

ORDER NO. 02-470

ENTERED JUL 19 2002

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

WA 20

In the Matter of Long Butte Water)
System, Inc.'s 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 23, 2000, Long Butte Water System, Inc. (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 15, 2000, as required by Chapter 695, Oregon Laws 1999, Section 2(2). No requests for hearing were filed.

Applicant is an investor owned entity that provides water service to approximately 156 customers inside a platted subdivision named Whispering Pines Estates located 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**
Consumer Services' record showed nine complaints. Given the application's last reported customer base of 156, this history doesn't cause concern.
- 2) **Water Quality**
The Oregon Department of Human Services Drinking Water Program's monitoring and reporting records showed twelve violations from March 1, 1993 through January 1, 2001 (one initial tap sampling for lead and copper, three chemical non-reporting, and eight failures to report routine coliform sampling). The enforcement history showed the violation for lead and copper monitoring and reporting with a return to compliance on May 30, 1996. This record would not prevent application approval.
- 3) **Water Capacity**
Long Butte's average daily demand and peak demand are 47,939 gallons and 83,597 gallons respectively. The daily pumping capacity of the system is 230,400 gallons, which is more than sufficient.
- 4) **Technical Ability**
Long Butte is owned and operated by Patrick and Rebecca Hodge. While neither has any professional certifications, they have managed the system since 1992. Patrick Hodge, dba Pat Hodge Construction, develops and constructs municipal water and drainage systems, and was the principal in this system's implementation. Rebecca Hodge handles the office functions.
- 5) **Exclusive Service**
A copy of a perpetual exclusive easement to Long Butte for the domestic water supply system, dated July 7, 1992, was provided.
- 6) **Reasonable Rates**
Long Butte is a Commission rate regulated utility.

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 Long Butte Water System, Inc. 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 Long Butte Water System, Inc.'s exclusive service territory:

All tax lots located within Block 7 through Block 29 within the Whispering Pines Estates subdivision excluding the following:

- Lots 7 through 18 in Block 7
- Lot 34 and Lot 48 in Block 8
- Lots 1 through 9 in block 9
- Lots 1 through 5, and Lots 18 through 20 in Block 16
- Lots 4, 7, 8, 19 and 20 in Block 19

Beginning at the intersection of 78th Street and Tumalo Road, includes all area north to Gift Road and east to Highway 97. Then beginning at Journey Drive running north along the east side of South Canal Boulevard (also known as the Old Bend-Redmond Highway) down to Hansen Road.

The streets served by Long Butte Water System, Inc. are all of the following:

- Robin Avenue
- Quail Lane
- Oriole Lane
- 78th Street
- 76th Street
- Limestone Avenue
- Journey Avenue
- 93rd Street
- Gift Avenue also known as Gift Road
- Hereford Avenue
- Arid Avenue
- Imperial Avenue
- Journey Drive

A portion of the following streets are served:

- 85th Street
- 85th Place
- Tumalo Road
- 73rd Street
- South Canal Boulevard (also known as the Old Bend-Redmond Highway) from Journey Drive to Hansen Road