

**ORIGINAL**

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

<b>APPLICATION OF INDIANA GAS COMPANY, )          INC. D/B/A VECTREN ENERGY DELIVERY )          OF INDIANA, INC. (“VECTREN NORTH”) FOR )          APPROVAL OF CHANGES IN ITS GAS COST )          ADJUSTMENTS IN ACCORDANCE WITH I.C. )          8-1-2-42(g) AND 8-1-2-42.3 )</b>	<b>CAUSE NO. 37394 GCA 124 S1</b>  <b>APPROVED: JUN 10 2015</b>
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**ORDER OF THE COMMISSION**

**Presiding Officers:**

**David E. Ziegner, Commissioner**

**David E. Veleta, Administrative Law Judge**

On July 1, 2014, Indiana Gas Company, Inc. d/b/a Vectren Energy Delivery of Indiana, Inc. (“Vectren North”) filed an Application requesting approval of its Gas Cost Adjustment (“GCA”) to be applicable during the months of September through November 2014 which was docketed in Cause No. 37394 GCA 123. The Indiana Office of Utility Consumer Counselor (“OUCC”) filed testimony contending that Vectren North had failed to include gas supply commodity purchases delivered by the ANR Pipeline Company (“ANR”) in the Gas Cost Incentive Mechanism (“GCIM”) which, if included, would reduce the recovery of gas costs from Vectren North’s customers. Vectren North responded that it disagreed with the OUCC’s contention, but recognized the difficulty of resolving the issue in the compressed time frame of a GCA. Consequently, Vectren North and the OUCC agreed to defer the issue until GCA 124 to afford them more time to address the issues.

Vectren North and the OUCC again submitted testimony in GCA 124 addressing the application of the GCIM to natural gas purchased through a request for proposal (“RFP”) priced at the Chicago index to replace gas contracted for on the ANR pipeline that could not be delivered due to a force majeure event (the “Replacement Gas”). Vectren North and the OUCC continued to disagree over the application of the GCIM to the Replacement Gas in GCA 124. Vectren North asserted that the role of its supply administrator in this process and how the GCIM applies to its actions both in this instance and going forward warranted further investigation. We established this subdocket to further evaluate the application of the GCIM to the Replacement Gas.

Exelon Generation Company, LLC (“Exelon Generation”), Vectren North’s gas supply administrator, sought leave to intervene in this subdocket on February 6, 2015. The Presiding Officers granted Exelon Generation’s request on February 18, 2015. On February 9, 2015, Vectren North filed the Verified Direct Testimony of Perry M. Pergola and Exelon Generation filed the Verified Direct Testimony of Mark Breese. The OUCC filed the Verified Direct Testimony of Jerome D. Mierzwa on March 10, 2015. Vectren North, Exelon, and the OUCC (collectively the “Settling Parties”) entered into a settlement agreement filed on April 1, 2015 (“Settlement Agreement”). The Settling Parties filed testimony in support of the Settlement Agreement on March 31, April 1, and April 3, 2015.

An evidentiary hearing was held on April 13, 2015 at 9:30 a.m., in Room 222, PNC Center, 101 West Washington Street, Indianapolis, Indiana. The Settling Parties appeared and participated in the evidentiary hearing. The Settling Parties' cases-in-chief, the Settlement Agreement, and the Settling Parties' testimony in support of the Settlement Agreement were offered into the record and admitted as evidence without objection. No members of the general public appeared.

Based upon the applicable law and the evidence presented, the Commission now finds:

1. **Notice and Jurisdiction.** Notice of the hearing in this Cause was given and published by the Commission as required by law. Vectren North is a public utility as defined in Indiana Code § 8-1-2-1(a). Under Indiana Code § 8-1-2-42(g), the Commission has jurisdiction over changes to Vectren North's rates and charges related to adjustments in gas costs. Therefore, the Commission has jurisdiction over Vectren North and the subject matter of this Cause.

2. **Vectren North's Characteristics.** Vectren North is an operating public utility incorporated under the laws of the State of Indiana and has an office at One Vectren Square, Evansville, Indiana. It has charter power and authority to engage in, and is engaged in, the business of rendering natural gas distribution service solely within the state of Indiana under indeterminate permits, franchises, and necessity certificates heretofore duly acquired to approximately 565,000 ultimate consumers in 311 communities and adjacent rural areas in 49 counties in the north central, central and southern portions of Indiana.

3. **Evidence Presented.**

A. **Vectren North's Case-in-Chief.** Vectren North's Director, Gas Supply, Perry M. Pergola, explained that the issue in the subdocket derived from a settlement agreement approved in Cause No. 43963 pursuant to which ProLiance Energy, LLC ("ProLiance") continued the provision of gas supply administration services to Vectren North and other utilities (the "ProLiance Settlement"). Mr. Pergola explained that ProLiance's rights and obligations under the gas supply administration agreement were assumed by ETC Marketing, LTD ("ETC") in early 2013 and then by Exelon Generation on April 1, 2014.

Pursuant to the gas supply administration agreement, ETC provided pipeline delivery services to Vectren North, including a winter only supply service using ANR for delivery of gas from Louisiana to Vectren North's system. Mr. Pergola explained that the established index price point used for this transaction was ANR-Louisiana. In the late summer/early fall of 2013, ANR notified Vectren North of a force majeure event precluding the delivery of gas on the ANR pipeline. Mr. Pergola testified that ETC, on Vectren North's behalf, conducted an RFP for gas to replace this supply. The two low bids were selected by Vectren North which resulted in 25,000 dekatherms per day ("dth/day") of gas priced at a Trunkline Zone 1A Gas Daily Pipeline index point and 48,328 dth/day of gas priced at a Chicago city-gate Gas Daily index point.

Mr. Pergola noted that the ProLiance Settlement incorporated a GCIM designed to incentivize ETC to "beat the benchmark." During the operation of the force majeure, he stated that ETC was able to purchase gas at the ANR zone ML-2 location at a price lower than the reserved

supply price off the Chicago city-gates index and delivered in ANR zone ML-3, creating opportunities for ETC to recognize a gain on its sale to Vectren North.

Mr. Pergola testified that Vectren North was unaware ETC had benefitted from this opportunity because ETC excluded the ANR commodity sales from the GCIM results provided to the OUCC's auditor. Exelon Generation subsequently provided detailed information about this transaction. Mr. Pergola opined that the primary dispute with the OUCC in this subdocket was the calculation of the benchmark for purposes of the GCIM calculation. He testified that the appropriate benchmark should be the Chicago city-gate price for the Replacement Gas, not the ANR-Louisiana index, because Vectren North actually contracted for gas priced at the Chicago city-gate index. Because ETC succeeded in purchasing gas at a price below the Chicago city-gate index, the difference between it and the actual purchase price should be the basis to determine the sharing under the GCIM.

B. Exelon Generation's Case-in-Chief. Mark Breese, Exelon Generation's Managing Director of Gas Origination noted that in Cause No. 43693, the Commission approved a settlement agreement in which ProLiance would supply gas service to Vectren North, and other Indiana utilities. Included in the settlement agreement were terms and conditions covering the pricing of gas sold by ProLiance to Vectren North. ETC was Vectren North's gas supply administrator under the Portfolio Administration Agreement ("PAA") during the January 2014 through March 2014 period. Mr. Breese noted that that the facts are not in dispute in this proceeding, namely that a force majeure made it a necessity for Vectren to issue the RFP. Also, Mr. Breese testified that the OUCC does not contest the fact that the RFP resulted in the continuation of firm service at a reasonable price to Vectren North's customers. Rather, the dispute is a narrow dispute as to how the GCIM applies to these purchases.

Mr. Breese testified that the OUCC misapplied the GCIM calculation, and noted that the OUCC's proposed benchmarks for the calculation of sharing under the GCIM are inconsistent with the goals of the GCIM, and do not recognize the force majeure. Mr. Breese noted the goals of the GCIM (as noted in the ProLiance Settlement) are: "(1) reduce customer gas costs, (2) fairly measure costs of supply against market, (3) employ a measurement that recognizes the Utilities' specific portfolio characteristics, and (4) reward performance which beats the market and penalize performance that does not beat the market."

Mr. Breese testified that Exelon Generation made a good faith effort to resolve this dispute. Mr. Breese noted that the GCIM envisions the establishment of Benchmark Prices that are then compared to the utility's actual cost of supply. Vectren North is permitted to pass through its actual cost of supply plus or minus a share of the difference between the estimated cost priced off the Benchmark Prices and the utility's actual costs. By allowing Vectren North to share in savings relative to the Benchmark Price (and penalizing the utility for exceeding the Benchmark Price), the GCIM incentivizes the utility to acquire the lowest cost supply on behalf of the customers. Mr. Breese noted that Vectren North passed on the risks and rewards of the GCIM to ETC, as permitted under the ProLiance Settlement, and as such, to the degree that ETC's costs fall below the Benchmark Price, and ETC realizes a gain on the sale to Vectren North, ETC must share some of that gain with Vectren North who, in turn, credits this to its sales customers. Likewise, to the degree ETC's costs exceed the Benchmark Price, ETC realizes a loss on the sale but may pass through a

portion of that loss to Vectren North, who in turn passes this through to its sales customers. Therefore, when the force majeure occurred, forcing a 100% reduction of gas flow from the ANR pipeline in Louisiana, this suspended ETC's obligation to deliver and sell gas to Vectren North, and to price and benchmark under the GCIM any alternative deliveries that it could arrange to Vectren North. ETC, at the direction of Vectren North, solicited offers via a RFP for firm supply delivery delivered to secondary points (due to problems surrounding accepting at the primary point and at these secondary points, as better explained by Vectren's testimony).

Mr. Breese testified that the GCIM Agreement indeed had a force majeure clause that contemplated such an event so as to not penalize the utility for any "intra-day" costs, in order to avoid pipeline penalties. However, Vectren North acted prudently by securing a firm supplier and avoiding significant pipeline penalties from the force majeure. Mr. Breese argued that the GCIM should not apply simply because Vectren North was able to secure alternative Winter Delivery Service-3 ("WDS-3") supply during the force majeure event; while the parties acted prudently to secure firm gas supply, ETC was unable to purchase gas at the ANR SE Headstation as contemplated under the GCIM. Mr. Breese noted that the OUCC bases its contentions on language of the GCIM that states: "Benchmark Prices shall reflect the natural gas commodity prices of the geographic locations representative of the supply basin/location where the gas was purchased and delivered to primary and secondary receipt points of the Utility's transportation capacity." But, the variable of "point of purchase" on the delivery day benchmark, which the OUCC relies upon, is illogical, according to Mr. Breese. The benchmark, which by definition is the "price to beat," would be in flux, changing daily, and would be subject to 20/20 hindsight.

Mr. Breese noted that Exelon Generation's proposed methodology for establishing replacement Benchmark Prices was similar to past results and how it has been traditionally computed, and noted that comparing these replacement Benchmark Prices to ETC's actual costs is consistent with the historical application of the GCIM. Mr. Breese noted that there is one difference from the past results, namely that ETC was able to cover Vectren North's gas supply reservation priced off the Chicago price index (the replacement Benchmark Price) by actually purchasing lower priced gas from third parties in ANR Zone ML-2 at a lower cost – a savings – when compared to the reserved "Chicago" supply that was not utilized. Therefore, utilizing the Chicago index as the benchmark incentivized ETC to beat that benchmark, as it did, resulting in savings for consumers. Again, Mr. Breese noted that Exelon Generation's methodology was consistent with the GCIM goals, and contended that the OUCC's methodology was inconsistent with the GCIM goals.

Overall, Mr. Breese concluded that the Commission should accept Exelon Generation's perspective (that the Benchmark Prices should be based on the pre-established indices for the reserved supply volumes acquired under the RFP), and reject the OUCC's floating, daily benchmark proposal. Mr. Breese stated that consistent with Section 3.4 of the 2010 Settlement, Vectren North passed on the "risks and rewards" of the GCIM to ETC, as set out in the GCIM. As such, ETC retains Vectren North's share of any benefit or cost related to the difference between the Benchmark Price and ETC's actual cost of supplying gas. ETC then passes through the customer's share of any gain or loss to Vectren North who, in turn, passes this share of gains or losses to its sales customers. Under this arrangement, the GCIM should be computed based on the difference between the Benchmark Price and ETC's actual costs for gas delivered to Vectren North. Mr. Breese noted that when ETC covered Vectren North's call using its base load purchases of gas in ANR Zone ML-2,

ETC's "actual costs" should be based on the market price of gas for that location on that day. Based on Exelon Generation's proposed benchmark and transfer prices for base load from ETC's portfolio, the GCIM benefit associated with the WDS-3 would have been \$3,107,098 for January and \$1,338,006 for February if the GCIM applied. Based on those amounts, ETC beat the Benchmark Price by 6.42 percent in January, resulting in a 70/30 sharing of this benefit with Vectren North (and subsequently the customers) of \$923,129; and 2.39 percent in February, resulting in a 50/50 sharing of \$669,003, under the GCIM if it is deemed to apply in this force majeure situation.

C. OUC's Case-in-Chief. Jerome Mierzwa, Vice President of Exeter Associates, Inc. ("Exeter") testified that since the conclusion of GCA 123, the Vectren North and the OUC have attempted to resolve the issues related to the reporting of ANR delivered purchases in the GCIM. Mr. Mierzwa stated Vectren North and the OUC held discussions and exchanged information, but failed to resolve differences related to Vectren North's GCA 123 GCIM results. Mr. Mierzwa concluded that Vectren North improperly failed to include gas supply commodity purchases delivered by ANR pipeline in its GCIM for the GCA 123 review period. Inclusion of these purchases results in a loss of \$4,445,105 under the GCIM, of which \$2,843,972 should be assigned to Vectren North.

Mr. Mierzwa, in his testimony, outlined the interstate supply services provided by ETC to Vectren North during the GCA 123 review period. Mr. Mierzwa noted that during the GCA 123 review period, pursuant to the Gas Supply and PAA between Vectren North and ETC, ETC administered interstate pipeline transportation and storage contracts to provide gas delivery services to Vectren North's citygate (which included contracts with ANR. Mr. Mierzwa described Vectren North's GCIM as an incentive mechanism designed to reward Vectren North if it acquires commodity gas supplies at less than market prices and penalize Vectren North if it acquires gas at more than market prices. The ProLiance Settlement, which governs the GCIM, provides that Benchmark Prices, "shall reflect the natural gas commodity prices for geographic locations representative of the supply basin/location where the gas was purchased ...." Positive and negative differentials from the benchmark are shared between Vectren North and GCA customers. Purchases made pursuant to Vectren North's Price Volatility Mitigation Program are excluded from the sharing provisions of the GCIM.

Mr. Mierzwa noted that the PAA administrator, on behalf of Vectren North, purchases gas at a number of interstate pipeline receipt point locations, which can include ANR, various parts of Texas. There are also different ways to purchase the gas, either baseload (generally arranged on a monthly basis) or daily purchases. One of the delivery services provided by ETC to Vectren North under the PAA is WDS-3. Per a service agreement between ProLiance and Vectren North, 32,500 dth/day of ANR sourced gas supplies were to be delivered from November through March. Mr. Mierzwa claimed that number increased to 72,500 dth/day for the winter of 2013-2014, yet the service agreement was not updated, and not filed with the Commission.

Mr. Mierzwa testified WDS-3 purchases were excluded from Vectren North's GCA 123 review, and ProLiance did not indicate why those purchases were excluded. Further, the WDS-3 purchases were priced based on two separate index prices. Of the up to 72,500 dth/day of WDS-3 service available to Vectren North, the first 24,568 dth purchased each day were priced based on

daily Trunkline Zone 1 A index prices. Purchase quantities in excess of 24,568 dth/day were priced based on daily Chicago city-gate index prices. Because of a force majeure, ANR Zone Supplies were unavailable, and ETC solicited two separate RFPs. Two suppliers were selected to meet the shortfall, one of which was ETC for 28,328 dth/day. The ANR Zone 3 supplies were offered at Chicago citygate index prices. Mr. Mierzwa stated that under the Proliance Settlement, the 24,568 dth/day were priced based on daily Chicago city-gate index prices. Mr. Mierzwa argued that the GCIM calculations should reflect the actual costs which Vectren North paid for WDS-3 purchases. Consistent with the requirements of the Proliance Settlement, Mr. Mierzwa testified that actual WDS-3 costs should be benchmarked against market prices for the location where the gas was purchased. Mr. Mierzwa claimed that benchmarking Vectren North's WDS-3 purchases based on the location at which the gas was purchased under the GCIM against Vectren North's actual costs for WDS-3 purchases, results in a loss of \$4,445,105 under the GCIM, of which \$2,843,972 should be assigned to Vectren North. He noted that during the GCA 123 review period, ETC earned \$4.4 million on the sale of the ANR Zone 2 supplies to Vectren North at Chicago city-gate index prices.

4. **Settlement Agreement.** The Settling Parties entered into the Settlement Agreement on March 31, 2015 to resolve the disputed issues in this subdocket. Pursuant to the Settlement Agreement, Exelon Generation agreed to pay to Vectren North \$1,601,132 as the GCIM credit under the ProLiance Settlement. The Settling Parties agree that Vectren North should be authorized to recover through its GCA \$1,405,170 of the \$3,006,302 of ANR based gas costs that had been suspended for recovery in Cause No. 37394 GCA 123. Vectren North should be further authorized to recover the \$1,405,170 over a 12-month period in the same manner as other variances are recovered from customers on Schedule 12B in the first GCA filing after the Final Order is issued in this Cause.

5. **Evidence Presented in Support of the Settlement Agreement.** The Settling Parties each offered testimony in support of the Settlement Agreement. OUCC witness Mierzwa described the differing positions of the parties and explained that the Settlement Agreement was structured to reach a mutually acceptable resolution of the issue and avoid the risk, expense and administrative burden of further litigation. He stated that the Settlement Agreement is the result of arms-length bargaining between the Settling Parties and falls within the range of potential outcomes proposed by the Settling Parties. Mr. Mierzwa testified that the Settlement Agreement is in the public interest because it avoids the risk, expense, and administrative burden of further litigation, and produces a result that falls within the range of potential outcomes proposed by the Settling Parties. He recommended the Commission approve the Settlement.

Vectren North witness Pergola also testified in support of the Settlement Agreement. He stated that the terms of the Settlement Agreement represent a just and reasonable resolution of the dispute while avoiding the expense and uncertainty of further litigation. He explained that the Settlement Agreement benefits Vectren North's customers and meets the stated goals of the GCIM of reducing customer gas costs, fairly measuring costs of supply against market, recognizing Vectren North's specific portfolio characteristics and rewarding performance which beats the market and penalizing performance that does not beat the market. Exelon Generation witness Breese concurred with Mr. Pergola's rationale for concluding the Settlement Agreement represented a just and reasonable resolution of the dispute.

6. **Discussion and Commission Findings.** The dispute in this subdocket relates to application of the GCIM established in the ProLiance Agreement. The purpose of the GCIM is to reduce customer gas costs, fairly measuring costs of supply against market conditions, and reward performance which beats the market and penalize performance that does not beat the market. The GCIM works by establishing a benchmark price and affording Vectren North and its supply administrator the opportunity to keep a portion of the savings generated by purchases below the benchmark. On the other hand, if Vectren North or its supply administrator pay more than the benchmark, they must bear a portion of the incremental cost. During the fall of 2013, one of the pipelines Vectren North, through its supply administrator, contracted to obtain supply from faced a force majeure event. Vectren North requested and its supply administrator secured the Replacement Gas to replace this capacity. In February of 2013, ETC was able to acquire gas at a price lower than the index for the Replacement Gas during certain days.

The Settling Parties originally disagreed as to whether (1) the GCIM should apply during a force majeure event and (2) if it did apply, what the appropriate benchmark should be. Under the Settlement Agreement, the Settling Parties have agreed that Vectren North's customers will receive a credit of \$1,601,132<sup>1</sup> as a result of application of the GCIM. The Settling Parties now request approval of that Settlement Agreement. In addition, the Settling Parties pre-filed testimony in support of the Settlement Agreement, characterizing it as just and reasonable and in the public interest.

In evaluating the Settlement Agreement, the Commission begins with the general statement that settlements presented to the Commission are not ordinary contracts between private parties. *U.S. Gypsum v. Ind. Gas Corp.*, 735 N.E.2d 790, 803 (Ind. 2009). When the Commission approves a settlement, the settlement “loses its status as a strictly private contract and takes on a public interest gloss.” *Id.* (quoting *Citizens Action Coalition v. PSI Energy*, 664 N.E.2d 401, 406 (Ind.Ct.App. 1996)). Thus, the Commission “may not accept a settlement merely because the private parties are satisfied; rather [the Commission] must consider whether the public interest will be served by accepting the settlement.” *Citizens Action Coalition*, 664 N.E.2d at 406.

The Commission is not required to accept a settlement simply because the parties have agreed to it, and agreements filed by some or all of the parties must still be supported by probative evidence. *Id.* The Commission decision, ruling, or order—including approval of a settlement—must be supported by specific findings of fact and sufficient evidence. *U.S. Gypsum*, 735 N.E.2d at 795 (citing *Citizens Action Coalition v. Public Serv. Co.*, 582 N.E.2d 330, 331 (Ind. 1991)). The Commission's own procedural rules require that settlements be supported by probative evidence. 170 IAC 1-1.1-17(d). Therefore, before the Commission can approve the Settlement Agreement, we must determine whether the evidence in this Cause sufficiently supports the conclusions that the agreement is reasonable, just, and serves the public interest.

Based on a review of all the evidence in the record, we find that the conclusions in the Settlement Agreement are sufficiently supported by the evidence and that the agreement is reasonable, just and serves the public interest. The Settlement Agreement results in Vectren North GCA customers receiving a benefit in the form of \$1,601,132 reduction in their gas costs. While

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<sup>1</sup> Customers will not see a credit on their bills, however less money will be returned through the variance than would have absent the credit.

the OUCC originally argued for a larger benefit, Exelon Generation argued that the GCIM should not apply at all and that if it did apply, the mechanism should result in a benefit to Vectren North customers of \$1,601,132. The Settlement Agreement adopts a reasonable construction of the GCIM for purposes of resolving this dispute. The Settlement Agreement's result is consistent with the positions of the parties, supported by the evidence and minimizes future litigation.

7. **Use of Settlement Agreement.** The Settling Parties agree that the Settlement Agreement should not be used as precedent in any other proceeding or for any other purpose, except to the extent necessary to implement or enforce its terms. Consequently, with regard to future citation of the Settlement Agreement, we find that our approval herein should be construed in a manner consistent with our finding in *Richmond Power & Light*, Cause No. 40434, 1997 Ind. PUC LEXIS 459, at \*19-22 (IURC March 19, 1997).

**IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:**

1. The Settlement Agreement between the OUCC, Exelon Generation and Vectren North, a copy of which is attached hereto as Exhibit 1, is approved without modification.
2. Vectren North is authorized to recover through its GCA \$1,405,170 suspended from recovery in GCA 123 over a 12-month period in the same manner as other variances are recovered from customers on Schedule 12B in Vectren North's first GCA filing after the date of this Order.
3. The Order shall be effective on and after the date of its approval.

**MAYS-MEDLEY, HUSTON, AND ZIEGNER CONCUR; STEPHAN AND WEBER ABSENT:**

**APPROVED: JUN 10 2015**

**I hereby certify that the above is a true and correct copy of the Order as approved.**

  
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**Brenda A. Howe**  
**Secretary to the Commission**

# Exhibit 1

FILED  
April 1, 2015  
INDIANA UTILITY  
REGULATORY COMMISSION

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STATE OF INDIANA  
INDIANA UTILITY REGULATORY COMMISSION

APPLICATION OF INDIANA GAS COMPANY, INC.  
D/B/A VECTREN ENERGY DELIVERY OF INDIANA,  
INC. ("VECTREN NORTH") FOR APPROVAL OF  
CHANGES IN ITS GAS COST ADJUSTMENTS IN  
ACCORDANCE WITH I.C. 8-1-2-42(g) AND 8-1-2-42.3

CAUSE NO. 37394 GCA-124 S1

STIPULATION AND SETTLEMENT AGREEMENT

This Stipulation and Settlement Agreement ("Settlement Agreement") is made and entered into as of this 31st day of March 2015, by and between Indiana Gas Company, Inc. d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren North"), the Indiana Office of Utility Consumer Counselor ("OUCC") and Exelon Generation Company, LLC d/b/a Constellation ("Constellation") solely for purposes of compromise and settlement. Vectren North, the OUCC and Constellation may be referred to hereinafter individually as a "Settling Party" or collectively as the "Settling Parties."

WHEREAS, on March 17, 2011, the Commission approved a settlement agreement for Indiana Utility Regulatory Commission ("Commission") Cause No. 43963 (the "43963 Settlement" or "43963 Settlement Agreement") that extended the provision of gas supply administration and sales services provided by ProLiance Energy, LLC ("ProLiance") to Vectren North and other utilities; and

WHEREAS, the services provided by ProLiance under the 43963 Settlement Agreement, including the terms and conditions covering the pricing of gas sold by ProLiance to Vectren North, are detailed in Exhibit B to the 43963 Settlement, including the Gas Sales and Portfolio Administration Agreement ("PAA"); and

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**WHEREAS**, in early 2013, ETC ProLiance Energy, LLC (“EPE”) became the successor to ProLiance and assumed the rights, liabilities, duties, and obligations associated with its gas marketing assets, including the PAA with Vectren North and associated agreements; and

**WHEREAS**, EPE and all of its assets were subsequently sold to Constellation on April 1, 2014 and EPE’s name was changed to Constellation ProLiance, LLC (“Constellation ProLiance”); and

**WHEREAS**, effective September 1, 2014, Constellation ProLiance assigned to Constellation, among other things, all of its rights, liabilities, duties and obligations under the PAA with Vectren North; and

**WHEREAS**, during the January 2014 through March 2014 period, the period for which Vectren North’s gas costs were at issue in this proceeding (Cause Number 37394-GCA124 S1, defined fully below), EPE acted as Vectren North’s gas supply administrator under the terms of the PAA; and

**WHEREAS**, EPE’s role as Vectren North’s gas supply administrator was governed by the PAA and associated agreements and the 43963 Settlement Agreement, including a Gas Cost Incentive Mechanism (“GCIM”) related to certain Vectren North purchases; and

**WHEREAS**, on December 18, 2014, OUCC and Vectren North, consistent with the Commission’s November 25, 2014 order establishing the above-captioned sub-docket regarding issues related to both the applicability and calculation of the GCIM associated with gas delivered to Vectren North on ANR Pipeline during the first quarter of 2014 and numbered 37394-GCA124 S1 (“Sub-docket”), proposed a procedural schedule (“Procedural Schedule”) providing for the filing of direct and rebuttal testimony, discovery and the possibility of settlement; and

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**WHEREAS**, during the pendency of the sub-docket proceeding, Vectren North's ability to recoup through the GCA \$3,006,302 of gas costs incurred during the period of January-March 2014 has been suspended due to the GCIM dispute under consideration in the sub-docket; and

**WHEREAS**, on December 23, 2014, the Commission established the Procedural Schedule, providing for an evidentiary hearing to commence at 9:30 a.m. on April 8, 2015 (the "Hearing"); and

**WHEREAS**, the Settling Parties each submitted initial pre-filed testimony in accordance with the Procedural Schedule that raised issues regarding the applicability of the GCIM during a pipeline force majeure event as well as how to calculate the GCIM; and

**WHEREAS**, on March 23, 2015, the Settling Parties jointly notified the Commission that they had reached an agreement in principle to settle the Sub-docket without further adverse proceedings and jointly moved the Commission to suspend the Procedural Schedule so that the settlement could be properly memorialized.

**NOW THEREFORE**, the Settling Parties, having been duly advised by their respective staff, experts and counsel, agree that the following terms and conditions represent a fair, just and reasonable resolution of the matters described herein, subject to their incorporation by the Commission into a final, non-appealable order ("Final Order") without modification or further condition that may be unacceptable to the Settling Parties:

1. Constellation, as successor to EPE, shall pay Vectren North the total sum of **one million six hundred and one thousand one hundred and thirty two United States dollars (\$1,601,132) (the "Settlement Payment")**, as the GCIM credit due to Vectren North which previously paid the entire amount of ANR priced gas costs to EPE. The Settlement Payment

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shall be paid by wire with instructions to be provided by Vectren North not later than 31 business days after the Commission issues a Final Order approving the Settlement Agreement. If the Commission approves a Modified Settlement Agreement (defined below), however, the Settlement Payment shall be due 31 business days after a Final Order approving the Modified Settlement Agreement unless a Settling Party provides written notice the Modified Settlement Agreement is unacceptable in accordance with the terms of paragraph four (4) below.

2. Vectren North shall recover through its GCA \$1,405,170 of the \$3,006,302 of ANR based gas costs that had been suspended for recovery due to the OUCC's opposition based on the GCIM dispute. This represents the net amount due to Vectren North after applying the GCIM "credit" that has been agreed to by the Parties as set forth in paragraph one (1) above. This amount will be included on Schedule 12B in Vectren North's first GCA filing after the Final Order is issued in this Cause, and will be recovered from customers over a 12-month period in the same manner as other variances are recovered from customers on Schedule 12B.

3. In consideration of the Settlement Payment, the OUCC hereby releases and discharges Vectren North and Constellation for any acts or omissions related to or arising from any issue that was raised or could have been raised in the Sub-docket, including but not limited to: (i) whether the GCIM applied during a force majeure event on ANR Pipeline that required a request for proposals that successfully secured alternative firm gas supply arrangements to serve Vectren North's customers; (ii) if so, the appropriate calculation of the GCIM, including the appropriate benchmark prices for measuring Vectren North's performance, during this period; and (iii) liabilities of any kind arising from, and any issues otherwise related to, the GCIM related to the period January 2014 through March 2014. Notwithstanding the foregoing, Vectren

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North, OUCC and Constellation do not make any representation about the applicability or inapplicability of the GCIM with regard to the issues in the Sub-docket or otherwise.

4. The Settling Parties agree that they will reasonably cooperate to file the Settlement Agreement, supporting testimony and a proposed Final Order with the Commission seeking approval without modification of the Settlement Agreement. The Settling Parties agree to waive cross-examination of each other's witnesses in proceedings to obtain a Final Order approving this Settlement Agreement and will not object to the admission of evidence supporting the Settlement Agreement. The Settling Parties will support or not oppose on reconsideration, rehearing and appeal a Commission Order accepting and approving this Settlement Agreement. Each and every term of the Settlement Agreement is in consideration and support of each and every other term. The Settlement Agreement is not severable and shall be accepted or rejected in its entirety without modification or further condition(s) that may be unacceptable to a Settling Party; provided, however, that if the Commission does not approve this Settlement Agreement in its entirety or imposes conditions different from the terms of the Settlement Agreement ("Modified Settlement Agreement"), the Settlement Agreement shall be deemed withdrawn and deemed null and void, upon notice in writing by any Settling Party within fifteen (15) business days after the date of the Final Order that any modifications made by the Commission are unacceptable to it.

5. The Settlement Agreement is solely the result of compromise in the settlement process and, except as provided herein, is without prejudice to and shall not constitute waiver of any position that a Settling Party might take with respect to any or all of the items resolved by this Settlement Agreement in any future regulatory or other proceedings.

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6. The Settling Parties agree that the evidence in support of the Settlement Agreement constitutes substantial evidence sufficient to support it and provides an adequate evidentiary basis upon which the Commission can make any findings of fact and conclusions of law necessary for the approval of the Settlement Agreement, as filed.

7. The Settling Parties agree that this Settlement Agreement is the result of a negotiated settlement. Neither the making of the Settlement Agreement nor any of its provisions, nor the performance thereof, shall constitute an admission by any Settling Party in this or any other litigation or proceeding, except as necessary to implement or enforce this Settlement Agreement. For example, neither payment of the Settlement Payment nor any fact related to the negotiation and performance of this Settlement Agreement may be construed as an admission of fact or liability. Constellation and Vectren North each expressly disclaims the admission of any such fact or liability.

8. The communications and discussions during the settlement negotiations and conferences and any materials produced and exchanged concerning the Settlement Agreement (and any notes or copies that reflect those materials) relate to offers of settlement and shall be treated as if they are privileged and confidential and afforded all protections a Settling Party would give its own privileged and confidential materials. In accordance with, but not limited by, Indiana Rule of Evidence 408 and Federal Rule of Evidence 408, such materials shall not be used in any manner in connection with any other proceeding or proceedings except as otherwise expressly provided herein.

9. The Settling Parties understand and agree that neither the making of the Settlement Agreement nor the execution of any of the other documents or pleadings required to effectuate the provisions of the Settlement Agreement, nor the provisions thereof, nor the entry

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by the Commission of a Final Order approving the Settlement Agreement or Modified Settlement Agreement, shall establish any principles or legal precedent applicable to Commission proceedings other than those resolved herein.

10. The provisions of the Settlement Agreement shall be enforceable by the Settling Parties before the Commission and in any state court of competent jurisdiction, as applicable.

11. The undersigned have represented and agreed that they are fully authorized to execute the Settlement Agreement on behalf of their designated clients, and their successors and assigns, who will be bound thereby.

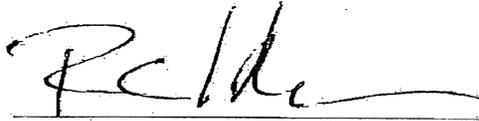
12. The Settlement Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[signature page to follow]

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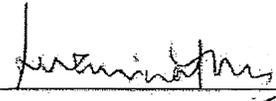
ACCEPTED AND AGREED this 31<sup>st</sup> day of  
March 2015.

INDIANA OFFICE OF UTILITY CONSUMER  
COUNSELOR



EXELON GENERATION COMPANY, LLC  
D/B/A CONSTELLATION

Legal  
Review  


x 

INDIANA GAS COMPANY, INC. D/B/A  
VECTREN ENERGY DELIVERY OF INDIANA,  
INC.

