

ORDER NO. 02-260

ENTERED APR 9 2002

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

WA 35

In the Matter of the Application by)
Lakewood Utilities Ltd. for Allocation)
of Exclusive Territory to Provide Water) ORDER
Service, Pursuant to ORS 758.300)
Through ORS 758.320.)

DISPOSITION: APPLICATION GRANTED

On February 11, 2000, Lakewood Utilities Ltd. (applicant) filed under Oregon Administrative Rule 860-036-0900 an application with the Public Utility Commission (Commission) for an allocation of exclusive territory for the provision of water service. Applicant is requesting allocation of the service territory it adequately and exclusively served on October 23, 1999. See ORS 758.300, and Section 2 to 4, Chapter 695, Oregon Laws 1999. The territory sought is described in Appendix A. The Commission gave notice of the application on February 23, 2001, as required by Chapter 695, Oregon Laws 1999, Section 2(2). No requests for hearing were filed.

Applicant is an investor owned utility that provides water service to approximately 123 customers in the area within Lakewood Estates in Marion County, Oregon.

Based on its investigation, the Commission finds that the applicant was adequately and exclusively serving the territory described in Appendix A and covered by the current service territory application on October 23, 1999.

FINDING OF FACTS

Merits of the Application

Staff’s analysis of the company’s application indicates that the company has met the criteria required to demonstrate that the company adequately and exclusively provided water service to its current service territory as required in OAR 860-036-0900 through OAR 860-036-0930.

The criteria are:

1) Service Quality

The Commission Consumer Services section recorded one complaint on Lakewood that was satisfactorily resolved. Ninety-six Commission surveys were sent, as a statistically valid sample, of the one hundred twenty-three customers listed as current customers by the utility to determine the level of service quality being provided. Twenty-eight responses were received. The negative responses listed below were made by seven customers:

	Below Average	Unacceptable
Water Quality	3	
Water Pressure	1	2
Courteous Customer Service	1	1
Timely and Accurate Billings	2	
Customer Confidence in Management/Operator	2	2
Communication Between Utility and Customers	1	2
Timely Resolution of Service Complaints	2	1

Given the response percentage and assuming that those customers not responding have no problems, there do not appear to be system-wide problems. Explanatory letters on official complaint procedures were sent to the seven customers.

2) Water Quality

The Oregon Department of Human Services Drinking Water Program website had seven Lakewood violations listed from February 1991 through August 2001. The single enforcement action taken shows a return to compliance in 1996. This record does not preclude approval, in my opinion.

3) Water Capacity

Lakewood's average demand is 33,580 gallons per day (gpd). Peak demand is 55,647 gpd. The utility owns the water rights to 396,000 gpd of ground water, drawn from two wells. Given that peak demand is only 14% of maximum, Lakewood appears to have adequate capacity to service its customer base.

4) Technical Ability

The application contained the following statement: "Cindy B. Kehoe, The Operations Manager for Lakewood Utilities Ltd. holds a Class I certification from the state in both water treatment and distribution. She is a 1996 graduate of Clackamas Community College with an Associate of Applied Science degree in Water Quality Technology. Cindy Thunderbird, Office Manager for Lakewood, has over 25 years experience in office management, billing & accounting."

5) Exclusive Service

Copies of the original deed, corrected deed, and utility and access easement were submitted.

6) Reasonable Rates

The rates shown for the biennium listed on the application were \$21.19 and \$21.46 per month.

OPINION

Jurisdiction

ORS 757.005 defines a public utility as “ any corporation, company, individual, association of individuals, or its lessees, trustees or receivers, that owns, operates, manages or controls all or a part of any plant or equipment in this state for the production, transmission, delivery or furnishing of . . . water . . . directly or indirectly to or for the public.”

ORS 758.300 defines a water utility as " any corporation, company, individual or association of individuals, or its lessees, trustees or receivers, that owns, operates, manages or controls all or a part of any plant or equipment in this state for the production, transmission, delivery or furnishing of water, directly or indirectly to or for the public, whether or not such plant or equipment or part thereof is wholly within any town or city. ‘Water utility’ does not include a municipal corporation.”

Applicable Law

The 1999 Oregon Legislature enacted ORS 758.300 through 758.320, which provide that all public water utilities must file an application with the Commission seeking an order designating the service territory that the utility served adequately and exclusively on October 23, 1999, as exclusive service territory.

On April 11, 2000, the Commission adopted rules (AR 370) governing the allocation of exclusive service territory to water utilities. Oregon Administrative Rules

860-036-0900 through OAR 860-036-0930 specify the service territory application requirements and processes necessary to meet the requirements of ORS 758.300 through ORS 758.320.

Disposition

Applicant has met the service territory requirements and processes set out in OAR 860-038-0900 through OAR 860-036-0930 and is entitled to the exclusive territory described in Appendix A.

CONCLUSIONS

1. The Company is a public utility subject to the service territory jurisdiction of the Public Utility Commission.
2. The utility meets the requirements set out in OAR 860-036-0900 through OAR 860-036-0930.
3. The Company meets the requirements of ORS 758.300 through ORS 758.320.
4. The Application should be granted.

ORDER

IT IS ORDERED that the application of Lakewood Utilities Ltd. for exclusive service territory as allocated to the applicant and set forth in Appendix A is granted.

Made, entered, and effective _____.

John Savage
Director
Utility Program

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A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements of OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party to a hearing may appeal this order to a court pursuant to applicable law.

APPENDIX A

Description of Lakewood Utilities Ltd.'s exclusive service territory:

Section 22, Township 4 S, Range 1 W, W. M., in the area within Lakewood Estates, which is located approximately halfway between the towns of Aurora and Hubbard in Marion County, Oregon.