

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 117

In the Matter of)	OPPOSITION TO MOTION FOR
)	EXTENSION OF TIME AND TO
PETE'S MOUNTAIN WATER CO., INC.)	REOPEN THE RECORD
)	
Request for an increase in total annual)	
revenues from \$111,079 to \$212,300.)	

The undersigned Intervener objects to the motion to extend the time for final action on this rate proceeding as the filing (or even approval by the staff) of Affiliated Interest contacts will not overcome the December 4, 2006 finding by the Commission that:

“...More importantly, we preliminarily agree with many of the arguments raised by the Intervenors questioning whether PMWC has established the reasonableness of: (1) the salary paid to, and estimated hours of work performed by, Ms. Webber; (2) the health care benefits paid to both Mr. and Ms. Webber; and (3) transportation costs. The Intervenors have conclusively demonstrated that PMWC has significantly higher employee and transportation costs than all but one of the other regulated water utilities with 200 or fewer customers. While rates must be based on an examination of each company's unique cost of service, the costs incurred by these other utilities may be relevant in determining whether PMWC's operating costs are prudent and reasonable.

Given the testimony that PMWC's operations are not substantially different than those of other water utilities, the stipulating parties have failed to present evidence to explain why PMWC's employee and transportation costs are so high. While the parties note that Ms. Webber's hourly rate is comparable to the median wage for a Water and Liquid Wastewater Treatment Plant system operator in Clackamas County, there is no evidence to show that Ms. Webber's duties, which include six hours of office work, are comparable to those performed by a plant systems operator. The record also provides little evidence to fully justify the need to employ Ms. Webber on a full-time basis. As the Intervenors note, PMWC provided no time reports or other documentation to support the duration of her work activities. While the

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Stipulation requires Ms. Webber to keep time-cards on a going forward basis, the future requirement provides no support for the current request. Moreover, the list of job duties provided by Ms. Webber fails to provide any analysis to establish that her duties performed for PMWC constitute a full-time job. Indeed, her testimony at hearing that a portion of the six hours in the office is “just waiting-to-be-engaged-type stuff” suggest the contrary conclusion. ...”

A review of the two Affiliated Interest Applications filed by PMWC earlier this month provides no new information and is merely a rehash of the self-serving assertions made at the hearing. The failure to file AI Applications were a technical impediment to the rate increase request; however, as noted above, the request failed on a proof level as well. In short, the rate increase is not supportable or justified.

This Intervener further objects to the motion to reopen the record. At considerable expense of time and effort, the Interveners prepared for and participated in a day-long hearing. The issues we raised were not unexpected, as they had been discussed extensively in two settlement conferences prior to the hearing and outlined in a pre-hearing submittal.

The burden was on the Applicant to present credible evidence supporting the request. It failed to do so. Counsel for PMWC was present at the hearing and did not request the evidentiary hearing remain open and it was not. The ALJ did, however, establish a final date (November 8, 2006) by which any written closing statements were due. He rendered his findings and recommendation promptly thereafter.

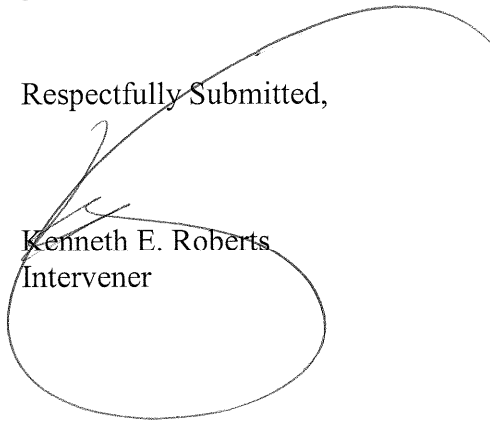
Even if the stipulation between the Applicant and the Staff reserved the right to present new evidence should the Commission disapprove of the rate increase, it most assuredly did not bind or apply to the Interveners, who agreed to no such thing.

The Applicant, likely recognizing that “such rights were not reserved,” appeals to the Commission that the record be reopened “in the interest of justice.” Absent a showing of a

change in the law or fraud (neither are alledged), it would be a manifest injustice to the Interveners to permit the Applicant, having failed in its proof at the hearing, to return and try, try again in this same proceeding. How often do they want another time at the plate when they struck out once. Is this a "play-over?"

If the Applicant intends to present new evidence, fairness dictates that the Applicant submit a new rate request, notify customers, permit the Staff to consider the request and communicate its findings, give customers the opportunity to request Intervener status and put into play the discovery period and administrative process specifically designed to address such a request. In short, this request should be denied, recognizing that PMWC is permitted to file a new request under the applicable Oregon Revised Statues and regulations.

Respectfully Submitted,



Kenneth E. Roberts
Intervener

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on February 21, 2007, I served the foregoing upon all parties of record in
3 this proceeding by delivering a copy by electronic mail to the parties accepting paper service.
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