

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

JOINT PETITION BY THE INDIANA FINANCE)
AUTHORITY (“AUTHORITY”) AND INDIANA)
GASIFICATION, LLC (“INDIANA GASIFICATION”))
FOR THE INDIANA UTILITY REGULATORY)
COMMISSION TO (1) APPROVE A SUBSTITUTE)
NATURAL GAS PURCHASE AND SALE)
AGREEMENT ENTERED INTO BY THE AUTHORITY)
AND INDIANA GASIFICATION FOR THE SALE BY)
INDIANA GASIFICATION AND PURCHASE BY THE)
AUTHORITY OF SUBSTITUTE NATURAL GAS (“SNG”))
OVER A 30-YEAR TERM PURSUANT TO I.C. 4-4-11.6;)
(2) IF NECESSARY, ORDER INDIANA REGULATED)
ENERGY UTILITIES TO ENTER INTO A)
MANAGEMENT CONTRACT WITH THE AUTHORITY;)
(3) DECLINE TO EXERCISE JURISDICTION PURSUANT)
TO I.C. 8-1-2.5-5 OVER INDIANA GASIFICATION WITH)
RESPECT TO ITS FINANCING, CONSTRUCTING,)
OWNING AND OPERATING SNG PRODUCTION AND)
TRANSPORTATION FACILITIES, AND AN ANCILLARY)
INTERGRATED COAL GASIFICATION POWERPLANT)
 (“ICGP FACILITIES”) AND ELECTRIC GENERATION)
FACILITIES WHICH USE CLEAN COAL TECHNOLOGY)
IN CONNECTION THEREWITH, AND WHICH)
PRODUCES SNG TO BE SOLD TO THE AUTHORITY)
AND OTHER PERSONS, AND PRODUCES ELECTRICITY)
WHICH WILL BE SOLD TO ENERGY UTILITIES;)
AND (4) GRANT ALL OTHER APPROPRIATE AND)
ASSOCIATED APPROVALS AND RELIEF.)

FILED
March 07, 2012
INDIANA UTILITY
REGULATORY COMMISSION

CAUSE NO. 43976

INDIANA FINANCE AUTHORITY AND INDIANA GASIFICATION, LLC’S JOINT REQUEST FOR AN EXPEDITED ORDER FORMALLY DENYING THE INDIANA INDUSTRIAL GROUP’S PETITION FOR RECONSIDERATION

The Indiana Finance Authority (“Authority”) and Indiana Gasification, LLC (“Indiana Gasification”), Joint Petitioners in the above-captioned Cause, by counsel and for their Joint Request for an Expedited Order Formally Denying the Indiana Industrial Group’s Petition for Reconsideration of the Commission’s Order in this Cause, approved on November 22, 2011, (“Final Order”), state as follows:

1. As the Commission will recall, this matter involved the Commission's review and approval of a Substitute Natural Gas Purchase and Sale Agreement ("Purchase Agreement") between the Authority and Indiana Gasification, as specifically contemplated by IND. CODE § 4-4-11.6-7.

2. After thorough analysis and careful consideration, the Commission issued its 106-page Final Order on November 22, 2011, approving the Purchase Agreement.

3. Unhappy with the Commission's Final Order, the Indiana Industrial Group ("IIG"), an *ad hoc* group with revolving-door membership, filed a Petition for Reconsideration with the Commission on December 12, 2011. IIG's Petition simply repeated generalized concerns and arguments that had been raised repeatedly throughout the Commission's proceedings and addressed by the Commission in its 106-page Final Order. The Authority and Indiana Gasification noted the repetitious nature of IIG's Petition in their Joint Response in Opposition to Indiana Industrial Group's Petition for Reconsideration, filed with the Commission on December 22, 2011.

4. Pursuant to 170 IAC 1-1.1-22(e)(5), IIG's Petition for Reconsideration would be "deemed denied if not ruled upon or otherwise addressed within sixty (60) days following its filing." In other words, the Petition for Reconsideration would be deemed denied if not ruled upon before February 12, 2012.

5. Meanwhile, on December 21, 2011, Indiana Gas Company, Inc., and Southern Indiana Gas and Electric Company, both d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren Energy"), initiated an appeal of the Final Order by filing its Notice of Appeal with the Commission. IIG filed its own Notice of Appeal one day later.

6. Upon receiving Vectren Energy's Notice of Appeal, the Commission's Clerk was required by IND. APPELLATE RULE 10 to either: (1) assemble the Clerk's Record and file a Notice of Completion of the Clerk's Record with the Court of Appeals within thirty (30) days or (2) request an extension of time from the Court of Appeals to assemble the Clerk's Record.

7. On January 17, 2012, the IIG filed a motion with the Court of Appeals requesting that the Court stay the appeal of the Final Order and remand to the Commission for a ruling on IIG's December 12, 2011 Petition for Reconsideration, which the Commission had yet to grant or deny.

8. On January 20, 2012, the Commission's Chief Reporter timely filed a Notice of Completion of Clerk's Record with the Court of Appeals, choosing not to request an extension of time and essentially acknowledging the Commission's belief that this matter was ripe for appeal, IIG's Petition for Reconsideration notwithstanding.

9. As further evidence of the Commission's belief that this matter was ripe for appellate review, the Commission allowed the February 12, 2012 deadline to pass without ruling on IIG's Petition for Reconsideration, and IIG's Petition was therefore deemed denied by operation of Administrative Rule 170 IAC 1-1.1-22(e)(5). On February 13, 2012, the Authority and Indiana Gasification filed written notice apprising the Court of Appeals that IIG's Petition for Reconsideration was denied by operation of administrative rule.

10. On March 5, 2012, however, the Court of Appeals issued an order granting IIG's motion for temporary stay of the appeal and remand to the Commission and directing the Commission to formally rule on IIG's Petition for Reconsideration within thirty (30) days. For the Commission's convenience, a true and complete copy of the March 5, 2012 Court of Appeals order is attached hereto as **Exhibit A**.

11. The Purchase Agreement approved by the Commission's 106-page Final Order is of significant importance to the citizens of Indiana. With the Commission having diligently completed assembly of the Clerk's Record and Transcript, the matter is ripe for briefing and determination on appeal once the Commission formally denies IIG's Petition for Reconsideration.

WHEREFORE, in order to avoid any further delay in the appellate proceedings, the Authority and Indiana Gasification, by counsel, respectfully request the Commission to enter an expedited order formally denying IIG's December 12, 2011 Petition for Reconsideration.

INDIANA FINANCE AUTHORITY

INDIANA GASIFICATION, LLC

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon the following by electronic service or prepaid U.S. first-class mail this 7th day of March, 2012:

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IN THE
COURT OF APPEALS OF INDIANA



INDIANA GAS COMPANY, et al.,)
)
Appellants,)
)
vs.) CAUSE NO. 93A02-1112-EX-1141
)
INDIANA FINANCE AUTHORITY, et al.,)
)
Appellees.)

ORDER

Appellant Indiana Industrial Group, by counsel, has filed a Verified Motion for Temporary Stay and Remand to Commission. Appellants Indiana Gas Company and Southern Indiana Gas and Electric Company, d/b/a Vectren Energy Delivery of Indiana, Inc., by counsel, have filed a Joinder in Indiana Industrial Group's Verified Motion for Temporary Stay and Remand to Commission. Appellants Citizens Action Coalition of Indiana, Inc., Save the Valley, and Spencer County Citizens for Quality of Life, by counsel, have also filed a Joinder in Indiana Industrial Group's Verified Motion for Temporary Stay and Remand to Commission. Appellees Indiana Finance Authority and Indiana Gasification, LLC, by counsel, have filed an Opposition to Motion for Temporary Stay and Remand to Commission.

Having reviewed the matter, the Court FINDS AND ORDERS AS FOLLOWS:

1. Appellant Indiana Industrial Group's Verified Motion for Temporary Stay and Remand to Commission is GRANTED.

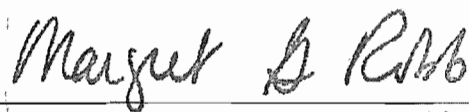


2. Pursuant to Appellate Rule 37, this matter is REMANDED to the Indiana Utility Regulatory Commission for consideration of the pending petition for reconsideration. The Commission is directed to rule on the pending petition for reconsideration within thirty (30) days of the date of this order.
3. Within five (5) days of the Commission's ruling on the petition for reconsideration, Appellant Indiana Industrial Group is ORDERED to file a Notice with the Clerk of this Court and to attach a copy of any issued order.
4. The briefing schedule in this appeal is HELD IN ABEYANCE pending further order of this Court.
5. The Clerk of this Court is directed to send copies of this order to the parties and to the Indiana Utility Regulatory Commission.
6. The Indiana Utility Regulatory Commission is directed to file a copy of this order under Lower Cause Number 43976 and cause the same to be spread of record.

ORDERED this 5th day of March, 2012.

Darden, Mathias, JJ., Sharpnack, Sr.J., concur.

FOR THE COURT,



Chief Judge