

**ORIGINAL**

**STATE OF INDIANA**

**INDIANA UTILITY REGULATORY COMMISSION**

**IN THE MATTER OF THE JOINT PETITION OF )  
DUKE ENERGY INDIANA, LLC AND HANCOCK )  
RURAL TELEPHONE CORPORATION D/B/A )  
NINESTAR CONNECT PURSUANT TO IND. )  
CODE 8-1-2.3-4 AND 8-1-2.3-6 FOR APPROVAL OF )  
CHANGES TO THE SERVICE AREA )  
BOUNDARIES WITHIN U.S.G.S. FACET MAPS R- )  
16, R-17-1 AND S-17-1 IN HAMILTON AND )  
HANCOCK COUNTIES, INDIANA AND FOR )  
APPROVAL OF A TEMPORARY CONSENT TO )  
SERVE WITHIN U.S.G.S. FACET MAP S-17-1 IN )  
HANCOCK COUNTY, INDIANA )**

**CAUSE NO. 44747**

**APPROVED: APR 20 2016**

**ORDER OF THE COMMISSION**

**Presiding Officer:  
Marya E. Jones, Administrative Law Judge**

On February 8, 2016, in accordance with Ind. Code §§ 8-1-2.3-4 and 8-1-2.3-6, Duke Energy Indiana, LLC f/k/a Duke Energy Indiana, Inc. (“Duke Energy Indiana”) and Hancock Rural Telephone Corporation d/b/a NineStar Connect (“NineStar Connect”) (collectively, “Joint Petitioners”) filed with the Indiana Utility Regulatory Commission (“Commission”) their Verified Joint Petition to Modify Service Area Boundaries and For Approval of a Temporary Consent to Serve (“Joint Petition”) on U.S.G.S. Facet Maps R-16, R-17-1, and S-17-1 in Hamilton and Hancock Counties, Indiana. Verifications of Earl Martin Zearbaugh, Director Distribution Design Engineering for Duke Energy Indiana, and Michael R. Burrow, President and CEO of Hancock Rural Telephone Corporation d/b/a NineStar Connect, were filed with the Joint Petition.

Pursuant to Ind. Code § 8-1-2.3-6(a)(2), the Joint Petition seeks Commission approval of the electric service area boundary changes to which Duke Energy Indiana and NineStar Connect have mutually agreed. Joint Petitioners’ mutual agreement is to change certain Commission assigned service area boundaries located on U.S.G.S. Facet Map R-16, in Hamilton County, Indiana, and on U.S.G.S. Facet Maps R-17-1 and S-17-1 in Hancock County, Indiana. Drawings of the agreed-upon boundary changes are attached to the Joint Petition as U.S.G.S. Facet Maps R-16, R-17-1, and S-17-1 and as Facet Exhibits A (“Exh. A”), Facet Exhibit B (“Exh. B”), and Facet Exhibit C (“Exh. C”), respectively. In addition, pursuant to Ind. Code § 8-1-2.3-4(a), the Joint Petition seeks Commission approval of NineStar Connect’s consent to Duke Energy Indiana’s continued provision of retail electric service, on a temporary basis, to a certain customer located within the service area set forth on U.S.G.S. Facet Map S-17-1 in Hancock County, Indiana. A drawing of the agreed upon temporary consent area is attached to the Joint Petition as Facet Exhibit D (“Exh. D”).

The Commission, having considered the evidence and applicable law, now finds:

1. **Commission Jurisdiction.** Joint Petitioner, Duke Energy Indiana, is a limited liability company existing under the laws of the State of Indiana, with its principal office in the Town of Plainfield, Hendricks County, Indiana. It is engaged in the business of distributing, furnishing, and selling retail electric service to the public in the State of Indiana, including Hamilton and Hancock Counties, and has charter authority to do so.

Joint Petitioner, Hancock Rural Telephone Corporation, is the surviving entity following the company's merger with Hancock Rural Electric Membership Corporation. Hancock Rural Telephone Corporation does business under the assumed name NineStar Connect and is a member-owned cooperative that provides, in part, electric distribution services. It is duly organized and existing under the laws of the State of Indiana, with its principal place of business located in Greenfield, Indiana. It is engaged in the business of distributing, furnishing, and selling retail electric service to the public in the State of Indiana, including Hamilton and Hancock Counties, and has charter authority to do so.

Each Joint Petitioner is an "electricity supplier" as defined by Ind. Code § 8-1-2.3-2(b), and the purpose of the Joint Petition is to change the Joint Petitioners' respective assigned service areas, pursuant to Ind. Code § 8-1-2.3-6(a)(2). Joint Petitioners also seek Commission approval of NineStar Connect's written consent to Duke Energy Indiana's temporary provision of retail electric service to a certain customer located in Hancock County, Indiana pursuant to Ind. Code § 8-1-2.3-4(a). Therefore, the Commission has jurisdiction over the parties and the subject matter of this Cause.

2. **Relief Sought.** Joint Petitioners assert that since the initial approval of the service area boundaries in the Commission's Order dated April 25, 1984, in Cause No. 36299-S215(CB)(X), a change in circumstances has occurred involving development of land located in Hamilton and Hancock Counties, Indiana. Joint Petitioners now believe that it would be more efficient to modify the service area boundaries as reflected on the Exhibits attached to the Joint Petition. The crosshatched area identified on Exh. A as "Proposed Trade Area to Duke Energy," currently within the certified electric service territory of NineStar Connect, would be assigned to Duke Energy Indiana. The crosshatched areas identified on Exh. B as "Proposed Trade Area to NineStar Connect" and on Exh. C as "Proposed Trade Area to NineStar Connect", both of which are currently within the certified electric service territory of Duke Energy Indiana, would be assigned to NineStar Connect.

In addition, Ind. Code § 8-1-2.3-4(a) provides that an electricity supplier may render retail electric service within the boundaries of the assigned service area of another electricity supplier upon consent of the affected electricity supplier and approval of the Commission. NineStar Connect has consented and Duke Energy Indiana has agreed to continue to provide service to the customer located at 4441 E. US Highway 40 in Greenfield, Indiana, and reflected on Exh. D as "Proposed Temporary Consent to Serve Area." Joint Petitioners assert that Duke Energy Indiana currently serves this customer and until such time as NineStar Connect extends its service to the customer, it is more cost effective for the customer to continue to receive service from Duke Energy Indiana. Thus, Joint Petitioners seek Commission approval of NineStar Connect's consent for Duke Energy Indiana to continue to provide retail electric service on a temporary basis.

Joint Petitioners state that the proposed modifications to their service areas will not cause duplication of facilities, cause a waste of materials or resources, or cause uneconomic, inefficient or inadequate electric service to the public. There is no evidence to the contrary before the Commission in this proceeding.

**3. Notice.** Ind. Code § 8-1-2.3-6(a)(2) provides:

If notice of a verified request for a change of boundary lines by mutual agreement under this subdivision is published in a newspaper of general circulation in every county in which the boundary lines are located and an affected electricity customer does not request a hearing within twenty (20) days of the last date of publication, the Commission may approve the change without a hearing.

The evidence shows that Joint Petitioners' intent to file for a change of boundary lines located on U.S.G.S. Facet Maps R-16, R-17-1, and S-17-1 was published on February 11, 2016, in the *Daily Reporter* in Columbus, Indiana, and on March 15, 2016, in the *Current* in Carmel, Indiana. These are newspapers of general circulation in Hancock and Hamilton Counties, respectively, and the counties in which the affected boundary lines are located. More than 20 days have elapsed since the last date of the publication of the Notices and no affected electricity customer has requested a hearing. Therefore, pursuant to Ind. Code § 8-1-2.3-6(a)(2), the Commission may approve the requested boundary line changes without a hearing.

Further, in *Joint Petition of Electricity Suppliers*, Cause No. 42868, 2006 WL 2855018 (Ind. U.R.C.), at \*4 (Sept. 28, 2006), the Commission noted that requests for approval of consents of temporary extraterritorial retail service under Ind. Code § 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.* In this case, notice of the filing of the Petition was published in the *Daily Reporter*, a newspaper of general circulation in Hancock County, Indiana on February 11, 2016. More than ten days have passed since publication of the notice and no hearing has been requested.

**4. Approval of Requested Relief.** Based upon the foregoing findings, the Commission concludes that the agreed-upon changes to Joint Petitioners' respective assigned service area boundaries located on U.S.G.S. Facet Maps R-16, R-16-1, and S-17-1, as specifically depicted in the Joint Petition and Exh. A, Exh. B, and Exh. C attached thereto, will promote economical, efficient and adequate electric service to the public consistent with the legislative policy set forth in Ind. Code § 8-1-2.3-1 and therefore, should be approved. Based upon the foregoing findings, the Commission also concludes that NineStar Connect's consent to Duke Energy Indiana's temporary continued provision of electric service to the customer located at 4441 E. US Highway 40 in Greenfield, Indiana, and reflected on Exh. D should be approved.

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

1. Joint Petitioners' agreed-upon service area boundary line modifications as set forth above are approved.

2. NineStar Connect's temporary consent to allow Duke Energy Indiana to continue to provide electric service to the customer reflected on Exh. D is approved.

3. Joint Petitioners shall file notice with the Commission under this Cause when NineStar Connect's consent for Duke Energy Indiana to continue to provide service is terminated.

4. Within 30 days of the date this Order is approved, Joint Petitioners shall coordinate with Commission Technical Staff to update the service territory mapping system to reflect the modified service area boundaries approved by this Order.

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

**STEPHAN, HUSTON, WEBER, AND ZIEGNER CONCUR:**

**APPROVED:**

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

  
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Mary M. Becerra  
Secretary of the Commission