

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF AVISTA’S) CASE NO. AVU-E-24-01
APPLICATION FOR APPROVAL OF AN)
AGREEMENT ALLOCATING TERRITORY)
WITH KOOTENAI ELECTRIC) ORDER NO. 36168
COOPERATIVE)
)

On January 8, 2024, Avista Corporation dba Avista Utilities (“Company”) applied for approval of a Service Area Allocation Agreement (“Agreement”) between the Company and Kootenai Electric Cooperative, Inc. (“KEC”).

On February 15, 2024, the Commission issued a Notice of Application and Notice of Modified Procedure, setting public comment and company reply deadlines. Order No. 36091. Staff filed the only comments.

Having reviewed the record, the Commission issues this Order approving the Company’s application as follows.

THE APPLICATION

The Agreement, which the Company and KEC entered pursuant to the Electric Supplier Stabilization Act (“ESSA”), addressed the allocation of service territory within the Prairie Crossing Regional Shopping Center in Post Falls, Idaho (“Development”). The Agreement allocated four lots within the Development to the Company and ten lots to KEC. Specifically, KEC will serve Block Two Lots 1-10 and the Company will serve Block Two Lots 11-14 at the Prairie Crossing Regional Shopping Center.

The Company asserted that approval of the Agreement will avoid unnecessary future disputes, needless duplication of facilities, and ensure provision of the best possible service to the parties’ respective customers. The Company represented that the Commission approved a similar agreement between the Company and KEC allocating territory in a commercial development in Case No. AVU-E-05-02.

STAFF COMMENTS

After reviewing the Company’s Application, the Agreement, and the Company’s responses to Production Requests, Staff recommended approval of the Agreement. Staff reviewed the Application and Agreement with a focus on ensuring conformance with the ESSA and to

determine the locations of both the Company's and KEC's nearest service lines and territories. Staff believed this allocation is fair and reasonable, conforms with the ESSA, avoids duplication of services, stabilizes service territories and customers, and promotes harmony by avoiding interconnection disputes.

COMMISSION FINDINGS AND DECISION

The ESSA prohibits an electric supplier (*e.g.*, a utility, municipality, or co-op) from serving another electric supplier's existing or former customers. *Idaho Code* § 61-332B. An "electric supplier" is any public utility, cooperative, or municipality supplying or intending to supply electric service to a consumer. *Idaho Code* § 61 -332A(4). The purposes of the ESSA are to: (1) promote harmony between electric suppliers; (2) prohibit the "pirating" of consumers; (3) discourage duplication of electric facilities; (4) actively supervise the conduct of electric suppliers; and (5) stabilize service territories and consumers. *Idaho Code* § 61-332(2).

As an exception to the general rule prohibiting inter-utility service, the ESSA allows electric suppliers to contract for the purpose of "allocating territories, consumers, and future consumers . . . and designating which territories and consumers are to be served by which contracting electric supplier." *Idaho Code* § 61-333(1). Such contracts must be submitted to the Commission for approval. *Id.* Specifically, the Commission must approve the contract if, after notice and opportunity for hearing, the Commission finds that the proposed allocation conforms with the purposes of the ESSA. *Idaho Code* §§ 61-333(1) and 61-334B(1).

The Commission finds that the Company and KEC are "electric suppliers" as defined in the ESSA. Having reviewed the Agreement, the comments, and all submitted materials, the Commission further finds that the Agreement conforms with the purposes of the ESSA because it will avoid the duplication of facilities and promote harmony between the Parties.

ORDER

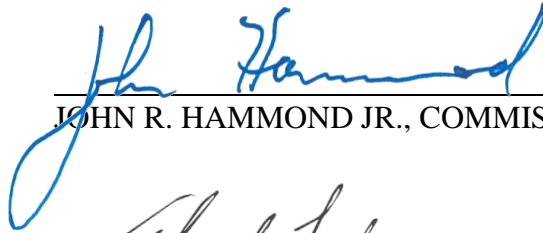
IT IS HEREBY ORDERED that the Agreement is approved as filed.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order about any matter decided in this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 30th day of April 2024.



ERIC ANDERSON, PRESIDENT



JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Monica Barrios Sanchez
Commission Secretary

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