

ORDER NO. 02-577

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

WA 52

In the Matter of the Crescent Water)
Association 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 14, 2000, Crescent Water Association (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 below. 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 a cooperative that provides water service to approximately 264 customers, including non-members, in the area shown on USC&GS of Crescent Quadrangle Oregon Klamath County Topographic Map, Sections 19, 25, 30, 36, and 31, Township 24 South, Range 9 East W.M.

Based on its investigation, the Commission finds that the applicant was adequately and exclusively serving the territory described above 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 Crescent. Under the standard sampling process used, Commission surveys were sent to one hundred-fifty six of the utility's two hundred-sixty four current customers to determine the level of service quality being provided. Eighty-one responses were received. The following chart shows the negative comments made by seven respondents.

	Below Average	Unacceptable
Water Pressure	4	
Courteous Customer Service	1	1
Timely and Accurate Billings	1	1
Customer Confidence in Management/Operator	2	1
Communication Between Utility and Customers	1	1
Timely Resolution of Service Complaints	1	1

Explanatory letters on official complaint procedures were sent to those seven respondents. It appears that service is satisfactory.

2) Water Quality

The Department of Human Services Drinking Water Program website registered nine violations for the system from July 1993 through December 2001 (initial system tap sampling for lead and copper; three non-reporting of coliform; two insufficient reporting of coliform; two coliform reports over the maximum contamination level; and one nitrate non-report). The two enforcement actions listed showed a return to compliance on May 30, 1996. This record does not preclude approval, in my opinion.

3) Water Capacity

Crescent had a maximum of 310 connections during the two-year period on the application. Consumption monitoring is only done on a monthly basis. However, the system utilizes three wells under permit G-11990 that have a maximum daily pumping capacity of 1,163,370 gallons per day (gpd). That would have afforded a

maximum daily usage per connection of 3,753 gpd. Additionally, there is a storage capacity of 250,000 gallons. The system appears to be adequate.

4) Technical Ability

The operator has worked for Crescent since August 1979. He holds certificates of competency from AWWA, OSHA and OSHD; Cross Connection Inspection and Backflow Tester certifications; and he has performed billing duties since 1989.

5) Exclusive Service

Title documentation was submitted.

6) Reasonable Rates

The average charge per connection per month for both years listed on the application was under \$23.00. This is below the Commission threshold for rate regulation.

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 previously.

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 Crescent Water Association for exclusive service territory as allocated to the applicant and previously described 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