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January 28, 2023

Mr. Steven Davies
Deputy General Counsel
Indiana Utility Regulatory Commission
101 West Washington Street, Suite 1500e
Indianapolis, IN 46204

RE: FERC 2222 Implementation – Indiana Utility Regulatory Commission should not assert jurisdiction over Indiana’s Rural Electric Cooperatives as implementation of FERC 2222 moves ahead

Dear Mr. Davies,

First, let me thank the Indiana Utility Regulatory Commission (IURC) and you for allowing thoughts and comments from all stakeholders.

The Indiana Electric Cooperatives (IEC) members include all 38 of Indiana’s rural electric distribution cooperatives. Taken together, these cooperatives provide electric service to about 1.3 million Hoosier homes and businesses, many of whom are in rural areas.

In reviewing FERC 2222, we believe that the IURC should make clear that it is not asserting any jurisdiction over Indiana’s non-regulated distribution cooperatives while implementing FERC 2222 under IC 8-1-40.1. We would specifically raise the following points for your consideration.

- 1) FERC Order 2222 exempts “small utilities” with sales of less than 4 million MWh unless they “opt-in”.¹ This “small utilities” exemption is independent of any analysis of whether a distribution utility is regulated or non-regulated. Any rules which the IURC considers should not work to change this exemption.
 - a. I should note that all electric distribution cooperatives in Indiana are currently “small utilities”. Certainly, the IEC acknowledges that this could change based on future load growth at a cooperative.

- 2) More importantly, FERC Order 2222 addresses the role of the “relevant retail regulatory authority”.² The “relevant retail regulatory authority” of an electric distribution cooperative that has withdrawn from IURC jurisdiction is the Board of

¹ Order No. 2222, 172 FERC P 61,247 at P 64. “Recognizing this potentially greater burden on small utility systems, we will exercise our discretion to include in this final rule an opt-in mechanism for small utilities similar to that provided in Order No. 719-A. Specifically, we determine that customers of utilities that distributed 4 million MWh or less in the previous fiscal year may not participate in distributed energy resource aggregations unless the relevant electric retail regulatory authority affirmatively allows such customers to participate in distributed energy resource aggregations.”

² Order No. 2222, 172 FERC P 61,247 at 322-324.



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Directors of the cooperative. To the extent a non-regulated electric distribution cooperative exceeds 4 million MWH of sales or a small non-regulated utility “opts-in” to aggregation, the Board of Directors of the cooperative will interact with the RTO/ISO tariff as the “relevant retail regulatory authority” and will address and carry out the role of the “relevant retail regulatory authority” established by FERC in Order 2222 (at 342) including:

- i. developing interconnection agreements and rules;
- ii. developing local rules to ensure distribution system safety and reliability, data sharing, and/or metering and telemetry requirements;
- iii. overseeing distribution utility review of distributed energy resource participation in aggregations;
- iv. establishing rules for multi-use applications;
- v. and resolving disputes between distributed energy resource aggregators and distribution utilities over issues such as access to individual distributed energy resource data.

In other words, the IURC regulations should not apply to a non-regulated electric distribution cooperative even if they “opt in”.

- 3) IURC Interconnection rules currently only apply to “investor-owned utilities”. The IURC should maintain this definition in the rules. Electric distribution cooperatives and other non-regulated utilities are governed by PURPA and federal regulations implementing PURPA relating to interconnection.
- 4) Many of Indiana’s electric distribution cooperatives are working proactively developing ways to offer similar aggregation services. Each of these would be designed to meet the needs of a cooperative’s consumers and avoid the need for an intermediary aggregator resulting in better economics for the same or similar services. Thus, though not mandated to participate in FERC 2222, cooperatives are working to develop options suited to their local situations.

Again, thank you for the opportunity to express these views as a part of the IURC’s review of the implementation of FERC 2222. Please feel free to contact me if you have any questions about our views.

Sincerely,

A handwritten signature in blue ink that reads 'Mark Maassel'.

Mark Maassel
Vice President of Government Relations