

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF MIDWEST NATURAL GAS)
CORPORATION FOR A NECESSITY CERTIFICATE)
TO RENDER NATURAL GAS DISTRIBUTION)
SERVICE IN CERTAIN RURAL AREAS OF DAVIESS,)
GREENE, JENNINGS AND SULLIVAN COUNTIES,)
INDIANA)

CAUSE NO. 44210

APPLICATION OF INDIANA GAS COMPANY, INC.)
D/B/A VECTREN ENERGY DELIVERY OF INDIANA,)
INC. ("VECTREN NORTH") FOR A NECESSITY)
CERTIFICATE AUTHORIZING IT TO RENDER)
NATURAL GAS SERVICE TO THE PUBLIC IN)
CERTAIN AREAS OF GREENE COUNTY, INDIANA.)
RESPONDENT: MIDWEST NATURAL GAS CORP.)

CAUSE NO. 44253

APPROVED:

MAY 29 2013

ORDER OF THE COMMISSION

Presiding Officers:
James D. Atterholt, Chairman
Gregory R. Ellis, Administrative Law Judge

On June 5, 2012, Midwest Natural Gas Corporation ("Midwest") filed its petition with the Indiana Utility Regulatory Commission ("Commission") in Cause No. 44210 seeking Certificates of Public Convenience and Necessity ("CPCN or "Necessity Certificate") to render gas utility service to the public in rural areas of approximately sixty (60) sections in Daviess County, Greene County, Jennings County, and Sullivan County, Indiana. On July 26, 2012, Midwest filed its amended petition and on July 31, 2012 prefiled its testimony and exhibits constituting its case-in-chief. On August 16, 2012, Indiana Gas Company, Inc. d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren North") filed its Petition to Intervene in this Cause which the Commission granted on August 27, 2012.

On September 24, 2012, Vectren North filed a separate petition with the Commission initiating Cause No. 44253 seeking a CPCN to render gas utility service in Section 35 of Taylor Township, Greene County ("Section 35"), which is one of the sixty sections that Midwest is seeking authority to serve. On October 9, 2012, Vectren North filed its motion to consolidate Cause Nos. 44210 and 44253 which the Commission subsequently granted on November 5, 2012. Vectren North prefiled testimony and exhibits constituting its case-in-chief on November 29, 2012.

The Indiana Office of Utility Consumer Counselor ("OUCC") prefiled testimony and exhibits constituting its case-in-chief on December 18, 2012. On January 7, 2013, Vectren North and Midwest both filed their rebuttal testimony and exhibits. On January 11, 2013, Vectren

North filed supplemental rebuttal testimony. Midwest filed supplemental rebuttal on January 16, 2013. On January 18, 2013, the OUCC filed testimony in response to Midwest's rebuttal testimony. On January 22, 2013, Vectren North filed corrections to its prefiled testimony.

Pursuant to notice duly 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 at 9:30 a.m., on January 24, 2013, in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Midwest, Vectren North and the OUCC were present and participated. The parties presented their testimony and exhibits and the respective witnesses were cross-examined. No members of the general public appeared or sought to testify at the hearing.

Based upon the applicable law and the evidence of record, the Commission now finds:

1. **Notice and Jurisdiction.** Due, legal, and timely notice of the public hearing in this Cause was given and published as required by law. Both Midwest and Vectren North are corporations organized and existing for purposes of delivering natural gas to consumers within the State of Indiana. Both are public utilities as defined by Ind. Code § 8-1-2-1 and are gas utilities as described by Ind. Code § 8-1-2-87. Pursuant to Ind. Code § 8-1-2-87, the Commission is authorized to issue necessity certificates to Midwest and Vectren North. Thus the Commission has jurisdiction over both Petitioners and the subject matter of this Cause.

2. **Petitioners' Characteristics.** Midwest is a corporation duly organized and existing under the laws of the State of Indiana. Midwest has its principal office located at 107 Southeast Third Street, Washington, Indiana 47501. Midwest is engaged in rendering natural gas utility service to the public in Clark, Daviess, Greene, Knox, Jackson, Jennings, Monroe, Orange, Scott, and Washington Counties in Indiana; and owns, operates, manages and controls plant and equipment used for the distribution and furnishing of such services. Midwest provides full retail service to approximately 14,000 customers, which include residential, commercial, industrial, and transport customers.

Vectren North is a corporation duly organized and existing under the laws of the State of Indiana and has its principal office located at One Vectren Square, Evansville, Indiana. Vectren North is engaged in the business of purchasing, transporting, distributing, and selling natural gas to the public in 49 counties in central and southern Indiana. Vectren North 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 natural gas service to approximately 567,000 customers in Indiana.

3. **Relief Requested.** Midwest seeks Necessity Certificates from the Commission authorizing it to expand its natural gas distribution service into all or part of sixty (60) sections of townships in Indiana as follows:

Daviess County:

Madison Township:

Sections 31, 32, 33, 34

Township 5 North, Range 5 West

Greene County:

Beech Creek Township:

Section 36

Township 8 North, Range 3 West

Center Township:

Sections 19, 20, 33

Sections 23, 24

Township 7 North, Range 3 West

Township 7 North, Range 4 West

Fairplay Township:

Sections 1, 2, 11

Township 7 North, Range 6 West

Grant Township:

Sections 3, 10, 15, 21, 32

Township 7 North, Range 6 West

Jefferson Township:

Section 36

Township 8 North, Range 6 West

Richland Township:

Sections 9, 21, 22

Sections 1, 2

Township 7 North, Range 4 West

Township 7 North, Range 5 West

Smith Township:

Sections 34, 35

Township 8 North, Range 6 West

Taylor Township:

Sections 8, 17, 20, 29, 30, 31

Sections 35, 36

Township 6 North, Range 4 West

Township 6 North, Range 5 West

Jennings County:

Center Township:

South half of Section 13

South half of Section 14

South half of Section 15

Sections 24, 25, 36

Sections 30, 31

Township 7 North, Range 8 East

Township 7 North, Range 9 East

Campbell Township:

South half of Section 18

Sections 15, 16, 17, 19, 20,

21, 22, 27, 28, 29

Township 7 North, Range 9 East

Sand Creek Township:

North half of Section 13 Township 7 North, Range 8 East
North half of Section 14
North half of Section 15
North half of Section 18 Township 7 North, Range 9 East

Sullivan County:

Cass Township:
Sections 13, 14 Township 8 North, Range 8 West

Jackson Township:
Section 12 Township 8 North, Range 8 West

Vectren North opposed Midwest’s request for gas Necessity Certificates for Sections 31 and 36 of Taylor Township in Greene County (“Sections 31 and 36”) citing Cause No. 37313 which granted Necessity Certificates to Vectren North in 1983. Vectren North also opposed Midwest’s request for a Necessity Certificate to provide service in Section 35 and through its petition in Cause No. 44253 requests it be certificated to serve Section 35.

4. **Certificate of Public Convenience and Necessity.** Ind. Code § 8-1-2-87 sets forth the responsibilities of natural gas utilities and the Commission with respect to the issuance of authorization to provide service. Specifically, whenever a natural gas utility proposes to commence rendering natural gas service to a rural area where it is not currently serving, such utility shall file a verified application with the Commission seeking a Necessity Certificate. The Commission must set a public hearing on the request and allow any gas utility rendering service within the general service area requested to appear and participate in such hearing. The applicant is to present evidence that it has the lawful power and authority to obtain the Necessity Certificate and to render the proposed gas distribution service; that it has the financial ability to provide the proposed service; that public convenience and necessity require the rendering of such gas service; and that the public interest will be served by the issuance of the Necessity Certificate to the gas utility. If the Commission determines that the applicant has met each of the requirements specified above, the application for Necessity Certificate shall be granted, subject to such terms, restrictions, and limitations as the Commission shall determine to be necessary and desirable in the public interest.

5. **Evidence Presented.**

A. **Midwest Case-in-Chief.** David A. Osmon, Executive Vice President for Midwest, testified that Midwest is seeking to expand its service territory in adjacent areas in Daviess, Greene, Jennings, and Sullivan Counties. Mr. Osmon described the expansion area in Daviess County as immediately south of the Town of Odon in Madison Township, noting that Midwest currently serves Odon. In Greene County, Mr. Osmon explained that Midwest serves throughout the county through its service office in Bloomfield, Indiana. He indicated Midwest’s proposed expansion area in Greene County is primarily designed to square off the territory Midwest is currently serving; and to provide service to an area in which new Interstate-69 (“I-69”) will be extended, i.e. Section 35. The expansion in Jennings County is in response to the

development of a Homeland Security training area at the site of the previous Muscatatuck state facility. Midwest currently serves the city of North Vernon and proposes to expand northeast to the community of Butlerville. The proposed expansion requires construction of a high-pressure four-inch main east of North Vernon to the Homeland Security training facility. Midwest expects additional development activity in this area of Jennings County as a result of various armed forces and homeland security training. In Sullivan County Midwest proposes to include two sections in Cass Township and one section in Jackson Township, both of which are adjacent to Midwest's current service territory in western Greene County. Midwest will branch off of an existing six-inch steel main to serve the proposed expansion areas. Mr. Osmon indicated that the legal description for all of these expansion areas are as set forth in Exhibit B attached to Midwest's Amended Petition. Midwest's Exhibit C is a series of plat maps showing the requested areas. Mr. Osmon described, in Exhibit DAO-1 at p. 6, how the requested new expansion areas would be served with main extensions:

Daviess County: Extension of a two-inch plastic main which currently extends south of Odon.

Greene County: Extension of two-inch and three-inch plastic mains from the current service areas from existing mains in the various sections.

Jennings County: Construction of a high-pressure four-inch main east of the City of North Vernon to the new Muscatatuck Homeland Security training facility.

Sullivan County: Construction where necessary off of an existing six-inch steel main.

Mr. Osmon testified that Midwest has the necessary legal authority and power to obtain the requested Necessity Certificates and thereafter provide natural gas service to new customers. Mr. Osmon also testified Midwest has the ability to obtain sufficient natural gas supply in order to provide service to customers in its proposed expansion area. Midwest's marketer has assured additional gas supplies are available. With respect to Midwest's financial ability to provide service, Mr. Osmon provided the audited financial statements through August 31, 2011, and noted at the time of his direct testimony that the financial integrity of the company should be improved by the Commission's rate case order in Cause No. 44063, concluding that Midwest has the financial ability to provide such gas service.

Mr. Osmon indicated the public convenience and necessity, along with the public interest would be served by the issuance of the Necessity Certificate as requested by Midwest. Mr. Osmon described the numerous discussions with potential customers. He indicated that Midwest had taken into account the number of homes and businesses in these expansion areas using propane or other alternative fuels. Midwest also recognized that the expansion of the Homeland Security Training area in Jennings County and the extension of I-69 in Daviess and Greene Counties have created significant interest in potential development. He believes these factors indicate that public convenience and the public interest will be served by issuance of the requested Necessity Certificate. Mr. Osmon concluded his direct testimony by noting that

Midwest has been in continuous operation providing service to residential, commercial, and industrial customers in its service territory for over 50 years.

B. Vectren North Case-in-Chief.

(1) **Thomas L. Bailey.** Mr. Thomas L. Bailey, Director of Sales for Vectren Utility Holding, Inc., testified and sponsored exhibits about Vectren North's financial capabilities, market demand, and economic development relating to the areas at issue in this Cause. Mr. Bailey's testimony indicated that Vectren North opposes Midwest's request to serve Sections 36, 31, and 35 of Taylor Township in Greene County. He stated that Vectren has limited its request for a CPCN to Section 35. He indicated that the area is adjacent to Vectren North's existing territory and is important to its future operations and customer service. He testified Vectren North serving Section 35 will give rise to and support expanded opportunities for new economic development and commerce and will also allow Vectren North to better serve Crane Naval Base and adjacent businesses already in the area. Mr. Bailey discussed the potential commercial, industrial and residential development opportunities of the Section 35. Mr. Bailey indicated that Vectren North had received requests from two residential property owners in Section 35 and thus opined that the public convenience, along with public interest, would be best served by Vectren North receiving the authority of the Commission to serve Section 35. Mr. Bailey went on to note that Vectren North has the financial ability to provide natural gas service in Section 35.

Mr. Bailey testified that Sections 31 and 36 are already certificated to Vectren North and are contiguous to Section 35. The Necessity Certificates were granted to Vectren for Sections 31 and 36 in 1983 in Cause No. 37313. Mr. Bailey noted that Vectren North is in the process of extending service into Section 36, pointing out that Vectren North intends to serve the Battery Innovation Center ("BIC") and has agreed to serve a hotel, office building, and restaurant to be built in the future in Section 36. With respect to Section 31, Mr. Bailey noted that Vectren North has agreed to serve a fire station which sits on the border between Sections 31 and 36. He indicated that gas service to the fire station and to the Town of Scotland itself is expected to be completed in 2013.

Mr. Bailey testified Vectren North has the financial capability to provide natural gas service. He stated that Vectren North's recent income statement and balance sheet, attached to the Verified Petition in Cause No. 44253 as Exhibits B and C, demonstrate Vectren North's substantial financial resources are more than adequate to support gas service to the Section 35 Expansion Area and Vectren North's already certificated service areas including Sections 31 and 36. Mr. Bailey also pointed out that if Midwest's request for Necessity Certificate in Sections 31 and 36 were granted, two gas utilities could have redundant infrastructure in the same area, thus creating the type of inefficiencies that Necessity Certificates are designed to help avoid.

(2) **James M. Francis.** Mr. James M. Francis, Director of Engineering and Asset Management for Vectren Utility Holding, Inc., testified and sponsored exhibits about Vectren North's technical and managerial capabilities and gas infrastructure in the areas at issue in this Cause. Mr. Francis described Vectren North's service territory as including 49 counties in Indiana and service to approximately 570,000 customers. Mr. Francis opposed

Midwest's service to Sections 36, 31, and 35 of Taylor Township in Greene County, indicating that Vectren North currently is authorized to serve Sections 31 and 36 pursuant to the Commission's Order in Cause No. 37313 issued in 1983. Mr. Francis described Vectren North's request that it be authorized to serve Section 35.

Mr. Francis described how Vectren North has installed natural gas infrastructure in Sections 31 and 36 to provide customers' service. Mr. Francis also described how service would be provided in the future through three stages and also offered a map as Exhibit JMF-2 to show Vectren North's current and projected infrastructure work in these and the adjoining sections. Mr. Francis concluded that extensions into Sections 31 and 36 by Vectren North would be in place in 2013. Thereafter, facilities would be extended in Sections 31 and 36 as reasonably needed. He explained the recently completed I-69 in southern Indiana has increased growth opportunities for natural gas in the area.

Mr. Francis testified Vectren North stands ready and able to provide additional gas service in Sections 31 and 36 as needed. He explained Vectren North has all of the necessary ability, finances, assets and intention to extend service in Sections 31 and 36 as reasonably needed, but also, given its existing Necessity Certificate and in response to requests for service, will be serving new customers in 2013. He indicated Vectren North is well positioned to further extend service as reasonably needed.

Mr. Francis described Vectren North's proposed Section 35 Expansion Area located just to the west of Vectren North's currently certificated Sections 31 and 36. He stated Vectren North's existing facilities are of sufficient capacity to provide gas to the Section 35 Expansion Area. Mr. Francis testified Vectren North possesses the requisite technical, managerial and operational expertise to extend and provide service in the Section 35 Expansion Area.

C. OUCG Case-in-Chief. Sherry L. Beaumont, Utility Analyst for the OUCG, indicated that the OUCG supports Midwest's request for Necessity Certificates to serve all the areas requested except for Section 35 and the sections already certificated to Vectren North and Ohio Valley Gas ("OVG"). She stated the OUCG recommends Sections 31 and 36 remain certificated to Vectren North and Sections 13 and 14 of Cass Township and Section 12 of Jackson Township in Sullivan County ("Sections 13, 14 and 12") remain certificated to Ohio Valley Gas.

Ms. Beaumont testified the OUCG does not dispute that Midwest has the lawful power and authority to obtain the requested Necessity Certificates. She also stated Midwest is capable of serving the area of its requested expansion in a financially and operationally prudent manner.

Ms. Beaumont pointed out a requirement of Ind. Code § 8-1-2-87(e) that, "Upon approval by the Commission...any Necessity Certificate may: (1) be sold, assigned or leased or transferred by the holder thereof to any person, firm or corporation to whom a Necessity Certificate might be lawfully issued..." She testified that Midwest stated OVG has agreed to allow Midwest to serve the sections requested subject to a future exchange if OVG extends infrastructure into these sections in order to provide natural gas service. She further testified that Midwest provided no evidence to support this agreement and Midwest has not requested OVG to

sell, assign, lease, or transfer the Necessity Certificate as required by Ind. Code § 8-1-2-87(e)(1). She opined that Midwest should not be granted certification to render gas distribution service to areas already certificated to OVG.

Ms. Beaumont noted that Vectren North intervened in Cause No. 44210 to oppose Midwest's request for Necessity Certificates for the areas already franchised to Vectren North and that Vectren North filed its petition, initiating Cause No. 44253, for a Necessity Certificate authorizing it to render natural gas service to Section 35 also requested by Midwest in Cause No. 44210. She testified that Vectren North has previously been certificated in Cause No. 37313 to provide service in Sections 31 and 36 and that Midwest should not be granted certification to render gas distribution service to areas already certificated to Vectren North. Ms. Beaumont testified that public convenience and necessity and public interest would be served by Vectren North remaining as the sole certificated gas supplier in Sections 31 and 36. She testified that both Midwest and Vectren North have the operational and financial capability to serve Section 35. Ms. Beaumont's testimony also indicated that both Midwest and Vectren North made a good case for public convenience and necessity, and that the public interest will be served by certifying Section 35 to one company or the other. She also noted the compromise, suggested by Vectren North, authorizing Midwest to serve north of I-69 and authorizing Vectren North to serve south of I-69 in Section 35 is reasonable.

D. Midwest's Rebuttal Testimony. Mr. Osmon indicated that Midwest agreed that Vectren North had previously been certificated to serve Sections 31 and 36. He testified that it is clear by Vectren North's Petition to Intervene along with pleadings filed in this Cause that Vectren North is ready, willing, and able to serve Sections 31 and 36. Thus, Midwest has no objections to the OUCC's position that Vectren be the entity that serves Sections 31 and 36.

Mr. Osmon disagreed with the OUCC's recommendation that Midwest not be certificated to serve Sections 13, 14 and 12 since those sections are already certificated to OVG. He testified that OVG has no objection to Midwest's proposed service to Sections 13, 14 and 12 and attached an email (Exhibit DAO-R3) received from Ohio Valley Gas to support his position. This email referenced a Service Territory Sharing Agreement (Exhibit DAO-R5) between Ohio Valley Gas and Midwest which would allow Midwest to extend lines and provide service to customers in certain areas certificated to Ohio Valley Gas until such time as Ohio Valley Gas extends its facilities in that area.

Mr. Osmon stated that Midwest is ready, willing, and able to extend service to Section 35. Mr. Osmon described how Midwest would extend an existing four-inch steel main into Section 35 and noted that boring under I-69 was not a foregone conclusion. He testified that in any event, boring under I-69 would not create a problem for Midwest and that boring beneath roads is a common activity, which should not be determinative of who serves Section 35.

Mr. Osmon responded to Vectren North's proposed compromise position by testifying that effectively there is no developable land north of I-69 in Section 35 and he anticipates there will be one access point to I-69 in Section 35, CR 75 East. Thus, he does not believe I-69 is a fair compromise. He contended that for economic development purposes, one gas company

should serve the entire Section 35. He instead suggested a compromise would be to use US 231, which partially separates Sections 35 and 36, as a more natural boundary, having Vectren North serve on the east side of US 231 while Midwest would serve on the west side of US 231.

Mr. Osmon also supplemented his rebuttal testimony in response to Vectren North's assertion that Midwest has made no guarantee about the timeliness of extending its four-inch steel line into Section 35, Mr. Osmon testified that Midwest is prepared to move forward immediately, whereas Vectren North indicated it was prepared to move into Section 35 after its upgrades were completed.

E. Vectren North's Rebuttal Testimony.

(1) **Thomas L. Bailey.** Mr. Bailey explained that Vectren North had notified Midwest of its objections to Midwest's proposal to serve Sections 36, 31, and 35 through a letter dated March 5, 2012. He noted that Midwest indicated its request for Necessity Certificates in Vectren North's Sections 31 and 36 would be withdrawn. Mr. Bailey opined that neither Midwest nor the OUCC provided any basis to cause Vectren North to lose its current Necessity Certificates for Sections 31 and 36. He also testified that Vectren North completed construction of infrastructure for both sections on December 10, 2012.

Mr. Bailey stated that Vectren North had received yet another request for gas service from a property owner in Section 35. Mr. Bailey indicated his belief that economic development should be considered in the competing requests for a gas CPCN in Section 35 near the I-69 expansion and that Vectren North is dedicated to providing service to this section for new industrial or commercial customers.

In his supplemental rebuttal testimony, Mr. Bailey testified that Midwest had altered its position in its rebuttal testimony about how it will serve Section 35 by presenting a new and different plan to use a four-inch steel main rather than two and three-inch plastic lines presented in its case-in-chief. He also indicated Vectren North already possesses the facilities in the area needed to adequately serve customers. Mr. Bailey also described the customers in Section 35 that have requested service from Vectren North and noted that some of these are the same customers that Midwest has claimed to have had contact with regarding service.

In addressing Mr. Osmon's assertion that Vectren North has a lack of interest in generally serving the areas in contention in this Cause, Mr. Bailey testified that Vectren North has been interested in providing service in those areas of Sections 31 and 36 where requested and where reasonably necessary. In some instances, the immediate extension of service is not reasonably necessary. Vectren North, like all other Indiana gas utilities, requires a reasonable cost justification for the extension of utility service lines.

Finally Mr. Bailey testified that Mr. Osmon's suggestion that a better "compromise" would be to use US 231 as a boundary between the two utilities is no compromise at all. Mr. Bailey states that using US 231 as the gas service territory boundary would mean 100 percent of Section 35 is to be certificated to Midwest. Moreover, Mr. Osmon's concession of Sections 31 and 36 is merely an acknowledgement of areas already certificated to Vectren North.

(2) **James M. Francis.** Mr. James M. Francis testified that he does not believe Midwest's plan for serving Section 35 is the best and most efficient way to extend gas service into Section 35. He explained that for Vectren North to serve customers on the south side of I-69 it would require an extension of approximately one mile, whereas Midwest indicated it would install approximately two miles of four-inch steel line that would cross I-69. He stated the shortened distance along with the installation of four-inch plastic main by Vectren North would result in a lower cost option to serve the customers in this area. He testified the vast majority of loads can be handled with four-inch plastic or smaller diameter plastic pipelines and only unusually large loads such as a manufacturing plant or similarly large industrial load typically require a steel main.

Mr. Francis disagreed with Midwest's compromise position of using US 231 as the gas service boundary as being no compromise at all. He explained that would mean 100 percent of Section 35 is to be certificated to Midwest. Mr. Francis also pointed out that it would result in redundant gas mains with the east side of US 231 being served by Vectren North and the west side of US 231 being served by Midwest. He explained that could create confusion for emergency responders.

6. Discussion and Findings. The Commission is authorized pursuant to Ind. Code § 8-1-2-87 to issue Necessity Certificates to gas utilities such as Midwest and Vectren North. Ind. Code § 8-1-2-87(d) provides that if the Commission makes the following findings, it shall grant an application for a Necessity Certificate:

- (1) that the applicant has the power and authority to obtain the certificate and to render the proposed gas distribution service if it obtains the certificate;
- (2) that the applicant has the financial ability to provide the proposed gas distribution service;
- (3) that the public convenience and necessity require the providing of the proposed gas distribution service; and
- (4) that the public interest will be served by the issuance of the necessity certificate.

The evidence in this Consolidated Cause demonstrates that either Midwest or Vectren North was the lawful power and authority to obtain a necessity certificate and to render the proposed gas distribution service if it obtains the certificate. Each utility provided evidence that they have the financial ability to provide the proposed gas distribution service. The evidence is also clear that public convenience and necessity, as well as public interest, would be served by the issuance of Necessity Certificates to provide gas distribution service.

The Commission notes that Midwest did not disclose in its Petition and case-in-chief testimony that its request for Necessity Certificates contained sections that had already been certificated to Vectren North and OVG. Vectren North indicated that it did not receive notice of Midwest's request to provide service in the sections that Vectren North held certificates until this

proceeding. It is the Commission's expectation that any utility include in its Petition or case-in-chief for Necessity Certificates complete and clear requests for relief, including any interest another utility holds in a section for which a Necessity Certificate is being sought. The Commission discusses below the evidence presented in relation to the various sections for which Necessity Certificates to provide gas distribution service were requested.

A. **Sections 31 and 36 of Taylor Township in Greene County.** Vectren North initially intervened in Cause No. 44210 to oppose Midwest's request for gas Necessity Certificates for Sections 31 and 36. The record indicates that Vectren North has been authorized to serve these two sections since 1983 pursuant to the Commission's Order in Cause No. 37313. Vectren North also demonstrated that it has extended infrastructure and stands willing and able to meet requests for gas service in Sections 31 and 36. We note the OUC recommended Sections 31 and 36 remain certificated to Vectren North and that during the course of this proceeding Midwest indicated that it had no objections to Vectren North being the entity that continues to serve Sections 31 and 36.

While nothing in Ind. Code § 8-1-2-87 precludes multiple utilities from serving the same territory, the Commission tries to prevent customer confusion and avoid the inefficiencies of two or more gas utilities installing redundant infrastructure. Therefore, the Commission finds that based upon the evidence Sections 31 and 36 are and shall continue to be certificated to Vectren North as the sole supplier of gas service therein. Midwest's request for Necessity Certificates to provide gas distribution service in Sections 31 and 36 is hereby denied.

B. **Sections 13 and 14 of Cass Township and Section 12 of Jackson Township in Sullivan County.** Midwest initially sought Necessity Certificates for Sections 13, 14 and 12 in its Petition. Midwest indicated, for the first time, in its rebuttal testimony that the three sections are currently certificated to OVG. Midwest also offered, as part of its rebuttal testimony, a Service Territory Sharing Agreement along with an e-mail from Mark Kerney, OVG's Vice President and Chief Financial Officer, to support its request for Necessity Certificates in OVG's three sections. The e-mail indicated that the Service Territory Sharing Agreement protects the interests of OVG to serve future new customers in the three sections.

Ind. Code § 8-1-2-87(e)(1) sets out that upon approval by the Commission, after a public hearing, any Necessity Certificate may be sold, assigned, leased, or transferred by the holder to any person, firm, or corporation to whom a Necessity Certificate might be lawfully issued. The Service Territory Sharing Agreement indicated that OVG has no objection to Midwest providing natural gas service in Sections 13, 14 and 12 until such time that OVG extends facilities that would allow OVG to serve customers in the three sections. Based on the evidence, the Commission finds the e-mail from Mark Kerney and the Service Territory Sharing Agreement are insufficient to demonstrate that OVG intended to sell, assign, lease or transfer its Necessity Certificates for Sections 13, 14 and 12 to Midwest. Therefore, Midwest's request for Necessity Certificates for these three sections is denied. Sections 13, 14, and 12 shall remain certificated to OVG. We note this does not preclude Midwest and OVG from seeking future authority under a separate Cause, and pursuant to Ind. Code § 8-1-2-87, for Midwest to provide natural gas distribution service in Sections 13, 14 and 12.

C. **Section 35 of Taylor Township in Greene County.** Both Midwest and Vectren North seek a Necessity Certificate to render gas utility service to the public in Section 35. Both parties presented evidence demonstrating each utility can meet the requirements of Ind. Code § 8-1-2-87. Both have the power and authority to obtain the requested certificates and to render the proposed gas distribution service if it obtains such certificates. Vectren North and Midwest both presented recent financial statements consisting of balance sheets and income statements demonstrating each has the financial ability to provide the proposed service. The OUCC's evidence indicates that both utilities have the requisite power and authority to obtain a Necessity Certificate and both have the financial capability to serve Section 35. It is also clear that public convenience and necessity, along with the public interest will be served by certifying Section 35 to either utility.

With the recent stabilization of gas prices and low-priced forecast, the potential financial benefits to gas service customers are clear. Furthermore, the completion of I-69 increases the potential for further economic development in the requested areas. Both utilities demonstrated property owners are interested in obtaining gas service in Section 35. Vectren North offered a compromise of splitting Section 35 along I-69, while Midwest offered a compromise of splitting Section 35 along US 231. The OUCC indicated it believed a compromise was reasonable. However, Midwest was not agreeable to an I-69 boundary and Vectren North was not agreeable to US 231 as the boundary in the disputed section. Therefore, the Commission must determine how Section 35 is to be served.

The evidence in this Cause shows that Midwest initially described its plans to extend a two or three-inch plastic main into Section 35 then changed its position to proposing to extend its four-inch, high-pressure, steel main from just above the northwest corner of Section 35 to meet customer demand and address anticipated future expansion along the I-69 corridor. Vectren North has consistently proposed to extend a four-inch plastic pipe into Section 35. Mr. Francis testified that a four-inch plastic pipe in this area would provide sufficient gas volume and pressure to meet the current loads of customers at one quarter the cost of Midwest's four-inch steel main extension. However, he testified on redirect examination that Vectren North would have to evaluate any request for future gas service should a large load be requested in Section 35 which might require the installation of a steel main. We recognize that duplicative infrastructure would result should the anticipated growth along the I-69 corridor occur. We find Midwest's proposal to be more flexible and appropriate.

The parties' evidence also shows that Midwest serves three-quarters of the service territory adjacent to Section 35 on the north, south, and west; while Vectren North is certificated in the adjacent section to the east of Section 35. In response to the Commission's questions at the evidentiary hearing, Midwest indicated that if Vectren North was granted a Necessity Certificate for Section 35, it would create expansion issues for Midwest in that Midwest would still need to run infrastructure through Section 35 to reach its territory to the south. This would create duplicative infrastructure in Section 35. Therefore, we find squaring off the service territory by authorizing Midwest to serve Section 35 is preferable to Vectren North's protrusion into the adjacent territories served by Midwest.

Finally, Midwest filed its Petition for a Necessity Certificate to serve Section 35 on June 5, 2012. Vectren North had not made any indication that it was interested in providing service to Section 35 until it filed its Petition for a Necessity Certificate on September 24, 2012. Roughly three and a half months passed from the time Midwest filed its Petition for a Necessity Certificate to the time Vectren North decided to request a Necessity Certificate for Section 35. Given the circumstances presented, Vectren North should not benefit from its delay in seeking a Necessity Certificate, especially when another utility that meets the statutory requirements of Ind. Code § 8-1-2-87 has already begun the process of obtaining a Necessity Certificate for the same section.

Based on the evidence, the Commission finds Midwest is hereby certificated to serve Section 35. Vectren North's request for a Necessity Certificate to serve Section 35 is hereby denied.

D. Remaining Sections of Daviess County, Greene County, and Jennings County. The evidence in this Cause demonstrates that Midwest has the requisite legal power and authority to obtain a Necessity Certificate and to render the proposed gas distribution service in the requested expansion areas if it obtains the certificate. Midwest provided evidence that it has the financial ability to provide the proposed gas distribution service in the requested expansion areas. The evidence is also clear that public convenience and necessity, as well as public interest, will be served by the issuance of Necessity Certificates to provide gas distribution service in the requested sections in Daviess County, Greene County, and Jennings County. We note that Vectren North and the OUCC have no objections to Midwest obtaining gas Necessity Certificates to serve the other requested township sections in Daviess County, Greene County and Jennings County that have not already been addressed in this Order. Therefore, the Commission finds Midwest's request for Necessity Certificates in Daviess County, Greene County (except Sections 31 and 36 of Taylor Township), and Jennings County should be granted.

7. Consent to the Granting of Licenses, Permits and Franchises. We find that pursuant to Ind. Code § 36-2-2-23, the County Commissioners of the Counties in which Certificates of Public Convenience and Necessity are herein approved may grant to Vectren North and Midwest such licenses, permits or franchises as may be required for the use of county property for the provision of gas distribution service in the expansion areas described above.

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

1. Midwest Natural Gas Corporation's request for Certificates of Public Convenience and Necessity to provide gas distribution service for Sections 31 and 36 of Taylor Township in Greene County is hereby denied. Vectren North shall continue to be certificated as the sole supplier of gas service therein.

2. Midwest Natural Gas Corporation's request for Certificates of Public Convenience and Necessity to provide gas distribution service for Sections 13 and 14 of Cass Township and Section 12 of Jackson Township in Sullivan County, currently certificated to Ohio

Valley Gas, is denied. The three sections shall remain certificated to Ohio Valley Gas consistent with Finding Paragraph 6 B above.

3. Midwest Natural Gas Corporation's request for a Certificate of Public Convenience and Necessity to provide gas distribution service for Section 35 of Taylor Township in Greene County is granted consistent with Finding Paragraph 6 C above.

4. Vectren North's request for a Certificate of Public Convenience and Necessity to provide gas distribution service for Section 35 of Taylor Township in Greene County is denied.

5. Except for those sections addressed in Ordering Paragraphs 1, 2, 3 and 4 above, Certificates of Public Convenience and Necessity shall be and are hereby issued to Midwest Natural Gas Corporation to provide natural gas distribution service in the sections described in Finding Paragraph 3 of this Order.

6. This Order shall be the sole evidence of such Certificates of Public Convenience and Necessity.

7. The County Commissioners of the Counties in which Certificates of Public Convenience and Necessity are herein approved have the consent of the Indiana Utility Regulatory Commission to grant such licenses, permits or franchises for the use of county property by Midwest Natural Gas Corporation, Vectren North and Ohio Valley Gas as may be required for the provision of gas distribution services authorized herein.

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

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

APPROVED MAY 29 2013

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



Brenda A. Howe
Secretary to the Commission