

ORDER NO. 02-502

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

WA 41

In the Matter of the Tierra Del Mar)
Water Company Application for)
Allocation of Exclusive Territory to)
Provide Water Service, Pursuant to)
ORS 758.300 Through ORS 758.320.)

ORDER

DISPOSITION: APPLICATION GRANTED

On April 24, 2000, Tierra Del Mar 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 5, 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 242 customers in the community of Tierra Del Mar both east and west of Sandlake Road and property along and near Sandlake Road north of the community for approximately two miles in 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 section had no complaint history on Tierra.
- 2) Water Quality
The Oregon Department of Human Services Drinking Water Program had sixteen violations recorded on its website (nine no report for a surface water system; six coliform reporting violations - either no report or not enough reporting; one filtration violation in 1992) from June 1992 through May 2002. The enforcement record shows compliance achieved on two items May 1, 1994. No other enforcement action was taken.
- 3) Water Capacity
Tierra is a metered system with the exception of service to Whalen Island Park in Tillamook County. Beltz Creek and its tributary provide the water for the system under right number 44592 with a maximum capacity of 517,054 gallons per day. 1999 average and peak daily demands were 20,640 and 48,000 respectively. The daily pumping limit of the treatment plant is 86,400 gallons. With a current storage capacity of 30,000 treated gallons of water, the system appears to have adequate service capacity.
- 4) Technical Ability
Mr. Miller, Tierra's owner/operator, has administered all aspects of the utility's operations for over twelve years and holds a state operations certification.
- 5) Exclusive Service
A copy of the lease covering the land necessary for utility operation was submitted. The lease expires on December 31, 2080.
- 6) Reasonable Rates
Rates were last set in docket UW 44 by Order No. 94-661.

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 Tierra Del Mar Water Company 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 Tierra Del Mar Water Company's exclusive service territory:

Section 6, Township 4 S, Range 10 W, W.M.; Section 29, Township 3 S, Range 10 W, W.M.; and Section 31, Township 3 S, Range 10 W, W.M.; Tillamook County, Oregon.