

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

WJ 10

In the Matter of)	
)	
DUKE'S FARMS, LLC)	ORDER
)	
An Investigation Pursuant to ORS 756.515)	
to Determine Jurisdiction)	

DISPOSITION: TARIFFS WITHDRAWN;
REGULATION WITHDRAWN

DUKE’S FARMS, LLC (Duke’s Farms or Company) is a privately-owned, rate-regulated water/wastewater company that currently provides services to approximately 126 residential mobile homes in Salem, Oregon.

In 1999, the Oregon Legislature passed a new law that required the Public Utility Commission (Commission) to fully regulate joint water/wastewater utilities that provide service within the boundaries of a city (ORS 757.061(4)). Pursuant to that statute, Duke’s Farms came under Commission rate regulation on November 3, 2000.

During the 2005 Legislative Session, HB 2247 was passed by the Legislature, signed by the Governor, and codified into statute in ORS Chapter 90, becoming effective January 1, 2006. HB 2247 allowed, in part, that a landlord who provides utility services only to tenants of the landlord in compliance with certain requirements found in ORS 90.532 and 90.536 is not a public utility for purposes of ORS Chapter 757.

ORS 90.532 outlines the methods a Manufactured Dwelling Park may bill for utility charges. ORS 90.532(1)(c) states:

- (c) A relationship between the landlord, tenant and utility or service provider in which:
 - (A) The provider provides the utility or service to the landlord;
 - (B) The landlord provides the utility or service directly to the tenant’s space; and

(C) The landlord uses a submeter to measure the utility or service actually provided to the space and bills the tenant for a utility or service charge for the amount provided.

Additionally, Section (6) of ORS 90.532 states:

(6) A landlord who provides utilities or services only to tenants of the landlord in compliance with this section and ORS 90.534 and 90.536 is not a public utility for purposes of ORS chapter 757.

ORS 90.536 outlines the requirements of a landlord when utilities or services are measured by a submeter.

On December 21, 2006, Commission Staff sent a letter to Duke's Farms requesting information to determine if the Company, as a Manufactured Dwelling Park, meets the requirements in ORS 90.532 and 90.536. On January 2, 2007, Duke's Farms responded to Staff's request for information.

Based on Staff's review of the information provided by the Company, Duke's Farms is structured to comply with ORS 90.532 and ORS 90.536. The Company receives water and wastewater services from the City of Salem. The City uses a master meter to record Duke's Farms water usage. The Company uses submeters to apportion the City's charge to the Company to the individual customers. In addition, all rental agreements include a submetering clause.

FINDINGS OF FACT

Duke's Farms is currently rate regulated by the Public Utility Commission.

Duke's Farms provides water and wastewater service only to the tenants of the manufactured park.

Pursuant to ORS 90.532 and 90.536, and given Duke's Farms' method of billing for water and sewer services, Commission jurisdiction is withdrawn; and therefore, Duke's Farms is not a public utility for purposes of ORS Chapter 757.

CONCLUSION OF LAW

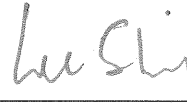
Duke's Farms provides water only to its tenants using the method prescribed in ORS 90.532(1)(c) and ORS 90.536. Pursuant to ORS 90.532(6), Duke's Farms is not a public utility for purposes of ORS Chapter 757.

ORDER

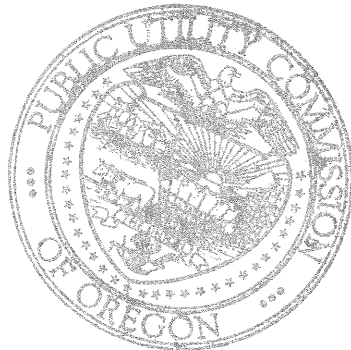
IT IS ORDERED that:

1. Duke's Farms is not a public utility for purposes of ORS Chapter 757, pursuant to ORS 90.532(6).
2. Commission regulation of the water and wastewater services provided by Duke's Farms is withdrawn.
3. Duke's Farms is not subject to the Commission's Annual Fee, effective with the year ending December 31, 2006.
4. Duke's Farms' tariffs are withdrawn.

Made, entered, and effective FEB 14 2007.



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 by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.