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FEB 21 2014

INDIANA UTILITY  
REGULATORY COMMISSION

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF )  
THE TOWN OF SPICELAND, INDIANA )  
BY ITS MUNICIPALLY OWNED )  
ELECTRIC UTILITY FOR A CHANGE IN )  
ITS ASSIGNED SERVICE TO )  
INCORPORATE AN ANNEXED AREA )  
PURSUANT TO IC 8-1-2.3-6(1) AND FOR )  
APPROVAL OF A CONSENT TO ALLOW )  
ANOTHER ELECTRIC UTILITY TO )  
SERVE CUSTOMERS WITHIN ITS )  
ASSIGNED SERVICE AREA )  
BOUNDARIES ON A TEMPORARY BASIS )  
PURSUANT TO IC 8-1-2.3-4(A). )  
RESPONDENT: DUKE ENERGY )  
INDIANA, INC. )

CAUSE NO. 44459

VERIFIED PETITION

The Town of Spiceland, Indiana by its municipally owned electric utility ("Petitioner"), respectfully petitions the Indiana Utility Regulatory Commission ("Commission") for a change in its assigned service area boundaries to incorporate that portion of an area annexed into the Town of Spiceland, Indiana that falls within the assigned service area of Respondent, Duke Energy Indiana, Inc. ("Respondent"). In support thereof, Petitioner shows the Commission as follows:

1. Petitioner is a municipality duly organized and existing under the laws of the State of Indiana, located in Henry County, Indiana. Petitioner owns and operates the Spiceland Municipal Electric Utility ("Spiceland Electric"), which furnishes retail electric service to residential, commercial and industrial customers within its assigned service area. Petitioner is a "municipally owned utility," as defined in IC § 8-1-2-1(h), with its principal office located at 130 East Main Street, Spiceland, Indiana 47385.
2. Petitioner is an electricity supplier within the meaning of IC § 8-1-2.3-2(b). See attached Service Area marked as Exhibit No. 1.
3. Respondent is a corporation organized, which supplies electricity to its customers

in Henry County, Indiana. Respondent is an electricity supplier within the meaning of IC § 8-1-2.3-2(b).

4. On November 29, 2012, the Town Council of Petitioner duly adopted and approved Ordinance No. 2012-4 annexing into the Town of Spiceland a tract of land adjacent and contiguous to the northern corporate boundary of Petitioner. The annexed area is specifically described in Ordinance No. 2012-4, a certified copy of which is attached hereto as Exhibit No. 2.

5. Ordinance No. 2012-4 was duly published according to law, said publication being in the Courier-Times, a newspaper of general circulation in the Town of Spiceland and Henry County, Indiana on December 5, 2012. A copy of the proof of publication is attached hereto as Exhibit No. 3.

6. Pursuant to IC § 36-4-3-7(a), Ordinance No. 2012-4, became effective on December 31, 2013, more than ninety (90) days after publication and upon the completion of the filings required by IC § 36-4-3-22(a).

7. On April 29, 2013, Petitioner filed its original Verified Petition in Cause No. 44338. On July 3, 2013, the Commission entered an Order dismissing Petitioner's original Verified Petition without prejudice in Cause NO. 44338 on Petitioner's Motion.

8. Petitioner's Verified Petition is being filed now, in accordance with the Commission's July 3, 2013 Order. The Verified Petition is filed in the proper timeframe, because it is being filed less than sixty (60) days after the Ordinance became effective on December 31, 2013, and the Commission has jurisdiction over the subject matter hereof in accordance with IC § 8-1-2.3-6(1).

9. The annexed area consists of 58.255 acres, more or less, all of which is located within the assigned service area of Respondent. A map of the annexed area which is located within the assigned service area of Respondent is attached hereto as Exhibit No. 3A.

10. There are two (2) customers located in that portion of the annexed area which currently is within Respondent's assigned service area. The annexed area includes two (2) customers: one (1) commercial outlet and one (1) residential. Petitioner proposes to furnish adequate and reliable retail electric service to all current and future customers that might be located within the annexed area, upon Commission approval of the requested changes in Petitioner's assigned service area boundaries. However, Petitioner has consented to Respondent's

continuing to provide temporary service to the customers until such time as Petitioner has extended its own electric distribution facilities to the customers. Petitioner expects to extend service to those customers within three (3) years after an Order is issued in this Cause.

11. Pursuant to IC § 8-1-2.3-6(1)(B)(i), Petitioner will cooperate in calculating and will pay all amounts due and owing to Respondent.

12. In accordance with IC § 8-1-2.3-6(1)(B)(ii), Petitioner further agrees to pay Respondent severance damages in the amount of one-tenth of one cent (\$0.001) for each kWh of electricity sold to each new permanent service location established in the portion of the annexed area currently located in Respondent's assigned service area during the five (5) year period beginning on the effective date of the annexation (*i.e.*, December 31, 2013), for sales that occur during the five (5) year period beginning on the date each service location or service account is established, provided, however, that such payment shall not exceed One Hundred Seventy Dollars (\$170) for each service account or service location for each monthly billing period. Petitioner will make such payments to Respondent not later than thirty (30) days after the end of each calendar year in which severance damages have accrued.

13. The names and addresses of Petitioner's attorneys in this matter are as follows:

Randolph L. Seger, Atty. No. 240-49  
Alex E. Gude, Atty. No. 28586-53  
BINGHAM GREENEBAUM DOLL LLP  
10 West Market Street, Suite 2700  
Indianapolis, IN 46204  
Tel: (317) 635-8900  
Fax: (317) 236-9907

Tracy J. Newhouse, Atty. No. 14137-70  
P.O. Box 128  
301 North Main Street  
Rushville, IN 46173  
Tel. No. (765)932-2327  
Fax No. (765)932-3893

Said attorneys are duly authorized to accept service of papers in this Cause on behalf of Petitioner.

14. For the Commission's convenience, a form of proposed Order is attached hereto as Exhibit No. 4.

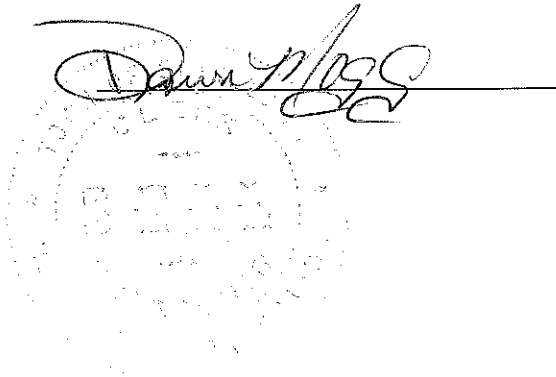
WHEREFORE, Petitioner, The Town of Spiceland, respectfully requests that the Indiana Utility Regulatory Commission promptly make and enter an Order in this Cause:

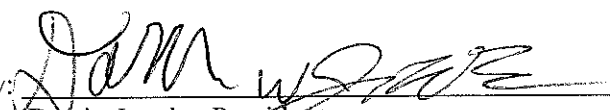
- i. changing the assigned service area boundaries between Petitioner and Respondent to include the entire annexed area within the assigned service area of Petitioner and giving the right to serve and immediate possession to Petitioner.
- ii. approving, pursuant to IC § 8-1-2.3-4(a), Petitioner's consent allowing Respondent to continue serving on a temporary basis the customers in the area annexed by the Town of Spiceland; and
- iii. making such further orders granting such other and further relief as the Commission may deem appropriate and proper in the premises.

Dated this 18<sup>th</sup> day of February, 2014.

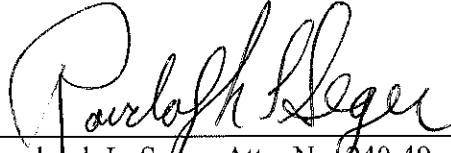
ATTEST:

TOWN OF SPICELAND, INDIANA



By:   
Darrin Jacobs, President  
Town Council, Spiceland, Indiana  
130 East Main Street  
Spiceland, IN 47385  
Phone: (765) 987-1211  
Fax: (765)-987-8037

Respectfully submitted by:

A handwritten signature in dark ink, appearing to read "Randolph L. Seger". The signature is fluid and cursive, with the first name "Randolph" being more prominent than the last name "Seger".

Randolph L. Seger, Atty. No. 240-49

Alex E. Gude, Atty. No. 28586-53

BINGHAM GREENEBAUM DOLL LLP

10 West Market Street, Suite 2700

Indianapolis, IN 46204

Tel: (317) 635-8900

Fax: (317) 236-9907

Tracy J. Newhouse Atty. No. 14137-70

301 North Main Street

P.O. Box 128

Rushville, IN 47385

Phone: (765) 932-2327

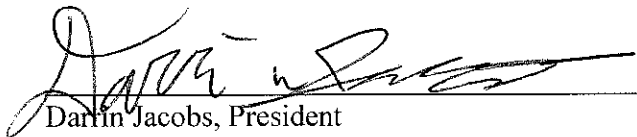
Fax: (765) 932-3893

*Attorneys for Petitioner*

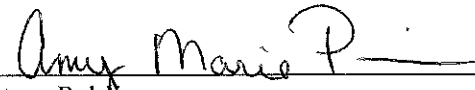
*Town of Spiceland, Indiana*

STATE OF INDIANA     )  
                                      ) SS:  
COUNTY OF WAYNE    )

Darrin Jacobs, being first duly sworn upon his oath, deposes and says that he is the President, Town Council, Spiceland Indiana, and in such capacity, he has executed the above and foregoing Petition and has authority so to do; that he has read said Petition and knows the contents thereof; and that the statements and representations therein contained are true to the best of his knowledge, information and belief.

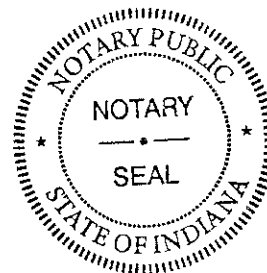
  
Darrin Jacobs, President  
Town Council, Spiceland, Indiana

Subscribed and sworn to before me, a Notary Public in and for said county and state, this  
18 day of February, 2014.

My Commission Expires: 7-25-2021   
Notary Public

Printed: Amy Marie Perrin

Resident of Henry County



**CERTIFICATE OF SERVICE**

The undersigned certifies that a copy of the foregoing "Verified Petition" was served by personal delivery or by First Class United States mail, postage prepaid, this 21<sup>st</sup> day of February, 2014, to the following:

Melanie D. Price  
DUKE ENERGY INDIANA, INC.  
1000 East Main Street  
Plainfield, IN 46168

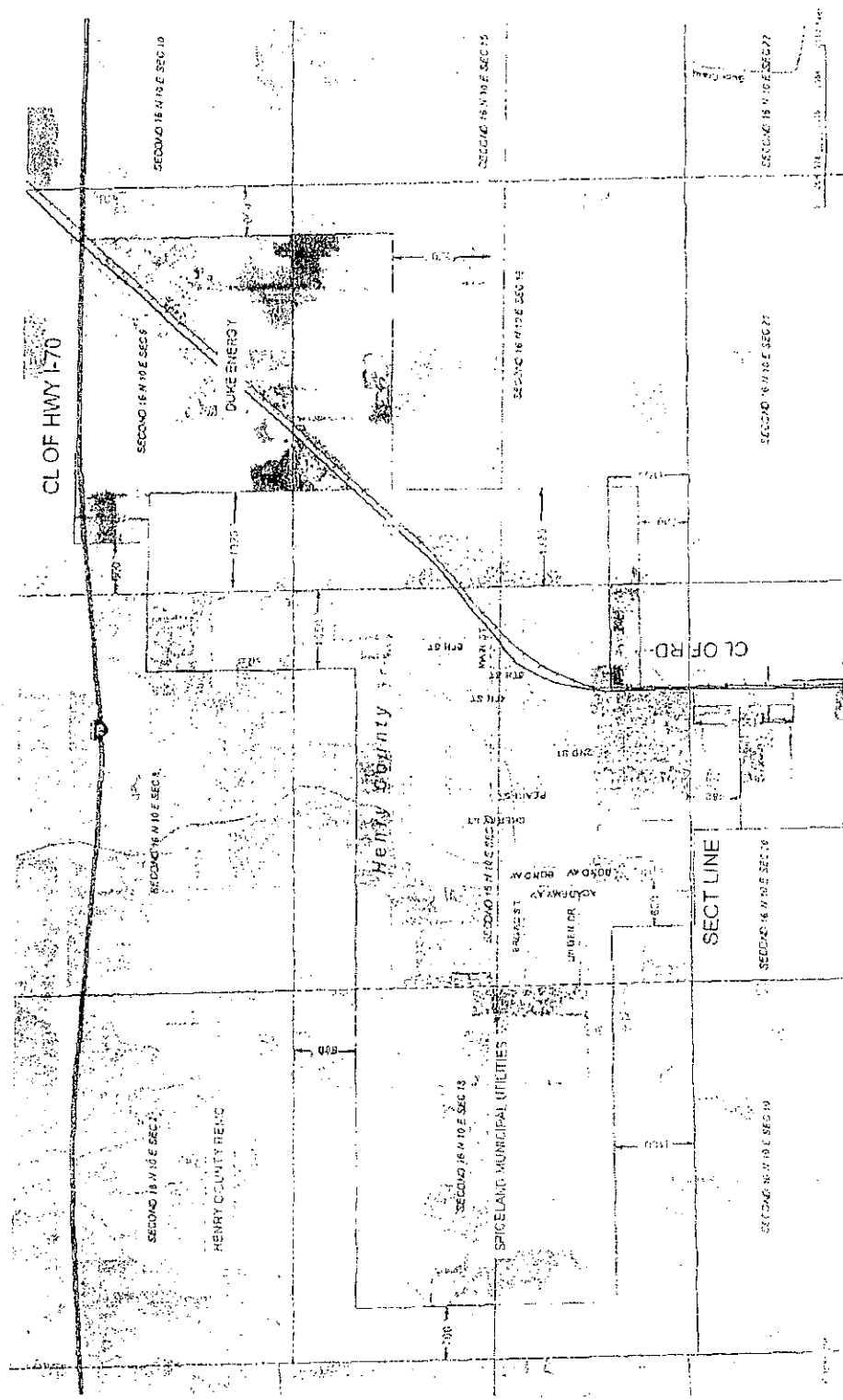
Robert M. Glennon  
ROBERT GLENNON & ASSOC., P.C.  
3697 North Co. Rd. 500 East  
Danville, IN 46122

OFFICE OF UTILITY CONSUMER COUNSELOR  
Indiana Government Center North  
100 North Senate, Room N501  
Indianapolis, IN 46130-2275



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Attorney for the Town of Spiceland, Indiana





**ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SPICELAND**

**2012-4**

**AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SPICELAND  
INDIANA, ANNEXING CERTAIN TERRITORY TO THE TOWN OF SPICELAND,  
INDIANA, PLACING THE SAME WITHIN THE CORPORATE BOUNDARIES  
THEREOF AND MAKING THE SAME A PART OF THE TOWN OF SPICELAND,  
INDIANA.**

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**WHEREAS**, citizens living north east of the current corporate boundaries of the Town of Spiceland ("Town") have presented a request to this council that an area be annexed to the Town.

**WHEREAS**, for more than approximately twelve (12) months, this Council has been investigating how it can address the annexation issues while not having an adverse effect on the existing citizens of the Town; and

**WHEREAS**, this Council's investigation had determined that the preferred way to address the problems is by annexing the area.

**WHEREAS**, the fiscal plan which has been adopted by resolution provides the method for annexation.

**WHEREAS**, this Ordinance has been adopted following due notice and a public hearing.

**WHEREAS**, a legal description of the territory sought to be annexed is attached hereto as Exhibit A, which also includes a map thereof (the "Annexation Territory"); and

**WHEREAS**, the Annexation Territory consists of approximately 58.255 acres; and

**WHEREAS**, the Annexation Territory is at least 1/8 contiguous to the existing corporate boundaries of the Town; and

**WHEREAS**, responsible planning and state law require adoption of a fiscal plan and a definite policy for the provision of services to the annexed areas; and

**WHEREAS**, Resolution #2012-5 of the Town Council of the Town of Spiceland, Indiana adopts a written fiscal plan, and definite policy for the provision of services of both a noncapital and capital nature to the Annexation Territory; and

**ORDINANCE  
TOWN OF SPICELAND  
Page Two**

**WHEREAS**, because the Annexation Territory does not include at least three persons per acre, it is not required that this Ordinance create a special fund pursuant to Ind. Code § 36-4-3-8(c).

**NOW, THEREFORE, BE IT ORDAINED** by the Town Council of the Town of Spiceland, Indiana, as follows:

1. The above recitals are incorporate herein by this reference as though fully set forth herein below.
2. In accordance with I.C. 36-4-3-4, the Annexation Territory is hereby annexed to the Town of Spiceland, Indiana, and thereby included within its corporate boundaries pursuant to the terms of this Ordinance.
3. Pursuant to I.C. 36-4-3-7, the effective date of the annexation is December 31, 2013.
4. The Annexation Area is assigned to Spiceland Council District No. 1.
5. All prior Ordinances or parts thereof which may be inconsistent with any provision of this Ordinance are hereby repealed. The paragraphs, sentences and words of this Ordinance are severable, and if any portion hereof is declared unconstitutional, invalid or unenforceable by a court of competent jurisdiction, such declaration shall not affect the remaining portions of this Ordinance.

**SEVERABILITY OF PROVISIONS:** If any provision of this Ordinance or the application thereof to any person or circumstances shall be determined to be invalid, the remainder of the Ordinance and the application of its provisions to other persons not similarly situated or to the other circumstances shall not be affected thereby.

**REPEAL OF PREVIOUS ORDINANCES:** Any and all prior ordinances or parts thereof which may be inconsistent with any provision of this Ordinance are hereby repealed.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SPICELAND, INDIANA** this Ordinance will be in full force and effect from and after its passage and signature by the Town Council, Town of Spiceland, Indiana, and proper publication as provided by law.

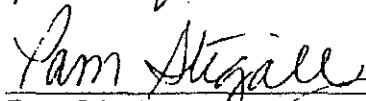
ORDINANCE  
TOWN OF SPICELAND  
Page Three

THIS ORDINANCE PASSED AND ADOPTED BY THE TOWN COUNCIL,  
TOWN OF SPICELAND, this 28<sup>th</sup> day of November, 2012.

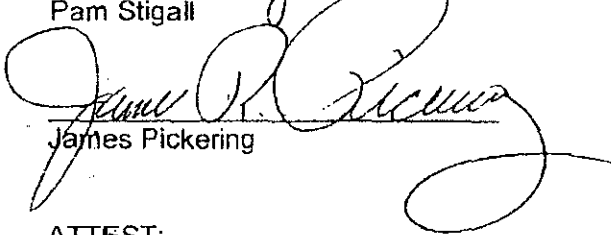
TOWN COUNCIL, TOWN OF SPICELAND:

  
Marita Roberson, President

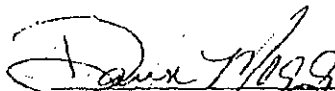
\_\_\_\_\_  
Michelle Clapp

  
Pam Stigall

\_\_\_\_\_  
Darrin Jacobs

  
James Pickering

ATTEST:

  
Dawn Mogg, Clerk-Treasurer  
Town of Spiceland



DISCLAIMER: This document is only to be used for advertisement in the newspaper.  
Description prepared: June 12, 2012

#### LEGAL DESCRIPTION FOR SPICELAND ANNEXATION

A part of the northwest quarter of Section 16, Township 16 North, Range 10 East and a part of the east half of the northeast quarter of Section 17, Township 16 North, Range 10 East in Spiceland Township, Henry County, Indiana, said part being more particularly described as follows:

Commencing at the southwest corner of said northwest quarter section; thence North 00 degrees 33 minutes 59 seconds West (Indiana State Plane Coordinate System Grid Bearing, East Zone), along the west line of said quarter section and being the east line of said northeast quarter, a distance of 502.61 feet to the northwesterly right of way line of Indiana State Highway 3 as per Indiana State Highway Commission Project Number "F" 176 (3) dated 1929 and being the POINT OF BEGINNING of this description; thence continuing North 00 degrees 33 minutes 59 seconds West, along said west line, a distance of 900 feet to the northeasterly corner of the Town of Spiceland per maps on file with the Clerk of said Town of Spiceland; thence South 89 degrees 26 minutes 01 seconds West, along the northerly line of said town, a distance of 352.00 feet to the westerly boundary of a six acre parcel as described in Deed Book 302, Page 71 in the Office of the Recorder of Henry County, Indiana; thence North 00 degrees 33 minutes 59 seconds West, along the westerly boundary of said 6 acre tract, a distance of 567.89 feet to a point that is 125 feet South 00 degrees 33 minutes 59 seconds East from the northwesterly corner of said 6 acre tract; thence North 89 degrees 26 minutes 01 seconds East, a distance of 352.00 feet to the west line of said Section 16; thence North 00 degrees 33 minutes 59 seconds West, along said west line, a distance of 691.25 feet to the northwest corner of said quarter section; thence South 89 degrees 51 minutes 03 seconds East, a distance of 2075.95 feet to the northwesterly right of way line of said Indiana State Highway 3, being a northeasterly corner of a 3.36 acre tract of land as described in Deed Record 272, Page 459 in the Office of the Recorder of Henry County, Indiana; (the next three calls are along the northwesterly right of way line of said highway); South 42 degrees 08 minutes 08 seconds West, a distance of 2264.83 feet to the point of curvature of a tangent curve to the right, having a central angle of 09 degrees 15 minutes 19 seconds and whose radius point bears North 47 degrees 51 minutes 52 seconds West a distance of 2807.78 feet; southwesterly, around the arc of said curve (long chord which measures, South 46 degrees 45 minutes 48 seconds West - 453.06 feet) a distance of 453.56 feet to the point of tangency of said curve, the radius point bears North 38 degrees 36 minutes 33 seconds West a distance of 2807.78 feet from said point of tangency; South 51 degrees 23 minutes 27 seconds West, a distance of 262.45 feet to the point of beginning. Containing 58.255 acres, more or less. Subject to all legal highways, rights of ways, easements, and restrictions of record.

Note: This description constructed using recorded deeds from the Henry County Recorder's Office and not from a field survey.

The perimeter of the above legal description is 7,920 feet.

1,252 feet is contiguous to the existing town boundary as determined by scaling from the existing Town of Spiceland boundary maps.

AFFP

Spiceland Annexation

*Trans?*  
*copy*

## Affidavit of Publication

STATE OF INDIANA }  
COUNTY OF HENRY } SS

Tina West, being duly sworn, says:

That she is Publisher of the Courier-Times, a daily newspaper of general circulation, printed and published in New Castle, Henry County, Indiana; that the publication, a copy of which is attached hereto, was published in the said newspaper on the following dates:

December 05, 2012

Publisher's Fee: \$ 79.80

That said newspaper was regularly issued and circulated on those dates.

SIGNED:

*Tina West*

Subscribed to and sworn to me this 5th day of December 2012.

*Kimberly Pelfrey*

Kimberly Pelfrey, Notary, Henry County

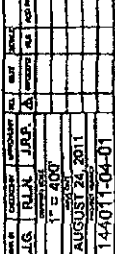
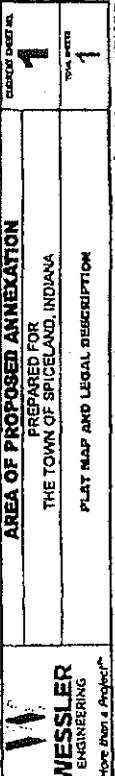
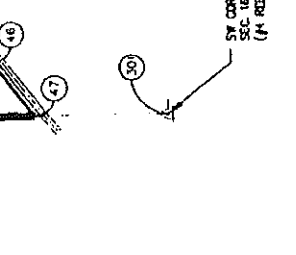
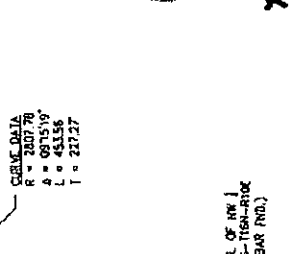
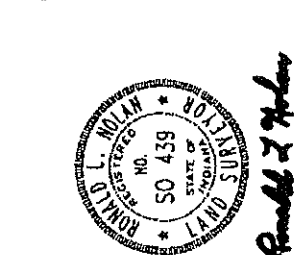
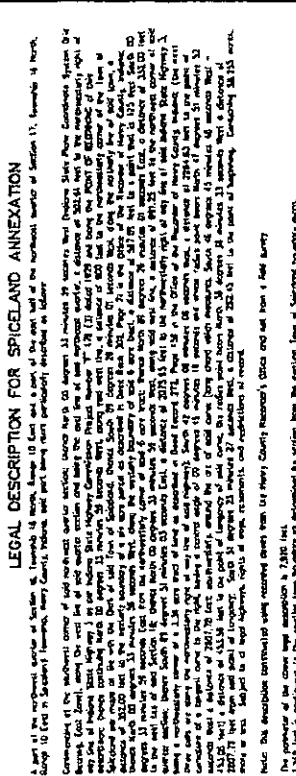
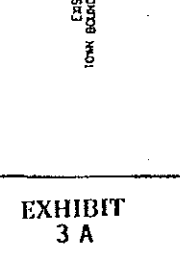
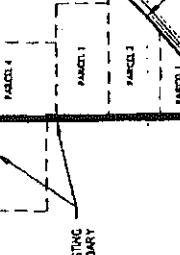
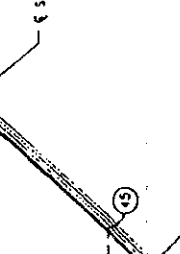
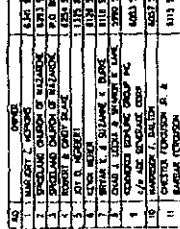
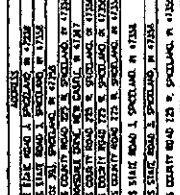
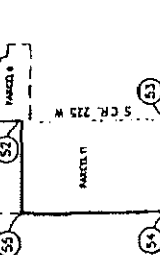
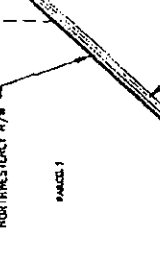
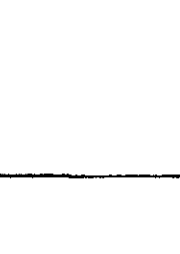
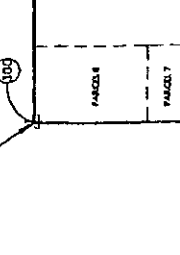
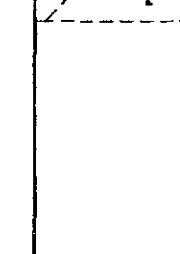
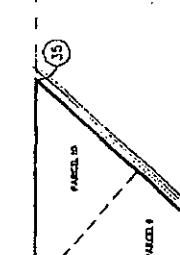
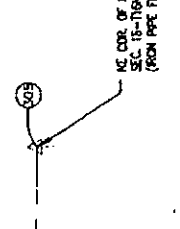
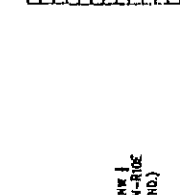
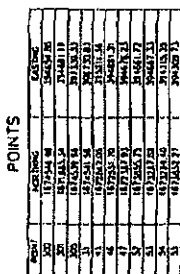
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TOWN OF SPICELAND/LG  
PO BOX 386  
Spiceland, IN 47385

ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SPICELAND 2012-4 AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF SPICELAND INDIANA, ANNEXING CERTAIN TERRITORY TO THE TOWN OF SPICELAND, INDIANA, PLACING THE SAME WITHIN THE CORPORATE BOUNDARIES THEREOF AND MAKING THE SAME A PART OF THE TOWN OF SPICELAND, INDIANA. WHEREAS, citizens living north east of the current corporate boundaries of the Town of Spiceland ("Town") have presented a request to this council that an area be annexed to the Town; WHEREAS, for more than approximately twelve (12) months, this Council has been investigating how it can address the annexation issues while not having an adverse effect on the existing citizens of the Town; and WHEREAS, this Council's investigation had determined that the preferred way to address the problems is by annexing the area. WHEREAS, the fiscal plan which has been adopted by resolution provides the method for annexation. WHEREAS, this Ordinance has been adopted following due notice and a public hearing. WHEREAS, a legal description of the territory sought to be annexed is attached hereto as Exhibit A, which also includes a map thereof (the "Annexation Territory"); and WHEREAS, the Annexation Territory consists of approximately 58.255 acres; and WHEREAS, the Annexation Territory is at least 1/8 contiguous to the existing corporate boundaries of the Town; and WHEREAS, responsible planning and state law require adoption of a fiscal plan and a definite policy for the provision of services to the annexed areas; and WHEREAS, Resolution #2012-5 of the Town Council of the Town of Spiceland, Indiana adopts a written fiscal plan, and definite policy for the provision of services of both a noncapital and capital nature to the Annexation Territory; and WHEREAS, because the Annexation Territory does not include at least three persons per acre, it is not required that this Ordinance create a special fund pursuant to Ind. Code § 36-4-3-8(c). NOW, THEREFORE, BE IT ORDAINED by the Town Council of the Town of Spiceland, Indiana, as follows: 1. The above recitals are incorporated herein by this reference as though fully set forth herein below. 2. In accordance with I.C. 36-4-3-4, the Annexation Territory is hereby annexed to the Town of Spiceland, Indiana, and thereby included within its corporate boundaries pursuant to the terms of this Ordinance. 3. Pursuant to I.C. 36-4-3-7, the effective date of the annexation is December 31, 2013. 4. The Annexation Area is assigned to Spiceland Council District No. 1. 5. All prior Ordinances or parts thereof which may be inconsistent with any provision of this Ordinance are hereby repealed. The paragraphs, sentences and words of this Ordinance are severable, and if any portion hereof is declared unconstitutional, invalid or unenforceable by a court of competent jurisdiction, such declaration shall not affect the remaining portions of this Ordinance. SEVERABILITY OF PROVISIONS: If any provision of this Ordinance or the application thereof to any person or circumstances shall be determined to be invalid, the remainder of the Ordinance and the application of its provisions to other persons not similarly situated or to the other circumstances shall not be affected thereby. REPEAL OF PREVIOUS ORDINANCES: Any and all prior ordinances or parts thereof which may be inconsistent with any provision of this Ordinance are hereby repealed. NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF SPICELAND, INDIANA this Ordinance will be in full force and effect from and after its passage and signature by the Town Council, Town of Spiceland, Indiana, and proper publication as provided by law. THIS ORDINANCE PASSED AND ADOPTED BY THE TOWN COUNCIL, TOWN OF SPICELAND, this 28th day of November, 2012. TOWN COUNCIL, TOWN OF SPICELAND: Marita Roberson, President. Pam Stigall, James Pickering, Michelle Clapp, Darin Jacobs. ATTEST: Dawn Mogg, Clerk-Treasurer Town of Spiceland LEGAL DESCRIPTION FOR SPICELAND ANNEXATION A part of the northwest quarter of Section 16, Township 16 North, Range 10 East and a part of the east half of the northeast quarter of Section 17, Township 16 North, Range 10 East in Spiceland Township, Henry County, Indiana, said part being more particularly described as follows: Commencing at the southwest corner of said northwest quarter section; thence North 00 degrees 33 minutes 59 seconds West (Indiana State Plane Coordinate System Grid Bearing, East Zone), along the west line of said quarter section and being the east line of said northeast quarter, a distance of 502.61 feet to the northwesterly right of way line of Indiana State Highway 3 as per Indiana State Highway Commission Project Number "F" 178 (3) dated 1929 and being the POINT OF BEGINNING of this description; thence continuing North 00 degrees 33

EXHIBIT

minutes 59 seconds West, along said west line, a distance of 900 feet to the northeasterly corner of the Town of Spiceland per maps on file with the Clerk of said Town of Spiceland; thence South 89 degrees 26 minutes 01 seconds West, along the northerly line of said town, a distance of 352.00 feet to the westerly boundary of a six acre parcel as described in Deed Book 302, Page 71 in the Office of the Recorder of Henry County, Indiana; thence North 00 degrees 33 minutes 59 seconds West, along the westerly boundary of said 6 acre tract, a distance of 587.89 feet to a point that is 125 feet South 00 degrees 33 minutes 59 seconds East from the northwesterly corner of said 6 acre tract; thence North 89 degrees 26 minutes 01 seconds East, a distance of 352.00 feet to the west line of said Section 18; thence North 00 degrees 33 minutes 59 seconds West, along said west line, a distance of 691.25 feet to the northwest corner of said quarter section; thence South 89 degrees 51 minutes 03 seconds East, a distance of 2075.95 feet to the northwesterly right of way line of said Indiana State Highway 3, being a northeasterly corner of a 3.38 acre tract of land as described in Deed Record 272, Page 459 in the Office of the Recorder of Henry County, Indiana; (the next three calls are along the northwesterly right of way line of said highway); South 42 degrees 08 minutes 08 seconds West, a distance of 2284.83 feet to the point of curvature of a tangent curve to the right, having a central angle of 09 degrees 15 minutes 19 seconds and whose radius point bears North 47 degrees 51 minutes 52 seconds West a distance of 2807.78 feet; southwesterly, around the arc of said curve (long chord which measures, South 48 degrees 45 minutes 48 seconds West - 453.08 feet) a distance of 453.58 feet to the point of tangency of said curve, the radius point bears North 38 degrees 36 minutes 33 seconds West a distance of 2807.78 feet from said point of tangency; South 51 degrees 23 minutes 27 seconds West, a distance of 262.45 feet to the point of beginning. Containing 58.255 acres, more or less. Subject to all legal highways, rights of ways, easements, and restrictions of record. Note: This description constructed using recorded deeds from the Henry County Recorder's Office and not from a field survey. The perimeter of the above legal description is 7,920 feet. 1,252 feet is contiguous to the existing town boundary as determined by scaling from the existing Town of Spiceland boundary maps. Published December 5, 2012





DISCLAIMER: This document is only to be used for advertisement in the newspaper.  
Description prepared: June 12, 2012

#### LEGAL DESCRIPTION FOR SPICELAND ANNEXATION

A part of the northwest quarter of Section 16, Township 16 North, Range 10 East and a part of the east half of the northeast quarter of Section 17, Township 16 North, Range 10 East in Spiceland Township, Henry County, Indiana, said part being more particularly described as follows:

Commencing at the southwest corner of said northwest quarter section; thence North 00 degrees 33 minutes 59 seconds West (Indiana State Plane Coordinate System Grid Bearing, East Zone), along the west line of said quarter section and being the east line of said northeast quarter, a distance of 502.61 feet to the northwesterly right of way line of Indiana State Highway 3 as per Indiana State Highway Commission Project Number "F" 176 (3) dated 1929 and being the POINT OF BEGINNING of this description; thence continuing North 00 degrees 33 minutes 59 seconds West, along said west line, a distance of 900 feet to the northeasterly corner of the Town of Spiceland per maps on file with the Clerk of said Town of Spiceland; thence South 89 degrees 26 minutes 01 seconds West, along the northerly line of said town, a distance of 352.00 feet to the westerly boundary of a six acre parcel as described in Deed Book 302, Page 71 in the Office of the Recorder of Henry County, Indiana; thence North 00 degrees 33 minutes 59 seconds West, along the westerly boundary of said 6 acre tract, a distance of 567.89 feet to a point that is 125 feet South 00 degrees 33 minutes 59 seconds East from the northwesterly corner of said 6 acre tract; thence North 89 degrees 26 minutes 01 seconds East, a distance of 352.00 feet to the west line of said Section 16; thence North 00 degrees 33 minutes 59 seconds West, along said west line, a distance of 691.25 feet to the northwest corner of said quarter section; thence South 89 degrees 51 minutes 03 seconds East, a distance of 2075.95 feet to the northwesterly right of way line of said Indiana State Highway 3, being a northeasterly corner of a 3.36 acre tract of land as described in Deed Record 272, Page 459 in the Office of the Recorder of Henry County, Indiana; (the next three calls are along the northwesterly right of way line of said highway); South 42 degrees 08 minutes 08 seconds West, a distance of 2264.83 feet to the point of curvature of a tangent curve to the right, having a central angle of 09 degrees 15 minutes 19 seconds and whose radius point bears North 47 degrees 51 minutes 52 seconds West a distance of 2807.78 feet; southwesterly, around the arc of said curve (long chord which measures, South 46 degrees 45 minutes 48 seconds West - 453.06 feet) a distance of 453.56 feet to the point of tangency of said curve, the radius point bears North 38 degrees 36 minutes 33 seconds West a distance of 2807.78 feet from said point of tangency; South 51 degrees 23 minutes 27 seconds West, a distance of 262.45 feet to the point of beginning. Containing 58.255 acres, more or less. Subject to all legal highways, rights of ways, easements, and restrictions of record.

Note: This description constructed using recorded deeds from the Henry County Recorder's Office and not from a field survey.

The perimeter of the above legal description is 7,920 feet.

1,252 feet is contiguous to the existing town boundary as determined by scaling from the existing Town of Spiceland boundary maps.

STATE OF INDIANA

INDIANA UTILITY REGULATORY COMMISSION

IN THE MATTER OF THE PETITION OF )  
THE TOWN OF SPICELAND, INDIANA )  
BY ITS MUNICIPALLY OWNED )  
ELECTRIC UTILITY FOR A CHANGE IN ) CAUSE NO. \_\_\_\_\_  
ITS ASSIGNED SERVICE TO )  
INCORPORATE AN ANNEXED AREA )  
PURSUANT TO IC 8-1-2.3-6(1) AND FOR )  
APPROVAL OF A CONSENT TO ALLOW )  
ANOTHER ELECTRIC UTILITY TO )  
SERVE CUSTOMERS WITHIN ITS )  
ASSIGNED SERVICE AREA )  
BOUNDARIES ON A TEMPORARY BASIS )  
PURSUANT TO IC 8-1-2.3-4(A). )  
RESPONDENT: DUKE ENERGY )  
INDIANA, INC. )

**BY THE COMMISSION:**

On February 21, 2014, The Town of Spiceland, Indiana by its municipally owned electric utility, Spiceland Municipal Electric Utility ("Town" or "Petitioner") filed its Verified Petition ("Petition") with the Indiana Utility Regulatory Commission ("Commission") seeking, as provided in IC § 8-1-2.3-6(1), to change its assigned service area boundaries to include an annexed area located in Henry County, Indiana. The annexed area consists of approximately 58.255 acres, all of which is located within the service area assigned to Duke Energy Indiana, Inc. ("Respondent") The area annexed by the Town of Spiceland, Indiana is contiguous to the corporate boundary of the Town of Spiceland. The Petition indicated that there are approximately one (1) residential customer, one (1) commercial customer, and one (1) undeveloped tracts of land currently served by Respondent located within the annexed area, and included proof of publication of the annexation ordinances. Petitioner also seeks the Commission's approval of the Petitioner's written consent to Respondent's provision of electric service to customers located in the Petitioner's service area pursuant to IC § 8-1-2.3-4(a).

Based on the Petition, the certified copies of the annexation ordinances, and applicable law, the Commission makes the following findings:

1. Commission Jurisdiction. The Town owns and operates an electric utility furnishing retail electric service to the public. Pursuant to IC § 8-1-2-1 (h), Petitioner qualifies as a "municipally owned utility," and both Petitioner and Incumbent qualify as "electricity suppliers" pursuant to IC § 8-1-2.3-2(b). The Commission finds that it has jurisdiction over the parties to this Cause. Pursuant to IC § 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 sixty (60) days after the annexation becomes effective. The Petition states that Ordinances became effective on December 31, 2011. The Petition in this Cause was filed not later than sixty (60) days after the annexation became effective, and therefore, the Commission has jurisdiction over the subject matter of this Cause.

2. Annexation. The Common Council of the Town of Spiceland, Indiana adopted and approved Ordinance No. 2012-04 annexing into the Town tracts of land contiguous to a northern corporate boundary line of the Town. As indicated in the Petition, the Ordinances were published in the Courier-Times on December 5, 2012, and pursuant to IC § 36-4-3-7 became effective on December 31, 2013, *i.e.*, ninety (90) days after publication and upon the completion of the filings required by IC § 36-4-3-22(a). Pursuant to IC § 8-1-2.3-6(1)(A), certified copies of the annexation ordinances serve as conclusive evidence that the area has been lawfully annexed and is a part of the municipality. Petitioner included certified copies of the Ordinances with its Petition and, accordingly, the Commission finds that the area has been lawfully annexed and is a part of the Town.

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 Additional Assigned Service Area.

IC § 8-1-2.3-6(1)(B) provides:

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.

Pursuant to IC § 8-1-2.3-6(1)(B), we find that Petitioner shall determine and pay Incumbent the reproduction cost new depreciated value of all electric utility property devoted to retail electric service within the portions of the annexed areas that fall within Incumbent's assigned service area. Petitioner and Respondent shall cooperate to calculate the amount of any severance damages and to furnish each other with all information and records reasonably necessary for the determination and verification of amounts owed. If Petitioner and Respondent cannot agree on the amount to be paid to Respondent, either party should petition the Commission for an order determining the amount of payment.

B. Payment Of Severance Damages.

In addition to the payment required above in paragraph 3A, IC §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 ( $2\frac{1}{2}$ ) 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.

Pursuant to IC § 8-1 -2.3-6(1 )(B)(i), we find that Petitioner shall pay Incumbent an amount equal to the value of Incumbent'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 ( $2\frac{1}{2}$ ) times the gross revenues from electricity sales in the annexed area during the twelve (12) month period immediately preceding the effective date of the annexation ordinance, *i.e.*, December 31, 2013, whichever is greater. Pursuant to IC § 8-1-2.3-6(1)(B)(ii), we find that if new 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, *i.e.*, December 31, 2013, Petitioner shall pay Incumbent severance damages of 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.

4. Approval of Requested Change to Assigned Service Area. IC §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 Petitioner's assigned service area shall be changed to include the entirety of the annexed area as described in the certified copies of the annexation ordinances filed herein.

5. Approval of Written Consent. Petitioner also seeks relief pursuant to IC § 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.

Upon Commission approval of the service boundary changes in this Cause, Petitioner would have the sole right to furnish retail electric service to the annexed area. The Verified Petition indicates that from the issuance of the requested Order, Petitioner has determined that it may take approximately three (3) years to perform the work and other necessary steps to effectuate the complete transfer of the customers located in the annexed area to the Town's utilities. Until the transfer is complete, Respondent will continue to serve those customers and Petitioner has consented to Respondent's continued service to those customers pending extension of Petitioner's facilities.

**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 Town of Spiceland's municipally owned electric utility to include the annexed territory described in the certified copies of the annexation ordinances filed herein is approved, and said municipally owned electric utility shall have the right to serve and immediate possession of said annexed area.

2. The assigned service area of the Petitioner is changed to include the entirety of the annexed area within the assigned service area of Petitioner.

3. Within thirty (30) days of the effective date of this Order, Petitioner shall coordinate with Commission Technical Staff to update the service territory mapping system to reflect the modified service area boundaries approved by this Order.

4. Petitioner shall pay Respondent the amounts as described above in Finding Paragraph No. 3.

5. Not later than twenty (20) days after making a payment under IC § 8-1-2.3-6(1)(B), Petitioner shall certify to the Electricity Division of the Commission and to Incumbent that it has paid an amount

required under IC § 8-1-2.3-6(1)(B).

6. Petitioner's consent in writing to Respondent's provision of retail electric service to customers located in Petitioner's assigned service area boundaries as a result of the Petition is hereby approved. Within thirty (30) days of the date that service in the area is completely transferred from Respondent to Petitioner following Petitioner's extension of its facilities, Petitioner shall file notice with the Commission that it is providing electric service to the area.

7. In accordance with IC § 8-1-2-70, Petitioner shall pay the following charge within twenty (20) days from the effective 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 Charges:	\$ _____
OUCG Charges:	\$ _____
 TOTAL	 \$ _____

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

**CONCUR:**

**APPROVED:**

**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**