

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

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| IN THE MATTER OF THE APPLICATION OF |) | |
| UNITED ELECTRIC CO-OP, INC. AND THE |) | CASE NO. GNR-E-03-9 |
| CITY OF RUPERT FOR AN ORDER |) | |
| APPROVING A SERVICE TERRITORY |) | NOTICE OF APPLICATION |
| AGREEMENT PURSUANT TO <i>IDAHO CODE</i> |) | |
| § 61-333(1). |) | NOTICE OF MODIFIED |
| |) | PROCEDURE |
| |) | |
| |) | ORDER NO. 29281 |

On June 20, 2003, United Electric Co-op, Inc. and the City of Rupert filed an Application for approval of a service territory contract pursuant to the Idaho Electric Suppliers Stabilization Act (ESSA). United is the successor entity following the consolidation of Rural Electric Company and Unity Light & Power. Both United and the City supply electric service to their respective consumers in adjacent and contiguous service territories. *Idaho Code* § 61-332A(4).

NOTICE OF APPLICATION

The parties ask that the Commission approve their "Service Area Agreement" and its amendment dated April 2, 1985 and May 6, 2003, respectively. In the 1985 Agreement, United's predecessor Rural Electric and the City agreed to establish a separate service territory for each party in Minidoka County. The Agreement also addressed the exchange of customers and facilities resulting from the allocation of the two service territories. Exhibit No. 1 at ¶ 2. The Agreement provided that if the City annexes land that lies within United's service area, then United shall be allowed to continue to serve "existing future consumers in said service territory. [T]he City agrees that it will not exercise the power of commendation ... as to any of [United's] service area as established under this Agreement" *Id.* at ¶ 3.

In the 2003 amendment, the parties modified the initial Agreement by changing the boundary line dividing the parties' service territories. Exhibit No. 2. The amendment also identified two customers "who are in close proximity to the service area of the City of Rupert and [they] may continue to be served by United, if in fact they are in the Rupert service area."

Amendment at 2. All other terms and conditions of the initial Agreement remain in full force and effect.

The Application states that the Agreement was negotiated to settle and establish service territories between the parties, to provide stability and safety in service to consumers, and to eliminate duplication of services. Application at ¶ 3. Because the initial Agreement predated the 2000 amendments to the ESSA, the parties now request that the Commission approve the Service Area Agreement.

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 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, all agreements or contracts for the allocation of service territories or consumers shall be filed with the Commission. *Idaho Code* § 61-333(1).

United and the City are defined as “electric supplier[s]” under the ESSA. *Idaho Code* § 61-332A(2-4). *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” the ESSA. *Id.*; 61-334B.

NOTICE OF MODIFIED PROCEDURE

YOU ARE HEREBY NOTIFIED that *Idaho Code* § 61-333(1) requires electric suppliers to file all contracts that allocate service territories, consumers, or future consumers with the Commission. This section further provides that the Commission shall approve all such contracts if they are in conformance with the provisions and purposes of the ESSA. *See also Idaho Code* § 61-334B.

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.

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 twenty-one (21) 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 Applicants at the addresses reflected below:

COMMISSION SECRETARY
IDAHO PUBLIC UTILITIES COMMISSION
PO BOX 83720
BOISE, IDAHO 83720-0074

Street Address for Express Mail:

472 W WASHINGTON ST
BOISE, ID 83702-5983

WILLIAM A. PARSONS
PARSONS, SMITH & STONE, LLP
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BURLEY, ID 83318
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Attorney for United Electric Co-op

GOODMAN & BOLLAR
PO BOX D
RUPERT, ID 83350

Attorneys for City of Rupert

These 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.state.id.us. 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, if available.

YOU ARE FURTHER NOTIFIED that the Application in Case No. GNR-E-03-9 can be reviewed at the Commission's office and at the Commission's web site www.puc.state.id.us under the "file room" icon.

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* §§ 61-332, 61-333(1), and 61-334B.

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 Application be processed under Modified Procedure. Persons interested in submitted written comments regarding this matter should do so within 21 days of the service date of this Order.

DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this *3rd* day of July 2003.



PAUL KJELLANDER, PRESIDENT

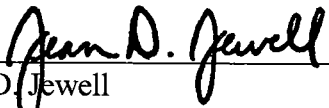


MARSHA H. SMITH, COMMISSIONER



DENNIS S. HANSEN, COMMISSIONER

ATTEST:



Jean D. Jewell
Commission Secretary

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