

**ORIGINAL**

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ARW

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

PETITION OF COMMUNITY NATURAL )  
GAS CO., INC. FOR A NECESSITY )  
CERTIFICATE TO RENDER NATURAL )  
GAS DISTRIBUTION SERVICE IN )  
CERTAIN RURAL AREAS OF SULLIVAN, )  
SPENCER, OWEN, AND GREENE )  
COUNTIES, INDIANA )

CAUSE NO. 44492

APPROVED:

MAR 25 2015

ORDER OF THE COMMISSION

**Presiding Officers:**  
**Angela Rapp Weber, Commissioner**  
**Marya E. Jones, Administrative Law Judge**

On May 21, 2014, Community Natural Gas Co., Inc. ("Petitioner" or "Community") filed its Verified Petition ("Petition") with the Indiana Utility Regulatory Commission ("Commission") initiating this Cause. In its Petition, Community requested a Certificate of Public Convenience and Necessity ("Necessity Certificate") to render gas utility service to the public in certain sections of Sullivan, Spencer, Owen, and Greene Counties, Indiana. Also on May 21, 2014, Petitioner pre-filed the direct testimony of Dean J. Kieffer, its Operations Manager. On August 5, 2014, Community filed a Motion to Amend Verified Petition to add two proposed sections in Sullivan County as part of its requested Necessity Certificate.

On September 3, 2014, the Indiana Office of Utility Consumer Counselor ("OUCC") pre-filed the testimony and exhibits of its Utility Analyst, Bradley E. Lorton. On October 20, 2014, Community pre-filed the rebuttal testimony and exhibits of Mr. Kieffer and of Bonnie J. Mann, a CPA with London Witte Group, LLC.

The Commission convened a public hearing in this Cause on December 3, 2014, at 10:00 a.m. in Room 222 of the PNC Center, 101 West Washington Street, Indianapolis, Indiana. Community and the OUCC appeared by counsel and participated in the evidentiary hearing. The testimony and exhibits offered by the OUCC and Community were admitted into evidence without objection.

The Commission, having examined all of the evidence of record and applicable law, now finds as follows:

- 1. Notice and Jurisdiction.** Due, legal, and timely notice of the hearing in this Cause was given and published by the Commission as provided for by law. Petitioner 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). Pursuant to Ind. Code § 8-1-2-87(d), the Commission has jurisdiction to issue a necessity certificate for the rendering of gas distribution service in rural areas of Indiana. The Commission, therefore, has jurisdiction over Petitioner and the subject matter of this proceeding.

2. **Petitioner's Characteristics.** Petitioner is a corporation duly organized and existing under the laws of the State of Indiana. Its principal office is located at 116 N. Main Street, Owensville, Indiana. Petitioner is authorized by the Commission to purchase, transfer, distribute, and sell natural gas to approximately 6,700 residential, commercial, industrial, and transport customers in various rural areas of Dubois, Gibson, Greene, Monroe, Owen, Pike, Posey, Spencer, Sullivan, and Warrick Counties in Indiana.

3. **Relief Requested.** Community seeks authority to extend natural gas service into additional unserved areas in contiguous rural areas in Sullivan, Spencer, Owen, and Greene Counties. Specifically, Petitioner seeks to be certified to serve the areas described on its Revised Exhibit A ("Expansion Area") as follows:

**Sullivan County:**

Haddon Township:

Sections 5, 8	Township 6 North, Range 9 West
Sections 22, 23, 24, 25, 26, 27, 34, 35, 36	Township 7 North, Range 9 West
Sections 28, 33 East of Busseron Creek	Township 7 North, Range 9 West

**Spencer County:**

Harrison Township:

Sections 6, 7, 18, 19, 30, 31	Township 4 South, Range 4 West
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**Owen County:**

Wayne Township:

South half of sections 7, 8, 9	Township 11 North, Range 2 West
Sections 16, 17, 18	
South half of section 12	Township 11 North, Range 3 West
Sections 13, 14	

Taylor Township:

Sections 8, 9, 10, 11	Township 11 North, Range 3 West
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Montgomery Township:

Sections 15, 16, 17, 18	Township 11 North, Range 3 West
Sections 13, 14	Township 11 North, Range 4 West

Jennings Township:

Section 7	Township 11 North, Range 3 West
East half of section 9	Township 11 North, Range 4 West
Sections 10, 11, 12	

Jackson Township:

West half of section 9

Township 11 North, Range 4 West

Sections 7, 8

Sections 11, 12

Township 11 North, Range 5 West

Morgan Township:

Sections 15, 16, 17, 18, 19, 20,

21, 28, 29, 30, 31, 32, 33

Township 11 North, Range 4 West

Sections 13, 14, 23, 24, 25, 26, 35,

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Township 11 North, Range 5 West

Sections 4, 5, 6

Township 10 North, Range 4 West

Sections 1, 2

Township 10 North, Range 5 West

Lafayette Township:

Sections 7, 8, 9, 16, 17, 18, 19, 20,

21, 28, 29, 30, 31, 32, 33

Township 10 North, Range 4 West

Sections 11, 12, 13, 14, 23, 24, 25,

26, 35, 36

Township 10 North, Range 5 West

Marion Township:

Sections 3, 4, 5, 6, 7, 8, 9, 10, 15,

16, 17, 18, 19, 20, 21, 22,

27, 28, 29, 30, 31, 32, 33, 34

Township 10 North, Range 5 West

Sections 1, 2, 11, 12, 13, 14, 23, 24,

25, 26, 35, 36

Township 10 North, Range 6 West

Clay Township:

Sections 19, 20, 21, 22, 23, 24, 25,

26, 27, 28, 29, 30, 31, 32,

33, 34, 35, 36

Township 9 North, Range 3 West

Franklin Township:

Sections 4, 5, 6, 7, 8, 18, 19, 22,

23, 24, 25, 26, 27, 28,

33, 34, 35, 36

Township 9 North, Range 4 West

Jefferson Township:

Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10,

11, 12, 13, 14, 15, 16, 17,

18, 19, 20, 21, 22, 23, 24,

25, 26, 27, 28, 29, 30, 31,

32, 33, 34

Township 9 North, Range 5 West

Sections 1, 2, 11, 12, 13, 14, 23,

24, 25, 26, 35, 36

Township 9 North, Range 6 West

**Greene County:**

Jefferson Township:

Sections 4, 5, 6, 7, 8

Township 8 North, Range 5 West

Section 12 North and West of White River

Sections 1, 12

Township 8 North, Range 6 West

Smith Township:

Sections 2, 11

Township 8 North, Range 6 West

**4. Evidence of the Parties.**

**A. Petitioner's Direct Evidence.** Mr. Kieffer described the contiguity between Community's proposed Expansion Area and its current service area. He explained that no other natural gas utility is serving any of the Expansion Area. He testified that he had been in contact with Ohio Valley Gas, Midwest Natural Gas, and Vectren Energy because of their close proximity to the Expansion Area. Mr. Kieffer stated that he obtained a letter from Mark Kerney, Vice President and Chief Financial Officer of Ohio Valley Gas, confirming that Ohio Valley Gas is not currently serving in the Expansion Area and has no intention to provide service in it. Ex. C to Petitioner's Ex. 1. He explained that Midwest Natural Gas and Vectren Energy both provide service in Greene County, and that Vectren Energy also provides service in Spencer County. Mr. Kieffer stated that he has been in contact with David Osmon of Midwest Natural Gas and Jason Lucas of Vectren Energy to explain Community's interest in expanding its service territory and to describe the areas where expansion is requested. Neither Midwest Natural Gas nor Vectren Energy objected to the proposed expansion or intervened in this Cause.

Mr. Kieffer testified that Petitioner has the lawful power and authority to obtain the proposed Necessity Certificate, noting that Petitioner's President and Board of Directors authorized the filing of the Petition with the Commission.

Mr. Keiffer stated that Community has adequate supply and sufficient transportation capacity on the interstate natural gas pipeline to provide gas service within the proposed Expansion Area. Mr. Kieffer explained that Petitioner acquires natural gas supply through four different interstate pipelines including: Texas Eastern, Texas Gas, ANR, and Midwestern. He stated that gas is acquired at various purchase points throughout southern Indiana and is then distributed to the ten counties that Community serves.

Petitioner has provided natural gas service since 1962, and currently provides service to approximately 6,700 customers in southwestern Indiana. Mr. Kieffer noted that the counties where service is currently provided include the specific counties where Petitioner is seeking this Necessity Certificate. Mr. Kieffer also pointed out that Petitioner owns and operates various plant and equipment throughout southwestern Indiana that are used and useful for the transmission, delivery, and furnishing of gas utility service to its customers.

Mr. Kieffer explained that he obtained an initial construction quote from Kieffer Brothers Construction Company<sup>1</sup> for extending service to the Expansion Area in order to demonstrate that

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<sup>1</sup> Kieffer Brothers Construction Company is an affiliate of Community Natural Gas. The Commission currently has eight Affiliate Contracts between the Petitioner and Kieffer Brothers Construction Company on file.

Community has the ability to provide natural gas service to customers within the Expansion Area once authorized to do so. Ex. D to Petitioner's Ex. 2.

Mr. Kieffer stated that Community has the financial ability to provide natural gas service to the Expansion Area, and provided copies of Petitioner's most recently audited financial statements as of September 30, 2013. Ex. E to Petitioner's Ex. 2. Mr. Kieffer also explained that new rates were recently authorized for Community in the Commission's July 31, 2013 Order in *Cnty. Nat. Gas, Inc.*, Cause No. 44298, 2013 Ind. PUC LEXIS 236 (IURC July 31, 2013). He noted that although those rates are not fully incorporated in the financial statements provided, Community will use those base rates in the Expansion Area.

Mr. Kieffer explained that the public convenience and necessity and public interest will be served by granting this Necessity Certificate because fuel for heating in the proposed Expansion Area is currently provided primarily through propane. He noted that propane is more expensive than natural gas, and that recently there have been propane supply issues. Based on Community's historical experience in its current service territory, Mr. Kieffer said that existing homes and businesses typically convert quickly from propane to natural gas for purposes of heating. Also, economic development typically occurs in rural areas once natural gas is available. Mr. Kieffer explained that adding the Expansion Area would also intentionally align the service territory where Petitioner is currently assigned and avoid confusion among potential customers as to which entity has the obligation to provide natural gas service.

**B. OUCC's Direct Evidence.** OUCC Utility Analyst Bradley E. Lorton recommended the Commission deny Community's request for the Necessity Certificate. Mr. Lorton explained that Ind. Code § 8-1-2-87 requires evidence that the public convenience and necessity will be served by the issuance of a necessity certificate. He stated that Petitioner's evidence failed to establish that the public convenience and necessity will be served. He explained that Community admitted in its response to an OUCC data request (Attachment BEL-A to Public's Ex. 1) to having no contact with any potential customers within the Expansion Area prior to filing its Petition.

Mr. Lorton described the type of evidence usually offered by utilities when seeking a necessity certificate as follows: written testimony describing customer inquiries and demand; feasibility studies; customer surveys; evidence of new commercial establishments; evidence of existing establishments like factories, industrial parks, schools, hospitals, and/or government buildings; and evidence of the benefit of extending natural gas service to established facilities. Mr. Lorton noted that Community offered no such evidence in its case-in-chief and then referenced four prior Causes involving Petitioner where necessity certificates were successfully granted by the Commission upon the presentation of sufficient evidence: *Cnty. Nat. Gas, Inc.*, Cause No. 39057, 1990 Ind. PUC LEXIS 391 (IURC, November 7, 1990); *Cnty. Nat. Gas, Inc.*, Cause No. 38077, 1986 Ind. PUC LEXIS 153 (PSCI, September 10, 1986); *Cnty. Nat. Gas, Inc.*, Cause No. 38062, 1986 Ind. PUC LEXIS 218 (PSCI, August 6, 1986); and *Cnty. Nat. Gas, Inc.*, Cause No. 37843, 1985 Ind. PUC LEXIS 149 (PSCI, September 25, 1985).<sup>2</sup>

Mr. Lorton cited additional examples of evidence offered by various gas utilities sufficient to support the issuance of a necessity certificate such as the construction of prisons, the orderly

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<sup>2</sup> Public Service Commission of Indiana ("PSCI") is the predecessor to the Commission.

development of a territory once a designated natural gas distribution service supplier has been determined, feasibility studies, town council resolutions, and the extension of I-69. *Ohio Valley Gas Corp.*, Cause No. 44442, 2014 Ind. PUC LEXIS 87 (IURC, April 9, 2014); *Ind. Gas Co., Inc.*, Cause No. 44379, 2013 Ind. PUC LEXIS 363 (IURC, December 5, 2013); *Ind. Util. Corp.*, Cause No. 44297, 2013 Ind. PUC LEXIS 180 (IURC, June 5, 2013); *Midwest Nat. Gas Corp., and Vectren North*, Consolidated Cause Nos. 44210 and 44253, 2013 Ind. PUC LEXIS 173 (IURC, May 29, 2013); and *Valley Rural Util. Co.*, Cause No. 42115, 2002 Ind. PUC LEXIS 399 (IURC, May 8, 2002).

Further, Mr. Lorton explained that the OUCC disagreed with Petitioner's calculation of margin revenue from the proposed Expansion Area. He observed that in response to an OUCC Data Request, Community stated that it used a 20-year time period for the margin revenue calculation commensurate with recent filings of seven-year plans by other natural gas companies pursuant to Senate Enrolled Act 560. Attachment BEL-D to Public's Ex. 1. Mr. Lorton said this is inconsistent with the six-year margin test authorized in Petitioner's last rate case, Cause No. 44298. Mr. Lorton noted specifically that the Commission authorized Community to change the calculation for main extensions from one involving gross revenue to a calculation involving margin revenue and to change the three year estimate of revenue to a six year estimate.

Mr. Lorton explained that the 20-year time period is only applicable when a utility files a seven-year plan in accordance with Senate Enrolled Act 560. Mr. Lorton further explained that when comparing Petitioner's 20-year margin test with calculations for a six-year margin test, none of Community's proposed projects would be profitable. Thus, Community would need to obtain deposits from potential customers to cover the difference between margin revenue and expected costs.

**C. Petitioner's Rebuttal Evidence.** Community offered the prefiled rebuttal testimony and exhibits of Dean J. Kieffer and Bonnie J. Mann in response to the OUCC's evidence.

**1. Rebuttal Testimony of Mr. Kieffer.** Mr. Kieffer testified that because of the concerns raised by the OUCC, he and a coworker canvassed all of the Expansion Area and had discussions with approximately 155 potential customers while collecting their contact information on Surveys of Interest. Reb. Ex. G to Petitioner's Ex. 4. He advised prospective customers that Community was not yet offering contracts to provide natural gas service to them since Community does not have its Necessity Certificate. At the hearing, Mr. Kieffer testified that the majority of the prospective customers asked when natural gas service would be available, and whether it would be available prior to the coming winter. Tr. at A-43.

Mr. Kieffer testified in detail at the evidentiary hearing about a discussion he had with a potential customer who asked for a calculation of the cost of natural gas service from Community in order to compare it to her current cost of propane. Tr. at A-45. Mr. Kieffer recalled the potential customer by name and explained that she used 1,355.4 gallons of propane at the cost of \$3,756 in the prior year. Tr. at A-45. The customer said that the propane service cost her \$313 per month on a budget plan, regardless of whether she was in a heating month. Tr. at A-45. Mr. Kieffer testified that a Community customer would have paid \$0.80 per gallon of propane for a total cost of \$1,084 or \$90 per month on a budget plan. Tr. at A-45. Further, he testified that to switch from propane to natural gas only requires switching certain orifices on the furnace and that the cost is approximately \$200 to \$250 to make the necessary changes. Tr. at A-48. Mr. Kieffer said that the propane

customers would experience lower costs if they switched to natural gas. He reiterated that the majority of the people he spoke with wanted to convert to natural gas service immediately. Tr. at A-48-49.

Mr. Kieffer testified that upon receipt of its Necessity Certificate, Community would immediately contact the 155 potential customers that were listed in the Surveys of Interest, seek commitments through a contract with each of them, and begin taking necessary steps to design and extend lines to provide service throughout this Expansion Area. He indicated that the time period for extending lines and providing natural gas service would likely require from six to ten years, but noted that most of the lines would be extended approximately eight years after the Commission's Order in this Cause. He explained that Community would extend lines into the most densely populated areas first. With respect to timing, Mr. Kieffer noted that the Petitioner is ready, willing, and able to begin work immediately upon the issuance of the requested Necessity Certificate. Finally, he said that absent Community providing this service, the Expansion Area will not be provided natural gas service in the foreseeable future.

Mr. Kieffer explained that Petitioner also has local support for the proposed expansion. He provided a letter from Gwen Tucker, Executive Director of the Owen County Chamber of Commerce in support of Community's expansion of natural gas service to rural Owen County. Reb. Ex. I to Petitioner's Ex. 4. Mr. Kieffer also noted that three officers of the Sullivan County Council—its president, vice president, and district representative—wrote personal letters of support for Community's expansion of natural gas service to Sullivan County. Reb. Ex. J to Petitioner's Ex. 4.

Mr. Kieffer addressed the OUCC's concern that Petitioner's financial analysis over a 20-year period is inappropriate. Mr. Kieffer explained that he performed the financial analysis over 20 years because he reviewed recent changes to various regulatory statutes, specifically Senate Enrolled Act 560, passed by the Indiana Legislature in the 2013 legislative session. He believed that Senate Enrolled Act 560 was passed to establish policy that natural gas companies should extend lines in rural areas if a positive contribution to the gas utility's overall cost of service would occur within 20 years. Therefore, Mr. Kieffer stated he thought it prudent to perform the feasibility study over a 20-year period.

With respect to the OUCC's claim that six years was the appropriate time period to calculate margin revenue, Mr. Kieffer cited to the Commission's prior Orders in *Ind. Util. Corp.*, Cause No. 44062, 2012 Ind. PUC LEXIS 277 (IURC, September 5, 2012) and *Midwest Nat. Gas Corp.*, Cause No. 44063, 2012 Ind. PUC LEXIS 351 (IURC, November 7, 2012). He noted that in those Orders, the Commission found that six years would not, in fact, cover the costs associated with providing most extensions. Thus, Mr. Kieffer concluded that the six-year free extension rule was never intended to be used as proposed by the OUCC in this proceeding.

**2. Rebuttal Testimony of Bonnie J. Mann.** Ms. Mann testified that she was retained by Petitioner to review the OUCC's testimony and provide rebuttal to the OUCC's position. She stated that she is a Certified Public Accountant specializing in public utility matters. Ms. Mann said she is familiar with Petitioner's existing rates, charges, and tariff; Petitioner's requested relief in this Cause; and gas utilities seeking to expand their service pursuant to Ind. Code § 8-1-2-87.

Ms. Mann testified that the OUCC's concern about the six-year margin test for service connections appears to be a misunderstanding. Ms. Mann noted that the six-year margin test in Petitioner's tariff indicates when Petitioner is required to provide a free extension and is designed to deal with individual customers requesting line extensions and not groups of customers. Ms. Mann also testified that the Commission, in its prior Orders in Cause Nos. 44062 and 44063, clearly demonstrated that six years of margin revenue would not cover the cost of most extensions. She also noted that Petitioner's current base rates were designed to recover the cost of plant construction over 33 1/3 years. Finally, Ms. Mann pointed out that had the six-year margin test been designed for business decisions by gas utilities like Petitioner, significantly different language would have been used in the tariff than what is actually used. She stated that the availability of free extensions for gas is not meant to be an indicator of the expansion's reasonableness.

Ms. Mann testified concerning the Indiana Legislature's recent enactment of Senate Enrolled Act 560 and its focus on a 20-year time period to obtain a positive contribution to a gas utility's cost of service. She stated that the Indiana Legislature was clearly encouraging gas utilities to expand into rural areas, even if the cost of expansion could not quickly be recovered. Ms. Mann explained that her review of Petitioner's feasibility analysis indicates that all of the areas Petitioner is proposing to serve will, in fact, provide a positive contribution to Petitioner's cost of service well within the 20-year period. Ms. Mann specifically noted that Mr. Lorton's Attachment BEL-F to Public's Exhibit No. 1 supported her conclusion that a misunderstanding has occurred with the OUCC. She explained that the line item in Attachment BEL-F to Public's Exhibit 1, which reflects adjusted net operating income, shows that a return on the investment begins to be earned with only 60% of the new customers connected, and that as additional customers are connected, the adjusted net operating income grows. Therefore, not only will the new customers cover the operating costs associated with Petitioner's service, the customers will also begin to provide a return on the investment used to provide the service.

Ms. Mann stated that Petitioner has met the statutory requirements for the Necessity Certificate by clearly demonstrating its lawful power and ability to provide service, its financial ability to provide service, and that the public convenience and necessity and public interest are served by granting this Necessity Certificate.

## **5. Discussion and Findings.**

**A. Statutory Requirements for Necessity Certificates.** Ind. Code § 8-1-2-87.5(e) provides that the Commission shall grant a necessity certificate if it makes the following findings:

- (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 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.

In order to obtain a necessity certificate, Petitioner must provide sufficient evidence for the

Commission to make all four of the findings.

**B. Lawful Power and Authority and Financial Ability.** The OUCC agreed that Community has the lawful power and authority to obtain the requested Necessity Certificate and that Community has the financial ability to incur the costs required to render service in the Expansion Area. The Petition states that Community is a corporation duly organized and existing under the laws of the State of Indiana, is a public utility as defined by Ind. Code § 8-1-2-1, and is a gas utility as defined by Ind. Code § 8-1-2-87. The Petition also states that Community is engaged in and authorized by the Commission to purchase, transfer, distribute, and sell natural gas to customers in rural areas of ten counties in Indiana, which include the specific counties where Petitioner is seeking this Necessity Certificate.

As noted above, Mr. Kieffer stated that Community has provided natural gas service to 6,700 customers in Indiana since 1962. He also noted that Community has adequate supply and sufficient transportation on the interstate natural gas pipeline to provide gas service within the proposed Expansion Area. Mr. Kieffer added that Petitioner's President and Board of Directors authorized the filing of Community's Petition for a Necessity Certificate. Mr. Kieffer explained that Community has the requisite financial ability to provide natural gas service. He supported this testimony with copies of Petitioner's most recently audited financial statements as of September 30, 2013.

Thus, we find that based on the evidence presented, Community has both the lawful power and authority and the requisite financial ability to obtain the requested Necessity Certificate to render the proposed gas distribution service.

**C. Public Convenience and Necessity and Public Interest.** The OUCC stated that Community failed to provide adequate evidence of the need for its requested Necessity Certificate in its case-in-chief, and therefore, its Petition should be denied. We agree that specific evidence is required to establish the need for a necessity certificate. Petitioner's case-in-chief should have presented particular evidence like customer inquiries and demand; customer surveys; feasibility studies; evidence of new establishments like prisons, businesses or schools; and evidence of the benefit of extending natural gas service to the Expansion Area. As noted above, Community's response to an OUCC data request indicated that it had no contact from any potential customers within the Expansion Area prior to filing its Petition.

However, on rebuttal, Community, without objection from the OUCC, provided specific evidence of interest necessary to establish that the public convenience and necessity and the public interest will be served by granting this Necessity Certificate. Mr. Kieffer stated that he canvassed the Expansion Area and had discussions with potential customers, including individuals and a school. Tr. at A-43. The discussions were memorialized in Surveys of Interest from 155 interested customers. Reb. Ex. G to Petitioner's Ex. 4. Indiana's propane shortage led most potential customers to inquire how quickly natural gas conversion would be available and whether it could be available prior to the coming winter. Tr. at A-43. Community's evidence also demonstrated that its provision of natural gas service in the Expansion Area will be cheaper than propane and that the natural gas conversion process is simple and inexpensive. Tr. at A-48.

Thus, we find that based on the evidence, Community's provision of natural gas service to the Expansion Area will further the public convenience and necessity and is in the public interest.

**D. The Revenue Margin Test.** According to the evidence, Community responded to an OUCC Data Request that its margins would cover the main extension costs based on currently existing customers. Attachment BEL-D to Public's Exhibit No. 1. The OUCC noted that Community incorrectly reached this conclusion by using a 20-year margin test pursuant to Ind. Code § 8-1-39-10, the Transmission, Distribution, and Storage System Improvement Charge ("TDSIC") statute. The TDSIC statute provides that a utility may petition for approval of a seven-year plan for eligible transmission, distribution, and storage system improvements. Community has not requested approval of a seven-year plan pursuant to the TDSIC statute; therefore, the use of the 20-year test to determine extension costs is inapplicable in this Cause.

Instead, Petitioner should have used the six-year margin test approved by the Commission in Cause No. 44298, Petitioner's last rate case, and consistent with its tariff. But, we note that the effect of the six-year margin test is simply to determine whether revenue is sufficient to permit free main extensions to customers in the Expansion Area consistent with Community's tariff, or whether a deposit may be required.

**E. Conclusion.** Based on the evidence presented we find that Community possesses the requisite power and authority and financial capability to provide natural gas service to the Expansion Area. Community has demonstrated that the provision of natural gas distribution service to the Expansion Area will further the public convenience and necessity and is in the public interest. Thus, the Commission finds that Community's request for the Necessity Certificate is granted subject to the condition set forth in Paragraph 6 below.

**6. Five-Year Service Requirement.** Consistent with the Commission's actions in past proceedings, we find it appropriate in this Cause that the Necessity Certificate be revoked five years from the date of this Order with respect to any square mile section within the Expansion Area in which a main has not been installed. *E.g., Ind. Gas Co., Inc.*, Cause No. 39879, 1994 Ind. PUC LEXIS 233 (IURC, June 15, 1994); *Ind. Gas Co., Inc.*, Cause No. 39800, 1993 Ind. PUC LEXIS 434 (IURC, November 9, 1993). However, Community may file a request for an extension of time to complete the proposed main installation. In the absence of an approved extension of time, any square mile section without an installed main shall automatically revert to open territory.

If Community seeks an extension of time to complete main installation, it shall file a request for an extension in a separate Cause that shall include an up-to-date plan to extend service to the areas that have not yet been provided gas distribution services. The plan shall also include the estimated date of completion, the legal description of the areas not served, and updated maps of those filed initially in this Cause. In addition, Community shall explain why service to these areas has not been extended and provide any information pertinent to justify its request for an extension of time. If Community does not seek an extension of time, it shall file a report under this Cause with the Commission five years after the date of this Order that specifies all sections within the Expansion Area that have reverted to open territory.

**7. Consent to the Granting of Licenses, Permits, and Franchises.** Pursuant to Ind. Code § 36-2-2-23, we find that the County Commissioners of Sullivan, Spencer, Owen, and Greene Counties, Indiana, may grant Community 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 Necessity Certificate is issued to Community to provide natural gas distribution service in the Expansion Area, as described in the Petition and evidence in this Cause for Sullivan, Spencer, Owen, and Greene Counties.

2. This Order shall be the sole evidence of the Necessity Certificate.

3. Community shall comply with the five-year reporting requirement set forth in Finding No. 6 of this Order.

4. The County Commissioners of Sullivan, Spencer, Owen, and Greene Counties have the consent and approval of the Commission to grant such licenses, permits, or franchises for the use of county property by Community as may be required for the provision of gas distribution services in the Expansion Area authorized in this Order.

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

**STEPHAN, MAYS-MEDLEY, HUSTON, WEBER, AND ZIEGNER CONCUR:**

**APPROVED:**

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



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