

## DECISION MEMORANDUM

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

**FROM:** DONOVAN E. WALKER

**DATE:** SEPTEMBER 20, 2006

**SUBJECT:** AVISTA'S APPLICATION TO APPROVE A TERRITORY ALLOCATION AGREEMENT WITH NORTHERN LIGHTS, INC., CASE NO. AVU-E-06-06

On September 7, 2006, Avista filed an Application to approve an agreement allocating service territory with Northern Lights, Inc. pursuant to the Electric Supplier Stabilization Act (ESSA), *Idaho Code* §§ 61-332 *et seq.* The Company requests that this Application be processed by Modified Procedure. Staff also recommends processing the Application by Modified Procedure.

### THE APPLICATION

According to the Application the parties have entered into an agreement pursuant to the ESSA in order to allow Avista to supply electric service to a Northern Lights customer, Treeland Partners LLC (the Developer). Northern Lights has agreed to relinquish the right to serve the Developer's 34-lot parcel in Sandpoint, Idaho to Avista.

The Application states that Northern Lights currently provides electric service to two structures adjacent to a portion of the development. These two structures are currently scheduled for demolition, and a new access road is scheduled to go in at the demolition site. The Developer has requested Northern Lights to remove its electric facilities from the demolition site to enable the construction of the access road. Once the facilities are removed Avista will be the closest utility to the majority of the 34 lots within the development.

According to the Customer Allocation Agreement (Attachment #1 to the Application) the Developer has requested Avista to provide the backbone infrastructure and to provide electric and natural gas services to the entire development, and that it is in the

Developer's best interest to have a single source utility provider to serve the Development. Northern Lights has agreed to allow Avista to provide electric service to the entire Development.

### **THE ESSA**

*Idaho Code* § 61-333(1) provides that electric suppliers may contract 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." Under the ESSA, both Avista and Northern Lights are defined as electric suppliers. *Idaho Code* § 61-332A(4). After notice and opportunity for hearing, the Commission may approve agreements allocating service territories and customers between electric suppliers only upon finding that the allocation is in conformance with the purposes of the ESSA. *Idaho Code* § 61-333A(1). As set out in *Idaho Code* § 61-332(2), the purpose of the ESSA is to: discourage duplication of facilities; prohibit "pirating" of consumers; stabilize service territories and consumers; and promote harmony between electric suppliers.

### **STAFF RECOMMENDATION**

Staff recommends that the Company's Application be processed by Modified Procedure with a 21 day comment period.

### **COMMISSION DECISION**

Does the Commission preliminarily find that the public interest may not require a hearing to consider the issues presented in this case, and that this case is appropriate for Modified Procedure pursuant to Commission Rules of Procedure 201 through 204?



Donovan E. Walker