

DECISION MEMORANDUM

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

FROM: DONOVAN E. WALKER

DATE: APRIL 19, 2005

**SUBJECT: CONSUMER ALLOCATION AGREEMENT BETWEEN AVISTA
UTILITIES AND IDAHO COUNTY LIGHT & POWER COOPERATIVE –
CASE NO. AVU-E-05-4**

On March 10, 2005, Avista Corporation dba Avista Utilities filed an Application to approve an Agreement to Assign Electric Customers with Idaho County Light & Power Cooperative (ICLP). The parties' "Agreement to Assign Electric Customers" is dated February 16, 2005. The Agreement was executed pursuant to the provisions of the Electric Supplier Stabilization Act (ESSA) and specifically *Idaho Code* § 61-333(1).

On March 28, 2005, the Commission issued Order No. 29742 requesting that interested persons file comments regarding the ESSA Agreement no later than April 18, 2005. Only the Commission Staff filed comments and it recommended that the Commission approve the ESSA Agreement.

THE APPLICATION

The parties have entered into an agreement pursuant to the Electric Supplier Stabilization Act (ESSA), *Idaho Code* §§ 61-332 *et seq.*, by which ICLP has agreed to relinquish its electric service rights to serve any portion of the Crimson Ridge Subdivision, Phase I, located in Idaho County. The Agreement and property description are attached to Avista's Application.

Buy-The-Way LLC (Developer) is developing residential building sites in the Crimson Ridge Subdivision, Phase I, consisting of 32 large lots. The Application states that Avista and ICLP each have electric service rights under the ESSA to provide electric service to certain portions of the development. The Developer has requested that Avista provide electric

service to the entire development. Through the Agreement ICLP has released its electric service rights to serve any portion of the development. The Application states that the Agreement is in the best interest of the customer, will avoid duplication of facilities, avoid disputes between parties, and provides the consumer with the best possible service. The Agreement is also endorsed by the Developer, Buy-the-Way LLC. The Developer approves, and agrees to be bound by, the Agreement.

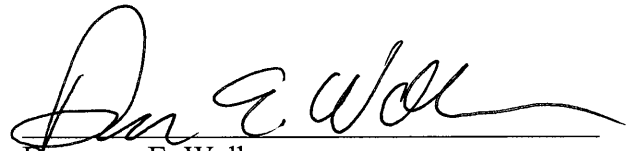
Idaho Code § 61-333(1) provides that electric suppliers may contract for the purpose of “allocating territories, consumers, and future consumers...and designating which territories and consumers are to be served by which contracting electric supplier.” Under the ESSA, both Avista and Inland Power are 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* §§ 61-333(1), 61-334B(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 recommends that the Commission approve the Agreement. Staff noted that the Agreement will allow Avista and ICLP to avoid duplication of services, stabilize their respective service territories and customers, and promote harmony by avoiding interconnection disputes. *Idaho Code* § 61-332(2).

COMMISSION DECISION

Does the Commission wish to approve the territory and customer allocation Agreement between Avista and Idaho County Light & Power Cooperative? Does the Commission find that the Agreement comports with the purposes of the ESSA?


Donovan E. Walker