

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF UNITED ELECTRIC) CASE NO. C15-E-23-01
CO-OP INC.’S FORMAL COMPLAINT FOR)
VIOLATION OF CONTRACT ENTERED) ORDER NO. 36137
INTO PURSUANT TO THE IDAHO)
ELECTRIC STABILIZATION ACT)
)

On February 22, 2023, United Electric Co-op, Inc. (“United”) filed a formal complaint (“Complaint”) with the Idaho Public Utilities Commission (“Commission”). United alleged that the City of Burley, Idaho (“Burley” or “City”), violated a series of service agreements (“Agreements”) related to the allocation of the respective electric service territory and customers by and between the City and United, which were entered into pursuant to the Idaho Electric Supplier Stabilization Act (“ESSA”), and that have been approved by order of the Commission.

On January 11, 2024, United and Burley filed a joint application pursuant to the ESSA to approve a Customer Allocation Agreement (“Application”). United and Burley request that the Commission issue an order approving the Customer Allocation Agreement without modification or condition. United and Burley represent that once an order is issued, final, and non-appealable, United will submit a notice of withdrawal of its Complaint.

BACKGROUND

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. Section 61-332(2) provides that 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. The ESSA enables electric utilities to allocate territories and customers if certain conditions are satisfied. 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.* The Commission will approve contracts reviewed under the ESSA if, after notice and opportunity for hearing, the Commission

finds that the agreement conforms with the purposes of the ESSA. *See Idaho Code* §§ 61-333(1) and 61-334B(1).

THE APPLICATION

United and Burley represent that the Customer Allocation Agreement fully resolves the dispute between the parties relative to the provision of electric service to the Suntado milk processing plant. Application at 2. United and Burley also represent that the Customer Allocation Agreement furthers the purposes and intent of the ESSA by promoting continued harmony between electric suppliers, preventing the pirating of customers, and discouraging the duplication of electric facilities. *Id.* United and Burley conclude that the Customer Allocation Agreement is in the public interest. *Id.*

STAFF COMMENTS

Staff reviewed the Application for the customer allocation associated with this case, and supported the proposed Customer Allocation Agreement. According to the Customer Allocation Agreement, United will allow the City to provide electric service to Suntado, which is designated on a map included as Exhibit A of the Application. Suntado is located within the service territory of United, but Suntado requested electrical service from the City. Staff noted that the Customer Allocation Agreement includes several terms and conditions that Staff believed are consistent with the purpose of the ESSA.

The Customer Allocation Agreement provides: (1) The City will bear full responsibility for serving Suntado during the term of the Customer Allocation Agreement; (2) The City is prohibited from extending facilities into United's service territory without permission; (3) The City will pay United a Service Allocation Fee of three percent of Suntado's gross billings; and (4) the existing service territory allocation agreements between the City and United are recognized.

Based on its review, Staff believed that the Customer Allocation Agreement furthers the ESSA's purposes by avoiding duplication of facilities and promoting harmony between suppliers, and Staff believed the Customer Allocation Agreement is in conformance with the provisions and intent of the ESSA.

COMMISSION FINDINGS AND DECISION

The ESSA generally prohibits an "electric supplier" 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's 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 barring electric suppliers from serving each other's customers, 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). However, the contracts are subject to Commission approval. *Id.* Specifically, the Commission must approve the contract if, after notice and opportunity for hearing, the Commission finds that the allocation conforms with the purposes of the ESSA. *Idaho Code* §§ 61-333(1) and 61-334B(1).

The Commission finds that United and Burley are "electric suppliers" as defined in the ESSA. Having reviewed the Customer Allocation Agreement, the record, and all submitted materials, the Commission finds that the Customer Allocation Agreement conforms with the purposes of the ESSA because it will avoid the duplication of facilities and will promote harmony between the parties.

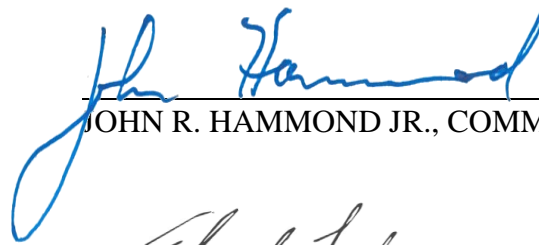
ORDER

IT IS HEREBY ORDERED that the Customer Allocation Agreement is approved.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date upon this Order regarding 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. *Idaho Code* §§ 61-626.

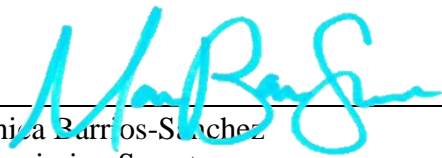
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho, this 16th day of April 2024.


ERIC ANDERSON, PRESIDENT


JOHN R. HAMMOND JR., COMMISSIONER


EDWARD LODGE, COMMISSIONER

ATTEST:


Monica Barrios-Sanchez
Commission Secretary

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