

ORDER NO.

ENTERED

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UM 1067

In the Matter of )  
 )  
SEVENTH MOUNTAIN GOLF )  
VILLAGE WATER COMPANY )  
 )  
Public Utility Company of Oregon Staff )  
request to open adequacy of service )  
investigation and Commission order for )  
compliance. )

ORDER

**DISPOSITION: INVESTIGATION CONCLUDED; DOCKET  
CLOSED**

On October 15, 2002, Staff of the Public Utility Commission of Oregon (Staff) requested that the Commission open an adequacy of service investigation into Seventh Mountain Golf Village Water Company's (Seventh Mountain) service and issue an order for compliance. Since 1997, the time of Seventh Mountain's first rate case, Staff has received numerous complaints from customers. The complaints encompass service quality, customer service, adequacy of service, and failure to respond in a timely manner. In addition, Seventh Mountain had never filed its annual reports with the Commission since becoming rate regulated.

On many occasions, Staff attempted to contact the company for a response or action. Most of those attempts failed. On July 24, 2002, Assistant Attorney General (AAG) Jason Jones sent a letter from the Department of Justice to Dale Bernards, Registered Agent for Seventh Mountain, requiring information and company compliance. According to the letter, the following company information was due the Commission by August 31, 2002:

- Year 2000 and 2001 annual reports are required by OAR 860-036-0815
- A statement explaining the difference in revenue for 2001, the company's financial statements, and its 2001 general ledger indicating all revenues collected from each customer, including the golf course, for each month during 2001

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In addition, Seventh Mountain was to have submitted the following to the Commission by September 30, 2002:

- A meter installation plan
- A system flushing plan and schedule
- A status report of Seventh Mountain's progress addressing system issues detailed in the Oregon Health Services Drinking Water Program's (DWP) Sanitary Survey of the company dated August 31, 2000

Finally, by September 30, 2002, the company was required to:

- Conduct a second fire flow test, with proper notice to confirm adequate supply to the satisfaction of Susie Lovisco, Fire Inspector

At the October 15, 2002, Public Meeting, the Commission agreed to open an investigation into the Company's administration and operation to provide safe and adequate water service. Commission Order No. 02-760 opened an investigation and directed Seventh Mountain to provide all the information requested in the July 24, 2002, AAG's letter.

Since October 2002, Staff has worked closely with Seventh Mountain. As of February 18, 2003, Staff has received all documents in compliance with Order No. 02-760. The company submitted its 2000 and 2001 annual reports and is currently preparing its 2002 annual report. A meter installation plan and a system flushing plan and schedule were also provided. The company provided a complete status report on issues detailed in the DWP's Sanitary Survey. The fire flow test was conducted on June 4, 2002.

Finally, the company was to provide a statement explaining the difference in revenue for 2001 in the company's financial statements and its 2001 general ledger indicating all revenues collected from each customer, including the golf course, for each month during 2001. Seventh Mountain noted that the water company bills the Widgi Creek Golf Course (WCGC) on a monthly basis. WCGC does not pay the full amount of the bill every month. The water company began billing the WCGC in August 1997 when rates became effective in UW 55. Below is a table summarizing what the golf course was billed and what it paid for each year:

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WCGC Account History

Year	Billed \$	Paid \$	Balance \$
1998	25,919	929	24,990
1999	25,919	0	50,909
2000	25,929	6,481	70,747
2001	26,929	5,546	90,721
2002	25,929	12,053	104,586

The above figures do not take into account any late fees charged. Seventh Mountain claims that part of the reason WCGC did not pay its annual bill is an offsetting land rental agreement between WCGC and Seventh Mountain. Seventh Mountain’s reservoir, pump house, and electrical/mechanical rooms that comprise the basic elements of the water company are located on WCGC property. Therefore, Seventh Mountain claims that WCGC is entitled to receive lease payments on this land.

On June 1, 1993, Yamazoe International, then owners of the golf course, entered into a Land Rental Agreement with Seventh Mountain. The agreement stipulated that the water company would pay to WCGC 9 percent of the current market value of the land where the reservoir, pump house, and electrical/mechanical rooms are located. The value of the land is reestablished each year on or before June 1. The company claims that it has not paid this lease amount in any year since 1993. The company did not make Staff aware of this agreement in 1997 during its rate case.

Land Rental Agreement

Year	Billed \$	9 Percent	Balance \$
1993	90,000	8,100	8,100
1994	90,000	8,100	16,200
1995	105,000	9,450	25,650
1996	105,000	9,450	35,100
1997	122,000	10,980	46,080
1998	146,000	13,140	59,220
1999	182,000	16,380	75,600
2000	182,000	16,380	91,980
2001	190,000	17,100	109,080
2002	190,000	17,100	126,180

The table figures do not take into account any late fees charged. WCGC and the land on which the water company assets are located have had multiple owners through the years. The company provided a chain of title that, while difficult to follow, seems to indicate that the water company has never owned the land.

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The owner of the water company, Dale Bernards, doing business as Elkai Management, is also managing partner of WCGC. This represents an affiliated interest between WCGC and Seventh Mountain.

**Staff Conclusions.** Staff believes that the primary issue arising from the investigation of Seventh Mountain is the payments to and from WCGC. It appears that WCGC owes money to Seventh Mountain, but in its UW 55 rate case, the Commission found that the golf course had not been charged for irrigation since its inception in the early 1990s. Therefore, WCGC should have been paying a water bill since that time. If that bill is imputed for the years in which the land rental agreement has been in force, WCGC is the entity owing money.

Staff contends that whether the golf course owes money to the water company or vice versa is a moot point, since the owner/manager is the same person for both entities. If the Commission were to order the water company to collect the amount due from the golf course, it would be ordering Seventh Mountain to pay itself.

However, there is a significant statutory issue. Staff believes that Seventh Mountain has provided discriminatory service by not collecting the full amount owed by WCGC. Staff recommends that the Commission order Seventh Mountain to collect on a monthly basis the amount of the tariffed charge to WCGC. Staff also recommends that the Commission order Seventh Mountain to file an affiliated interest application to approve the Land Rental Agreement between Seventh Mountain and WCGC within 60 days of the date of the Commission order in this docket.

**Staff Recommendation.** Staff recommends that UM 1067 be closed with the acknowledgement that Seventh Mountain has adequately addressed the service related issues identified by its customers and provided the required information to the Commission. Staff recommends that the order include the following findings:

1. Year 2000 and 2001 annual reports have been submitted, as required by OAR 860-036-0815.
2. Seventh Mountain has submitted a statement explaining the difference in revenue for 2001, the company's financial statements, and its 2001 general ledger indicating all revenues collected from each customer, including WCGC, for each month during 2001.
3. Seventh Mountain has submitted a meter installation plan.
4. Seventh Mountain has submitted a system flushing plan and schedule.
5. Seventh Mountain has submitted a status report of its progress addressing system issues detailed in the Oregon Health Services DWP's Sanitary Survey of Seventh Mountain dated August 31, 2000.
6. Seventh Mountain has conducted fire flow tests.

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Staff also recommends that the order include the following condition:

*Commission Findings and Conclusions.* We adopt Staff’s findings, 1 through 6, set out above. We conclude that Seventh Mountain has complied with our directives in Order No. 02-760 and that this docket should be closed. We further conclude that Staff’s proposed condition should be adopted.

**ORDER**

IT IS ORDERED that:

1. Seventh Mountain must file an affiliated interest application to approve the Land Rental Agreement between the water company and WCGC within 60 days of the date of this order.
2. The investigation opened in Order No. 02-760 is closed.

Made, entered, and effective \_\_\_\_\_.

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**Roy Hemmingway**  
Chairman

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**Lee Beyer**  
Commissioner

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 in 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 may appeal this order to a court pursuant to applicable law.