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Public Utilities Commission of Oregon
201 High St, SE, Suite 100
Salem, OR

Subject: UM 1745, Response to Petition of Mt. Shadows Home Owners Association

Dear Public Utilities Commission of Oregon,

Hello, I'm an attorney representing Mountain Shadows Utilities, LLC ("Mountain Shadows Utilities"). This letter shall serve as Mountain Shadows' response to the Mountain Shadows Home Owners' Association ("HOA") ORS 758.320(2) request to withdraw from the exclusive service territory of Mountain Shadows Utilities. Pursuant to that statute the primary inquiry of the PUC is to determine whether the HOA has established its request to be excluded from the exclusive service territory of Mountain Shadows Utilities would not be detrimental to the public interest.

The HOA has failed to establish its exclusion from the exclusive service territory would not be "detrimental to the public interest" as required by the statute. The totality of the HOA's "plan" for servicing its own needs is the assertion the HOA will: "... drill a compliant well with a new reservoir to ensure a future of safe potable water. In addition, the HOA will replace the septic tank to ensure the longevity of the waster [sic] water system." Although the HOA apparently has a desire to achieve those goals it has not provided any detailed plan toward realizing them. The HOA does not have an existing well, does not have a pump, does not have any infrastructure, has no water tanks, no easements for a septic drain-field or for water-delivery infrastructure. In short the HOA has no existing, reliable, or independent source of water and even if it was to drill a successful functioning well the HOA does not have any way to distribute water to its members (other than the existing infrastructure that belongs to Mountain Shadows Utilities). The HOA wrongly implies the draft "Water Supply Contract" (that was never fully executed and under which the HOA never made annual payments to the water company) would entitle the HOA to commandeer the infrastructure of Mountain Shadows Utilities if its request under ORS 758.320(2) was granted.

Although it is not particularly relevant to the primary inquiry before the PUC, it is worth noting that the HOA has not expressed any specific complaint about the current provision of water by Mountain Shadows Utilities to its customers. The HOA's complaints seem to focus almost exclusively on the unsupported assumption that the existing infrastructure (which is currently servicing the customers just fine) should be updated. The HOA's proposed withdrawal from the Mountain Shadows service territory also seems to be premised on a variety of other assumptions, for example, that (despite an feasibility studies) any efforts it makes to drill a well will be successful and that the HOA will either be able to successfully negotiate easements for the installation of its own pipes and water-delivery infrastructure or that it will somehow be allowed to commandeer the existing infrastructure which belongs to Mountain Shadows. The HOA also seems to imply that it should be granted the ability to service the *Snow Birds*'s subdivision—which is a request wholly outside the scope of ORS 758.320(2).

Ultimately, if the HOA's request for withdrawal from the exclusive service territory of Mountain Shadows Utilities was granted at this time the HOA would have no way to service itself and the existing utility company would likely have little choice but to halt operations entirely – which would negatively impact the Snow Birds subdivision and the public interest. Therefore Mountain Shadows Utilities asks the PUC to deny the HOA's request to be excluded from the service territory of Mountain Shadows Utilities.

Sincerely,

SIA REZVANI

cc:
client
Mountain Shadows Home Owners' Association
Stephen Hayes (by email)
Dennis Chaney (by email)