

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION TO
APPROVE AN AGREEMENT ALLOCATING
SERVICE TERRITORY BETWEEN AVISTA
CORPORATION DBA AVISTA UTILITIES AND
KOOTENAI ELECTRIC COOPERATIVE, INC.
PURSUANT TO THE IDAHO ELECTRIC
SUPPLIER STABILIZATION ACT.**

CASE NO. AVU-E-05-2

ORDER NO. 29728

On January 27, 2005, Avista Corporation dba Avista Utilities filed an Application seeking the Commission's approval of a contract between Avista and Kootenai Electric Cooperative, Inc. to allocate service territories and future consumers. The parties' "Agreement Allocating Territory" is dated November 28, 2004. The Agreement was executed pursuant to the provisions of the Electric Supplier Stabilization Act (ESSA) and specifically *Idaho Code* § 61-333(1).

On February 14, 2005, the Commission issued Order No. 29707 inviting interested persons to file comments regarding the ESSA Agreement no later than March 7, 2005. Only the Commission Staff filed comments and it recommended that the Commission approve the Agreement. Based upon our review, we grant the Application and approve the parties' Agreement.

THE ESSA AGREEMENT

Avista and Kootenai propose to allocate service territory in the Stateline Business Park located in Post Falls, Idaho. Generally, the boundaries for the business park are: Seltice Way on the north side; the Idaho-Washington border (the "Stateline") on the west; Interstate 90 on the south; and the eastern boundary runs between Interstate 90 on the south side and Jacklin Road on the north side. The Business Park is roughly divided in half by Baugh Way-Road B. The parties have agreed that Avista and Kootenai will serve the western and eastern portions of the Business Park, respectively. Exhibit C to the Agreement illustrates the exact boundaries in greater detail.

Both parties have existing facilities within the Business Park. Avista and Kootenai are willing and able to supply electric service to consumers within their respective allocated

territories. The parties assert that the allocation of service territory will avoid duplication of facilities, avoid disputes between the parties, and provide consumers with the best possible service. The Agreement is also endorsed by the two developers of the Business Park: Greenstone Corporation and Stateline Business Park, LLC. The developers agreed to comply and be bound by the Agreement.

Idaho Code § 61-333(1) provides that electric suppliers may 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.” Under the ESSA, both Avista and Kootenai are defined as electric suppliers. *Idaho Code* § 61-332A(4). After notice and opportunity for hearing, the Commission may approve agreements allocating service territories and customers between electric suppliers only upon finding that the allocation is in conformance with the purposes of the ESSA. *Idaho Code* § 61-333A(1). The purposes of the ESSA are to: discourage duplication of facilities; prohibit the “pirating” of consumers; stabilize service territories and consumers; and promote harmony between electric suppliers. *Idaho Code* § 61-332(2).

STAFF COMMENTS

After reviewing the Application and the accompanying Agreement, Staff recommended that the Commission approve the Agreement. Staff noted that the Agreement will allow Avista and Kootenai to avoid duplication of services, stabilize their respective service territories and customers, and promote harmony by avoiding territory disputes. *Idaho Code* § 61-332(2).

FINDINGS

Idaho Code § 61-333(1) requires the Commission to review territory allocation Agreements between public utilities and electric cooperatives. Pursuant to this statute, we must determine whether the allocation of service territory and future customers is in conformance with the provisions and the purposes of the ESSA. After reviewing the Agreement and the Staff’s comments, we grant the Application and approve the allocation Agreement. In particular, the Agreement avoids duplication of services, stabilizes service territories and customers, and promotes harmony between Avista and Kootenai Electric. We further find that both electric suppliers are willing and able to furnish the requested service. We also note that there was no

public opposition to the Agreement. Based upon these findings, we conclude that the "Agreement Allocating Territory" comports with the purposes of the ESSA.


ORDER

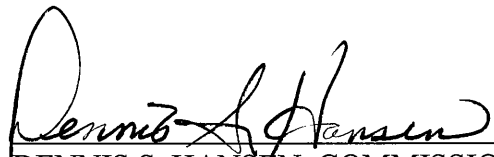
IT IS HEREBY ORDERED that the "Agreement Allocating Territory" dated November 28, 2004, between Avista Utilities and Kootenai Electric Cooperative is approved. In addition, the Commission also grants Avista's Application.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. AVU-E-05-2 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No. AVU-E-05-2. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. *See Idaho Code* § 61-626.

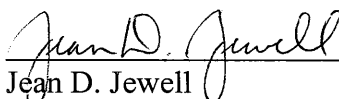
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 21st day of March 2005.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

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