

DECISION MEMORANDUM

TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF
LEGAL

FROM: NEIL PRICE

DATE: JUNE 26, 2007

SUBJECT: APPLICATION FOR APPROVAL OF A SERVICE TERRITORY AGREEMENT FILED BY AVISTA UTILITIES AND NORTHERN LIGHTS, CASE NO. AVU-E-07-06

On June 15, 2007, Avista Corporation dba Avista Utilities filed an Application seeking the Commission's approval of a contract between Avista and Northern Lights, Inc. ("Northern Lights") to allocate service territories and future consumers. Northern Lights is an electric cooperative operating in northern Idaho. The parties have entered into a "Customer Allocation Agreement" which is last dated May 19, 2007 and attached to Avista's Application. The Agreement was executed pursuant to the provisions of the Electric Supplier Stabilization Act ("ESSA"), specifically *Idaho Code* § 61-333(1).

THE APPLICATION

Avista and Northern Lights propose to allocate service territory in a 13-lot residential subdivision development known as Lakewood Estates in Sandpoint, Idaho. Avista customer Alpine Property Development, Inc. ("Developer") is developing the subdivision. Both electric suppliers have existing facilities that can serve the 13-lot subdivision. The parties recite in their Agreement that Northern Lights already serves two existing homes in the development and will serve the remaining lots because its facilities are in closer proximity to the development. Agreement at 1. A plat of the subdivision is attached to the Agreement.

The parties assert that allowing Northern Lights to provide electric service to the subdivision will avoid duplication of facilities, avoid dispute between the parties and provide consumers the best possible service. For the aforementioned reasons, the parties agree that it is in the best interest of the customer "to have a single source-utility provider." *Id.* The Agreement

recognizes that Avista does not give up “its rights to serve future phases of the Development or adjoining plats thereto, and the Agreement may not be used to” determine which supplier may serve other new customers. *Id.* at 1, ¶ 3.

The owner-developer of Alpine Property Development, Richard Lewis, has endorsed the Agreement. The Developer agrees to comply and be bound by the Agreement. Pursuant to their Agreement, the parties recommend that the Application be processed under Modified Procedure. Finally, the parties acknowledge that the Agreement is subject to the Commission’s approval. *Id.* at 1, ¶ 4.

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 purposes of the ESSA are to: (1) discourage duplication of facilities; (2) prohibit “pirating” of consumers; (3) stabilize service territories and consumers; and (4) promote harmony between electric suppliers.

STAFF RECOMMENDATION

In accordance with the agreement between the parties and the consent of the affected Developer, Staff recommends that this Application be processed under Modified Procedure.

COMMISSION DECISION

Does the Commission concur that this mater should be processed under Modified Procedure?



Neil Price

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