

Peter J. Richardson ISB No. 3195
RICHARDSON ADAMS, PLLC
515 N. 27th Street
Boise, Idaho 83702
(208) 938-7901
peter@richardsonadams.com

Attorneys for United Electric Co-op, Inc.

BEFORE THE IDAHO
PUBLIC UTILITIES COMMISSION

IN THE MATTER OF UNITED ELECTRIC
CO-OP INC.'S FORMAL COMPLAINT FOR
VIOLATION OF CONTRACT ENTERED
INTO PURSUANT TO THE IDAHO
ELECTRIC STABILIZATION ACT.

Case No.: C15-E-23-01

JOINT APPLICATION TO APPROVE
CUSTOMER ALLOCATION AGREEMENT
AND NOTICE OF INTENT TO DISMISS
COMPLAINT

United Electric Co-op, Inc. ("United Electric") and the City of Burley ("City"),
(referred to herein collectively as the "Parties") pursuant to the Electric Supplier Stabilization
Act, I.C. § 61-333, (the "Act") hereby makes application to the Idaho Public Utilities
Commission ("Commission") for approval of the Customer Allocation Agreement dated January
3, 2024, and attached hereto as Exhibit No. 1 ("Agreement").

The Customer Allocation Agreement fully resolves the dispute between the Parties
relative to the provision of electric service to the Suntado milk processing plant (herein
"Customer") – the subject matter of the instant complaint action. In addition to fully resolving
the dispute that is the subject of United Electric's Complaint, the Customer Allocation
Agreement also furthers the purposes and intent of the Electric Supplier Stabilization Act by
promoting continued harmony between electric suppliers (United Electric and the City of
Burley), preventing the pirating of customers and discouraging the duplication of electric

JOINT APPLICATION TO APPROVE CUSTOMER ALLOCATION AGREEMENT AND NOTICE OF INTENT
TO DISMISS COMPLAINT - 1

1 facilities. In short, the Customer Allocation Agreement is in the public interest. The
2 Commission is respectfully urged to approve the same which is more fully described below.

3 CUSTOMER ALLOCATION AGREEMENT

4 Salient provisions of the Customer Allocation Agreement provide, inter alia, that:

- 5 1. United Electric's right to be the sole provider of electric service to the Customer is
6 recognized, while at the same time provides that United Electric will allow the City to
7 serve to the customer under the specific terms and conditions contained in the
8 Agreement, and;
9
- 10 2. The City will bear full and complete responsibility for serving the Customer for the
11 duration of the Agreement, and;
12
- 13 3. The City is prohibited from extending its facilities into or over any of United
14 Electric's other service territory without prior permission from United Electric, and;
15
- 16 4. All electric facilities located on the Customer's property shall be owned by the
17 Customer and not the City, and;
18
- 19 5. The City will pay United Electric a Service Allocation Fee of three percent of the
20 Customer's gross billings, and;
21
- 22 6. The ongoing integrity of the existing service territory allocation agreements between
23 the City and United Electric are recognized and the City's provision of electric
24 service to the Customer does not in any way modify said agreements, and;
25
- 26 7. The Agreement will not become effective until and unless it is approved by the
27 Commission.
28

The Parties assert that the Agreement furthers the purposes of the Electric Stabilization Act and it promotes harmony between the City and United Electric, prevents the pirating of consumers and reduces the likelihood of duplication of facilities. Furthermore, the Agreement resolves a difficult dispute that has been actively litigated before this Commission for over a year. The agreement was unanimously approved by the Board of Directors of United Electric and it was approved by the City of Burly by a unanimous vote of the Burley City Council on January 2, 2024. The Commission is urged to issue its order, pursuant to I.C. § 61-334B, approving the Agreement and finding that the Agreement is consistent with the purposes of the Act and is in the public interest.

MODIFIED PROCEDURE

The Commission issued a notice of the pendency of this proceeding to all potentially affected persons on July 21, 2023. No petitions to intervene were submitted, there are no other parties to this complaint proceeding. The Parties believe that a hearing is not necessary to consider the issues presented herein and respectfully request that this Application be processed under Modified Procedure, i.e., by written submissions rather than by hearing pursuant to Commission Rule of Procedure No. 201. If, however, the Commission determines that a hearing is required, the Parties stand ready for immediate consideration of this Application and will present their testimony to support the Application at such hearing.

WITHDRAWAL OF PLEADING

The Customer Allocation Agreement (Exhibit 1) between United Electric and the City will render United Electric's complaint in this docket moot. Therefore, upon approval of the Agreement by a final and non-appealable order of the Commission, United Electric hereby

1 provides notice that it will withdraw its complaint pursuant to Rule 68 of the Commission's
2 Rules of Procedure.

3 COSTS AND MISCELLANEOUS

4 Each Party agrees to bear its own costs, including attorney fees, relating to this matter
5 and stands ready to provide witness(es) at hearing (should the Commission so desire) supporting
6 the assertions herein as to the reasonableness of the Agreement.
7

8
9 **WHEREFORE**, United Electric Co-op, Inc. and the City of Burley respectfully request the
10 Commission issue its order approving, without modification or condition, the Agreement
11 attached hereto as Exhibit 1. Once said order is issued and final and non-appealable, United will
12 submit its notice of withdrawal of its complaint herein.
13

14
15 Dated this 11th day of January 2024.

16 UNITED ELECTRIC COOPERATIVE, INC

17
18 

19 Peter J. Richardson
20 Richardson Adams, PLLC
21 Attorney's for United Electric Cooperative,
22 Inc.

23 THE CITY OF BURLEY, IDAHO

24 /s/ Jaxon C. Munns

25 Jaxon C. Munns
26 Murray, Ziel, & Johnston, PLLC
27 Attorneys for The City of Burley, Idaho

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of January 2024, I caused to be delivered, via electronic mail only, the foregoing JOINT APPLICATION TO APPROVE CUSTOMER ALLOCATION AGREEMENT AND NOTICE OF INTENT TO DISMISS COMPLAINT, Docket No. C15-E-23-01 on the following Parties:

//

//

Idaho Public Utilities Commission
Jan Noriyuki, Commission Secretary
secretary@puc.idaho.gov
jan.noriyuki@puc.idaho.gov

Chris Burdin, Deputy Attorney General
Idaho Public Utilities Commission
chris.burdin@puc.idaho.gov

By Peter J. Richardson Jan. 11, 2024
Peter J. Richardson, ISB # 3195

Customer Allocation Agreement

This Customer Allocation Agreement ("Agreement") to supply new electric service is entered into this 3rd day of January, 2024, by and between, United Electric Co-op, Inc., an Idaho cooperative corporation (hereinafter "UEC"), and the city of Burley, Idaho, an Idaho municipality (hereinafter the "City"), individually a "Party" and collectively the "Parties".

WHEREAS, UEC and the City each own and operate electrical power systems that provide electric service to customers in southern Idaho, and;

WHEREAS, UEC and the City have specifically delineated service territories pursuant to Service Territory Allocation Agreements entered into in accordance with the terms and conditions of Idaho Code 61-332, et seq., the Idaho Electric Supplier Stabilization Act ("the Act") and approved pursuant to, and by, the Idaho Public Utilities Commission ("IPUC") in Order No. 29355 (the "Order") in Case No. GNR-E-03-03, and;

WHEREAS, Suntado, LLC ("Customer") owns property and facilities that are being developed as an industrial processing plant located within the service territory of UEC yet has requested electrical service be provided by the City through a service entrance connection with the City's electrical system adjacent to the property, and;

WHEREAS, solely pursuant to the terms and conditions herein, UEC agrees to allow the City to provide electric service to Customer and the City agrees to provide electric service to Customer;

NOW, THEREFORE, in consideration of the foregoing, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, and intending to be legally bound, the Parties agree as follows:

1. The City desires to provide Customer with Customer's electric service needs at the following location, to wit: Township 10 South, Range 23 East of the Boise Meridian, Cassia County, Idaho and more particularly described on the attached Exhibit "A".
2. Notwithstanding UEC's right to be the sole provider of electric service to Customer pursuant to the Parties' Service Territory Allocation Agreements, Section 61-332C of the Act and the Order, by this Agreement, UEC hereby agrees to allow the City to provide electric service to the Customer.
3. Notwithstanding the location of Customer's facilities within UEC's service territory, the Parties agree that the City shall bear full and complete responsibility for all liabilities and costs of serving Customer including, but not limited to, costs of connecting the Customer to the City's electric system, or for any other cost of operations and maintenance, supply, transmission, distribution and/or metering of power applicable to the Customer. The City shall indemnify and hold UEC harmless from any and all liabilities arising from this Settlement Agreement and from the City's provision of electric service to Customer.
4. For purposes of this Agreement, the electric service to be provided to Customer by the City shall be deemed a "new service entrance" pursuant to the Act.

5. The Parties agree the Customer's service entrance must be connected to the City's electrical system adjacent to the Customer's property and shall not otherwise crossover or be placed on or through UEC's service territory. Electric Service pursuant to this Agreement shall only be provided to the Customer's facilities located on Customer's property specified in Exhibit A.
6. The Parties agree that all electric facilities located on or through Customer's property specified in Exhibit A shall be owned by the Customer, and not by the City. The Parties further agree that no service lines or feeder ties owned by the City shall be constructed or installed within UEC's service territory to provide electric service to the Customer.
7. Commencing on the date written above, the Parties agree that the City shall pay to UEC a Service Allocation Fee, which is three (3) percent of the Customer's, its successors or assigns, gross billing for electric service paid to the City. Gross billing shall include, but is not limited to, all charges billed to Customer for electric service such as customer/fixed, meter, demand, and energy. The Service Allocation Fee will be paid to UEC not less than once every three months, or quarterly of each year. UEC shall have the right to review on an annual basis all billing invoices and payment statements, or other information necessary for UEC to verify gross billing between the City and Customer.
8. This Agreement to provide electric service to Customer shall not be modified unless mutually agreed upon by and between UEC and the City (or their successors in interest) or unless modified by statute. Should the Customer (or its successors or assigns) cease operations at the property described in Exhibit A then this Agreement shall terminate and UEC's exclusive rights and obligations to provide electric service at the property described in Exhibit A shall be reinstated.
9. Except for UEC's allowance of the City's provision of electric service to this particular Customer as described within this Agreement; no modification to UEC's and the City's present service territories (or Service Territory and/or Customer Allocation Agreements) is made, implied or intended by this Agreement.
10. This Agreement is subject to review and approval or rejection of the IPUC. In the event the IPUC does not approve this Agreement without modification then this Agreement shall have no force or effect.
11. Each Party represents and warrants that it is validly existing and in good standing in the state in which it is organized, and it has the requisite authority to execute this Agreement.
12. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and all of which taken together shall constitute a single instrument.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be duly executed as of the date above written.

United Electric Co-op, Inc.

By: 

Name: Michael Darrington

Title: General Manager, United Electric
Co-op, Inc.

City of Burley, Idaho

By: 

Name: Steve Ormond

Title: Mayor, City of Burley, Idaho

23.321 AC

RECORD OF SURVEY FOR:

JIM PRIMM

51/2 SECTION 19.

DRUGS BY: S. HASKEU.

DATE 010709

44-38861-1000

SHEET NO: 1 OF 1

I, JOHN O. ROOT, DO HEREBY CERTIFY THAT THIS
MAP IS A TRUE AND ACCURATE MAP OF THE LAND
SURVEYED UNDER MY SUPERVISION AND DIRECTION.



SURVEY BOUNDARY LINE
RIGHT-OF-WAY LINE
FOUND ALUMINUM CAP
FOUND 1/2" PIPE
FOUND 5/8" STEEL PIN
FOUND 1/2" STEEL PIN
SET 5/8" REBAR & CAP
SET 1/2" REBAR & CAP