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September 22, 2010

Mr. Jeff Derouen
Executive Director
Kentucky Public Service Commission
Kentucky State Board on Electric Generation & Transmission Siting
211 Sower Boulevard
P.O. Box 615
Frankfort, KY 40602-0615

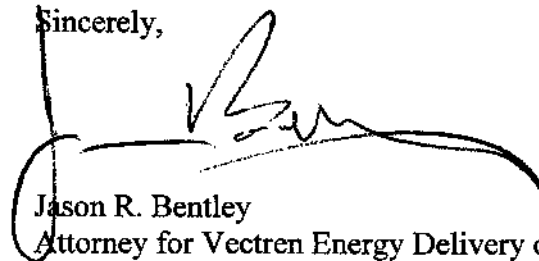
RE: Siting Board Case No. 2010-00223

Dear Mr. Derouen:

Please find enclosed an original and one copy of Vectren's response to Intervenors Motion to Dismiss. A true representation of this document was filed electronically on September 22, 2010.

Should you have any questions or concerns, please contact me at the number below.

Sincerely,



Jason R. Bentley
Attorney for Vectren Energy Delivery of Indiana
McBrayer, McGinnis, Leslie & Kirkland, PLLC
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Frankfort, KY 40601
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COMMONWEALTH OF KENTUCKY
BEFORE THE KENTUCKY STATE BOARD

ON ELECTRIC GENERATION AND TRANSMISSION SITING

In the Matter of the Application of Southern)
Indiana Gas & Electric Co., d/b/a Vectren)
Energy Delivery of Indiana, Inc. for a)
Construction Certificate to Construct an)
Electric Transmission Line from its A.B.)
Brown Plant to the Big Rivers Reid EHV)
Station)

Case No. 2010-00223

RESPONSE OF VECTREN TO INTERVENORS' MOTION TO DISMISS

Comes now Southern Indiana Gas & Electric Co., d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren"), by counsel, in response to Motion to Dismiss by Intervenors City of Henderson, Henderson Water Utility, and Henderson Municipal Power and Light (collectively hereinafter "Intervenors"), and respectfully states as follows:

Intervenors argue that Vectren's application in the present case is "deficient on its face, incomplete, and therefore must be dismissed," claiming Vectren does not currently possess the necessary easements and rights-of-way to construct the transmission line. Furthermore, Intervenors argue that the Siting Board should simply deny Vectren's application because, they claim, without the necessary property rights at this time, Vectren cannot construct its line in accordance with "applicable legal requirements."

Each of these assertions is without merit. Vectren's application as of the date of filing was determined to be complete and without deficiency. By letter dated July 19, 2010, Vectren was notified that its application met the minimum statutory and regulatory filing requirements. No deficiencies were, or have since been identified. Moreover, a resolution of property rights

issues is not a precondition for the Board to rule on the present application. Rather, as is frequently done, the Board's final Order can be conditioned upon a project obtaining all necessary permits and easements.

Intervenors assert that the statutory requirement to identify the proposed location of a transmission line, right-of-way limits, property owners, and distance from public facilities somehow implies that an applicant must demonstrate all necessary property rights for a project prior to the Board ruling on an application. This assertion is unsupported by the statute and inconsistent with good utility practice. Nowhere does the statute require that an applicant demonstrate property rights as part of an application, nor does a Siting Board certificate purport to convey any such rights. As was stated by the Board at the September 2, 2010, Local Public Hearing, the Siting Board has "no jurisdiction over right-of-way acquisition processes or condemnation proceedings."¹ Indeed, good utility practice would dictate that an applicant not spend millions of dollars to acquire rights-of-way for a proposed route that might ultimately be modified or disapproved by the Siting Board. The fees associated with the Siting Board process itself are sufficient to deter purely speculative applications.

Moreover, large-scale projects of this nature require numerous permits and approvals: environmental, contractual, and otherwise. As a practical matter, it would be impossible for the Siting Board to adjudicate all of the necessary permits and legal requirements of projects under its jurisdiction. Rather, the statutory requirement that an applicant "will construct and maintain the line according to all applicable legal requirements" more correctly applies to matters traditionally within the purview of electric generation and transmission regulatory agencies, such as electrical safety, "design or configuration of the line," as noted at the end of KRS 278.714(3).

¹ Chairman David Armstrong, Opening Statement Before the Local Public Hearing in Siting Board Case No. 2010-00223 (Sept. 2, 2010) (on file with the Kentucky Public Service Commission).

Failure to obtain any other necessary permit or property right will effectively stop a project from being constructed. Thus, as is frequently done by the Siting Board, a final order granting a certificate can be conditioned on a project obtaining all other necessary permits and approvals to go forward.

WHEREFORE, Vectren respectfully requests that the Siting Board deny Intervenors' Motion to Dismiss on the grounds that Vectren's application met the minimum filing requirements and KRS 278.700 et seq. does not require an applicant to have obtained all necessary property rights in order for the Board to rule on an application.

Filed with the Siting Board this 22nd day of September, 2010.

SOUTHERN INDIANA GAS & ELECTRIC CO.,
D/B/A VECTREN ENERGY DELIVERY OF INDIANA, INC.

By: 

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CERTIFICATE OF SERVICE

I certify a copy of the foregoing was served via US Postal Service First Class Mail, postage prepaid, on the following:

George L. Seay, Jr.
WYATT, TARRANT & COMBS, LLP
250 West Main Street, Suite 1600
Lexington, KY 40507

And I hereby certify a true and accurate copy of the foregoing was filed electronically and that an original and one copy were hand delivered to the Kentucky State Board on Electric Transmission and Siting, c/o the Kentucky Public Service Commission, 211 Sower Boulevard, P.O. Box 615, Frankfort, Kentucky 40601.

Done this 22nd day of September, 2010



Jason R. Bentley
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Frankfort, Kentucky 40601