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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF THE CITY OF RENSSELAER, INDIANA BY ITS MUNICIPALLY OWNED ELECTRIC UTILITY FOR A CHANGE IN RENSSELAER'S ASSIGNED SERVICE AREA BOUNDARIES ON U.S.G.S. FACET G-8 TO INCORPORATE AN ANNEXED AREA PURSUANT TO IND. CODE § 8-1-2.3-6(1).	)	CAUSE NO. 44245
RESPONDENT: JASPER COUNTY RURAL ELECTRIC MEMBERSHIP CORPORATION	)	APPROVED: OCT 10 2012

ORDER OF THE COMMISSION

Presiding Officer:
Loraine L. Seyfried, Chief Administrative Law Judge

On September 6, 2012, the City of Rensselaer, Indiana by its municipally owned electric utility, Rensselaer Municipal Electric Utility ("Petitioner"), filed its Verified Petition with the Indiana Utility Regulatory Commission ("Commission") seeking, as provided in Indiana Code § 8-1-2.3-6(1), to change its assigned service area boundaries to include an annexed area that is located beyond its assigned service area. The annexed area consists of approximately 80.7 acres and is located within the assigned service area of Jasper County Rural Electric Membership Cooperative, Inc. ("Respondent" or "Incumbent"). The area annexed by the City of Rensselaer, Indiana is adjacent and contiguous to the corporate boundary lines of the City of Rensselaer.

The Verified Petition indicated that there are approximately twenty residential customers currently served by Respondent located within the annexed area. Petitioner indicated that it intends to furnish and has the ability to render adequate and reliable retail electric service to both current customers and future customers that might locate within the annexed area, upon Commission approval of the requested changes in Petitioner's assigned service area boundaries.

Based on the Verified Petition, a certified copy of the annexation Ordinance filed herein, and the applicable law, the Commission makes the following findings:

1. **Commission Jurisdiction.** The City of Rensselaer, Indiana owns and operates an electric utility system furnishing retail electric service to the public. Pursuant to Indiana Code § 8-1-2-1(h), Petitioner qualifies as a "municipally owned utility," and both Petitioner and Incumbent qualify as "electricity suppliers" pursuant to Indiana Code § 8-1-2.3-2(b). The Commission finds that it has jurisdiction over the parties to this Cause.

Pursuant to Indiana Code § 8-1-2.3-6(1), a municipally owned electric utility may petition the Commission to change its assigned service area to include an annexed area beyond its assigned service area by filing its petition not later than sixty (60) days after the annexation becomes effective. The Verified Petition filed in this Cause demonstrates that Ordinance 20-2011 became effective on August 16, 2012. The Verified Petition in this Cause was filed not later than sixty (60) days after the annexation became effective. Accordingly, the Commission finds that it has jurisdiction over the subject matter of this Cause.

2. **Annexation.** The Common Council of the City of Rensselaer, Indiana adopted and approved Ordinance 20-2011 on May 14, 2012, annexing into the City a tract of land contiguous to a corporate boundary line of the City of Rensselaer. Ordinance 20-2011 was published in the *Rensselaer Republican* on May 18, 2012, and pursuant to Indiana Code § 36-4-3-7 became effective on August 16, 2012, *i.e.*, ninety days after publication and upon the completion of the filing required by Indiana Code § 36-4-3-22(a).

Pursuant to Indiana Code § 8-1-2.3-6(1)(A), a certified copy of the annexation ordinance serves as conclusive evidence that the area has been lawfully annexed and is a part of the municipality. Petitioner included a certified copy of Ordinance 20-2011 with its Verified Petition and, accordingly, the Commission finds that the area has been lawfully annexed and is a part of the City of Rensselaer, Indiana.

3. **Payments To Be Made by a Municipally Owned Electric Utility To an Incumbent Electricity Supplier.**

A. Payment of the Value of the Incumbent Electricity Supplier's Electric Utility Property Devoted to Furnishing Retail Electric Service Within the Additional Assigned Service Area.

Indiana Code § 8-1-2.3-6(1)(B) provides:

> Not later than thirty (30) days after filing a petition under this subdivision, the municipally owned electric utility shall determine for each affected incumbent electricity supplier and pay to that supplier an amount not less than the value of all the electric utility property of the incumbent electricity supplier that is devoted to furnishing retail electric service within the additional assigned service area at its then reproduction cost new depreciated value.

The Verified Petition indicated Petitioner would pay Incumbent within thirty (30) days of filing its Petition the reproduction cost new depreciated value of Incumbent's property devoted to providing retail electric service to the customers located in the area annexed pursuant to Ordinance 20-2011. Pursuant to Indiana Code § 8-1-2.3-6(1)(B), we find that Petitioner should determine and pay Incumbent the reproduction cost new depreciated value of all electric utility property devoted to retail electric service within the annexed area.

B. Payment of Severance Damages.

In addition to the payment required above in paragraph 3A, Indiana Code § 8-1-2.3-6(1)(B) provides:

> In addition, the municipally owned electric utility shall pay the incumbent electricity supplier severance damages in an amount equal to:
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> (i) the value of the incumbent electricity supplier's distribution and substation facilities dedicated to and located within the annexed area or relocated by reason of the annexation or an amount equal to two and one-half (2½) times the incumbent electricity supplier's gross revenues from electricity sales in the annexed area during the twelve (12) month period immediately preceding the date the annexation ordinance became effective, whichever is greater; plus
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> (ii) if additional permanent service locations or service accounts are established in the annexed area during the five (5) year period beginning on the effective date of the annexation ordinance, one-tenth of one cent ($0.001) for each kilowatt hour of electricity sold to each of those permanent service locations or service accounts for sales that occur during a five (5) year period beginning on the date each service location or service account is established, up to a maximum of one hundred seventy thousand (170,000) kilowatt hours per service account or service location for each monthly billing period.
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> However, the municipally owned electric utility is not required to pay severance damages under item (ii) if, at the time each annual payment otherwise would accrue, it is purchasing all of its requirements for electric power and energy, except for generation directly provided by the municipally owned electric utility or by a customer, from the incumbent electricity supplier. Severance damages must be paid not later than thirty (30) days after the end of each calendar year in which severance damages have accrued. The municipally owned electric utility and incumbent electricity suppliers shall cooperate to calculate the amount of any severance damages and shall furnish to each other all information and records reasonably necessary for the determination and verification of severance damages. If the municipally owned electric utility and incumbent electricity suppliers cannot agree on the amount of severance damages the municipally owned electric utility is to pay, the commission shall determine the amount and order payment in accordance with this clause. Not later than twenty (20) days after making a payment, the municipally owned electric utility shall certify to the commission and to any affected incumbent electricity supplier that it has paid the amounts required under this clause.

The Verified Petition indicated Petitioner would pay severance damages to Incumbent under Indiana Code § 8-1-2.3-6(1)(B)(i) for the current customers located in the area annexed by Ordinance 20-2011. The Verified Petition further indicated that Petitioner would pay severance damages to Incumbent in accordance with Indiana Code § 8-1-2.3-6(1)(B)(ii).

Pursuant to Indiana Code § 8-1-2.3-6(1)(B)(i), we find that Petitioner should determine and pay Incumbent an amount equal to two and one-half (2½) times the gross revenues from electric sales to the customers located in the area annexed by Ordinance 20-2011 during the twelve month period immediately preceding the effective date of Ordinance 20-2011 (*i.e.*, August 16, 2012). Pursuant to Indiana Code § 8-1-2.3-6(1)(B)(ii), we find that if new permanent service locations or service accounts are established in the annexed area during the five (5) year period beginning on August 16, 2012, Petitioner should pay Incumbent severance damages of one-tenth of one cent ($0.001) for each kilowatt hour of electricity sold to each of those permanent service locations or service accounts for sales that occur during a five (5) year period beginning on the date each service location or service account is established, up to a maximum of one hundred seventy thousand (170,000) kilowatt hours per service account or service location for each monthly billing period.

4. <u>Approval of Requested Change to Assigned Service Area</u>. Indiana Code § 8-1-2.3-6(1)(A) provides: "After the filing of a petition under this subdivision, the commission shall promptly enter an order changing the assigned service area facet maps of the municipally owned electric utility and incumbent electricity suppliers to include the annexed area within the assigned service area of the municipally owned electric utility and giving the right to serve and immediate possession to the municipally owned electric utility." The Commission accordingly finds that Petitioner's assigned service area should be changed to include the entirety of the annexed area as described in the certified copy of the annexation Ordinance filed herein.

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

1. The Verified Petition filed in this Cause to change the assigned service area of the City of Rensselaer's municipally owned electric utility to include the annexed territory described in the certified copy of the annexation Ordinance filed herein is approved, and said municipally owned electric utility shall have the right to serve and immediate possession of said annexed area.

2. The assigned service area boundaries of the Petitioner and Incumbent are changed to include the annexed area within the assigned service area of Petitioner. Within thirty (30) days of the date this Order is approved, Petitioner shall coordinate with Commission Technical Staff to update the service territory mapping system to reflect the modified service area boundaries approved by this Order.

3. Petitioner shall pay Respondent the amounts as described above in Finding Paragraph Nos. 3A and 3B of this Order.

4. Not later than twenty (20) days after making a payment under Indiana Code § 8-1-2.3-6(1)(B), Petitioner shall certify to the Electricity Division of the Commission and to the Incumbent that it has paid an amount required under Indiana Code § 8-1-2.3-6(1)(B).

5. In accordance with Indiana Code § 8-1-2-70, Petitioner shall pay the following charge within twenty (20) days from the date of this Order to the Secretary of the Commission, as well as any additional costs that were or may be incurred in connection with this Cause:

Commission Charge: $88.77

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

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

APPROVED: OCT 10 2012

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

Brenda A. Howe

Brenda A. Howe
Secretary to the Commission