

ORDER NO. 02-283

ENTERED APR 19 2002

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

WA 45

In the Matter of the Application by)
Horizon View Hills Water System for)
Allocation of Exclusive Territory to)
Provide Water Service, Pursuant to)
ORS 758.300 Through ORS 758.320.)

ORDER

DISPOSITION: APPLICATION GRANTED

On March 22, 2000, Horizon View Hills Water System (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 22, 2001, as required by Chapter 695, Oregon Laws 1999, Section 2(2). No requests for hearing were filed.

Applicant is a partnership that provides water service to approximately 56 customers in the area within the Horizon View Hills Subdivision in South Tillamook 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 Division had no record of complaints on Horizon. A Commission survey was sent to the fifty-six customers listed as current customers by the utility in December 2001 to determine the level of service quality being provided. Thirty-four responses were received with ten customers making the complaints shown in the following table:

	Below Average	Unacceptable
Water Pressure	4	
Courteous Customer Service	3	3
Timely and Accurate Billings	1	
Customer Confidence in Management/Operator	3	1
Communication Between Utility and Customers	6	2
Timely Resolution of Service Complaints	1	

The Commission applies a general standard requiring a minimum of 20 percent of customers to complain before taking action. This complainant base is only 18 percent. PUC staff sent explanatory letters on the required procedure for consumer complaints.

Horizon is admonished to recognize that there is a significant percentage of the customer base that has problems with the service provided and to resolve, within sixty days, the problems.

2) Water Quality

The website for the Oregon Department of Human Services Drinking Water Program had one December 1, 1998 violation listed for coliform under reporting by Horizon. No enforcement action was taken.

- 3) **Water Capacity**
Horizon has 56 residential customers. Average demand was 5,100 gallons per day (gpd). Peak demand was 14,000 gpd. The pumping capacity of the system's well is 18,000 gpd with an 11,000-gallon well reservoir and a 36,000-gallon main reservoir.
- 4) **Technical Ability**
The co-owner, Allan Schaefer, has operated the system since June 1987 and attends one or more water operator training courses annually.
- 5) **Exclusive Service**
Copies of a lease and easement were submitted covering the Horizon system.
- 6) **Reasonable Rates**
Customers pay \$24 per month for service.

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.

Under ORS 758.305 (4) the Commission may decrease an exclusive service territory upon a showing that the water utility is not providing adequate service to its customers. If the Commission may decrease an exclusive territory because a water utility fails to provide adequate service, it is only fair that the Commission declare, to the extent possible, the level of service it expects when it acts on a petition for designated exclusive service territory. The Commission, therefore, has authority to set service quality standards when it grants a petition.

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

1. IT IS ORDERED that the application of Horizon View Hills Water System for exclusive service territory as allocated to the applicant and set forth in Appendix A is granted.
2. Horizon View Hills Water System is admonished to recognize that there is a significant percentage of the customer base that has problems with the service provided, as mentioned on page 2 under Service Quality in this Order. The applicant shall resolve, within sixty days, these problems.

Made, entered, and effective _____

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

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 Horizon View Hills Water System's exclusive service territory:

The area within Horizon View Hills Subdivision in Section 12, Township 5S, Range 11 West of W. M., in South Tillamook County, Oregon.