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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE JOINT )  
PETITION OF NORTHERN INDIANA )  
PUBLIC SERVICE COMPANY AND NOBLE )  
COUNTY RURAL ELECTRIC )  
MEMBERSHIP CORPORATION FOR )  
APPROVAL PURSUANT TO IND. CODE § 8- )  
1-2.3-4(a) OF WRITTEN CONSENT FOR )  
NORTHERN INDIANA PUBLIC SERVICE )  
COMPANY TO PROVIDE RETAIL )  
ELECTRIC SERVICE TO A CONSUMER )  
LOCATED WITHIN THE SERVICE AREA )  
OF NOBLE COUNTY RURAL ELECTRIC )  
MEMBERSHIP CORPORATION )

CAUSE NO. 43929

APPROVED:

OCT 14 2010

**BY THE COMMISSION:**

**David E. Veleta, Administrative Law Judge**

On July 30, 2010, Joint Petitioners Northern Indiana Public Service Company (“NIPSCO”) and Noble County Rural Electric Membership Corporation (“Noble County REMC”) filed a Verified Joint Petition with the Indiana Utility Regulatory Commission (“Commission”). Pursuant to Indiana Code § 8-1-2.3-4(a), the Verified Joint Petition seeks Commission approval of a Territorial Service Area Agreement (“Service Area Agreement”) between NIPSCO, Noble County REMC and Frederick Farms, LLC (“Frederick Farms”) permitting NIPSCO to provide retail electric service on a limited and conditional basis to Frederick Farms’ property located within Noble County REMC’s assigned electric service territory in DeKalb County, Indiana. On September 10, 2010, Joint Petitioners filed a Correction of Legal Description, and also filed a Proof of Publication.

The Commission, having considered the evidence and applicable law, and being duly advised in the premises, now finds:

**1. Commission Jurisdiction.** Joint Petitioner NIPSCO is a corporation organized and existing under the laws of the State of Indiana, with its principal office in the Town of Merrillville, Lake County, Indiana. It is engaged in the business of distributing, furnishing, and selling retail electric service to the public in various counties in the State of Indiana, including DeKalb County, and has charter authority to do so.

Joint Petitioner Noble County REMC is a rural electric membership corporation in the State of Indiana that owns and operates electric utility facilities in Noble County, Indiana. It is a public utility within the meaning of the Public Service Commission Act, as amended. Both NIPSCO and Noble County REMC qualify as an “electricity supplier” within the meaning of Indiana Code § 8-1-2.3-2(b).

Joint Petitioners seek the Commission’s approval, pursuant to Indiana Code § 8-1-2.3-4(a) of a Territorial Service Area Agreement between NIPSCO, Noble County REMC and Frederick Farms for NIPSCO to provide retail electric service on a limited and conditional basis to Frederick Farms’ property located in Noble County REMC’s electric service territory. Accordingly, the Commission has jurisdiction over the Petitioner and the subject matter of the Verified Petition.

2. **Relief Sought.** The relief sought in this Cause is specifically governed by Indiana Code § 8-1-2.3-4(a) which provides that an electricity supplier may render retail electric service within the boundaries of the assigned service areas of another electricity supplier upon consent of the affected electricity supplier and approval of this Commission.

According to the Verified Petition, NIPSCO seeks Commission approval to provide retail electric service to the Frederick Farms, LLC pole barn (the “Frederick Farms Property”), which is located within the boundaries of the assigned service area of Noble County REMC. Pursuant to the terms of the Service Area Agreement, NIPSCO agrees to vacate its right to provide service to the pole barn in the event the area in question develops and includes additional customers that require Noble REMC to extend its distribution system to serve the additional load.

Joint Petitioners state that the Service Area Agreement for which approval is requested in this proceeding will not cause the duplication of electric utility facilities; waste of materials or resources; or uneconomic, inefficient or inadequate electric service to the public.

On September 10, 2010, Joint Petitioners filed with the Commission a “Correction of Legal Description,” which was verified, and which corrected the legal description set forth in the Service Area Agreement. The corrected legal description is as follows:

Section 7, Township 34 North, Range 12 East  
Richland Township, DeKalb County, Indiana

3. **Approval of Requested Consent to Serve.** Joint Petitioners seek relief pursuant to Indiana Code § 8-1-2.3-4(a) which, 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 *In re Joint Petition of Electricity Suppliers*, Cause No. 42868 (IURC 9/28/2006), the Commission noted that requests for approval of consents of temporary extraterritorial retail service, under Indiana 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.* at 5. In this case, notice of the filing of the Verified Joint Petition, indicating the requested relief, was published on August 17, 2010 in *The Star*. 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 the Service Area Agreement, as set forth in the Verified Joint Petition.

Based upon the foregoing, the Commission finds that Noble County REMC’s consent to allow NIPSCO to provide electric service on a limited and conditional basis to Frederick Farms, LLC located within Noble County REMC’s assigned service area in DeKalb County, Indiana should be approved. More specifically, we find that the Service Area Agreement’s terms are reasonable and that the Service Area Agreement should be approved, consistent with the modification to the legal description described above.

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

1. The Territorial Service Area Agreement between NIPSCO, Noble County REMC and Frederick Farms, LLC is hereby approved.
2. Within thirty (30) days of the date that service is transferred from NIPSCO to Noble County REMC, NIPSCO shall file notice with the Commission that it is no longer providing electric service to the affected Frederick Farms Property.
3. This Order shall be effective on and after the date of its approval.

**ATTERHOLT, LANDIS, MAYS AND ZIEGNER CONCUR:**

**APPROVED: OCT 14 2010**

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



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