

AVU-E-05-02

Avista Corp.

1411 East Mission PO Box 3727
Spokane, Washington 99220-3727
Telephone 509-489-0500
Toll Free 800-727-9170

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Corp.

IDAHO PUBLIC
UTILITIES COMMISSION

January 24, 2005

Jean D. Jewell, Secretary
Idaho Public Utilities Commission
Statehouse Mail
W. 472 Washington Street
Boise, Idaho 83720

Dear Ms. Jewell:

Avista Utilities submits for approval by the Commission the enclosed **"Application of Avista Corporation to Approve Agreement Allocating Territory with Kootenai Electric Cooperative."** This submittal is pursuant to the Idaho Electric Supplier Stabilization Act (I.C. § 61-332 *et. seq.*).

Please direct any questions on this matter to Susan Baldwin at (509) 495-8605 or myself at (509) 495-4975.

Sincerely

Linda Gervais,
Regulatory Analyst,
Avista Corp.
linda.gervais@avistacorp.com

c: Marc Shaffner, Avista
Susan Baldwin, Avista

enclosure

1 DAVID J. MEYER
2 VICE PRESIDENT AND CHIEF COUNSEL of
3 REGULATORY AND GOVERNMENTAL AFFAIRS
4 AVISTA CORPORATION
5 P.O. BOX 3727
6 1411 EAST MISSION AVENUE
7 SPOKANE, WASHINGTON 99220-3727
8 TELEPHONE: (509) 495-4316
9 FACSIMILE: (509) 495-4361
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11
12

13 **BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

14
15
16 IN THE MATTER OF THE APPLICATION) CASE NO. AVU-*E-05-02*
17 OF AVISTA CORPORATION TO APPROVE) APPLICATION OF
18 AGREEMENT ALLOCATING TERRITORY) AVISTA CORPORATION
19 WITH KOOTENAI ELECTRIC COOPERATIVE)
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I. INTRODUCTION

24 Avista Corporation doing business as Avista Utilities (hereinafter Avista or
25 Company), at 1411 East Mission Avenue, Spokane, Washington, respectfully requests that
26 the Commission approve the enclosed Agreement Allocating Territory (Attachment A) with
27 Kootenai Electric Cooperative, Inc. (hereinafter referred to as KEC), an Idaho non-profit
28 corporation, sometimes hereinafter referred to individually, as a "Party", and collectively, as
29 the "Parties".

30 The Parties have entered into an agreement pursuant to the Idaho Electric Supplier
31 Stabilization Act) "IESS", Idaho Code §§ 61-332 et seq. in order to allocate territory, avoid
32 disputes between utilities and to provide consumers with the best possible service.

33 Greenstone Corporation and Stateline Business Park, LLC (hereinafter referred to,
34 collectively, as the "Developers") are developing building sites on properties located in the

1 Stateline Business Park near the state line in Post Falls, Idaho and have requested that Avista
2 and KEC install facilities to provide three-phase electric service to consumers who may
3 construct service entrances within the Development. Under the Agreement, Avista and KEC
4 shall each be entitled to extend their facilities, to the exclusion of the other, within the
5 territory allocated to it, and to provide service to consumers who locate new service entrances
6 within such territory.

7 The Company requests that this filing be processed under the Commission's Modified
8 Procedure rules.

9 Communications in reference to this Application should be addressed to:

10
11 Kelly O. Norwood
12 Vice President
13 State and Federal Regulation
14 Avista Corporation
15 1411 E. Mission Avenue
16 Spokane, Washington 99220
17 Phone: (509) 495-4267
18 Fax: (509) 495-8856
19

David J. Meyer
Vice President and Chief Counsel of
Regulatory and Governmental Affairs
Avista Corporation
1411 E. Mission Avenue
Spokane, Washington 99220
Phone: (509) 489-0500
Fax: (509) 495-4361

20 21 II. PROPOSED ALLOCATION

22 The Developers have requested that Avista and KEC install facilities to provide three-
23 phase electric service to consumers who may construct service entrances within the
24 Development, as illustrated in the attached "Agreement Allocating Territory." Both Avista
25 and KEC have existing service lines on or near the Developers' real properties in the
26 Development, and both utilities are able and willing to supply electric service to consumers
27 who may establish service entrances on Developers' real properties.

1 Avista's service territory shall be the parcels located South of Seltice Way, North of
2 Interstate 90, continuing West of Road B/Baugh Way, terminating at the Western boundary
3 of the Development as illustrated in Exhibit C appended to the "Agreement Allocating
4 Territory."

5 KEC's service territory shall be the parcels located South of Seltice Way and Jacklin
6 Road, North of Interstate 90, continuing East of Road B/Baugh Way, terminating at the
7 Eastern boundary of the Development as also illustrated Exhibit C appended to the
8 "Agreement Allocating Territory."

9 The Parties shall each provide line extensions and electric service pursuant to the
10 provisions of their line extension policies, rate schedules and/or tariffs in force at the time
11 such extension or service is requested. Any line extensions installed within the boundaries of
12 the Development that serve a service entrance located within territory allocated to the Parties
13 by the Agreement, shall not be considered an "existing service line", and may not be used as
14 a future measuring point, for the purpose of determining which Party is entitled to provide
15 electric service rights, under the IESS, to new service entrances located in territory not
16 allocated pursuant to the Agreement.

17 The Parties current electric service lines, as well as any line extensions external to the
18 boundaries that are required to reach existing infrastructures within the Development and
19 which are installed in accordance with the IESS, may be used to determine future electric
20 service rights to new service entrances located in territory not allocated pursuant to the
21 Agreement.

1 Any changes in lot lines, roadways or other boundaries within the Development that
2 occur after the date of the Agreement shall not constitute a change to the Agreement, and the
3 boundaries shall be used to determine the service territory of the respective Parties. Both
4 Parties shall support the allocation of electric service rights with the Parties' existing
5 customers.

6 **III. REQUEST FOR APPROVAL**

7 Avista, therefore, respectfully requests approval of the "Agreement Allocating
8 Territory" so that Avista and KEC shall be entitled to extend their facilities within the
9 territory in the manner prescribed in the Agreement. Avista believes that the Agreement will
10 avoid unnecessary disputes in the future, will avoid needless duplication of facilities, and will
11 provide customer with the best possible service.

12
13 Dated at Spokane, Washington this 24th day of January 2005.

14
15 AVISTA CORPORATION

16
17 BY  _____

18 David J. Meyer
19 Vice President and Chief Counsel of
20 Regulatory and Governmental Affairs
21

AGREEMENT ALLOCATING TERRITORY

THIS AGREEMENT, dated as of 11/18/04, 2004, is entered into by and between **Avista Corporation dba Avista Utilities** (hereinafter referred to as "AVISTA"), a Washington corporation, and **Kootenai Electric Cooperative, Inc.** (hereinafter referred to as "KEC"), an Idaho non-profit corporation, sometimes hereinafter referred to individually, as a "Party", and collectively, as the "Parties".

WITNESSETH:

WHEREAS, Greenstone Corporation and Stateline Business Park, LLC (hereinafter referred to, collectively, as the "Developers") are developing building sites on properties located in the Stateline Business Park near the state line in Post Falls, Idaho, a legal description of which is attached hereto and incorporated herein as "Exhibit A", and the Post Falls Corporate Center, located directly south of the Stateline Business Park, a legal description of which is attached hereto and incorporated herein as "Exhibit B" (hereinafter referred to, collectively, as the "Development");

WHEREAS, the Developers have requested that AVISTA and KEC install facilities to provide three-phase electric service to consumers who may construct service entrances within the Development, as illustrated on the map attached hereto and incorporated herein as "Exhibit C";

WHEREAS, both AVISTA and KEC have existing service lines on or near the Developers' real properties in the Development, and both utilities are able and willing to supply electric service to consumers who may establish service entrances on Developers' real properties; and

WHEREAS, the Parties desire to enter into an agreement pursuant to the Idaho Electric Supplier Stabilization Act ("IESS"), Idaho Code §§ 61-332 et seq. in order to: 1) allocate territory within the Development, as outlined in Exhibit C, to avoid unnecessary duplication of facilities; 2) avoid disputes between the Parties as to which utility is entitled to provide service to new service entrances within the Development; and 3) provide consumers who locate their electric service entrances on the Developers' real property with the best possible service;

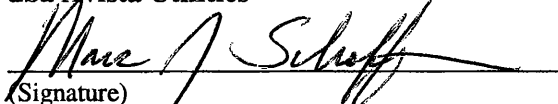
NOW, THEREFORE, in consideration of the covenants and agreements herein contained, IT IS AGREED:

1. AVISTA and KEC shall each be entitled to extend their facilities, to the exclusion of the other, within the territory allocated to it, as marked on Exhibit C, and to provide service to consumers who locate new service entrances within such territory, namely:
 - a. AVISTA's service territory shall be the parcels located South of Seltice Way, North of Interstate 90, continuing West of Road B/Baugh Way, terminating at the Western boundary of the Development, as outlined in blue on Exhibit C.
 - b. KEC's service territory shall be the parcels located South of Seltice Way and Jacklin Road, North of Interstate 90, continuing East of Road B/Baugh Way, terminating at the Eastern boundary of the Development, as outlined in green on Exhibit C.
2. Within the territory allocated to it, as outlined on Exhibit C, the Parties shall each provide line extensions and electric service pursuant to the provisions of their line extension policies, rate schedules and/or tariffs in force at the time such extension or service is requested.

3. Any line extensions installed within the boundaries of the Development that serve a service entrance located within territory allocated to the Parties by this Agreement shall not be considered an "existing service line", and may not be used as a future measuring point, for the purpose of determining which Party is entitled to provide electric service rights, under the IESS, to new service entrances located in territory not allocated pursuant to this Agreement.
4. The respective Parties' current electric service lines shown on Exhibit C, as well as any line extensions external to the boundaries defined in this Agreement and outlined on Exhibit C, which are required to reach existing infrastructures within the Development, and which are installed in accordance with the IESS, may be used to determine future electric service rights to new service entrances located in territory not allocated pursuant to this Agreement.
5. Any changes in lot lines, roadways or other boundaries within the Development that occur after the date of this Agreement shall not constitute a change to this Agreement, and the boundaries outlined on Exhibit C shall be used to determine the service territory of the respective Parties.
6. AVISTA shall prepare and submit the application for approval before the Idaho Public Utilities Commission ("Commission"), and KEC shall join in or otherwise cooperate in the application; provided, however, that both Parties shall support this allocation of electric service rights with the Parties' existing customers.
7. In the event the Commission does not approve the allocation of electric service rights described herein, then this Agreement shall be void ab initio, and the Parties agree to renegotiate an allocation agreement that is ultimately acceptable to the Commission.
8. If approved by the Commission, this Agreement shall be binding upon the Parties, their successors and/or their assigns.
9. Neither Party shall be responsible for fulfilling electric service infrastructures nor other obligations committed to by the other Party either prior to or after the date of this Agreement.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in duplicate by the respective officers hereto, duly authorized as of the date first above written.

Avista Corporation
dba Avista Utilities

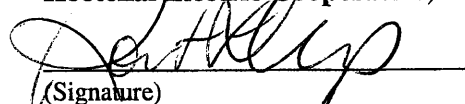

(Signature)

MARC J. SCHAFFNER
(Printed Name)

Director, Market Services
(Title)

November 18, 2004
(Date)

Kootenai Electric Cooperative, Inc.


(Signature)


Robert L. Crump
(Printed Name)

General Manager
(Title)

November 17, 2004
(Date)

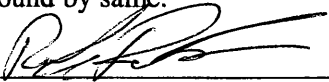
Agreement of Greenstone Corporation:

The undersigned represents that he/she is an authorized representative of Greenstone Corporation ("Greenstone") with full authority to bind Greenstone hereunder. The undersigned acknowledges and represents that he/she has reviewed the foregoing Agreement between AVISTA and KEC to Allocate Territory, approves of its content, and signs it voluntarily as their own free act and deed, fully intending to be bound by same.


 (Signature) JAMES M. FYFE
 (Printed Name) James
 (Title) DEC 2, 2007
 (Date)

Agreement of Stateline Business Park, LLC:

The undersigned represents that he/she is an authorized representative of Stateline Business Park, LLC ("Stateline") with full authority to bind Stateline hereunder. The undersigned acknowledges and represents that he/she has reviewed the foregoing Agreement between AVISTA and KEC to Allocate Territory, approves of its content, and signs it voluntarily as their own free act and deed, fully intending to be bound by same.


 (Signature) RICK ROBINSON
 (Printed Name) MANAGER
 (Title) 12/13/04
 (Date)

June 15, 2004

"EXHIBIT A"

Legal Description
of
Proposed Plat of Stateline Business Park

Those portions of the S1/2 of Section 1, Township 50 North, Range 6 West, B.M., City of Post Falls, Kootenai County, Idaho, described as follows:

Beginning at the southeast corner of the SW1/4 of said Section 1; thence North 89°13'30" West, along the south line of said SW1/4, a distance of 636.06 feet to the TRUE POINT OF BEGINNING, being 3,282 feet west of the southeast corner of said Section 1; thence continuing North 89°13'30" West, along said south line, 102.84 feet to a point on a line being parallel with and 20 feet northeasterly from, when measured at right angle to, the southeasterly extension of the northeasterly line of Tract 179 of Plat No. 5 of East Farms Irrigated Tracts, according to the plat recorded in Volume "C" at Page 57; thence North 25°14'34" West, along said parallel line, 389.25 feet to a point from which the southerly right-of-way line of Seltice Way, (formerly Yellowstone Trail Highway and Highway #10) bears North 25°14'34" West 330.00 feet; thence northeasterly along the arc of a 5665.00 foot radius curve, concave southerly, through a central angle of 10°40'49", 1056.00 feet (long chord = North 49°34'16" East 1054.47 feet); thence North 25°14'34" West 330.00 feet to a point on said southerly right-of-way line of Seltice Way; thence along said southerly right-of-way line the following two (2) calls: 1) northeasterly along the arc of a 5665.00 foot radius curve, concave southerly, through a central angle of 6°31'45", 645.57 feet to a point of tangent, (long chord = North 58°10'33" East 645.22 feet); 2) North 61°26'26" East 191.01 feet to the point of curve of a 45.00 foot radius curve, concave southerly, on the westerly right-of-way line of Baugh Way as granted to the City of Post Falls by a Grant of Right-of-Way, Instrument No. 1848707; thence along said westerly right-of-way line the following three (3) calls: 1) along the arc of said curve through a central angle of 85°45'27", 67.35 feet (long chord = South 75°40'50" East 61.24 feet) to the point of reverse curve of a 1340.00 foot radius curve, concave northeasterly; 2) along the arc of said curve through a central angle of 27°32'13", 844.02 feet (long chord = South 46°34'13" East 637.84 feet) to the point of reverse curve of a 560.00 foot radius curve, concave southwesterly; 3) along the arc of said curve through a central angle of 3°22'05", 32.92 feet, (long chord = South 58°39'18" East 32.91 feet); thence South 50°02'01" West 585.81 feet; thence South 53°46'21" West 904.65 feet; thence South 51°16'48" West 616.51 feet to the TRUE POINT OF BEGINNING;

TOGETHER WITH that portion of the said S1/2 of Section 1, described as follows:
Beginning at the southeast corner of the SW1/4 of said Section 1; thence North 89°13'30" West, along the south line of said SW1/4, a distance of 636.06 feet to a point, being 3,282 feet west of the southeast corner of said Section 1; thence continuing North 89°13'30" West, along said south line, 102.84 feet to a point on a line being parallel with and 20 feet northeasterly from, when measured at right angle to, the southeasterly extension of the northeasterly line of Tract 179 of Plat No. 5 of East Farms Irrigated Tracts, according to the plat recorded in Volume "C" at Page 57; thence North 25°14'34" West, along said parallel line, 389.25 feet to a point from which the southerly right-of-way line of Seltice Way, (formerly Yellowstone Trail Highway and Highway #10) bears North 25°14'34" West 330.00 feet; thence northeasterly along the arc of a 5665.00 foot radius curve, concave southerly, through a central angle of 10°40'49", 1056.00 feet (long chord = North 49°34'16" East 1054.47 feet); thence North 25°14'34" West 330.00 feet to a point on said southerly right-of-way line of Seltice Way; thence along said southerly right-of-way line the following four (4) calls: 1) northeasterly along the arc of a 5665.00 foot radius curve, concave southerly, through a central angle of 6°31'45", 645.57 feet to a point of tangent,

"EXHIBIT A"

(long chord = North 58°10'33" East 645.22 feet); 2) North 61°26'26" East 191.01 feet; 3) continuing North 61°26'26" East 170.53 feet to the TRUE POINT OF BEGINNING, a point on the easterly right-of-way line of Baugh Way as granted to the City of Post Falls by a Grant of Right-of-Way, Instrument No. 1848707; 4) continuing North 61°26'26" East 1524.74 feet to a point on the southerly right-of-way of Jacklin Road, the original alignment of which as established on said Plat No. 5 of East Farms Irrigated Tracts; thence South 89°00'54" East, along said southerly right-of-way line, 179.35 feet to an angle point on the boundary of Parcel 3 as shown on the Record of Survey filed in Book 16 at Page 70; thence along the boundary of said Parcel 3 the following three (3) courses: 1) South 40°18'44" West 662.15 feet; 2) South 33°19'57" West 521.49 feet; 3) South 50°02'01" West 442.28 feet to a point on a 640.00 foot radius curve, concave southwesterly on said easterly right-of-way line of Baugh Way; thence along said easterly right-of-way line of Baugh Way the following three (3) calls: 1) along the arc of said curve through a central angle of 5°32'46", 61.95 feet (long chord = North 57°33'57" West 61.93 feet) to the point of reverse curve of a 1260.00 foot radius curve, concave northeasterly; 2) along the arc of said curve through a central angle of 26°56'32", 592.49 feet (long chord = North 46°52'04" West 587.05 feet) to the point of compound curve of a 45.00 radius curve, concave southeasterly; 3) along the arc of said curve through a central angle of 94°50'14", 74.49 feet (long chord = North 14°01'19" East 66.27 feet) to the TRUE POINT OF BEGINNING.

"EXHIBIT B"

All that certain real property consisting of a portion of Section 1 and a portion of the North Half of Section 12 in Township 50 North, Range 6 West, Boise Meridian, Kootenai County, Idaho, and a portion of the Southwest Quarter of Section 6, and a portion of the Northwest Quarter of Section 7 in Township 50 North, Range 5 West, Boise Meridian, Kootenai County, Idaho, more particularly described as follows:

Commencing at the Northeast corner of said section 12, said corner being a ½ inch diameter rebar; thence South 00°50'53" West, 436.36 feet upon the East line of said Section 12 to the intersection with the North-Westerly right of way line of Interstate Highway No. 90 and True Point of Beginning of this description; thence South 70°29'40" West, 1413.04 feet upon said right of way line to a monument; thence South 72°58'39" West, 690.56 feet upon said right of way line to a monument; thence South 79°56'36" West, 1182.88 feet upon said right of way line to a monument; thence South 60°17'16" West, 210.49 feet upon said right of way line to a monument; thence South 79°49'06" West, 23.81 feet upon said right of way line to the intersection with the Southerly boundary line of the Spokane Valley Land and Water Company irrigation canal right of way; thence North 80°03'51" West, 313.07 feet upon said Southerly boundary line; thence North 71°12'51" West, 191.30 feet upon said Southerly Boundary line; thence North 88°16'51" West, 614.30 feet upon said Southerly Boundary line; thence North 55°36'51" West, 121.07 feet upon the Southwesterly boundary line of said canal right of way to the intersection with the Washington-Idaho state line; thence North 00°24'44" East, 419.08 feet upon said state line; thence North 42°05'46" East, 291.38 feet upon a line parallel with and 11 feet Southeasterly from the Southeasterly boundary of Tract 182 of Plat 5, East Farms Irrigated Tracts; thence North 51°55'48" East, 239.59 feet upon said parallel line; thence North 54°48'02" East, 543.36 feet upon said parallel line; thence North 58°23'07" East, 360.21 feet upon said parallel line to the intersection with the North line of said Section 12; thence South 88°57'52" East along said north line, a distance of 153.93 feet; thence North 51°11'16" East, 615.20 feet; thence North 53°30'43" East, 902.00 feet; thence North 49°45'45" East, 1108.00 feet; thence North 33°00'42" East, 520.00 feet; thence North 40°00'44" East, 683.88 feet to the intersection with the East-West centerline of said Section 1; thence North 88°47'55" West, 103.05 feet upon said East-West centerline to the intersection with the Southeasterly right of way line of U.S. Highway No. 10; thence North 61°26'31" East, 746.48 feet upon said Southeasterly right of way line to the intersection with the East line of said Section 1; thence South 00°51'08" West, 370.53 feet upon said East line to the East Quarter corner of said Section 1, said East Quarter corner being 1 ½ inch diameter galvanized iron pipe; thence South 88°45'29" East, 1058.88 feet upon the East-West centerline of said Section 6; thence South 00°50'44" West, 2492.58 feet to the intersection with the Northwesterly right of way line of Interstate Highway No. 90; thence South 61°59'19" West, 305.24 feet upon said right of way line to the intersection with the North line of said Section 7; thence continuing South 61°59'19" West, 894.98 feet upon said right of way line to a monument; thence South 70°29'40" West, 8.21 feet upon said right of way line to the intersection with the West line of said Section 6 and true point of beginning;

EXCEPTING therefrom that property conveyed by Warranty Deed recorded April 18, 1947, in Book 135 of Deeds, Page 98, records of Kootenai County;

ALSO EXCEPTING therefrom any portion of said property lying within highway and roads

ALSO EXCEPTING That portion of the Southeast Quarter of Section 1 and that portion of Northeast Quarter of Section 12, all in Township 50 North, Range 6 West, B.M., in the City of Post Falls, County of Kootenai, State of Idaho more particularly described as follows:

Commencing at the Southeast corner of said Section 1, said corner being a ½ inch rebar, thence N00°50'24"E along the east line of said section, a distance of 1367.91 feet, thence S89°47'06"W a distance of 1.00 feet to its intersection with a line parallel with and a right angle distance of 1.00 feet west of the East line of said Section 1 and True Point of Beginning of this legal description; thence S00°50'24"W along said parallel line, a distance of 1104.13 feet to the beginning of a curve concave to the northwest and having a radius of 30.00 feet; thence south and west along said curve through a central angle of 83°33'56" an arc distance of 43.75 feet to the beginning of a reverse curve concave to the south and having a radius of 1040.00 feet; thence westerly along said curve through a central angle of 28°00'49" an arc distance of 508.48 feet to the beginning of a reverse curve concave to the northwest and having a radius of 6960.00

"EXHIBIT B"

feet; thence westerly along said curve through a central angle of $03^{\circ}08'35''$ an arc distance of 381.79 feet to the beginning of a compound curve concave to the north and having a radius of 30.00 feet; thence westerly and northerly along said curve through a central angle of $88^{\circ}53'17''$ an arc distance of 46.54 feet to the beginning of a compound curve concave to the east and having a radius of 2960.00 feet, through which point a radial line bears $S58^{\circ}25'24''W$; thence northerly along said curve through a central angle of $09^{\circ}39'57''$ an arc distance of 499.35 feet to the beginning of a reverse curve concave to the southwest and having a radius of 6040.00 feet; thence northerly along said curve through a central angle of $03^{\circ}26'44''$ an arc distance of 363.22 feet to the beginning of a reverse curve concave to the east and having a radius of 560.00 feet thence northerly along said curve through a central angle of $25^{\circ}24'20''$ an arc distance of 248.31 feet to the beginning of a reverse curve concave to the west and having a radius of 640.00 feet; thence northerly along said curve through a central angle of $13^{\circ}48'01''$ an arc distance of 154.15 feet to a point through which a radial line bears $N76^{\circ}14'56''E$; thence $N64^{\circ}51'10''E$ a distance of 143.88 feet; thence $N00^{\circ}49'03''E$ a distance of 258.00 feet; thence $N89^{\circ}47'06''E$ a distance of 1190.31 feet to the true point of beginning.

SEE CASE FILE

FOR MAP(S)