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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

APPLICATION OF OHIO VALLEY GAS)
CORPORATION FOR A CERTIFICATE OF PUBLIC) CAUSE NO. 44442
CONVENIENCE AND NECESSITY AUTHORIZING IT)
TO RENDER NATURAL GAS DISTRIBUTION)
SERVICE TO THE PUBLIC IN CERTAIN) APPROVED:
ADDITIONAL AREAS OF PERRY COUNTY)

APR 09 2014

ORDER OF THE COMMISSION

Presiding Officers:

Carolene Mays, Commissioner

Marya E. Jones, Administrative Law Judge

On January 7, 2014, Ohio Valley Gas Corporation (“OVG” or “Applicant”) filed its Verified Application (“Application”) for the restoration of lapsed Certificates of Public Convenience and Necessity (“CPCN”) authorizing it to provide natural gas distribution service to the public in multiple sections of four rural townships in Perry County, Indiana. The specific township sections for which Applicant seeks reauthorization (“Expansion Area”) are listed in Exhibit “A” to the Application and depicted on the map attached to the Application as Exhibit “B.” On January 10, 2014, Applicant filed the prepared direct testimony of S. Mark Kerney, Applicant’s Vice President and Chief Financial Officer.

On January 27, 2014, Applicant and the Indiana Office of Utility Consumer Counselor (“OUCC”) filed a Proposed Procedural Schedule, which was approved by Docket Entry on January 30, 2014. On February 19, 2014, the OUCC filed the direct testimony of Laura J. Anderson, Utility Analyst, and Applicant’s responses to OUCC data requests. On March 11, 2014, the Presiding Officers issued a Docket Entry and Applicant responded on March 12, 2014.

The Indiana Utility Regulatory Commission (“Commission”) held a public evidentiary hearing in this Cause on March 14, 2014, at 9:30 a.m. in Room 224, PNC Center, 101 West Washington Street, Indianapolis, Indiana. Applicant and the OUCC were present and participated. The testimony and exhibits of Applicant and the OUCC were admitted into the record without objection. No members of the general public appeared or participated at the hearing.

Having considered the evidence of record and applicable law, the Commission now finds:

1. **Notice and Jurisdiction.** Notice of the hearing in this Cause was given and published as required by law. Applicant is a “public utility” as that term is defined in Ind. Code § 8-1-2-1(a) and a “gas utility” as that term is defined in Ind. Code § 8-1-2-87(a)(4). Under Ind. Code § 8-1-2-87(d), the Commission has jurisdiction to issue a CPCN for the rendering of gas

distribution service in rural areas of the State. The Commission, therefore, has jurisdiction over Applicant and the subject matter of this proceeding.

2. **Applicant's Characteristics.** Applicant is a public utility corporation organized and existing under the laws of the State of Indiana with its principal office at 111 Energy Park Drive, Winchester, IN 47394. Applicant owns, operates, manages, and controls plant and equipment, including property and facilities which are used and useful for it to provide natural gas service to more than 23,000 customers in 11 counties in east-central and southern Indiana.

3. **Background and Relief Requested.** The Commission's January 15, 1992 Order in Cause No. 39265 granted Applicant a CPCN to provide gas utility service to a large part of Perry County, Indiana, including the Expansion Area. The proposed Expansion Area is:

Perry County:

- Anderson Township (Township 5 South, Range 2 West)
All of Sections 21, 28, 29, 31 and 32
- Oil Township (Township 4 South, Range 2 West)
All of Sections 23, 25 and 26
- Leopold Township (Township 4 South, Range 2 West)
All of Sections 34 and 35
- Leopold Township (Township 5 South, Range 2 West)
All of Sections 1, 2, 3, 10, 11, 12, and 15
- Union Township (Township 5 South, Range 2 West)
All of Sections 22, 26 and 27

The CPCN included a sunset provision, which stated that Applicant's authorization to provide gas service within any particular township sections would expire if Applicant had not extended service to those sections within four years of the January 15, 1992 Order. By January 15, 1996, Applicant had extended gas service to some, but not all, of the areas covered by the 1992 Order. Applicant's authorization to provide gas distribution service to customers in those areas not served within the four-year deadline lapsed. These lapsed areas include all of the Expansion Area. In 2012, Applicant received a request to extend gas service to an Indiana Department of Corrections ("INDOC") facility located near Branchville, Indiana. Applicant seeks reauthorization to provide gas service to the Expansion Area through the issuance of a new CPCN because the main extension and the Branchville facility are located in the Expansion Area. To the extent it will also be necessary or convenient for Applicant to occupy additional public rights-of-way under the jurisdiction or control of the Perry County Commissioners, Applicant also requests the Commission's consent to the Perry County Commissioners' issuance of all necessary forms of permission for Applicant to have access to and install facilities within such rights-of-way.

4. **Applicant's Evidence.** Mr. Kerney testified that INDOC approached Applicant in 2012 to extend gas service from Applicant's existing facilities near Tell City, Indiana to INDOC's Branchville Correctional Facility ("Facility"). Mr. Kerney stated that Applicant entered into a contract with INDOC on June 14, 2013 ("Agreement") to extend its natural gas

distribution system to serve the Branchville Correctional Facility and committed to provide service to that facility by May 1, 2014.

Mr. Kerney explained that the Facility currently relies on propane for much of its energy needs and having access to natural gas is essential to INDOC's plans to retrofit the Facility with more energy-efficient systems. He noted that in order to provide service to the Facility, Applicant needs to construct a 17 mile gas main extension. He stated that although the first eight miles of the gas main extension would cross territory in which Applicant is already authorized to provide service, the final nine miles of the main extension route are in the Expansion Area.

Mr. Kerney testified that of the estimated \$2,691,000 cost to extend the gas main to the Facility, the Agreement states that INDOC will contribute \$1,807,000. He stated that Applicant agreed to pay the remaining \$884,000 based on three years of anticipated revenue from INDOC and from the approximate 160 additional customers Applicant plans to serve along the main extension route, including the Perry Central Community School Corporation ("Perry Schools").

Mr. Kerney testified that Applicant has the technical and managerial expertise as well as corporate authority to construct the main extension and provide service to the Facility and the 160 potential new customers proximately located to the main extension route, many of whom are located within the Expansion Area. Mr. Kerney also testified concerning Applicant's financial ability, which further supports its capability to extend service to the Expansion Area. He explained how Applicant's arrangements with its gas supplier and transportation services pipeline are sufficient to include the additional consumption anticipated from the Facility and other potential customers in the Expansion Area.

Mr. Kerney noted that the operators of the next two closest gas utilities, Indiana Natural Gas Company and Community Natural Gas Company, do not object to Applicant receiving the authorization it has requested to provide gas utility service to the Expansion Area. He stated Applicant has already obtained a construction permit from the Indiana Department of Transportation allowing it to locate the main extension in the public right-of-way along new Indiana 37 state highway.

5. OUC's Evidence. Ms. Anderson testified that Applicant is qualified to provide the requested service and has the financial ability to provide the proposed gas distribution service. She stated that it is in the public interest for the Commission to restore Applicant's authority to offer gas utility service to customers in the Expansion Area.

Ms. Anderson testified that Applicant and INDOC entered into the Agreement in which INDOC agreed to pay \$1,807,000 for building the main extension in exchange for connecting the Facility to Applicant's natural gas distribution system. Ms. Anderson stated that the INDOC's \$1,807,000 cost contribution was calculated based on three-year estimated revenues from INDOC, Perry Schools, and the approximate 160 potential new customers in the Expansion Area. She testified Applicant will provide the remaining \$884,000 of the total estimated \$2,691,000 project costs to build the main extension. Ms. Anderson noted that she recalculated Applicant's estimated costs and did not note a material difference. Ms. Anderson also testified that according to Mr. Kerney, Applicant verbally committed to providing service to the Facility

by May 1, 2014, which is earlier than the June 13, 2014 completion date required in the Agreement.

Ms. Anderson testified the OUCC supports Applicant's request for authority to offer gas utility service to customers in the Expansion Area. She stated the OUCC also supports the request for issuance of all necessary forms of permission from the Perry County Commissioners so that Applicant has access to and is able to install facilities within public rights-of-way under their jurisdiction.

6. Commission Discussion and Findings. Applicant has presented evidence in this proceeding that its proposed extension of gas distribution service to the Expansion Areas meets the criteria set forth in Ind. Code § 8-1-2-87(d). Section 87(d) provides that if the Commission makes the following findings, it shall grant an application for a CPCN to extend service in rural areas:

- (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 service; and
- (4) that the public interest will be served by the issuance of the necessity certificate.

The evidence presented establishes that Applicant possesses the requisite power and authority and financial capability to provide natural gas service to the Expansion Area. No party challenged Applicant's evidence. Based on the evidence of record, the Commission also finds that Applicant's provision of natural gas distribution service to the Expansion Area will further public convenience and serve the public interest. Therefore, the Commission approves Applicant's request for a CPCN to serve the Expansion Area.

Finally, pursuant to Ind. Code § 36-2-2-23, we find that the Board of County Commissioners of Perry County may grant Applicant such licenses, permits or franchises as may be required for the use of county roads and rights-of-way for the provision of gas distribution service in the Expansion Area.

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

1. A Certificate of Public Convenience and Necessity is issued to Ohio Valley Gas Corporation to provide natural gas distribution service in the Expansion Area, described in Applicant's Verified Petition and evidence in this Cause, for Perry County.

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

3. The County Commissioners of Perry County in which the Expansion Area is located, have the consent and approval of the Commission to grant such licenses, permits, or franchises for the use of county property by Ohio Valley Gas Corporation as may be required for the provision of gas distribution services authorized in this Certificate of Public Convenience and Necessity.

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

ATTERHOLT, MAYS, STEPHAN, WEBER, AND ZIEGNER CONCUR:

APPROVED: **APR 09 2014**

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



Brenda Howe
Secretary to the Commission