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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

WA 27

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

ORDER

DISPOSITION: APPLICATION GRANTED

On February 22, 2000, Oxberg 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 homeowners association that provides water service to approximately 39 customers in the Oxberg Lake Estates Subdivision area. Eight non-member households are currently served, which subjects the company to this legislation.

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 Oxberg. A Commission survey was sent to the thirty-nine customers listed as current customers by the utility to determine the level of service quality being provided. Twenty-five responses were received. Two respondents gave below average and unacceptable evaluations in several areas. Explanatory letters on the required procedure for consumer complaints were sent to both.

2) Water Quality

The Oregon Department of Human Services Drinking Water Program's website listed four violations from November 1993 through January 1998. Two concerned coliform reporting inadequacies and two involved lead and copper treatment. Compliance was achieved on March 30, 2000.

3) Water Capacity

Oxberg is supplied by two wells with a daily pumping capacity of 65,808 gallons. The two wells have a maximum pumping capacity of 191,520 gallons with upgraded pumps. The system shows a current average usage of 24,267 gallons daily with yearly peak daily demand of 56,156 gallons. The system does not have a storage facility.

4) Technical Ability

There is a part time billing and collection person with 35 years of experience. Olson Enterprises administers distribution. Micah Olson has been a Certified Operator since 1996 (Water Distribution Level 1, license number 3794) and a Cross Connection Inspector/Tester (license number 3249) since 1999.

5) Exclusive Service

Oxberg was purchased from the original developer. A copy of the asset purchase agreement was submitted for review.

6 Reasonable Rates

The rates averaged approximately \$32.00 per household per month over the two years reported on in the application. Since this figure is above the rate regulation threshold, staff will examine the matter in the near future.

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 Oxberg Water System 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

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 Oxberg Water System's exclusive service territory:

Thirty-one homes in the Oxberg Lake Estates subdivision located east of Springbrook Road off Crestview Drive in Yamhill County adjacent to Newberg, Oregon. The homes are located on Crestview Drive, Birdhaven Loop, Robin Court and Blue Heron Court. Also included are four homes north of Oxberg Lake on Putnam Road and four homes east of Oxberg Lake on Lake Shore Drive.