

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

APPLICATION OF SOUTHERN INDIANA GAS )  
AND ELECTRIC COMPANY D/B/A VECTREN )  
ENERGY DELIVERY OF INDIANA, INC. )  
("VECTREN SOUTH") FOR APPROVAL OF A )  
RELIABILITY COST AND REVENUE )  
ADJUSTMENT FOR ELECTRIC SERVICE IN )  
ACCORDANCE WITH THE ORDER OF THE )  
COMMISSION IN CAUSE NO. 43111 EFFECTIVE )  
AUGUST 15, 2007 PURSUANT TO I.C. § 8-1-2-42(a) )

CAUSE NO. 43406 RCRA 6

APPROVED: SEP 01 2010

**BY THE COMMISSION:**

**David E. Ziegner, Commissioner**

**Loraine L. Seyfried, Administrative Law Judge**

On June 17, 2010, in accordance with Ind. Code § 8-1-2-42(a), Southern Indiana Gas and Electric Company d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren South" or "Applicant"), filed with the Indiana Utility Regulatory Commission ("Commission") its Application in this Cause for approval of its Reliability Cost and Revenue Adjustment ("RCRA") as authorized in the Commission's August 15, 2007 Order in Cause No. 43111. The Applicant filed with its Verified Application the testimony of Scott E. Albertson, Applicant's Director of Regulatory Affairs and Ronald G. Jochum, Applicant's Vice President of Power Supply. The Indiana Office of Utility Consumer Counselor ("OUCC") filed its report and the testimony of Stacie R. Gruca, Utility Analyst, on July 22, 2010. On August 9, 2010, Vectren South filed its Response to an August 3, 2010 Docket Entry issued by the Presiding Officers.

Pursuant to notice published as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, a public hearing was held in this Cause on August 11, 2010 at 9:30 A.M., EDT, in Room 224, PNC Center, 101 West Washington Street, Indianapolis, Indiana. At that time the prefiled testimony and exhibits of Applicant and the OUCC were admitted into evidence. No members of the general public appeared or sought to testify at the hearing.

On August 18, 2010, Applicant filed a Motion for Leave to Supplement Confidential Response to Docket Entry Questions, which Motion was granted on August 20, 2010.

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

**1. Notice and Jurisdiction.** Due, legal and timely notice of the commencement of the public hearing in this Cause was given and published by the Commission as required by law. Applicant is a "public utility" as defined in Ind. Code § 8-1-2-1 and as such, is subject to the jurisdiction of this Commission as provided in the Public Service Commission Act, and the

provisions of said Act authorize the Commission to act in this proceeding. The Commission, therefore, has jurisdiction over the parties and the subject matter herein.

2. **Applicant's Characteristics.** Applicant is engaged in rendering electric utility service to the public and owns and operates an electric generating plant and distribution system for the production, transmission, delivery and furnishing of this service.

3. **Requested Relief.** The Commission's August 15, 2007 Order in Cause No. 43111, authorizes the Applicant to seek approval of an RCRA on a semi-annual basis to allow Vectren South to adjust its rates for Non-firm Wholesale Power Margins, Municipal Wholesale Margins, Environmental Emission Allowance Credits, Interruptible Sales billing credits and Purchased Power Non-Fuel Costs. To the extent that purchased power non-fuel costs and interruptible sales billing credits differ from base rate level amounts for those charges, those differences will be tracked under the RCRA. Non-firm wholesale power margins that differ from the base rate level are shared 50/50 with customers. In this Cause, Applicant seeks approval of an RCRA for the six month period September 1, 2010 through February 28, 2011.

4. **Wind Power Related Costs.**

A. **Evidence Presented.** Applicant sponsored testimony from Mr. Jochum regarding the inclusion of energy costs from the Fowler Ridge II ("Fowler Ridge") Renewable Energy Purchase Agreement ("REPA") as approved by the Commission in Cause No. 43635 on June 17, 2009 ("REPA Order"). The REPA costs proposed to be included by Applicant in this RCRA are \$642,887, which consists of \$91,979 for PJM market support administration fees and \$550,908 related to an initial period where the REPA energy could not be delivered to Vectren South in the Midwest ISO and instead was sold into the PJM market. As described in the REPA Order, Vectren South took delivery during the period in question of REPA wind energy at the point of interconnection between PJM and Fowler Ridge as Vectren South is located within the Midwest ISO footprint. Mr. Jochum, in his direct testimony, explained that once Fowler Ridge came on line, despite Vectren South's efforts, the power could not be delivered to Vectren South in the Midwest ISO, and so instead was sold into the PJM market, with proceeds from the PJM sale credited to customers thereby decreasing the cost of the Fowler Ridge energy that was not deliverable to Applicant. Vectren South, in its Response to the August 3, 2010 Docket Entry noted that this treatment is consistent with Mr. Jochum's testimony in Cause No. 43635 wherein he stated that if the Midwest ISO transmission would be unavailable, "Vectren South would sell the power into the PJM energy market and reflect the difference between the sales price and the contract price (whether positive or negative) in its actual cost incurred."

Mr. Jochum's testimony and responses to docket entry questions reflect that the REPA was executed in February 2009 and received Commission approval on June 17, 2009. Prior to receiving Commission approval, Vectren South commenced work on the delivery of Fowler Ridge energy from PJM. Shortly after execution of the REPA in February, Vectren South made an OASIS request for firm transmission from PJM and MISO to begin in April 2010 (the anticipated start-up date of Fowler Ridge). This was followed by execution of a PJM System Impact Study in April 2009. PJM began work on the System Impact Study in May 2009, and although Vectren South understood the

target completion date was 120 days, the study was not completed by PJM until December 18, 2009.

In July 2009, Vectren South became aware that Fowler Ridge was predicting commercial operation in the first quarter of 2010. In October 2009, Vectren South pursued a pseudo-tie, which must first have a firm transmission path, between PJM and the Midwest ISO for the REPA wind energy. However, because the Midwest ISO only updates its model on a quarterly basis, there was considerable delay in the process. Meanwhile, in November 2009, Fowler Ridge advised Vectren South that its wind energy would indeed start in the first quarter, commencing in January 2010.

Thereafter, approximately four months ahead of its original schedule, on December 17, 2009 Vectren South's share of Fowler Ridge wind energy commenced commercial operation, with an obligation for Vectren South to immediately begin accepting its share of energy. The PJM System Impact Study was then completed on December 18, 2009 and Vectren South worked with the NERC Transmission Information Network to set up the appropriate nodes to Tag the wind power from PJM to MISO. Initially, power ramping issues were encountered in the establishment of the Tags and Vectren South worked with PJM to resolve those issues. On January 11, 2010, Vectren South successfully implemented its first Tag to move power from PJM to MISO.

As a result of the accelerated commercial availability of the Fowler Ridge energy from April 2010 to December 2009, the time it took PJM to complete its system impact study and thereafter for the ramping problem, Fowler Ridge energy could not be received by Vectren South for the period December 17, 2009 through January 10, 2010. Accordingly, in response to the unavailability of transmission to move power from PJM to the Midwest ISO, Vectren South sold the power into PJM and reflected the difference between the sales price and the REPA contract price in this RCRA for recovery.

B. Commission Discussion and Findings. In the REPA Order, the Commission approved the REPA, authorized the recovery of related costs over the term of the contract and found that the cost recovery should not be subject to any purchased power benchmarks, economic dispatch requirements, or least cost standards. While the Commission found the terms of the REPA and the associated cost recovery through the 20-year term to be reasonable, this finding does not foreclose the ongoing regulatory review of Applicant's actions related to securing and providing the supply from the REPA to its customers over the term of the contract. It is this context that we consider the reasonableness of Applicant's actions.

In any proceeding before the Commission, a utility seeking to recover its incurred costs has the burden of proving such costs were reasonably incurred. Ind. Code § 8-1-2-73; 170 IAC 1-1.1-18(d); *see also, General Motors Corp. v. Indianapolis Power & Light Co.*, 654 N.E.2d 752, 759 (Ind. Ct. App. 1995) (holding party petitioning for relief bears the burden of proof). Vectren South, in its Application and case-in-chief requesting recovery of the wind power costs it incurred, merely noted that "despite its efforts" the costs were incurred because the wind energy could not be delivered to Vectren South. Vectren South did not identify with any specificity what "efforts" it undertook to avoid or limit the costs it incurred or why its efforts should be considered reasonable. Rather, it was only through the issuance of a Docket Entry and questions by the Presiding Officers at the evidentiary hearing that any evidence was introduced concerning Vectren South's efforts to obtain

the wind energy. As set forth further below, Vectren South failed to present sufficient evidence demonstrating the reasonableness of its efforts to support full recovery of its costs.

Based on the evidence ultimately presented, Vectren South was aware as early as July 2009 that Fowler Ridge was predicting commercial operation in the first quarter of 2010, as opposed to the originally anticipated date of April 2010. TR at p. 9. Vectren South was also aware that the developer was likely moving towards an earlier start-up date due to the possible expiration of the production tax credits. TR at p. 8, 28. Although Mr. Jochum, in response to questions from the bench at hearing, testified that members from his staff were generally in contact with PJM and the Midwest ISO (TR at p. 10-11, 13), he failed to identify any specific steps that Vectren South took to mitigate costs to ratepayers until October 2009 when it began exploring the possibility of a pseudo tie with PJM and the Midwest ISO. And, only in November 2009, when Fowler Ridge informed Vectren South that commercial operation would start in mid-December, does it appear that Vectren South undertook a greater effort to address the situation.

We understand that the REPA Order addresses the possibility of PJM sale and netting of sale proceeds from charges that would occur if transmission to the Midwest ISO became unavailable and that Vectren South's proposed RCRA factors are consistent with the REPA. We also recognize that, as detailed above, Applicant pursued a solution (*i.e.*, Tagging the wind power from PJM to the Midwest ISO) to shorten the time for which the REPA supplied energy was undeliverable to its retail customers. However, we fail to understand why Vectren South did not more aggressively pursue possible alternative solutions with PJM and/or the Midwest ISO regarding the system impact study and securing a firm transmission path or engage in discussions with Fowler Ridge to ensure it had fully explored possible options available to it.

For instance, although Vectren South was primarily in the position it was due to the earlier than anticipated start-up, the record is devoid of any evidence that Vectren South attempted to contact Fowler Ridge to discuss the issues it was having with securing firm transmission or to determine whether Fowler Ridge was able to defer operations or make other arrangements for the sale of the wind energy until a transmission path had been secured. We are also troubled by the fact that Mr. Jochum, in Cause No. 43635, in response to a question about what right Vectren South had to curtail deliveries of wind energy for economic reasons, testified that Vectren South could curtail deliveries for conditions other than emergencies with compensation as set forth in the REPA. Although this testimony would lead one to believe this provision of the REPA would offer Vectren South some benefit, when asked at the hearing about the possibility of an economic curtailment, Mr. Jochum indicated that the purpose of that provision was to ensure the wind farm received the necessary compensation to support the project and could not think of a situation in which Vectren South would use that provision. TR at 16-17.

In summary, we find it would have been reasonable for Vectren South, which has a pre-approved 20-year term contract relationship with its wind energy supplier, to, at a minimum, have contacted Fowler Ridge and discussed with them the potential issues it was facing due to the fact that commercial operation was being contemplated much earlier than the anticipated start date. However, no such evidence was offered. Accordingly, we find that Applicant's effort to avoid or otherwise limit costs associated with the non-deliverability of REPA purchased power from the time of

Fowler Ridge's commercial date until the date when Tagging the wind power from PJM to the Midwest ISO began were not reasonable and such costs are not approved for recovery in the RCRA factors approved in this proceeding.

**5. Calculation of the RCRA Rates.** Applicant's witness Albertson sponsored Exhibit SEA-3 consisting of the schedule calculating the proposed RCRA rates and associated bill impacts. OUCC's witness Gruca testified that the Applicant's figures were supported by her review of the books, records and source documentation of the Applicant. Vectren South proposed RCRA rates for this period based on the following inputs:

<b>Cost/Revenue Category</b>	<b>Amount</b>
Reliability Cost: Incremental Non-Fuel Cost of Purchased Power	\$1,813,965
Reliability Cost: Incremental Cost of Interruptible Sales Billing Credits	\$42,028
Reliability Revenue: Municipal Wholesale Sales Margin	\$ 0
Reliability Revenue: Retail Portion of Emission Allowance Sales Margin	\$28,701
Rate Schedule Allocation Percentage	Applicant's Exhibit SEA-3
Rate Schedule Quantities	Applicant's Exhibit SEA-3
Prior Period Reconciliation Amount	\$(4,939,324)

Vectren South's proposed RCRA rates when adjusted for Indiana Utility Receipts Tax from Applicant's Exhibit No. SEA-3 Schedule 1, Line 7 are as follows:

Applicable RCRA Rates (per kWh)  
Rate Schedule

A	\$ (0.002201)
EH	\$ (0.000868)
B	\$ (0.000651)
SGS	\$ (0.000857)
DGS/MLA	\$ (0.001626)
OSS	\$ (0.001179)
LP	\$ (0.000819)
HLF	\$ (0.000899)
Billing Demand: First 4,500 kVa	\$(2,427.30) per month
Billing Demand: Over 4,500 kVa	\$(0.539) per kVa

Based on the Commission's findings in Paragraph 4 above concerning some of the proposed costs, Applicant shall file revised supporting schedules consistent with the Commission's findings herein.

**6. Commission Findings.** Based on the testimony and evidence submitted in this Cause, the calculation of the RCRA rates, when modified to exclude the unapproved costs as discussed above, is approved. Accordingly, the RCRA rates as described and ordered to be modified herein should be approved and effective beginning on the later of September 1, 2010, or the date of acceptance by the Electricity Division of the Commission of supporting schedules and Tariff Sheet No. 74 consistent with the findings set forth herein.

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

1. The Application of Vectren Energy Delivery of Indiana, Inc. for approval of its Reliability Cost and Revenue Adjustment for electric service, as modified in the Findings above, is hereby approved.

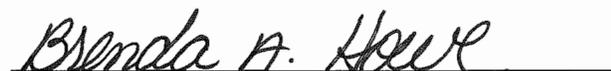
2. Applicant shall file with the Electricity Division of this Commission, prior to placing in effect the RCRA rates herein approved, a revised set of supporting schedules and Tariff Sheet No.74 consistent with the findings set forth herein.

3. This Order shall be effective on and after the date of its approval.

**HARDY, ATTERHOLT, LANDIS, AND ZIEGNER CONCUR; MAYS NOT PARTICIPATING:**

**APPROVED: SEP 01 2010**

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

  
Brenda A. Howe  
Secretary to the Commission