

ORDER NO. 02-424

ENTERED JUN 28 2002

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

WA 64

In the Matter of the Application by)
Wagon Wheel Water Company for)
Allocation of Exclusive Territory to)
Provide Water Service, Pursuant to) ORDER
ORS 758.300 Through ORS 758.320.)

DISPOSITION: APPLICATION GRANTED

On December 20, 2001, Wagon Wheel Water Company (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 1, 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 57 customers in the area surrounding Tumbleweed Drive in Bend, 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 a record of forty-nine complaints on Wagon Wheel. Forty-seven of those complaints related to the pending rate case. The remaining two relate to perceived substandard water pressure. A Commission survey was sent to the fifty-seven households listed as current customers by the utility to determine the level of service quality being provided. Thirty-two responses were received. The negative comments are aggregated in the table below.

	Below Average	Unacceptable
Water Pressure	12	1
Courteous Customer Service	8	5
Timely and Accurate Billings	5	2
Customer Confidence in Management/Operator	11	8
Communication Between Utility and Customers	8	10
Timely Resolution of Service Complaints	8	2

Even though this complaint level would normally generate a formal Commission demand for the utility to resolve the ratepayer complaints, PUC staff heard customers' complaints at both the prehearing and settlement conferences for the rate case (UW 84) and discussed how the company should handle them. The company is more informed now about its obligations to its customers and agrees to respond immediately to any complaints. The normal letters on procedures for further action were sent to the complainants.

2) Water Quality

The Oregon Department of Human Services Drinking Water Program's website listed four violations pertaining to coliform from July 1999 through October 1999 with no enforcement action taken. Since the current owners acquired the system in that year, this record can be attributed to startup difficulties.

3) Water Capacity

Average daily demand is estimated at 31,418 gallons per day (gpd). Peak daily demand is 44,883 gpd. The system's daily pumping capacity is 100,800 gpd. The utility owns the source well's water right (permit G-11126) to accommodate that daily maximum pumping. There is also a 40,000-gallon capacity cistern in the system. The application lists projected capital improvements to the system to complete construction of the water system by October 1, 2003.

3) Technical Ability

The owner/operator has two years of field experience and possesses a BA in Industrial Technology, a Contractor's license number 66490, a Water Distribution Level 1 license, and a backflow device testing certification. The owners share office duties.

4) Exclusive Service

Wagon Wheel submitted a copy of a bargain and sale deed transferring water facility easements to the company, dated October 24, 1985. The utility appears to have the authority necessary to serve the territory exclusively.

5) Reasonable Rates

Wagon Wheel has an open rate case under docket UW 84.

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 Wagon Wheel Water Company for exclusive service territory as allocated to the applicant and set forth in Appendix A is granted.

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 Wagon Wheel Water Company's exclusive service territory:

The area between Redmond and Prineville off of Powell Butte and McGrath Roads, including portions of Lariat Lane and Chaparrel Court, Bronco Court, Maverick Lane, Maverick Court, Tumbleweed Drive, Cathy Court, Greg Court, Mustang Road and Mustang Court.