

facilities; (4) stabilize the territory and consumers served by the suppliers; (5) actively supervise certain conduct of the suppliers.

THE AGREEMENT ALLOCATING TERRITORY

The Agreement Allocating Territory submitted for the Commission's review was executed on December 29, 2001. This Agreement was reached because Keystone Partners, LLC and Pleasant View Investments, LLC (Developer) requested that Avista and Kootenai install facilities to provide three-phase electric service to consumers who may construct service entrances within the Developer's real property. Agreement at 1. The Developer owns an interest in real property known as "Expo at Post Falls," "Expo at Post Falls Fourth Edition," and "Expo at Post Falls Fifth Edition" in Kootenai County, Idaho as depicted on the plat map labeled "Exhibit A" that accompanies the Application. *Id.*

Both Kootenai and Avista have existing service lines on or near the Developer's real property. *Id.* Furthermore, both are able and willing to supply electric service to consumers who may establish service entrances on the Developer's property. *Id.* Pursuant to the provisions of the ESSA, Avista and Kootenai have entered into an Agreement Allocating Territory within the confines of the Developer's real property. According to the Agreement, the parties entered into the Agreement to avoid unnecessary duplication of facilities, avoid disputes as to which utility is entitled to provide service to new service entrances, and provide the best possible service to consumers who locate their electric service entrances on the Developer's real property. *Id.*

As depicted in "Exhibit A," the Agreement divides the Developer's real property into territories labeled "Kootenai Electric Service Area" and "Avista Service Area." The Agreement allows Avista and Kootenai to extend their facilities, to the exclusion of the other, within the territory allocated to it in "Exhibit A." *Id.* at 2. Within their respective territories, Avista and Kootenai shall each provide line extensions and service to consumers pursuant to the provisions of their line extension policies, rate schedules, or tariffs in force at the time such extension or service is requested. *Id.*

Avista and Kootenai also agree that any line extension which serves a service entrance located within the territory allocated by this Agreement shall be considered an "existing service line" for the purpose of determining which electric supplier is entitled to provide electric service to a new service entrance located in territory not allocated pursuant to the provisions of this Agreement. *Id.*

STAFF COMMENTS

According to Staff, the “Expo at Post Falls” is a multi-phased development project located between Avista and Kootenai’s existing service areas that is being developed over several years. Comments at 2. Avista’s existing facilities are located to the south and Kootenai’s existing facilities are located to the west and north. *Id.* Staff stated that the individual line extension policies of Avista and Kootenai would have allowed either utility to serve the entire project. *Id.* While the phases and timing of the development were not finalized at the outset of the project, it became apparent that the development timing was not conducive to one utility serving the project from start to finish. *Id.*

To avoid potential conflicts, Avista Utilities, Kootenai Electric and the Developer came to a general understanding for the entire project’s electric service. *Id.* The Agreement described in the Application formalizes the general understanding for the Fifth Addition phase of the project. *Id.* Staff explained that as individual phases of the development become more defined, any necessary Territory Allocation Agreements will be formalized and executed. *Id.*

Staff concludes that the Agreement complies with the ESSA by drawing a line between customers and clearly defining which utility will serve each customer within this phase of the development. *Id.* at 3. Given that it satisfies the five goals listed in *Idaho Code* § 61-332, Staff recommends that the Commission approve the Agreement. *Id.*

DISCUSSION

After reviewing the Application, the Agreement Allocating Territory and the pertinent provisions of the ESSA, we find that the Agreement should be approved. We note that there were no opposing comments and the only comments submitted supported approval of the Agreement. Avista and Staff agree that the Agreement will likely avoid future disputes as to which utility will provide electricity to the Expo at Idaho Falls Fifth Addition. We find that this Agreement Allocating Territory is a reasonable resolution under the circumstances and thus promotes “harmony among and between electrical suppliers furnishing electricity within the state of Idaho.” *Idaho Code* § 61-332(2) (2001). We also find that the Agreement discourages “duplication of electrical facilities” by allocating territory. *Id.* Consequently, we conclude that the Service Territory Agreement is in conformance with the purposes of the ESSA.

ORDER

IT IS HEREBY ORDERED that Avista Utilities' Application for approval of an Agreement Allocating Territory formed on December 29, 2001, between Avista Utilities and Kootenai Electric Cooperative is approved.

THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. AVU-E-02-1 may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this order or in interlocutory Orders previously issued in this Case No. AVU-E-02-1. For purposes of filing a petition for reconsideration, this order shall become effective as of the service date. *Idaho Code* § 61-626. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 27th day of March 2001.

PAUL KJELLANDER, PRESIDENT

MARSHA H. SMITH, COMMISSIONER

DENNIS S. HANSEN, COMMISSIONER

ATTEST:

Jean D. Jewell
Commission Secretary

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