

**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 MONROE )  
COUNTY )  
)  
)  
**RESPONDENT: MIDWEST NATURAL GAS )  
CORPORATION )****

**CAUSE NO. 44723**

**APPROVED: JUN 08 2016**

**ORDER OF THE COMMISSION**

**Presiding Officers:  
David E. Ziegner, Commissioner  
Marya E. Jones, Administrative Law Judge**

On December 8, 2015, Indiana Gas Company, Inc. d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren North" or "Applicant") filed its Verified Application ("Application") with the Indiana Utility Regulatory Commission ("Commission") seeking a Certificate of Public Convenience and Necessity ("Necessity Certificate") to render gas utility service to the public in a certain area of Monroe County, Indiana, adjacent to the territory Vectren North presently serves. On December 8, 2015, Applicant also filed its direct testimony and exhibits of Jamoni E. Harper, Director of Commercial and Residential Sales, in support of its Application.

The Application indicated that the area for which a Necessity Certificate is sought is not being served by any other natural gas utility, but was certified to Peoples Gas & Power Company in Cause No. 40404 on July 12, 1996. Respondent, Midwest Natural Gas Corporation ("Midwest") succeeded to that certification. The Application further indicated that Midwest does not object to this request by Vectren North. Midwest filed an Appearance of Counsel on December 15, 2015, and on February 9, 2016 filed a Notice of Intent Not to File Testimony.

The Indiana Office of the Utility Consumer Counselor ("OUCC") filed the direct testimony of Farheen Ahmed, Utility Analyst, on February 12, 2016. On February 25, 2016, Vectren North filed the rebuttal testimony of Jamoni E. Harper.

On March 4, 2016, the Presiding Officers by Docket Entry asked that Applicant and Midwest respond to certain requests for additional information. Vectren North filed a written response to the Presiding Officers' request for additional information on March 7, 2016.

The Commission convened a public hearing in this Cause on March 8, 2016, at 9:30 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, Applicant's and the OUCC's evidence were admitted into evidence 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. Vectren North and Midwest 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. Therefore, the Commission has jurisdiction over Applicant, Respondent and the subject matter of this Cause.

**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.** Applicant requests the Commission's approval of the enlargement of its natural gas service territory to include an area in Monroe County, Indiana (the "Expansion Area"). The Expansion Area is immediately adjacent to Vectren North's currently authorized service area and includes the following:

Monroe County

- Van Buren Township, Section 27                      Township 8 North Range 2 West

A map depicting the Expansion Area is attached to Vectren North's Application as Petitioner's Exhibit 1, attachment Exhibit JEH-1, Exhibit A.

**4. Applicant's Evidence.** Mr. Jamoni Harper, Director of Commercial and Residential Sales for Vectren Utility Holdings, Inc., testified that Vectren North received a request from a homeowner to extend gas service to a new home in the Expansion Area. He stated that this request caused Vectren North to apply its newly implemented procedures to determine whether Vectren North had an approved Necessity Certificate before serving the property owner requesting gas service.

Mr. Harper testified that in Cause No. 44528, Vectren North committed to reform its franchise request process by having two separate individuals, one from the sales department and one from the engineering department, review the applicable territory maps and verify that a new customer was located within a certificated area. The revised procedures called for the Franchise Verification Form to be completed by the engineering department sooner in the process prior to completion of the work order packet. Mr. Harper stated that Vectren North also implemented new procedures to ensure that customers were advised early in the process whether Vectren North had authority to serve their property.

Mr. Harper testified that based on the application of the new procedures in this case, Vectren North determined not only that it did not have an approved Necessity Certificate, but that it was also already serving eight customers in the Expansion Area. Mr. Harper stated that the first extension of service to a customer in the Expansion Area occurred in 2005. He stated that over time, Vectren North extended service to additional customers using an existing main. He testified that since Vectren North was already serving eight customers within the Expansion Area, Vectren North decided to allow the new homeowner to connect to the existing main. Mr. Harper testified that Vectren North did not believe it was appropriate to provide service to some customers in the Expansion Area, and deny service to the new homeowner.

Mr. Harper noted that the Commission originally granted a Necessity Certificate for the Expansion Area to Peoples Gas & Power Company in Cause No. 40404 in 1996. He stated that after Peoples Gas & Power Company's merger with Midwest in 2003, the Expansion Area became located in Midwest's certificated territory and that neither company ever provided service to the Expansion Area. Mr. Harper further testified that representatives of Vectren North conferred with David Osmon, Executive Vice President of Midwest, and confirmed that Midwest is not serving customers in the Expansion area currently, and does not oppose Vectren North's request to serve the entire Expansion Area.

Mr. Harper testified that Vectren North has sufficient capacity to serve the Expansion Area because Vectren North has facilities within and adjacent to the Expansion Area. Mr. Harper noted that Vectren North has the requisite technical and managerial expertise to extend and serve the Expansion Area, including well-trained field personnel. Mr. Harper further testified that Vectren North has the necessary legal authority as well as the financial capability to provide natural gas service to the Expansion Area. He stated that extension costs to the Expansion Area will be paid by existing and future additional customers in the Expansion Area and that Vectren North's fixed costs will be collected over a larger customer base/sales volume. Mr. Harper testified that Vectren North's extension of service will positively impact economic development, and will not adversely impact the adequacy or reliability of service to other customers, nor will they be financially harmed. He stated that the public convenience and necessity will be served by providing gas service where it is needed and will avoid unnecessary duplication of facilities.

**5. OUC's Evidence.** Ms. Farheen Ahmed, Utility Analyst at the OUC, testified that the OUC recommends approval of Vectren North's application for a Necessity

Certificate. She stated that Vectren North has the power and authority to render natural gas distribution service in the Expansion Area, as shown by its service in 49 counties and well-trained staff, and that Vectren North's financial ability to render natural gas service in the Expansion Area is demonstrated by its Consolidated Balance Sheet. Ms. Ahmed testified that the public interest will be served by Vectren North continuing to provide gas service to existing customers and to potential customers in the Expansion Area.

Ms. Ahmed also testified that Vectren North has been serving customers in the Expansion Area without Commission approval. Ms. Ahmed noted that Ind. Code § 8-1-2-87(c) prohibits natural gas utilities in Indiana from rendering service in any rural area until the Commission issues a Necessity Certificate. Ms. Ahmed further testified that Vectren North provided gas service to eight other customers in the Expansion Area prior to obtaining a Necessity Certificate. Ms. Ahmed stated that in this Cause, Vectren North had knowledge that the customer seeking service was not in a Commission-approved Vectren North service territory on July 31, 2015, but still proceeded to connect the customer anyway.

Ms. Ahmed noted that Vectren North has not proposed any solutions to address its commencement of gas service prior to certification. She stated that Vectren North should not benefit financially from the provision of natural gas service to customers in the Expansion Area prior to the issuance of a Necessity Certificate. Ms. Ahmed testified that Vectren North should contribute all margins earned from service in the Expansion Area prior to certification to the Indiana Utility Rate Payer Trust, in the amount of \$18,877, based on the current estimated annual margin per customer of \$325. Ms. Ahmed stated further that the OUCR recommends the Commission impose a Class B Infraction penalty on Vectren North for failure to comply with Ind. Code § 8-1-2-109. She noted that the Commission's Order in Cause No. 44528 addressed the possible imposition of a Class B Infraction penalty on Vectren North for failure to obtain certification prior to the commencement of gas service in an expansion area.

Ms. Ahmed testified that the OUCR recommends that Vectren North perform a detailed study of its service territory to identify any rural areas being served without the proper certification. Ms. Ahmed stated that with the newly implemented franchise verification process, Vectren North is identifying potential customers rather than current customers that may be receiving gas service outside its existing franchise area. Ms. Ahmed recommended Vectren North provide the results to the Commission by September 30, 2016, and file for a necessity certificate for all of the identified areas without proper certification by December 31, 2016. She stated a detailed service study should eliminate all current instances of Vectren North serving natural gas customers without proper certification.

**6. Applicant's Rebuttal Evidence.** Mr. Harper stated that the purpose of his testimony was to respond to concerns raised and recommendations made by the OUCR regarding Vectren North's provision of gas service in the Expansion Area. Mr. Harper testified that a customer located in the Expansion Area contacted Vectren North on July 31, 2015, to report that construction of his new home was nearly complete, but that the builder neglected to contact Vectren North to make arrangements for gas service. Mr. Harper stated that the customer explained that other homes in close proximity were already receiving gas

service from Vectren North, so the customer and the developer assumed that Vectren North would be able to provide gas service within a short time of a service request. Mr. Harper testified that the customer was scheduled to move in the new home within a few weeks of his contact with Vectren North.

Mr. Harper testified that Vectren North applied the franchise verification procedures it agreed to in Cause No. 44528 to the customer's request, which led to the determination that the customer's home and other nearby homes were located outside of Vectren North's certificated territory. Vectren North was then faced with the decision whether to provide natural gas service immediately, or after obtaining a Necessity Certificate for the Expansion Area. Mr. Harper testified that Vectren North determined the public interest was best served by providing gas service to the customer and subsequently obtaining a Necessity Certificate. Mr. Harper stated that if the builder had requested service when construction began, Vectren North could have caught this issue in time to resolve it with Midwest and obtain a timely Necessity Certificate. Mr. Harper further noted that if Vectren North's newly implemented procedures had been in place in 2005, when the first customer in the Expansion Area began receiving service, Vectren North would have caught this issue then.

Mr. Harper testified that several factors guided Vectren North's decision to provide gas service which are as follows: (1) Vectren North was already serving eight adjacent customers and no harm would be caused by serving this single additional customer; (2) obtaining a necessity certificate for the Expansion Area could take a significant amount of time and the family was scheduled to move into the home within 30 days; (3) the passage of time would have been extremely harmful to the family, since they would have to make alternative living arrangements, and leaving the home vacant may have placed the home at risk for vandalism and theft, or alternatively, had the family moved in, they would have had to rely on dangerous alternative fuel sources; and (4) Vectren North did not feel it was appropriate to inconvenience this family because their builder failed to request gas service earlier in the process.

Mr. Harper testified that it was also in the public interest for Vectren North to provide gas service to the new customer. He opined that refusing to extend service to this family until an agreement could be reached with Midwest and a Necessity Certificate obtained may have caused the family a delay of as much as six months, causing them the potential to have two mortgages and other costs for two homes. Mr. Harper stated that Vectren North did not extend service to the family in order to benefit financially, rather he stated that Vectren North extended service to the family because it was the right thing to do as a public utility. He testified that Vectren North began providing gas service to the customer on August 28, 2015, which allowed the customer to move into the home on schedule.

Mr. Harper testified that once Vectren North discovered the home was in Midwest's territory, it reached an informal agreement with Midwest. He testified that Vectren South agreed not to oppose Midwest's request for a Necessity Certificate in Cause No. 44702 for multiple sections of Madison, Van Buren and Barr Townships in Daviess County that are currently located in Vectren South's certificated area, and that Midwest agreed not to oppose Vectren North's request for a necessity certificate to serve the single section of Monroe

County at issue in this Cause.

Mr. Harper testified that Vectren North should not be sanctioned for complying with the franchise procedures recommended by the OUCC in Cause No. 44528, and noted that the OUCC never raised the issue of fines or penalties in Cause No. 44528. He testified that the OUCC did not properly calculate the estimated annual margin per customer that the OUCC recommended Vectren North pay in this Cause because the margin average comes from Vectren North's 2008 general rate case, and therefore, would not be accurate for the years 2005-2008. Mr. Harper testified that even assuming the Commission could impose a Class B infraction on a utility as further recommended by the OUCC, it would not be appropriate in this case. Mr. Harper testified that the Commission has not imposed penalties under similar circumstances with other utilities. Citing Cause No. 42868, a Cause initiated by various Indiana electricity suppliers after implementation of the current electronic GIS system, Mr. Harper testified that the electricity suppliers identified 279 instances where electric service was being provided outside of an assigned service area. Mr. Harper testified that the Commission did not impose fines in this Cause, rather, the utilities worked collaboratively to clean up as many instances of service in non-certificated areas as possible. Mr. Harper also recommended the Commission adopt an expedited process that could be used where a customer needs service quickly and the affected natural gas utilities have reached an agreement about which utility should provide service. Mr. Harper testified that Vectren North agreed to perform a detailed study of its service territory to identify any rural areas being served without the proper certification and to initiate necessity certificate proceedings as necessary.

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 demonstrates that Vectren North has served eight customers in the Expansion Area since 2005 without Commission approval, and that the most recent customer,

the ninth customer in the Expansion Area, contacted Vectren North for service on July 31, 2015. The evidence further demonstrates that on August 4, 2015, Vectren North confirmed that the ninth customer and the other eight nearby customers are outside its certificated area. Ms. Ahmed testified that Vectren North sought approval of a Necessity Certificate to serve customers it was already serving outside of its certificated territory in three similar cases in the recent past and noted that the Commission provided Vectren North with guidance to prevent recurrences in each of the three recent proceedings, *Indiana Gas Company, Inc. D/B/A/ Vectren Energy Delivery Of Indiana, Inc.*, Cause no 44235, 2012 WL 5914026 (IURC November 21, 2012); *Indiana Gas Company, Inc. D/B/A/ Vectren Energy Delivery Of Indiana, Inc.*, Cause No. 44263, 2012 WL 10634642 (IURC December 19, 2012); and *Indiana Gas Company, Inc. D/B/A/ Vectren Energy Delivery Of Indiana, Inc.*, Cause No. 44258, 2015 WL 429994 (IURC January 28, 2015).

Ms. Ahmed testified that in Cause No. 44528, Vectren North agreed to reform its franchise request process by having two separate individuals, one from the sales department and one from the engineering department, review the applicable territory maps and verify whether a new customer is already within a certificated area. The evidence demonstrates that Vectren North applied its reformed franchise process in this Cause, and that after a review by both the sales and engineering departments, Vectren North determined the prospective customer, as well as the eight existing customers are located in Midwest's certificated territory rather than Vectren North's certificated territory. The evidence demonstrates that on August 28, 2015, the ninth customer was, nevertheless, connected to Vectren North's system, nearly four months prior to the date this Cause was filed on December 8, 2015.

Vectren North presented several arguments in rebuttal to explain its decision to serve the ninth customer in spite of the fact that Midwest is certificated to provide service in the Expansion Area. Mr. Harper stated that serving the ninth customer without a Necessity Certificate avoids unequal treatment of the ninth customer since Vectren North is already providing service to the eight other customers in the Expansion Area; serving the ninth customer prevents harm to the ninth customer by avoiding the delay associated with obtaining a necessity certificate that may have resulted in the ninth customer having two mortgages and other costs for two homes; and that it is not appropriate to inconvenience this customer because the builder failed to request gas service earlier in the process. Vectren North also recommended the Commission adopt an expedited process to approve a Necessity Certificate where a customer needs service quickly and the affected natural gas utilities have reached an agreement about which utility should provide service. We find these arguments and this recommendation to be without merit. Rather, we continue to agree with our decision in Cause No. 44528 that Vectren North must act responsibly by following the reformed franchise policy as agreed in that Cause. We find that the reformed franchise policy is sufficient to ensure that Commission approval for a Necessity Certificate is sought and obtained in a timely manner prior to the extension of gas service.

Thus, we agree with the OUCC and find that Vectren North shall donate the margins it receives from providing service in the Expansion Area prior to certification to the Indiana Utility Rate Payer Trust, in the amount of \$18,877, based on the current estimated annual margin per customer of \$325. In response to a Docket Entry issued on March 4, 2016, where

Vectren North was asked to provide its calculation of margins earned from serving in the Expansion Area, Vectren North instead accepted the OUCC's calculation as a reasonable representation of the margins earned. Vectren North shall file within 60 days following the issuance of this Order, documentation indicating the contribution to the Indiana Utility Rate Payer Trust of margins earned from the Expansion Area prior to certification.

The OUCC also recommended that Vectren North perform a detailed study of its service territory to identify any rural areas being served without the proper certification. Ms. Ahmed testified that the newly implemented franchise verification process allows Vectren North to primarily identify potential customers rather than current customers receiving gas service outside of Vectren North's existing franchise area. We agree. Therefore, Vectren North shall provide the results of a detailed service study to the Commission by September 30, 2016. Vectren North shall file an Application for Necessity Certificate for gas service being provided in all of the identified areas without proper certification by December 31, 2016. All areas identified by Vectren North in the service study that are being served without proper certification and for which an Application for Necessity Certificate is filed by December 31, 2016 will not be subject to financial penalties. After December 31, 2016, if Vectren North seeks a Necessity Certificate after the provision of gas service has already occurred in an uncertificated territory or a territory for which a Necessity Certificate has been assigned to another utility, the Commission will recommend that the Indiana Attorney General seek the imposition of a Class B infraction on Vectren North for failure to comply with the Public Service Commission Act. Ind. Code § 8-1-2-109.

Notwithstanding the foregoing, 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. Vectren North's provision of natural gas service to the Expansion Area will further public convenience and necessity and is in the public interest. The Commission notes that no party opposed Vectren North's request. Therefore, the Commission finds that Vectren North'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 Monroe County 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 Application and evidence in this Cause, for Monroe 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 in the amount of \$18,877 to the Indiana Utility Rate Payer Trust within 60 days of this Order. Vectren North shall provide proof of the submission of the donation within five days of tendering the donation.

4. Vectren North shall provide the results of a detailed service study to the Commission by September 30, 2016, under this Cause.

5. Vectren North shall file by December 31, 2016 a petition seeking a Necessity Certificate for any un-certificated areas it finds are being served as a result of the investigation it has agreed to undertake in this proceeding, or make a filing indicating there are no such additional areas under this Cause.

6. The Monroe County Commissioners 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.

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

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

**APPROVED:**

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

  
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**Mary M. Becerra**  
**Secretary of the Commission**