

CHRIS BURDIN
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0314
IDAHO BAR NO. 9810

Street Address for Express Mail:
11331 W CHINDEN BLVD, BLDG 8, SUITE 201-A
BOISE, ID 83714

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION |) | |
| OF RIVERSIDE ELECTRIC COMPANY, |) | CASE NO. C12-E-24-01 |
| LIMITED AND FARMER ELECTRIC |) | |
| COMPANY, LTD FOR AN ORDER |) | |
| APPROVING A SERVICE TERRITORY |) | COMMENTS OF THE |
| AGREEMENT BETWEEN THE APPLICANTS |) | COMMISSION STAFF |
| <hr/> |) | |

COMMISSION STAFF (“STAFF”) OF the Idaho Public Utilities Commission, by and through its Attorney of record, Chris Burdin, Deputy Attorney General, submits the following comments.

BACKGROUND

On February 2, 2024, Riverside Electric Company, Limited (“Riverside”) and Farmers Electric Company (“Farmers”) (collectively “Parties”) filed an application with the Idaho Public Utilities Commission (“Commission”) for approval of a Service Territory Agreement (“Agreement”) between Riverside and Farmers.

The Idaho Electric Stabilization Act (“ESSA”) prohibits an electric supplier (e.g., a utility, municipality, or co-op) from serving another electric supplier’s existing or former customers. *Idaho Code* § 61-332B. Section 61-332(2) provides that the purposes of the ESSA are to: (1) promote harmony between electric suppliers; (2) prohibit the “pirating” of consumers;

(3) discourage duplication of electric facilities; (4) actively supervise the conduct of electric suppliers; and (5) stabilize service territories and consumers. The ESSA enables electric utilities to allocate territories and customers if certain conditions are satisfied. The ESSA allows electric suppliers to 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.” *Idaho Code* § 61-333(1). Such contracts must be submitted to the Commission for approval. *Id.* The Commission will approve contracts reviewed under the ESSA if, after notice and opportunity for hearing, the Commission finds that the Agreement conforms with the purposes of the ESSA. *See Idaho Code* §§ 61-333(1) and 61-334B(1).

The Parties represent that they have for some time had a territory agreement between them. Application at 2. The Parties state that such agreement predates the amendment to *Idaho Code* § 61-333 that requires Commission approval of territory agreements; therefore, the Parties seek Commission approval of a written memorialization of the existing territory agreement. *Id.* The Parties included a copy of the Agreement attached as Exhibit 1 to the Application. *Id.*

The Parties represent that the Agreement was negotiated between the Parties in order to settle a service territory between the Parties, provide for stability of service with consumers, to eliminate duplicating of services, and to provide safety in the respective territories. *Id.* The Parties state that they believe the Agreement is in the best interest of both entities and the customers of both entities. *Id.*

STAFF ANALYSIS

Commission Staff (“Staff”) reviewed the Service Territory Agreement and recommends the Commission approve the Agreement and order the Parties to submit a compliance filing with the executed Agreement.

Staff believes the Agreement is in conformance with the provisions and intent of the ESSA. The Agreement includes several terms and conditions that Staff believes are consistent with the purpose of ESSA. Some important terms and conditions include: (1) the defined boundaries between the two service territories that each Party will use to serve new customers; (2) the assignment of existing customers in the defined territories; (3) a process for entering into a written agreement to serve a new customer that can be more efficiently served by the other Party; and (4) the exceptions of customers in the defined territories.

Paragraph 5 of the Agreement provides that the prevailing party in any action under the Agreement shall be entitled to reasonable attorney fees. However, Staff notes that under Public Utilities Law, the Commission does not have authority to award attorney fees other than intervenor funds pursuant to *Idaho Code* § 61-617A. See *Idaho Power Company v. Idaho PUC*, 102 Idaho 744, 639 P.2d 442 (1981).

Further, Staff notes that the Agreement provided with the Application is not an executed agreement. Staff believes a copy of the executed Agreement should be provided to the Commission so that the Commission has a record of the executed Agreement. Staff recommends the Commission order the Parties to submit a compliance filing with a copy of the executed Agreement.

STAFF RECOMMENDATION

Staff recommends the Commission approve the Agreement and order the Parties to submit a compliance filing with the executed Agreement.

Respectfully submitted this 17th day of April 2024.



Chris Burdin
Deputy Attorney General

Technical Staff: Michael Eldred
Kevin Keyt

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 17th DAY OF APRIL 2024, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. C12-E-24-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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| ALAN GOODMAN 717 7 TH STREET PO BOX D RUPERT ID 83350 | |
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PATRICIA JORDAN, SECRETARY