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Attorney for the Commission Staff

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
 AVISTA CORPORATION DBA AVISTA) CASE NO. AVU-E-03-5
 UTILITIES FOR AN ORDER APPROVING A)
 CONTRACT WITH KOOTENAI ELECTRIC)
 COOPERATIVE, INC. TO ALLOCATE) COMMENTS OF THE
 SERVICE TERRITORIES, A CONSUMER, AND) COMMISSION STAFF
 FUTURE CONSUMERS.)
)
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COMES NOW the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Donald L. Howell, II, Deputy Attorney General, and in response to the Notice of Application and Notice of Modified Procedure issued in Order No. 29268 on June 23, 2003, submits the following comments.

On June 5, 2003, Avista Utilities (Avista) filed an Application for approval of an Agreement to Exchange Electric Customers (Agreement) between Avista and Kootenai Electric Cooperative (Kootenai). According to the Application, this filing was made pursuant to the Idaho Electric Supplier Stabilization Act (ESSA), *Idaho Code* § 61-332 *et. seq.* and Order No. 28681, which approved the service territory agreement between Avista and Kootenai in Case No. AVU-E-01-2.

In December 2000 and February 2001, the Idaho Legislature amended portions of the ESSA. In particular, *Idaho Code* § 61-333 was amended to provide that all service agreements

that allocate territory or customers between electric suppliers (such as Avista and Kootenai) be filed with the Commission. *Idaho Code* § 61-333(1) now provides in pertinent part that

the commission shall after notice and opportunity for hearing, review and approve or reject [such] 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 this act.

Idaho Code § 61-333(1), 61-334 B(1). As set out more fully in *Idaho Code* § 61-332, the purposes of the ESSA are to: (1) promote harmony among and between electric suppliers; (2) prohibit the “pirating” of consumers served by another supplier; (3) discourage duplication of electric facilities; (4) stabilize the territory and consumers served by the suppliers; and (5) actively supervise certain conduct of the suppliers.

APPLICATION

The Application before the Commission is an Agreement to Exchange Electric Customers between Kootenai and Avista. The Agreement transfers Mr. Roy Armstrong’s electric service currently provided by Avista to Kootenai. It also transfers the electric service of the Grayling Estates Subdivision from Kootenai to Avista. Avista’s existing facilities are located to the north of both properties and Kootenai’s existing facilities are located to the south and east. The Agreement defines the properties to be served by each utility.

STAFF COMMENTS

The proposal appears to be a least-cost exchange between Kootenai and Avista. Even though Mr. Armstrong is an existing Avista customer, the agricultural property surrounding his property is being developed into a residential subdivision served by Kootenai Electric. Therefore, the Armstrong service is becoming more difficult and costly for Avista to serve because of relocation and access requirements of the subdivision. Meanwhile Kootenai’s service will eventually encompass all of the Armstrong property and eliminate the need for Avista facilities.

In essence, the parties seek an “exemption” to the anti-pirating provision of *Idaho Code* §61-332B. *See Idaho Code* §61-334B(1). The exchange of the Armstrong account at this time is

an efficient, least-cost alternative for both electric service providers. The exchange also avoids the duplication of facilities and stabilizes the territories of the two suppliers.

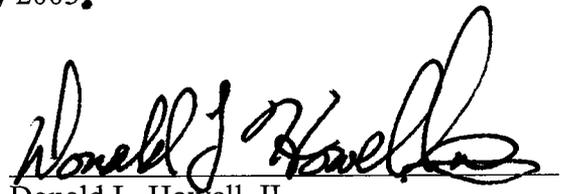
The parties also propose to exchange the final phase of the Grayling Estates Subdivision. Kootenai served the previous phases of the Grayling Estates Subdivision. However, the final phase (41 lots) is closest to Avista's existing service territory. Avista is also the least-cost provider for this final phase because Kootenai's line extension would require an expensive and time consuming bore under an adjacent railroad right-of-way. Consequently, the parties propose to exchange this service territory and these future customers.

Both Mr. Armstrong and the subdivision developer, Prairie Falls, L.L.C., endorse the transfers. The Agreement provides the least cost service option for the customers and complies with the ESSA by drawing a line between customers and clearly defining which utility will serve the Armstrong Account and the Grayling Estates Subdivision. Therefore, the Agreement to Exchange Electric Customers in this Application: (1) promotes harmony among and between electric suppliers; (2) discourages duplication of electric facilities; and (3) stabilizes the territory and consumers served by the suppliers as required by the Act.

STAFF RECOMMENDATION

Staff recommends that the Commission grant an exemption to Idaho Code §61-332B so that Kootenai may serve Mr. Armstrong. Staff further recommends approval of the Agreement to Exchange Electric Customers between Kootenai Electric Cooperative and Avista Utilities, Inc.

Respectively submitted this ^{14th} day of July 2003.


Donald L. Howell, II
Deputy Attorney General

Technical Staff: Michael Fuss

DH:i:umisc/comments/avue03.5dhmfuss

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 14TH DAY OF JULY 2003, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. AVU-E-03-5, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

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