

## DECISION MEMORANDUM

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

**FROM: KARL KLEIN  
DEPUTY ATTORNEY GENERAL**

**DATE: JANUARY 11, 2013**

**SUBJECT: AVISTA'S APPLICATION FOR APPROVAL OF A TERRITORY  
ALLOCATION AGREEMENT WITH KOOTENAI ELECTRIC  
COOPERATIVE, CASE NO. AVU-E-13-01**

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 and Copper Basin Construction. The Agreement would enable Avista to install electric distribution facilities and provide electric service to and within Copper Basin's commercial/multi-family development in Coeur d'Alene, Idaho under the Electric Supplier Stabilization Act (ESSA), *Idaho Code* §§ 61-332 *et seq.* Avista asks the Commission to process the Application by Modified Procedure. Staff agrees that Modified Procedure should be used.

### THE APPLICATION

The 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. According to the Application, 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.

According to the Application, approving the Developer Release Agreement and allowing Avista to install the facilities and provide electric service throughout the 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**

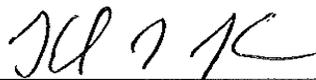
*Idaho Code* § 61-333(1) provides that electric suppliers may contract for the purpose of “allocating territories, consumers, and future consumers ... and designating which territories and consumers are to be served by which contracting electric supplier.” Under the ESSA, both Avista and Kootenai Electric 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 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 and that this case should be processed by Modified Procedure under Commission Rules of Procedure 201 through 204?

  
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Karl Klein  
Deputy Attorney General

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