

ORIGINAL

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF )  
 THE CITY OF MISHAWAKA, INDIANA, BY )  
 ITS MUNICIPALLY OWNED ELECTRIC )  
 UTILITY, FOR APPROVAL OF CONSENT )  
 TO ALLOW INDIANA MICHIGAN POWER )  
 COMPANY TO SERVE, PURSUANT TO IC )  
 8-1-2.3-4(a), ON A TEMPORARY BASIS, A )  
 CUSTOMER WITHIN THE ASSIGNED )  
 SERVICE AREA BOUNDARIES OF THE )  
 MUNICIPALLY OWNED ELECTRIC )  
 UTILITY OF THE CITY OF MISHAWAKA, )  
 INDIANA )  
 )  
 RESPONDENT: INDIANA MICHIGAN )  
 POWER COMPANY )

CAUSE NO. 44294

APPROVED: FEB 20 2013

ORDER OF THE COMMISSION

**Presiding Officer:**

**Marya E. Jones, Administrative Law Judge**

On January 15, 2013, the City of Mishawaka, Indiana by its municipally owned electric utility ("Petitioner"), filed a Verified Petition with the Indiana Utility Regulatory Commission ("Commission"). Pursuant to Ind. Code § 8-1-2.3-4(a), Petitioner seeks Commission approval of its written consent to Indiana Michigan Power Company's continued temporary provision of retail electric service to one certain customer located in Petitioner's assigned service area boundaries as a result of a modification to Petitioner's assigned service area boundaries approved by the Commission in Cause No. 44221 by Order dated July 31, 2012.

The Commission, having considered the evidence and applicable law, now finds:

**1. Commission Jurisdiction.** The City of Mishawaka is a municipality duly organized and existing under the laws of the State of Indiana, located in St. Joseph County, Indiana. The City of Mishawaka owns and operates Mishawaka Utilities, which includes an electric distribution utility with its principal office located at 126 N. Church Street, Mishawaka, Indiana 46546-0363. Mishawaka Utilities furnishes retail electric service to approximately 26,000 residential, commercial, industrial and other customers located within its assigned service area. Petitioner is a "municipally owned utility," as defined in Ind. Code § 8-1-2-1(h), and an "electricity supplier" within the meaning of Ind. Code § 8-1-2.3-2(b).

Indiana Michigan Power Company ("I&M") is a corporation organized under the laws of the State of Indiana with its principal office and place of business located in Fort Wayne, Indiana. I&M has corporate power and authority, among other things, to engage in the

generation, transmission, distribution and sale of electric energy within the States of Indiana and Michigan. I&M is a “public utility” within the meaning of Ind. Code § 8-1-2-1 and is lawfully engaged in the provision of electric service in Indiana. I&M is an “electricity supplier” within the meaning of Ind. Code § 8-1-2.3-2(b).

Petitioner seeks the Commission’s approval of its written consent to I&M’s continued provision of retail electric service, on a temporary basis, to a certain customer located in Petitioner’s assigned service area boundaries, pursuant to Ind. Code § 8-1-2.3-4(a). The Commission finds that it has jurisdiction over the Petitioner and the subject matter of its petition.

**2. Relief Sought.** Ind. 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. The Commission approved changes to the assigned service area boundaries of Petitioner and I&M to incorporate three annexed areas (the “Annexed Territory”) into the assigned service area of Petitioner by Order dated July 31, 2012 in Cause No. 44221. The Annexed Territory which was specifically described in the Verified Petition filed in Cause No. 44221 consists of approximately 249.62 acres. I&M currently serves one customer in the Annexed Territory, more particularly described in Ordinance No. 5341 attached as Exhibit No. 1 to the Verified Petition filed in Cause No. 44221.

Petitioner and I&M have been collaborating to smoothly transition the customer in the Annexed Territory from I&M to Petitioner. Petitioner has determined that it will take not more than two years to perform the necessary steps to effectuate the complete transfer of the customer. Pursuant to Ind. Code § 8-1-2.3-4, Petitioner seeks Commission approval of its written consent to I&M’s continued temporary provision of retail electric service to the customer located in Petitioner’s assigned service area boundary. In addition, the facility and severance damages payment due I&M from Petitioner pursuant to IC 8-1-2.3-6(1)(B) and Petitioner’s petition filed in Cause No. 44221 have been determined to be \$6,354.13. I&M has requested Petitioner hold such payment until I&M terminates retail service to the customer in the Annexed Territory.

**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 Verified Petition was published in both the *South Bend Tribune* and *Mishawaka Enterprise*, newspapers of general circulation in St. Joseph County, Indiana, on January 24, 2013. 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 Petitioner’s request for approval of its consent to allow I&M to continue serving the customer pending Petitioner’s readiness to provide service to the customer in the Annexed Territory.

Based upon the applicable law and evidence presented, the Commission finds that Petitioner's consent to allow I&M to temporarily provide electric service to the customer located in Petitioner's assigned service area boundaries as a result of the Commission's July 31, 2012 Order in Cause No. 44221 should be approved.

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

1. Petitioner's consent in writing to I&M's provision of retail electric service to the customer located in Petitioner's assigned service area boundaries as a result of the Commission's July 31, 2012 Order in Cause No. 44221 is approved.

2. Within thirty (30) days of the date that service in the area is completely transferred from I&M to Petitioner following Petitioner's readiness to provide service, Petitioner shall (1) file notice with the Commission that it is providing electric service to the area and (2) make facility and severance damages payment due I&M as determined under Cause No. 44221.

3. In accordance with Ind. Code § 8-1-2-70, Petitioner shall pay the following itemized charges within twenty days from the date of the Order to the Secretary of this Commission, as well as any additional costs which were incurred in connection with this Cause:

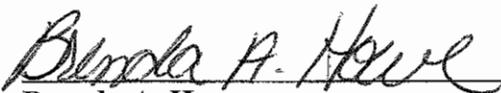
Commission Charges:	\$ 120.62
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4. This Order shall become effective upon and after the date of its approval.

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

**APPROVED: FEB 20 2013**

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

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