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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

**IN THE MATTER OF THE JOINT PETITION OF)
DUKE ENERGY INDIANA, INC. AND JOHNSON)
COUNTY RURAL ELECTRIC MEMBERSHIP) CAUSE NO. 44721
CORPORATION PURSUANT TO IND. CODE § 8-1-)
2.3-4 FOR APPROVAL OF A TEMPORARY) APPROVED:
CONSENT TO SERVE WITHIN U.S.G.S. FACET)
MAP P-19-1 IN JOHNSON COUNTY, INDIANA)**

JAN 20 2016

ORDER OF THE COMMISSION

**Presiding Officer:
Aaron A. Schmoll, Senior Administrative Law Judge**

On December 2, 2015, Duke Energy Indiana, Inc.¹ (“Duke Energy Indiana”) and Johnson County Rural Electric Membership Corporation (“REMC”) (collectively “Joint Petitioners”) filed their Verified Joint Petition for Approval of Temporary Consent to Serve with the Indiana Utility Regulatory Commission (“Commission”) seeking, as provided in Indiana Code Section 8-1-2.3-4, Commission approval of REMC’s consent to allow Duke Energy Indiana to serve one new customer within REMC’s service territory. On December 16, 2015, Joint Petitioners filed proof of publication related to the consent request.

Based upon the evidence and applicable law, the Commission makes the following findings:

1. Commission Jurisdiction. Joint Petitioner Duke Energy Indiana is a LLC organized and existing under the laws of the State of Indiana. Duke qualifies as a “public utility” under Indiana Code 8-1-2-1 and is engaged in the business of distributing, furnishing and selling retail electric service to the public in the State of Indiana, including Johnson County, and has charter authority to do so.

Joint Petitioner REMC is a rural electric membership corporation organized and existing under the laws of the State of Indiana. It is engaged in the business of distributing, furnishing and selling retail electric service to the public in the State of Indiana, including Johnson County, and has charter authority to do so. Each Joint Petitioner is an “electricity supplier” within the meaning of Indiana Code 8-1-2.3-2(b).

Joint Petitioners seek the Commission’s approval for Duke Energy Indiana to serve one customer in the REMC’s territory. Joint Petitioners further identified the area where the customer is located (“the identified area”), which is 102 N. Emerson Avenue, Greenwood,

¹ On January 6, 2016, Petitioner filed its *Notice of Change of Legal Name*, stating that effective January 6, 2016, the legal name of Petitioner was changed to Duke Energy Indiana, LLC.

Indiana. Pursuant to Indiana Code Section 8-1-2.3-4, no electric supplier shall extend retail electric service into another supplier's assigned service territory unless the electric supplier with the sole right to furnish electric service consents in writing and the Commission approves. Therefore, the Commission has jurisdiction over the subject matter of this Cause.

2. **Approval of Written Consent.** Indiana Code Section 8-1-2.3-4(a), in part, provides:

As long as an electricity supplier continues to provide adequate retail service, it shall have the sole right to furnish retail electric service to each present and future consumer within the boundaries of its assigned service area and no other electricity supplier shall render or extend retail electric service within its assigned service area unless the electricity supplier with the sole right consents thereto in writing and the commission approves.

In the Joint Petition, Joint Petitioners state that REMC has requested that Duke Energy Indiana supply electricity to one customer in REMC's territory. Joint Petitioners have provided maps to identify the property for which temporary consent has been given.

In *In re Joint Petition of Electricity Suppliers*, Cause No. 42868 (Sept. 28, 2006), the Commission noted that requests for approval of consents of temporary extraterritorial retail service, under Indiana Code Section 8-1-2.3-4, have been considered and acted upon by the Commission following a hearing. However, the Commission acknowledged that if certain conditions were met, it may be appropriate to act upon requests for approval of consent to serve without a hearing, "as long as such petitions evidence publication of the request in each impacted county ten (10) days prior to Commission action." *Id.* at 5. In this case, notice of the filing of the Petition was published in the *Daily Journal* on December 5, 2015. More than ten days have passed since publication of the notice, and no hearing was requested. Accordingly, the Commission did not conduct a hearing on Joint Petitioners' request for approval of REMC's consent to allow Duke Energy Indiana to serve one customer in the identified area, consistent with the relief requested.

Based upon the law and evidence discussed above, the Commission finds that REMC's consent to allow Duke Energy Indiana to temporarily provide electric service to the identified area should be approved.

IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

1. REMC's consent to allow Duke Energy Indiana to temporarily provide electric service to a customer within the identified area is hereby approved.

2. Within 30 days from the date that service is transferred from Duke Energy Indiana to REMC following REMC's extension of its facilities, REMC shall file notice with

the Commission that the consent has been terminated and that REMC is providing electric service to the identified area.

3. This Order shall be effective on and after the date of its approval.

STEPHAN, MAYS-MEDLEY, HUSTON, WEBER, AND ZIEGNER CONCUR:

APPROVED: JAN 20 2016

**I hereby certify that the above is a true
and correct copy of the Order as approved.**

A handwritten signature in cursive script, reading "Brenda A. Howe", is written over a solid horizontal line.

**Brenda A. Howe
Secretary to the Commission**