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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

WA 8

In the Matter of the Heritage Water)
Company'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 January 21, 2000, Heritage 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 February 3, 2000, as required by Chapter 695, Oregon Laws 1999, Section 2(2). No requests for hearing were filed.

Applicant is a partnership that provides water service to approximately 20 customers in the general vicinity of Poinsettia Street NE, Salem, 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 Division had no record of complaints on Heritage. The standard survey was sent to the twenty households listed as current customers by the utility. Fifteen responses were received. One sub-par water quality rating, six below average water pressure ratings, and one unacceptable water pressure rating (restricted to summer) were given by six respondents. One water pressure average rating had a written comment of "pressures could be higher". These responses are above the 20% customer base threshold that triggers a conditional approval order or denial. Staff spoke with the co-owner and was informed that measures are being taken to improve the system's water pressure. Written verification of that improvement will be a condition of this order. Explanatory letters on the required procedure for consumer complaints were sent to the sub-par respondents.

2) Water Quality

The Oregon Department of Human Services Drinking Water Program's website listed six coliform non-reporting, two nitrate non-reporting, and one coliform maximum contamination level violations from December 1991 through November 2000. No enforcement action was taken.

3) Water Capacity

The husband and wife owners took over operation of the system from the husband's father when he was placed in an assisted care facility in 1999 and only developed demand and consumption data for that year. Approximately 2,620,426 gallons were consumed with average daily demand per household of 359 gallons. The estimated peak annual demand was 83,520 gallons. The daily pumping capacity is 360,000 gallons. The system also has a 500-gallon storage tank. The system appears to be adequate.

4) Technical Ability

The Oregon Association of Water Utilities and Waterlab are tapped for assistance as needed.

5) Exclusive Service

The Marion County Assessor's Office forwarded a photocopy of the warranty deed made out to the husband's father and mother in 1964.

6) Reasonable Rates

The 1999 average monthly charge per household was \$15.28.

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.

Under ORS 758.305 (4) the Commission may decrease an exclusive service territory upon a showing that the water utility is not providing adequate service to its customers. If the Commission may decrease an exclusive territory because a water utility fails to provide adequate service, it is only fair that the Commission declare, to the extent possible, the level of service it expects when it acts on a petition for designated exclusive service territory. The Commission, therefore, has authority to set service quality standards when it grants a petition.

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 with the condition that a written report of the measures taken to correct the pressure problems will be furnished to the Commission within thirty days of the date of this order.

ORDER

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

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

ORDER NO. 02-786

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 Heritage Water Company's exclusive service territory:

Beginning at the Northwest corner of Lot 1, Block 2, Heritage Villa in Marion County, Oregon, thence South 33 degrees 6 minutes West along the West line of said Lot, 50.00 feet, thence South 56 degrees 54 minutes East 40.00 feet, thence North 33 degrees 6 minutes East parallel with the West line of said Lot 50.75 feet to a point on the South line of Poinsettia Street, thence along the arc of a 203.62 foot radius curve to the right (the chord of which bears North 59 degrees 21 minutes West 17.52 feet) a distance of 17.53 feet, thence North 56 degrees 54 minutes West 22.50 feet to the place of beginning.