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IDAHO PUBLIC
UTILITIES COMMISSION

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BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

In the Matter of the Application of)	
United Electric Co-op, Inc. and)	Case No. <u>GNR-E-03-05</u>
the City of Heyburn for an Order)	
Approving a Service Territory)	APPLICATION
Agreement between the Applicants.)	

Pursuant to Rule 51 of the IPUCRP, and Idaho Code § 61-333, United Electric Co-op, Inc. ("United") and City of Heyburn ("Heyburn") respectfully apply for Commission approval of a Service Territory Agreement between United and Heyburn on the grounds

and for the following reasons:

1. On December 8, 2000, the Idaho Legislature, meeting in special session amended the Idaho Electric Supplier Stabilization Act, §§ 61-332 through 61-334B of the Idaho Code. Idaho Code § 61-333 provides that any electric supplier may contract in writing with another electric supplier for the purpose of allocating territories, consumers, and future consumers between electric suppliers and designating which territories and consumers are to be served by which contracting electric supplier. The statute further provides that the Commission shall, after notice and hearing review and approve or reject such contracts between electric suppliers. This joint Application is filed with the Commission for approval. Approval of the Commission of Service Territory Agreements is necessary to comply with the purposes of the Electric Supplier Stabilization Act.

2. The Petitioners have for some time had a Territory Agreement between them. Such Agreement predated the amendment to Idaho Code § 61-333, and therefore United and Heyburn seek approval of the Commission of the existing Territory Agreement. A copy of that agreement is attached as Exhibit 1.

3. The Agreement was negotiated between the parties in order to settle a service territory between the parties, provide for stability of service with consumers, to eliminate duplicating of services and to provide safety in the respective territories.

4. For the foregoing reasons and to fulfill the requirements of Idaho Code § 6-333 United and Heyburn request the Commission, after notice and hearing, approval of the Agreement pursuant to law.

5. United is the successor in interest to Rural Electric by consolidation with Rural Electric and Unity Light and Power.

DATED this 12 day of JUNE, 2003.

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THIS AGREEMENT entered into the 14th day of February, 1996, by and between THE CITY OF HEYBURN, a municipal corporation of the State of Idaho, hereinafter known as the City, and RURAL ELECTRIC COMPANY, a cooperative corporation of the State of Idaho, hereinafter known as Rural,

W I T N E S S E T H:

WHEREAS, each of the parties owns and operates an electric distribution system with service areas which are contiguous to one another, and

WHEREAS, the City desires to extend water and sewer facilities into its Area of Impact north of Interstate Highway 84 in an area currently served by Rural, and

WHEREAS, Rural and the City desire to cooperate in the development in the area north of Interstate Highway 84, and

WHEREAS, it is in the public interest for the parties to enter into a service area stabilization agreement, as authorized by the Idaho Electric Supplier Stabilization Act, to avoid duplication of facilities and promote safety for each facility, now therefore,

IT IS HEREBY MUTUALLY AGREED AS FOLLOWS:

1. Attached hereto and incorporated by reference as Exhibit "A" is a map of that portion of Minidoka County which is situated north of 21st Street of the City which is also identified as Alfresco Road and 400 South Road in Minidoka County, Idaho. Rural and the City agree to divide the service area depicted on the map labeled Exhibit "A" as follows:

(A) Rural will serve the following described area:

Beginning at the north side of the MID Lower "B" canal and the point (approximately 425 West) at which the Idaho Power Company 138 kV transmission line crosses the Lower "B" canal, thence north parallel to the east side of the Idaho Power Company 138 kV transmission line to the north side of Interstate 84 (I-84), thence west along the north side of I-84 to an imaginary north-south line at approximately 575 West, thence south along the west side of this imaginary north-south line to the north side of the MID Lower "B" canal, thence westerly along the north side of Lower "B" canal to 600 West. Rural will serve customers east of the Idaho Power Company line, north of I-84, west of the imaginary north-south line at approximately 575 West and north of the Lower "B" canal to 600 West.

(B) The City will serve the following area:

Beginning at the north side of 400 South road, also known as 21st Street or the Alfresco Road, and the point (approximately 425 West) at which the Idaho Power Company 138 kV transmission line crosses 400 South to enter the BPA Heyburn Substation, thence north parallel to the west side of the Idaho Power Company 138 kV transmission line to the south side of Interstate 84 (I-84), thence west along the south

side of I-84 to an imaginary north-south line at approximately 575 West, thence south along the east side of this imaginary north-south line to the south side of Minidoka Irrigation District (MID) Lower "B" canal, to 600 West, thence south along the Heyburn city limits to the Snake River. The City will serve customers west of the Idaho Power Company line, south of I-84, east of the imaginary north-south line at approximately 575 West, south of the Lower "B" canal to 600 West, and east of the City limits to the Snake River.

(C) One Rural residential customer located at 575 West and 400 South (identified as Rural meter #181800) will be transferred to the City from Rural. Within 30 days of the transfer of the above described load from Rural to the City, the City shall reimburse Rural the gross revenue obtained from this load for the period of the last calendar year (12 months). Rural shall provide the City with the previous calendar year billing information for this meter.

(D) The purpose of a temporary transfer of a residence located at 580 West and 395 South (identified as Rural meter #181900) is to eliminate an unsafe clearance problem, facilitate the removal of Rural's underbuild line currently attached to the City's poles, and allow the City to install a neutral conductor on said line. This individual temporary transfer shall in no way alter the future application of this agreement. This temporary transfer is in Rural's territory and may be withdrawn upon 30 days written notice to the City.

(E) Rural will continue to serve the Weimer shop (identified as Rural meter # 156100, the residence identified as Rural meter # 156200, the residence identified as Rural meter # 156300, and the Griswold farm identified as Rural meter #156400 until such time the City annexes the area and has also constructed a distribution line capable of serving the loads. Within 30 days of the transfer of the above described loads from Rural to the City, the City shall reimburse Rural the gross revenue obtained from each load transferred for the period of the last calendar year (12 months). Rural shall provide the City with the previous calendar year billing information on each meter transferred.

(F) Each party reserves the necessary rights of way and easements for existing distribution lines which will be necessary to continue service to each utility's existing customers. Reservations of rights of way by either utility shall not authorize the utility with the reserved rights of way to serve patrons in the service area designated for the other utility.

2. Rural agrees to transfer to the City the existing service line, poles and meters to the above mention meter connections. Each party will retain ownership of its own transformers to avoid confusion about responsibility for PCB contamination.

3. Prior to connecting any service on Rural, the City agrees to become a member of Rural by purchasing a membership at the prescribed fee of \$100 (One Hundred Dollars).

4. Neither party shall offer or extend service to a customer in the service area granted or served to the other party under this agreement.

5. Notwithstanding, the City's agreement to a Rural to be the exclusive provider of service within the territory granted or reserved to Rural, the City shall have the right to install its own street lights, pumps and other facilities which it hereafter operates within Rural's service area and Rural agrees to deliver electrical energy and power to the City's facilities within Rural's service area on the terms and conditions set forth herein. Distribution service hereunder shall be provided in amounts necessary for the City to maintain culinary water delivery, waste water disposal service, street lights, and other City services to its customers.

6. Rural shall furnish all transformers and meters (except as otherwise noted hereinafter), at the point of delivery to the City. The service provided by Rural shall include facilities or equipment necessary or used in the delivery to the point of use by the City, and shall include transforming, switching, fusing, and lightning arresters at the point of use by the City and with respect to interconnection of Rural's system, at the point of delivery to the City, Rural, at its own expense shall furnish such equipment and devices as are required, provided, however, the City shall install capacitors, on the load side of the pump panel contactor, adequate to maintain a 95% power factor at all of its pump motors.

7. Electric power and energy distributed hereunder will be delivered to the City at the nominal delivery voltages necessary and will be measured by metering at each individual point of delivery by Rural. Rural will read all meters monthly on approximately the same date each month. The City shall have the right to be present at and participate in all meter reading and testing. The City may take meter readings each month or at the beginning and end of each year jointly with Rural to confirm the energy used.

8. The City shall reimburse Rural for energy (kwh) and demand (kW) at the current Rural retail commercial rate (minus the monthly customer charge), which is subject to adjustment from time to time, and which may be modified under separate agreement between the City and Rural. In the event that the City desires to negotiate a separate agreement for a time of day metering rate, the City shall pay to Rural the cost of the specialized meter and installation in order to account for time of day usage (both diurnal and nocturnal periods), seasonal periods, light load hours, heavy load hours, coincidental, and non-coincidental demand peaks, and any other data acquisition required to put the separate agreement into effect.

9. Rural shall submit bills to the City on or before the 1st working day of each month for service furnished during the preceding month, and payments shall be due and payable by the City on the tenth day of the month immediately succeeding the date each bill is submitted.

10. Rural assumes responsibility for all distribution lines, line poles, insulators, transformers, fuses, and other appurtenances as necessary for the purpose of clearing and protecting the electric distribution systems of Rural from faults, grounds and other types of electrical disturbances and will maintain and replace such items as are necessary for the efficient delivery of electric power and energy. The City shall be responsible for and pay the cost of repairing vandalism of any kind occurring on the City's premises to facilities furnished by Rural and for any damages to the facilities of Rural caused by any of the machinery and equipment of the City coming into contact with the power lines and other facilities of Rural. Rural shall maintain the facilities to deliver electric power and energy to the City with the same diligence with which it serves its own members. Rural shall construct, operate and maintain its power system in a manner which will not interfere with the operations of the system from which electric service is supplied to Rural for delivery to the City, and which will coordinate with the protective relaying and other protective arrangements on said system.

11. In operating and supplying electrical services within its service area as defined by this agreement, Rural shall operate in accordance with generally accepted standards of prudent utility practice, such as, but not limited to, those promulgated by the American National Standards Institute C2, which is entitled "National Electrical Safety Code", the Occupational Safety and Health Administration, the American Society for Testing and Materials, the Institute of Electrical and Electronic Engineers, and others, together with all state and federal laws pertaining to Rural's operations under any regulation imposed by the City; provided, however, that such City regulations shall not be more burdensome nor restrictive than those imposed by the City upon its own electric department.

12. Rural shall allow the City's community television cable franchisee to attach to Rural's poles in areas annexed into the City on the same basis that the franchisee attaches to the City's poles in the City's service area, but Rural, not the City, shall receive the pole attachment fee in Rural's service area.

13. In the event the City elects to impose a franchise fee for service of customers of Rural which are located within the City limits, including territories which may be annexed to the City in the future, Rural agrees to collect said franchise fees from its customers within the annexed area and transmit payment to the City not less than quarterly pursuant to the terms of the applicable franchise ordinance of the City. Rural reserves the right to contest the validity of any franchise fee which would have a detrimental economic impact on Rural or its customers who would become subject to a franchise fee.

14. The provisions of this Agreement shall apply to and bind the successors and assigns of the parties hereto. This Agreement shall remain in full force and effect as long as each of the parties shall continue to operate as electrical suppliers under their present form of ownership. In the event that Rural or the City should cease to operate as an electrical supplier, whether by sale or by change in the form of ownership, the consumers served shall remain the same.

15. Nothing in this section shall be construed to render the City liable for any claims, demands, costs, losses, causes of action, damages or liability of whatsoever kind or nature, arising out of or resulting from the construction, operation or maintenance of Rural's power system used to deliver electric energy to the City.

16. Nothing in this Agreement shall be construed to render Rural liable to the City for any claim, demands, costs, losses, causes of action, damages or liability of whatsoever kind or nature, arising as a result of energy failures caused by acts, fault or neglect of the City, third parties, interruption by the elements, or act of God.

17. Neither party, its officers, agents, employees or any of them, shall be liable for the claims, demands, costs, losses, causes of action, damages or liability of whatsoever kind or nature arising out of or resulting from construction, operation and maintenance activity performed by the other party under this contract.

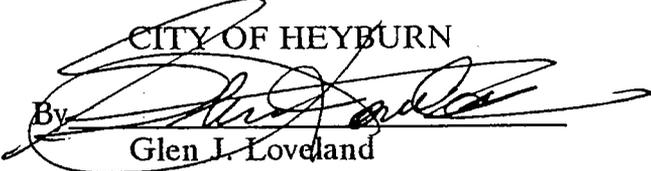
18. In the event either party shall commence an action to enforce the provisions of this Agreement, the prevailing party shall be entitled to recover reasonable attorney fees as part of its costs pursuant to the Idaho Rules of Civil Procedure.

19. A copy of this agreement shall be recorded in the office of the County Recorder of Minidoka County, Idaho.

20. This agreement may only be modified by an instrument in writing signed by the authorized representatives of Rural and the City. Upon execution of any modification, said agreement shall be recorded in the office of the County Recorder of Minidoka County, Idaho. No oral modifications of this agreement shall be enforceable.

IN WITNESS WHEREOF, the parties hereto have caused their names to be subscribed the day and year first above written.

CITY OF HEYBURN

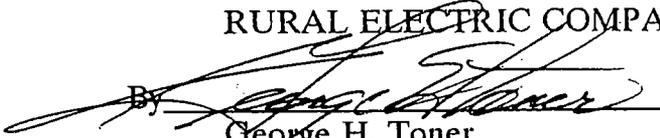
By 

Glen J. Loveland
Heyburn City Mayor

ATTEST:


Ruth Davis, City Clerk

RURAL ELECTRIC COMPANY

By 

George H. Toner
Board President

ATTEST:


Nels D. Moller
Board Secretary

STATE OF IDAHO)
County of Cassia)ss.

On this 20 day of February, in the year of 1996, before me the undersigned notary public in and for said state, personally appeared Mayor Don Lowland and City Clerk Ruth Davis, known or identified to me to be the persons whose names are subscribed to the within instrument as Mayor and City Clerk and acknowledged to me that they executed the same as such Mayor and City Clerk.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

Linda L. Dayley
Notary Public
Residing at Heyburn
My Commission expires 5-21-97

STATE OF IDAHO)
County of Mindoka)ss.

On this 26th day of February, 1996, before me the undersigned notary public in and for said state, personally appeared George H. Toner, as president, and Nels A. Moller, as secretary, known to me to be the president, and secretary, of the corporation that executed the instrument or the person who executed the instrument on behalf of said corporation, and acknowledged to me that such corporation executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year first above written.

(SEAL)

Larry C. Burbank
Notary Public
Residing at Rupert, Idaho
My Commission expires 01/04/2000

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