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BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

WA 5

In the Matter of the Application by }
Avion Water Company for Allocation)
of Exclusive Territory to Provide)
Water Service, Pursuant to)
ORS 758.300 Through ORS 758.320.)

ORDER

DISPOSITION: APPLICATION GRANTED

On January 20, 2000, Avion Water Company (applicant, utility or Avion) filed an application with the Public Utility Commission (Commission) for an allocation of exclusive service territory for the provision of water service under Oregon Administrative Rule 860-036-0900. Applicant is requesting allocation of the service territory it adequately and exclusively served on October 23, 1999. See ORS 758.300 and Chapter 695, Oregon Laws 1999, Sections 2 to 4. The territory sought is described in Appendix A. The Commission gave notice of the application on February 16, 2000, as required by Chapter 695, Oregon Laws 1999, Section 2(2). No requests for hearing were filed.

Applicant is an investor-owned water system that provides water service to approximately 7,700 residential, commercial/industrial and irrigation customers near Bend, Oregon.

Based on its investigation, the Commission finds that the applicant was adequately and exclusively serving the territory described in Appendix A and covered by the current service territory application on October 23, 1999.

FINDING OF FACTS

Merits of the Application

Staff's analysis of the company's application indicates that the company has met the criteria required to demonstrate it was adequately and exclusively providing water service to its current service territory as required in OAR 860-036-0900 through OAR 860-036-0930.

The criteria are:

1) Service Quality

The Commission's Consumer Services Division found that since January 1994, Avion customers filed 143 complaints. All of these complaints have been resolved with only 12 faults attributable to Avion. Given the near 8,000-customer base, the small number and variety of complaints over a six-year period, there is no appearance of system wide quality problems.

2) Water Quality

A January 31, 2001 records check by the Oregon Health Division showed acceptable water quality.

3) Water Capacity

The peak demand reported during 1999 was 9,500,000 gallons per day while the system capacity is 14,000,000 gallons per day. There is sufficient reserve.

4) Technical Ability

The corporate president is an Oregon registered professional civil engineer. Employees have certifications in water distribution (levels 1 through 3), backflow device testing, and cross connection inspection. Electrician licenses are also held.

5) Exclusive Service

Documentation evidencing land ownership and a water service franchise from the City of Bend were submitted.

6) Reasonable Rates

The Commission approved the current rate schedule in Docket UW 50, Order No. 96-030.

OPINION

Jurisdiction

ORS 757.005 defines a public utility as "any corporation, company, individual, association of individuals, or its lessees, trustees, or receivers that owns, operates, manages or controls all or a part of any plant or equipment in this state for the production, transmission, delivery or furnishing of ...water... directly or indirectly to or for the public."

Applicable Law

The 1999 Oregon Legislature enacted ORS 758.300 through 758.320, which provide that all public water utilities must file an application with the Commission seeking an order designating the service territory that the utility served adequately and exclusively on October 23, 1999, as its exclusive service territory.

On April 11, 2000, the Commission adopted permanent rules (OAR 370) governing the allocation of exclusive service territory to water utilities. OAR 860-036-0900 through OAR 860-036-0930 specify the service territory application requirements and processes necessary to meet the requirements of ORS 758.300 through ORS 758.320.

Disposition

Applicant has met the service territory requirements and processes set out in OAR 860-038-0900 through OAR 860-036-0930 and is entitled to the exclusive territory described in Appendix A.

CONCLUSIONS

1. The Company is a public utility subject to the service territory jurisdiction of the Public Utility Commission.
2. The utility meets the requirements set out in OAR 860-036-0900 through OAR 860-036-0930.
3. The Company meets the requirements of ORS 758.300 through ORS 758.320.
4. The application should be granted.

ORDER

IT IS ORDERED that the application of Avion Water Company for exclusive water service territory as allocated to the applicant and set forth in Appendix A is granted.

Made, entered, and effective _____

Phil Nyegaard
Acting 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 of 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. A party to a hearing may appeal this order to a court pursuant to ORS 756.580.

APPENDIX A

Description of Avion Water Company's exclusive service territory:

Sections 23 and 25 T14S R12E; Sections 19, 20, 21, 29, 30 and 31 T14S R13E; Sections 25 and 36 T15S R12E; Sections 30 and 31 T15S R13E; Section 36 T15S R14E; Sections 30 and 31 T15S R15E; Sections 1, 2, 9, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 32, 33, 34, 35 T16S R12E; Section 31 T16E R13E; Sections 1, 2, 3, 4, 5, 8, 9, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 35 and 36 T17S R12E; Sections 17, 18, 19, 20, 27, 28, 29, 30, 32, 33 and 34 T17S R13E; Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30 and 31 T18S R12E; Sections 13, 23, 24, 25, 26 and 36 T18S R11E; Sections 2, 3, 4, 5, 6, 7, 8, 9, 11, 15, 16, 17, 18, 19, 20, 21, 22, 30 31 and 32 T18S R13E; Section 23 T21S R09E, W.MM