

**ORIGINAL**

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF THE )  
 CITY OF GAS CITY, INDIANA BY ITS )  
 MUNICIPALLY OWNED ELECTRIC UTILITY ) CAUSE NO. 44623  
 FOR A CHANGE IN ITS ASSIGNED SERVICE )  
 AREA BOUNDARIES )  
 ) APPROVED:  
 RESPONDENT: INDIANA MICHIGAN POWER ) JUN 10 2015  
 COMPANY )

ORDER OF THE COMMISSION

**Presiding Officer:**  
**David E. Veleta, Administrative Law Judge**

On May 7, 2014, the City of Gas City, Indiana by its municipally owned electric utility (“Petitioner” or “City”) filed its Verified Petition with the Indiana Utility Regulatory Commission (“Commission”) seeking, as provided in Indiana Code § 8-1-2.3-6(1), to change its assigned service area boundaries to include an annexed area that is located beyond its assigned service area (“Annexed Area”). The Annexed Area located on U.S.G.S. Facet T-12 in Grant County, Indiana, consists of approximately 64.6 acres in total, all of which is located within the assigned service area of Indiana Michigan Power Company, Inc. (“Respondent”). The area annexed by the City of Gas City, Indiana is contiguous to the corporate boundary lines of the City of Gas City. A drawing of the Annexed Area is shown on Petitioner’s Exhibit 4.

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

**1. Commission Jurisdiction.** The City of Gas City, Indiana owns and operates an electric utility system furnishing retail electric service to the public. Pursuant to Indiana Code § 8-1-2-1(h), Petitioner qualifies as a “municipally owned utility.”

Respondent is a corporation organized and existing under the laws of the State of Indiana. Respondent qualifies as a “public utility” under Indiana Code § 8-1-2-1 and is engaged in the business of generating, transmitting, distributing, and selling retail electric service to the public within the State of Indiana and has charter authority to do so.

Each party is an “electricity supplier” within the meaning of Indiana Code § 8-1-2.3-2(b). Pursuant to Indiana Code § 8-1-2.3-6(1), a municipally owned electric utility may petition the Commission to change its assigned service area to include an annexed area beyond its assigned service area by filing its petition not later than 60 days after the annexation becomes effective. The Verified Petition filed in this Cause demonstrates that Ordinance No. 7-2014 became effective on April 23, 2015. The Verified Petition in this Cause was filed not later than 60 days after the annexation became effective. Accordingly, the Commission finds that it has jurisdiction over the subject matter of this Cause.

2. **Annexation.** The City of Gas City, Indiana adopted and approved Ordinance No. 7-2014 on October 21, 2014, annexing into the City a tract of land contiguous to a corporate boundary line of the City of Gas City, Indiana. Ordinance No. 7-2014 was published in the *Chronicle Tribune* on January 8, 2015, and pursuant to Indiana Code § 36-4-3-7(f) became effective on April 23, 2015.

Pursuant to Indiana Code § 8-1-2.3-6(1)(A), a certified copy of the annexation ordinance serves as conclusive evidence that the area has been lawfully annexed and is a part of the municipality. Petitioner included a certified copy of Ordinance No. 7-2014 with its Verified Petition and, accordingly, the Commission finds that the area has been lawfully annexed and is a part of the City of Gas City, Indiana.

3. **Payments To Be Made by a Municipally Owned Electric Utility To an Incumbent Electricity Supplier.**

A. **Payment of the Value of the Incumbent Electricity Supplier's Electric Utility Property Devoted to Furnishing Retail Electric Service Within the Additional Assigned Service Area.**

Indiana Code § 8-1-2.3-6(1)(B) provides:

Not later than 30 days after filing a petition under this subdivision, the municipally owned electric utility shall determine for each affected incumbent electricity supplier and pay to that supplier an amount not less than the value of all the electric utility property of the incumbent electricity supplier that is devoted to furnishing retail electric service within the additional assigned service area at its then reproduction cost new depreciated value.

The Verified Petition indicated Petitioner must determine and pay Respondent within 30 days of filing its Petition the reproduction cost new depreciated value of Respondent's property devoted to providing retail electric service to the customers located in the area annexed pursuant to Ordinance No. 7-2014, to the extent any such property exists.

B. **Payment of Severance Damages.**

In addition to the payment required above in paragraph 3A, Indiana Code § 8-1-2.3-6(1)(B) provides:

In addition, the municipally owned electric utility agrees to pay the incumbent electricity supplier severance damages in an amount equal to:

- (i) the value of the incumbent electricity supplier's distribution and substation facilities dedicated to and located within the annexed area or relocated by reason of the annexation or an amount equal to two and one-half times the incumbent electricity supplier's gross revenues from electricity sales in the annexed area during the 12- month period immediately preceding the date the annexation ordinance became effective, whichever is greater; plus

- (ii) if additional permanent service locations or service accounts are established in the annexed area during the five-year period beginning on the effective date of the annexation ordinance, one-tenth of one cent (\$0.001) for each kilowatt hour of electricity sold to each of those permanent service locations or service accounts for sales that occur during a five-year period beginning on the date each service location or service account is established, up to a maximum of 170,000 kilowatt hours per service account or service location for each monthly billing period.

However, the municipally owned electric utility is not required to pay severance damages under item (ii) if, at the time each annual payment otherwise would accrue, it is purchasing all of its requirements for electric power and energy, except for generation directly provided by the municipally owned electric utility or by a customer, from the incumbent electricity supplier. Severance damages must be paid not later than 30 days after the end of each calendar year in which severance damages have accrued. The municipally owned electric utility and incumbent electricity suppliers shall cooperate to calculate the amount of any severance damages and shall furnish to each other all information and records reasonably necessary for the determination and verification of severance damages. If the municipally owned electric utility and incumbent electricity suppliers cannot agree on the amount of severance damages the municipally owned electric utility is to pay, the commission shall determine the amount and order payment in accordance with this clause. Not later than 20 days after making a payment, the municipally owned electric utility shall certify to the commission and to any affected incumbent electricity supplier that it has paid the amounts required under this clause.

The Verified Petition indicated Petitioner would pay any severance damages that may be due to Respondent pursuant to Indiana Code § 8-1-2.3-6(1)(B)(i) for any properties located in the Annexed Area.

Pursuant to Indiana Code § 8-1-2.3-6(1)(B)(ii), if additional permanent service locations or service accounts are established in the Annexed Area during the five-year period beginning on the effective date of the annexation Ordinance, the City shall pay the Respondent severance damages of \$0.001 for each kilowatt hour of electricity sold to each of those permanent service locations or service accounts for sales that occur during a five-year period beginning on the date each service location or service account is established, up to a maximum of 170,000 kilowatt hours per service account or service location for each monthly billing period. However, severance damages pursuant to Indiana Code § 8-1-2.3-6(1)(B)(ii) shall not be payable by the City to the Respondent if, at the time each annual payment otherwise would accrue, the City is purchasing all of its requirements for electric power and energy, except for generation directly provided by the municipally owned electric utility or by a customer, from the Respondent.

**4. Approval of Requested Change to Assigned Service Area.** Indiana Code § 8-1-2.3-6(1)(A) provides: “After the filing of a petition under this subdivision, the commission shall promptly enter an order changing the assigned service area facet maps of the municipally owned electric utility and incumbent electricity suppliers to include the annexed area within the assigned service area of the municipally owned electric utility and giving the right to serve and immediate

possession to the municipally owned electric utility.” The Commission accordingly finds that Petitioner’s assigned service area should be changed to include the entirety of the annexed area as described in the certified copy of the annexation Ordinance filed herein.

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

1. The Verified Petition filed in this Cause to change the assigned service area of the City of Gas City’s municipally owned electric utility to include the entirety of the annexed territory described in the certified copy of Ordinance No. 7-2014 filed herein is approved, and said municipally owned electric utility shall have the right to serve and immediate possession of said annexed area.

2. The assigned service area boundaries of the Petitioner and Respondent are changed to include the annexed area within the assigned service area of Petitioner. Within 30 days of the date this Order is approved, Petitioner shall coordinate with Commission Technical Staff to update the service territory mapping system to reflect the modified service area boundaries approved by this Order.

3. Petitioner shall pay Respondent the amounts as described above in Finding Paragraph Nos. 3A and 3B of this Order.

4. Not later than 20 days after making a payment under Indiana Code § 8-1-2.3-6(1)(B), Petitioner shall certify to the Electricity Division of the Commission and to the Respondent that it has paid an amount required under Indiana Code § 8-1-2.3-6(1)(B).

5. In accordance with Indiana Code § 8-1-2-70, Petitioner shall pay the following charge within 20 days from the date of this Order to the Secretary of the Commission, as well as any additional costs that were or may be incurred in connection with this Cause:

Commission Charge	\$156.45
-------------------	----------

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

**MAYS-MEDLEY, HUSTON, AND ZIEGNER CONCUR; STEPHAN AND WEBER ABSENT:**

**APPROVED:** JUN 10 2015

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

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