

DONOVAN E. WALKER
DEPUTY ATTORNEY GENERAL
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074
(208) 334-0357
IDAHO BAR NO. 5921

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IDAHO PUBLIC
UTILITIES COMMISSION

Street Address for Express Mail:
472 W. WASHINGTON
BOISE, ID 83702-5983

Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
AVISTA CORPORATION TO APPROVE AN)
AGREEMENT TO ASSIGN ELECTRIC)
CUSTOMER WITH IDAHO COUNTY LIGHT)
& POWER COOPERATIVE.)**

CASE NO. AVU-E-05-4

**COMMENTS OF THE
COMMISSION STAFF**

The Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Donovan E. Walker, Deputy Attorney General, respectfully submits the following comments in response to Order No. 29742, issued on March 28, 2005. Staff recommends that the Commission approve the ESSA Agreement between Avista and Idaho County Light & Power.

THE APPLICATION

On March 10, 2005, Avista Corporation dba Avista Utilities filed an Application to approve an Agreement to Assign Electric Customers with Idaho County Light & Power Cooperative (ICLP). The parties' "Agreement to Assign Electric Customers" is dated February 16, 2005. The Agreement was executed pursuant to the provisions of the Electric Supplier

Stabilization Act (ESSA) and specifically *Idaho Code* § 61-333(1). The parties request that their Application be processed under Modified Procedure.

The parties have entered into an agreement pursuant to the Electric Supplier Stabilization Act (ESSA), *Idaho Code* §§ 61-332 *et seq.*, by which ICLP has agreed to relinquish its electric service rights to serve any portion of the Crimson Ridge Subdivision, Phase I, located in Idaho County. The Agreement and property description are attached to the Company's Application.

Buy-The-Way LLC (Developer) is developing residential building sites in the Crimson Ridge Subdivision, Phase I, consisting of 32 large lots. The Application states that Avista and ICLP each have electric service rights under the ESSA to provide electric service to certain portions of the development. The Developer has requested that Avista provide electric service to the entire development. Through the Agreement ICLP has released its electric service rights to serve any portion of the development. The Application states that the Agreement is in the best interest of the customer, will avoid duplication of facilities, avoid disputes between parties, and provides the consumer with the best possible service.

Idaho Code § 61-333(1) provides that electric suppliers may contract 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." Under the ESSA, both Avista and Inland Power are defined as electric suppliers. *Idaho Code* § 61-332A(4). After notice and opportunity for hearing, the Commission may approve agreements allocating service territories and customers between electric suppliers only upon finding that the allocation is in conformance with the purposes of the ESSA. *Idaho Code* §§ 61-333(1), 61-334B(1). The purposes of the ESSA are to: discourage duplication of facilities; prohibit the "pirating" of consumers; stabilize service territories and consumers; and promote harmony between electric suppliers. *Idaho Code* § 61-332(2).

STAFF RECOMMENDATION

Staff believes the February 16, 2005 Agreement between Avista and Idaho County Light & Power to allocate service territories and future consumers is in conformance with the provisions and purposes of the ESSA. More specifically, the Agreement will allow the parties to avoid duplication of services, stabilize service territories and customers, and promote harmony by avoiding interconnection disputes. *Idaho Code* § 61-332(2). Staff recommends that the Agreement be approved.

Respectfully submitted this 12th day of April 2005.

A handwritten signature in black ink, appearing to read "Don Walker", written over a horizontal line.

Donovan E. Walker
Deputy Attorney General

Technical Staff: Dave Schunke

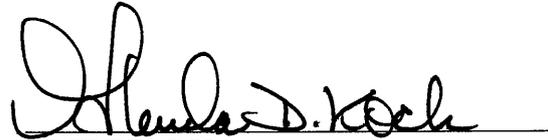
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 12TH DAY OF APRIL 2005, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. AVU-E-05-4, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

BRIAN HIRSCHKORN
MANAGER, PRICING
RATES & REGULATIONS
AVISTA CORPORATION
PO BOX 3727
SPOKANE WA 99220-3727
E-mail brian.hirschhorn@avistacorp.com

IDAHO COUNTY LIGHT & POWER
PO BOX 300
GRANGEVILLE ID 83530-0300



SECRETARY