

## DECISION MEMORANDUM

**TO:** COMMISSIONER KJELLANDER  
COMMISSIONER SMITH  
COMMISSIONER HANSEN  
COMMISSION SECRETARY  
COMMISSION STAFF  
LEGAL

**FROM:** DONOVAN E. WALKER

**DATE:** SEPTEMBER 21, 2006

**SUBJECT:** AVISTA'S APPLICATION TO APPROVE A TERRITORY ALLOCATION AGREEMENT WITH NORTHERN LIGHTS, INC., CASE NO. AVU-E-06-07

On September 11, 2006, Avista filed an Application to approve an agreement allocating service territory with Northern Lights, Inc. pursuant to the Electric Supplier Stabilization Act (ESSA), *Idaho Code* §§ 61-332 *et seq.* The Company requests that this Application be processed by Modified Procedure. Staff also recommends processing the Application by Modified Procedure.

### THE APPLICATION

According to the Application the parties have entered into an agreement pursuant to the ESSA in order to allocate territory, avoid disputes between utilities, and to provide consumers with the best possible service. Both utilities have existing service lines near a new development (Development) in Sandpoint, Idaho, and both utilities are able and willing to supply electric service to consumers who may establish service entrances in the Development. The utilities have agreed to an allocation of service territory to each utility as set forth in their Agreement.

The Agreement Allocating Territory as well as a map of the designated service areas (Exhibit B) and a legal description of the boundaries (Exhibit A) was filed with the Application. According to the Agreement, Avista and Northern Lights will each be entitled to extend their electric facilities, to the exclusion of the other, within the territory allocated to each as outlined on Exhibit B, and to provide service to customers who locate new electric service entrances within such territory. The Agreement states that, within the territory allocated, each utility shall

provide line extensions and electric service pursuant to the provisions of their respective line extension policies, rate schedules, and/or tariffs in force at the time such extensions or services are requested. The Agreement further provides that a line extension installed within the boundaries of the Development to serve an electric service located within the territory allocated by the Agreement shall not be considered an “existing service line” and may not be used as a future measuring point for the purpose of determining which utility is entitled to provide electric service under the ESSA to new service entrances located in territory not allocated pursuant to the Agreement. Additionally, the Agreement states that the utilities current electric service lines as shown on Exhibit B, as well as any line extensions external to the boundaries defined in the Agreement and outlined on Exhibit B which are required to reach existing infrastructures within the Development and which are installed in accordance with the ESSA, may be used to determine future electric service rights to new service entrances located in territory not allocated pursuant to the Agreement. Lastly, the Agreement states that the boundaries set forth by the Agreement and shown on Exhibit B will not be affected by any subsequent changes in lot lines, roadways, or other boundaries within the Development that occur after the date of the Agreement.

#### **THE ESSA**

*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 Northern Lights 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* § 61-333A(1). As set out in *Idaho Code* § 61-332(2), the purpose of the ESSA is to: discourage duplication of facilities; prohibit “pirating” of consumers; stabilize service territories and consumers; and promote harmony between electric suppliers.

#### **STAFF RECOMMENDATION**

Staff recommends that the Company’s Application be processed by Modified Procedure with a 21-day comment period.

## COMMISSION DECISION

Does the Commission preliminarily find that the public interest may not require a hearing to consider the issues presented in this case, and that this case is appropriate for Modified Procedure pursuant to Commission Rules of Procedure 201 through 204?

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

Donovan E. Walker