

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

WJ 11

In the Matter of	)	
	)	
ASPEN CREEK MHC LLC fka	)	
A&G LLC WATER & SEWER	)	ORDER
	)	
An Investigation Pursuant to ORS 756.515	)	
to Determine Jurisdiction	)	

**DISPOSITION: TARIFFS WITHDRAWN;  
REGULATION WITHDRAWN**

ASPEN CREEK MHC LLC fka A&G LLC WATER & SEWER (Aspen Creek/A&G or Company) is a privately-owned, rate-regulated water/wastewater company that currently provides services to 51 residential mobile homes in Redmond, Oregon.

In 1999, the Oregon Legislature passed a 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, Aspen Creek MHC LLC (at the time known as A&G LLC Water & Sewer) came under Commission rate regulation on October 4, 2002.

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 ORS 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.

Commission Staff sent a letter to Aspen Creek/A&G on February 12, 2007, requesting information to determine if the Company, as a Manufactured Dwelling Park, meets the requirements in ORS 90.532 and ORS 90.536. Aspen Creek/A&G responded to Staff's request for information on February 26, 2007.

### **FINDINGS OF FACT**

Aspen Creek/A&G is currently rate regulated by the Public Utility Commission.

Aspen Creek/A&G provides water and wastewater service only to the tenants of the manufactured park.

Based on Staff's review of the information provided by the Company, Aspen Creek/A&G receives water and wastewater services from the City of Redmond. The City uses a master meter to record Aspen Creek/A&G's water usage. The Company uses submeters to measure the water service to individual customers and, pursuant to ORS 90.532(1)(c), can only bill individual customers for the utility service provided. In addition, all rental agreements include a submetering clause.

Pursuant to ORS 90.532 and ORS 90.536, and given Aspen Creek/A&G's method of billing for water and sewer services, and as such complies with ORS 90.532 and ORS 90.536, Commission jurisdiction is withdrawn; and therefore, Aspen Creek/A&G is not a public utility for purposes of ORS Chapter 757.

**CONCLUSION OF LAW**

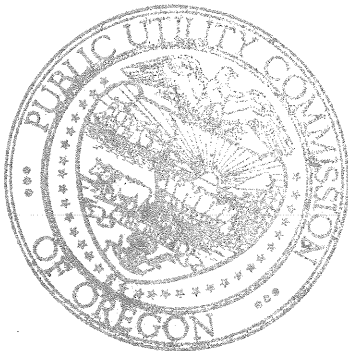
Aspen Creek/A&G provides water only to its tenants using the method prescribed in ORS 90.532(1)(c) and ORS 90.536. Pursuant to ORS 90.532(6), Aspen Creek/A&G is not a public utility for purposes of ORS Chapter 757.

**ORDER**

IT IS ORDERED that:

1. Aspen Creek MHC LLC fka A&G LLC Water & Sewer 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 Aspen Creek/A&G is withdrawn.
3. Aspen Creek/A&G is not subject to the Commission's Annual Fee, effective with the year ending December 31, 2006.
4. Aspen Creek/A&G's tariffs are withdrawn.

Made, entered, and effective MAR 07 2007.



  
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**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.