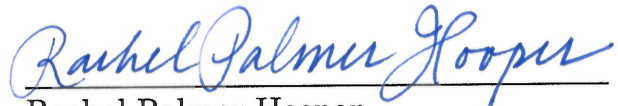
¹² A true and correct copy of this email is attached hereto and incorporated herein as Exhibit 3.

- INT-4-039; INT-4-046 through INT-4-048; INT-4-050
- RFP-4-022 through RFP-4-025
- RFP-5-027

8. At 4:55 p.m. on September 18, 2019, I received a response¹³ from Ms. O'Brien stating that the OCC is willing to withdraw INT-3-027, INT-3-028, INT-4-046, INT-4-047, and INT-4-050.

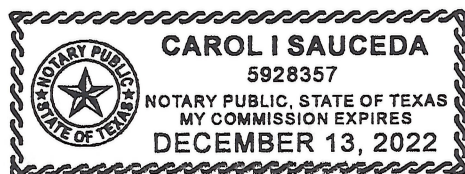
9. At 9:06 a.m. on September 19, 2019, I received an email¹⁴ from Ms. O'Brien providing the OCC's "positions regarding the Joint Stipulation and Recommendation."

10. I spoke with Mr. Proaño on the morning of September 19, 2019 and he stated that he spoke with Ms. O'Brien in person and she confirmed that the OCC would not withdraw any requests beyond INT-3-027, INT-3-028, INT-4-046, INT-4-047, and INT-4-050.


Rachel Palmer Hooper

Sworn and subscribed to me this 19th day of September, 2019.

My Commission expires:




Notary Public

¹³ A true and correct copy of this email is attached hereto and incorporated herein as Exhibit 4.

¹⁴ A true and correct copy of this email is attached hereto and incorporated herein as Exhibit 5.

From: [Proano, David](#)
To: [Angela.O'Brien@occ.ohio.gov](#); [Christopher.Healey@occ.ohio.gov](#); [Bryce.McKenney@occ.ohio.gov](#); [Kimberly.W.Bojko](#)
Cc: [C. Alexis Keene J.D., C.P.A.](#); [thomas.lindgren@ohioattorneygeneral.gov](#); [Andy.Shaffer@ohioattorneygeneral.gov](#); [Hooper, Rachel Palmer](#); [Kash, Kendall](#); [Lemon, Daniel R.](#); [Thompson, Taylor](#); [Joe.Oliker@igs.com](#); [Michael.Nugent@igs.com](#); [Bethany.Allen@igs.com](#)
Subject: OCC Discovery Re Verde Energy - Request for Meet-and-Confer Discovery Conference
Date: Tuesday, September 17, 2019 3:39:30 PM

Dear Counsel for OCC,

Please let me know your availability for a meet-and-confer telephone conference tomorrow to discuss OCC's 3rd, 4th and 5th sets of discovery requests served on Verde Energy over the past several business days.

Verde Energy believes that many of OCC's discovery requests are oppressive, abusive, unduly burdensome, harassing and untimely. Among other reasons, Verde Energy objects to discovery sought by OCC that is not relevant to the factors that will be considered by the Commission in reviewing the stipulation submitted by Verde Energy and PUCO Staff, and further that even if relevant in some way, much of this discovery should have been sought by OCC much earlier in this investigation and not at this eleventh hour. OCC moved to intervene in this matter on April 24, 2019, and since that time OCC has had nearly five months to pursue discovery relating to the allegations in the Staff Report in this investigation regarding Verde Energy. Further, the serial nature of OCC's requests puts an undue burden on Verde Energy given the abbreviated time to respond to written discovery in this investigation, and given this tactic by OCC and its oppressive approach to eleventh-hour discovery, we would like an agreement limiting any further written discovery and also limiting any depositions by OCC of Verde witnesses in this proceeding. If we should be expecting overly broad and burdensome deposition notices from the OCC, as has been the case in the Indra Energy investigation, we think it is appropriate to address that issue now and attempt a resolution rather than wait to burden the staff examiners with a series of last-minute and expedited motions to compel.

For all these reasons, and more we can discuss by phone, we would like to reach an agreement on what discovery would be acceptable in terms of what has been served and what OCC expects to serve and request from Verde. We would like to attempt all reasonable means of resolving this dispute promptly. For this reason, I would like to proceed with a conference call tomorrow. Given the abbreviated discovery response period of seven (7) days provided the procedural orders in this case, if we cannot arrive at an agreement tomorrow, we will need to seek redress from the attorney examiners in this matter. If you would like to voluntarily extend our deadlines to respond to OCC's 3rd, 4th and 5th set of discovery requests served on Verde in the past several business days, we can continue our discussions in the hopes of arriving at an amicable resolution without burdening the Commission or staff examiners. If so, please let me know if are willing to grant a reasonable voluntary extension of time that would allow us to try to work out an agreement on these issues. However, if OCC is not willing to undertake this measure to allow the parties time to negotiate a resolution, please let me know by tomorrow. If that is the case, and we cannot arrive at a reasonable accommodation tomorrow, we will need to file on Thursday a motion for protective in this case under Ohio Admin. Code 4901-1-24(A).

Thank you,

David

David Proaño

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From: Angela.OBrien@occ.ohio.gov
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Subject: Case No. 19-0958-GE-COI
Date: Wednesday, September 18, 2019 3:35:13 PM
Attachments: [image001.png](#)

David and Rachel:

Thank you for taking the time today to discuss discovery in the above-referenced proceeding.

To begin, I want to reiterate that OCC disagrees with your representation in your September 17, 2019 e-mail to all of the parties in this proceeding that OCC is acting in an “abusive”, “harassing”, “oppressive”, and “untimely” manner through its discovery to Verde. OCC timely served a reasonable number of tailored discovery requests to Verde related to the Joint Stipulation and Recommendation filed on September 6, 2019. The PUCO’s rules allow OCC to seek this discovery, and it is standard practice in the PUCO after parties file a settlement.

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Have a nice evening.

Best regards,

Angela O’Brien

Angela D. O'Brien

Assistant Consumers' Counsel
Office of the Ohio Consumers' Counsel
65 East State Street, 7th Floor
Columbus, OH 43215-4213
(614) 466-9531 (direct)
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angela.obrien@occ.ohio.gov



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From: [Proano, David](#)
To: [Angela.OBrien@occ.ohio.gov](#)
Cc: [Bryce.McKenney@occ.ohio.gov](#); [Christopher.Healey@occ.ohio.gov](#); [Kimberly W. Bojko](#); [C. Alexis Keene J.D., C.P.A.](#); [thomas.lindgren@ohioattorneygeneral.gov](#); [Andy.Shaffer@ohioattorneygeneral.gov](#); [Hooper, Rachel Palmer](#); [Kash, Kendall](#); [Lemon, Daniel R.](#); [Thompson, Taylor](#); [Joe.Oliker@igs.com](#); [Michael.Nugent@igs.com](#); [Bethany.Allen@igs.com](#)
Subject: RE: Case No. 19-0958-GE-COI
Date: Wednesday, September 18, 2019 4:10:52 PM
Attachments: [image001.png](#)

Angela,

Thank you also for taking the time to meet-and-confer with us regarding the OCC's discovery requests.

As I reiterated during our call today, Verde has no issue with written discovery from OCC that is reasonably-tailored and related to the Commission's consideration of the three-factor test as part of its review and approval of the joint stipulation and recommendation between Verde and PUCO Staff. Verde will certainly be responding to discovery requests from the OCC in its 3rd, 4th, and 5th sets of written requests that are appropriately and reasonably tailored in this manner. However, Verde believes that the scope of OCC's written discovery and its tactics of serving serial discovery are abusive, unduly burdensome, and harassing, not to say untimely with respect to requests that go to the underlying allegations.

Since Thursday, September 12, the OCC has served three sets of written discovery that include a total of 18 requests for admission, 28 interrogatories, and 12 requests for production. As discussed on our call, Verde's position is that much of this discovery is oppressive and unduly burdensome. Instead of objecting to the discovery in its entirety, Verde seeks to limit the discovery to issues directly relevant to the Commission's view of the joint stipulation and recommendation filed on September 6, 2019. Specifically, Verde asks that the OCC withdraw the following discovery requests as they are oppressive, unduly burdensome, untimely, not relevant to the Commission's review of the joint stipulation and recommendation, and not proportional to the needs of the case:

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INT-4-039; INT-4-046 through INT-4-048; INT-4-050
RFP-4-022 through RFP-4-025
RFP-5-027

If OCC does not agree to withdraw these requests by tomorrow morning, our plan is to proceed with a motion for protective order tomorrow. Instead of burdening the staff examiners with last-minute motions to compel based on Verde's objections, we think it is more efficient to get these issues addressed promptly.

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Thanks,
David

David Proaño
Partner

BakerHostetler

Key Tower
127 Public Square | Suite 2000
Cleveland, OH 44114-1214
T +1.216.861.7834

dproano@bakerlaw.com
bakerlaw.com



From: Angela.OBrien@occ.ohio.gov <Angela.OBrien@occ.ohio.gov>
Sent: Wednesday, September 18, 2019 4:35 PM
To: Proano, David <dproano@bakerlaw.com>; Hooper, Rachel Palmer <rhooper@bakerlaw.com>; akeene@sparkenergy.com
Cc: Bryce.McKenney@occ.ohio.gov; Christopher.Healey@occ.ohio.gov; Kimberly W. Bojko <bojko@CarpenterLipps.com>
Subject: Case No. 19-0958-GE-COI

David and Rachel:

Thank you for taking the time today to discuss discovery in the above-referenced proceeding.

To begin, I want to reiterate that OCC disagrees with your representation in your September 17, 2019 e-mail to all of the parties in this proceeding that OCC is acting in an "abusive", "harassing", "oppressive", and "untimely" manner through its discovery to Verde. OCC timely served a reasonable number of tailored discovery requests to Verde related to the Joint Stipulation and Recommendation filed on September 6, 2019. The PUCO's rules allow OCC to seek this discovery, and it is standard practice in the PUCO after parties file a settlement.

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Have a nice evening.

Best regards,

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Office of the Ohio Consumers' Counsel
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From: Angela.OBrien@occ.ohio.gov
To: [Proano, David](#)
Cc: Bryce.McKenney@occ.ohio.gov; Christopher.Healey@occ.ohio.gov; [Kimberly W. Bojko](#); [C. Alexis Keene J.D., C.P.A.](#); thomas.lindgren@ohioattorneygeneral.gov; Andy.Shaffer@ohioattorneygeneral.gov; [Hooper, Rachel Palmer](#); [Kash, Kendall](#); Lemon, Daniel R.; [Thompson, Taylor](#); Joe.Oliker@igs.com; Michael.Nugent@igs.com; Bethany.Allen@igs.com
Subject: RE: Case No. 19-0958-GE-COI
Date: Wednesday, September 18, 2019 4:54:51 PM
Attachments: [image005.png](#)

David:

OCC is willing to withdraw INT-3-027, INT-3-028, INT-4-046, INT-4-047, and INT-4-050.

Best regards,

Angela O'Brien

From: Proano, David <dproano@bakerlaw.com>
Sent: Wednesday, September 18, 2019 5:11 PM
To: O'Brien, Angela <Angela.OBrien@occ.ohio.gov>
Cc: Mckenney, Bryce <Bryce.McKenney@occ.ohio.gov>; Healey, Christopher <Christopher.Healey@occ.ohio.gov>; Kimberly W. Bojko <bojko@CarpenterLipps.com>; C. Alexis Keene J.D., C.P.A. <akeene@sparkenergy.com>; Lindgren, Thomas <thomas.lindgren@ohioattorneygeneral.gov>; Shaffer, Andrew <Andy.Shaffer@ohioattorneygeneral.gov>; Hooper, Rachel Palmer <rhooper@bakerlaw.com>; Kash, Kendall <kkash@bakerlaw.com>; Lemon, Daniel R. <dlemon@bakerlaw.com>; Thompson, Taylor <tathompson@bakerlaw.com>; Joe.Oliker@igs.com; Michael.Nugent@igs.com; Bethany.Allen@igs.com
Subject: RE: Case No. 19-0958-GE-COI

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From: Angela.OBrien@occ.ohio.gov <Angela.OBrien@occ.ohio.gov>
Sent: Wednesday, September 18, 2019 4:35 PM
To: Proano, David <dproano@bakerlaw.com>; Hooper, Rachel Palmer <rhooper@bakerlaw.com>;
akeene@sparkenergy.com
Cc: Bryce.McKenney@occ.ohio.gov; Christopher.Healey@occ.ohio.gov; Kimberly W. Bojko
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Subject: Case No. 19-0958-GE-COI

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Any tax advice in this email is for information purposes only. The content of this email is limited to the matters specifically addressed herein and may not contain a full description of all relevant facts or a complete analysis of all relevant issues or authorities.

Internet communications are not assured to be secure or clear of inaccuracies as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. Therefore, we do not accept responsibility for any errors or omissions that are present in this email, or any attachment, that have arisen as a result of e-mail transmission.

From: Angela.OBrien@occ.ohio.gov
To: thomas.lindgren@ohioattorneygeneral.gov
Cc: Bryce.McKenney@occ.ohio.gov; Christopher.Healey@occ.ohio.gov; [Kimberly W. Bojko](#); [C. Alexis Keene J.D., C.P.A.](#); Andy.Shaffer@ohioattorneygeneral.gov; [Hooper, Rachel Palmer](#); [Kash, Kendall](#); [Lemon, Daniel R.](#); [Thompson, Taylor](#); Joe.Oliker@igs.com; Michael.Nugent@igs.com; Bethany.Allen@igs.com; [Proano, David](#)
Subject: Case No. 19-0958-GE-COI
Date: Thursday, September 19, 2019 8:06:23 AM
Attachments: [image001.png](#)
[OCC positions Joint Stipulation and Recommendation.pdf](#)

Good morning, Tom:

Pursuant to your request, attached please find OCC's positions regarding the Joint Stipulation and Recommendation in the above-referenced proceeding (reflected in red-line). If you would like a Word version to make further edits, please let me know.

Best regards,

Angela

Angela D. O'Brien

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Columbus, OH 43215-4213
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EXHIBIT 6 – OCC’S THIRD SET OF DISCOVERY REQUESTS

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Investigation into Verde Energy USA)	Case No. 19-0958-GE-COI
Ohio, LLC's Compliance with the)	
Ohio Administrative Code and)	
Potential Remedial Actions for Non-)	
Compliance.)	

**REQUESTS FOR ADMISSION, INTERROGATORIES, AND REQUESTS FOR
PRODUCTION OF DOCUMENTS
PROPOUNDED UPON VERDE ENERGY USA OHIO, LLC
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

**THIRD SET
(September 12, 2019)**

The Office of the Ohio Consumers' Counsel in the above-captioned proceeding before the Public Utilities Commission of Ohio ("PUCO") submits the following Requests for Admission, Interrogatories, and Requests for Production of Documents pursuant to Sections 4901-1-19, 4901-1-20, and 4901-1-22 of the Ohio Administrative Code for response from Verde Energy USA Ohio, LLC ("Verde") within seven calendar days as required by the PUCO's Entry dated May 30, 2019. An electronic, non-pdf (e.g., Excel) response should be provided to the Office of the Ohio Consumers' Counsel at the following addresses:

Angela D. O'Brien (0097579)
Counsel of Record
Christopher Healey (0086027)
Bryce McKenney (0088203)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

65 East State Street, 7th Floor
Columbus, Ohio 43215
Telephone [O'Brien]: (614) 466-9531
Telephone [Healey]: (614) 466-9571
Telephone [McKenney]: (614) 466-9585
angela.obrien@occ.ohio.gov
christopher.healey@occ.ohio.gov
bryce.mckenney@occ.ohio.gov
(willing to accept service by e-mail)

Kimberly W. Bojko
Carpenter Lipps & Leland LLP
280 Plaza, Suite 1300
280 North High Street
Columbus, Ohio 43215
bojko@carpenterlipps.com

Additionally, Verde must follow the instructions provided herein in responding to the inquiries. Definitions are provided that are used in the Office of the Ohio Consumers' Counsel's discovery.

DEFINITIONS

As used herein the following definitions apply:

1. "Document" or "Documentation" when used herein, is used in its customary broad sense, and means all originals of any nature whatsoever, identical copies, and all non-identical copies thereof, pertaining to any medium upon which intelligence or

information is recorded in your possession, custody, or control regardless of where located; including any kind of printed, recorded, written, graphic, or photographic matter and things similar to any of the foregoing, regardless of their author or origin. The term specifically includes, without limiting the generality of the following: punchcards, printout sheets, movie film, slides, PowerPoint slides, phonograph records, photographs, memoranda, ledgers, work sheets, books, magazines, notebooks, diaries, calendars, appointment books, registers, charts, tables, papers, agreements, contracts, purchase orders, checks and drafts, acknowledgments, invoices, authorizations, budgets, analyses, projections, transcripts, minutes of meetings of any kind, telegrams, drafts, instructions, announcements, schedules, price lists, electronic copies, reports, studies, statistics, forecasts, decisions, and orders, intra-office and inter-office communications, correspondence, financial data, summaries or records of conversations or interviews, statements, returns, diaries, workpapers, maps, graphs, sketches, summaries or reports of investigations or negotiations, opinions or reports of consultants, brochures, bulletins, pamphlets, articles, advertisements, circulars, press releases, graphic records or representations or publications of any kind (including microfilm, videotape and records, however produced or reproduced), electronic (including e-mail), mechanical and electrical records of any kind and computer produced interpretations thereof (including, without limitation, tapes, tape cassettes, disks and records), other data compilations (including, source codes, object codes, program documentation, computer programs, computer printouts, cards, tapes, disks and recordings used in automated data processing together with the programming instructions and other material necessary

to translate, understand or use the same), all drafts, prints, issues, alterations, modifications, changes, amendments, and mechanical or electric sound recordings and transcripts to the foregoing. A request for discovery concerning documents addressing, relating or referring to, or discussing a specified matter encompasses documents having a factual, contextual, or logical nexus to the matter, as well as documents making explicit or implicit reference thereto in the body of the documents. Originals and duplicates of the same document need not be separately identified or produced; however, drafts of a document or documents differing from one another by initials, interlineations, notations, erasures, file stamps, and the like shall be deemed to be distinct documents requiring separate identification or production. Copies of documents shall be legible.

2. “Communication” shall mean any transmission of information by oral, graphic, written, pictorial, or otherwise perceptible means, including, but not limited to, telephone conversations, letters, telegrams, and personal conversations. A request seeking the identity of a communication addressing, relating or referring to, or discussing a specified matter encompasses documents having factual, contextual, or logical nexus to the matter, as well as communications in which explicit or implicit reference is made to the matter in the course of the communication.
3. The “substance” of a communication or act includes the essence, purport or meaning of the same, as well as the exact words or actions involved.
4. “And” or “Or” shall be construed conjunctively or disjunctively as necessary to make any request inclusive rather than exclusive.

5. “You,” and “Your,” or “Yourself” refer to the party requested to produce documents and any present or former director, officer, agent, contractor, consultant, advisor, employee, partner, or joint venture of such party.
6. Each singular shall be construed to include its plural, and vice versa, so as to make the request inclusive rather than exclusive.
7. Words expressing the masculine gender shall be deemed to express the feminine and neuter genders; those expressing the past tense shall be deemed to express the present tense; and vice versa.
8. “Person” includes any firm, corporation, joint venture, association, entity, or group of natural individuals, unless the context clearly indicates that only a natural individual is referred to in the discovery request.
9. “Identify,” or “the identity of,” or “identified” means as follows:
 - A. When used in reference to an individual, to state his full name and present or last known position and business affiliation, and his position and business affiliation at the time in question;
 - B. When used in reference to a commercial or governmental entity, to state its full name, type of entity (e.g., corporation, partnership, single proprietorship), and its present or last known address;
 - C. When used in reference to a document, to state the date, author, title, type of document (e.g., letter, memorandum, photograph, tape recording, etc.), general subject matter of the document, and its present or last known location and custodian;

- D. When used in reference to a communication, to state the type of communication (i.e., letter, personal conversation, etc.), the date thereof, and the parties thereto and the parties thereto and, in the case of a conversation, to state the substance, place, and approximate time thereof, and identity of other persons in the presence of each party thereto;
 - E. When used in reference to an act, to state the substance of the act, the date, time, and place of performance, and the identity of the actor and all other persons present.
 - F. When used in reference to a place, to state the name of the location and provide the name of a contact person at the location (including that person's telephone number), state the address, and state a defining physical location (e.g., a room number, file cabinet, and/or file designation).
- 10. The terms "PUCO" and "Commission" refer to the Public Utilities Commission of Ohio, including its Commissioners, personnel (including Persons working for the PUCO Staff as well as in the Public Utilities Section of the Ohio Attorney General's Office), and offices.
 - 11. The term "e.g." connotes illustration by example, not limitation.
 - 12. "OCC" means the Office of the Ohio Consumers' Counsel.
 - 13. "Verde" or "Company" means Verde Energy USA Ohio, LLC.
 - 14. "CRES" means Competitive Retail Electric Service.
 - 15. "CRNGS" means Competitive Retail Natural Gas Service.
 - 16. "Proceeding" means Case No. 19-0958-GE-COI.

17. “Settlement” or “Stipulation” means the Joint Stipulation and Recommendation between PUCO Staff and Verde filed in this proceeding on September 6, 2019.

INSTRUCTIONS FOR ANSWERING

1. All information is to be divulged which is in your possession or control, or within the possession or control of your attorney, agents, or other representatives of yours or your attorney.
2. Where an interrogatory calls for an answer in more than one part, each part should be separate in the answer so that the answer is clearly understandable.
3. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections are to be signed by the attorney making them.
4. If any answer requires more space than provided, continue the answer on the reverse side of the page or on an added page.
5. Your organization(s) is requested to produce responsive materials and information within its physical control or custody, as well as that physically controlled or possessed by any other person acting or purporting to act on your behalf, whether as an officer, director, employee, agent, independent contractor, attorney, consultant, witness, or otherwise.
6. Where these requests seek quantitative or computational information (e.g., models, analyses, databases, and formulas) stored by your organization(s) or its consultants in computer-readable form, in addition to providing hard copy (if an electronic response is not otherwise provided as requested), you are requested to produce such computer-readable information, in order of preference:
 - A. Microsoft Excel worksheet files on compact disk;

- B. other Microsoft Windows or Excel compatible worksheet or database diskette files;
 - C. ASCII text diskette files; and
 - D. such other magnetic media files as your organization(s) may use.
7. Conversion from the units of measurement used by your organization(s) in the ordinary course of business need not be made in your response; e.g., data requested in kWh may be provided in mWh or gWh as long as the unit measure is made clear.
8. Unless otherwise indicated, the following requests shall require you to furnish information and tangible materials pertaining to, in existence, or in effect for the whole or any part of the period from January 1, 2000 through and including the date of your response.
9. Responses must be complete when made and must be supplemented with subsequently acquired information at the time such information is available.
10. In the event that a claim of privilege is invoked as the reason for not responding to discovery, the nature of the information with respect to which privilege is claimed shall be set forth in responses together with the type of privilege claimed and a statement of all circumstances upon which the respondent to discovery will rely to support such a claim of privilege (i.e., provide a privilege log). Respondent to the discovery must a) identify (see definition) the individual, entity, act, communication, and/or document that is the subject of the withheld information based upon the privilege claim, b) identify all persons to whom the information has already been revealed, and c) provide the basis upon which the information is being withheld and the reason that the information is not provided in discovery.

REQUESTS FOR ADMISSION

* In accordance with Ohio Administrative Code 4901-1-16(D)(5), OCC requests that all responses be supplemented with subsequently-acquired information at the time such information is available.

RFA-3-001. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019 a Verde sales representative advised the consumer that she was currently paying 12 to 13 cents/kWh for electricity and around \$0.8/Ccf to \$0.85/Ccf for natural gas when in reality the consumer was only paying \$0.054 /kWh for electricity and \$0.485/Ccf for natural gas services (as described on page 9 of the May 29, 2019 Staff Report in this case).

RESPONSE:

RFA-3-002. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019, a Verde sales representative told a consumer that the consumer could rescind enrollment with Verde within three business days (as described on page 10 of the May 29, 2019 Staff Report in this case).

RESPONSE:

RFA-3-003. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019 Verde sales representatives promised potential customers discounts and/or savings off their current utility bills and then charged rates that did not produce any actual discounts and/or savings (as stated on page 10 of the May 29, 2019 Staff Report).

RESPONSE:

RFA-3-004. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019, a Verde telephone sales representative told a customer that he or she would save a percentage off their AEP bill and Dominion East Ohio bill if that customer switched to Verde (as described on page 10 of the May 29, 2019 Staff Report).

RESPONSE:

RFA-3-005. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019, a Verde sales representative sent information to the consumer's Caller ID to indicate that the call was from "US GOVT IRS 513-263-578" (as described on page 11 of the May 29, 2019 Staff Report).

RESPONSE:

RFA-3-006. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019 Verde sales representatives sent information to consumers' Caller IDs to indicate that the calls were from Duke Energy Ohio (as described on page 11 of the May 29, 2019 Staff Report).

RESPONSE:

RFA-3-007. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019, a Verde sales representative sent information to the consumer's Caller ID to indicate that the call was from "The Illuminating Company" (as described on page 11 of the May 29, 2019 Staff Report).

RESPONSE:

RFA-3-008. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019 Verde sales representatives sent information to consumers' Caller IDs to indicate that the calls were from the local utility's toll-free customer service number (as described on page 11 of the May 29, 2019 Staff Report).

RESPONSE:

RFA-3-009. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019 Verde's sales representatives represented to consumers that Verde was in partnership with Ohio Edison by telling the consumer that "Ohio Edison works along with several licensed suppliers in your area" and that Verde is a licensed supplier that provides all qualified customers in the consumer's area with a special price protection plan of 9.29 cents/kWh (as described on page 11 of the May 29, 2019 Staff Report).

RESPONSE:

RFA-3-010. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019, Verde's sales representatives used pre-recorded or robo-call messages to initiate sales calls with consumers (as described on page 12 of the May 29, 2019 Staff Report).

RESPONSE:

RFA-3-011. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019, Verde's sales representatives made statements to consumers such as "Verde will be a lower rate", the offer will "keep your electric and gas bill down," "same service at a more affordable rate," and "your price will be dropped down to 9.29 cents/kWh" (as described on page 12-13 of the May 29, 2019 Staff Report).

RESPONSE:

RFA-3-012. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019, Verde's sales representatives directed consumers to answer "yes" to third party verification questions (as described on page 13 of the May 29, 2019 Staff Report)

RESPONSE:

RFA-3-013. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019, Verde's sales representatives informed consumers that they had three days (business or calendar) to rescind a contract with Verde (as described on page 13 of the May 29, 2019 Staff Report)

RESPONSE:

RFA-3-014. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019, Verde failed to obtain signed written contracts from customers enrolled through door-to-door sales (as described on page 16 of the May 29, 2019 Staff Report)

RESPONSE:

RFA-3-015. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019, Verde failed to produce to PUCO Staff recordings of sales calls because Verde “severed ties with several of its contracted agents and, thus, could not obtain the recordings from these vendors” (as described on page 16 of the May 29, 2019 Staff Report)

RESPONSE:

RFA-3-016. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019, Verde’s third-party verification recordings did not contain all of the elements required by the Ohio Administrative Code (as described on page 21 of the May 29, 2019 Staff Report).

RESPONSE:

RFA-3-017. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Between October 1, 2018 and April 12, 2019, Verde failed to provide to some customers expiration notices of their fixed-term contracts, who were then placed on a month-to-month variable rate (as described on page 23 of the May 29, 2019 Staff Report).

RESPONSE:

RFA-3-018. Please admit or deny the following. If the response is anything but an unqualified admission, please explain in detail.

Verde indicated to PUCO Staff that Verde's terms of service did not require customer contract expiration notices (as described on page 23 of the May 29, 2019 Staff Report).

RESPONSE:

INTERROGATORIES

* In accordance with Ohio Administrative Code 4901-1-16(D)(5), OCC requests that all responses be supplemented with subsequently-acquired information at the time such information is available.

INT-3-023. Please identify the physical location where Verde retains customer records for its Ohio customers, and indicate how Verde maintains those records.

(*e.g.* electronic, paper, other).

RESPONSE:

INT-3-024. Please fully describe Verde's customer record retention policies with respect to its sales activities involving third party contractors.

RESPONSE:

INT-3-025. Does Verde Energy have access to third party sales agent call recordings made to Ohio residential customers for the period October 1, 2018 through April 12, 2019? If the answer is in the affirmative, please describe how third-party sales agents maintain that information for Verde.

RESPONSE:

INT-3-026. Identify every third-party contractor that Verde has used since January 1, 2018 to market and sell electric or gas services to Ohio customers. For each, please explain how Verde can access the third-party contractor's sales recordings. If Verde does not have access to sales recordings, please explain why.

RESPONSE:

INT-3-027. Identify any and all investigations or regulatory proceedings in any state or federal regulatory agency that are pending or have been resolved from January 1, 2017 to present involving Verde, its parent Spark Energy, or any affiliated retail energy supplier of Spark Energy. For each proceeding:

- a) describe the status and/or resolution of the proceeding; and
- b) identify the imposition of any license or certification suspension, penalty/fine, or restitution to customers.

RESPONSE:

INT-3-028. Identify any and all individual consumer complaints filed in any regulatory agency or court that are pending or have been resolved from January 1, 2017 to present involving the provision of CRES or CRNGS by Verde, its parent Spark Energy, or any affiliated retail energy supplier of Spark Energy. For each proceeding:

- a) describe the status and/or resolution of the proceeding;
- b) identify the imposition of any license or certification suspension, penalty/fine, or restitution to customers.

RESPONSE:

INT-3-029. With respect to Verde's withdrawal from the Dominion MVR program as discussed on page 3 of the Joint Stipulation and Recommendation, is Verde continuing to provide service to customers who were assigned prior to the date that Verde notified Dominion of its withdrawal from the MVR program?

RESPONSE:

INT-3-030. Regarding Verde's response to INT-3-029, please provide the number of residential customers served under the MVR program by month.

RESPONSE:

INT-3-031. From January 1, 2018 to the date of the Verde's notice of withdrawal from Dominion's MVR program, please identify the number of residential customers served by Verde under the MVR on a monthly basis.

RESPONSE:

INT-3-032. From January 1, 2018 to the date of the Verde's notice of withdrawal from Dominion's MVR program, please provide on a monthly basis the price Verde charged to residential customers assigned to Verde under Dominion's MVR program.

RESPONSE:

INT-3-033. Does Dominion purchase the account receivables from Verde for customers who are (or were) assigned to Verde under the MVR?

RESPONSE:

INT-3-034. From January 1, 2018 to the date of the Verde's notice of withdrawal from Dominion's MVR program, what is the total number of Verde residential customers who were removed from the MVR for non-payment?

RESPONSE:

INT-3-035. Referring to the Joint Stipulation and Recommendation on page 4, what is the total number of retail electric residential customers in each electric distribution utility ("EDU") service territory that were enrolled by Verde between October 1, 2018 and April 30, 2019 that will be re-rated under the terms of the stipulation?

RESPONSE:

INT-3-036. With respect to page 4 of the proposed Joint Stipulation and Recommendation, which provides that customers will be re-rated to the second lowest 12-month fixed 100% renewable price shown on the PUCO historic apples-to-apples chart for the week of December 17, 2018:

- a) Please provide the specific rate that customers will be re-rated from and to in each of the EDU service territories.
- b) Is the re-rate guaranteed to be a lower rate than the customers are currently paying for electricity through Verde?
- c) How does the re-rate compare with the current price to compare in each of the EDU service territories?
- d) How long will customers be served under the terms of the re-rate?

- e) Are customers required to consent to the re-rate and if so, how would this consent be provided?
- f) What is the total amount of rewards in each EDU service territory that Verde has provided customers who are subject to being re-rated under the terms of the stipulation?

RESPONSE:

INT-3-037. Under the proposed Joint Stipulation and Recommendation, will Verde continue to market and enroll customers in Ohio's natural gas choice programs?

RESPONSE:

INT-3-038. Referring to the Stipulation and Recommendation at page 4, paragraph 4, with respect to the provision related to the transfer of sale of Verde customer contracts to Interstate Gas Supply, please identify the number of residential customer contracts that will be or could be transferred or sold to IGS in each EDU service territory.

RESPONSE:

REQUESTS FOR PRODUCTION OF DOCUMENTS

In accordance with Ohio Administrative Code 4901-1-16(D)(5), OCC is specifically requesting that all responses be supplemented with subsequently acquired information at the time such information is available.

RPD-3-020. Referring to the Joint Stipulation and Recommendation at page 4, please provide a copy of all work sheets and calculations that support the \$1,068,000 that is identified as the amount to be refunded to customers as part of the re-rate.

RPD-3-021. With respect to paragraph 4, page 4 of the Joint Stipulation and Recommendation, please provide any and all documents regarding any agreement or settlement between Verde and Interstate Gas Supply.

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Requests for Admission, Interrogatories, and Requests for Production of Documents Propounded upon Verde Energy USA Ohio, LLC by the Office of the Ohio Consumers' Counsel, Third Set, was served upon the persons listed below this 12th day of September 2019.

/s/ Angela D. O'Brien
Angela D. O'Brien
Assistant Consumers' Counsel

SERVICE LIST

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EXHIBIT 7 – OCC’S FOURTH SET OF DISCOVERY REQUESTS

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Investigation into Verde Energy USA)	Case No. 19-0958-GE-COI
Ohio, LLC's Compliance with the)	
Ohio Administrative Code and)	
Potential Remedial Actions for Non-)	
Compliance.)	

**INTERROGATORIES AND REQUESTS FOR PRODUCTION OF DOCUMENTS
PROPOUNDED UPON VERDE ENERGY USA OHIO, LLC
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

**FOURTH SET
(September 16, 2019)**

The Office of the Ohio Consumers' Counsel in the above-captioned proceeding before the Public Utilities Commission of Ohio ("PUCO") submits the following Requests for Admission, Interrogatories, and Requests for Production of Documents pursuant to Sections 4901-1-19 and 4901-1-20 of the Ohio Administrative Code for response from Verde Energy USA Ohio, LLC ("Verde") within seven calendar days as required by the PUCO's Entry dated May 30, 2019. An electronic, non-pdf (e.g., Excel) response should be provided to the Office of the Ohio Consumers' Counsel at the following addresses:

Angela D. O'Brien (0097579)
Counsel of Record
Christopher Healey (0086027)
Bryce McKenney (0088203)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

65 East State Street, 7th Floor
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Telephone [O'Brien]: (614) 466-9531
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(willing to accept service by e-mail)

Kimberly W. Bojko
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280 Plaza, Suite 1300
280 North High Street
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Additionally, Verde must follow the instructions provided herein in responding to the inquiries. Definitions are provided that are used in the Office of the Ohio Consumers' Counsel's discovery.

DEFINITIONS

As used herein the following definitions apply:

1. "Document" or "Documentation" when used herein, is used in its customary broad sense, and means all originals of any nature whatsoever, identical copies, and all non-identical copies thereof, pertaining to any medium upon which intelligence or information is recorded in your possession, custody, or control regardless of where

located; including any kind of printed, recorded, written, graphic, or photographic matter and things similar to any of the foregoing, regardless of their author or origin.

The term specifically includes, without limiting the generality of the following:

punchcards, printout sheets, movie film, slides, PowerPoint slides, phonograph records, photographs, memoranda, ledgers, work sheets, books, magazines, notebooks, diaries, calendars, appointment books, registers, charts, tables, papers, agreements, contracts, purchase orders, checks and drafts, acknowledgments, invoices, authorizations, budgets, analyses, projections, transcripts, minutes of meetings of any kind, telegrams, drafts, instructions, announcements, schedules, price lists, electronic copies, reports, studies, statistics, forecasts, decisions, and orders, intra-office and inter-office communications, correspondence, financial data, summaries or records of conversations or interviews, statements, returns, diaries, workpapers, maps, graphs, sketches, summaries or reports of investigations or negotiations, opinions or reports of consultants, brochures, bulletins, pamphlets, articles, advertisements, circulars, press releases, graphic records or representations or publications of any kind (including microfilm, videotape and records, however produced or reproduced), electronic (including e-mail), mechanical and electrical records of any kind and computer produced interpretations thereof (including, without limitation, tapes, tape cassettes, disks and records), other data compilations (including, source codes, object codes, program documentation, computer programs, computer printouts, cards, tapes, disks and recordings used in automated data processing together with the programming instructions and other material necessary to translate, understand or use the same), all drafts, prints, issues, alterations,

modifications, changes, amendments, and mechanical or electric sound recordings and transcripts to the foregoing. A request for discovery concerning documents addressing, relating or referring to, or discussing a specified matter encompasses documents having a factual, contextual, or logical nexus to the matter, as well as documents making explicit or implicit reference thereto in the body of the documents. Originals and duplicates of the same document need not be separately identified or produced; however, drafts of a document or documents differing from one another by initials, interlineations, notations, erasures, file stamps, and the like shall be deemed to be distinct documents requiring separate identification or production. Copies of documents shall be legible.

2. “Communication” shall mean any transmission of information by oral, graphic, written, pictorial, or otherwise perceptible means, including, but not limited to, telephone conversations, letters, telegrams, and personal conversations. A request seeking the identity of a communication addressing, relating or referring to, or discussing a specified matter encompasses documents having factual, contextual, or logical nexus to the matter, as well as communications in which explicit or implicit reference is made to the matter in the course of the communication.
3. The “substance” of a communication or act includes the essence, purport or meaning of the same, as well as the exact words or actions involved.
4. “And” or “Or” shall be construed conjunctively or disjunctively as necessary to make any request inclusive rather than exclusive.

5. “You,” and “Your,” or “Yourself” refer to the party requested to produce documents and any present or former director, officer, agent, contractor, consultant, advisor, employee, partner, or joint venture of such party.
6. Each singular shall be construed to include its plural, and vice versa, so as to make the request inclusive rather than exclusive.
7. Words expressing the masculine gender shall be deemed to express the feminine and neuter genders; those expressing the past tense shall be deemed to express the present tense; and vice versa.
8. “Person” includes any firm, corporation, joint venture, association, entity, or group of natural individuals, unless the context clearly indicates that only a natural individual is referred to in the discovery request.
9. “Identify,” or “the identity of,” or “identified” means as follows:
 - A. When used in reference to an individual, to state his full name and present or last known position and business affiliation, and his position and business affiliation at the time in question;
 - B. When used in reference to a commercial or governmental entity, to state its full name, type of entity (e.g., corporation, partnership, single proprietorship), and its present or last known address;
 - C. When used in reference to a document, to state the date, author, title, type of document (e.g., letter, memorandum, photograph, tape recording, etc.), general subject matter of the document, and its present or last known location and custodian;

- D. When used in reference to a communication, to state the type of communication (i.e., letter, personal conversation, etc.), the date thereof, and the parties thereto and the parties thereto and, in the case of a conversation, to state the substance, place, and approximate time thereof, and identity of other persons in the presence of each party thereto;
 - E. When used in reference to an act, to state the substance of the act, the date, time, and place of performance, and the identity of the actor and all other persons present.
 - F. When used in reference to a place, to state the name of the location and provide the name of a contact person at the location (including that person's telephone number), state the address, and state a defining physical location (e.g., a room number, file cabinet, and/or file designation).
- 10. The terms "PUCO" and "Commission" refer to the Public Utilities Commission of Ohio, including its Commissioners, personnel (including Persons working for the PUCO Staff as well as in the Public Utilities Section of the Ohio Attorney General's Office), and offices.
 - 11. The term "e.g." connotes illustration by example, not limitation.
 - 12. "OCC" means the Office of the Ohio Consumers' Counsel.
 - 13. "Verde" or "Company" means Verde Energy USA Ohio, LLC.
 - 14. "CRES" means Competitive Retail Electric Service.
 - 15. "CRNGS" means Competitive Retail Natural Gas Service.
 - 16. "Proceeding" means Case No. 19-0958-GE-COI.

17. “Settlement” or “Stipulation” means the Joint Stipulation and Recommendation between PUCO Staff and Verde filed in this proceeding on September 6, 2019.
18. “Spark” refers to “Spark Holdco, LLC”

INSTRUCTIONS FOR ANSWERING

1. All information is to be divulged which is in your possession or control, or within the possession or control of your attorney, agents, or other representatives of yours or your attorney.
2. Where an interrogatory calls for an answer in more than one part, each part should be separate in the answer so that the answer is clearly understandable.
3. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections are to be signed by the attorney making them.
4. If any answer requires more space than provided, continue the answer on the reverse side of the page or on an added page.
5. Your organization(s) is requested to produce responsive materials and information within its physical control or custody, as well as that physically controlled or possessed by any other person acting or purporting to act on your behalf, whether as an officer, director, employee, agent, independent contractor, attorney, consultant, witness, or otherwise.
6. Where these requests seek quantitative or computational information (e.g., models, analyses, databases, and formulas) stored by your organization(s) or its consultants in computer-readable form, in addition to providing hard copy (if an electronic response is not otherwise provided as requested), you are requested to produce such computer-readable information, in order of preference:
 - A. Microsoft Excel worksheet files on compact disk;

- B. other Microsoft Windows or Excel compatible worksheet or database diskette files;
 - C. ASCII text diskette files; and
 - D. such other magnetic media files as your organization(s) may use.
7. Conversion from the units of measurement used by your organization(s) in the ordinary course of business need not be made in your response; e.g., data requested in kWh may be provided in mWh or gWh as long as the unit measure is made clear.
8. Unless otherwise indicated, the following requests shall require you to furnish information and tangible materials pertaining to, in existence, or in effect for the whole or any part of the period from January 1, 2000 through and including the date of your response.
9. Responses must be complete when made and must be supplemented with subsequently acquired information at the time such information is available.
10. In the event that a claim of privilege is invoked as the reason for not responding to discovery, the nature of the information with respect to which privilege is claimed shall be set forth in responses together with the type of privilege claimed and a statement of all circumstances upon which the respondent to discovery will rely to support such a claim of privilege (i.e., provide a privilege log). Respondent to the discovery must a) identify (see definition) the individual, entity, act, communication, and/or document that is the subject of the withheld information based upon the privilege claim, b) identify all persons to whom the information has already been revealed, and c) provide the basis upon which the information is being withheld and the reason that the information is not provided in discovery.

INTERROGATORIES

* In accordance with Ohio Administrative Code 4901-1-16(D)(5), OCC requests that all responses be supplemented with subsequently-acquired information at the time such information is available.

INT-4-039. Does Verde sell its residential customer accounts receivables to other utilities in Ohio? If the answer is affirmative, please provide the monthly revenue to Verde from such sales for the years 2017, 2018, and 2019.

RESPONSE:

INT-4-040. In reference to paragraph 3, page 4 of the Joint Stipulation and Recommendation, please fully describe and explain Verde's "shopping rewards program."

RESPONSE:

INT-4-041. In reference to paragraph 3, page 4 of the Joint Stipulation and Recommendation, please identify the number of customers who will be re-rated who have received "rewards" under Verde's shopping rewards program.

RESPONSE:

INT-4-042. In reference to paragraph 3, page 4 of the Joint Stipulation and Recommendation, for customers who will be re-rated and who have received “rewards” under Verde’s shopping rewards program, please explain fully how Verde will adjust the customers’ re-rates to account for the rewards.

RESPONSE:

INT-4-043. In reference to paragraph 3, page 4 of the Joint Stipulation and Recommendation, for each customer who will be re-rated and who has received “rewards” under Verde’s shopping rewards program, please identify the dollar value of the rewards on a monthly basis.

RESPONSE:

INT-4-044. Are the “rewards” referenced in paragraph 3, page 4 of the Joint Stipulation and Recommendation, identified on customers’ electric or gas bills?

RESPONSE:

INT-4-045. With respect to the “rewards” identified in paragraph 3, page 4 of the Joint Stipulation and Recommendation, please fully describe and explain how Verde maintains records regarding each customer’s rewards.

RESPONSE:

INT-4-046. Please define the term “great fixed price”, which appears in the sales instruction script produced by Verde in discovery (*see* VERDE 000034).

RESPONSE:

INT-4-047. With respect to the term “great fixed price” referenced in INT-4-046, please fully describe and explain how Verde’s sales agents use that term in relation to the utility’s default service price at the time of the customer’s enrollment.

RESPONSE:

INT-4-048. Please fully explain and describe the relationship between Verde and JLODGE, identified as the author of the audit description materials at VERDE 003548.

RESPONSE:

INT-4-049. In reference to paragraph 5, page 4 of the Joint Stipulation and Recommendation please fully explain and describe the “action plan for compliance” that Verde will submit prior to resuming marketing and customer enrollment in Ohio.

RESPONSE:

INT-4-050. Please identify the chief executive officer or highest-ranking officer or member for each Spark entity and affiliate identified in Verde’s response to INT-2-021, Exhibit 2.

RESPONSE:

REQUESTS FOR PRODUCTION OF DOCUMENTS

In accordance with Ohio Administrative Code 4901-1-16(D)(5), OCC is specifically requesting that all responses be supplemented with subsequently acquired information at the time such information is available.

- RPD-4-022. Please provide all documents related to the “shopping rewards program” referenced in paragraph 3, page 4 of the Joint Stipulation and Recommendation.
- RPD-4-023. Please provide all training documents or communications provided to Verde’s sales agents that describe or explain the utilities’ default electric or natural gas supply services.
- RPD-4-024. Please provide all contract expiration or renewal notices that Verde provided in 2017, 2018, and 2019 to customers who enrolled in fixed rate contracts.
- RPD-4-025. With respect to Verde’s response to INT-4-048, please provide the contract between Verde (or Spark or any Spark subsidiary) and JLODGE, along with copies of any fee schedules and/or invoices paid to JLODGE.
- RPD-4-026. Please provide a copy of the notice (and any drafts of the notice) referenced in paragraph 6, page 4 of the Joint Stipulation and Recommendation.

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Interrogatories and Requests for Production of Documents Propounded upon Verde Energy USA Ohio, LLC by the Office of the Ohio Consumers' Counsel, Fourth Set, was served upon the persons listed below this 16th day of September 2019.

/s/ Angela D. O'Brien

Angela D. O'Brien
Counsel of Record

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EXHIBIT 8 – OCC’S FIFTH SET OF DISCOVERY REQUESTS

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's)	
Investigation into Verde Energy USA)	Case No. 19-0958-GE-COI
Ohio, LLC's Compliance with the)	
Ohio Administrative Code and)	
Potential Remedial Actions for Non-)	
Compliance.)	

**REQUESTS FOR PRODUCTION OF DOCUMENTS
PROPOUNDED UPON VERDE ENERGY USA OHIO, LLC
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

**FIFTH SET
(September 17, 2019)**

The Office of the Ohio Consumers' Counsel in the above-captioned proceeding before the Public Utilities Commission of Ohio ("PUCO") submits the following Requests for Production of Documents pursuant to Section 4901-1-20 of the Ohio Administrative Code for response from Verde Energy USA Ohio, LLC ("Verde") within seven calendar days as required by the PUCO's Entry dated May 30, 2019. An electronic, non-pdf (e.g., Excel) response should be provided to the Office of the Ohio Consumers' Counsel at the following addresses:

Angela D. O'Brien (0097579)
Counsel of Record
Christopher Healey (0086027)
Bryce McKenney (0088203)
Assistant Consumers' Counsel

Office of the Ohio Consumers' Counsel

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Additionally, Verde must follow the instructions provided herein in responding to the inquiries. Definitions are provided that are used in the Office of the Ohio Consumers' Counsel's discovery.

DEFINITIONS

As used herein the following definitions apply:

1. "Document" or "Documentation" when used herein, is used in its customary broad sense, and means all originals of any nature whatsoever, identical copies, and all non-identical copies thereof, pertaining to any medium upon which intelligence or information is recorded in your possession, custody, or control regardless of where

located; including any kind of printed, recorded, written, graphic, or photographic matter and things similar to any of the foregoing, regardless of their author or origin.

The term specifically includes, without limiting the generality of the following:

punchcards, printout sheets, movie film, slides, PowerPoint slides, phonograph records, photographs, memoranda, ledgers, work sheets, books, magazines, notebooks, diaries, calendars, appointment books, registers, charts, tables, papers, agreements, contracts, purchase orders, checks and drafts, acknowledgments, invoices, authorizations, budgets, analyses, projections, transcripts, minutes of meetings of any kind, telegrams, drafts, instructions, announcements, schedules, price lists, electronic copies, reports, studies, statistics, forecasts, decisions, and orders, intra-office and inter-office communications, correspondence, financial data, summaries or records of conversations or interviews, statements, returns, diaries, workpapers, maps, graphs, sketches, summaries or reports of investigations or negotiations, opinions or reports of consultants, brochures, bulletins, pamphlets, articles, advertisements, circulars, press releases, graphic records or representations or publications of any kind (including microfilm, videotape and records, however produced or reproduced), electronic (including e-mail), mechanical and electrical records of any kind and computer produced interpretations thereof (including, without limitation, tapes, tape cassettes, disks and records), other data compilations (including, source codes, object codes, program documentation, computer programs, computer printouts, cards, tapes, disks and recordings used in automated data processing together with the programming instructions and other material necessary to translate, understand or use the same), all drafts, prints, issues, alterations,

modifications, changes, amendments, and mechanical or electric sound recordings and transcripts to the foregoing. A request for discovery concerning documents addressing, relating or referring to, or discussing a specified matter encompasses documents having a factual, contextual, or logical nexus to the matter, as well as documents making explicit or implicit reference thereto in the body of the documents. Originals and duplicates of the same document need not be separately identified or produced; however, drafts of a document or documents differing from one another by initials, interlineations, notations, erasures, file stamps, and the like shall be deemed to be distinct documents requiring separate identification or production. Copies of documents shall be legible.

2. “Communication” shall mean any transmission of information by oral, graphic, written, pictorial, or otherwise perceptible means, including, but not limited to, telephone conversations, letters, telegrams, and personal conversations. A request seeking the identity of a communication addressing, relating or referring to, or discussing a specified matter encompasses documents having factual, contextual, or logical nexus to the matter, as well as communications in which explicit or implicit reference is made to the matter in the course of the communication.
3. The “substance” of a communication or act includes the essence, purport or meaning of the same, as well as the exact words or actions involved.
4. “And” or “Or” shall be construed conjunctively or disjunctively as necessary to make any request inclusive rather than exclusive.

5. “You,” and “Your,” or “Yourself” refer to the party requested to produce documents and any present or former director, officer, agent, contractor, consultant, advisor, employee, partner, or joint venture of such party.
6. Each singular shall be construed to include its plural, and vice versa, so as to make the request inclusive rather than exclusive.
7. Words expressing the masculine gender shall be deemed to express the feminine and neuter genders; those expressing the past tense shall be deemed to express the present tense; and vice versa.
8. “Person” includes any firm, corporation, joint venture, association, entity, or group of natural individuals, unless the context clearly indicates that only a natural individual is referred to in the discovery request.
9. “Identify,” or “the identity of,” or “identified” means as follows:
 - A. When used in reference to an individual, to state his full name and present or last known position and business affiliation, and his position and business affiliation at the time in question;
 - B. When used in reference to a commercial or governmental entity, to state its full name, type of entity (e.g., corporation, partnership, single proprietorship), and its present or last known address;
 - C. When used in reference to a document, to state the date, author, title, type of document (e.g., letter, memorandum, photograph, tape recording, etc.), general subject matter of the document, and its present or last known location and custodian;

- D. When used in reference to a communication, to state the type of communication (i.e., letter, personal conversation, etc.), the date thereof, and the parties thereto and the parties thereto and, in the case of a conversation, to state the substance, place, and approximate time thereof, and identity of other persons in the presence of each party thereto;
 - E. When used in reference to an act, to state the substance of the act, the date, time, and place of performance, and the identity of the actor and all other persons present.
 - F. When used in reference to a place, to state the name of the location and provide the name of a contact person at the location (including that person's telephone number), state the address, and state a defining physical location (e.g., a room number, file cabinet, and/or file designation).
- 10. The terms "PUCO" and "Commission" refer to the Public Utilities Commission of Ohio, including its Commissioners, personnel (including Persons working for the PUCO Staff as well as in the Public Utilities Section of the Ohio Attorney General's Office), and offices.
 - 11. The term "e.g." connotes illustration by example, not limitation.
 - 12. "OCC" means the Office of the Ohio Consumers' Counsel.
 - 13. "Verde" or "Company" means Verde Energy USA Ohio, LLC.
 - 14. "CRES" means Competitive Retail Electric Service.
 - 15. "CRNGS" means Competitive Retail Natural Gas Service.
 - 16. "Proceeding" means Case No. 19-0958-GE-COI.

17. “Settlement” or “Stipulation” means the Joint Stipulation and Recommendation between PUCO Staff and Verde filed in this proceeding on September 6, 2019.
18. “Spark” refers to “Spark Holdco, LLC”

INSTRUCTIONS FOR ANSWERING

1. All information is to be divulged which is in your possession or control, or within the possession or control of your attorney, agents, or other representatives of yours or your attorney.
2. Where an interrogatory calls for an answer in more than one part, each part should be separate in the answer so that the answer is clearly understandable.
3. Each interrogatory shall be answered separately and fully in writing under oath, unless it is objected to, in which event the reasons for objection shall be stated in lieu of an answer. The answers are to be signed by the person making them, and the objections are to be signed by the attorney making them.
4. If any answer requires more space than provided, continue the answer on the reverse side of the page or on an added page.
5. Your organization(s) is requested to produce responsive materials and information within its physical control or custody, as well as that physically controlled or possessed by any other person acting or purporting to act on your behalf, whether as an officer, director, employee, agent, independent contractor, attorney, consultant, witness, or otherwise.
6. Where these requests seek quantitative or computational information (e.g., models, analyses, databases, and formulas) stored by your organization(s) or its consultants in computer-readable form, in addition to providing hard copy (if an electronic response is not otherwise provided as requested), you are requested to produce such computer-readable information, in order of preference:
 - A. Microsoft Excel worksheet files on compact disk;

- B. other Microsoft Windows or Excel compatible worksheet or database diskette files;
 - C. ASCII text diskette files; and
 - D. such other magnetic media files as your organization(s) may use.
7. Conversion from the units of measurement used by your organization(s) in the ordinary course of business need not be made in your response; e.g., data requested in kWh may be provided in mWh or gWh as long as the unit measure is made clear.
8. Unless otherwise indicated, the following requests shall require you to furnish information and tangible materials pertaining to, in existence, or in effect for the whole or any part of the period from January 1, 2000 through and including the date of your response.
9. Responses must be complete when made and must be supplemented with subsequently acquired information at the time such information is available.
10. In the event that a claim of privilege is invoked as the reason for not responding to discovery, the nature of the information with respect to which privilege is claimed shall be set forth in responses together with the type of privilege claimed and a statement of all circumstances upon which the respondent to discovery will rely to support such a claim of privilege (i.e., provide a privilege log). Respondent to the discovery must a) identify (see definition) the individual, entity, act, communication, and/or document that is the subject of the withheld information based upon the privilege claim, b) identify all persons to whom the information has already been revealed, and c) provide the basis upon which the information is being withheld and the reason that the information is not provided in discovery.

REQUESTS FOR PRODUCTION OF DOCUMENTS

In accordance with Ohio Administrative Code 4901-1-16(D)(5), OCC is specifically requesting that all responses be supplemented with subsequently acquired information at the time such information is available.

- RPD-5-027. Please provide copies of all formal and informal requests (e.g., interrogatories, data requests) made to Verde by the Commission, the PUCO Staff, and/or the PUCO's Attorneys General related to or referenced in the PUCO Staff's Report filed in this proceeding on May 29, 2019 and Verde's responses to those requests.
- RPD-5-028. Please provide copies of all formal and informal requests (e.g., interrogatories, data requests) made to Verde by the Commission, the PUCO Staff, and/or the PUCO's Attorneys General from September 1, 2018 to present and Verde's responses to those requests.
- RPD-5-029. Please provide copies of all documents and workpapers provided to the Commission, the PUCO Staff, and/or the PUCO's Attorneys General from September 1, 2018 to present.
- RPD-5-030. Please provide copies of all documents and workpapers provided to the Commission, the PUCO Staff, and/or the PUCO's Attorneys General related to the Joint Stipulation and Recommendation.
- RPD-5-031. To the extent they have not been produced to OCC by Verde in response to prior discovery requests, please provide copies of all communications

between Verde and the Commission, the PUCO Staff, and/or the PUCO's Attorneys General from September 1, 2018 to present.

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Requests for Production of Documents Propounded upon Verde Energy USA Ohio, LLC by the Office of the Ohio Consumers' Counsel, Fifth Set, was served upon the persons listed below this 17th day of September 2019.

/s/ Angela D. O'Brien

Angela D. O'Brien
Counsel of Record

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Case No(s). 19-0958-GE-COI

Summary: Motion for a Protective Order and Memorandum in Support with Exhibits electronically filed by Mr. David F. Proano on behalf of Verde Energy USA Ohio, LLC