

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF**

FROM: DON HOWELL

DATE: DECEMBER 14, 2004

**RE: AVISTA'S APPLICATION FOR APPROVAL OF A CUSTOMER
EXCHANGE AGREEMENT WITH NORTHERN LIGHTS, INC., CASE
NO. AVU-E-04-6**

On November 3, 2004, Avista Corporation filed an Application seeking the Commission's approval of an Agreement between Avista and Northern Lights to exchange an existing customer. The Agreement between the parties is being submitted for the Commission's approval pursuant to the provisions of the Electric Supplier Stabilization Act (ESSA) and specifically *Idaho Code* §§ 61-333(1) and 61-334B. On November 22, 2004, the Commission issued a Notice of Modified Procedure soliciting comments regarding the Agreement. Only the Commission Staff submitted comments and it recommended approval of the Agreement.

THE APPLICATION

In their "Agreement to Release Customer" dated September 22, 2004, Avista and Northern Lights propose to exchange one customer. More specifically, Northern Lights will allow Avista to serve Jerry VanOoyen located at 43 Gun Club Road in Sagle, Idaho. Mr. VanOoyen is currently a Northern Lights customer. His property is encompassed by a new development known as Summer Haven. In accordance with the ESSA, Avista will provide electric service to the new development. Consequently, the parties have agreed that it would be more efficient for Avista to serve Mr. VanOoyen in the future.

Northern Lights and Mr. VanOoyen have executed a "Termination of Service Agreement" dated September 9, 2004. This latter agreement calls for Northern Lights to remove its facilities used to serve Mr. VanOoyen so that Avista may serve him.

STAFF COMMENTS

Staff recommended that the Commission approve the parties' Agreement. Staff noted that the exchange of the customer requires the parties to seek an "exception" to the anti-pirating provisions of *Idaho Code* § 61-332B. Staff supports the exception request and notes that the exchange of the single customer avoids duplication of facilities and promotes harmony between the two adjacent suppliers. Consequently, Staff recommended that the Commission grant an exception to the anti-pirating provision of *Idaho Code* § 61-332B and find that the exchange of customer is in compliance of the goals of the ESSA codified at *Idaho Code* § 61-332(2).

COMMISSION DECISION

1. Does the Commission find it reasonable to approve the Application and the Agreement to exchange the single customer?
2. Does the Commission find that discouraging duplication and promoting harmony among the two suppliers warrants an exception to the anti-pirating provision of *Idaho Code* § 61-332B?



Don Howell

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