

DECISION MEMORANDUM

**TO: COMMISSIONER KJELLANDER
COMMISSIONER SMITH
COMMISSIONER HANSEN
COMMISSION SECRETARY
COMMISSION STAFF**

FROM: DON HOWELL

DATE: JUNE 27, 2003

RE: EIGHT APPLICATIONS FOR APPROVAL OF SERVICE TERRITORY AGREEMENTS BETWEEN UNITED ELECTRIC CO-OP AND THREE CITIES AND FIVE CO-OPS, CASE NOS. GNR-E-03-3/4/5/6/7/8/9/10

On June 20, 2003, United Electric Co-op and eight other parties filed eight Applications for approval of their respective Service Territory Agreements pursuant to the Electric Supplier Stabilization Act (ESSA). The eight other parties include three cities (the cities of Rupert, Heyburn, and Burley) and five electric cooperatives (Riverside Electric Company, Southside Electric, Farmers' Electric Company, Raft River Rural Electric Cooperative, and East End Mutual Electric Company). United is the successor following the consolidation of Rural Electric and Unity Light & Power.

For the three Applications with the cities, the parties had written Service Territory Agreements with United that pre-dated the 2000 amendments to the ESSA. In the five Co-op Applications, the parties state that they had pre-existing oral agreements that they have now reduced to writing.

All parties assert that their Service Territory Agreements comport with the purposes of the ESSA. More specifically, the parties assert that their Service Territory Agreement provide for stability of service to consumers, eliminate duplication of services, and provide for the safety in their respective territories. Applications at 2.

THE CITY APPLICATIONS

1. The City of Burley. United and Burley ask the Commission to approve a "Territory Service Agreement" dated May 21, 1985 and two subsequent amendments dated November 19, 1996¹ and May 6, 2003, respectively.

2. The City of Heyburn. United's predecessor Rural Electric and the City of Heyburn entered into a "Service Area Stabilization and Wheeling Agreement" dated February 14, 1996.

3. The City of Rupert. On April 2, 1985, the City of Rupert and Rural Electric entered into a Service Area Agreement. On May 6, 2003, the parties amended their underlying Agreement to establish a boundary line for allocating territories, consumers and future consumers. The amendment also notes that there were two customers in the proximity to the Rupert service area. The parties agreed that these two customers may continue to be "served by United, if in fact they are in the Rupert service area."

THE CO-OP APPLICATIONS

1. East End Mutual Electric Company. East End is an electric non-profit corporation organized under the laws of Idaho. East End and United have adjacent service areas. Prior to the 2000 amendments of the ESSA, the parties "had an oral understanding relative to the respective service areas" of each electric supplier. On May 30, 2003, the parties entered into a "Service Area Stabilization Agreement" thereby reducing their "respective understandings" to writing.

2. Farmers Electric Company. Farmers is an electric non-profit corporation organized under the laws of Idaho. Like East End, Farmers had an oral understanding with United regarding their respective service areas. On April 23, 2003, the parties reduced their respective understandings to writing. The parties now seek to have their "Service Area Stabilization Agreement" approved by the Commission.

3. Raft River Rural Electric Cooperative. Raft River also had an oral understanding with United regarding their adjacent and contiguous service territories. On May 28, 2003, the parties reduced their respective understandings to writing and executed a "Service Area

¹ The first amendment (identified as Exhibit No. 2) is actually a Service Area Agreement entered into between Rural Electric Company and the City of Burley. As previously mentioned, United is the successor to Rural Electric. This Agreement superseded a Service Area Agreement between Burley and Rural Electric dated June 6, 1988.

Stabilization Agreement.” The Service Area Agreement shall be effective upon approval by the Commission.

4. Riverside Electric Company. Riverside Electric is an electric non-profit corporation organized under the laws of Idaho. In recent years, the parties had an oral understanding regarding their respective service areas. On April 21, 2003, the parties reduced their respective understandings to writing and executed a “Service Area Stabilization Agreement.”

5. Southside Electric. Southside is an electric non-profit corporation organized under the laws of Idaho. In recent years, it too had an oral understanding with United regarding their respective service territories, which are adjacent and contiguous to each other. On May 30, 2003, the parties reduced their respective understandings to writing and executed a “Service Area Stabilization Agreement.”

All the Service Territory Agreements and their accompanying maps and/or descriptions are available for your review.

THE ESSA

The purpose of the ESSA is to promote harmony among and between electric suppliers furnishing electricity within Idaho. More specifically, the ESSA: (1) prohibits the “pirating” of consumers already served by another supplier; (2) discourages duplication of an electric facilities; (3) actively supervises certain conduct of electric suppliers; and (4) stabilizes the territories and consumers served by such electric suppliers. *Idaho Code* § 61-332. Under the ESSA, an “electric supplier” is any public utility, cooperative, or municipality supplying or intending to supply electric service to a consumer. *Idaho Code* § 61-332A(5).

Idaho Code § 61-333(1) provides that any electric supplier may contract with any other electric supplier 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.” This section further provides that the Commission may, after notice and opportunity for hearing, “approve or reject contracts between cooperatives,... [and] between municipalities and cooperatives. The commission shall approve such contracts only upon finding that the allocation of territories or consumers is in conformance with the provisions and purposes of this act.” *Id.*

STAFF RECOMMENDATION

Given the respective Agreements of the parties, Staff recommends that the Applications be processed individually under Modified Procedure.

COMMISSION DECISION

Does the Commission concur that these Applications should be processed individually under Modified Procedure?



Don Howell

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