

NEIL PRICE  
DEPUTY ATTORNEY GENERAL  
IDAHO PUBLIC UTILITIES COMMISSION  
PO BOX 83720  
BOISE, IDAHO 83720-0074  
(208) 334-0314  
ISB NO. 6864

RECEIVED  
2007 JUL 31 AM 11:38  
IDAHO PUBLIC  
UTILITIES COMMISSION

Street Address for Express Mail:  
472 W WASHINGTON  
BOISE ID 83702-5983

Attorney for the Commission Staff

**BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION**

**IN THE MATTER OF THE APPLICATION OF )**  
**AVISTA CORPORATION TO APPROVE AN )** CASE NO. AVU-E-07-6  
**AGREEMENT ALLOCATING SERVICE )**  
**TERRITORY WITH NORTHERN LIGHTS, INC. )**  
**PURSUANT TO THE IDAHO ELECTRIC )** COMMENTS OF THE  
**SUPPLIER STABILIZATION ACT. )** COMMISSION STAFF  
**)**

---

**COMES NOW** the Staff of the Idaho Public Utilities Commission, by and through its Attorney of record, Neil Price, Deputy Attorney General, and in response to the Notice of Application and Notice of Modified Procedure issued in Order No. 30354 on July 10, 2007, submits the following comments.

**BACKGROUND**

On June 15, 2007, Avista Corporation dba Avista Utilities filed an Application seeking the Commission's approval of a contract between Avista and Northern Lights, Inc. to allocate service territories and future consumers. Northern Lights is an electric cooperative operating in northern Idaho. The parties have entered into a "Customer Allocation Agreement" which is last dated May 19, 2007 and attached to Avista's Application. The Agreement was executed pursuant to the provisions of the Electric Supplier Stabilization Act ("ESSA"), specifically *Idaho Code* § 61-333(1).

## NOTICE OF APPLICATION

Avista and Northern Lights propose to allocate service territory in a 13-lot residential subdivision development known as Lakewood Estates in Sandpoint, Idaho. Avista customer Alpine Property Development, Inc. (“Developer”) is developing the subdivision. Both electric suppliers have existing facilities that can serve the 13-lot subdivision. The parties recite in their Agreement that Northern Lights already serves two existing homes in the development and will serve the remaining lots because its facilities are in closer proximity to the development. Agreement at 1. A plat of the subdivision is attached to the Agreement.

The parties assert that allowing Northern Lights to provide electric service to the subdivision will avoid duplication of facilities, avoid dispute between the parties and provide consumers the best possible service. For the aforementioned reasons, the parties agree that it is in the best interest of the customer “to have a single source-utility provider.” *Id.* The Agreement recognizes that Avista does not give up its rights to serve future phases of the Development or adjoining plats thereto, and the Agreement may not be used to determine which supplier may serve other new customers. *Id.* at 1, ¶ 3.

The owner-developer of Alpine Property Development, Richard Lewis, has endorsed the Agreement. The Developer agrees to comply and be bound by the Agreement. Pursuant to their Agreement, the parties recommend that the Application be processed under Modified Procedure. Finally, the parties acknowledge that the Agreement is subject to the Commission’s approval. *Id.* at 1, ¶ 4.

*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 purposes of the ESSA are to: (1) discourage duplication of facilities; (2) prohibit “pirating” of consumers; (3) stabilize service territories and consumers; and (4) promote harmony between electric suppliers.

## STAFF REVIEW

Staff reviewed the Application to determine if the Customer Allocation Agreement with Northern Lights is consistent with the ESSA. The service territory agreement is necessary because Sandpoint and the surrounding area receive electric service from multiple vendors. Without these agreements there is a risk that duplication of facilities and destabilization of service territories and customers may occur. Because of the continuing growth in the Sandpoint area, Staff continues to believe that it is important for Avista to have policies in place, along with efficient planning efforts, to guard against lost or stranded investment as electric suppliers attempt to serve new customers.

Staff asked the Company about its planning policies in Data Request No. 1. Avista's response was that there is no territorial allocation agreement with Northern Lights that provides one utility the assurance of serving all new customers within a development once backbone service is installed. It stated further that Avista has approached Northern Lights to establish such an agreement, but the current board at Northern Lights believes the existing case-by-case process is sufficient.

Avista went on to report that it assigned a Competitive Development Specialist to better coordinate efforts whenever a competitive project arises. The Specialist has extensive training in ESSA customer choice rules and has established a good working relationship with Northern Lights.

In this case, although both companies have facilities in place to adequately serve the new development, Northern Lights had existing infrastructure closer to the entrance and location of the first house in the development. Furthermore, both field and GIS measurements showed that Northern Lights was closer to the majority of the lots. Another determining factor in this case was the rocky soil and steep terrain in the northern-most lots of the property would make it difficult for Avista to serve the area. For these reasons, and because Northern Lights already serves two existing homes in the development, Staff agrees that it is in the best interest of the companies and developer to allow Northern Lights to provide service. Staff is not aware of any opposition to this Application. Staff recommends approval of the Application.

**STAFF RECOMMENDATION**

Staff supports Avista and Northern Lights in their continuing efforts to evaluate new developments in the Sandpoint area for the most efficient way to supply service. Their efforts support the intent of ESSA and help stabilize the area and ensure that customers receive the most efficient and cost-effective service possible. Avista and Northern Lights have demonstrated that the Agreement conforms to the provisions of the ESSA found in *Idaho Code* § 61-332. Therefore, Staff recommends the Commission approve the Customer Allocation Agreement.

Respectfully submitted this 31<sup>st</sup> day of July 2007.



---

Neil Price  
Deputy Attorney General

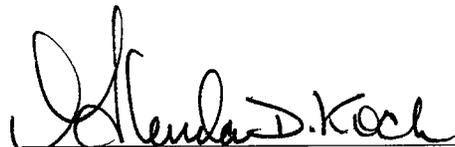
Technical Staff: Dan Graves

i:\misc:comments\avue07.6npdg

## CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT I HAVE THIS 31ST DAY OF JULY 2007, SERVED THE FOREGOING **COMMENTS OF THE COMMISSION STAFF**, IN CASE NO. AVU-E-07-6, BY MAILING A COPY THEREOF, POSTAGE PREPAID, TO THE FOLLOWING:

LINDA GERVAIS  
REGULATORY ANALYST  
AVISTA CORPORATION  
1411 E MISSION AVE  
SPOKANE WA 99220

  
SECRETARY