

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

WJ 23

In the Matter of)
)
WHISPERING PINES ESTATES WATER) ORDER
)
An Investigation Pursuant to ORS 756.515)
to Determine Jurisdiction)
)

DISPOSITION: JURISDICTION ASSERTED

Pursuant to ORS Chapters 756 and 757, the Public Utility Commission of Oregon (Commission) regulates private or investor-owned water utilities meeting the definition of a public utility. See ORS 757.005. The Commission may regulate public utilities for service (service regulation) or rates (financial regulation) or both.

Pursuant to ORS 757.061(6)(b), any water utility charging a water service rate that exceeds the maximum rate threshold established by the Commission must provide its customers with written notice of the customer's right to petition for regulation. If 20 percent or more of the customers petition, the utility comes under the Commission's jurisdiction and authority for service and financial regulation.

Whispering Pines Estates Water (Whispering Pines or Utility) provides domestic water service to 21 residential customers in Shady Cove, Oregon. On or about May 21, 2009, Staff received a complaint from a Whispering Pines customer regarding high rates and low well water production. According to the customer, the Utility is trucking in water because the well is not providing sufficient water.

According to Whispering Pines, the Utility's well is currently not producing at capacity. The Utility is trucking in water at the rate of \$.0325 per gallon. Staff confirmed that the current rates exceed the maximum threshold rate of \$33 found in OAR 860-036-0030. Whispering Pines charges \$40 for the first 5,000 gallons and \$.015 for each additional trucked gallon. The Utility charges the customers for approximately half the cost of the trucked water. It has used a reserve fund to offset the cost of the water; however, the fund will be exhausted around the middle of August 2009.

On May 26, 2009, Staff sent a letter to Whispering Pines requiring the Utility to give its customers notice that its current rate exceeded the Commission's maximum established rate and that the customers had the right to petition the Commission for regulation of Whispering Pines. On June 8, 2009, Whispering Pines sent a copy of the customer notice to the Commission.

On July 22, 2009, Staff received petitions from 20 percent or more of the customers requesting Commission oversight and regulation of the Utility.

FINDINGS OF FACT

Whispering Pines meets the definition of a public utility in ORS 757.005. The current rates charged by the Utility exceed the Commission's maximum threshold found in OAR 860-036-0030. The Commission received petitions from 20 percent or more of the customers requesting Commission oversight.

The Commission finds sufficient reason to provide oversight based upon the following issues: (1) high cost of water, (2) low well water supply, and (3) the need to truck in water to meet customer needs.

CONCLUSIONS OF LAW

WHISPERING PINES ESTATES WATER is a public utility pursuant to ORS 757.005 and is subject to service regulation pursuant to ORS 757.020.

WHISPERING PINES ESTATES WATER is a rate and service regulated utility pursuant to ORS 757.061(6)(b).

ORDER

IT IS ORDERED that:

1. WHISPERING PINES ESTATES WATER is a financial and service regulated water utility pursuant to ORS 757.005 and 757.061.
2. WHISPERING PINES ESTATES WATER shall file appropriate tariffs within 60 days of the date of this order.

Made, entered, and effective AUG 12 2009 .



Lee Spurling

Lee Spurling
Director
Utility Program

A party to this docket may request reconsideration pursuant to ORS 756.561. The request must be filed within 60 days of the date of service of this order and include information that demonstrates that Whispering Pines Estates Water is not subject to Commission jurisdiction.

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.