

ORDER NO. 02-285

ENTERED APR 19 2002

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

WA 40

In the Matter of the Application by)
Sager Road 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 April 19, 2000, Sager Road 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 March 5, 2001, as required by Chapter 695, Oregon Laws 1999, Section 2(2). No requests for hearing were filed.

Applicant is a sole proprietorship that provides water service to approximately 5 customers in the area south of Sager Road near the Pleasant Valley Heights Subdivision.

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 had no record of complaints on Sager. A Commission survey was sent to the five customers listed as current customers by the utility to determine the level of service quality being provided. Two responses were received with excellent ratings in all categories.

2) Water Quality

The Oregon Department of Human Services Drinking Water Program had twenty-five coliform reporting violations (either no report or not enough reporting) and three nitrate non-reporting violations listed from June 1995 through June 2001, but had no enforcement record on these violations.

Sager must comply with the provisions of OAR 333-061-0036 on water sampling and analytical requirements.

3) Water Capacity

Sager is an unmetered system. Average and peak demands are unknown. The daily pumping capacity is 28,800 gallons drawn from one well. With a current storage capacity of 335 gallons, the system appears to have adequate service capacity.

4) Technical Ability

Ed Bergler, Sager's owner/operator, has run the utility since 1974 and commissions a well pump service to perform any needed major work.

5) Exclusive Service

A copy of the warranty deed covering the utility property, agreements for water rights and water pipeline easement was submitted with the application.

6) Reasonable Rates

The rate shown for both years reported in the application was \$5.60 per month. This is below the Commission regulation level and the established threshold for reasonable rates.

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

IT IS ORDERED that:

1. The application of Sager Road Water System for exclusive service territory as allocated to the applicant and set forth in Appendix A is granted.

2. Sager Road Water System must comply with the provisions of OAR 333-061-0036 on water sampling and analytical requirements.

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 Sager Road Water System's exclusive service territory:

Part of Section 30, T. 1S., R. 3E., of the W.M., Clackamas County, Oregon, described as follows:

Beginning at a point on the Southerly right of way line of the A.G. Sager Road No. 1200, which point lies 526 feet East of the West line of Section 30 and 110 feet East of the Northeast corner of that tract of land conveyed to Paul V. Perletti, et ux, by deed recorded September 12, 1961, in Book 592, Page 112; thence South parallel with and 110 feet distant from the East line of said Perletti tract a distance of 416 feet to a point of intersection with the Easterly Extension of the South line of the said Perletti tract; thence East parallel with the Southerly right of way line of the said A.G. Sager Road a distance of 110 feet; thence North parallel with the Easterly line of the said Perletti tract a distance of 416 feet to a point on the Southerly right of way line of the said A.G. Sager Road; thence West along said right of way line a distance of 110 feet to the point of beginning. The well is located on parcel TL 2601.