

ORDER NO. 03-289

ENTERED MAY 09 2003

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

WA 48

In the Matter of the Westport Water)
Association 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 27, 2000, Westport Water 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 below. The Commission gave notice of the application on March 5, 2001, as required by Chapter 695, Oregon Laws 1999, Section 2(2). No requests for hearing were filed.

Applicant is a Home Owners Association that provides water service to approximately 111 customers in Section 1, Township 7, N, Range 6 W, W.M., and Sections 25, 35, 36 Township 8 N, Range 6 W, W.M. located in Clatsop County, Oregon.

Based on its investigation, the Commission finds that the applicant was adequately and exclusively serving the territory described above 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 customer complaints for Westport. A Commission survey was sent to the 111 customers listed as current customers by the utility to determine the level of service quality being provided. Fifty-four responses were received with negative comments from 17 customers as noted below:

	Below Average	Unacceptable
Water Quality	3	2
Water Pressure	2	
Courteous Customer Service	4	
Timely and Accurate Billings	6	1
Customer Confidence in Management/Operator	5	2
Communication Between Utility and Customers	7	2
Timely Resolution of Service Complaints	6	1

Explanatory letters on the required procedures for consumer complaints were sent to the 17 customers.

2) Water Quality

The Oregon Department of Human Services Drinking Water Program's website listed 45 violations from January 1992 through October 2001 (13 for coliform and 32 for surface water treatment). The enforcement record shows one administrative order in January 1992 and one return to compliance notation in April 1998. After a conversation with a representative of the Department of Human Services Drinking Water Program and the fact that the water system operator who administered the system during the violations period has been replaced, I do not consider this history to prevent approval.

- 3) **Water Capacity**
Average and peak demand figures for the system were 70,000 and 90,000 gallons per day respectively. The pumping capacity of the system is 158,400 gallons per day under water right 39031. There is also a 200,000-gallon reservoir. The system appears adequate.
- 3) **Technical Ability**
The current water system operator is Charles Shulda. He holds certification for Water Treatment Level 2 and Distribution Level 1 under license number 6689.
- 4) **Exclusive Service**
A copy of the lease agreement with owner Clatsop County, covering the utility property, was submitted. The lease termination date is March 31, 2083.
- 5) **Reasonable Rates**
Customers paid an average of \$45.78 and \$43.97 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 Westport Water Association for exclusive service territory as allocated to the applicant and previously set forth is granted.

Made, entered, and effective _____.

John Savage
Director
Utility Program

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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.