



STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF SOUTHERN INDIANA GAS)
AND ELECTRIC COMPANY D/B/A)
VECTREN ENERGY DELIVERY OF)
INDIANA, INC (“VECTREN SOUTH”) FOR)
DETERMINATION THAT CERTAIN)
INFORMATION CONTAINED IN ITS 2011)
INTEGRATED RESOURCE PLAN IS)
CONFIDENTIAL AND EXEMPT FROM)
PUBLIC DISCLOSURE PURSUANT TO 170)
IAC 4-7-3(f), 170 IAC 1-1.1-4, IND. CODE § 8-)
1-2-29 AND IND. CODE § 5-14-3-4.)

CAUSE NO. 44108

APPROVED: FEB 22 2012

ORDER OF THE COMMISSION

Presiding Officers:

Kari A.E. Bennett, Commissioner

Gregory R. Ellis, Administrative Law Judge

On October 31, 2011, Southern Indiana Gas and Electric Company d/b/a Vectren Energy Delivery of Indiana, Inc. (“Vectren South” or “Petitioner”), pursuant to 170 IAC 4-7-3(f), filed its *Request for Finding of Confidentiality* (“Petition”) in this Cause seeking a determination by the Indiana Utility Regulatory Commission (“Commission”) that certain information contained in its biennial Integrated Resource Plan (“2011 IRP”) submitted on November 1, 2011, is confidential, and therefore exempt from public disclosure under Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3. Pursuant to 170 IAC 4-7-3(f), Petitioner filed along with its Petition those parts of its 2011 IRP for which it seeks confidential treatment. The claimed confidential documents, in accordance with 170 IAC 4-7-3(f), have been treated by the Commission as confidential pending the determination on the issue of confidentiality made in this Order. Also accompanying Vectren South’s Petition was the affidavit of James H. Cox, Petitioner’s Chief Engineer. This affidavit was filed in support of Petitioner’s request for confidential treatment of certain parts of its 2011 IRP.

Based upon the Petition and affidavit filed herein, a review of the information filed as confidential, and application of relevant law, the Commission now finds:

- 1. Commission Jurisdiction and Notice.** Proper notice in this Cause was given as required by law. Petitioner is a public utility within the meaning of the Public Service Commission Act as amended, Ind. Code § 8-1-2-1, and as such, is subject to the jurisdiction of the Commission, in the manner and to the extent provided by law. Accordingly, the Commission has jurisdiction over Petitioner and the subject matter of this Cause.

2. **Petitioner's Characteristics.** Vectren South is a public utility corporation organized and existing under the laws of the State of Indiana and having its principal office at One Vectren Square, 211 N.W. Riverside Drive, Evansville, Indiana. Vectren South is engaged in rendering electric public utility service in the State of Indiana and owns, operates, manages and controls, among other things, plant and equipment within the State of Indiana used for the production, transmission, delivery and furnishing of electric power to the public.

3. **Relief Requested.** On October 31, 2011, Petitioner filed the Petition initiating this Cause. On November 1, 2011, and pursuant to 170 IAC 4-7, Petitioner submitted its 2011 IRP to the Commission with designated portions redacted therefrom. Petitioner requests a determination by the Commission, pursuant to 170 IAC 4-7-3(f), that designated portions of its 2011 IRP contain confidential information and, therefore, are exempt from public disclosure under Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3.

4. **Petitioner's Evidence.** Vectren South's Petition states that certain information filed in this Cause includes infrastructure information and that public disclosure of the information would be harmful to Vectren South and other parties. Vectren South states on page 151 of their 2011 IRP that maps of Vectren South's Electric Transmission System confidentially submitted to the Commission in the Technical Appendix are Critical Electric Infrastructure Information ("CEII"), as defined in guidelines of Homeland Security, the Federal Energy Regulatory Commission ("FERC") and other agencies requirements. Mr. Cox states in his affidavit that Vectren South designated its Transmission System Map as confidential and FERC protects similar information designated as CEII and does not post it publicly. Mr. Cox further states Vectren South has maintained the confidentiality of the Transmission System Map by taking all reasonable steps in order to protect it, including sharing such information internally on a need to know basis and limiting the public availability of the Designated Information.

5. **Discussion and Findings.** Under Ind. Code § 8-1-2-29, all information submitted to the Commission is open to the public, subject to the provisions of the Indiana Access to Public Records Act ("APRA") found at Ind. Code ch. 5-14-3. The APRA sets out a broad policy in favor of disclosure of information and generally mandates that government agencies make public records available for inspection and copying. The purpose behind Indiana's APRA is codified at Ind. Code § 5-14-3-1, which states, in part, as follows:

A fundamental philosophy of the American constitutional form of representative government is that government is the servant of the people and not their master. Accordingly, it is the public policy of the state that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Providing persons with the information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.

The APRA also provides mandatory and discretionary exemptions from public disclosure for certain categories of information. *See* Ind. Code § 5-14-3-4. The Indiana Court of Appeals, in interpreting this statute, stated “liberal construction of the statute requires narrow construction of its exceptions.” *Robinson v. Indiana University*, 659 N.E.2d 153, 156 (Ind. Ct. App. 1995).

We, therefore, must balance the purpose of the APRA against the protections provided to confidential information. Our analysis begins with the rules pertaining to IRP filing requirements, which authorize a utility to request confidential treatment of certain information submitted as part of the IRP process. *See* 170 IAC 4-7-3(f).

FERC has determined that the portions of its Form 715 containing CEII should have limited public availability. *See* 18 C.F.R. § 141.300 and FERC Order 630, Final Rule on Critical Energy Infrastructure Information, 102 FERC ¶ 61, 190 (2003). Vectren South’s Transmission System Map contains the same information that FERC has determined to be CEII in Form 715. Ind. Code § 5-14-3-4(a)(3) requires the Commission to keep confidential those public records which are required to be kept confidential under federal law. Therefore, based upon the evidence submitted in this Cause, the Commission finds that Petitioner’s Transmission System Map is CEII and included in Petitioner’s 2011 IRP, qualifies for an exemption from public disclosure pursuant to 170 IAC 4-7-3(f) and Ind. Code § 5-14-3-4(a)(3), and is therefore exempt from the public access requirements of Ind. Code ch. 5-14-3 and Ind. Code § 8-1-2-29.

6. Method of Protection. In order to protect the confidentiality of the documents designated as confidential by this Order, we find that the following procedures are reasonably necessary and consistent with past Commission practice, and should be implemented consistent with Ind. Code ch. 5-14-3:

- a. The confidential information should be made available solely for inspection by members or employees of the Commission as necessary to review and decide the issues presented by Petitioner’s 2011 IRP.
- b. Any Commission member or employee who receives access to the confidential information should be under an obligation to secure and maintain exclusive control of the information, and should refrain from and prohibit any direct or indirect public disclosure of the information in any form.
- c. Any documents, materials or reports prepared by Commission members or employees should not have the effect of disclosing the confidential information.

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

1. Those portions of Vectren South's 2011 Integrated Resource Plan which are specifically described in Finding Paragraph No. 4 of this Order are entitled to confidential treatment and shall be exempt from disclosure under Ind. Code § 8-1-2-29 and Ind. Code ch. 5-14-3.

2. The Commission and its employees shall follow the procedures set forth in Finding Paragraph No. 6 of this Order when handling the materials specifically described in Finding Paragraph No. 4 of this Order.

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

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

APPROVED: FEB 22 2012

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



Brenda Howe,
Secretary to the Commission