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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF)
AVISTA CORPORATION DBA AVISTA) **CASE NO. AVU-E-04-6**
UTILITIES FOR AN ORDER APPROVING A)
CONTRACT WITH NORTHERN LIGHTS, INC.)
TO EXCHANGE AN EXISTING CUSTOMER) **COMMENTS OF THE**
UNDER THE ELECTRIC SUPPLIER) **COMMISSION STAFF**
STABILIZATION ACT.)
)

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 Order No. 29635, issued on November 22, 2004.

BACKGROUND

On November 3, 2004, Avista Corporation dba Avista Utilities filed an Application seeking the Commission's approval of a contract between Avista and Northern Lights, Inc. to exchange an existing customer. The agreement between the parties is being submitted for the Commission's approval pursuant to the Electric Suppliers Stabilization Act (ESSA) and specifically *Idaho Code* §§ 61-333(1) and 61-334B. The Avista and Northern Lights exchange agreement is dated September 22, 2004.

The parties propose to exchange one existing customer. More specifically, Northern Lights will allow Avista to serve Jerry VanOoyen located at 43 Gun Club Road in Sagle, Idaho. Mr. VanOoyen is currently a Northern Lights customer. His property is encompassed by a new development known as Summer Haven. In accordance with the ESSA, Avista will provide electric service to the new development. Consequently, the parties have agreed that it would be more efficient for Avista to serve Mr. VanOoyen in the future.

Northern Lights and Mr. VanOoyen have executed a "Termination of Service Agreement" dated September 9, 2004. This latter agreement calls for Northern Lights to remove its facilities used to serve Mr. VanOoyen so that Avista may serve him.

Idaho Code § 61-332B prohibits an electric supplier from serving a customer already served by another supplier, except as otherwise ordered by the Commission. *Idaho Code* § 61-334B(1) provides that any exception to the anti-pirating provision of the ESSA must be reviewed and approved by the Commission. Section 61-334B(1) further provides that the Commission may only approve the exchange of a customer after finding that the transfer is consistent with the purposes of the ESSA set out in *Idaho Code* § 61-332.

STAFF REVIEW

Staff has reviewed the Application and other related documents and believes the transfer should be granted to avoid duplication of electric facilities. *Idaho Code* § 61-332(2).

Avista has appropriately chosen to serve the Summer Haven Subdivision near Sagle, Idaho in accordance with *Idaho Code* § 61-332C(1)(c)¹. Avista currently provides service to a number of customers east and directly adjacent to the public roadway on the west boundary of the proposed subdivision. Northern Lights facilities are to the north and further away from the subdivision service entrance. However, the subdivision surrounds the much smaller Ooyen property currently served by Northern Lights. The combination of subdivision service and the existing customer creates a duplication of electric facilities. As a result of the duplication of electric facilities the parties have filed this Application with the Commission. Each utility company agrees that it is in its best interest to transfer the existing service (Van Ooyen) from Northern Lights to Avista. The owner Mr. Van Ooyen and his renter Ms. Oelson have also

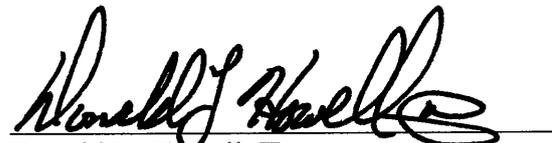
¹ This section states that: "If more than one (1) electric supplier has an existing service line within one thousand three hundred twenty (1320) feet of the new service entrance the electric supplier whose existing service line is nearest the new service entrance shall have the right to serve the consumer at the new service entrance."

agreed to switch utility service and both signed a Northern Lights, Inc. Termination of Service Agreement. Mr. Van Ooyen has further agreed to pay the cost of the transfer. Staff is not aware of any opposition to the joint request. Therefore, Staff recommends that the Commission approve the transfer contract moving the customer from Northern Lights, Inc. to Avista as an exception to *Idaho Code* § 61-332B because the contract avoids duplication of facilities and promotes harmony between the two suppliers.

STAFF RECOMMENDATION

Staff recommends that the Commission approve the Agreement to Release Customer dated September 22, 2004 between Avista Corporation dba Avista Utilities and Northern Lights, Inc. because the Agreement is consistent with the ESSA's goals set forth in *Idaho Code* § 61-332.

Respectfully submitted this *10th* day of December 2004.


Donald L. Howell, II
Deputy Attorney General

Technical Staff: Michael Fuss

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 10TH DAY OF DECEMBER 2004, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. AVU-E-04-6, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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