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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

WA 54

In the Matter of the Riverbend Park)
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 February 23, 2000, Riverbend 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 in Appendix A. 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 water utility that provides water service to approximately 68 customers in the River Bend Park off Northbank Road area in the city of Otis, 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 recorded one resolved complaint on Riverbend reference a 1999 billing matter. A Commission survey was sent to the sixty-eight customers listed as current customers by the utility to determine the level of service quality being provided. Eleven responses were received with only one complainant rating water quality as sometimes below average. An explanatory letter on the required procedure for consumer complaints was sent.

2) Water Quality

The Oregon Department of Human Services Drinking Water Program's website listed 65 violations covering the period from August 1991 through June 2001, with the majority resulting from non-reporting. The enforcement record shows official notice of violation and two return to compliance notations, last recorded in June 1995. Regular reporting will be made a condition of the approval order.

3) Water Capacity

Riverbend has a solely residential customer base. Average and peak daily demand figures were 7,481 and 16,225 gallons respectively. The pumping capacity of the system is 44,883 gallons per day. There is also a 44,000-gallon reservoir. 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 128, Pages 414 and 415; Book 233, Page 0932; and Book 368, Pages 2139 through 2144.

6) Reasonable Rates

Customers paid an average of \$14.51 and \$17.19 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.

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.

ORDER

- 1. IT IS ORDERED that the application of Riverbend Park Water System for exclusive service territory as allocated to the applicant and set forth in Appendix A is granted.
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- 2. Riverbend Park Water System must comply with the provisions of OAR 333-061-0036 on water sampling and analytical requirements.

Made, entered, and effective _____.

Roy Hemmingway
Chairman

Lee Beyer
Commissioner

Joan H. Smith
Commissioner

ORDER NO. 03-086

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 Riverbend Park Water System's exclusive service territory:

Sections 29, 32 and 33 Township 6 s, Range 10 W, W.M., which is located in River Bend Park off Northbank Road in the city of Otis, Lincoln County, Oregon.