

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF UNITED ELECTRIC)	CASE NO. C15-E-23-01
CO-OP INC.’S FORMAL COMPLAINT FOR)	
VIOLATION OF CONTRACT ENTERED)	NOTICE OF APPLICATION
INTO PURSUANT TO THE IDAHO)	
ELECTRIC STABILIZATION ACT)	NOTICE OF MODIFIED
)	PROCEDURE
)	
)	ORDER NO. 36071

On February 22, 2023, United Electric Co-op, Inc. (“United”) filed a formal complaint (“Complaint”) with the Idaho Public Utilities Commission (“Commission”). United alleged that the City of Burley, Idaho (“Burley” or “City”), violated a series of service agreements (“Agreements”) related to the allocation of the respective electric service territory and customers by and between the City and United, which were entered into pursuant to the Idaho Electric Stabilization Act (“ESSA”), and that have been approved by order of the Commission.

On January 11, 2024, United and Burley filed a joint application pursuant to the ESSA to approve a Customer Allocation Agreement (“Application”). United and Burley request that the Commission issue an order approving the Customer Allocation Agreement without modification or condition. United and Burley represent that once an order is issued, final, and non-appealable, United will submit a notice of withdrawal of its Complaint.

BACKGROUND

The 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).

NOTICE OF APPLICATION

YOU ARE HEREBY NOTIFIED that United and Burley represent that the Customer Allocation Agreement fully resolves the dispute between the parties relative to the provision of electric service to the Suntado milk processing plant. Application at 2. United and Burley also represent that the Customer Allocation Agreement furthers the purposes and intent of the ESSA by promoting continued harmony between electric suppliers, preventing the pirating of customers, and discouraging the duplication of electric facilities. *Id.* United and Burley conclude that the Customer Allocation Agreement is in the public interest. *Id.*

YOU ARE FURTHER NOTIFIED that the Application is available for public inspection during regular business hours at the Commission's office. The Application is also available on the Commission's website at www.puc.idaho.gov. Click on the "ELECTRIC" icon, select "Open Cases," and click on the case number as shown on the front of this document.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code, and that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

NOTICE OF MODIFIED PROCEDURE

YOU ARE HEREBY NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter, and that it will proceed under Modified Procedure pursuant to the Commission's Rules of Procedure 201-204, IDAPA 31.01.01.201-.204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation.

YOU ARE FURTHER NOTIFIED that persons desiring to state a position on this Application may file a written comment explaining why the person supports or opposes the Application. Persons who would like a hearing must specifically request a hearing in their written comments and explain why written comments alone are insufficient. **Persons interested in filing written comments must do so by February 22, 2024.** Comments must be filed through the

Commission’s website or by e-mail unless computer access is unavailable. To comment electronically, please access the Commission’s website at <http://www.puc.idaho.gov/>. Click the “Case Comment Form” and complete the form using the case number as it appears on the front of this document.

To file by e-mail, persons must e-mail the comments to the Commission Secretary and all parties at the e-mail addresses listed below. Persons submitting a comment by e-mail must provide their name, address, and the Case Number under which they are commenting. Persons submitting a comment by e-mail also acknowledge that submitting a comment in an open case constitutes a public record under *Idaho Code* § 74-101(13), and all information provided by such person is available for public and media inspection.

If computer access is unavailable, then comments may be mailed to the Commission and the Parties at the addresses below. Persons submitting a comment by mail must provide their name, address, and the Case Number under which they are commenting. Persons submitting a comment by mail also acknowledge that submitting a comment in an open case constitutes a public record under *Idaho Code* § 74-101(13), and all information provided by such person is available for public and media inspection.

**For the Idaho Public Utilities
Commission:**

Commission Secretary
Idaho Public Utilities Commission
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For Burley:

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For United:

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YOU ARE FURTHER NOTIFIED that United and Burley must file any reply comments by March 7, 2024.

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider this matter on its merits and enter its final

order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

ORDER

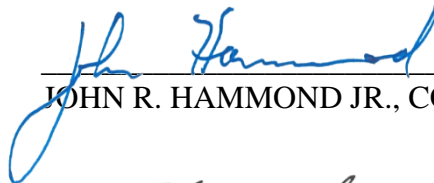
IT IS HEREBY ORDERED that the Application be processed by Modified Procedure, Rules 201-204 (IDAPA 31.01.01.201-.204). Persons interested in filing written comments must do so by February 22, 2024. United and Burley must file any reply comments by March 7, 2024.

IT IS FURTHER ORDERED that parties comply with Order No. 35375, issued April 21, 2022. Generally, all pleadings should be filed with the Commission electronically and will be deemed timely filed when received by the Commission Secretary. *See* Rule 14.02. Service between parties should continue to be accomplished electronically when possible. However, voluminous discovery-related documents may be filed and served on CD-ROM or a USB flash drive.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 25th day of January 2024.



ERIC ANDERSON, PRESIDENT



JOHN R. HAMMOND JR., COMMISSIONER



EDWARD LODGE, COMMISSIONER

ATTEST:



Monica Barrios-Sanchez
Commission Secretary

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