

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF AVISTA) CASE NO. AVU-E-21-02
CORPORATION’S APPLICATION FOR AN)
ORDER APPROVING THE EXTENSION OF)
A SERVICE TERRITORY AGREEMENT) ORDER NO. 34924
BETWEEN AVISTA AND KOOTENAI)
ELECTRIC COOPERATIVE)

On January 11, 2021, Avista Corporation (“Avista” or “Company”) applied to the Commission for approval of an amendment to the service territory agreement (“Agreement”) between Avista and Kootenai Electric Cooperative, Inc. (“KEC”).

On January 20, 2021, the Commission issued a Notice of Application and Notice of Modified Procedure setting comment and reply deadlines. Order No. 34899. Commission Staff filed the only comments and supported the Company’s Application. The Company did not reply.

Now, the Commission approves the amendment to the Agreement.

THE APPLICATION

Avista and KEC signed the Agreement under the Idaho Electric Supplier Stabilization Act (“ESSA”), *Idaho Code* § 61-332C. The Agreement defines whether Avista or KEC will serve a residential development and subsequent additions to that development. The Agreement was first approved by the Commission in March 2001. Order No. 28681. The Agreement renewed on February 15, 2011 for a 10-year term, which will expire February 15, 2021. Avista stated that it is negotiating a new service territory agreement with KEC, but the parties have been unable to agree on all terms. To allow additional time to complete the negotiations, the parties proposed to amend the existing Agreement so it renews in 1-year increments rather than the current 10-year renewal term.

STAFF COMMENTS

Staff recommended approval of the amendment. Staff stated the Company’s Application supports the intent of the ESSA because it will help minimize and resolve disputes between Avista and KEC. Staff Comments at 3. However, Staff expressed concern that Avista and KEC would not reach a new service territory agreement before the next renewal date. *Id.* Staff thus encouraged the Company to update the Commission on progress toward a new service

territory agreement, notify the Commission no later than October 1, 2021 if a new service territory agreement is to be filed, and to file the new agreement no later than November 1, 2021 if there are material changes. *Id.* Staff stated this would allow adequate time for review and an order to issue before the next automatic renewal date. *Id.*

COMMISSION FINDINGS AND DECISION

The Commission has jurisdiction over this matter under *Idaho Code* §§ 61-501, -502, -503, and -333. Under the ESSA, electric suppliers may contract with other electric suppliers to allocate territories and consumers. *Idaho Code* § 61-333(1). The Commission has the authority to review such contracts between cooperatives and public utilities. *Id.* The Commission approves such contracts only upon a finding that the allocation of territories or consumers conforms with the provisions and purposes of the ESSA. *Id.* The purpose of the ESSA is to “promote harmony among and between electric suppliers furnishing electricity within the state of Idaho, prohibit the ‘pirating’ of consumers of another electric supplier, discourage duplication of electric facilities, actively supervise certain conduct of electric suppliers as it relates to this act, and stabilize the territories and consumers served with electricity by such electric suppliers.” *Idaho Code* § 61-332.

Under this authority, we have reviewed the record and have determined that the proposed amendment to the Agreement conforms with the provisions and purposes of the ESSA. Allowing the parties more time to negotiate a new service territory agreement promotes harmony between electric suppliers and provides opportunity to stabilize the territories and consumers served by the companies. To ensure that the parties diligently pursue a new service territory agreement, we direct the Company to provide the Commission with quarterly updates on progress and notify the Commission by October 1, 2021 if a new service territory agreement will be finalized. If the parties are able to finalize a new service territory agreement, Avista is directed to file it with the Commission by November 1, 2021 to allow sufficient time to review it before it renews again on February 15, 2022.


ORDER

IT IS HEREBY ORDERED that the amendment to the service territory agreement between Avista and Kootenai Electric Cooperative 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 11th day of February 2021.



PAUL KJELLANDER, PRESIDENT

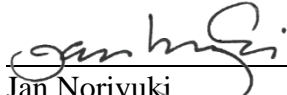


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

I:\Legal\ELECTRIC\AVU-E-21-02\orders\AVUE2102_final order_ej.docx