

**ORIGINAL**

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE VERIFIED )  
JOINT PETITION OF WHITEWATER )  
VALLEY REMC AND INDIANA MICHIGAN )  
POWER COMPANY FILED PURSUANT TO )  
IND. CODE § 8-1-2.3-4(a) FOR APPROVAL )  
OF WRITTEN CONSENT FOR INDIANA )  
MICHIGAN POWER COMPANY TO )  
PROVIDE ELECTRIC SERVICE TO THE )  
HEADWATERS WIND FARM LOCATED )  
WITHIN THE SERVICE AREA OF )  
WHITEWATER VALLEY REMC. )

CAUSE NO. 44549

APPROVED:

FEB 25 2015

ORDER OF THE COMMISSION

**Presiding Officer:**

**Gregory R. Ellis, Administrative Law Judge**

On October 17, 2014, Whitewater Valley Rural Electric Membership Corporation (“Whitewater Valley REMC”) and Indiana Michigan Power Company (“I&M”) (collectively “Joint Petitioners”) filed their Verified Joint Petition (“Petition”) for approval of a Consent to Serve Agreement with the Indiana Utility Regulatory Commission (“Commission”). Pursuant to Ind. Code § 8-1-2.3-4(a), the Petition seeks Commission approval of Whitewater Valley REMC’s consent to I&M’s provision of retail electric service, on a temporary basis, to Headwaters Wind Farm LLC (“Headwaters”) wind powered electric generation facility located within Whitewater Valley REMC’s assigned service area in Randolph County, Indiana. The Joint Petition also requested that the Commission set the matter for evidentiary hearing. The verifications of Mary Jo Thomas, President and Chief Executive Officer of Whitewater Valley REMC, and Andrew J. Williamson, Director of Regulatory Services for I&M, were attached to the Petition.

On October 28, 2014, Headwaters filed its Petition to Intervene indicating that this matter concerns a Consent to Serve Agreement to which Headwaters is a party. The Commission granted Headwaters’ Petition to Intervene on October 29, 2014. I&M filed its Submission of Proof of Publication on November 26, 2014. On January 14, 2015, I&M filed its Unopposed Motion to Waive Evidentiary Hearing in this Cause. The Commission issued a Docket Entry on February 6, 2015 requesting more information from the Joint Petitioners regarding the location in Whitewater Valley REMC’s service area in which I&M will be providing retail electric service to Headwaters. The Joint Petitioners filed their responses to the Docket Entry on February 13, 2015.

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

1. **Commission Jurisdiction.** I&M is a public utility corporation organized and existing under the laws of the State of Indiana, with its principal office in Fort Wayne, Indiana. I&M is engaged in the business of generating, transmitting, distributing, furnishing and selling retail electric energy within the States of Indiana and Michigan and has corporate authority to do so. It is

engaged in the business of furnishing retail electric service to areas of Randolph County, Indiana with existing distribution lines. I&M is a “public utility” as defined in Ind. Code § 8-1-2-1.

Whitewater Valley 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 Liberty, 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 Randolph County, Indiana and has legal authority to do so.

Joint Petitioners each provide electric service to customers located within their respective assigned service areas and are “electricity suppliers” within the meaning of Ind. Code § 8-1-2.3-2(b). Pursuant to Ind. Code § 8-1-2.3-4(a), Joint Petitioners seek the Commission’s approval of Whitewater Valley REMC’s written consent to I&M’s provision of retail electric service to Headwaters, which is located within both Whitewater Valley REMC’s and I&M’s assigned service area boundaries. Accordingly, the Commission has jurisdiction over the Joint Petitioners and the subject matter of the Petition.

**2. Relief Sought.** Joint Petitioners seek relief pursuant to Ind. Code § 8-1-2.3-4(a), which provides in part:

[a]s 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.

Whitewater Valley REMC provides retail electric service to the non-generation facilities of the Headwaters owned project substation located within its assigned service territory. The Joint Petitioners and Headwaters have determined that it would be efficient for I&M to act as a third-party supplier of station power for Headwaters in the event that it is not able to self-supply station power for its generation and generation-related equipment at the Headwaters owned project substation. Pursuant to a written Consent to Serve Agreement, Whitewater Valley REMC has consented to I&M providing electric transmission and retail energy services, on a temporary basis, to Headwaters’ generation and generation-related equipment at the Headwaters owned project substation located within Whitewater Valley REMC’s assigned service area on United States Geological Survey (“USGS”) Facet Map X-15-1 in Randolph County, Indiana. The Headwaters Substation is connected to the point of interconnection at I&M’s Losantville Substation, located on USGS Facet Map W-15-1, via a Headwaters owned transmission line. All Headwaters electric generation facilities are connected to Headwaters Substation. The Consent to Serve Agreement provides that I&M will supply retail electric service for station power to Headwaters for an initial five-year term starting upon the effective date of the agreement, with up to three successive five-year renewal terms. I&M proposes to charge Headwaters transmission voltage service rates under its Tariff G.S. In accordance with Ind. Code § 8-1-2.3-6(2), Joint Petitioners indicate I&M’s provision of station power to Headwaters will not cause the 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 days prior to Commission action.” *Id.* In this case, notice of the filing of the Petition was published in *The News Gazette*, a newspaper of general circulation in Winchester, Randolph County, Indiana, on November 20, 2014. 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 Whitewater Valley REMC’s consent to allow I&M to provide service to Headwaters’ Substation.

Based upon the applicable law and evidence presented, the Commission finds that Whitewater Valley REMC’s consent to allow I&M to temporarily provide electric service to Headwaters’ Substation, located within Whitewater Valley REMC’s assigned service area, as set forth in the Petition and described in the written Consent to Serve Agreement is reasonable and should be approved.

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

1. Whitewater Valley REMC’s consent to I&M’s provision of retail electric transmission and retail energy services, on a temporary basis, to Headwaters’ generation and generation-related equipment at the Headwaters owned project substation located within Whitewater Valley REMC’s service area boundaries is approved.

2. Joint Petitioners shall file notice with the Commission under this Cause if Whitewater Valley REMC’s consent for I&M to provide electric service to Headwaters is terminated.

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

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

APPROVED: FEB 25 2015

**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