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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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|--|----------------------------|
| IN THE MATTER OF THE APPLICATION OF) | |
| AVISTA CORPORATION DBA AVISTA) | CASE NO. AVU-E-03-1 |
| UTILITIES FOR AN ORDER APPROVING AN) | |
| AMENDMENT TO A SERVICE TERRITORY) | COMMENTS OF THE |
| AGREEMENT BETWEEN AVISTA UTILITIES) | COMMISSION STAFF |
| AND KOOTENAI ELECTRIC COOPERATIVE,) | |
| INC.) | |
| _____) | |

COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its attorney of record, Donald L. Howell, II, Deputy Attorney General and submits the following comments in response to the Notice of Application, Notice of Modified Procedure and Order No. 29217 issued on April 7, 2003.

On March 11, 2003, Avista submitted an amendment to its Service Territory Agreement with Kootenai Electric Cooperative. The Agreement was executed pursuant to the provisions of the Electric Supplier Stabilization Act (ESSA). Amendment No. 1 dated December 26, 2002, makes two changes to the underlying Agreement. First, it changes outdated references from "The Washington Water Power Company" to "Avista Corporation dba Avista Utilities." Second, it deletes Section 7 (Development Construction) in the underlying Agreement.

BACKGROUND

In Order No. 28681 dated March 21, 2001, the Commission approved a Service Territory Agreement and its Addendum entered into by Avista's predecessor WWP and Kootenai Electric Cooperative. The Commission approved the Service Territory Agreement pursuant to the ESSA and in particular *Idaho Code* § 61-333. This section provides in pertinent part that

the commission shall after notice and opportunity for hearing, review and approve or reject contracts . . . between cooperatives and public utilities. . . . 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].

Idaho Code § 61-333(1).

STAFF ANALYSIS

As mentioned above, Avista and Kootenai propose two amendments to their Agreement. First, is a housekeeping matter changing the name of WWP to Avista Corporation dba Avista Utilities.

The second amendment is to delete Section 7 of the underlying Agreement. This section included provisions to determine which of two suppliers will serve a development (i.e., subdivision) when build out of the development intersects a competing electric supplier's service line. Avista states that the elimination of Section 7 from the Residential Subdivision Agreement accomplishes the following:

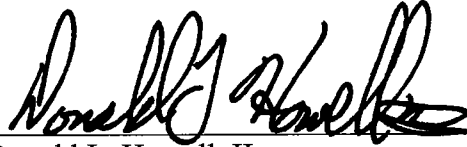
- Removes the uncertainty created by the reference to the intersection of a competing utility's service line because the minimum length of that line is not defined,
- Avoids duplication of services within all phases of platted residential subdivisions,
- Allows developers to choose an electric provider and continue that continuity throughout all phases of a development regardless of a competing utility's intersecting electrical lines. (Section 6).

Both parties have mutually agreed to delete Section 7 from the Agreement. Staff agrees that the language contained in Section 7 is somewhat ambiguous and could lead to confusion should it ever need to be applied. Staff believes the Agreement will function satisfactorily even after Section 7 has been removed.

RECOMMENDATIONS

Staff recommends approval of the proposed amendments to the Agreement.

Respectfully submitted this **22** day of April 2003.

A handwritten signature in black ink, appearing to read "Donald L. Howell, II", written over a horizontal line.

Donald L. Howell, II
Deputy Attorney General

Technical Staff: Rick Sterling

DH:RPS:gdk:i:umisc/comments/avue03.1dhrps

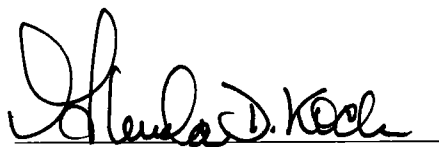
CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 22ND DAY OF APRIL 2003,
SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE
NO. AVU-E-03-01, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE
FOLLOWING:

BRUCE FOLSOM, MANAGER
REGULATORY COMPLIANCE
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KELLY NORWOOD
VICE PRESIDENT
AVISTA CORP
PO BOX 3727
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ROBERT L. CRUMP
GENERAL MANAGER
KOOTENAI ELECTRIC COOPERATIVE INC
PO BOX 278
HAYDEN, ID 83835-0278


SECRETARY

CERTIFICATE OF SERVICE