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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF )  
THE CITY OF GREENFIELD, INDIANA )  
FOR PERMISSION TO CHANGE THE )  
ASSIGNED SERVICE AREA OF THE )  
MUNICIPALLY OWNED ELECTRIC )  
UTILITY )

CAUSE NO. 44553

APPROVED:

DEC 30 2014

RESPONDENT: HANCOCK RURAL )  
TELEPHONE CORP. D/B/A NINESTAR )  
CONNECT )

ORDER OF THE COMMISSION

**Presiding Officer:**  
**Marya E. Jones, Administrative Law Judge**

On October 28, 2014, the City of Greenfield, Indiana ( "City") filed a *Petition to Change Assigned Service Area* ("Petition") with the Indiana Utility Regulatory Commission ("Commission") seeking, as provided in Ind. Code § 8-1-2.3-6, to change its assigned electric service area boundaries to include an annexed area that is currently beyond its assigned service area. The annexed area is located within the service area ("Annexed Area") currently assigned to Hancock Rural Telephone Corp. d/b/a Ninestar Connect ("Respondent").

Based upon the evidence and applicable law, the Commission makes the following findings:

**1. Commission Jurisdiction.** The City owns and operates a municipal electric utility in the City of Greenfield. It renders electric utility service to the City and its inhabitants. The City is an "electricity supplier" within the meaning of Ind. Code § 8-1-2.3-2(b).

Respondent is a non-profit domestic corporation organized and existing under the laws of the State of Indiana with its principal place of business located at 2243 E. Main Street, Greenfield, Indiana 45140. It is engaged in the business of distributing, furnishing, and selling retail electric service to the public in its assigned service territory. Respondent is an "electricity supplier" within the meaning of Ind. Code § 8-1-2.3-2(b).

Pursuant to Ind. 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 60 days after the annexation becomes

effective. The Petition states that Ordinance No. 2014-10 became effective on October 18, 2014. Accordingly, the Commission finds that the Petition in this Cause was filed not later than 60 days after the annexation became effective and, therefore, the Commission has jurisdiction over the subject matter of this Cause.

2. **Annexation.** Pursuant to Ind. Code § 8-1-2.3-6(1)(A), a certified copy of the annexation ordinance, which must be filed with the petition, serves as conclusive evidence that the area has been lawfully annexed and is a part of the municipality. The City included a certified copy of the annexation Ordinance, Ordinance No. 2014-10, with its Petition and, accordingly, the Commission finds that the area has been lawfully annexed and is a part of the City.

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 Annexed Area.**

Ind. 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 Petition indicates that Respondent does not have any electric utility property within the annexed territory that is devoted to furnishing retail electric service within the annexed territory, nor does it have any substation facilities located there. The City, therefore, owes no payment to Respondent.

B. **Payment of Severance Damages.**

In addition to the payment required above in paragraph 3A, Ind. 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:

- (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 (2 ½) 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

- (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.

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 Petition indicates that during the twelve month period immediately preceding the date the annexation ordinance became effective Respondent had no gross revenues from electricity sales within the annexed territory. Therefore, the City owes Respondent no severance damages at this time.

Pursuant to Ind. Code § 8-1-2.3-6(1)(B)(ii), if additional permanent service locations or service accounts are established in the Annexed Area during the five year period beginning on the effective date of the annexation ordinance, the City shall pay the Respondent severance damages of \$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 year period beginning on the date each service location or service account is established, up to a maximum of 170,000 kilowatt hours per service account or service location for each monthly billing period. However, severance damages pursuant to Ind. Code § 8-1-2.3-6(1)(B)(ii) shall not be payable by the City to the Respondent if, at the time each annual payment otherwise would accrue, the City 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 Respondent.

4. **Approval of Requested Boundary Modification.** Ind. 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 the City’s assigned service area should be changed to include the Annexed Area as described in Exhibit A to Exhibit 1 of the Petition.

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

1. The Petition filed in this Cause to change the assigned service area of the City of Greenfield’s municipally owned electric utility to include the Annexed Area is approved, and said municipally owned electric utility shall have the right to serve the Annexed Area.

2. The assigned service area of the City of Greenfield and Respondent is changed to include the Annexed Area within the assigned service area of the City of Greenfield and, the City of Greenfield shall, within 30 days of the effective date of this Order, coordinate with Commission Technical Staff to update the service territory mapping system to reflect the modified service area boundaries approved by this Order.

3. The City of Greenfield owes no payment to Respondent as described above in Finding Paragraph 3 of this Order, provided, however, the City of Greenfield shall pay Respondent any severance damages payable as a result of any permanent service locations or service accounts being established in the Annexed Area.

4. Not later than 20 days after making a payment under Ind. Code § 8-1-2.3-6(1)(B), the City of Greenfield shall certify to the Electricity Division of the Commission and to Respondent that it has paid any amount required under Ind. Code § 8-1-2.3-6(1)(B).

5. In accordance with Ind. Code § 8-1-2-70, the City of Greenfield shall pay the following charge within 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           \$ 188.77

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

**STEPHAN, HUSTON, WEBER, AND ZIEGNER CONCUR; MAYS-MEDLEY  
ABSENT:**

**APPROVED:     DEC 30 2014**

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



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