

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE JOINT )**  
**APPLICATION OF IDAHO POWER ) CASE NO. IPC-E-17-10**  
**COMPANY AND THE CITY OF RUPERT TO )**  
**APPROVE A TERRITORY ALLOCATION ) ORDER NO. 33844**  
**AGREEMENT )**

---

On June 29, 2017, Idaho Power Company (“Idaho Power”) and the City of Rupert (“Rupert”) (collectively the “Parties”) applied to the Commission under the Electric Supplier Stabilization Act (ESSA), *Idaho Code* §§ 61-332 *et seq.*, for an Order approving the Parties' Territory Allocation Agreement (“Agreement”). The ESSA enables electric utilities to allocate territories and customers if certain conditions are satisfied. Under the Agreement, the Parties propose that Rupert be allowed to serve an Idaho Power customer who operates grain bins on 1.98 acres of property in Idaho Power’s service territory.

On July 12, 2017, the Commission issued a Notice of Application and Notice of Modified Procedure setting an August 2, 2017, comment deadline. Staff was the only person or party to file comments.

**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. As an exception to this general rule, 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.*

Agreements reviewed under the ESSA should be approved 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). Section 61-332(2) states 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 APPLICATION

The Parties have agreed to allow Rupert to provide three phase 480 volt service to grain bins on 1.98 acres in Idaho Power's existing service territory. Application at 1-2. Although this parcel is in Idaho Power's service territory, the parcel is closer to Rupert's existing power lines. Consequently, if Rupert is allowed to serve the parcel, Idaho Power's customer will not need to invest as much money to obtain three phase 480 volt service. *Id.* at 3. Idaho Power has agreed to release its right(s) to serve the grain bin on the customer's 1.98 acre parcel, and Rupert has agreed to serve the grain bins on that parcel. *Id.*

The Parties maintain that approval of the Agreement and allowing Rupert to install facilities and provide electric service to Idaho Power's customer offers benefits including lowering customer line extension charges, avoiding facility duplication between electric suppliers, and avoiding future disputes between the Parties. *Id.*

## THE COMMENTS

Commission Staff provided the only comments on this matter and provided the Commission with a thorough review of the Company's request. Staff commented that the Agreement furthers the ESSA's purpose by avoiding duplication of facilities and promoting harmony between electric suppliers. Staff recommended the Commission find that the Agreement conforms to the ESSA's purposes and grant the Application and approve the Agreement.

## DISCUSSION AND FINDINGS

The Idaho Public Utilities Commission has jurisdiction in this matter to "review and approve or reject contracts between ... municipalities and public utilities...." *Idaho Code* § 61-333(1). The Commission shall "approve such contracts only upon finding that the allocation of territories or consumers is in conformance with the provisions and purposes of [the ESSA]." *Id.* As set out in *Idaho Code* § 61-332(2), 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.

Section 61-333 allows the Parties to exchange customers and territory subject to Commission supervision of such transactions. The Commission has reviewed the record,

including the proposed Agreement. We find that the proposed Agreement meets the requirements of the ESSA. Accordingly, we approve the Agreement.

**ORDER**

IT IS HEREBY ORDERED that the Application to approve the Parties' proposed Territory Allocation Agreement is granted.

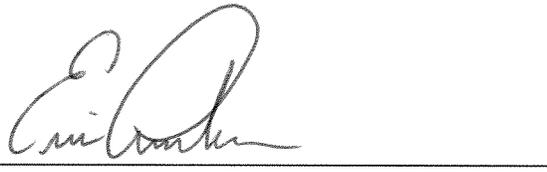
IT IS FURTHER ORDERED that the exchange shall be effective upon execution of the Agreement by both Parties.

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. 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 18<sup>th</sup> day of August 2017.

  
PAUL KJELLANDER, PRESIDENT

  
KRISTINE RAPER, COMMISSIONER

  
ERIC ANDERSON, COMMISSIONER

ATTEST:

  
Diane M. Hanian  
Commission Secretary

O:IPC-E-17-10\_sc2