

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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

CAUSE NO. 43930

APPROVED: SEP 22 2010

BY THE COMMISSION:
Jeffery A. Earl, Administrative Law Judge

On July 30, 2010, Northern Indiana Public Service Corporation (“NIPSCO”) and Marshall County Rural Electric Membership Corporation (“Marshall County REMC”) (collectively “Joint Petitioners”) filed a Verified Joint Petition with the Indiana Utility Regulatory Commission (the “Commission”). Pursuant to Indiana Code section 8-1-2.3-4(a), the Joint Petition seeks Commission approval of a Territorial Service Area Agreement (“Service Area Agreement”) between NIPSCO, Marshall County REMC, and William L. Heyde, permitting Marshall County REMC to provide retail electric service on a limited and conditional basis to a portion of Mr. Heyde’s property, which is located within NIPSCO’s assigned electric service territory in Marshall County, Indiana.

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

1. Commission Jurisdiction. NIPSCO is a corporation organized and existing under the laws of the State of Indiana, with its principal office in the Merrillville, Indiana. NIPSCO 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 Marshall County, and has charter authority to do so. NIPSCO is an “electricity supplier” within the meaning of Indiana Code section 8-1-2.3-2(b).

Marshall County REMC is a rural electric membership corporation organized and existing under the laws of the State of Indiana, with its principal office in Plymouth, Indiana. Marshall County REMC owns and operates electric utility facilities in Marshall County, Indiana, and is an “electricity supplier” within the meaning of Indiana Code section 8-1-2.3-2(b).

Joint Petitioners request approval, pursuant to Indiana Code section 8-1-2.3-4(a), of a Territorial Service Area Agreement between NIPSCO, Marshall County REMC, and William L.

Heyde. Therefore, the Commission has jurisdiction over the parties and the subject matter of this Cause.

2. **Relief Sought.** Indiana Code section 8-1-2.3-4(a) allows an electricity supplier to render retail electric service within the boundaries of the assigned service area of another electricity supplier only with written consent of the affected electricity supplier and approval of the Commission. NIPSCO seeks approval to permit Marshall County REMC to provide retail electric service to Mr. Heyde's irrigation system (the "Heyde Property"), which is located within the boundaries of NIPSCO's assigned service area. NIPSCO indicates it has no three-phase electric service available in the immediate area to serve the Heyde Property and would need to make extensive additions to its system to serve the property. However, Marshall County REMC has three-phase electric service available in the vicinity, which could be used to serve the Heyde Property, and it is willing to serve the property.

Joint Petitioners state a consent to serve under Indiana Code section 8-1-2.3-4(a) would be beneficial in this instance, rather than a service territory boundary change under Indiana Code section 8-1-2.3-6 because the Heyde Property is interspersed among other retail customers of NIPSCO, making a boundary modification impractical. Joint Petitioners further state the Service Area Agreement for which approval is requested in this proceeding is limited in duration and will not cause the duplication of electric utility facilities; waste of materials or resources; or uneconomic, inefficient, or inadequate electric service to the public. There is no evidence to the contrary before the Commission in this proceeding.

3. **Approval of Written Consent.** Joint Petitioners seek relief pursuant to Indiana Code section 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, 2006 Ind. PUC LEXIS 275 (Ind. Util. Regulatory Comm'n Sept. 28, 2006), the Commission noted that requests for approval of a consent for temporary extraterritorial service under Indiana Code section 8-1-2.3-4 have been considered and acted upon by the Commission following a hearing. However, the Commission acknowledged if certain conditions were met it may be appropriate to act upon such requests 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 *11. Here, notice of the filing of the Verified Joint Petition, indicating the requested relief, was published on August 19, 2010, in the Bremen Enquirer, which is published in Marshall County, Indiana. More than ten days have passed since publication of the notice, and no party has requested a hearing on this matter. Accordingly, the Commission did not conduct a hearing on Joint Petitioners' request for approval of the Service Area Agreement.

NIPSCO has the sole right to furnish retail electric service within its service territory. However, Joint Petitioners state NIPSCO will consent to Marshall County REMC's provision of electricity to the Heyde Property.

Based upon the law and the evidence discussed above, the Commission finds NIPSCO's consent to allow Marshall County REMC to provide electric service on a limited and conditional basis to the Heyde Property under the terms of the Service Area Agreement, as set forth in the Joint Petition, should be approved.

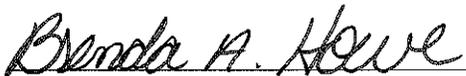
IT IS THEREFORE ORDERED BY THE INDIANA UTILITY REGULATORY COMMISSION that:

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

HARDY, ATTERHOLT, LANDIS, MAYS AND ZIEGNER CONCUR:

APPROVED: SEP 22 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