

DECISION MEMORANDUM

TO: COMMISSIONER KEMPTON
COMMISSIONER SMITH
COMMISSIONER REDFORD
COMMISSION SECRETARY
COMMISSION STAFF

FROM: DON HOWELL
DEPUTY ATTORNEY GENERAL

DATE: NOVEMBER 12, 2009

SUBJECT: APPLICATION FOR APPROVAL OF A CUSTOMER ALLOCATION AGREEMENT BETWEEN RAFT RIVER AND IDAHO POWER, CASE NO. C11-E-09-01

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

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.

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

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.

COMMISSION DECISION

Does the Commission find that this matter should be processed under Modified Procedure?

Does the Commission wish to shorten the comment period to 14 days?



Don Howell
Deputy Attorney General

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