

ORIGINAL



STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED JOINT )  
 PETITION OF DUKE ENERGY INDIANA, INC. )  
 AND JOHNSON COUNTY RURAL ELECTRIC )  
 MEMBERSHIP CORPORATION FOR ) CAUSE NO. 44420  
 APPROVAL OF JOHNSON COUNTY RURAL )  
 ELECTRIC MEMBERSHIP CORPORATION'S )  
 TEMPORARY CONSENT TO DUKE ENERGY ) APPROVED:  
 INDIANA TO SERVE A CUSTOMER WITHIN )  
 U.S.G.S. FACET O-19-1 IN JOHNSON COUNTY )  
 INDIANA PURSUANT TO IND. CODE § 8-1-2.3-4. )

DEC 30 2013

ORDER OF THE COMMISSION

**Presiding Officer:**  
**Gregory R. Ellis, Administrative Law Judge**

On November 12, 2013, Duke Energy Indiana, Inc. ("Duke") and Johnson County Rural Electric Membership Corporation Utilities ("Johnson REMC") (collectively "Joint Petitioners") filed a Verified Joint Petition for Approval of Temporary Consent to Serve ("Petition") with the Indiana Utility Regulatory Commission ("Commission"). Pursuant to Ind. Code § 8-1-2.3-4(a), the Petition seeks Commission approval of Johnson REMC's consent to Duke's provision of retail electric service, on a temporary basis, to a certain customer located within Johnson REMC's assigned service area boundary as set forth on United States Geological Survey ("U.S.G.S.") Facet Map O-19-1 in Johnson County, Indiana. The verifications of L. Chester Aubin, Chief Executive Officer of Johnson REMC, and Earl Martin Zearbaugh, Manager Distribution Design for Duke, were attached to the Petition.

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

**1. Commission Jurisdiction.** Joint Petitioner Duke is a corporation organized and existing under the laws of the State of Indiana, with its principal office in Plainfield, Hendricks County, Indiana. Duke is engaged in the business of generating, transmitting, distributing, furnishing and selling retail electric energy to the public in various counties including Johnson County and has charter authority to do so.

Joint Petitioner Johnson REMC is a rural electric membership cooperative organized and existing under the laws of the State of Indiana, with its principal office and place of business located in Franklin, Johnson County, Indiana. It is engaged in the business of distributing, furnishing and selling retail electric service to the public in several counties in the State of Indiana, including Johnson County, Indiana and has charter authority to do so.

Both Duke and Johnson REMC are "electricity suppliers" within the meaning of Ind. Code § 8-1-2.3-2(b). Joint Petitioners seek the Commission's approval of Johnson REMC's

written consent to Duke's provision of retail electric service, on a temporary basis, to a certain customer located in Johnson REMC's assigned service area boundary, pursuant to Ind. Code § 8-1-2.3-4(a). Accordingly, the Commission has jurisdiction over the Joint Petitioners and the subject matter of the 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 area of another electricity supplier upon consent of the affected electricity supplier and approval of the Commission. Joint Petitioners seek Commission approval of Johnson REMC's consent for Duke to provide retail electric service on a temporary basis to a new development construction trailer as shown on the maps attached to the Petition. The property is located in Johnson REMC's assigned service area as established by Order of the Commission in Cause No. 36299-228-(X) on April 11, 1984.

By Letter Agreement, Johnson REMC has consented and Duke has agreed to provide service to the new development construction trailer as shown on the U.S.G.S. Facet and survey maps attached to the Petition. Duke will render electric service through existing adjacent distribution lines. The Joint petitioners indicated that, in accordance with Ind. Code § 8-1-2.3-6(2), the temporary consent will not cause duplication of electric facilities, waste of materials or resources, or uneconomic, inefficient or 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 Petition was published in the *Daily Journal*, a newspaper of general circulation in Franklin, Johnson County, Indiana, on November 16, 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 Joint Petitioner's request for approval of Johnson REMC's consent to allow Duke to provide service to the customer in Johnson REMC's service area.

Based upon the applicable law and evidence presented, the Commission finds that Johnson REMC's consent to allow Duke to temporarily provide electric service to the new customer located in Johnson REMC's assigned service area is reasonable and should be approved.

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

1. Johnson REMC's temporary consent to Duke provision of retail electric service to a new development construction trailer located in Johnson REMC's service area boundaries is hereby approved.

2. Within thirty (30) days of the date that service in the area is transferred from Johnson REMC's to Duke, Joint Petitioners shall file notice with the Commission that Duke Energy Indiana is providing electric service to the area.

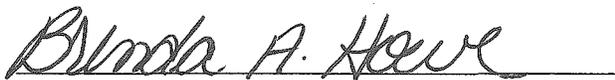
3. Joint Petitioners shall file notice with the Commission under this Cause if Johnson REMC's consent for Duke to provide electric service to a new development construction trailer is terminated.

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

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

APPROVED:        DEC 30 2013

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



Brenda A. Howe  
Secretary to the Commission