

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

Handwritten signatures and initials: TQ, [unclear], [unclear], [unclear], [unclear]

IN THE MATTER OF THE JOINT PETITION OF)
NORTHERN INDIANA PUBLIC SERVICE)
COMPANY AND NEWTON COUNTY RURAL)
ELECTRIC MEMBERSHIP CORPORATION FOR)
APPROVAL PURSUANT TO IND. CODE 8-1-2.3-)
4(a) OF WRITTEN CONSENT FOR NEWTON)
COUNTY REMC TO PROVIDE LIMITED)
RETAIL ELECTRIC SERVICE TO CERTAIN)
LOCATIONS WITHIN THE SERVICE AREA OF)
NORTHERN INDIANA PUBLIC SERVICE)
COMPANY.)

CAUSE NO. 44165

APPROVED:

APR 25 2012

ORDER OF THE COMMISSION

Presiding Officer:

Angela Rapp Weber, Administrative Law Judge

On March 14, 2012, Northern Indiana Public Service Company (“NIPSCO”) and Newton County Rural Electric Membership Corporation (“Newton County REMC”) (collectively, “Joint Petitioners”) filed a Verified Joint Petition (“Joint Petition”) with the Indiana Utility Regulatory Commission (“Commission”). Pursuant to Indiana Code § 8-1-2.3-4(a), the Joint Petition seeks Commission approval of a Consent Agreement for Limited and Conditional Retail Electric Service (“Consent Agreement”) between NIPSCO and Newton County REMC permitting Newton County REMC to provide retail electric service on a limited and conditional basis to a residence located on property within NIPSCO’s assigned electric service territory in Newton County, Indiana.

The Commission, having considered the evidence and applicable law, 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 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 Newton County, and has charter authority to do so.

Newton County REMC is a rural electric membership corporation organized and existing under the laws of the State of Indiana, with its principal office and place of business located in Goodland, Indiana. Newton County REMC 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 Newton County, and has charter and authority to do so. Both NIPSCO and Newton 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 Consent Agreement between NIPSCO and Newton County REMC. Accordingly, the Commission has jurisdiction over the Joint Petitioners and the subject matter of the Joint Petition.

2. **Relief Sought.** Indiana Code § 8-1-2.3-4(a) 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 the Commission. Joint Petitioners seek Commission approval of NIPSCO's consent for Newton County REMC to provide retail electric service on a limited and conditional basis to the residence at 3480 E 1000 S, Brook, Indiana 47922 ("3480 E 1000 S"). This property is located in NIPSCO's assigned service area, as established by Order of the Commission in Cause No. 36299-S202 on September 14, 1983.

Joint Petitioners submit their request pursuant to the terms of their written Consent Agreement, which was attached to the Joint Petition as Exhibit 1. Joint Petitioners state that NIPSCO currently provides service to 3480 E 1000 S from the north through a heavily wooded area along the Iroquois River, which floods frequently enough to cause increased difficulty to service those facilities. Newton County REMC currently has facilities to the south of 3480 E 1000 S that could be used to provide service in a more accessible manner. Joint Petitioners further state that approval of the Consent Agreement pursuant to Indiana Code § 8-1-2.3-4(a) would be beneficial and not cause the duplication of electric utility facilities, waste of materials or resources, or uneconomic, inefficient, and inadequate electric service to the public.

3. **Notice and Approval of Written Consent.** In *Joint Petition of Electricity Suppliers*, Cause No. 42868, 2006 Ind. PUC LEXIS 275, at *11 (Sept. 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.* In this case, notice of the filing of the Joint Petition was published in the *Newton County Enterprise* on March 28, 2012. 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 the Joint Petition requesting approval of NIPSCO's consent to allow Newton County REMC to temporarily serve the customer in NIPSCO's service area.

Based upon the law and evidence presented, the Commission finds that Joint Petitioners' request for Newton County REMC to provide electric service on a limited and conditional basis to 3480 E 1000 S located in NIPSCO's assigned service area is reasonable and approved.

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

1. NIPSCO's temporary consent to allow Newton County REMC to provide electric service to 3480 E 1000 S located in NIPSCO's assigned service area is approved.
2. Within thirty (30) days of the date that service is transferred from NIPSCO to Newton County REMC, Joint Petitioners shall file notice with the Commission under this Cause that Newton County REMC is providing service to 3480 E 1000 S.
3. Joint Petitioners shall file notice with the Commission under this Cause if NIPSCO's consent for Newton County REMC to provide electric service to 3480 E 1000 S is terminated.
4. This Order shall be effective on and after the date of its approval.

ATTERHOLT, BENNETT, LANDIS, MAYS AND ZIEGNER CONCUR

APPROVED: APR 25 2012

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



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