

ORDER NO. 02-848

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

WA 39

In the Matter of the Agate Water)
System'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 20, 2000, Agate Water System (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 1, 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 430 customers in Sections 22, 23, 24, 25, 26, and 27, Township 18 S, Range 11 E, W.M., in Deschutes 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 record of complaints on Apache.
- 2) Water Quality
The Oregon Department of Human Services Drinking Water Program listed two coliform non-reporting violations and two nitrate non-reporting violations from January 1996 through December 2001 but had no record of enforcement actions required.
- 3) Water Capacity
Agate has a completely residential customer base. Average demand is 173,250 gallons per day (gpd). Peak demand is 1,226,016 gpd. The daily pumping capacity is 1,441,287 gpd drawn from five wells. The applicable water right is G-12674. There are three storage locations with 30,000, 20,000, and 2,000 gallons per site. The system appears to have adequate service capacity.
- 4) Technical Ability
The owner is a certified Level 1 Water Distribution Operator. His staff consists of one bookkeeper with seven years of experience in billing and accounting, and two field personnel with a combined seventeen years of experience in operating and maintaining plumbing and electrical equipment.
- 5) Exclusive Service
Copies of deeds and easements covering the utility property were submitted with the application.
- 6) Reasonable Rates
Agate is a rate-regulated entity with current authorization under Order No. 00-237.

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 Agate Water System 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 Agate Water Company's exclusive service territory:

Sections 22, 23, 24, 25, 26, and 27 of Township 18 South, Range 11 East, of the Willamette Meridian in Deschutes County, Oregon being more particularly described as follows:

Lots 32-50 of Block JJ, Block LL, Block MM, Lots 1-24 and 27-170 of Block PP, Block QQ, Block RR, Block SS, Block TT, Block UU, Block VV, Lots 1-7 and 11-28 of Block WW, Lots 30-58 of Block XX, Lots 1-13 of Block YY, Lots 1-56 of Block ZZ, Lots 11-18 Block CCC, Block DDD, Block EEE, Block FFF, Block GGG, Block HHH, Block III, Block JJJ, and Lots 1-28 of Block KKK all located in the Plat of Deschutes River Woods Subdivision.

Together with:

Lots 2-79, 139A, 139B, 139C, 140A, 140B, 140C of River Bend Estates.

Together with:

Tax Lots 8500, 8600 of said Section 23.

Together with:

Tax Lots 2800, 2801, 2900, 3300, 3301, 3700, 6000, 6100, 12901, 13000, 13200 of said Section 24.