

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION


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IN THE MATTER OF THE PETITION OF)
HARRISON COUNTY RURAL ELECTRIC) CAUSE NO. 43647
MEMBERSHIP CORPORATION FOR)
APPROVAL OF CHANGES TO) APPROVED:
INDUSTRIAL POWER SERVICE RATE) MAY 13 2009
SCHEDULE IPSII)

BY THE COMMISSION:
David Ziegner, Commissioner
Aaron Schmoll, Administrative Law Judge

On February 27, 2009, Harrison County Rural Electric Membership Corporation ("Petitioner" or "Harrison County REMC") filed its Verified Petition requesting approval of changes in its Industrial Power Service Rate Schedule IPSII. Pursuant to notice published as required by law, proof of which was incorporated into the record by reference and placed in the official files of the Commission, an evidentiary hearing was held in this Cause on April 23, 2009 commencing at 11:00 a.m. in Room 222, National City Center, 101 West Washington Street, Indianapolis, Indiana. Petitioner presented its Verified Petition and related exhibits. The Indiana Office of Utility Consumer Counselor ("OUCC") presented testimony sponsored by Mitchell Van Cleave, a utility analyst for the OUCC, all of which was admitted into the record without objection. No members of the general public appeared or participated at the evidentiary hearing.

Based upon the applicable law and the evidence presented herein, the Commission now finds:

1. **Statutory Notice and Commission Jurisdiction.** Due, legal and timely notice of the public hearing in this Cause was given and published by the Commission. Petitioner is a rural electric membership corporation that has not withdrawn from the Commission's jurisdiction and is therefore subject to the jurisdiction of the Commission over its rates and charges as provided by Ind. Code §§ 8-1-13 and 8-1-24. Therefore, the Commission has jurisdiction over Petitioner and the subject matter of the Petition.

2. **Petitioner's Characteristics.** Petitioner is a local distribution rural electric membership corporation that purchases power at wholesale and distributes and sells electricity at retail to more than 22,000 member consumers in its service areas in Harrison, Floyd, Clark, Washington and Crawford Counties in Indiana, including Caesar's Riverboat Casino, LLC d/b/a Horseshoe Southern Indiana ("Horseshoe"), which is the only customer presently served under Petitioner's Rate Schedule IPSII.

3. **Relief Requested.** Petitioner requests approval of changes in its Industrial Power Service Rate Schedule IPSII. Petitioner's Verified Petition states that Horseshoe has agreed to the proposed changes in Rate Schedule IPSII, and a copy of the agreement between Petitioner and Horseshoe was attached to and made a part of Petitioner's Verified Petition.

4. Summary of the Evidence. Petitioner's evidence consisted of its Verified Petition, an Electric Service Agreement entered into by Horseshoe and Petitioner attached to the Verified Petition as Exhibit A, a cost study supporting the rates set forth in the proposed revised Rate Schedule IPSII attached to the Verified Petition as Exhibit B, and the revised Rate Schedule IPSII that Petitioner requests be approved attached to its Verified Petition as Exhibit C. Petitioner states, by its Verified Petition, that the proposed changes to Rate Schedule IPSII are fair and reasonable, are necessary for Petitioner to recover its costs of service to the customer served under this rate, and that the rates and charges provided for by the current Rate Schedule IPSII do not recover Petitioner's costs of service provided pursuant to this Rate Schedule, and are therefore confiscatory and unlawful.

The OUCC presented the testimony of Mitchell Van Cleave, a utility analyst for the OUCC which summarizes the OUCC's position on customized industrial rates and explains why the OUCC supports Petitioner's proposed changes to its Industrial Power Service Rate Schedule IPSII. Mr. Van Cleave testified that the OUCC's understanding of the reason why Petitioner and Horseshoe entered into a new agreement is that the rate review conducted for Petitioner, which review considered the wholesale cost for power as well Petitioner's costs for operations and maintenance, administrative and general, metering and billing and customer service, taxes and replacement allowance, determined that the existing rate does not adequately recover Petitioner's costs. Mr. Van Cleave testified that the rate review indicated that the rate should be raised by \$41,101 or 2.08% and that Horseshoe and Petitioner entered into the new agreement which reflected that increase in November 2008. He testified that the proposed IPSII rate will allow Petitioner to recover its variable costs, together with a contribution to its fixed costs recovery. Mr. Van Cleave stated that although standard rates in Commission-approved tariffs adequately address most customer needs, the OUCC understands that there are instances when a customized rate or energy service agreement may provide a better result for all stakeholders. In order to safeguard other utility customers from financial harm caused by an inappropriate rate, the terms of these rates must be clear and they must be presented for advance regulatory approval. He also testified that the OUCC reviews each of these arrangements on its own merits, that in this case the OUCC is satisfied that Petitioner, Horseshoe, and Petitioner's other customers will benefit from this agreement, and that the OUCC supports Commission approval of the Electric Service Agreement and Petitioner's revised Industrial Power Service Rate Schedule IPSII.

5. Discussion and Findings. Ind. Code § 8-1-2-24 provides:

Nothing in this chapter shall be taken to prohibit a public utility from entering into any reasonable arrangement with its customers or consumers, or with its employees, or with any municipality in which any of its property is located, for the division or distribution of its surplus profits, or providing for a sliding scale of charges or other financial device that may be practicable and advantageous to the parties interested. No such arrangement or device shall be lawful until it shall be found by the commission, after investigation, to be reasonable and just and not inconsistent with the purpose of this chapter. Such arrangement shall be under the supervision and regulation of the commission.

Ind. Code § 8-1-2-25 provides:

The commission shall ascertain, determine and order such rates, charges and regulations as may be necessary to give effect to such arrangement, but the right and power to make such other and further changes in rates, charges and regulations as the commission may ascertain and determine to be necessary and reasonable, and the right to revoke its approval and amend or rescind all orders relative thereto, is reserved and vested in the commission, notwithstanding any such arrangement and mutual agreement.

Therefore, agreements concerning rates are lawful if the Commission finds the provisions to be reasonable and just, practicable and advantageous to the parties, and not inconsistent with the purposes of the Public Service Commission Act.

We find the change in Petitioner's Rate Schedule IPSII meets the above requirements. The only customer directly affected by the revised Rate Schedule is Horseshoe, and that customer has agreed to the change to Rate Schedule IPSII. Having examined the Verified Petition and all of its exhibits and the testimony offered by the OUCC, we find that the proposed changes to Rate Schedule IPSII are just and reasonable to allow Petitioner to recover its costs of service provided under this Rate Schedule, and this schedule is therefore be approved.

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

1. The Petition of Harrison County Rural Electric Membership Corporation for approval of changes in its Industrial Power Service Rate Schedule IPSII shall be, and is, hereby granted.
2. Petitioner shall file a revised rate schedule IPSII with the Commission's Electricity Division. Upon approval by the Electricity Division, rate schedule IPSII shall be effective and shall cancel any prior rate schedule IPSII.
3. This Order shall be effective on and after the date of its approval.

HARDY, GOLC, LANDIS, SERVER, AND ZIEGNER CONCUR:

APPROVED: MAY 13 2009

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



Brenda A. Howe
Secretary to the Commission