

DECISION MEMORANDUM

TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF

FROM: DON HOWELL
DEPUTY ATTORNEY GENERAL

DATE: FEBRUARY 9, 2011

SUBJECT: EXTENSION OF THE SERVICE TERRITORY AGREEMENT
BETWEEN AVISTA AND KOOTENAI ELECTRIC, CASE NO. AVU-E-01-
02

On March 21, 2001, the Commission issued Order No. 28681 approving a Service Territory Agreement and its addendum between Avista Corporation (dba Avista Utilities) and Kootenai Electric Cooperative, Inc. The Service Territory Agreement (“STA”) adopted a methodology to determine which of the two parties may provide electric service to residential developments containing six or more parcels pursuant to the Idaho Electric Suppliers Stabilization Act (ESSA), *Idaho Code* § 61-333(1).

THE STA

In the STA, the parties agree that electric service to an entire residential development and subsequent additions to such development shall be determined by which supplier serves at least one of the lots in the subdivision pursuant to the provisions contained in *Idaho Code* § 61-332C.¹ The STA also provides that the term of the Agreement shall be for 10 years, but the Agreement also provides that it shall be automatically extended “for successive periods of ten (10) years upon the same terms and conditions set forth in this Agreement unless one of the parties” elects to terminate the Agreement.

As approved by the Commission in Order No. 28681, the STA, unless extended, was to expire February 15, 2011. Either party could terminate the Agreement by notifying the other

¹ This section generally provides that the nearest electrical supplier within a quarter-mile of a new customer has the “right to serve” the new customer. If there is no electrical supplier within a quarter-mile of the new customer, then the customer has a right to choose a supplier. *Idaho Code* § 61-332C(1).

“not less than sixty (60) days before the end of the initial, or renewal term of [its] intent not to renew the agreement.” Contract, § 3.


On January 31, 2011, Avista filed a letter advising the Commission that neither “Avista Utilities nor Kootenai Electric notified each other regarding their intent not to renew the Agreement.” Consequently, the letter stated that the STA has been extended for another 10 year term, or until February 15, 2021.

STAFF RECOMMENDATION

For purposes of updating the administrative record, the Staff recommends that the Commission issue a Minute Order acknowledging receipt of the Avista letter and noting that the Service Territory Agreement between Avista Utilities and Kootenai Electric will remain in force until February 15, 2021.

COMMISSION DECISION

Does the Commission agree that a Minute Order is appropriate to recognize the 10-year extension of the Service Territory Agreement approved in Order No. 28681?



Don Howell
Deputy Attorney General

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