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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

WA 17

In the Matter of the Application by)
Laurelhurst Park Improvement District)
for Allocation of Exclusive Territory to)
Provide Water Service, Pursuant to)
ORS 758.300 Through ORS 758.320.)

ORDER

DISPOSITION: APPLICATION GRANTED

On February 11, 2000, Laurelhurst Park Improvement District (applicant) filed under Oregon Administrative Rule 860-036-0900 an application with the Public Utility Commission (Commission) for an allocation of exclusive territory for the provision of water service. Applicant is requesting allocation of the service territory it adequately and exclusively served on October 23, 1999. See ORS 758.300 and Section 2 to 4 Chapter 695, Oregon Laws 1999. The territory sought is described in Appendix A. The Commission gave notice of the application on April 2, 2000, as required by Chapter 695, Oregon Laws 1999, Section 2(2). No requests for hearing were filed.

Applicant is a corporation that provides water service to approximately thirteen customers in the Piedmont Heights area, Klamath Falls, 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 that the company adequately and exclusively provided 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

A Commission survey was sent to the thirteen residential customers listed as current by the utility to determine the level of service quality being provided. Eight responses were received. One customer rated water quality as below average with the following statement: "We moved in our new home in June, so we haven't been on this well for very long. However, in that time, one of our water tests came back bad and (we) were told not to drink the water for a time. That kind of concerns us. Also, some minor things like the water leaves a dirt sediment in (the) sink. Clothes discolor in (the) wash and (the) toilet discolors. Sometimes when you turn the water on you get a sulfur smell." The Oregon Health Division Drinking Water Program considers these complaints to be secondary and not subject to Oregon Health Division health regulation. I called the customer and told her to complain to the utility first and then the county health department. The other customer ratings indicated a consensus of above-average service. The Commission Consumer Services section had no record of complaints on Laurelhurst Park Improvement District.

2) Water Quality

The Oregon Health Division's records did not show any water quality problems in its review of this system.

3) Water Capacity

The customer survey results did not indicate any system-wide water capacity problems. The average water use for a standard 2.3 person household is approximately 276 gallons per day (gpd). Average daily usage for all thirteen customers would be approximately 3,588 gpd. The system's storage tank holds 12,000 gallons, providing over 3 days of supply. Although the system is unmetered and has no consumption, demand, or pumping data, it appears that Laurelhurst Park Improvement District has enough capacity to provide adequate service to its customers.

4) Technical Ability

The Oregon Health Division does not require operator certification for a system of this size. The application contained the following statements: "Jess Emert, vice president of Laurelhurst Park Improvement District has been on the Board of Directors since 1973. He knows how the well operates and how to keep it running. Jackie Britton, secretary treasurer, has served on the Board of Directors since 1983. She has attended two classes given by the state water people to learn how to take water samples. She has also been instructed personally by Klamath County water officials. Russell Hunsinger, President, is the owner of a small business that has to do with appliances and has much experience fixing things."

5) Exclusive Service

Under the corporate formation documentation submitted, Article III defines the land at issue and Article IV states the following: "The purpose and intent of the corporation is to furnish all of the foregoing described land and the lots into which it is now or may in future be subdivided with water for domestic use. There is now installed on the premises a deep well with pump and appurtenances. The plan for improvement is to conduct the water therefrom through underground pipes to the various lots."

6) Reasonable Rates

The \$25.00 flat monthly rate currently charged is above the monthly \$24.00 Commission threshold. Per ORS 757.061, Staff will inform Laurelhurst Park Improvement District of the requirement to notify its customers that its rate is above the Commission's threshold and the customers have a right to petition the Commission for rate regulation. However, I do not recommend that this application be delayed because of this issue. Staff will deal with the rate issue at another time.

OPINION

Jurisdiction

ORS 757.005 defines a public utility as "any corporation, company, individual, association of individuals, or its lessees, trustees, or receivers that own, 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 exclusive service territory.

On April 11, 2000, the Commission adopted rules (AR 370) governing the allocation of exclusive service territory to water utilities. Oregon Administrative Rules 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 Laurelhurst Park Improvement District for exclusive 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

ORDER NO. 01-499

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 756.580.

APPENDIX A

Description of Laurelhurst Park Improvement District's exclusive service territory:

Lots 6, 7, 8, 9, 20, 21, 22, 25, 26, and 29 of Piedmont Heights in Klamath County, Oregon.