

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION)
OF AVISTA CORPORATION TO APPROVE) CASE NO. AVU-E-13-01
AN AGREEMENT ALLOCATING)
TERRITORY WITH KOOTENAI ELECTRIC)
COOPERATIVE) ORDER NO. 32738
)**

On January 7, 2013, Avista Corporation dba Avista Utilities applied to the Commission for an Order approving Avista's Developer Release Agreement with Kootenai Electric Cooperative (the "Agreement"). In sum, the Agreement provides that Kootenai Electric releases its rights to provide electric service to certain structures within Copper Basin Construction's development in Coeur d'Alene, and Avista assumes electric service rights to the entire development.

On January 15, 2013, the Commission issued a Notice of Application and Notice of Modified Procedure setting a February 5, 2013 comment deadline. *See* Order No. 32714. Commission Staff filed the only comments, and recommended the Commission approve the Agreement under the Electric Supplier Stabilization Act (ESSA), *Idaho Code* §§ 61-332 *et seq.* With this Order, the Commission approves the Agreement.

THE APPLICATION

Avista's Application says that Copper Basin Construction is developing a commercial/multi-family property at Seltice Way and Grand Mill Avenue in Coeur d'Alene. Avista has electric service rights on the development's north and east sides and at the service point on the development's south and southwest side. Application at 1. Copper Basin wants to enter into an electric extension agreement that allows Avista to install electric distribution facilities and provide electric service throughout the development. *Id.* at 1-2. Kootenai Electric has thus agreed to release its rights to provide electric service to those structures within Copper Basin's development that are near Kootenai Electric's service points, and Avista has agreed to install the facilities and provide electric service within the development. *Id.* at 3.

Avista says approving the Agreement so Avista can install the facilities and provide electric service throughout Copper Basin's development offers several benefits. First, it creates cost efficiencies by avoiding duplicate services and allowing the developer to coordinate work

with one utility. Second, it enhances worker safety by allowing one utility to coordinate the work. Third, it creates electric service continuity in the development and enhances customer satisfaction. Fourth, the developer will be eligible for Avista’s demand-side management program and will install more energy efficient equipment. *Id.* at 2.

THE ESSA

The ESSA generally prohibits an electric supplier from serving another electric supplier’s existing or former customers. *Idaho Code* § 61-332B.¹ As an exception to this general rule, the ESSA allows electric suppliers to 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.” *Idaho Code* § 61-333(1). However, such contracts are subject to Commission approval. *Id.* Specifically, the Commission must approve the contract if, after notice and opportunity for hearing, the Commission finds that the allocation conforms with the purposes of the ESSA. *See Idaho Code* §§ 61-333(1) and 61-334B(1). As set out in *Idaho Code* § 61-332(2), the purposes of the ESSA are to: (1) promote harmony between electric suppliers; (2) prohibit the “pirating” of consumers; (3) discourage duplication of electric facilities; (4) actively supervise the conduct of electric suppliers; and (5) stabilize service territories and consumers.

STAFF COMMENTS

Staff reviewed the Agreement to ensure it conforms with the ESSA. Staff notes that allocating service for the development requires the parties to seek an “exception” to the ESSA’s anti-pirating provision. Staff supports the exception request and notes that the planned allocation furthers the ESSA’s purposes by avoiding duplication of facilities and promoting harmony between the suppliers. Consequently, Staff recommended the Commission find that the Agreement conforms with the purposes of the ESSA, grant an exception to the ESSA’s anti-pirating provision, and approve the Application and Agreement.

¹ Avista and Kootenai Electric are “electric suppliers” as defined in the ESSA. *See Idaho Code* § 61-332A(4) (“Electric supplier” means any public utility, cooperative, or municipality supplying or intending to supply electric service to a consumer.)

FINDINGS


Idaho Code § 61-333(1) requires the Commission to review agreements that allocate territories and consumers between electric suppliers like Avista and Kootenai Electric. Pursuant to this statute, we must determine whether the allocation of the territory or customer conforms with the purposes of the ESSA. After reviewing the Agreement and Staff's comments, we grant the Application and approve the Agreement in this case. We find that the Agreement avoids the duplication of facilities and promotes harmony between Avista and Kootenai Electric. We further note that there was no public opposition to the Agreement. Based upon these findings, we conclude that the Agreement conforms with the purposes of the ESSA.

ORDER

IT IS HEREBY ORDERED that the Agreement between Avista and Kootenai Electric is approved.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 12th
day of February 2013.



PAUL KJELLANDER, PRESIDENT




MACK A. REDFORD, COMMISSIONER



MARSHA H. SMITH, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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