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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF SOUTHERN INDIANA GAS AND)
ELECTRIC COMPANY d/b/a VECTREN ENERGY)
DELIVERY OF INDIANA, INC. ("PETITIONER") FOR)
APPROVAL OF AND AUTHORITY FOR (1) AN)
INCREASE IN ITS RATES AND CHARGES FOR)
ELECTRIC UTILITY SERVICE INCLUDING A SECOND)
STEP THAT WILL INCLUDE THE REVENUE)
REQUIREMENT FOR ITS DENSE PACK PROJECTS; (2))
NEW SCHEDULES OF RATES AND CHARGES)
APPLICABLE THERETO; (3) THE SHARING OF)
WHOLESALE POWER MARGINS BETWEEN)
PETITIONER AND ITS ELECTRIC CUSTOMERS; (4) A)
SALES RECONCILIATION ADJUSTMENT TO)
DECOUPLE FIXED COST RECOVERY FROM THE)
AMOUNT OF CUSTOMER USAGE FOR CERTAIN)
RATE CLASSES; (5) A DEMAND SIDE MANAGEMENT)
PROGRAM WHICH WILL INCLUDE A MECHANISM)
FOR THE TIMELY RECOVERY OF COSTS RELATING)
THERETO AND PERFORMANCE INCENTIVES BASED)
ON ACHIEVED SAVINGS; (6) AN ALTERNATIVE)
REGULATORY PLAN ALLOWING PETITIONER TO)
RETAIN ITS SHARE OF WHOLESALE POWER)
MARGINS AND DEMAND SIDE MANAGEMENT)
PERFORMANCE INCENTIVES; AND (7) APPROVAL OF)
VARIOUS CHANGES TO ITS TARIFF FOR ELECTRIC)
SERVICE INCLUDING NEW NET METERING,)
ALTERNATE FEED SERVICE, TEMPORARY SERVICE,)
AND STANDBY OR AUXILIARY SERVICE RIDERS,)
REVISIONS TO ITS EXISTING ECONOMIC)
DEVELOPMENT AND AREA DEVELOPMENT RIDERS,)
REVISIONS TO ITS EXISTING MISO COST AND)
REVENUE ADJUSTMENT AND RELIABILITY COST)
AND REVENUE ADJUSTMENT (INCLUDING THE)
ADDITION OF A COMPONENT TO TRACK VARIABLE)
PRODUCTION COSTS) AND REVISIONS TO ITS)
GENERAL TERMS AND CONDITIONS FOR SERVICE.)

CAUSE NO. 43839

PREHEARING CONFERENCE
ORDER

APPROVED: FEB 19 2010

BY THE COMMISSION:

David Lott Hardy, Chairman
Scott R. Storms, Chief Administrative Law Judge

On December 11, 2009, Southern Indiana Gas and Electric Company d/b/a Vectren Energy Delivery of Indiana, Inc. ("Petitioner" or "Vectren") filed its Petition and Notice of Intent to File in Accordance with the Commission's Rules on Minimum Standard Filing Requirements ("MSFRs" or "MSFR rule"), to increase its rates and charges for electric utility service, for

approval of new schedules of rates and charges applicable thereto, and for approval of certain other proposals.

1. Compliance with the Commission's Rules on MSFRs. On December 31, 2009, the Indiana Office of Utility Consumer Counselor ("Public" or "OUCC") timely filed a *Notice Regarding Petitioner's Election of the Minimum Standard Filing Requirement's Rule* ("Notice") pursuant to 170 IAC 1-5-4(a) that identified certain alleged defects regarding compliance with the MSFRs. Based on its review of the Petitioner's filing, the OUCC indicates in its Notice that the relief requested in this matter is multifaceted and includes issues that go beyond a "petition for a general rate change," thereby necessitating additional time beyond that provided by the MSFR rule to adequately address those issues.

Specifically, the OUCC noted that the following requests for relief are not encompassed in "general rate case filings" under the MSFR rule: (a) a request to decouple fixed cost recovery from customer usage for certain rate classes (Verified Petition, para. 12); (b) an Alternative Regulatory Plan ("ARP") pursuant to IC 8-1-2.5-6 to retain a share of Wholesale Power Margins ("WPM") and Demand Side Management ("DSM") performance incentives. (Verified Petition, paras. 9, 12, and 14); (c) revisions to the Petitioner's Reliability Cost and Revenue Adjustment ("RCRA") tracker, including the tracking of variable production costs. (Verified Petition, para. 9); (d) removal of all trackable fuel costs from its base rates. (Verified Petition, para. 11); (e) a 2-Step rate proposal for A.B. Brown Generating Station Unit 1 and Unit 2 Dense Pack Projects (Verified Petition, para. 13); and (f) revisions to its FAC to recover all fuel costs on a line-loss percentage differentiated basis (Ex. JLU-5).

Notwithstanding the foregoing issues, the OUCC indicated that it has no objection to Petitioner seeking its requested relief and acknowledged Petitioner's objective to have its case completed in a timely fashion. However, according to the OUCC, the nature and scope of the relief sought by the Verified Petition are not subjects suitable for treatment under the time constraints of the MSFR rule. Accordingly, the OUCC concludes that the Petitioner is not entitled to the expedited procedural time frame set forth in the MSFRs and that the Commission should establish a reasonable procedural schedule that provides for sufficient time beyond the time frame provided in the MSFR rule in order to adequately address all issues raised in the Verified Petition.

On January 11, 2010, the Petitioner filed its *Response in Opposition to the OUCC's Notice* ("Response"). In its Response, the Petitioner generally indicates that information to be provided under the MSFRs is comprehensive in nature and covers all aspects of the utility's finances, including accounting methodology, financial statements, public reporting, budgets, pro forma adjustment data, revenue information, workforce data including benefits, tax information and rate base data. Vectren indicates that the OUCC's Notice does not identify a single example where it failed to provide the required information. Thus, there is no basis to find a defect in the filing or a failure to comply with the MSFRs. Instead, the OUCC claims some of Vectren's requests in its rate case petition raise issues that are not encompassed in general rate case filings, and create the need to abandon the MSFR timeframe for conducting this case. However, the issues relied upon by the OUCC as a basis for extending the procedural schedule beyond ten months are in fact legitimate parts of a general rate case.

As an initial matter, the Commission recognizes that the MSFR rule provides a means for the expedited review of general rate proceedings. As proceedings under the MSFRs are to be completed within ten months from filing of the petition to the issuance of an order by the Commission, only general rate proceedings that strictly comply with the specific requirements of the rule may be considered under this framework. If a Petitioner presents additional issues that go beyond those generally considered in rate proceedings, the Commission will consider the case in its entirety, free of the time constraints imposed upon the parties and the Commission under the MSFR rule.

Recognizing the specific time constraints tied to the utilization of the MSFR rule, the Commission may appropriately consider whether the filing complies with the requirements of the rule. If the filing is compliant under the MSFR rule, the initial procedural schedule should allow for the completion of the matter within ten months from the date of filing of the Petitioner's case-in-chief testimony.¹ If the Commission finds that the filing does not comply with the MSFR rule, it will make this determination and not be bound by the time constraints contained within the rule.

Applying this process to the present proceeding, we agree with the OUCC that the filing in this Cause presents issues that go beyond a request for a general rate change by also including: (a) a request to decouple fixed cost recovery from customer usage for certain rate classes; (b) an ARP proposal presented pursuant to IC 8-1-2.5-6; (c) revisions to the Petitioner's RCRA tracker; (d) removal of all trackable fuel costs from its base rates; (e) a 2-Step rate proposal for A.B. Brown Generating Station Unit 1 and Unit 2 Dense Pack Projects; and (f) revisions to the Petitioner's FAC to recover all fuel costs on a line-loss percentage differentiated basis. Therefore, as this matter does not strictly comply with the MSFR rule, the Commission will not be bound by the time constraints contained in the rule.²

2. Prehearing Conference. In accordance with 170 IAC 1-1.1-15 and pursuant to proper notice given as provided by law, a Prehearing Conference and Preliminary Hearing ("Prehearing Conference") was commenced on January 26, 2010, at 9:30 A.M., EST, in Room 222 of the National City Center, 101 West Washington Street, Indianapolis, Indiana. Proofs of publication of notice of the Prehearing Conference were incorporated into the record and placed in the official files of the Commission. Petitioner and the OUCC participated in the Prehearing Conference.

Prior to the opening of the record in this Cause an informal discussion was held regarding procedural, scheduling, and other matters pertinent to this Cause. Pursuant to the matters presented to the Commission at the Prehearing Conference; the specific findings with respect to the applicability of the MSFRs discussed in this order; and the agreement of the parties with

¹ While the MSFR rule provides a mechanism in which the procedural schedule may be extended to twelve months "for good cause", this prerogative belongs to the Commission, not the parties. Therefore, notwithstanding the issue of compliance or noncompliance with the MSFR rule, this extended timeframe cannot be utilized by the parties to negotiate an initial procedural schedule of up to twelve months.

² If the Petitioner would have advised the Commission that a rate case was forthcoming prior to filing, the Petitioner's misunderstanding of the specific procedural requirements of the MSFR rule could have been corrected by the Commission.

respect to the procedural schedule in this matter, the Commission now enters the following findings and order which should become a part of the record in this proceeding:

3. **Test Year and Accounting Method.** The test year to be used for determining Petitioner's actual and pro forma operating revenues, expenses and operating income under present and proposed rates should be the twelve months ended June 30, 2009, adjusted for changes that are fixed, known and measurable for ratemaking purposes and that will occur within twelve months following the end of the test year.

4. **Cut-Off Date.** The general rate base cutoff should reflect used and useful property at the end of the test year. Petitioner may request to include in its rate base the following projects that were not in service at the end of the test year provided Petitioner shows such projects have been placed in service and the actual costs thereof: (i) a dry fly ash collection and disposal system at the A.B. Brown Generating Station (estimated cost of \$23 million) estimated to be in service in December 2009; (ii) transmission lines from Culley Generating Station to Oak Grove Substation and modifications to substation (estimated cost of \$15 million) estimated to be in service by February 2010; and (iii) transmission and substation facilities to serve Berry Plastics office and plant expansion in Evansville (estimated cost of \$4.04 million) estimated to be in service in the fall of 2010.

5. **Dense Pack Step Rate Proposal.** Petitioner may propose a second step rate increase for the revenue requirement associated with the Dense Pack Projects described in its Petition and Petitioner's Case-in-Chief. Other parties may oppose the step rate proposal.

6. **Cost of Capital.** Economic and financial data used in determining Petitioner's cost of capital should not be restricted as to time or method of adjustment used for financial and accounting exhibits. Petitioner's capital structure may be based on the latest information available at the time of the final hearing.

7. **Petitioner's Prefiling Date.** Petitioner filed with the Commission and served on all parties of record the prepared testimony and exhibits constituting its case-in-chief on December 11, 2009.

8. **Working Papers.** Petitioner filed with the Commission the working papers required by the MSFRs on December 11, 2009, except for an electronic copy of its cost of service study model and information regarding its insurance policies and premiums for which Petitioner sought confidential treatment (collectively "Confidential Information"). On the same date, Petitioner filed its Petition, Case-in-Chief and MSFR Working Papers, Petitioner also filed a Motion for Protective Order requesting that the Commission allow the Confidential Information to be submitted under seal pursuant to a preliminary finding that the Confidential Information is confidential and should be protected from public disclosure and public access. The Public has been provided the Confidential Information pursuant to the terms of a Non-Disclosure Agreement and has no objection to the granting of Petitioner's motion.

9. **Hearing on Petitioner's Case-In-Chief.** An Evidentiary Hearing in this Cause is scheduled for March 8-12, 2010 beginning each day at 9:30 A.M., EST, in Room 222, National City Center, Indianapolis, Indiana, at which time Petitioner's case-in-chief should be presented and its witnesses cross-examined. At such hearing, Petitioner may submit an update on the status of the post-test year projects identified in Paragraph 2 above. Petitioner should serve on the parties of record copies of any written exhibits and workpapers regarding such update at least ten calendar days before the hearing.

10. **Settlement Hearing.** A Settlement Hearing is hereby scheduled in this cause for May 25, 2010, at 9:30 A.M., EDT, in Room 222, National City Center, Indianapolis, Indiana. Evidence in support of any such settlement agreement shall be filed with the Commission and served on the parties at least five (5) business days before the Settlement Hearing.

11. **Public's and Intervenors' Prefiling Date.** Public and all Intervenors should prefile with the Commission and serve on all parties of record the prepared testimony and exhibits constituting their respective cases-in-chief on or before May 17, 2010. By May 19, 2010, Public and all Intervenors shall file with the Commission and serve on the other parties their respective working papers and other supporting materials normally generated in association with the production of their technical evidence.

12. **Cross-Answering Testimony.** The OUCC and all Intervenors should prefile with the Commission and serve on all parties of record any cross-answering testimony and exhibits responding to the cases-in-chief prefiled by parties other than Petitioner on or before May 28, 2010.

13. **Petitioner's Rebuttal Prefiling.** Petitioner should prefile with the Commission and serve on all parties of record its rebuttal testimony and exhibits on or before June 11, 2010.

14. **Hearing on Public's and Intervenors' Cases and for Petitioner's Rebuttal.** The Evidentiary Hearing in this Cause shall resume on July 7, 8, 9, 12, and 13, 2010 beginning each day at 9:30 A.M., EDT, in Room 222 of the National City Center, Indianapolis, Indiana. At this hearing, Petitioner may present evidence regarding the status and cost of the post-test year projects identified in Paragraph 2 above. Petitioner shall serve on the parties of record copies of any written exhibits and workpapers that it intends to offer on such projects at least ten (10) calendar days before the hearing. Thereafter, Public and all Intervenors should present their respective cases-in-chief and their witnesses should be cross-examined. Those parties shall be permitted to submit non-prefiled evidence responsive to updated evidence of Petitioner on the status and cost of the post-test year projects. Thereafter, Petitioner may offer its rebuttal evidence and its rebuttal witnesses should be made available for cross-examination.

15. **Field Hearing.** A public field hearing to provide interested ratepayers with an opportunity to offer comments concerning this Cause shall be held in the City of Evansville, Indiana, the largest municipality served by Petitioner, at a date, time, and location to be determined later by the Commission.

16. **Witness Order.** Parties shall submit their intended order of witnesses to the Commission and the parties in writing at least 24 hours in advance of each hearing.

17. **Post-Hearing Submissions and Order.** Petitioner should file and serve on all parties of record their proposed Order and Post-Hearing Brief, if any, on or before July 28, 2010. Public and Intervenors should file and serve on all parties of record any Exceptions, Proposed Orders and/or Post-Hearing Briefs on or before August 27, 2010. Petitioner should file and serve on all parties of record any Reply on or before September 13, 2010.

18. **Objection to Prefiled Testimony and Exhibits.** Any objections to the admissibility of prefiled testimony or exhibits should be filed with the Commission and served on all parties of record no less than two (2) business days prior to the date scheduled for commencement of the hearing at which the testimony or exhibit will be offered into the record.

19. **Corrections and Copies.** Parties should provide copies of any exhibits or materials entered into evidence during the proceeding which were not prefiled to the assigned staff advisors as well as the presiding Commissioner and administrative law judge. Although the Commission's rules require that original copies be one-sided, it is the Commission's preference that duplicate copies use both sides of the paper. Any corrections to prefiled testimony should be made as soon as possible after discovery of the need to make such corrections.

20. **Sworn Testimony.** Any witness testimony to be offered into the record of this proceeding should be made under oath or affirmation. In accordance with 170 IAC 1-1.1-18(h), if the prefiled testimony of a witness is to be offered into evidence at the evidentiary hearing, and the witness sponsoring the prefiled testimony is not required to, and does not, attend the evidentiary hearing, the prefiled testimony should be accompanied by the witness's sworn affidavit or written verification at the time the evidence is offered into the record.

21. **Stipulations.** Prior to the Evidentiary Hearing, the parties are encouraged to consider whether they will stipulate to: (1) the qualifications of expert witnesses; (2) the admissibility of prefiled testimony and exhibits; and (3) the waiver of cross-examination of witnesses. The parties may consult as to whether any prefiled evidence can result in the narrowing of issues presented for determination by the Commission. The parties shall promptly advise the presiding Administrative Law Judge of any such stipulations.

22. **Intervention.** Pursuant to 170 IAC 1-1.1-11, any party permitted to become an Intervenor in this Cause shall be bound by the record as it stands at the time its Petition to Intervene is granted.

23. **Discovery.** Discovery should be conducted on an informal basis and available for all parties. Any party receiving a discovery request should respond to or object to the discovery request within ten (10) calendar days of receipt, except as follows: (a) discovery relating to OUCC's and Intervenors' cases-in-chief after being prefiled shall be responded to within five (5) calendar days; (b) discovery relating to cross-answering testimony after being prefiled shall be responded to within three (3) business days; and (c) discovery relating to Petitioner's rebuttal after being prefiled shall be responded to within five (5) calendar days. Objections not made within the applicable time period shall be deemed waived unless an extension is agreed upon or

obtained from the Commission. If more time is needed to respond to a discovery request, the parties will attempt in good faith to reach agreement upon the amount of time needed. If the parties are unable to agree, the party desiring more time must seek and obtain an extension from the Commission for good cause shown. Any discovery request served after 4:30 PM on Monday through Thursday or after noon on a Friday will be treated as having been served on the next business day. The parties shall provide the Commission with copies of all discovery requests served upon any party in this Cause. Copies shall be provided on paper or electronically to the Administrative Law Judge. It is not necessary to provide responses to discovery absent a request for such information by the Commission.

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

1. The determinations of the Prehearing Conference and other determinations set forth in this Order are made a part of the record in this Cause and shall be binding on all parties of record during the proceedings in this Cause.
2. This Order shall be effective on and after the date of its approval.

HARDY, ATTERHOLT, GOLC AND AND ZIEGNER CONCUR; LANDIS ABSENT:

APPROVED: FEB 19 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