

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION TO</b>	)	
<b>APPROVE A CUSTOMER ALLOCATION</b>	)	<b>CASE NO. AVU-E-02-3</b>
<b>AGREEMENT BETWEEN AVISTA</b>	)	
<b>CORPORATION AND THE CITY OF</b>	)	<b>NOTICE OF APPLICATION</b>
<b>PLUMMER.</b>	)	
	)	<b>NOTICE OF MODIFIED</b>
	)	<b>PROCEDURE</b>
	)	
	)	<b>ORDER NO. 28987</b>

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On March 11, 2002, Avista Corporation (Avista) filed an Application for approval of a Customer Allocation Agreement between Avista and the City of Plummer (City). The Application notes that this filing is made pursuant to the Idaho Electric Supplier Stabilization Act (ESSA), *Idaho Code* § 61-332 *et seq.* In this Order, the Commission finds that this case should be processed under Modified Procedure and establishes a comment deadline.

**BACKGROUND**

In December 2000 and February 2001, the Idaho Legislature amended portions of the ESSA. In particular, *Idaho Code* § 61-333 was amended to provide that all service agreements which allocate territory or customers between electric suppliers (such as Avista and the City) be filed with the Commission. *Idaho Code* § 61-333(1) now provides in pertinent part that

the commission shall after notice and opportunity for hearing, review and approve or reject [such] contracts...between cooperatives and public utilities...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 this act.

*Idaho Code* § 61-333(1) (2001). As set out more fully in *Idaho Code* § 61-332, the purposes of the ESSA are to: (1) promote harmony among and between electric suppliers; (2) prohibit the “pirating” of consumers served by another supplier; (3) discourage duplication of electric facilities; (4) stabilize the territory and consumers served by the suppliers; (5) actively supervise certain conduct of the suppliers.

## **NOTICE OF APPLICATION**

YOU ARE HEREBY NOTIFIED that a document entitled “Assignment, Assumption and Release of Customer” (Customer Allocation Agreement or Agreement) was executed on February 27, 2002 and subsequently submitted for the Commission’s review.

YOU ARE FURTHER NOTIFIED that according to a Benewah County District Court document entitled “Stipulated Findings of Fact, Conclusions of Law, and Order,” the City of Plummer has provided electrical service to Seeds, Inc. (Seeds) at its seed cleaning and processing facility located outside the City of Plummer (City) in the unincorporated area known as Tilma, Idaho. Case No. CV98-00425. The voltage of the electric current delivered to Seeds fluctuated considerably due to the length and condition of the electric supply line from the City of Plummer. According to the Court’s order, this voltage situation has caused Seeds to incur significant expense and hardship. While it found that Seeds was not entitled to damages or refund of past electric charges, the District Court held that Seeds could arrange for another electric supplier to provide service to its Tilma facility. The Court ordered the City of Plummer to allocate Seeds as a customer to the electric supplier of Seeds’ choice and continue supplying electricity until another supplier was willing and able to supply power to Seeds.

YOU ARE FURTHER NOTIFIED that the Agreement stated that Avista was willing to provide electric service to the facility. *Id.* Thus, the City agreed to assign its right to Avista to provide electric service to Seeds. *Id.* Avista agreed to assume the obligation to provide electric service to Seeds under the rates, rules and regulations authorized by the Idaho Public Utilities Commission. *Id.* The City also agreed to release Seeds as a customer on the City’s electric system and disconnect Seeds from the City’s system when requested by Avista to do so. *Id.* Avista and the City also settled to several other provisions for amendment, assignment, indemnification and severability of the Agreement. *Id.* at 1-2.

## **NOTICE OF MODIFIED PROCEDURE**

YOU ARE FURTHER NOTIFIED that *Idaho Code* § 61-333(1) requires the Commission to review Customer Allocation Agreements between public utilities and electric cooperatives. Pursuant to this statute, the Commission must determine whether the allocation of consumers is in conformance with the provisions and purposes of the ESSA.

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission's Rules of Procedure, IDAPA 31.01.01.201 through .204.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Application may file a written comment in support or opposition with the Commission **on or before Friday, April 19, 2002**. The comment must contain a statement of reasons supporting the comment. Persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning this application shall be mailed to the Commission and the Applicant at the addresses reflected below:

COMMISSION SECRETARY  
IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074

Street Address for Express Mail:  
472 W WASHINGTON ST  
BOISE, ID 83702-5983

KELLY NORWOOD  
VICE PRESIDENT ENERGY RESOURCES  
AVISTA CORPORATION  
1411 E MISSION AVENUE  
PO BOX 3727  
SPOKANE, WA 99220-3727

All comments should contain the case caption and case number shown on the first page of this document.

YOU ARE FURTHER NOTIFIED that the deadline for Avista Utilities to file written reply comments with respect to its Application in this case is **Friday, April 26, 2002**.

YOU ARE FURTHER NOTIFIED that if no written comments are received within the time limit set, the Commission will consider this matter on its merits and enter its Order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

YOU ARE FURTHER NOTIFIED that the Application together with supporting workpapers, testimonies and exhibits, have been filed with the Commission and are available for public inspection during regular business hours at the Commission offices. The Application and testimonies (excluding exhibits) are also available on the Commission's Website at [www.puc.state.id.us](http://www.puc.state.id.us) under the "File Room" icon.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and that the Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and specifically *Idaho Code* §§ 61-332 and 61-333(1).

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

**ORDER**

IT IS HEREBY ORDERED that this matter be processed under our rules of Modified Procedure. IPAPA 31.01.01.201-204.

IT IS FURTHER ORDERED that the Commission does hereby solicit written comment on this Application from the public, Applicants and Commission Staff in accordance with the foregoing schedule.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 28th day of March 2002

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PAUL KJELLANDER, PRESIDENT

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MARSHA H. SMITH, COMMISSIONER

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DENNIS S. HANSEN, COMMISSIONER

ATTEST:

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Jean D. Jewell  
Commission Secretary

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