

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

WJ 4

In the Matter of)	
)	
CEDAR TREE PARK)	ORDER
)	
An Investigation Pursuant to ORS 756.515)	
to Determine Jurisdiction)	

**DISPOSITION: TARIFFS WITHDRAWN;
JURISDICTION WITHDRAWN**

CEDAR TREE PARK is a privately-owned, rate regulated water system that provides water service to approximately 28 residential mobile homes near St. Helens, Oregon.

On or about May 1, 2002, CEDAR TREE PARK notified its customers that it intended to increase rates from a flat \$24 per month to a flat \$48 per month and informed them of the Commission’s regulation petition process. On May 10, 2002, the Company became rate regulated through the customer petition process. In the Company’s subsequent rate case, UW 90, the parties eventually stipulated to a revenue requirement of \$12,240, and a flat monthly rate of \$37.78. The customer’s water use was not metered. The Commission issued Order No. 03-349 on June 9, 2003, adopting the stipulation.

According to the Oregon Drinking Water Program, from 1991 to 2003 CEDAR TREE PARK incurred 30 violations. However, The Oregon Drinking Water Program has reported no violations or enforcement action since March 2003. The Commission’s Consumer Services also reports no customer complaint in 2004 and 2005.

The well water in this area contains a high mineral content resulting in customer complaints. Melvin and Marilyn Olson (the Olsons) have drilled several wells seeking a new water source and for some time used water from Scappoose Creek. Currently, only one well is providing water. All other water sources have been abandoned.

On April 7, 2005, the Olsons submitted a letter to the Commission requesting withdrawal of CEDAR TREE PARK’S tariffs. The mobile home park and the

water system are both owned by the Olsons. The Olsons no longer bill their tenants for water service in a separate and distinct billing. Instead, the water service is now included in the space/lot rental. Because water is now included in rent, the Olsons contend that CEDAR TREE PARK is no longer subject to Commission jurisdiction.

In general, legal counsel has advised the Commission that mobile home parks that provide water service to their tenants, and include the cost of water service as part of the rent, are not public utilities because they do not provide service directly or indirectly to or for the public.

In this case, the mobile home park does not separately charge for water, but it is included in the rent. Because the water is included with the space/lot rental, the mobile home park, like a hotel, is primarily in the rental business; therefore, water service is secondary to the rental business. A similar analysis would apply to an apartment or house rental in which water is included as part of the rent. The landlord is not providing water as a public utility to the tenant, although the landlord may have certain obligations concerning the water service pursuant to landlord/tenant law.

When a company provides water service as part of the rent, it is assumed that the market adequately regulates the appropriate price of the rent. Because there is not a distinct water charge and the rent is regulated by the market, CEDAR TREE PARK is not providing water service directly or indirectly to or for the public as contemplated in ORS 757.005.

FINDINGS OF FACT

CEDAR TREE PARK does not provide water service directly or indirectly to or for the public because water service is included in space rental.

CONCLUSIONS OF LAW

CEDAR TREE PARK is not a public utility as defined in ORS 757.005.

ORDER

IT IS ORDERED that CEDAR TREE PARK is not a public utility subject to Commission jurisdiction under ORS 757.005 and 757.061.

Made, entered and effective AUG 30 2005 .



Lee Sparling

Lee Sparling
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 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.