

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)	
THE CITY OF HEYBURN AND RIVERSIDE)	CASE NO. GNR-E-03-11
ELECTRIC COMPANY FOR AN ORDER)	
APPROVING A SERVICE TERRITORY)	NOTICE OF APPLICATION
AGREEMENT PURSUANT TO IDAHO CODE)	
§ 61-333(1).)	NOTICE OF MODIFIED
)	PROCEDURE
)	
)	ORDER NO. 29304

On July 3, 2003, the City of Heyburn and Riverside Electric Company filed an Application for approval of their "Service Area Stabilization Agreement." Riverside is an electric non-profit corporation organized under the laws of Idaho. The Electric Supplier Stabilization Act (ESSA) requires that all contracts to allocate territories, consumers, and future consumers be submitted to the Commission for its review. The City and Riverside are defined as "electric supplier[s]" under the ESSA. *Idaho Code* § 61-332A(2-4).

THE APPLICATION

The parties' Service Area Stabilization Agreement is dated May 14, 2003. The parties state in the Agreement that they had a pre-existing oral understanding relative to their respective service areas and have now agreed to reduce these understandings to writing. Agreement at ¶ 1.3. As more specifically described in Exhibit A to their Agreement, Riverside's service territory generally is located north and east of the City's service territory. Each party shall serve all new customers in their respective service territories. *Id.* at ¶ 2.

The Agreement also provides that the parties will exchange two customers—one from Riverside to the City and the other from the City to Riverside. *Id.* ¶ 3; Exhibit C. The Agreement states that these two customers have been contacted regarding the proposed transfer and the "customers have expressed no objection to the change of electric provider...." *Id.* at ¶ 3. These customers will not be charged any connection or disconnection fee and all cost of the work done to accomplish the change in service shall be borne by the parties. *Id.*

The Agreement also notes that Riverside has acquired a 12.5 KV distribution line owned by the City. *Id.* at ¶ 4. The parties further agree that this line shall not be considered a “service line” for purposes of determining which electric supplier may serve a new consumer pursuant to *Idaho Code* § 61-332C.

The parties assert that their Agreement comports with the purposes of the ESSA. More specifically, their Agreement provides for stability of service to consumers, eliminates duplication of services, and provides for the safety in their respective territories. Application at ¶ 3.

THE ESSA

The purpose of the ESSA is to promote harmony among and between electric suppliers furnishing electricity within Idaho. More specifically, the ESSA: (1) prohibits the “pirating” of consumers already served by another supplier; (2) discourages duplication of electric facilities; (3) actively supervises certain conduct of electric suppliers; and (4) stabilizes the territories and consumers served by such electric suppliers. *Idaho Code* § 61-332. Under the ESSA, all agreements or contracts for the allocation of service territories or consumers shall be filed with the Commission. *Idaho Code* § 61-333(1).

In proposing to exchange two existing customers, the parties in essence request an “exception” to the anti-pirating provision of the ESSA. *See Idaho Code* §§ 61-332B and 61-334B(1). Pursuant to *Idaho Code* § 61-333B(1) the Commission may only grant an exemption to the anti-pirating exception “upon finding that granting the request is consistent with the purposes of [the ESSA].”

Idaho Code § 61-333(1) provides that any electric supplier may contract with any other electric supplier 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.” This section further provides that the Commission may, after notice and opportunity for hearing, “approve or reject contracts between municipalities and cooperatives...” The Commission “shall approve such contracts only upon finding that the allocation of territories or consumers is in conformance with the provisions and purposes of” the ESSA. *Id.*; 61-334B.

NOTICE OF MODIFIED PROCEDURE

YOU ARE HEREBY NOTIFIED that *Idaho Code* § 61-333(1) requires electric suppliers to file all contracts that allocate service territories, consumers, or future consumers with the Commission. This section further provides that the Commission shall approve all such contracts if they are in conformance with the provisions and purposes of the ESSA. *See also Idaho Code* § 61-334B.

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission's Rules of Procedure, IDAPA 31.01.01.201 through -.204.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Application may file a written comment in support or opposition with the Commission within twenty-one (21) days from the service date of this Order. The comment must contain a statement of reasons supporting the comment. Persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning this Application shall be mailed to the Commission and the Applicants at the addresses reflected below:

COMMISSION SECRETARY
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074

Street Address for Express Mail:

472 W WASHINGTON ST
BOISE, ID 83702-5983

STEVEN A. TUFT
TUFT LAW OFFICES, PA
PO BOX 759
BURLEY, ID 83318
Email: tuftlaw@pmt.org

Attorney for the City of Heyburn

GOODMAN & BOLLAR
PO BOX D
RUPERT, ID 83350

Attorneys for Riverside Electric

Comments pertaining to this application should contain the case caption and case number shown on the first page of this document.

Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at www.puc.state.id.us. Click the "Comments and Questions" icon, and complete the comment form, using the case number as it appears on the front of this

document. These comments must also be sent to the Applicants at the e-mail addresses listed above, if available.

YOU ARE FURTHER NOTIFIED that the Application in Case No. GNR-E-03-11 can be reviewed at the Commission's office and at the Commission's website www.puc.state.id.us under the "File Room" icon.

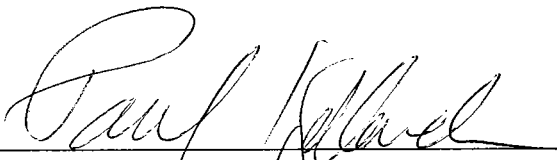
YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and specifically *Idaho Code* §§ 61-332, 61-333(1), and 61-334B.

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

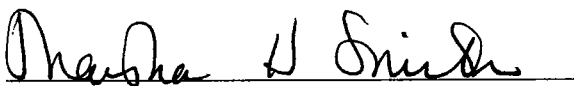
ORDER

IT IS HEREBY ORDERED that this Application be processed under Modified Procedure. Persons interested in submitting written comments regarding this Application should do so within 21 days of the service date of this Order.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 28th day of July 2003.



PAUL KJELLANDER, PRESIDENT

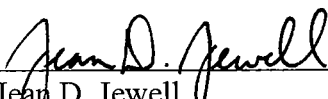


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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