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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

UW 71

In the Matter of the Tariffs for Water)
Service in the State of Oregon Filed by)
South Fork Water.) ORDER

DISPOSITION: TRANSFER OF ASSETS GRANTED; TARIFF
APPLICATION DISMISSED

A. Background

South Fork Water (“South Fork” or “Applicant”) filed an application on October 20, 1999, for the purpose of increasing the Applicant’s residential flat base rate from \$25.00 per month to \$35.00 per month, effective November 19, 1999. Prior to this time, South Fork had not been regulated by the Oregon Public Utility Commission (Commission) as a utility. However, during 1999, the Applicant raised its metered residential basic rate¹ beyond the \$24 exemption threshold set forth in OAR 860-036-0030(1)(a) pursuant to ORS 757.061(2). Furthermore, the Commission received petitions from more than 20 percent of the homeowners served by South Fork Water asking that the utility be regulated by the Commission.² A public meeting on the application was held in Roseburg, Oregon on December 9, 1999. As a result of the meeting, a number of homeowner customers sought and were granted intervenor status in this docket.

Over the course of the proceeding, it became evident that Mr. John Atkinson, who had overseen the operation of the water system since he developed the property served by it, did not wish to continue to be personally responsible for the operation of the water utility. A ruling by the Administrative Law Judge and two Commission orders were issued in this docket to ensure that the Applicant’s customers would continue to have water utility service until all disputed matters regarding the system’s ownership, operation and prices could be resolved.³ In so doing, we noted that “. . . the Commission has the authority,

¹ See Applicant’s PUC Form 765 (11000) Rev. (08/99) Page 11. Response to Question 19.A.

² According to Applicant’s PUC Form 765, there were 12 customers at the close of the test year (p. 11, Question 20) and 15 proposed customers, all residential, for the new rates (p. 23, Question 40).

³ See Administrative Law Judge’s Ruling, January 31, 2000 and Orders No. 00-087, February 11, 2000 and 00-116, February 25, 2000.

pursuant to ORS 757.480, to require that Mr. Atkinson obtain its permission before he disposes of his duty to operate South Fork Water or perform any service related to it. No such permission has been sought by or granted to Mr. Atkinson.” (Order No. 00-087, page 3).

B. The Asset Transfer Application

On February 25, 2000, the parties to this proceeding entered into a Stipulation, in which they agreed to file a contract and property disposition application in accordance with ORS 757.480. The contract, executed on August 29, 2000 by Mr. Atkinson and South Fork Ranch Homeowners Association President, Mr. Bill Bulkeley, was filed with the Commission on September 14, 2000. On that date, intervenors Mr. Ron Launer and Mr. Fred Bertsche, on behalf of South Fork Ranch Homeowners Association, provided written notification of the proposed transfer of South Fork Water to all of the Applicant’s customers, in accordance with the provisions of OAR 860-036-0710(1).

On November 30, 2000, a meeting was held at which Mr. Atkinson and a majority of lot owners were in attendance, at which time a modification to the contract was approved in which it was agreed that the seller would pay the buyers an additional \$2,000 to take over ownership and operational responsibility for the water system. An agreement amending the transfer contract was executed on December 1, 2000 and a copy thereof filed with the Commission.

FINDINGS

Upon receipt of the contract and the amendment, the Commission conducted an examination of the application pursuant to ORS 757.480, and has found:

1. South Fork Water has been under the control of the transferor, Mr. John R. Atkinson, 2823 NW Kline Street, Roseburg, OR 97470, (541) 672-8445.
2. The transferee is South Fork Ranch Homeowners Association, whose president is Mr. Bill Bulkeley, 296 Sue Ellen Lane, Roseburg, OR 97470, (541) 440-8400.
3. The terms of the transfer are set forth in the February 25, 2000, Stipulation as amended by the agreement of December 1, 2000.
4. The transfer will enable the transferor, who no longer owns property in the subdivision to devote his time and energies to other business and will provide the customers with a direct voice in the operation of the system and control over rates and quality of service.
5. The transferee is ready, willing and financially able to take over the ownership and operation of the system under the terms of the contract as amended.
6. The transferor will assign all of his easements in the property to transferee.
7. Members of the transferee are familiar with the system and have indicated their intention to enter into such agreements with equipment suppliers and

maintenance firms as may be necessary for the proper operation of the system.

8. The contract, as amended, is fair and reasonable in all of its terms and is not contrary to the public interest.

ORDER

IT IS ORDERED that:

1. The application to transfer the South Fork Water system from John R. Atkinson to South Fork Ranch Homeowners Association is granted.
2. The tariffs submitted with the application to increase residential flat rates filed October 20, 1999, are permanently suspended and the application is dismissed.

Made, entered, and effective _____.

Ron Eachus
Chairman

Roger Hamilton
Commissioner

Joan H. Smith
Commissioner

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 to a court pursuant to applicable law.