

OFFICIAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

JOINT PETITION BY THE INDIANA FINANCE)
 AUTHORITY (“AUTHORITY”) AND INDIANA)
 GASIFICATION, LLC (“INDIANA)
 GASIFICATION”) FOR THE INDIANA UTILITY)
 REGULATORY COMMISSION TO (1) APPROVE A)
 SUBSTITUTE NATURAL GAS PURCHASE AND)
 SALE AGREEMENT ENTERED INTO BY THE)
 AUTHORITY AND INDIANA GASIFICATION FOR)
 THE SALE BY INDIANA GASIFICATION AND)
 PURCHASE BY THE AUTHORITY OF)
 SUBSTITUTE NATURAL GAS (“SNG”) OVER A 30-)
 YEAR TERM PURSUANT TO I.C. §4-4-11.6; (2) IF)
 NECESSARY, ORDER INDIANA REGULATED)
 ENERGY UTILITIES TO ENTER INTO A)
 MANAGEMENT CONTRACT WITH THE)
 AUTHORITY; (3) DECLINE TO EXERCISE)
 JURISDICTION PURSUANT TO I.C. §8-1-2.5-5)
 OVER INDIANA GASIFICATION WITH RESPECT)
 TO ITS FINANCING, CONSTRUCTING, OWNING)
 AND OPERATING SNG PRODUCTION AND)
 TRANSPORTATION FACILITIES, AND AN)
 ANCILLARY INTEGRATED COAL)
 GASIFICATION POWERPLANT (“ICGP)
 FACILITIES”) AND CAUSE NO. 43976 ELECTRIC)
 GENERATION FACILITIES WHICH USE CLEAN)
 COAL TECHNOLOGY IN CONNECTION)
 THEREWITH, AND WHICH PRODUCES SNG TO)
 BE SOLD TO THE AUTHORITY AND OTHER)
 PERSONS, AND PRODUCES ELECTRICITY)
 WHICH WILL BE SOLD TO ENERGY UTILITIES;)
 AND (4) GRANT ALL OTHER APPROPRIATE AND)
 ASSOCIATED APPROVALS AND RELIEF.)

CAUSE NO. 43976

APPROVED: MAR 15 2012

RESPONDENTS: ALL INDIANA REGULATED)
 NATURAL GAS LOCAL DISTRIBUTION)
 COMPANIES)

ORDER OF THE COMMISSION

Presiding Officers:
 James D. Atterholt, Chairman
 Angela Rapp Weber, Administrative Law Judge

On December 12, 2011, the Indiana Industrial Group (“Industrial Group”) filed with the Indiana Utility Regulatory Commission (“Commission”) its *Petition for Reconsideration*. On December 22, 2011, Indiana Gas Company, Inc. and Southern Indiana Gas and Electric Company both d/b/a Vectren Energy Delivery of Indiana, Inc., Community Natural Gas Company, Inc., Midwest Natural Gas Corporation, Indiana Natural Gas Corporation, Ohio Valley Gas Corporation, Ohio Valley Gas, Inc., and Sycamore Gas Company submitted a *Joint Response of Vectren Energy and Six LDC Respondents to Indiana Industrial Group’s Petition for Reconsideration*. A *Joinder of Citizens Groups in Joint Response of Vectren Energy and Six LDC Respondents to Indiana Industrial Group’s Petition for Reconsideration* was filed with the Commission on December 22, 2011. The Indiana Finance Authority and Indiana Gasification, LLC (“Joint Petitioners”) filed a *Joint Response in Opposition to Indiana Industrial Group’s Petition for Reconsideration* on December 22, 2011. On December 29, 2011, the Industrial Group filed a *Consolidated Reply in Support of Reconsideration*.¹

The issue raised in the Petition for Reconsideration concerns the term “retail end use customer” defined by Indiana Code § 4-4-11.6-10. That term is used in the Contract approved by the Commission in the Order issued on November 22, 2011 in this Cause and in the proposed Utility Management Agreement (“UMA”), which has not been approved by the Commission. The Industrial Group asks the Commission to provide clarification regarding who is subject to the Contract, and therefore not a part of the substitute natural gas (“SNG”) transaction, and find specifically that industrial transportation customers are not subject to the SNG transaction and should not pay for the SNG.

Indiana Code § 4-4-11.6-10 states,

As used in this chapter, “retail end use customer” means a customer who acquires energy at retail for the customer’s own consumption:

- (1) from a gas utility that must apply to the commission under IC 8-1-2-42 for approval of gas cost changes; or
- (2) under a program approved by the commission through which the customer purchases gas that would be subject to price adjustments under IC 8-1-2-42 if the gas were sold by a gas utility.

Retail end use customers include customers acquiring energy at retail from a gas utility subject to Commission regulation under Indiana Code § 8-1-2-42 and under certain programs approved by

¹ On December 12, 2011; December 21, 2011; and January 18, 2012, the Industrial Group filed with the Commission amendments to Appendix A of its Petition to Intervene (“Amendments”). The Amendments changed the composition of the Industrial Group leaving Arcelor Mittal USA as the only original member of the Industrial Group. Joint Petitioners filed objections to the Amendments on December 28, 2011 and January 20, 2012 (“Objections”). The Industrial Group filed replies to the Objections on January 6, 2012 and January 23, 2012. The Objections essentially argue that as a result of the Amendments, the Industrial Group no longer exists. The Commission disagrees with the Joint Petitioners. Arcelor Mittal USA’s participation in the Industrial Group maintains the Industrial Group’s status as a party to this Cause.

the Commission. Therefore, the composition of retail end use customers will vary over the thirty-year term of the Contract.

Pursuant to Indiana Code § 4-4-11.6-7, the Commission found the Contract provides a sufficient guarantee of savings for retail end use customers. Specifically, through the alternative provisions in the Contract (i.e., at the end of the thirty-year term, any shortfall in savings could be accomplished by a payment in cash, sale of the SNG facility, or extension of the Contract term at a lower SNG price), retail end use customers will realize savings of at least \$100 million. The Commission had no need to address the issue posed by the Industrial Group because retail end use customers will realize at least \$100 million in savings regardless of the make-up of “retail end use customers.”

Furthermore, Indiana Code § 4-4-11.6-15 states, “The authority may enter into management and related contracts as needed to transport, store, deliver, manage, and bill and collect for the delivery and sale of SNG to retail end use customers.” Indiana Code § 4-4-11.6-22 states,

(a) Upon the request of the authority, the commission shall order a regulated energy utility to enter into a management contract with the authority to:

- (1) distribute and deliver SNG purchased by the authority; and
- (2) provide billing, collection, and other services related to the purchase, distribution, and delivery of the SNG.

(b) A management contract entered into under subsection (a) must include a mechanism by which the regulated energy utility is reimbursed for all costs incurred in performing the management contract in excess of costs that, as determined by the commission, the regulated energy utility would otherwise have incurred in the ordinary course of business.

Accordingly, the issue of who comprises “retail end use customers,” and thus who will be subject to the SNG transaction and pay for the SNG, will be addressed in the UMAs. In our November 22, 2011 Order in this Cause the Commission declined, absent a specific request from the Indiana Finance Authority, to order the regulated utilities into UMAs and encouraged the parties to resolve issues related to the UMAs. The Commission stated, “If the parties are unable to reach an agreement, the [Indiana Finance Authority] should file a petition in a separately docketed proceeding with the Commission asking us to order the utilities to enter into the UMAs pursuant to Indiana Code § 4-4-11.6-22. Disputes concerning the UMAs may be resolved in the separately docketed proceeding.” *Indiana Finance Authority*, Cause No. 43976, 2011 Ind. PUC LEXIS 354, at *311–12, (IURC Nov. 22, 2011).

As of the date of this Order, no proceeding concerning the UMAs has been initiated with the Commission. Therefore, the issue regarding who is subject to the Contract and the SNG transaction is not ripe for the Commission’s consideration. However, the Commission expects

the UMAs to comply with Indiana Code ch. 4-4-11.6 and specifically Indiana Code § 4-4-11.6-10.

Accordingly, the Commission denies the Industrial Group's Petition for Reconsideration.

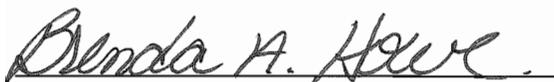
IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. The Petition for Reconsideration is denied.
2. This Order shall be effective on and after the date of its approval.

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

APPROVED: MAR 15 2012

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



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