

**ORDINANCE NO. 2006-~~XIII~~**  
**ORDINANCE FOR VACATION AND CLOSURE OF**  
**PUBLIC WAYS**

BE IT ORDAINED, by the Board of County Commissioners of Floyd County, Indiana, in meeting duly assembled that:

WHEREAS, Duke Energy Indiana, Inc. ("Duke Energy"), on the 5<sup>th</sup> day of December, 2006, filed a Petition ("the Petition") with the Board of County Commissioners of Floyd County, Indiana ("the Board"), to vacate pursuant to IC 36-7-3, the following public ways within Floyd County, Indiana as depicted on the attached Exhibit "A":

1. The segment of county road commonly known as "Old River Road" between the intersection of said Old River Road with State Road 111, and the intersection of said Old River Road with the south property line of a 30 acre tract of land of Duke Energy as recorded in that certain condemnation "Finding and Judgment" dated January 28, 1987 in Cause No. C86-C-191 in the Floyd Circuit Court ("the First Segment").
2. The segment of undeveloped county road commonly known as "Two Mile Lane" which adjoins the north property line of said "30 acre tract" of land ("the Second Segment").

and, to temporarily close pursuant to IC 8-20-8, another segment of the undeveloped "Two Mile Lane" between the intersection of the west line of said "30 acre tract" of Duke Energy, and the intersection of said Two Mile Lane with State Road 111, as also depicted on the attached Exhibit "A" ("the Third Segment"), and it appearing to the Board that

notice of the Petition and hearing thereon has been given by certified mail to each owner of real estate which abuts the three segments listed above and sought to be vacated and temporarily closed, respectively, and further, that notice of such hearing has been published in the manner provided by law, the matter is now properly before the Board for action thereon; and,

WHEREAS, the vacation of the First Segment and the Second Segment will neither hinder the growth or orderly development of the area of the county where they are located, make access to the lands of any aggrieved persons by means of a public way difficult or inconvenient, hinder the public's access to a church, school, or other public building or place, nor hinder the use of a public way by the area in which they are located or to which they are contiguous; and

WHEREAS, the temporary closing of the Third Segment is in the public and economic interest of Floyd County, Indiana, and will not unreasonably interfere with the flow of traffic on the county road system; and that no bond, plans to restore, and written agreement should be required of Duke Energy pursuant to IC 8-20-8-4 (3) through (5); and

WHEREAS, the Petition was filed and notice duly given pursuant to IC 36-7-3-12, IC 8-20-8-6, and IC 5-3-1; and

WHEREAS, the Board of County Commissioners of Floyd County, Indiana has determined that the Petition to vacate the First Segment and the Second Segment, and to temporarily close the Third Segment, should be granted, all as hereinafter provided.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Floyd County, Indiana that the following public ways within Floyd County, Indiana as depicted on the attached Exhibit "A":

1. The segment of county road commonly known as "Old River Road" between the intersection of said Old River Road with State Road 111, and the intersection of said Old River Road with the south property line of a 30 acre tract of land of Duke Energy as recorded in that certain condemnation "Finding and Judgment" dated January 28, 1987 in Cause No. C86-C-191 in the Floyd Circuit Court ("the First Segment").
2. The segment of undeveloped county road commonly known as "Two Mile Lane" which adjoins the north property line of said "30 acre tract" of land ("the Second Segment").

be and are hereby vacated pursuant to IC 36-7-3.

NOW THEREFORE, BE IT FURTHER ORDAINED by the Board of County Commissioners of Floyd County, Indiana that the following public way within Floyd County, Indiana as depicted on the attached Exhibit "A":

Another segment of the undeveloped "Two Mile Lane" between the intersection of the west line of said "30 acre tract" of Duke Energy, and the intersection of said Two Mile Lane with State Road 111 ("the Third Segment"),

be and is hereby temporarily closed pursuant to IC 8-20-8 for a period of five (5) years from the date of December 19, 2006; provided, however, that contiguous landowners (including Duke Energy) and licensees of Duke Energy, shall have the right to use the Third Segment for access during the time it is closed.

NOW THEREFORE, BE IT ORDAINED that the Floyd County Auditor is directed to furnish a copy of this Ordinance to the Floyd County Recorder for recording.

PASSED AND ADOPTED this 19<sup>th</sup> day of December, 2006 by the Board of County Commissioners of Floyd County, Indiana.

**BOARD OF COUNTY COMMISSIONERS OF FLOYD COUNTY, INDIANA**

Charles A. Higberger  
John C. Bennett

Paul A. Bush

ATTEST:

Teresa A. Plaiss

*This Document Prepared By:* Ernest W. Smith and Rachele L. Cummins, Smith Bartlett Heeke Carpenter Thompson & Fondrissi, LLC, 209 East Chestnut Street, P.O. Box 98, Jeffersonville, IN 47131-0098

*Address For Tax Purposes:* Duke Energy Indiana, Inc., 1000 E. Main St., Plainfield, IN 46168-1782 (Attn: Tax Department)

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law.

Ernest W. Smith  
Ernest W. Smith

EXHIBIT "A"



**LEGEND**

- ..... Duke Energy Property Line
- [Hatched Box] Closed Road
- [Solid Black Box] Vacated Road

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