

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1528, UCR 135

In the Matters of

FISH MILL LODGES WATER
SYSTEM

Complaint Regarding Water System
Customers D.V. & B.V., and B.L. (UM 1528)

and

FISH MILL LODGES WATER
SYSTEM,

Complainant

vs.

D.D.¹,

Defendant (UCR 135)

ORDER

DISPOSITION: DISCONNECTION OR TERMINATION OF SERVICE
DENIED

I. INTRODUCTION

In its complaint (docket UCR 135) filed February 2, 2011, with the Public Utility Commission of Oregon (Commission), Fish Mill Lodges Water System (Fish Mill) requests leave to terminate its service to customer D.D., alleging non-payment for water service. In its complaint filed March 7, 2011, (docket UM 1528) Fish Mill requests leave to terminate its service to customers D. V. and B.V., and customer B.L., on various grounds. These three customers are Fish Mill's only non-affiliated customers.

Prehearing conferences were held in both matters and schedules adopted for the filing of testimony and hearings.

¹ The posting of this consumer complaint order represents a policy change intended to increase the precedential value of such decisions. In such cases, the Commission will use complainants' initials to protect their privacy.

II. PROCEDURAL HISTORY

On April 15, 2011, Fish Mill served notice to the Commission of its intended “emergency disconnection” of each of these customers, citing various grounds. As to each of the customers Fish Mill alleged:

1. The water samples for the system tested E-coli and Coliform positive in the well and distribution in September, 2010 and continual Coliform positive in repeat samples as of March 30, 2011. The system is under a Tier 1 Boil Water Notice. OAR 860-036-0310(1).
2. Feasibility study reported acidity in water creating corrosive damage to metal, copper pipes, and hot water heaters. OAR 860-036-0310(2).

For customers D.V. and B.V, and customer D.D., Fish Mill alleged additional grounds for disconnection of their service.

For customer D.D., the threatened disconnection date was April 22, 2011. For customer B.L., the threatened termination date was April 21, 2011. For customers D.V. and B.V., Fish Mill stated the emergency disconnection date will be left to the PUC determination * * *.”

A hearing was held in this matter on April 20, 2011. Parties offering testimony at the hearing were Judy Bedsole, on behalf of Fish Mill, customer D.D., customer B.L., and the Commission Staff. The proceeding was submitted following oral argument.

III. DISCUSSION

A. Fish Mill

As grounds for disconnection, Fish Mill presented testimony to the effect that its spring (its sole source of water) is polluted, as shown in water samples taken by independent agents, most recently on March 30, 2011. The Company professes not to know the source(s) of the contaminants and has no plan to purify its water.

The Company states that it has provided “boil water” notices to its customers. Fish Mill stated it does not want to be held responsible for having provided polluted water to its customers.

B. Customers

D.D. does not reside at the subject property, but retains a strong interest in the water quality, in part because his property is for sale. He had only just received a “boil water” notice. D.D. attributes the water quality problem to poor management.

B.L. does reside at the property served by Fish Mill. She testified that she buys bottled water for drinking and tooth brushing (since September) and boils water for cooking. Otherwise, she uses Fish Mill provided water for domestic purposes daily. She does not believe that the service problem constitutes an emergency.

C. Commission Staff

The Manager of the Commission's Consumer Services Section testified that the circumstances cited by Fish Mill do not meet the legal standard for emergency disconnection of customers. He noted that it is the utility's obligation to provide pure water to its customers, and that the failure to provide pure water is not grounds for disconnection.

He noted that, pursuant to OAR 860-036-0025(7), where there is a formal complaint pending, the utility may not disconnect service.

D. Resolution

Fish Mill has failed to prove that an emergency condition exists that warrants its immediate suspension of service to its customers. Its threatened termination of service would be unlawful.

As shown by its own testimony, the water quality problem has persisted since September, 2010. There is no apparent change in circumstances that would justify a precipitous action by Fish Mill.

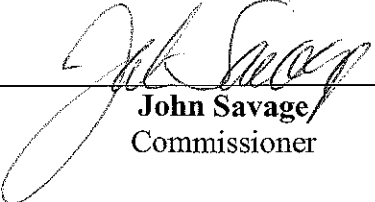
The only customer living in the territory (B.L.) uses the water daily for domestic purposes (other than drinking) with no apparent ill effects. The "boil water" notice, although apparently untimely, is sufficient to mitigate the most immediate concerns with water quality. The longer-term concerns with the quality of water provided by Fish Mill will be addressed in other proceedings.

Fish Mill is ordered to continue to serve its customers who received the emergency disconnection notices. The "boil water" notice may be observed at the customers' discretion.

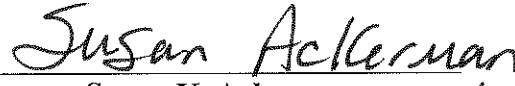
IV. ORDER

IT IS ORDERED that Fish Mill Lodges Water System shall continue to provide water service to its customers D.V. and B.V., customer B.L., and customer D.D, without interruption.

Made, entered, and effective APR 22 2011.



John Savage
Commissioner



Susan K. Ackerman *SH*
Commissioner



A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.