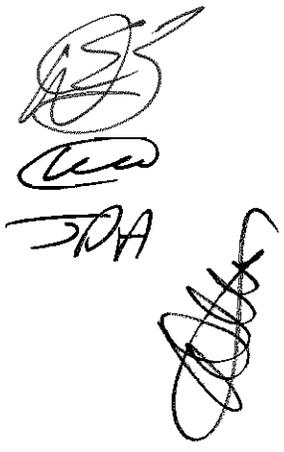


ORIGINAL



STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF SOUTHERN INDIANA GAS AND)
ELECTRIC COMPANY d/b/a VECTREN)
ENERGY DELIVERY OF INDIANA, INC. FOR)
APPROVAL OF A SPECIAL CONTRACT FOR)
ELECTRIC SERVICE WITH TOYOTA MOTOR)
MANUFACTURING OF INDIANA, INC. AND)
ESTABLISHMENT OF CONFIDENTIAL)
PROCEDURES)

CAUSE NO. 43900

APPROVED: SEP 22 2010

BY THE COMMISSION:

David E. Ziegner, Commissioner
Scott R. Storms, Chief Administrative Law Judge

On May 20, 2010, Southern Indiana Gas and Electric Company, Inc. d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren South" or "Petitioner") filed its Verified Petition seeking approval from the Indiana Utility Regulatory Commission ("Commission") of a Special Contract for Electric Service ("New Toyota Contract") with Toyota Motor Manufacturing, Indiana, Inc. ("Toyota") for the provision of electric utility service to Toyota's automobile manufacturing plant located in Princeton, Indiana (the "Toyota Facility").

On June 14, 2010, a Prehearing Conference was held at which time a procedural schedule was agreed to as reflected in the Commission's Prehearing Conference Order dated June 23, 2010.

On June 21, 2010, Petitioner filed the verified direct testimony of Thomas L. Bailey, Petitioner's Director, Industrial Sales, in support of its Petition. Attached to Mr. Bailey's verified direct testimony were (i) a public redacted version of the New Toyota Contract and (ii) the affidavit of Robert O'Leary, Toyota's General Manager – Paint, Plastics, Plant Engineering and Environmental, Press, Body Weld & Conveyance (the "O'Leary Affidavit"). Mr. O'Leary's Affidavit addressed the contribution made by the Toyota Facility to Indiana's economy, Toyota's relationship with Petitioner and the importance of the New Toyota Contract for the maintenance of production at the Toyota Facility. On the same date, Petitioner filed a Motion for Protective Order seeking the establishment of confidential procedures to protect as trade secrets the pricing and certain other competitively sensitive provisions of the New Toyota Contract and certain information contained in the O'Leary Affidavit about the confidential contract terms (collectively "Confidential Information"). On June 30, 2010, the Presiding Officers issued a docket entry in this Cause, granting Petitioner's Motion for Protective Order on a preliminary basis and ordering Petitioner to submit an unredacted version of the New Toyota Contract to the Chief Administrative Law Judge under seal. On July 28, 2010, the Indiana Office of Utility Consumer Counselor ("OUCC") filed its Notice of Intent Not to File Testimony.

Pursuant to the Prehearing Conference Order and notice of hearing given as provided by law, an Evidentiary Hearing was held in this Cause at 9:30 a.m. on September 13, 2010, in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana,. Proofs of publication of the notices of hearing were incorporated into the record and placed in the official files of the Commission. Petitioner and the OUCC participated in the hearing. No members of the general public appeared or sought to testify at the hearing.

The Commission, being duly advised in the premises based upon the applicable law and the evidence herein, now finds:

1. Commission Jurisdiction and Notice. Petitioner is an operating public utility incorporated and existing under the laws of the State of Indiana. Petitioner is a “public utility” within the meaning of that term as used in the Public Service Commission Act, as amended (the “Act”), and is subject to the jurisdiction of the Commission to the extent and in the manner provided by the laws of the State of Indiana. Due and proper notice of the public hearing in this Cause was given and published by the Commission as required by law. The Commission has jurisdiction over the parties and the subject matter of this Cause.

2. Petitioner's Characteristics. Petitioner is engaged in the business of rendering electric utility service within the State of Indiana. Petitioner owns, operates, manages and controls, among other things, plant, property, equipment and facilities which are used and useful for the production, transmission, distribution and furnishing of electric utility service throughout Indiana.

3. Relief Requested. Petitioner requests Commission approval of the New Toyota Contract. Petitioner also requests the Commission find that certain provisions of the New Toyota Contract and the O’Leary Affidavit contain trade secrets as defined in Indiana Code § 24-2-3-2 and are exempt from the public access and disclosure requirements contained in Indiana Code §§ 5-14-3-3 and 8-1-2-29.

4. Petitioner's Direct Evidence. Mr. Bailey testified that the New Toyota Contract was negotiated to replace the current agreement between Vectren South and Toyota for electric service to the Toyota Facility that surpassed its initial term and continued under evergreen provisions. He testified that the Toyota Facility is an automotive manufacturing facility located in Princeton, Indiana that is important to both Vectren South and the economy of Southwestern Indiana. Toyota and Vectren South have a longstanding relationship. Toyota remains one of the five largest customers on Vectren South’s electric system in terms of consumption. The Toyota Facility is the largest employer in the region with current employment of approximately 5,000. Mr. Bailey stated that Toyota’s capital investment in Southwestern Indiana has exceeded \$3 billion. Mr. Bailey discussed the history of the Toyota Facility. He explained that in 1997, as a result of Vectren South’s and the community’s economic development work, Toyota opened the Toyota Facility as its fourth U.S. manufacturing plant. Vectren South’s original electric contract with Toyota provided economic development incentives and price certainty for a contract term of ten years.¹ The contract was amended in 2001 to attract additional production to the Toyota Facility. Mr. Bailey stated that the opening of the Toyota Facility attracted automotive suppliers

¹ Approved by the Commission’s Order in Cause No. 40874 dated October 8, 1997.

to the region which has compounded the beneficial effect of the Toyota Facility on capital investment, job growth and economic viability in the community.

Mr. Bailey described the current state of the Toyota Facility, including the extreme challenges faced by the auto industry as a result of the global economy. He discussed the significant competition and price pressure faced by auto-related facilities due to the decline in domestic automobile production and foreign entry into the market. He described the significant production moves, cost savings and potential facility closings that are part of Toyota's strategic business plan. For example, the Tundra line, one of the Toyota Facility's initial product lines, was halted and eventually moved to San Antonio, Texas. In its place, the Highlander product line was moved to Princeton.

Mr. Bailey explained that Toyota and Vectren South agreed in 2009 to commence negotiations on a new long term agreement in an effort to support the competitiveness of the Toyota Facility. Because of the significant economic benefits to Vectren South and Southwestern Indiana from the Toyota Facility, Vectren South engaged in good faith, arms-length negotiations to assure Toyota's presence as a long term electric customer and regional business. These negotiations were successful and culminated in the execution of the New Toyota Contract to serve the electric requirements of the Toyota Facility on the agreed-upon terms.

Mr. Bailey explained that the terms of the New Toyota Contract encourage future expansion opportunities while providing a competitive rate structure promoting profitability and growth. The Contract allows for long-term sustainability of the plant and will encourage further retention of employees at a time when unemployment levels across the region remain high. Mr. Bailey said the New Toyota Contract assists Toyota in pricing its product competitively.

Mr. Bailey indicated that Toyota will pay demand charges and energy charges as set forth in the New Toyota Contract. These charges are subject to change when the Commission approves changes in Rate LP demand charges and energy charges subsequent to Vectren South's pending electric rate case (Cause No. 43839). Toyota will pay the appendices, adjustments and any other service related trackers that are required by Rate LP or any successor rate schedule and will have available to it all riders for which Toyota is qualified except Toyota will not be eligible for any economic development riders. Mr. Bailey testified that no additional capital investment is needed to serve Toyota under the New Toyota Contract. As a result, the revenues resulting from the New Toyota Contract will ensure a contribution to Vectren South's recovery of its fixed costs. Mr. Bailey testified the New Toyota Contract will not adversely impact the adequacy or reliability of service provided to other customers, and that the rates contained in the New Toyota Contract are practical, advantageous and beneficial to Toyota and Vectren South, in the public interest, and not inconsistent with the purpose of Indiana utility regulation.

Mr. Bailey described generally the Confidential Information contained in certain provisions of the New Toyota Contract and the O'Leary Affidavit that need to be protected from public disclosure. Mr. Bailey testified that the Confidential Information includes pricing, demand, term and other provisions that were negotiated between Toyota and Vectren South on a confidential basis. He said Vectren South is likely to negotiate business retention contracts with other customers in the future. If these terms became generally known or readily available, parties in negotiation with Vectren South could use this knowledge against Vectren South which

would adversely affect Vectren South's negotiating position, thereby limiting the potential benefits that could accrue to Vectren South and its customers from future special contracts. Additionally, disclosure of Toyota's confidential cost, usage, operational and business planning information could be of value to its competitors and harmful to Toyota's competitive position. In sum, Vectren South and Toyota both derive economic benefit from this information not being publicly available.

Mr. Bailey explained Vectren South has taken steps to maintain the confidentiality of this information. The Confidential Information has been the subject of efforts that are reasonable under the circumstances to maintain their secrecy. Within Vectren South, this information has been and will continue to be disclosed only to those persons directly involved with negotiating, obtaining approval of, and monitoring compliance with, the New Toyota Contract. Vectren South has also entered into an agreement with Toyota that protects the confidentiality of the Toyota information. Accordingly, Vectren South requests the Commission find the Confidential Information to be excluded from public disclosure.

5. OUC's Position. The OUC filed its Notice of Intent Not to File Testimony in this Cause, stating that the OUC had reviewed the Petition and all attachments thereto and conducted discovery and it did not oppose the special contract at issue herein.

6. Commission Discussion and Findings. Vectren South seeks approval of the New Toyota Contract under the provisions of Indiana Code § 8-1-2-24 ("Section 24") and § 8-1-2-25 ("Section 25"). Section 24 of the Act provides:

Nothing in this chapter shall be taken to prohibit a public utility from entering into any reasonable arrangement with its customers or consumers, or with its employees, or with any municipality in which any of its property is located, for the division or distribution of its surplus profits, or providing for a sliding scale of charges or other financial device that may be practicable and advantageous to the parties interested. No such arrangement or device shall be lawful until it shall be found by the commission, after investigation, to be reasonable and just and not inconsistent with the purpose of this chapter. Such arrangement shall be under the supervision and regulation of the commission.

Section 25 provides as follows:

The commission shall ascertain, determine and order such rates, charges and regulations as may be necessary to give effect to such arrangement, but the right and power to make such other and further changes in rates, charges and regulations as the commission may ascertain and determine to be necessary and reasonable, and the right to revoke its approval and amend or rescind all orders relative thereto, is reserved and vested in the commission, notwithstanding any such arrangement and mutual agreement.

Therefore, discounted rate contracts are lawful if the Commission finds their provisions to be reasonable and just, practicable and advantageous to the parties, and not inconsistent with the purposes of the Act.

We find that the New Toyota Contract and the evidence submitted in support of the New Toyota Contract satisfy all of the legal requirements imposed by Sections 24 and 25. The New Toyota Contract will enable Vectren South to obtain revenues from the provision of electric service to the Toyota Facility operations. The New Toyota Contract encourages future expansion opportunities and promotes profitability and growth while allowing for long term sustainability at the plant. The Contract will encourage further retention of employees at the region's largest employer at a time when unemployment levels across the region remain high. The evidence shows that no additional capital investment is needed to serve the Toyota Facility under the New Toyota Contract and an inspection of the Confidential Information demonstrates that the rates provide for a contribution to the recovery of Petitioner's fixed costs and therefore are reasonable and just.

The evidence indicates that there will be benefits under the New Toyota Contract sufficient to merit and support its approval. The Commission finds that the New Toyota Contract is reasonable, just, practicable, advantageous and beneficial to Toyota, Vectren South, and Vectren South's existing and future customers and is not inconsistent with the purposes of the Act, and therefore should be approved.

7. **Confidential Information.** Pursuant to the June 30, 2010 docket entry in this Cause, the Confidential Information prefiled with this Commission by Petitioner was found to be confidential on a preliminary basis. This Commission's further *in camera* inspection reveals that the Confidential Information constitutes trade secrets as defined in Indiana Code § 24-2-3-2, and therefore should be exempted from the public access and disclosure requirements contained in Indiana Code §§ 5-14-3 and 8-1-2-29 and held confidential and remain under seal in accordance with Commission practices. The Commission, therefore, finds that the Confidential Information contains confidential trade secrets that have economic value to Petitioner from being neither known to nor ascertainable by its competitors and other persons who could obtain economic value from the knowledge and use of such information, that the public disclosure of such information would have substantial detrimental effect on Petitioner and that the information is subject to efforts of Petitioner that are reasonable under the circumstances to maintain its secrecy.

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

1. The provisions of the Special Contract for Electric Service by and between Petitioner and Toyota Motor Manufacturing, Indiana, Inc. are reasonable, just, practicable, advantageous and beneficial to the parties thereto, and are not inconsistent with the provisions of Ind. Code § 8-1-2-1 *et seq.*

2. The Special Contract for Electric Service by and between Petitioner and Toyota Motor Manufacturing, Indiana, Inc. submitted in this Cause shall be and hereby is in all respects approved.

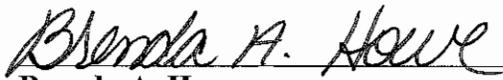
3. The Confidential Information identified in Petitioner's Motion For Protective Order and described herein is determined to be confidential trade secret information as defined in Indiana Code § 24-2-3-2 and shall continue to be exempt from public access and disclosure pursuant to Indiana Code § 5-14-3-3 and § 8-1-2-29.

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

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

APPROVED: SEP 22 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