

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

WJ 31

In the Matter of)
)
PIGEON POINT WATER SUPPLY COMPANY))
)
An Investigation Under ORS 756.515))
To Determine Jurisdiction))
)

)
RESPONSE IN OPPOSITION
TO REQUEST FOR
RECONSIDERATION

Pursuant to OAR §860-001-0720(4), Jon Bruton, Judy Bruton, John Burnson and Helena Packer submit the following response in opposition to Mr. Robert Ashton's letter request for reconsideration filed on April 8, 2013. For the reasons set forth herein, the Commission should deny Mr. Ashton's request for reconsideration.

1. Mr. Ashton's Request for Reconsideration Does Not Identify Any Lawful Basis for Reconsideration.

Mr. Ashton's request for reconsideration should be denied because he has failed to allege or establish any legal basis for reconsideration despite the requirements of OAR §860-001-0720(2)-(3). Mr. Ashton fails to specify which portion of Order 13-073 is erroneous or incomplete. OAR §860-001-0720(2)(a). He fails to cite any laws, rules or policy that would deprive the Oregon Public Utility Commission ("OPUC") of jurisdiction. OAR §860-001-0720(2)(b). In fact, Mr. Ashton fails to point to any grounds for his motion for reconsideration at all.

Reconsideration is not available to a party just because they don't like the outcome of an OPUC order. The OPUC can only grant an application for rehearing or reconsideration if the applicant establishes the existence of:

- (a) New evidence that is essential to the decision and that was unavailable and not reasonably discoverable before issuance of the order;
- (b) A change in the law or policy since the date the order was issued relating to an issue essential to the decision;

- (c) An error of law or fact in the order that is essential to the decision; or
- (d) Good cause for further examination of an issue essential to the decision.

OAR §860-001-0720(3). Mr. Ashton has not alleged, let alone established, the existence of any of the grounds for reconsideration found in OAR §860-001-0720(3). Accordingly, his motion for reconsideration is wholly without merit and should be denied.

2. Mr. Ashton's Factual Allegations are Irrelevant and Misleading

Mr. Ashton's request for reconsideration contains allegations and objections that are not relevant to a request for reconsideration.¹ While the points discussed by Mr. Ashton are irrelevant to this Commission's determination of rate regulation and jurisdiction, two points do warrant further discussion.

A. Number of Properties With Homes and Structures

Mr. Ashton argues that the OPUC was somehow misled because there are only five parcels that contain structures and receive water.² To the contrary, this point only reinforces the need for OPUC rate regulation as other parcel owners are currently being charged for water service that they are not receiving from the company.³ In addition, the number of structures within the service territory has no effect upon the 20% petitioning member threshold for petitions for regulation. The fact remains that membership in PPWSC is based upon ownership of a parcel within the development and at least 20% of the members of PPWSC petitioned the OPUC for rate and service regulation.

¹ Petitioners do not concede any factual allegations set forth in the Motion for Reconsideration.

² There are actually six developed parcels.

³ Contrary to Mr. Ashton's representations, OPUC was provided with copies of billing statements reflecting the thousands of dollars charged by the Company to pursue fruitless litigation to exclude a member from water service.

B. Charges For Costs are Fees

Mr. Ashton's argument that PPWSC does not charge any fees because it only assesses members for costs of service is unavailing. Whether considered a charge for costs, or a fee, PPWSC is charging members amounts that are unjustified, exorbitant, and unrelated to the provision of water service.⁴

WHEREFORE, for all the reasons stated above, Jon Bruton, Judy Bruton, John Burnson and Helena Packer respectfully request that the Commission deny Mr. Ashton's request for reconsideration.

DATED: April 23, 2013

Respectfully submitted,
Jon Bruton, Judy Bruton,
John Burnson and Helena Packer

/s/ Zack P. Mittge
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⁴ Contrary to Mr. Ashton's representations, the Petitioners did not omit the fact that the Bruton's property was undeveloped. In fact, the Petitioners emphasized the fact that the Bruton's were being charged thousands of dollars by the Company, which was providing no service to their undeveloped property, and was threatening to expel them if they failed to pay such fees.

CERTIFICATE OF SERVICE

I certify that I served the foregoing RESPONSE IN OPPOSITION TO REQUEST FOR RECONSIDERATION, by causing to be deposited a true, exact, and complete copy thereof in the United States Post Office at Eugene, Oregon on April 23, 2013, enclosed in a sealed envelope, with postage prepaid and addressed to the following at the address stated below:

Pigeon Point Water Supply Company
c/o CT Corporation System, Registered Agent
388 State St., Ste. 420
Salem, OR 97301

Pigeon Point Water Supply Company
c/o Bob Ashton
2770 Tuskawilla
Oveido, FL 32765
AND Email to bobwine@aol.com

Public Utility Commission of Oregon
c/o Brian Bahr
PO Box 2148
Salem, OR 97308
AND Email to brian.bahr@state.or.us

PUC Staff – Department of Justice
c/o Jason W. Jones
Business Activities Section
1162 Court St. NE
Salem, OR 97301
AND Email to Jason.w.jones@state.or.us

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