

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE EMERGENCY JOINT)
PETITION OF UNITED RURAL ELECTRIC)
MEMBERSHIP CORPORATION AND DUKE)
ENERGY INDIANA, INC. PURSUANT TO IND.)
CODE § 8-1-2.3-6 AND § 8-1-2-113 FOR)
APPROVAL OF AN AGREED CHANGE IN THE)
BOUNDARIES OF THEIR RESPECTIVE)
ASSIGNED SERVICE AREAS ON U.S.G.S. FACET)
T-8-1 IN HUNTINGTON COUNTY, INDIANA)

CAUSE NO. 44003

INTERIM ORDER

APPROVED: MAR 09 2011

BY THE COMMISSION:

James D. Atterholt, Chairman
Loraine L. Seyfried, Chief Administrative Law Judge

On March 3, 2011, Duke Energy Indiana, Inc. ("Duke Energy Indiana") and United Rural Electric Membership Corporation ("United REMC") (collectively, "Joint Petitioners") filed with the Indiana Utility Regulatory Commission ("Commission") a Verified Emergency Joint Petition to Modify Service Area Boundaries ("Joint Petition"). Joint Petitioners seek to modify, by mutual agreement, their service area boundaries located on U.S.G.S. Facet No. T-8-1 in Huntington County, Indiana. The service area at issue involves a single new farm building and is specifically depicted on maps accompanying the Joint Petition. Joint Petitioners' proposed boundary modification would result in Duke Energy Indiana gaining service territory and United REMC losing service territory.

1. Commission Jurisdiction. Duke Energy Indiana is a corporation organized and existing under the laws of the State of Indiana, with its principal office in the Town of Plainfield, Hendricks County, Indiana. It is engaged in the business of distributing, furnishing and selling retail electric service to the public in the State of Indiana, including Huntington County, and has charter authority to do so.

United REMC is a rural electric membership corporation organized and existing under the laws of the State of Indiana, with its principal place of business located in Markle, Huntington County, Indiana. It is engaged in the business of distributing, furnishing and selling retail electric service to the public in the State of Indiana, including Huntington County, and has charter authority to do so.

Each Joint Petitioner is an "electricity supplier" as such term is defined by Ind. Code § 8-1-2.3-2(b) and the purpose of the Joint Petition is to change each Joint Petitioner's respective assigned service areas, pursuant to Ind. Code § 8-1-2.3-6(2). Therefore, the Commission has jurisdiction over the parties and the subject matter of this Cause.

2. **Relief Requested.** The Joint Petition seeks Commission approval to change the service area boundaries of Duke Energy Indiana and United REMC pursuant to Ind. Code § 8-1-2.3-6(2), which provides that the assigned service area boundaries of electricity suppliers may be changed upon mutual agreement of the affected electricity suppliers and approval of the Commission.

In addition, the Joint Petition seeks temporary, emergency relief, pursuant to Ind. Code § 8-1-2-113, for approval of United REMC's consent for Duke Energy Indiana to provide electric service within a specific portion of United REMC's assigned service area, pending a final Commission determination on the requested boundary modification. More specifically, Joint Petitioners assert that the lack of electric service to a customer's new farm building is impeding the start-up of the customer's hog raising operations and has created such a hardship that the customer has made an informal complaint with the Commission's Consumer Affairs Department. Joint Petitioners assert expedited issuance of a Commission order approving the Joint Petition on an interim basis will aid the customer in starting its hog operations and resolve the informal complaint to the Commission.

3. **Commission Discussion and Findings.** In the Commission's May 4, 2006 Interim Order in *Joint Petition of Indiana Michigan Power Company and United REMC*, Cause No. 43020, the Commission stated, "[a] request for emergency relief should not serve as a way to accommodate electricity suppliers' failure to seek Commission approval of boundary changes in a timely manner" and that in future filings, electricity suppliers shall demonstrate "that the request for a boundary change has been made at the earliest time that was reasonably possible." Joint Petitioners, in their March 8, 2011 Response to the Commission's March 4, 2011 Docket Entry, explained the basis for their belief that the request for a boundary change had been made at the earliest time reasonably possible. While we have some concerns with the time taken by the parties given the "emergency" situation, we are also aware of the agreement among the parties concerning the change in boundaries and the customer's need for electricity.

Having considered the Joint Petition, the Commission finds, pursuant to the authority in Ind. Code §§ 8-1-2-113 and 8-1-2.3-4(a), that sufficient circumstances have been presented to determine that an emergency situation exists, and to approve, on an interim basis without a hearing, the written consent given by United REMC for Duke Energy Indiana to provide electric service to the single new farm building. This emergency approval will allow Duke Energy Indiana to provide electric service to a customer who needs electric service as soon as possible to aid in a timely start-up of a hog raising operation. This approval is provided on an interim basis, pending resolution of the request to change boundary lines.

In granting this emergency approval the Commission recognizes that in accordance with Ind. Code § 8-1-2.3-4(a), Duke Energy Indiana may not begin providing electric service in United REMC's service territory prior to the issuance of this Interim Order, which provides the Commission approval necessary for Duke Energy Indiana to render electric service outside of its assigned service area boundaries. Therefore, Duke Energy Indiana should advise the Commission, at the time it files its proof of the publication required under Ind. Code § 8-1-2.3-6(2), of the date it began, or the date that it anticipates it will begin, the provisioning of service to the service area at issue in this proceeding.

While the Commission recognizes that situations will occasionally arise wherein a change in service area boundary is immediately needed to meet a customer's sudden demand for electricity, we encourage Duke Energy Indiana and United REMC, as well as any other electric service provider, to timely respond to customer requests for service and appropriately plan, whenever possible, to seek Commission approval far enough in advance so that emergency, interim relief is not necessary.

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

1. The consent given by United REMC for Duke Energy Indiana to serve an area on U.S.G.S. Facet No. T-8-1 in Huntington County, as identified in the Joint Petition and attached exhibits, is hereby approved on an emergency, interim basis pending a final order in this Cause.

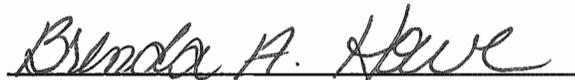
2. Once proof of the publication required by Ind. Code § 8-1-2.3-6(2) is available, Joint Petitioners shall file said proof of publication with the Commission and the date it began, or the date that it anticipates it will begin, the provisioning of service to the service area at issue in this proceeding.

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

ATTERHOLT, BENNETT, LANDIS AND ZIEGNER CONCUR; MAYS ABSENT:
APPROVED:

MAR 09 2011

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



Brenda A. Howe
Secretary to the Commission