

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF IDAHO COUNTY)	
LIGHT & POWER COOPERATIVE)	CASE NO. AVU-E-15-02
ASSOCIATION, INC.'S APPLICATION FOR)	
APPROVAL OF AN AGREEMENT)	
ALLOCATING TERRITORY WITH AVISTA)	ORDER NO. 33287
CORPORATION DBA AVISTA UTILITIES)	
)	

On March 9, 2015, Idaho County Light & Power Cooperative Association, Inc. (ICLP) applied under the Electric Supplier Stabilization Act (ESSA), *Idaho Code* §§ 61-332 *et seq.*, for an Order approving Avista Corporation dba Avista Utilities' Agreement to Assign Electric Customers to ICLP. The ESSA enables electric utilities to allocate territories and consumers if certain conditions are satisfied. With this Agreement, ICLP and Avista propose to allocate customers and territory within the River View Estates Subdivision in Idaho County, Idaho (the Subdivision).

On March 17, 2015, the Commission issued a Notice of Application and Notice of Modified Procedure setting an April 13, 2015 deadline for interested persons to file comments, and an April 20, 2015 reply deadline. *See* Order No. 33252. Commission Staff filed the only comments in the case, and recommended the Commission approve the Agreement.

Having reviewed the record, including the Application and Staff's comments, we enter this Order approving the Agreement.

THE APPLICATION

In its Application, ICLP explains that Elbert and Janet Hendren are developing residential building sites in the River View Estates Subdivision in Idaho County, Idaho (the Subdivision). The Subdivision contains 23 lots. Two lots have been developed and are being served by Avista. The developers have asked ICLP to serve the remaining 21 undeveloped lots. ICLP and Avista have entered the Agreement to facilitate this arrangement.

Under the Agreement, Avista releases its rights to serve the 21 undeveloped lots in the 23-lot Subdivision to ICLP. ICLP is to install facilities and serve the 21 undeveloped lots. Avista is to continue serving the two developed lots. ICLP maintains that the Agreement, if approved, will allow the parties to avoid territorial disputes and the needless duplication of facilities, and enable them to provide the best possible service to customers.

STAFF COMMENTS

Commission Staff ensured the Notice of Application and Notice of Modified Procedure was mailed to all property owners in the Subdivision who currently receive electric service or who have expressed an interest in being served by a particular service provider. That Notice set an April 13, 2015 deadline for interested persons to comment on the Application. A review of the record reveals that Staff filed the only comments in the case.

Staff reports that it reviewed the Application and spoke with representatives from Avista and ICLP. Staff observes that the two developed lots are owned by individuals who also own property that adjoins the Subdivision. Avista currently serves both customers. One customer has extended electrical power from his Avista-served, adjoining property to outbuildings on his lot in the Subdivision. The second customer plans to do the same in the near future. Staff notes that the Agreement will enable Avista to continue serving these customers while allowing ICLP to serve the remaining 21 lots. Staff opines that the Agreement furthers the ESSA's purpose by enabling ICLP and Avista to serve the Subdivision while avoiding territorial disputes and needlessly duplicating facilities and service. Accordingly, Staff recommended the Commission: (1) find that the Agreement conforms to the ESSA's purposes; and (2) grant the Application and approve the Agreement.

DISCUSSION

The ESSA generally prohibits an "electric supplier" from serving another electric supplier's existing or former customers. *Idaho Code* § 61-332B. An "electric supplier" is any public utility, cooperative, or municipality supplying or intending to supply electric service to a consumer. *See Idaho Code* § 61-332A(4). As an exception to the general rule barring electric suppliers from serving each other's customers, 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). The contracts are, however, 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). *Idaho Code* § 61-332(2) describes the ESSA's purposes as 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.

We have reviewed the record in this case and find that Avista and ICLP are “electric suppliers” as defined in the ESSA. We must, therefore, examine the Agreement to determine whether it allocates territory or customers in a manner that conforms with the ESSA’s purposes. After reviewing the Agreement and Staff’s comments, we find that the Agreement conforms with the purposes of the ESSA because it will avoid the duplication of facilities and promote harmony between Avista and ICLP. *See Idaho Code* § 61-332(2). We also note that there has been no public opposition to the Agreement. We thus find that the Application should be granted, and that the Agreement should be approved.

ORDER

IT IS HEREBY ORDERED that the Application is granted. The Agreement between Avista Corporation dba Avista Utilities and Idaho County Light & Power Cooperative Association, Inc. 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 29th
day of April 2015.



PAUL KJELLANDER, PRESIDENT




MACK A. REDFORD, COMMISSIONER



KRISTINE RAPER, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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