

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

<b>IN THE MATTER OF THE APPLICATION</b>	)	
<b>OF RAFT RIVER RURAL ELECTRIC</b>	)	<b>CASE NO. C11-E-09-01</b>
<b>COOPERATIVE, INC. FOR AN ORDER</b>	)	
<b>APPROVING AN ALLOCATION</b>	)	<b>NOTICE OF APPLICATION</b>
<b>AGREEMENT BETWEEN RAFT RIVER</b>	)	
<b>AND IDAHO POWER COMPANY</b>	)	<b>NOTICE OF</b>
<b>PURSUANT TO THE ELECTRIC SUPPLIER</b>	)	<b>MODIFIED PROCEDURE</b>
<b>STABILIZATION ACT</b>	)	
	)	<b>ORDER NO. 30956</b>

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On October 30, 2009, Raft River Rural Electric Cooperative filed an Application seeking the Commission's approval of an "Allocation Agreement" between Raft River and Idaho Power Company so Raft River may serve a customer located in Idaho Power's service territory. Raft River is an electric cooperative operating in southeast Idaho. The Company's allocation "agreement to supply new service" is dated August 25, 2009, and was executed by Raft River, Idaho Power and the affected customer, Steve Benson. The Agreement is submitted for the Commission's approval pursuant to the provisions of the Electric Supplier Stabilization Act (ESSA) and specifically *Idaho Code* § 61-333(1).

**THE APPLICATION**

YOU ARE HEREBY NOTIFIED that Raft River and Idaho Power agree "that it is in the best interest of all involved for Raft River to provide power to Mr. Benson's property. . . ." Application at 1. Although Mr. Benson's property is located within the certificated service area of Idaho Power, the two electric suppliers have agreed to allow Raft River to supply Mr. Benson's property with new, three-phase electric service. The parties recognize that the Agreement is not intended to modify the service territories of either Idaho Power or Raft River.

YOU ARE FURTHER NOTIFIED that Raft River asserts that the Agreement is "essentially a private agreement between the parties and has no significant implications for regulatory law or policy[.]" Application at 1-2. Consequently, the parties request the Commission summarily approve the Allocation Agreement. *Id.* at 2.

## **THE ESSA**

YOU ARE FURTHER NOTIFIED that *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 Raft River and Idaho Power are defined as electric suppliers. *Idaho Code* § 61-332A(4). After notice and opportunity for hearing, the Commission is authorized to approve agreements allocating customers between electric suppliers only upon finding that the allocation is in conformance with the purposes of the ESSA. *Idaho Code* § 61-333(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**

Because the ESSA requires that the Commission review allocation agreements “after notice and opportunity for hearing,” the Staff recommends that this Application be processed under Modified Procedure. Given the limited scope of this Agreement, Staff further recommends that the comment period for Modified Procedure be shortened to 14 days.

## **NOTICE OF MODIFIED PROCEDURE**

YOU ARE FURTHER NOTIFIED that the Commission has determined that the public interest may not require a formal hearing in this matter and will proceed under Modified Procedure pursuant to Rules 201 through 204 of the Idaho Public Utilities Commission’s Rules of Procedure, IDAPA 31.01.01.201 through .204. The Commission notes that Modified Procedure and written comments have proven to be an effective means for obtaining public input and participation.

YOU ARE FURTHER NOTIFIED that any person desiring to state a position on this Application may file a written comment in support or opposition with the Commission within fourteen (14) days from the service date of this Notice. The comment must contain a statement of reasons supporting the comment. Persons desiring a hearing must specifically request a hearing in their written comments. Written comments concerning this Application shall be mailed to the Commission and the Applicant at the addresses reflected below:

Commission Secretary  
Idaho Public Utilities Commission  
PO Box 83720  
Boise, ID 83720-0074

Street Address for Express Mail:

472 W. Washington Street  
Boise, ID 83702-5918

Jerry R. Rigby  
Rigby, Andrus & Rigby, Chartered  
25 N. Second East  
Rexburg, ID 83440  
E-Mail: [jrigby@rex-law.com](mailto:jrigby@rex-law.com)

Barton L. Kline  
Idaho Power Company  
PO Box 70  
Boise, ID 83707-0070  
E-mail: [bkline@idahopower.com](mailto:bkline@idahopower.com)

All comments should contain the case caption and case number shown on the first page of this document. Persons desiring to submit comments via e-mail may do so by accessing the Commission's home page located at [www.puc.idaho.gov](http://www.puc.idaho.gov). Click the "Comments and Questions" icon and complete the comment form using the case number as it appears on the front of this document. These comments must also be sent to the Applicants at the e-mail addresses listed above.

YOU ARE FURTHER NOTIFIED that if no written comments or protests are received within the time limit set, the Commission will consider this matter on its merits and enter its Order without a formal hearing. If written comments are received within the time limit set, the Commission will consider them and, in its discretion, may set the same for formal hearing.

YOU ARE FURTHER NOTIFIED that the Application has been filed with the Commission and is available for public inspection during regular business hours at the Commission offices. The Application is also available on the Commission's web site at [www.puc.idaho.gov](http://www.puc.idaho.gov) by clicking on "File Room" and then "Electric Cases."

YOU ARE FURTHER NOTIFIED that all proceedings in this case will be held pursuant to the Commission's jurisdiction under Title 61 of the Idaho Code and specifically *Idaho Code* §§ 61-322A(4) and 61-333(1). The Commission may enter any final Order consistent with its authority under Title 61.

YOU ARE FURTHER NOTIFIED that all proceedings in this matter will be conducted pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

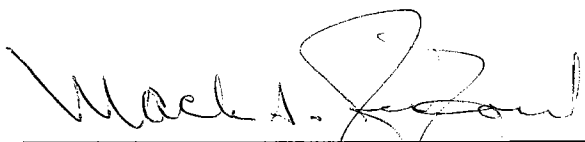
## ORDER

IT IS HEREBY ORDERED that this matter be processed under our Rules of Modified Procedure. Persons interested in submitting comments on this Application may do so within fourteen (14) days of the service date of this Order.

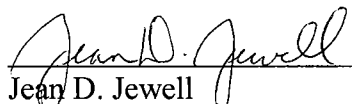
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 2<sup>nd</sup> day of December 2009.

  
J.M.D. KEMPTON, PRESIDENT

  
MARSHA H. SMITH, COMMISSIONER

  
MACK A. REDFORD, COMMISSIONER

ATTEST:

  
Jean D. Jewell  
Commission Secretary

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