

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE PETITION OF) CASE NO. AVU-E-21-12
AVISTA CORPORATION FOR APPROVAL)
OF AN AMENDED AND RESTATED)
AGREEMENT FOR ADMINISTERING) ORDER NO. 35248
RESIDENTIAL DEVELOPMENTS)
BETWEEN AVISTA CORPORATION AND)
KOOTENAI ELECTRIC COOPERATIVE,)
INC.)

On August 5, 2021, Avista Corporation (“Avista” or “Company”) petitioned the Commission for approval of an Amended and Restated Agreement for Administering Residential Developments (“Amended Agreement”) between Avista and Kootenai Electric Cooperative, Inc. (“KEC”). The Company requested that its Petition be processed by Modified Procedure.

On September 8, 2021, the Commission issued a Notice of Petition and Notice of Modified Procedure setting comment and reply deadlines. *See* Order No. 35159. On October 14, 2021, Commission Staff (“Staff”) filed the only comments and supported the Company’s Petition. The Company did not reply.

Having reviewed the record, the Commission approves the Amended Agreement, with an effective date of July 26, 2021.

THE PETITION

On March 21, 2001, the Commission approved a Service Territory Agreement between Avista and KEC (“Original Agreement”). *See* Order No. 28681; Petition at 2. Pursuant to the Original Agreement, Avista and KEC agreed on a methodology to determine which entity would provide electric service to residential developments and subsequent additions to such developments pursuant to the Idaho Electric Supplier Stabilization Act (“ESSA”), *Idaho Code* § 61-332C. *Id.*

On February 11, 2021, the Commission issued Order No. 34924 approving an amendment to renew the Original Agreement for successive twelve-month terms to provide Avista and KEC time to complete negotiations on a new service territory agreement to replace the Original Agreement. *Id.* at 2-3. In that Order, the Commission also directed the Company to provide the Commission with quarterly updates on its progress and notify the Commission by October 1, 2021,

if a new service territory agreement will be finalized. The Company complied with this order and filed updates on March 25, 2021, and June 25, 2021, in Case No. AVU-E-21-02. *Id.* at 3.

Avista and KEC entered into the Amended Agreement to replace the Original Agreement in its entirety effective July 26, 2021, or such other date set by the Commission. *Id.*

STAFF COMMENTS

Staff stated that the Amended Agreement replaces the Original Agreement in its entirety effective on July 26, 2021, or such other date set by the Commission. *Id.* at 2. Staff noted that the Amended Agreement has an initial term of five years from the effective date and renews for successive five-year terms, unless either Avista or KEC provides the other party written notification of its intent not to renew at least sixty days prior to the expiration of the then-current five-year term. *Id.* at 2-3.

Staff noted that the Amended Agreement clarifies whether Avista or KEC will have the right to serve defined residential developments.¹ *Id.* at 3. Staff also noted that the Amended Agreement clarifies that certain facilities cannot be used as measuring points and sets out the process and remedies for any breach of the Amended Agreement². *Id.*

Based on its provisions, Staff believed the Amended Agreement was consistent with the provisions and purposes of the ESSA. *Id.*

COMMISSION FINDINGS AND DISCUSSION

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.

¹ Amended Agreement at Section V.A.

² *Id.* Sections V.B. and VI.

Under this authority, we have reviewed the record and have determined that the Amended Agreement conforms with the provisions and purposes of the ESSA. For instance, the Amended Agreement includes provisions that adequately and reasonably set out which entity is to serve defined residential developments; provide for an initial term of five years from the effective date and renewals for successive five-year terms; clarify that certain facilities cannot be used as measuring points; and set out the process and remedies for any breach of the Amended Agreement. These provisions in the Amended Agreement promote harmony between Avista and KEC and further the goals of prohibiting piracy, discouraging duplication of electric facilities, and stabilizing the territories and consumers of Avista and KEC. We find that the allocation of territories or consumers in the Amended Agreement conforms with the provisions and purposes of the ESSA.

The Commission finds it just and reasonable to approve the Amended Agreement with a July 26, 2021, effective date.

ORDER

IT IS HEREBY ORDERED that the Amended Agreement between Avista and KEC is approved, effective July 26, 2021.

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 7th day of December 2021.



PAUL KJELLANDER, PRESIDENT

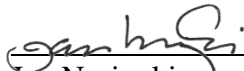


KRISTINE RAPER, COMMISSIONER



ERIC ANDERSON, COMMISSIONER

ATTEST:



Jan Noriyuki
Commission Secretary

I:\Legal\ELECTRIC\AVU-E-21-12\orders\AVUE2112_final_es.docx