

ORDER NO. 03-077

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

WA 53

In the Matter of the Echo Mountain)
Park Water System 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 23, 2000, Echo Mountain Park 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 hereinafter. The Commission gave notice of the application on March 6, 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 127 customers in the area off Northbank Road in the Otis area of Lincoln 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 Division did not have any complaint history on Echo. A Commission survey was sent to the 127 customers listed as current customers by the utility to determine the level of service quality being provided. 42 responses were received with 10 complainants. Tabulation of the below average or unacceptable responses follows.

	Below Average	Unacceptable
Water Quality	6	2
Water Pressure	5	
Courteous Customer Service	1	
Customer Confidence in Management/Operator	4	1
Communication Between Utility and Customers	3	1
Timely Resolution of Service Complaints	1	

There do not appear to be system-wide problems. Explanatory letters on official complaint procedures were sent to the 10 customers.

2) Water Quality

The Oregon Department of Human Services Drinking Water Program's website listed nine violations from May 1992 through May 1999 (eight for insufficient or lack of coliform reporting; the other for initial tap lead and copper sampling). The enforcement record shows one return to compliance notation in June 1995. This history does not raise quality concerns.

3) Water Capacity

The Echo customer base is solely residential. Daily average and peak demand figures were 19,689 and 28,433 gallons respectively. There are three source wells available under water right G-3814. The pumping capacity of the system is 111,108 gallons per day. There are also three storage tanks with a total 56,000-gallon capacity. The system appears adequate.

- 4) **Technical Ability**
The owner's family has performed all system functions since 1988. Photocopies of certificates evidencing successful completion of the Oregon water system operator-training course were submitted.
- 5) **Exclusive Service**
Easement references for the system were listed as follows: Lincoln County, Book 64, Page 316; Book 300, Pages 1076-1078; and Book 345, Pages 0339, 0342, and 0345.
- 6) **Reasonable Rates**
Customers paid an average of \$15.59 and \$16.96 per month for service during the two years reported on in the application.

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 Echo Mountain Park Water System for exclusive service territory as allocated to the applicant and previously set forth 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

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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 Echo Mountain Park Water System's exclusive service territory:

NE 1/4 of Section 33, Township 6 South, Range 10 W, W.M., which is located off Northbank Road in the city of Otis, Lincoln County, Oregon.