

BEFORE



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THE PUBLIC UTILITIES COMMISSION OF OHIO

In the Matter of the Application of)  
the Arrowhead Hills Utilities Cor- )  
poration to Amend Certificate of )  
Public Convenience and Necessity ) Case No. 77-83-WW-AAC  
for Water Distribution System in )  
the County of Shelby. )

OPINION AND ORDER

The Commission, coming now to consider the above-entitled matter, the application filed on January 14, 1977, the public hearing held on March 16, 1977, and the Report and Recommendation of its attorney examiner filed on April 5, 1977, being fully advised in the premises and in conformity with the provisions of Section 4903.09, Revised Code, hereby issues its Opinion and Order.

APPEARANCES:

Messrs. Garmhausen, Kerrigan, Elsass and Co., L.P.A., Ohio Building, Sidney, Ohio 45365, by Mr. John M. Garmhausen, on behalf of the applicant.

I. OPINION

Nature of the Proceedings:

On January 14, 1977, Arrowhead Hills Utilities Corporation filed with this Commission an application to amend its existing Certificate of Public Convenience and Necessity to operate as a waterworks company within an enlarged and amended service area in Shelby County. As submitted, the application was in full conformity with Chapter 4901:1-15 O.A.C. (formerly Chapter 29 of the Commission's Code of Rules and Regulations) and Section 4933.25, Revised Code. On January 18, 1977, in Case No. 76-454-WS-COI, the Commission determined to revise that portion of Chapter 4901:1-15 relating to applications by a waterworks or sewage disposal company for a Certificate of Public Convenience and Necessity. The revised rule became effective ten days after filing with the Secretary of State and the Legislative Reference Bureau. Since the instant application was filed before revised Chapter 4901:1-15 became effective, the application should be governed by the provisions of the pre-existing Chapter 4901:1-15.

Applicant, Arrowhead Hills Utilities Corporation, published notice of the filing and pendency of the application in The Sidney Daily News, a newspaper of general circulation in Shelby County, once a week for three consecutive weeks. Following the filing of proof of publication, the Commission, in its Entry dated March 2, 1977, set the matter for hearing on March 16, 1977, in the offices of the Commission, 180 East Broad Street, Columbus, Ohio.

By its Entry of June 29, 1977 in this matter the Commission served notice of the public hearing in this case upon the Shelby County Board of Commissioners. The Board was afforded until July 28, 1977 in order to indicate to the Commission its desire to participate in the instant public hearing. The Board did not indicate such a desire to the Commission by July 28, 1977. Therefore, this Commission shall immediately proceed to its Opinion and Order on the record of the March 16, 1977 public hearing that has been submitted to the Commission.

Discussion:

Section 4933.25, Revised Code requires that a waterworks

company obtain a Certificate of Public Convenience and Necessity prior to the commencement of its operations. Applicant, Arrowhead Hills Utilities Corporation, is a waterworks company within the meaning of Section 4905.03(A)(8), Revised Code and a public utility within the meaning of Section 4905.02, Revised Code. The Commission has jurisdiction to hear and determine all matters in this proceeding under Sections 4905.04 and 4933.25, Revised Code.

Section 4933.25, Revised Code further required the Commission to adopt rules and regulations relative to a waterworks company's application for a Certificate of Public Convenience and Necessity. The Commission has adopted such rules and regulations, to wit Chapter 4901:1-15 O.A.C. (formerly Chapter 29 of the Commission's Code of Rules and Regulations). Pertaining to the substantive requirements of the application, Section 4901:1-15-01(8) O.A.C. (formerly Section 29.01(8) of the Commission's Code of Rules and Regulations) requires that the applicant show by competent evidence the following:

- a) Financial capability of the applicant and source of financing;
- b) Adequacy of present or proposed plant;
- c) Present and future need of the public in a defined geographic area.

Although Section 4901:1-15-01(8) O.A.C. (formerly Section 29.01(8) of the Commission's Code of Rules and Regulations) appears to apply only to applications for original Certificates of Public Convenience and Necessity, Section 4901:1-15-02(2) O.A.C. (formerly Section 29.02(2) of the Commission's Code of Rules and Regulations) makes the former Section relevant to waterworks companies' applications to amend a certificate.

Testifying on behalf of the applicant was its president, Mr. Eugene Larger. Shareholders in the utility include Mr. Larger, Laverne Poepelman and Edward Willman. Mr. Poepelman and Mr. Willman are also officers of the utility. None of the officers, directors or shareholders of the applicant have any interest in any other waterworks utility in the State of Ohio.

Arrowhead Hills Utilities Corporation presently serves a defined service area in the Arrowhead Hills Subdivision located at the intersection of Shank, Locking and Lindsey Roads in Washington Township, Shelby County. The applicant serves this area under authority of its existing Certificate of Public Convenience and Necessity, granted in July, 1975 under Case No. 74-577-W and amended in May, 1976 under Case No. 75-778-WW-AAC. The purpose of the instant application is to enlarge the service area to encompass the second addition to the subdivision, being lots 201 through 273. The subdivision will include a total of 175 lots, 75 of which are presently occupied.

Arrowhead Hills Subdivision is being developed by G&E Development Company. Mr. Larger and Mr. Willman are officers of G&E Development. G&E Development sells improved lots in the subdivision to Larger Construction, of which Mr. Larger is president, and to E&M Realty, of which Mr. Willman is president. The construction companies, in turn, construct houses on the lots for sale to individual purchasers. G&E Development contributed the applicant's existing plant and physical facilities and will contribute proposed plant additions required to serve the final addition.

Arrowhead Hills Subdivision is located approximately three miles from the nearest available water service, Sidney, Ohio. In Mr. Larger's opinion, it is not feasible to utilize Sidney's water system in the subdivision.

To the best of Mr. Larger's knowledge, the applicant has received all necessary approvals and met all the requirements of the Ohio Environmental Protection Agency. The utility has received specific approval for the construction of the balance of the waterworks distribution system and the expansion of the water plant. (See Exhibits F and G).

The applicant has been operating as a utility since July, 1975. Since that time, there have been no substantial mechanical failures in the system, no extensive repairs required and no major complaints as to service. The company conducts tests on its water every two weeks and all test results have been acceptable.

The applicant proposes to employ the same schedules and rules and regulations for its amended service area as for the existing service area. The tariff provides for a rate of \$.95 per 100 cubic feet and a minimum charge of \$25 per quarter. The company cost studied the existing rates for the original service area and tried to make the rates compatible with those in Sidney. The company, pursuant to its tariffs, proposes to charge a one time service connection charge of \$100, covering the installation of meters, service lines and curb stops. The company also proposed to charge \$10 as a turn-on fee. Meters will be required for all customers. The company's existing tariffs do not govern main extensions as G&E Development contributes all mains.

Mr. Steven Hubbell, a registered civil engineer, testified as to the design of the water system, necessary plant additions and the adequacy of the plant to serve the Arrowhead Hills Subdivision. Generally, the system consists of two wells. The water is pumped from these wells, chlorinated and passed through iron removal filters. From the filters the water is pumped to a storage tank and then into the distribution system. Main lines are six inch and distribution lines are three-quarters inch. The system has one 20,000 gallon reinforced concrete storage tank. With the enlarged service area, the company proposes to install an additional 20,000 gallon storage tank, three fire hydrants and three additional iron filters. If maintenance is required, the system has the capacity to draw from either of the storage tanks. The system also has a gasoline driven generator to serve as a back up power source. The capacity of each well is 60 to 70 gallons per minute and the capacity of the pumps from the storage tanks are each 100 gallons per minute. The system as proposed is more than adequate to serve the entire subdivision.

Testifying as to the financial capability and sources of financing of the applicant was Mr. George Brockman, a certified public accountant. Mr. Brockman sponsored a comparative balance sheet (Exhibit A), a comparative statement of income (Exhibit B) and a comparative statement of changes in financial position (Exhibit C) for fiscal years (year ending October 31) 1975 and 1976. The company's physical assets are entirely contributed by G&E Development. The company's increase in assets in fiscal year 1976 compared to fiscal year 1975 is due to the contribution by the developer of additional plant required for serving the enlarged service area. The company depreciates its assets on a straight line basis over a forty year period. Generally speaking, the company's financial position has improved in fiscal year 1976 compared to fiscal year 1975 due to the ever-increasing number of customers added to the system. For example, operating revenues in fiscal year 1976 were \$8,117 compared to \$3,890 in fiscal year 1975. This was largely due to increased revenues from metered customers. Net income increased to \$290 in fiscal year 1976 compared to \$28 in 1975. The company has shown an increase in net working capital in fiscal year 1976 of \$1,828 compared to a decrease in net working capital of \$2,085 in fiscal year 1975. Upon completion of the subdivision, the company expects an annual net income of \$1,500.

Conclusion:

In applying the facts as established by the evidence presented to the criteria set forth in Section 4901:1-15-01(8) O.A.C. (formerly Section 29.01(8) of the Commission's Code of Rules and Regulations) this Commission finds that the applicant's existing Certificate of Public Convenience and Necessity should be amended to authorize service to the additional lots, lots numbered 201 to 273, as prayed for. First, Applicant has demonstrated its financial capability. The utility is currently operating at a net income of \$290, and the evidence indicates that the company's financial position is and will be improving as new customers come on the system. Second, Applicant has demonstrated that its existing or proposed facilities will be adequate to serve the entire Arrowhead Hills Subdivision. For example, storage capacity will double with the proposed additions. System capacity is more than adequate to serve the entire area. The evidence indicates that the system operates properly and the water quality is acceptable. The system has the approval of the Ohio Environmental Protection Agency. Finally, the applicant has established a present and future need of the public for water service in a defined geographical area. The closest available water source is Sidney, Ohio, which the evidence shows is not feasible for use at Arrowhead Hills Subdivision.

Regarding tariffs, the Commission determined in Case No. 76-622-WS-COI to amend portions of Chapter 4901:1-15 O.A.C. to include provisions to govern the tariffs of water and sewer companies. These rules became effective June 1, 1977. The applicant's proposed tariffs as well as its existing tariffs must conform to revised Chapter 4901:1-15 O.A.C. The applicant should be further ordered to file with the Commission two complete sets of tariffs for approval. The same can be approved by Entry.

FINDINGS OF FACT:

- 1) On January 14, 1977, Arrowhead Hills Utilities Corporation filed with this Commission an application to amend its existing Certificate of Public Convenience and Necessity to operate as a waterworks company within an enlarged and amended service area in Shelby County.
- 2) As submitted, the application is in full conformity with Chapter 4901:1-15 O.A.C. (formerly Chapter 29 of the Commission's Code of Rules and Regulations) and Section 4933.25, Revised Code.
- 3) Arrowhead Hills Utilities Corporation published notice of the filing and pendency of the application in The Sidney Daily News, a newspaper of general circulation in Shelby County, Ohio once a week for three consecutive weeks.
- 4) By its Entry of June 29, 1977 in this matter the Commission served notice of the public hearing in this case upon the Shelby County Board of Commissioners. The Board was afforded until July 28, 1977 in order to indicate to the Commission its desire to participate in the public hearing in this matter. The Board did not indicate such a desire to the Commission by July 28, 1977.

- 5) The purpose in filing the instant application is to secure authority to serve the second and final addition in the Arrowhead Hills Subdivision, being lots 201-273.
- 6) There is no other feasible alternative water source for the residents of the Arrowhead Hills Subdivision.
- 7) The Ohio Environmental Protection Agency has approved expansion of the water plant and distribution system to serve the requested service area.
- 8) None of the officers, directors or shareholders of the applicant have any interest in any other waterworks utility in the State of Ohio.
- 9) G&E Development has contributed and will contribute all of the applicant's plant and physical facilities.
- 10) The utility's plant is operating satisfactorily with no major failures or repairs and the water quality has consistently been acceptable.
- 11) The company proposes to employ the same tariffs for its amended service area as for the existing service area. The tariff provides for a rate of \$.95 per 100 cubic feet and a minimum charge of \$25 per quarter. The company proposes to charge a one time service connection charge of \$100 and a turn-on fee of \$10. The company's existing tariffs do not govern main extensions as G&E Development contributes all mains.
- 12) The capacity of the present and proposed plant is more than adequate to serve the entire present and proposed service area.
- 13) The company's financial position has improved in fiscal year 1976 compared to fiscal year 1975 due to the ever-increasing numbers of customers added to the system.
- 14) Operating revenues in fiscal year 1976 were \$8,117 compared to \$3,890 in fiscal year 1975. Net income increased to \$290 in fiscal year 1976 compared to \$28 in 1975. The company has shown an increase in net working capital in fiscal year 1976 of \$1,828 compared to a decrease of \$2,085 in fiscal year 1975. Upon completion of the subdivision, the company expects an annual net income of \$1,500.
- 15) Applicant has demonstrated sufficient financial capability and source of financing to successfully provide the proposed services.
- 16) Applicant's present plant is adequate to meet both the immediate and the future demand for water services.
- 17) There is a present and future public need in the defined geograph area for Applicant's services.

CONCLUSIONS OF LAW:

- 1) The Commission has jurisdiction to hear and determine all matters in the proceeding under Sections 4905.04 and 4933.25, Revised Code.
- 2) Section 4933.25, Revised Code, requires that a waterworks company obtain a Certificate of Public Convenience and Necessity prior to commencement of its operations.
- 3) Applicant, Arrowhead Hills Utilities Corporation, is a waterworks company within the meaning of Section 4905.03(A)(8) Revised Code and a public utility within the meaning of Section 4905.02, Revised Code.
- 4) Since the instant application was filed before revised Chapter 4901:1-15 O.A.C. became effective, the application should be governed by the previously existing Chapter 4901:1-15 O.A.C.
- 5) Notice of the filing of the application, required by Section 4901:1-15-01(4) O.A.C. (formerly Section 29.01(4) of the Commission's Code of Rules and Regulations), has been properly published. Notice of the public hearing in this case was served upon the Shelby County Board of Commissioners pursuant to Section 4933.25 of the Ohio Revised Code.
- 6) Section 4901:1-15-01(8) O.A.C. (formerly Section 29.01(8) of the Commission's Code of Rules and Regulations) sets forth the criteria to be met by an application to amend a Certificate of Public Convenience and Necessity in order to acquire authority to serve an enlarged and amended service area.
- 7) Applicant has demonstrated by competent evidence the existence of all criteria set forth in Section 4901:1-15-01(8) O.A.C. (formerly Section 29.01(8) of the Commission's Code of Rules and Regulations).
- 8) The application to amend the existing Certificate of Public Convenience and Necessity for authority to serve an enlarged and amended service area, being lots 201 through 273 of the Arrowhead Hills Subdivision, is well made and should be granted.
- 9) Applicant should be required to file two complete sets of amended tariffs which the Commission can review and approve by Entry.
- 10) A copy of this Opinion and Order should be served upon each party to this proceeding and their duly appointed attorneys.

II. ORDER:

It is, therefore,

ORDERED, That the application of Arrowhead Hills Utilities Corporation to amend its existing Certificate of Public Convenience and Necessity shall be granted so that Applicant shall be authorized to serve:

A service area situated in the Township of Washington, County of Shelby, State of Ohio, commonly known as the Arrowhead Hills Subdivision, being lots 100 through 273, and legally described as:

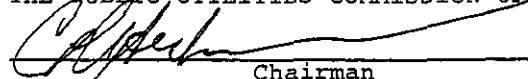
Being a part of the north half of the southeast quarter of Section Eight (8), Town Seven (7), Range Six (6) last, containing 75.5 acres more or less.

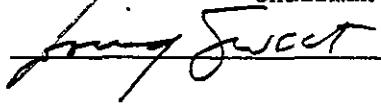
It is, further,

ORDERED, That Applicant shall be required to file two complete sets of amended tariffs which the Commission can review and approve by Entry. It is, further,

ORDERED, That a copy of this Opinion and Order shall be served upon each party to this proceeding and their duly appointed attorneys.

THE PUBLIC UTILITIES COMMISSION OF OHIO

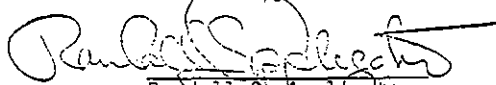
  
Chairman

  
Commissioners

Entered in the Journal

AUG 1 1977

A True Copy

  
Randall G. Applegate  
Secretary

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