

ORDER NO. 02-758

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**BEFORE THE PUBLIC UTILITY COMMISSION**

**OF OREGON**

WA 73

In the Matter of the Lombard Water )  
Company's (Hiland Water Corporation) )  
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 17, 2002, Lombard Water Company (Hiland Water Corporation) (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 September 4, 2002, 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 103 customers in the area from a well located at 2800 Phipps Lane NE in Salem, Oregon where a 6" mainline extends north and south. On the north, a 4" looped mainline extends west on Carolina and Watson Avenues. They are connected over two lots east of Lancaster Drive. The 6" mainline extends to Glendale Avenue where it tees with a 4" main going east and west one block each. On the south of the well, the 6" mainline extends to Beverly Avenue with a 4" mainline extending to Lancaster Drive on both Judy and Beverly Avenues. The ends are tied together between Judy and Beverly Avenues near Lancaster Drive.

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 Division had no record of customer complaints on Lombard. Using the standard sampling technique, Commission surveys were sent to 81 of the 103 customers listed as current customers by the utility to determine the level of service quality being provided. 44 responses were received with 14 complainants. Tabulation of the below average or unacceptable responses follows.

	Below Average	Unacceptable
Water Quality	7	
Water Pressure	7	3
Courteous Customer Service	2	
Timely and Accurate Billings	2	
Customer Confidence in Management/Operator	2	
Communication Between Utility and Customers	3	
Timely Resolution of Service Complaints	1	1

There do not appear to be system-wide problems. Explanatory letters on official complaint procedures were sent to the 14 customers.

2) Water Quality

The website for the Oregon Department of Human Services Drinking Water Program listed 22 violations from January 1994 through July 1998. 17 violations were recorded for reporting insufficiencies (16 coliform and 1 nitrate). Three instances violated the maximum coliform contamination level. Finally, there were two tap sampling violations for lead and copper. The enforcement record showed two returns to compliance notations and one administrative order entered in February 1998. The order noted uncorrected deficiencies and warned of the civil penalties that could be incurred if remedial action was not taken. No violation has been recorded since July 1998.

- 3) **Water Capacity**  
Lombard has a completely residential customer base. Average demand is 31,700 gallons per day (gpd). Peak demand is 47,580 gpd. The pumping capacity is 323,200 gpd. The utility has water right permit number G-169. There is also a 12,000-gallon above ground storage tank.
- 4) **Technical Ability**  
Hiland Water Corporation has a water operator certified to Water Distribution Level II, with 10 years experience in the field. He is also certified as a cross connection inspector. The office staff has worked in water billings for four years, with computerized billing programs and meter readings.
- 5) **Exclusive Service**  
There is a perpetual easement covering this system.
- 6) **Reasonable Rates**  
The average charges per customer per month for the two years in the application were \$21.61 and \$27.09.

## **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 previously described.

**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 Lombard Water Company (Hiland Water Corporation) for exclusive service territory as allocated to the applicant and previously set forth is granted.

Made, entered, and effective \_\_\_\_\_.

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**John Savage**  
Director  
Utility Program

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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.