

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**IN THE MATTER OF THE APPEAL TO THE )  
INDIANA UTILITY REGULATORY COMMISSION )  
FROM THE CONSUMER AFFAIRS DIVISION OF )  
THE RULING ON COMPLAINT BY MORTON )  
SOLAR & WIND, LLC AGAINST VECTREN )  
UTILITY HOLDINGS, INC. d/b/a VECTREN )  
ENERGY DELIVERY OF INDIANA -- SOUTH )  
)**

**CAUSE NO. 44344**

**ANSWER**

For its answer to Morton Solar & Wind, LLC's ("Morton Solar") Verified Complaint and Appeal From Consumer Affairs Decision filed on June 21, 2013 ("Complaint"), Respondent Southern Indiana Gas and Electric Company d/b/a Vectren Energy Delivery of Indiana, Inc. ("Vectren") states:

**Introduction**

This case generally concerns a complaint by Morton Solar alleging that Vectren has imposed unreasonable impediments to Morton Solar's installation of net metering projects on behalf of customers in Vectren's service territory. All of the specific customers cited in the Complaint are interconnected with Vectren and have enjoyed the benefits of net metering since their activation date, regardless of when they received an interconnection agreement, and Morton Solar has suffered no harm from Vectren's handling of interconnection agreements. The Complaint implies that customer interconnections were delayed due to the timing of interconnection agreement execution which is completely inaccurate and misleading.

Vectren handles net metering applications through a user-friendly online portal that allows customers to quickly and efficiently find and submit the information needed to become a net metering customer. However, Indiana Utility Regulatory Commission ("Commission") rules require certain safety and reliability protections as well as adequate customer insurance before activating a net meter project. Customers and contractors will take varying periods of time to

meet all of these requirements. Once customers have provided this needed information and Vectren, in conformance with the net metering rules, has confirmed that required safety and reliability infrastructure is in place, Vectren activates the net meter project.

Morton Solar alleges failure by Vectren to provide customers with a signed interconnection agreement. However, in every specific instance identified by Morton Solar except one, interconnection agreements have been executed. After Vectren receives an interconnection agreement signed by the customer, Vectren signs and returns a copy to the customer. In no instance has a customer been denied access to a copy of their executed interconnection agreement.

Vectren works hard to accommodate net metering projects and make net metering activations easy and seamless. Notably, no customer has joined Morton Solar in this complaint and Morton Solar has failed to cite any Vectren obligation to Morton Solar that Vectren has not met.

#### **First Defense** **Admission and Denials**

1. Vectren admits this matter comes to the Commission upon request that the Complaint be docketed for review by the Commission due to the complexity of the issues and the fact that both parties are represented by counsel. Vectren denies that the Complaint is the consolidation of three informal complaints filed against Vectren by Morton Solar with the IURC Consumer Affairs Division. Vectren lacks sufficient information to admit or deny the remaining allegations in Numerical Paragraph 1 and states that the documents described in the Complaint speak for themselves.

2. Vectren is without sufficient information to form a belief as to the truth of the allegations in Numerical Paragraph 2.

3. Vectren is without sufficient information to form a belief as to the truth of the allegations in Numerical Paragraph 3.

4. Vectren admits the allegations in Numerical Paragraph 4.

5. Vectren admits the allegations in Numerical Paragraph 5.

6. Vectren admits the allegations in Numerical Paragraph 6.

7. Vectren denies that Ind. Code §§ 8-1-2-1, 8-1-2-5, 8-1-2-34.5, 8-1-2-54, 8-1-2.4-1 *et seq.*, 8-1-37-4 confer jurisdiction on the Indiana Utility Regulatory Commission (“Commission”) over the issues raised in the Complaint. Vectren admits that the Commission has authority pursuant to Ind. Code § 8-1-2-34.5 to initiate complaints initiated by individual customers. However, the Complaint was not initiated by the individual customers alleged to have been harmed by the claims in the Complaint. Vectren admits that it is subject to the jurisdiction of the Commission, but denies that Morton Solar has properly invoked the jurisdiction of the Commission.

8. Vectren admits that 170 IAC 4-4.3 sets forth the Commission’s rules on Customer-Generator Interconnection Standards. The rules speak for themselves as to the procedure for processing customer interconnection requests.

9. Vectren denies the characterization of the rules in Numerical Paragraph No. 9. The capacity of a project is only one of several criteria that are used to determine whether a customer-generator facility qualifies for a Level 1 or 2 interconnection review procedure. The Complaint also fails to accurately describe Vectren’s applicable deadlines for processing an interconnection application. In a Level 1 interconnection review procedure, for example, Vectren has ten (10) business days to notify the applicant the application is complete, fifteen (15) business days after the notification of completeness to determine whether the application satisfies the criteria set forth in 170 IAC 4-4.3-6(j)(1) and ten (10) business days to send the applicant an interconnection agreement.

10. Vectren lacks sufficient information to admit or deny that the identified customers contracted with Morton Solar to install the facilities and secure project approval from Vectren. Vectren denies the remaining allegations in Numerical Paragraph 10. All customer-

generator facilities for the customers identified in Numerical Paragraph 10 are now interconnected with Vectren, and all of these customers have executed interconnection agreements except for residential customer Bob Martin. Vectren denies the Complaint properly calculates the deadline under 170 IAC 4-4.3-1 *et seq.* The Complaint does not explain what is meant by the "Commissioning Date". The Customer-Generator Interconnection Standards do not utilize this term in establishing the deadlines for review of a customer-generator interconnection application. In many cases, the Complaint's Commissioning Date predates the date Vectren received complete applications from customers. Even if the Commissioning Date is assumed to be the date the customer submitted a complete interconnection application, the "# of Days Past the Deadline" claimed in the Complaint is inconsistent with the Customer-Generator Interconnection Standards. Taking Mr. Purviance as an example (and assuming he qualified for a Level 1 interconnection process), Vectren had ten business days to notify him that his application was complete (March 27, 2013); fifteen (15) business days to determine whether the application complied with the requirements for a Level 1 interconnection (April 17, 2013); and ten (10) more business days to send a complete interconnection application (May 1, 2013). Even if the Complaint is taken as correct (which Vectren denies), the "# of Days Past the Deadline" should have reflected one day, rather than thirty-six. The same mistake was made in the calculation of each # of Days Past the Deadline.

11. Vectren denies the allegation in Numerical Paragraph 11. Vectren admits that the process for approving interconnection of customer-generation facilities is that a customer must submit an application; Vectren reviews the application for compliance with the Customer-Generator Interconnection Standards; and an interconnection agreement is executed. In every specific instance identified by the Complaint except one, interconnection agreements have been executed.

12. Vectren denies the claim made in Numerical Paragraph 12.

13. Vectren is without sufficient information to form a belief as to the truth of the allegations in Numerical Paragraph 13.

14. Vectren is without sufficient information to form a belief as to the truth of the allegations of Morton Solar's financial injuries in Numerical Paragraph 14. Vectren denies that Morton Solar is entitled to recover damages for financial injuries from Vectren.

15. Vectren is without sufficient information to form a belief as to the truth of the allegations of Morton Solar's customer's financial injuries in Numerical Paragraph 15. Vectren denies that its actions caused customers to incur damages and that such customers are entitled to recover damages for financial injuries from Vectren.

16. Vectren denies that it committed a Class B Infraction and that any civil penalty is owed by Vectren. The cited statutes speak for themselves.

17. Vectren denies that it has demonstrated malicious intent to harm Morton Solar, that it has unnecessarily delayed implementation of Morton Solar's projects and that it refused to return executed documentation. Vectren has worked with all customers exploring installation of customer-generator facilities to evaluate compliance with Commission rules. Vectren further denies that it has created impediments to installation of customer-generator facilities and that the factual scenarios identified in Numerical Paragraph 17 constitute impediments to customer-generator facilities. Vectren also denies that the circumstances described in Numerical Paragraph 17 demonstrate unreasonable discrimination against net metering customers. The Complaint describes instances when Vectren was applying rules and regulations consistently, not in a discriminatory fashion. With respect to the specific factual contentions, Vectren responds as follows:

- a. Vectren currently lacks sufficient information to admit or deny the allegations in Numbered Paragraph 17a. However, even if the Complaint's allegations are true, the net metering rules in affect during 2007 would not have permitted a customer to

net meter an 11 kilowatt customer-generator facility. Vectren, therefore, was adhering to its applicable tariff and Commission rules.

- b. Vectren currently lacks sufficient information to admit or deny the allegations in Numbered Paragraph 17b.
- c. Vectren currently lacks sufficient information to admit or deny the allegations in Numbered Paragraph 17c. However, even if the Complaint's allegations are true, Vectren appropriately applied the terms of its tariff in evaluating the cost of facilities necessary to provide the electric service requested by initial applicants. This project concerned both net metering and infrastructure for new electric service. Vectren's I.U.R.C. No. E-13 Tariff, Sheet No. 80, pp. 9-11, requires customers to pay the cost of facilities that exceed the estimated fixed cost revenues for a three year period. Installation of customer-generator facilities would reduce the estimated fixed cost revenues.
- d. Vectren admits that it revised its net metering tariff in 2010 in response to a December 15, 2009 letter from Dr. Bradley Borum, the Commission's Director of Electricity, finding that Vectren should modify its tariff and work with the Haubstadt School to effectuate the proposed net metering installation. Vectren admits that it worked with the school and executed an interconnection agreement for the proposed customer-generator facility. Vectren currently lacks sufficient information to admit or deny the remaining allegations in Numbered Paragraph 17d.
- e. Vectren currently lacks sufficient information to admit or deny the allegations in Numbered Paragraph 17e.

f. Vectren currently lacks sufficient information to admit or deny the allegations in Numbered Paragraph 17f. However, even if the Complaint's allegations are true, Vectren's analysis of a customer-generator facility must consider potential impacts to Vectren's electric distribution system or surrounding customers during times when the residence is not using electricity and a portion of the energy produced by the customer-generation facilities is being returned to Vectren's electric distribution system—the very purpose of net metering arrangements.

18. The authorities cited in Numerical Paragraph 18 speak for themselves.

19. Vectren denies the allegations in Numerical Paragraph 19.

20. Vectren denies the allegations in Numerical Paragraph 20.

21. Vectren denies the allegations in Numerical Paragraph 21.

22. Vectren denies the allegations in Numerical Paragraph 22.

23. Vectren is without sufficient information to form a belief as to the truth of the allegations concerning Morton Solar's relationship with identified customers. Vectren denies the remainder of the allegations in Numerical Paragraph 23.

24. Vectren denies the allegations in Numerical Paragraph 24.

25. Vectren denies the allegations in Numerical Paragraph 25.

26. Vectren denies that it routinely requires customers interested in cogeneration/net metering to purchase technically unnecessary equipment such as a new transformer as a condition of approving a given project. Vectren is without sufficient information to form a belief as to the truth of the allegations concerning other Indiana electric utilities. Vectren admits that cogeneration may decrease a customer's demand for electricity, but denies that existing infrastructure is not affected by the installation of cogeneration facilities. These facilities are designed to produce electricity that may be distributed to electric distribution facilities owned by Vectren. Vectren conducts engineering studies of projects to evaluate the impact of this

electricity on its distribution system and requires upgrades necessary to promote the reliability and safety of its electric transmission and distribution system.

27. Vectren denies the allegations in Numerical Paragraph 27.

28. The authorities cited in Numerical Paragraph 28 speak for themselves. Vectren denies that the Commission has jurisdiction to set terms for interconnection of all facilities.

#### **Second Defense**

The Commission lacks jurisdiction to require Vectren to pay monetary damages to Morton Solar.

#### **Third Defense**

The Commission lacks subject matter jurisdiction over Morton Solar's tortious interference with business relationship claim.

#### **Fourth Defense**

The Complaint fails to state a claim because Morton Solar has not plead facts which, even if true, constitute unjust or unreasonable discrimination between classes of customers in the provision of service.

#### **Fifth Defense**

The Complaint fails to state a claim upon which relief can be granted because the requirements for interconnecting customer-generator facilities in 170 IAC 4-4.3-1 *et seq.* do not provide protection to entities like Morton Solar which are not customers of Vectren.

#### **Sixth Defense**

Morton Solar's alleged claims are barred by res judicata and collateral estoppel.

#### **Seventh Defense**

Morton Solar's alleged claims are barred by laches.

#### **Eighth Defense**

The Complaint fails to state a claim because Ind. Code § 8-1-2-54 requires complaints against a public utility to be brought by ten persons.



### **Ninth Defense**

The Complaint fails to state a claim because Morton Solar, for purposes of the allegations raised in the Complaint, is not a customer of Vectren for purposes of initiating a customer complaint pursuant to Ind. Code § 8-1-2-34.5 or 170 IAC 16-1-1 *et seq.*

### **Tenth Defense**

The Complaint fails to name Vectren customers allegedly affected by the allegations in this complaint, each of whom is an indispensable party to this proceeding.

### **Morton Solar's Request for Rulemaking or Investigation**

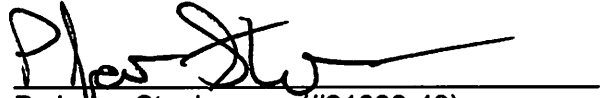
The Complaint's request for the Commission to initiate a rulemaking or investigation concerning the interconnection of cogeneration/net metering projects should be denied. Morton Solar proposes no specific changes to the Commission's existing rules on customer-generator facility interconnections. Instead, the Complaint makes unsubstantiated allegations that "many Indiana electric utilities routinely require customers interested in cogeneration/net metering to purchase technically unnecessary equipment." Complaint, ¶ 26. However, the Commission's customer-generator facility interconnection rules appropriately require customers interconnecting Level 2 or Level 3 facilities to pay the cost of upgrades to the utility's distribution or transmission facility required by the interconnection. See 170 IAC 4-4.3-7(u) and -8(e). Utilities perform studies to evaluate the impact of Level 2 or Level 3 facility interconnections which determine whether any additional equipment is necessary to interconnect the generation facility without affecting safety, reliability and power quality.

Moreover, the broad-based rulemaking or investigation Morton Solar seeks would not resolve its concerns. The studies evaluating the impact of customer-generator facilities on a utility's electric distribution and transmission system are necessarily fact dependent. A broad based investigation would entail numerous factual contentions about specific interconnections applications. The investigation or rulemaking would require significant investment in resources

by the Commission and likely struggle to identify rule changes that could address the myriad of possible system impacts from a customer-generator interconnection.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing Answer has been served this 12<sup>th</sup> day of July, 2013, by depositing copies thereof in the United States Mail, first class postage prepaid, addressed to:

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