

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

WJ 25

In the Matter of )  
 )  
PELICAN BAY HEIGHTS WATER ) ORDER  
SYSTEM )  
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 the adequacy of service of privately or investor-owned water companies providing water service that meet the definition of a public utility. *See* ORS 757.005. The Commission regulates service quality (water quality, water pressure, customer service, and plant maintenance) for certain private water companies designated as public utilities. *See* ORS 757.020.

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 the Commission receives petitions from 20 percent or more of the customers and the Commission finds it is in the public interest, the Commission will regulate the utility for service and rates.

Pelican Bay Heights Water System (Pelican Bay or Company) is a privately held water system providing domestic water service to 20 residential customers in Harbor, Oregon. On October 15, 2009, the Commission received a customer complaint regarding Pelican Bay's water pressure and excessive rates.

Based on the Company's 2008 end of year financial information, Staff determined the Company was not charging in excess of the Commission established threshold for metered systems.

The water pressure issue, according to the Oregon Drinking Water Program (DWP) is a lack of storage capacity. The system developers originally planned to develop several hundred acres in the urban growth boundary. However, a zoning change has halted development, including additional reservoirs. Currently, the Company cannot

maintain the minimum standard of 20 pounds of water pressure. Pelican Bay is taking measures to increase pumping capacity to resolve the issue.

In January 2010, at the request of a customer, Staff reviewed the Company's 2009 end of year financials and determined that the Company was now charging in excess of the metered system threshold. As a result, on January 21, 2010, Pelican Bay notified its customers that the annual average monthly residential rate exceeded the Commission's established rate in OAR 860-036-0030 and the customers had the opportunity to petition for rate regulation.

On January 22, 2010, Staff received enough customer petitions to meet the 20 percent petition requirement for rate regulation.

### **FINDINGS OF FACT**

Pelican Bay 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(1). The Commission received petitions from 20 percent or more of the customers requesting rate and service regulation.

The Commission finds sufficient reason to provide regulation based upon the high cost of water and the water pressure problems.

### **CONCLUSIONS OF LAW**

PELICAN BAY HEIGHTS WATER SYSTEM is a public utility pursuant to ORS 757.005 and is subject to service regulation pursuant to ORS 757.020.

PELICAN BAY HEIGHTS WATER SYSTEM is a rate and service regulated utility pursuant to ORS 757.061(6)(b).

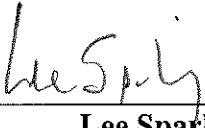
**ORDER**

IT IS ORDERED that:

1. PELICAN BAY HEIGHTS WATER SYSTEM is a fully regulated utility pursuant to ORS 757.005 and 757.061.
2. PELICAN BAY HEIGHTS WATER SYSTEM shall file appropriate tariffs within 60 days of the date of this order.

Made, entered, and effective FEB 03 2010.



  
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**Lee Sparling**  
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 Pelican Bay Heights Water System 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.