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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

WA 56

In the Matter of Penticton Estates)
Water Company, 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 March 9, 2000, Penticton Estates Water Company, 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 February 23, 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 168 customers in the Penticton Estates Subdivision in the northeast Salem, Oregon area.

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 record of complaints on Penticton. Using the standard sampling technique, Commission surveys were sent to 117 of the 168 customers listed as current customers by the utility to determine the level of service quality being provided. 55 responses were received with 37 complainants. Tabulation of the below average or unacceptable responses follows.

	Below Average	Unacceptable
Water Quality	9	4
Water Pressure	18	6
Courteous Customer Service	14	5
Timely and Accurate Billings	2	1
Customer Confidence in Management/Operator	10	9
Communication Between Utility and Customers	15	10
Timely Resolution of Service Complaints	12	12

None of the above categories rise to the 20% of the customer base threshold, on below average/unacceptable survey responses, that triggers a conditional approval order in evaluating exclusive service territory applications. Explanatory letters on the required procedures for consumer complaints were sent. It should be noted that effective September 10, 2002; there was a change in ownership of this entity.

2) Water Quality

The Oregon Department of Human Services Drinking Water Program website showed eleven violations from July 1991 through December 1999. There were two instances of test results exceeding the maximum permitted coliform contamination level and three coliform reporting insufficiencies. The remaining violations pertained to the lead and copper rule: two failures to perform initial tap sampling; one failure to monitor and report on targeted ph levels; lack of a required customer education mailing; failure to perform corrosion study; and failure to distinguish between corrosion or source water causation. The only enforcement actions recorded showed two returns to compliance, reference the lead and copper rule, in 1994.

- 3) **Water Capacity**
All of Penticton's customers are residential and the system is unmetered. Average demand is estimated at 36,200 gallons per day (gpd). The utility has water right 61378 to a well that has a 290,843-gpd maximum pumping capacity and a 2,000-gallon storage tank. It appears that there is sufficient capacity to provide adequate service to its customers.
- 4) **Technical Ability**
The former owner and assistant held Water Distribution I certifications. There was a computerized post card billing system. The new owner has several other operating water utilities.
- 5) **Exclusive Service**
A warranty deed for the lot containing the well and storage tank was submitted.
- 6) **Reasonable Rates**
The average monthly rates for the two years in the application were \$17.49 and \$21.19.

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.

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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.
5. The new owner is advised that there is a significant level of dissatisfaction with the service provided previously.

ORDER

IT IS ORDERED that the application of Penticton Estates Water Company, Inc. for exclusive service territory as allocated to the applicant and set forth in Appendix A is granted.

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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.

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APPENDIX A

Description of Penticton Estates Water Company, Inc.'s exclusive service territory:

All the tracts of land located in Penticton Estates Subdivision as filed in Section 8,
Township 7 S, Range 2 W W.M., in the northeast Salem area, Marion County, Oregon.