

**ORIGINAL**

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**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 FOUNTAIN )  
AND TIPPECANOE COUNTIES )**

**CAUSE NO. 44528**

**APPROVED: JAN 28 2015**



**ORDER OF THE COMMISSION**

**Presiding Officers:**

**Carolene Mays-Medley, Commissioner  
Marya E. Jones, Administrative Law Judge**

On September 8, 2014, Indiana Gas Company, Inc. d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren North" or "Applicant") filed its Verified Petition ("Petition") with the Indiana Utility Regulatory Commission ("Commission"). In its Petition, Vectren North requested the Commission to grant it a Certificate of Public Convenience and Necessity ("Necessity Certificate") to render gas utility service to the public in certain areas of Fountain and Tippecanoe counties in Indiana, adjacent to the territory Vectren North presently is authorized to serve. On September 8, 2014, Applicant also filed the direct testimony of Jamoni E. Harper, Manager of Regional Sales for Vectren North, in support of its Petition.

On September 22, 2014, Vectren North filed a Motion for Temporary Emergency Service requesting the issuance of a temporary Necessity Certificate prior to an evidentiary hearing to make a final decision on the Necessity Certificate. On October 3, 2014, the Commission issued a docket entry denying the Motion for Temporary Emergency Service. On October 23, 2014, Vectren North filed revised direct testimony of Jamoni E. Harper.

On October 30, 2014, the Office of the Utility Consumer Counselor ("OUCC") filed the direct testimony of Bradley E. Lorton, Utility Analyst at the OUCC. On November 6, 2014, Vectren North filed rebuttal testimony of Jamoni E. Harper, and on November 12, 2014, Vectren North filed corrections to its revised direct testimony. On November 24, 2014, the OUCC filed a Motion for Leave to Supplement the Record.

The Commission convened a public hearing in this Cause on November 25, 2014 at 10:30 a.m. in Room 224, 101 West Washington Street, Indianapolis, Indiana. Vectren North and the OUCC appeared by counsel and participated in the evidentiary hearing. At the evidentiary hearing, the OUCC's and Applicant's evidence was admitted into evidence without objection. The OUCC's Motion for Leave to Supplement the Record was also granted at the hearing without objection.

The Commission, having examined all of the evidence of record, 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. 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 necessity certificate 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 corporation organized and existing under the laws of the State of Indiana. Its principal office is located at One Vectren Square in Evansville, Indiana. Applicant is engaged in the business of purchasing, transporting, distributing, and selling natural gas to the public pursuant to Necessity Certificates. It 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 570,000 customers in central and southern Indiana. Applicant renders such gas utility service by means of utility plant, property, equipment and related facilities owned, leased, operated, managed and controlled by it which are used and useful for the convenience of the public in the production, treatment, transmission, distribution and sale of gas.

3. **Relief Requested.** Vectren North requests the Commission grant it authority to extend natural gas service into an unserved area in Fountain County, Indiana, and Tippecanoe County, Indiana (the "Expansion Area"). The area is immediately adjacent to Vectren North's currently authorized service area. The Expansion Area is:

Fountain County

- Davis Township: Township 21N, Range 6W, Sections 7, 18
- Davis Township: Township 21N, Range 7W, Section 12-13

Tippecanoe County

- Jackson Township: Township 21N, Range 6W, Section 10-11

4. **Applicant's Evidence.** Mr. Jamoni E. Harper, Vectren North's Manager of Regional Sales, testified that certification of the proposed Expansion Area will positively impact Vectren North's ability to serve all of its customers. He testified Vectren North could provide service to two corn drying facilities, one in Fountain County known as DeSutter Farms and another in Tippecanoe County known as Defreese Farms (collectively the "Farms"). He indicated that corn drying typically takes place during the months of September and October each year.

Mr. Harper testified that the Expansion Area is not currently certificated and that the closest gas distribution utility other than Vectren North is Northern Indiana Public Service Company ("NIPSCO"). NIPSCO's lines are approximately 12 miles away from DeSutter Farms and approximately 12.1 miles from Defreese Farms. He stated that NIPSCO does not oppose Vectren North's request to serve the Expansion Area.

Noting that Vectren North has facilities adjacent to the Expansion Area sufficient to provide service, Mr. Harper also stated Vectren North possesses the requisite technical and managerial expertise and corporate power and authority to provide service to the Expansion Area. Vectren North currently provides safe and adequate gas distribution service to approximately 570,000 customers in Indiana. He stated Vectren North has sufficient financial resources to provide gas distribution service to the proposed Expansion Area as shown by the financial statements, which were filed with Applicant's Exhibit 1 on September 8, 2014, attached as Exhibit B (Balance Sheet) and Exhibit C (Income Statement). Mr. Harper also testified that certification of the Expansion Area does not require Vectren North to expand its current number of employees. Mr. Harper stated that as a result Vectren North's fixed costs will be spread over a larger customer base/sales volume, and that the economic potential of the Expansion Area will increase through the availability of gas service.

In his revised direct testimony, Mr. Harper testified that Vectren North had already begun serving the Farms, two residential customers, and one commercial customer. He explained that the Farms formally requested service from Vectren North in the first quarter of 2014, and that an employee mistakenly concluded the territory was within Vectren North's certificated territory when in fact it was not. As a result, the Farms were informed that they would have natural gas service in time for the fall 2014 harvest. The Farms, therefore, did not purchase propane. Additionally, the Farms had already purchased and installed new orifices and other equipment necessary to enable natural gas to fuel their grain drying process.

Mr. Harper explained that Vectren North did not want the Farms, two residential customers, and one commercial customer to be disadvantaged because of Vectren North's error in evaluating whether a new certificate was required. He explained that switching back to propane would result in a disruption of planned farming operations. Mr. Harper noted that two residential and one commercial customer were in a similar situation. He stated that Vectren North knew no other nearby gas providers were interested in serving these customers. Balancing these factors, he testified Vectren North concluded that the best approach was to begin service in advance of receipt of a certificate. Mr. Harper further noted that while other residential customers had contacted Vectren North about service, no other additional connections would commence until resolution of this proceeding.

In order to prevent Vectren North from benefitting financially from the provision of gas service prior to certification, Mr. Harper testified that Vectren North proposes a separation of all margins earned from service in the Expansion Area prior to receipt of a Necessity Certificate. He testified that these margins will be contributed to Share the Warmth, a private foundation which assists income-eligible households with home weatherization measures. He stated the contributions would be adjusted to reflect the tax deduction value so that Vectren North would receive no monetary benefit for service prior to a Commission order.

Mr. Harper testified that Applicant considers the erroneous reading of permissible provision of gas service a very serious concern. As a result, he stated Vectren North has made it a priority to reform its policies and procedures to prevent similar mistakes in the future. Vectren North's engineering and sales departments are implementing a policy that requires two separate individuals, one from the sales department and one from the engineering department, to review

the applicable territory maps and verify whether a customer requesting new service is already within a certificated area. Additionally, Vectren North's Franchise Verification Form will be completed by the engineering department sooner in the process, prior to completion of the work order packet. Communication with customers will also occur earlier in the process to determine whether Vectren North has authority to serve, and if it does not, such communication will indicate that Commission approval must first be obtained before natural gas service can begin. Mr. Harper testified that although Applicant had policies and procedures in place, human error caused a mistake. He stated these extra steps will help provide an additional level of control to prevent such mistakes in the future.

**5. OUCC's Evidence.** Bradley E. Lorton, Utility Analyst for the OUCC, testified that the OUCC supports Vectren North's request for extension of natural gas service to the Expansion Area. He explained that the public interest will be served by providing natural gas service to the Farms which will reduce costs associated with their prior use of propane, and, at the same time, contribute to the costs of Applicant's system. He noted that the public interest will also be served by providing other potential residential and commercial customers access to reliable natural gas service.

In spite of the forgoing, Mr. Lorton expressed great concern that Applicant began provision of gas service to the Farms, two residential customers and a commercial customer prior to the issuance of a Necessity Certificate. He explained that Applicant made several recent mistakes in verification of territorial authority requests citing employee error and emergency circumstances. He noted that the Commission provided Applicant with recent, specific, and stern guidance to prevent these recurrences in two recent proceedings, *Indiana Gas Company, Inc. D/B/A/ Vectren Energy Delivery Of Indiana, Inc.*, Cause no 44235, 2012 Ind. PUC LEXIS 359 (IURC November 21, 2012) and *Indiana Gas Company, Inc. D/B/A/ Vectren Energy Delivery Of Indiana, Inc.*, Cause No. 44263, 2012 Ind. PUC LEXIS 399 (IURC December 19, 2012).

Mr. Lorton testified that the OUCC believes Applicant should not benefit financially from the expansion of service into these areas prior to the issuance of a Necessity Certificate. He stated the OUCC recommended approval of the Applicant's proposal to contribute all margins earned from the Expansion Area prior to certification to Share the Warmth, and the gross up to reflect the tax deduction value. The OUCC also recommended Applicant be required to provide the Commission and the OUCC verification it receives no financial benefit from providing service prior to certification. Mr. Lorton stated verification should include the following:

- (1) copies of customer bills in the Expansion Area for service prior to certification;
- (2) documentation and detailed calculations of margins earned from customers in the Expansion Area for service rendered prior to certification;
- (3) documentation and calculations of the gross-up of the tax deduction value;  
and
- (4) documentation of the contribution of margins earned from the Expansion Area prior to certification to Share the Warmth.

Mr. Lorton concluded that the OUCC also recommended Vectren North be required to file quarterly reports for one year with the Commission and the OUCC regarding its effort to reform its procedures on franchise verification, including detail of all activities to improve the processes and performance.

**6. Applicant's Rebuttal Evidence.** On rebuttal, Mr. Harper testified that Vectren North is not opposed to and agrees to provide quarterly updates recommended by the OUCC to the Commission and OUCC for one year regarding its effort to reform its procedures on franchise verification. He testified that Vectren North will make contributions of margins earned in the Expansion Area for service prior to certification. He explained that any margins earned above or below the level granted in Cause No. 44019 will be reconciled through Vectren North's Sales Reconciliation Component of its Sales Reconciliation Rider. To ensure that Vectren North receives no tax benefit as a result of this contribution, Mr. Harper noted that Vectren North will utilize unique general ledger accounting through a penalty account to isolate these contributions from taxable deductions.

Mr. Harper testified that Vectren North has already made some substantial reform to its procedures. He noted that because Vectren North has promptly reformed many of the policies and procedures related to service requests in unfranchised territory, quarterly reports going forward will also focus on how such new policies and procedures have been applied to any new service requests in unfranchised territory.

**7. Commission Discussion and Findings.** Ind. Code § 8-1-2-87(d) provides that,  
no gas utility shall commence the rendering of gas distribution service in any rural area in the state of Indiana in which it is not actually rendering gas distribution service...without first obtaining from the commission a necessity certificate authorizing such gas distribution service....

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.

The evidence establishes that, prior to receiving a Necessity Certificate, Applicant provided gas service to the Farms, two residential customers, and one commercial customer as a result of erroneous reading of franchise maps by a Vectren North employee. Applicant tried to cure this improper provision of gas service in its Motion for Emergency Temporary Service which was denied because Petitioner failed to sufficiently demonstrate an emergency existed.

We agree that erroneous reading of franchise maps by Vectren North's employees is an ongoing and serious concern that puts the Commission, Vectren North, and certain customers in a difficult position. It is imperative that Vectren North act responsibly and reasonably by establishing and implementing policies within the utility to ensure that Commission approval is sought and obtained in a timely manner. Failure to do so may result in a Class B infraction for failure to comply with the Public Service Commission Act. Ind. Code § 8-1-2-109. Therefore, we agree with the parties that Vectren North should donate the margins Vectren North receives from providing service in the Expansion Area prior to certification to Share the Warmth, and file quarterly updates for one year on its effort to implement improved processes and accurate franchise verification. The donation of Vectren North's margins from the Expansion Area that it received prior to certification and the year-long quarterly reporting requirement are both reasonable and in the public interest.

The Commission finds that Vectren North shall donate the margins received from service in the Expansion Area prior to the date of this Order to Share the Warmth in accordance with the mechanism outlined by Mr. Harper in his rebuttal testimony. We also find that Vectren North shall report quarterly on its process reforms and how its new policies and procedures have been applied to any new service requests in unfranchised territory for a period of one year. In its first quarterly report following the issuance of this Order, Vectren North shall include the following: (1) copies of customer bills in the Expansion Area for service prior to certification; (2) documentation and calculations of margins earned in the Expansion Area for service prior to certification; (3) documentation and calculations of the gross-up of the tax deduction value; and (4) documentation of the contribution to Share the Warmth of margins earned from the Expansion Area prior to certification.

Notwithstanding the above, and based on the evidence presented, the Commission finds that Vectren North possesses the requisite power and authority and financial capability to provide natural gas service to the Expansion Area. Applicant's provision of natural gas distribution service to the Expansion Area will further public convenience and necessity and is in the public interest. The Commission notes that no party opposed Applicant's request. Therefore, the Commission finds that Applicant's request for a Necessity Certificate is granted.

**8. Consent to the Granting of Licenses, Permits, and Franchises.** Pursuant to Ind. Code § 36-2-2-23, we find that the County Commissioners of Fountain and Tippecanoe counties may grant Vectren North 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 Vectren North to provide natural gas distribution service in the Expansion Area, described in Applicant's Verified Petition and evidence in this Cause, for Fountain County and Tippecanoe County.

2. This Order shall be the sole evidence of such Certificate of Public Convenience

and Necessity.

3. Vectren North shall donate the margins received from service in the Expansion Area prior to the date of this Order to Share the Warmth in accordance with the mechanism outlined herein.

4. Vectren North shall report quarterly, for one year as outlined herein, on its efforts to reform its processes and franchise verification and report on the donation of its margins received from service in the Expansion Area prior to the date of this Order.

5. The County Commissioners of Fountain County and Tippecanoe 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 Vectren North as may be required for the provision of gas distribution services authorized in this Certificate of Public Convenience and Necessity.

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

**STEPHAN, MAYS-MEDLEY, HUSTON, AND ZIEGNER CONCUR; WEBER NOT PARTICIPATING:**

**APPROVED:      JAN 28 2015**

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



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