

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

VERIFIED PETITION OF SOUTHERN INDIANA GAS AND)
ELECTRIC COMPANY d/b/a VECTREN ENERGY)
DELIVERY OF INDIANA, INC. (“VECTREN SOUTH”) FOR)
(1) ISSUANCE OF A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY FOR A COMPLIANCE)
PROJECT TO MEET FEDERALLY MANDATED)
REQUIREMENTS TO CLOSE ITS A. B. BROWN POND)
(THE “BROWN POND COMPLIANCE PROJECT”); (2))
AUTHORITY TO TIMELY RECOVER 80% OF THE)
APPROVED FEDERALLY MANDATED COSTS INCURRED)
DURING CONSTRUCTION AND OPERATION OF THE)
BROWN POND COMPLIANCE PROJECT INCLUDING)
POST-IN SERVICE CARRYING CHARGES (BOTH DEBT)
AND EQUITY) (“PISCC”) AND DEFERRED)
DEPRECIATION THROUGH VECTREN SOUTH’S)
ENVIRONMENTAL COST ADJUSTMENT MECHANISM;)
(3) AUTHORITY TO DEFER FOR RECOVERY IN)
VECTREN SOUTH’S ENSUING GENERAL RATE CASE)
20% OF SUCH APPROVED FEDERALLY MANDATED)
COSTS; AND (4) IN THE ALTERNATIVE, APPROVAL TO)
INCLUDE THE BROWN POND COMPLIANCE PROJECT)
IN RATE BASE PURSUANT TO IC 8-1-2-23.

CAUSE NO. 45280


INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

SETTLEMENT TESTIMONY OF

CYNTHIA M. ARMSTRONG - PUBLIC’S EXHIBIT NO. 1-S

DECEMBER 19, 2019

Respectfully submitted,


Lorraine Hitz-Bradley, Atty. No. 18006-29
Deputy Consumer Counselor

SETTLEMENT TESTIMONY OF CYNTHIA M. ARMSTRONG
CAUSE NO. 45280
SOUTHERN INDIANA GAS AND ELECTRIC COMPANY D/B/A VECTREN
ENERGY DELIVERY OF INDIANA ("VECTREN")

1 **Q: Please state your name and business address.**

2 A: My name is Cynthia M. Armstrong. My business address is 115 West
3 Washington, Suite 1500 South, Indianapolis, Indiana 46204.

4 **Q: By whom and in what capacity are you employed?**

5 A: I am employed by the Indiana Office of Utility Consumer Counselor ("OUCC")
6 as a senior utility analyst in the Electric Division. A summary of my qualifications
7 can be found in Appendix A.

8 **Q: What is the purpose of your testimony?**

9 A: I provide a summary of and support for the Stipulation and Settlement Agreement
10 ("Settlement Agreement") reached by the OUCC and Vectren South Electric
11 ("Vectren") (collectively referred to as the "Settling Parties") in this proceeding,
12 which will allow Vectren to move forward with its proposed Coal Combustion
13 Residuals ("CCR") Compliance Plan. The OUCC concludes the Settlement
14 Agreement is reasonable and in the public interest and recommends the Indiana
15 Utility Regulatory Commission ("Commission") approve the Settlement
16 Agreement in its entirety.

17 **Q: What have you done to prepare your testimony supporting the Settlement**
18 **Agreement?**

19 A: I reviewed Vectren's verified petition, testimony, and exhibits in this proceeding.
20 I also reviewed Vectren's responses to data requests submitted by the OUCC and

1 Intervenor. I participated in a technical discussion with Vectren staff on
2 September 20, 2019, and a settlement teleconference on December 6, 2019. I
3 discussed the case with other OUCC accounting, engineering, and environmental
4 experts to determine the efficacy of Vectren's Brown Ash Pond Compliance
5 Project, including Wes Blakley, Lauren Aguilar, and Anthony Alvarez. I
6 reviewed the Settlement Agreement, as well as Vectren's settlement testimony
7 and exhibits.

8 **Q. Are you sponsoring any exhibits?**

9 A. Yes, together with Witness David M. Bowler, I am sponsoring Joint Exhibit 1,
10 which is a copy of the Settlement Agreement, attached to Mr. Bowler's testimony.
11 This exhibit will be offered into evidence at the hearing.

12 **Q: Did all the parties in the case reach settlement?**

13 A: Citizens Action Coalition ("CAC) has not yet signed on to the current settlement
14 agreement, but is anticipated to do so in the near future.

15 **Q: Please summarize the Settlement Agreement.**

16 A: The Settling Parties propose, through the Settlement Agreement, the following:
17 • The Commission should find that public convenience and necessity will be
18 served by the Brown Ash Pond Compliance Project in compliance with the
19 Environmental Protection Agency's ("EPA") CCR rule and grant Vectren a
20 certificate of public convenience and necessity ("CPCN") pursuant to Ind.
21 Code ch. 8-1-8.4, the Federally Mandated Requirements for Energy Utilities
22 statute ("Federal Mandate Statute").

- 1 • Vectren shall remove the inflated contingency of \$8.33 million (\$7.49 million
2 prior to inflation) from the total federally-mandated costs. The removal of this
3 contingency recognizes that the Federal Mandate Statute already includes
4 contingency as part of cost recovery. As a result, the Settling Parties agree
5 that the total projected federally mandated costs of \$156,200,000 are
6 reasonable and should be approved. Additionally, the Settling Parties agree
7 that the Commission should find that the Brown Ash Pond Compliance
8 Project constitutes a compliance project that will allow Vectren to comply
9 directly or indirectly with “federally mandated requirements” under I.C. § 8-
10 1-8.4-5 and that the associated costs, as modified by the Settlement
11 Agreement, are “federally mandated costs” under I.C. § 8-1-8.4-4 and
12 therefore eligible for cost recovery set forth in I.C. § 8-1-8.4-7.
- 13 • The total federally mandated costs will be offset by total cash proceeds to be
14 received from the ash re-user (“Ash Payments” in Table 1 of Vectren’s
15 Exhibit No. 1, p. 20) plus total insurance proceeds to be received (Vectren’s
16 Exhibit No. 5, p. 5, lines 1-5) of at least \$25 million. These cash proceeds will
17 be used to offset incurred operations and maintenance (“O&M”) costs to
18 excavate and convey the ash to the loading facility, as described in Vectren’s
19 direct testimony.
- 20 • Vectren should be authorized to timely recover 80% of the approved federally
21 mandated costs incurred during construction, as well as after placement in-
22 service and operation of the Brown Pond Compliance Project, including post-

1 in-service carrying costs, both debt and equity, and deferred depreciation
2 expense associated with the Brown Ash Pond Compliance Project through
3 Vectren's Environmental Cost Adjustment ("ECA") mechanism, as described
4 in Vectren's Exhibit No. 5, p. 6.

- 5 • The costs of removal associated with retirements of existing or future capital
6 assets in connection with the Brown Ash Compliance Project are not reflected
7 in the total projected federally mandated costs and they will not be reflected
8 in the ECA mechanism in future proceedings. Such costs of removal, if
9 incurred, will be addressed in future general base rate cases to the extent of
10 their effect on net original cost rate base. In the event the Brown Ash Pond
11 Compliance Project results in a retirement of existing assets, Vectren will
12 offset the incremental depreciation expense included in the revenue
13 requirement calculation with the impact of the retired assets.
- 14 • Vectren should be authorized to defer 20% of the approved federally
15 mandated costs until such costs are reflected in Vectren's retail electric rates
16 pursuant to I.C. § 8-1-8.4-7(c)(2), as presented in Vectren's Exhibit No. 5, p.
17 6.
- 18 • The Commission should grant Vectren's requested accounting and
19 ratemaking treatment except as expressly modified by the Settlement
20 Agreement.
- 21 • In the event Vectren is held liable for damages or made subject to enforcement
22 action(s) with respect to the handling of the ash from the Brown Ash Pond,

1 the Settling Parties reserve their respective positions with respect to rate
2 recovery related thereto and preserve their rights to defend such positions in
3 future proceedings.

- 4 • The Settlement Agreement is non-precedential and should not be construed
5 as a limitation on any of the parties' position taken or relief sought in other
6 pending or future Commission proceedings no specifically addressed in this
7 Settlement Agreement.
- 8 • In the event the Commission does not approve the Settlement Agreement in
9 its entirety, the Settlement Agreement shall be null and void and deemed
10 withdrawn. In the event the Settlement Agreement is withdrawn, the Settling
11 Parties will request than an Attorney's Conference be convened to establish a
12 procedural schedule for the continued litigation of this proceeding.

13 **Q: Is the Settlement Agreement is in the public interest?**

14 **A:** Yes. The Settlement Agreement is in the public interest for the following reasons:

- 15 1) The Settlement Agreement mitigates the impact of potential cost overruns of
16 the project on consumers by removing the contingency Vectren originally
17 proposed in its application for a Federally Mandated CPCN. Under I.C. § 8-
18 1-8.4-7(c)(3), actual costs that exceed the projected federally mandated costs
19 of the approved compliance project by more than 25% require specific
20 justification by the energy utility and specific approval by the Commission
21 before being authorized in the next general rate case filed by the energy utility
22 with the Commission. Therefore, a utility does not have to receive specific
23 Commission approval for cost overruns until the project costs exceed 25% of

1 the approved amount. Thus, the Federally Mandated Requirements statute
2 naturally allows a utility a reasonable level of contingency for a federally
3 mandated project. Vectren will be more incentivized to mitigate cost
4 increases it may incur with the project by removing the additional
5 contingency it included with its original cost estimate.

6 2) The Settlement Agreement further mitigates the rate impact of the project on
7 ratepayers by offsetting O&M costs with the cash proceeds received from the
8 ash re-user and insurance proceeds. Additionally, if the Brown Ash Pond
9 Compliance Project results in a retirement of existing assets, Vectren will
10 offset the incremental depreciation expense included in the revenue
11 requirement calculation for the ECA with the impact of the retired assets.

12 3) The Settlement Agreement allows for the closure of the A.B. Brown ash pond
13 in a manner that is more protective of public health and the environment than
14 the complete closure in-place of the pond. By removing the ash and allowing
15 it to be beneficially re-used in a manner that will encapsulate it, Vectren is
16 minimizing the likelihood that dangerous constituents within the ash will leak
17 into local groundwater supplies. Beneficially re-using the ash also mitigates
18 Vectren's future liability associated with remediation and decreases costs that
19 could potentially be passed onto ratepayers. I would note that the OUCC does
20 not necessarily agree that such remediation costs are appropriate to pass onto
21 ratepayers; however, minimizing this risk potentially avoids a future conflict
22 between Vectren and the OUCC on additional remediation costs.

1 4) Public policy supports the Settlement Agreement. By collaborating to resolve
2 the issues in this proceeding, the Settlement Agreement also serves the public
3 interest by avoiding contentious and costly litigation. Each Settling Party is
4 invested in the development, operation and evaluation process of the entire
5 project and all parties, including the Commission, are able to stay on top of
6 all issues with detailed information obtained through the ongoing review
7 requirements. The Settlement Agreement provides ratepayer benefits and a
8 reasonable compromise among the Settling Parties. The Settlement
9 Agreement is supported by substantial evidence, is in the public interest and
10 should be approved.

11 **Q: The OUCC opposed recovery of ash pond closure costs under the Federal**
12 **Mandate Statute in other cases before the Commission. Why does the OUCC**
13 **support Vectren receiving cost recovery for closure of the A.B. Brown ash**
14 **pond under I.C. ch. 8-1-8.4 in this case?**

15 **A:** After reviewing Vectren's CCR Compliance Plan, the OUCC found Vectren put
16 forth an approvable plan that met the requirements of I.C. § 8-1-8.4-6(b). Vectren
17 developed an innovative plan for dealing with its legacy ash waste. It was clear
18 to the OUCC that Vectren investigated reasonable alternatives to closing the ash
19 pond in a manner that mitigated the costs passed onto ratepayers. The OUCC
20 would like to note that a CCR Compliance Plan similar to Vectren's may not be
21 possible for other utilities to implement. However, a utility should show that it

1 reasonably considered and investigated the possibility of re-using its ash when
2 submitting an application for rate recovery before the Commission.

3 Additionally, Vectren appears to be taking all actions possible to further
4 reduce the costs of closure beyond selling the ash for re-use. Vectren actively
5 pursued compensation under its insurance policies, and its CCR Compliance Plan
6 called for passing such compensation directly on to ratepayers. Furthermore,
7 Vectren recognizes that there may be depreciation expense associated with the
8 ash ponds currently being collected through base rates. Vectren's CCR
9 Compliance Plan provides an offset to costs recovered in the ECA tracker to
10 account for the retirement of the ash ponds.

11 **Q: What does the OUCC recommend?**

12 A: The OUCC recommends the Commission approve the Settlement Agreement
13 submitted by the Settling Parties in its entirety.

14 **Q: Does this conclude your testimony?**

15 A: Yes.

APPENDIX A

1 **Q: Please summarize your professional background and experience.**

2 A: I graduated from the University of Evansville in 2004 with a Bachelor of Science
3 degree in Environmental Administration. I graduated from Indiana University,
4 Bloomington in May 2007 with a Master of Public Affairs degree and a Master
5 of Science degree in Environmental Science. I also completed internships with
6 Vectren's Environmental Affairs Department in the spring of 2004, with the U.S.
7 Environmental Protection Agency in the summer of 2005, and with the U.S.
8 Department of the Interior in the summer of 2006. I completed a 40-hour OSHA
9 Hazardous Operations and Emergency Response (HAZWOPER) Course in
10 January 2005. I have been employed by the OUCC since May 2007. As part of
11 my continuing education at the OUCC, I have attended the National Association
12 of Regulatory Utility Commissioners' (NARUC) week-long seminar in East
13 Lansing, Michigan, and completed multiple 8-hour OSHA HAZWOPER annual
14 refresher courses. In April 2018, I became certified to perform opacity
15 observations in accordance with EPA Method 9, and I was re-certified in October
16 2018 and April 2019. Although scheduling conflicts did not allow me to be re-
17 certified in October 2019, I intend to become re-certified in April 2020.

18 **Q: Please describe some of your duties at the OUCC.**

19 A: I review and analyze utilities' requests and file recommendations on behalf of
20 consumers in utility proceedings. Depending on the case at hand, my duties may
21 also include analyzing state and federal regulations, evaluating rate design and
22 tariffs, evaluating utilities' policies and practices, examining books and records,

1 inspecting facilities, and preparing various studies. Since my expertise lies in
2 environmental science and policy, I assist in many cases where environmental
3 compliance is an issue.

4 **Q: Have you previously provided testimony to the Commission?**

5 A: Yes.

AFFIRMATION

I affirm, under the penalties for perjury, that the foregoing representations are true.

Cynthia M. Armstrong

Cynthia M. Armstrong
Senior Utility Analyst
Indiana Office of Utility Consumer Counselor
Cause No. 45280 - VSE

12-19-2019

Date

CERTIFICATE OF SERVICE

This is to certify that a copy of the *OUCC SETTLEMENT TESTIMONY OF CYNTHIA M. ARMSTRONG* has been served upon the following parties of record in the captioned proceeding by electronic service on December 19, 2019.

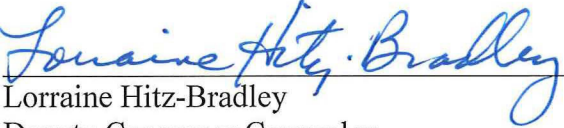
VSE

P. Jason Stephenson
Robert E. Heidorn
Heather A. Watts
Justin C. Hage
Vectren Energy Delivery of Indiana, Inc.
a CenterPoint Energy Company
Jason.Stephenson@centerpointenergy.com
Bob.Heidorn@centerpointenergy.com
Heather.Watts@centerpointenergy.com
Justin.Hage@centerpointenergy.com

Nicholas K. Kile
Hillary J. Close
Lauren M. Box
Barnes & Thornburg LLP
nicholas.kile@btlaw.com
hillary.close@btlaw.com
lauren.box@btlaw.com

CAC

Jennifer A. Washburn
Margo Tucker
CITIZENS ACTION COALITION
jwashburn@citact.org
mtucker@citact.org


Lorraine Hitz-Bradley
Deputy Consumer Counselor

INDIANA OFFICE OF UTILITY CONSUMER COUNSELOR

PNC Center

115 West Washington Street
Suite 1500 South
Indianapolis, IN 46204

infomgt@oucc.in.gov

317/232-2494 – Telephone

317/232-5923 – Facsimile