

ORDER NO. 03-450

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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

WA 61

In the Matter of the Westland Estates)
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 May 18, 2000, Westland Estates 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 February 23, 2001, as required by Chapter 695, Oregon Laws 1999, Section 2(2). No requests for hearing were filed.

Applicant is a sole proprietorship utility that provides water service to approximately 20 customers in the Westland Estates Subdivision in Hermiston, 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 had no record of complaints on Westland. A Commission survey was sent to the twenty customers listed as current customers by the utility to determine the level of service quality being provided. Five responses were received. One customer gave a detailed unacceptable water quality and unacceptable water pressure evaluations. Another customer gave an average to unacceptable range evaluation on water quality and a below average water pressure evaluation.

2) Water Quality

The Oregon Health Division Drinking Water Program had sixteen violations listed from August 1992 through December 2002 (three instances of measurements above the maximum contamination level, five non-reporting, and one insufficient reporting of coliform samples; three average sampling measurements above the maximum contamination level and two non-reporting of nitrate; and two initial tap samplings for lead and copper). There are four return to compliance notations on the enforcement record indicating restoration of normalcy.

3) Water Capacity

Westland had a maximum of 22 residential customers during the two years listed on the application. Average demand was 18,133 gallons per day (gpd). Peak demand was 42,548 gpd. The pumping capacity of the well is unknown. There are two storage tanks with a 19,300-gallon capacity in the system.

4) Technical Ability

Brian Stone, holder of a Water Distribution Level 1 license number 6597, currently operates the system. An accountant has handled the billing and collection functions for 26 years.

5) Exclusive Service

A property tax statement copy was submitted.

6) Reasonable Rates

Westland is a rate-regulated entity with current authority under Commission Order No. 01-989.

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 Westland Estates Water System 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 Westland Estates Water System's exclusive service territory:

Westland Estates Subdivision in the W1/2W1/2, Section 17, and in the E1/2E1/2, Section 18 and in the E1/2E1/2 Section 19, T4N, R28E WM, Umatilla County, Oregon as platted and filed in Umatilla County, Oregon AND

Replat of Block 4 and First Addition to Westland Estates Phase 1, in E1/2E1/2, Section 19, T4N, R28E WM, Umatilla County, Oregon as platted and filed in Umatilla County, Oregon.