

## DECISION MEMORANDUM

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

**FROM: DON HOWELL**

**DATE: MARCH 25, 2003**

**RE: AN AMENDMENT TO A SERVICE TERRITORY AGREEMENT BETWEEN  
AVISTA CORPORATION AND KOOTENAI ELECTRIC COOPERATIVE,  
CASE NO. AVU-E-03-1**

On March 11, 2003, Avista submitted an amendment to its Service Territory Agreement with Kootenai Electric Cooperative. The Agreement was executed pursuant to the provisions of the Electric Supplier Stabilization Act (ESSA). Amendment No. 1 dated December 26, 2002, makes two changes to the underlying Agreement. First, it changes outdated references to "The Washington Water Power Company" to "Avista Corporation dba Avista Utilities." Second, it deletes Section 7 (Development Construction) in the underlying Agreement.

### BACKGROUND

In Order No. 28681 dated March 21, 2001, the Commission approved a Service Territory Agreement and its Addendum entered into by Avista's predecessor WWP and Kootenai Electric Cooperative. The Commission approved the Service Territory Agreement pursuant to the ESSA and in particular *Idaho Code* § 61-333. This section provides in pertinent part that

the commission shall after notice and opportunity for hearing, review and approve or reject contracts . . . between cooperatives and public utilities. . . . 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].

*Idaho Code* § 61-333(1).

### **THE APPLICATION**

As mentioned above, Avista and Kootenai propose two amendments to their Agreement. First, is a housekeeping matter changing the name of WWP to Avista Corporation dba Avista Utilities.

The second amendment is to delete Section 7 of the underlying Agreement. This section included provisions to determine which of two suppliers will serve a development when built out of the development intersects a competing electric supplier's service line. The parties agreed that Section 7 may be ambiguous.

### **STAFF RECOMMENDATION**

Given the agreement of the parties, the Staff recommends that this matter be processed under Modified Procedure.

### **COMMISSION DECISION**

Does the Commission concur that this matter should be processed via Modified Procedure?



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Don Howell

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Amendment No. 1 to the Agreement  
Between  
Avista Corporation dba Avista Utilities (AVISTA)  
and  
Kootenai Electric Cooperative, Inc. (KEC)

This Amendment, dated December 26th, 2002 is hereby annexed to and made a part of the printed part of the Agreement for Administering Residential Developments (the "Agreement") between the Parties, dated February 15, 1991. In each instance in which the provisions of this Amendment shall contradict or are inconsistent with the provisions of the printed portion of that Agreement, the provisions of this Amendment shall prevail and govern, and the contradicted or inconsistent provisions shall be deemed amended accordingly.

1. Any references in the Agreement to "The Washington Water Power Company" shall be changed to "Avista Corporation dba Avista Utilities", and any references to "WWP" shall be changed to "AVISTA".
2. Amend the Agreement by deleting Section 7 - Development Construction, in its entirety.

Except as set forth herein, all Terms and Conditions of the Agreement, and any amendments thereto, shall remain in full force and effect.

**AGREED TO:**

Avista Corporation  
dba Avista Utilities

By: \_\_\_\_\_

(Signature)

Larry LaBolle  
(Name)

General Mgr.  
(Title)

12-26-02  
(Date)

**ACCEPTED BY:**

Kootenai Electric Cooperative, Inc.

By: \_\_\_\_\_

(Signature)

Robert L. Crump  
(Name)

General Manager  
(Title)

January 24, 2003  
(Date)