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STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

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

CAUSE NO. 44068

APPROVED: NOV 02 2011

ORDER OF THE COMMISSION

**Presiding Officers:**

**Larry S. Landis, Commissioner**

**Loraine L. Seyfried, Chief Administrative Law Judge**

On September 14, 2010, Northern Indiana Public Service Corporation (“NIPSCO”) and Marshall County Rural Electric Membership Corporation (“Marshall County REMC”) (collectively “Joint Petitioners”) filed a Verified 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 between NIPSCO and Marshall County REMC permitting Marshall County REMC to provide retail electric service on a limited and conditional basis to a grain dryer located within NIPSCO’s assigned electric service territory in Marshall County, Indiana.

Based upon the applicable law and the evidence presented, the Commission 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 the Merrillville, Indiana. NIPSCO 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 Marshall County, and has charter authority to do so. NIPSCO is an “electricity supplier” within the meaning of Indiana Code § 8-1-2.3-2(b).

Marshall County REMC is a rural electric membership corporation organized and existing under the laws of the State of Indiana, with its principal office in Plymouth, Indiana. Marshall County REMC owns and operates electric utility facilities in Marshall County, Indiana, and is an “electricity supplier” within the meaning of Indiana Code § 8-1-2.3-2(b).

Joint Petitioners request approval, pursuant to Indiana Code § 8-1-2.3-4(a), of a Consent Agreement between NIPSCO and Marshall County REMC. Therefore, the Commission has jurisdiction over the parties and the subject matter of this Cause.

2. **Relief Sought.** Indiana Code § 8-1-2.3-4(a) allows an electricity supplier to render retail electric service within the boundaries of the assigned service area of another electricity supplier with written consent of the affected electricity supplier and approval of the Commission. Joint Petitioners seek approval of a Consent Agreement that permits Marshall County REMC to provide retail electric service on a limited and conditional basis to a grain dryer located on the property of Mr. William L. Heyde, which is located within the boundaries of NIPSCO's assigned service area.

Joint Petitioners state the grain dryer requires three-phase service, but that NIPSCO only has a single phase service in the immediate area. However, Marshall County REMC has three-phase service near the property. Joint Petitioners state that Commission approval of the consent to serve under Indiana Code § 8-1-2.3-4(a) would be beneficial and will not cause the duplication of electric utility facilities; waste of materials or resources; or uneconomic, inefficient, or inadequate electric service to the public. There is no evidence to the contrary before the Commission in this proceeding.

3. **Approval of Written Consent.** Joint Petitioners seek relief pursuant to Indiana Code § 8-1-2.3-4(a) which, in part, provides:

As long as an electricity supplier continues to provide adequate retail service, it shall have the sole right to furnish retail electric service to each present and future consumer within the boundaries of its assigned service area and no other electricity supplier shall render or extend retail electric service within its assigned service area unless the electricity supplier with the sole right consents thereto in writing and the commission approves.

In *Joint Petition of Electricity Suppliers*, Cause No. 42868, 2006 Ind. PUC LEXIS 275 (IURC Sept. 28, 2006), the Commission noted that requests for approval of a consent for temporary extraterritorial 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 if certain conditions were met it may be appropriate to act upon such requests 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.* at \*11. Here, notice of the filing of the Verified Joint Petition, indicating the requested relief, was published on September 27, 2011, in *The Pilot News*, which is published in Marshall County, Indiana. More than ten days have passed since publication of the notice, and no party has requested a hearing on this matter. Accordingly, the Commission did not conduct a hearing on Joint Petitioners' request for approval of the Consent Agreement.

NIPSCO has the sole right to furnish retail electric service within its service territory. However, Joint Petitioners state NIPSCO will consent to Marshall County REMC's provision of electricity to the grain dryer located on the property of Mr. William L. Heyde.

Based upon the law and the evidence discussed above, the Commission finds NIPSCO's consent to allow Marshall County REMC to provide electric service on a limited and conditional

basis to the grain dryer under the terms of the Consent Agreement, as set forth in the Joint Petition, is reasonable and should be approved.

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

1. Joint Petitioners' request for Marshall County REMC to provide electric service pursuant to the Consent Agreement on a limited and conditional basis to a grain dryer located within NIPSCO's electric service area is hereby approved.

2. Within thirty (30) days of the date that service is transferred from Marshall County REMC to NIPSCO, Marshall County REMC shall file notice with the Commission that it is no longer providing electric service to the grain dryer.

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

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

**APPROVED:** NOV 02 2011

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



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