

ORDER NO. 03-136

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

WA 47

In the Matter of the Metolius Meadows)
Property Owners Association'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 24, 2000, Metolius Meadows Property Owners Association (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 a homeowners association that provides water service to approximately 145 customers in the 141 lots within the Metolius Meadows boundary in Jefferson 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

A Commission survey was sent to 105 statistically sampled customers of the 145 listed as current customers by the utility to determine the level of service quality being provided. The only Commission Consumer Services Division record for Metolius was an inquiry on that survey. 78 responses were received with four complainants. Explanatory letters on the required procedure for consumer complaints were sent.

2) Water Quality

The Oregon Department of Human Services Drinking Water Program's website showed Metolius with four violations from July 1992 through December 1998. From January 1999 through December 2001 there were 55 non-reporting entries. No other entries appear on the record. The enforcement record shows return to compliance notations in April 2002. The absence of recent problems and problems confinement to one continuous period does not cause quality concerns.

3) Water Capacity

The Metolius customer base is solely residential. Average and peak demand figures were 3,026 and 9,351 gallons per day respectively. The pumping capacity of the system's well is 576,000 gallons per day. There is also a 44,000-gallon reservoir. The system appears adequate.

4) Technical Ability

The system is managed by the property owners and has been operated since 1974. There is a certified water operator (certificate number 6174) with six years of experience in charge.

5) Exclusive Service

Copies of property tax statements covering the entire system were submitted.

6) Reasonable Rates

Customers paid an average of \$11.52 and \$13.54 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 the Metolius Meadows Property Owners Association 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 Metolius Meadows Property Owners Association's exclusive service territory:

Lots 1 to 14 inclusive of Block 1, Lots 1 to 4 inclusive of Block 2, Lot 1 of Block 3, and that area designated as "common area" on the Plat of Metolius Meadows filed July 23, 1973, in Plat Book 3, Page 13, in the office of the County Clerk, Jefferson County, Oregon. A total of 19 lots.

Lots 1 to 11 inclusive of Block 1, Lots 1 to 8 inclusive of Block 2; and the area designated as "common area" on the Plat of Metolius Meadows First Addition, filed July 23, 1973, in Plat Book 3, Page 15 in the office of the County Clerk, Jefferson County, Oregon. A total of 19 lots.

Lots 1 to 9, inclusive of Block 1; Lots 1 to 10 inclusive of Block 2; and those areas designated as "common area" on the Plat of Metolius Meadows Second Addition, filed July 23, 1973, in Plat Book 3, Page 17, in the office of the County Clerk, Jefferson County, Oregon.

Lots 1 to 8 inclusive of Block 1; Lots 1 to 11 inclusive of Block 2; and those areas designated as "common area: on the Plat of Metolius Meadows Third Addition, filed on July 31, 1973, in Plat Book 3, Page 19 in the office of the County Clerk, Jefferson County, Oregon.

Lots 1 to 10, inclusive of Block 1; Lots 1 to 3 inclusive of Block 2; Lots 1 to 4 inclusive of Block 3; and those areas designated as "common area" on the Plat of Metolius Meadows Fourth Addition, filed on July 10, 1974, in Plat Book 3, Page 21 in the office of the County Clerk, Jefferson County, Oregon.

Lots 1 to 4 inclusive of Block 1; Lots 1 to 12 inclusive of Block 2, on the Plat of Metolius Meadows, Fifth Addition, filed on July 10, 1974, in Plat Book 3, Page 23 in the office of the County Clerk, Jefferson County, Oregon.

Lots 1 to 11 inclusive of Block 1, Lots 1 to 8 inclusive of Block 2, and those areas designated as "common area" on the Plat of Metolius Meadows Sixth Addition, filed on July 10, 1974, in Plat Book 3, Page 25 in the office of the County Clerk, Jefferson County, Oregon.

ORDER NO. 03-136

Lots 1 to 6, Block 1 inclusive, Lots 1 to 7 inclusive of Block 2; and those areas designated as "common area" on the Plat of Metolius Meadows Seventh Addition, filed on July 10, 1974, in Plat Book 3, Page 27 in the office of the County Clerk, Jefferson County, Oregon.

The total number of lots being 141.