

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF AVISTA CORPORATION TO APPROVE) CASE NO. AVU-E-07-05
AN AGREEMENT ALLOCATING SERVICE)
TERRITORY WITH NORTHERN LIGHTS,)
INC. PURSUANT TO THE IDAHO) ORDER NO. 30403
ELECTRIC SUPPLIER STABILIZATION)
ACT)**

On June 20, 2007, Avista Corporation dba Avista Utilities filed an Application seeking the Commission's approval of a contract between Avista and Northern Lights to allocate service territories and future consumers. Northern Lights is an electric cooperative operating in northern Idaho. The parties' "Customer Allocation Agreement" is last dated May 23, 2007. The Agreement was executed pursuant to the provisions of the Electric Supplier Stabilization Act (ESSA) and specifically *Idaho Code* § 61-333(1).

On July 10, 2007, the Commission issued a Notice of Application and Modified Procedure requesting comments on the Application. The only party to respond was the Commission Staff. Based upon our review, we approve the parties' Agreement.

THE APPLICATION

Avista and Northern Lights proposed to allocate customers and service territory in a 15-lot residential subdivision known as Spring Haven in Sandpoint, Idaho. The subdivision is being developed by Jerry VanOoyen and Mike Dougherty. Both electric suppliers have existing facilities that can serve the initial 15 lots. The parties have agreed that Northern Lights will serve the initial 15 lots because its facilities are closer to the majority of lots. Agreement at ¶ 1. A plat of the subdivision is attached to the Agreement.

The parties asserted that the allocation of service territory will avoid duplication of facilities, avoid dispute between the parties, and provide consumers with the best possible service. The Agreement recognizes that Avista does not give up "its rights to serve future phases of the Development or adjoining plats thereto, and [the Agreement] may not be used to" determine which supplier may serve other new customers. *Id.* at ¶ 3.

The Agreement is also endorsed by Jerry VanOoyen, the owner-developer of the property. The developers agreed to comply and be bound by the Agreement. Given the agreement of the parties, they recommended that the Application be processed under Modified

Procedure. The parties also acknowledged that the Agreement is subject to the Commission's approval. *Id.* at ¶ 4.

THE ESSA

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 Northern Lights 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). As set out in *Idaho Code* § 61-332(2), the purposes of the ESSA are to: discourage duplication of facilities; prohibit "pirating" of consumers; stabilize service territories and consumers; and promote harmony between electric suppliers.

STAFF COMMENTS

Staff recommended that the Commission approve the Agreement. Staff commented that Northern Lights facilities are closer to the majority of lots in the subdivision. After reviewing the Application, Staff determined that the Agreement meets the purposes of the ESSA by discouraging duplication, stabilizing service territories, and promoting harmony between electric suppliers.

FINDINGS

Idaho Code § 61-333(1) requires the Commission to review consumer and territory allocation Agreements between electric suppliers. 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 Northern Lights. We further find that both electric suppliers are willing and able to furnish the requested service. We also note that there was no opposition to the Agreement. Based upon these findings, we conclude that the Agreement comports with the purposes of the ESSA.

ORDER

IT IS HEREBY ORDERED that Avista Corporation dba Avista Utilities' Application is granted. The Customer Allocation Agreement last dated May 23, 2007, between Avista and Northern Lights, Inc. is approved.

THIS IS A FINAL ORDER. Any person interested in this Order 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. 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 10th day of August 2007.



PAUL KJELLANDER, PRESIDENT



MARSHA H. SMITH, COMMISSIONER



MACK A. REDFORD, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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