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2
3 BEFORE THE PUBLIC UTILITY COMMISSION
4 OF OREGON
5 UW 120
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7 In the Matter of)
8 CROOKED RIVER RANCH WATER) CRRWC'S RESPONSE TO STAFF'S
9 COMPANY) MOTION REGARDING VIOLATIONS
10) OF ORDER NO. 07-527
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12)
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14)

15 CRRWC hereby responds to Staff's Motion alleging violations of Commission Order No.:
16 07-527. CRRWC hereby requests a hearing on Staff's Motion.

17 **INTRODUCTION**

18 Staff has alleged the violation by CRRWC of three different sections of the Commission
19 Order dated November 29, 2007. CRRWC will address compliance with each part of the
20 Commission's Order in turn.

21 **DISCUSSION**

22 **Section 4:**

23 Staff has alleged that CRRWC has failed to submit any contracts between itself and its
24 general manager, Mr. Rooks and members of the Rooks' family along with supporting testimony
25 to the commission for approval. CRRWC responded in full to Section 4 and explained that no
26 employment contracts written or otherwise exist between any family member of James Rooks and
CRRWC. The only contracts which existed were a written contract for employment between James

1 Rooks and CRRWC and an oral agreement between CRRWC and Mr. Rooks for maintenance and
2 repair of company equipment.

3 Staff has alleged failure to provide information on the agreement for maintenance and repair
4 of company equipment between James Rooks and CRRWC while acknowledging that there is no
5 written contract to be provided. CRRWC previously provided information on the agreement
6 between James Rooks and CRRWC setting forth the compensation which James Rooks was entitled
7 to receive for his maintenance and repair work as well as James Rooks' obligations to CRRWC
8 under the agreement. No additional information from CRRWC is available in any form. CRRWC
9 is unable to ascertain the nature of any further information they are required to produce.

10 Staff next alleges that CRRWC has failed to provide the contract between itself and James
11 Rooks for his position as general manager. This document was not provided by CRRWC for the
12 simple reason that the employment contract was rendered null and void by Commission Order 07-
13 527. Order No. 07-527 set forth compensation for James Rooks which was not consistent with
14 James Rooks' employment agreement. The Board of Directors was not able to honor the terms of
15 James Rooks' employment agreement as there was not enough money allowed in rates to pay Mr.
16 Rooks on those terms.

17 PUC Staff has isolated two words taken out of context from Section 4 of the Commission
18 Order in order to allege noncompliance. The words "any contracts" cannot be viewed in isolation
19 as suggested by PUC Staff and must be read in context of that section of the Order. Applying the
20 rule that words of common usage typically should be given their plain, natural and ordinary
21 meaning, *Portland General Electric Company vs. Bureau of Labor and Industries* 317 Or 606, 859
22 P2d, 1143 (1993), CRRWC understood the term "any contracts" to mean those contracts which
23 CRRWC sought the Commission's approval of. As there were no contracts for the Commission to
24 approve, no contracts were submitted. CRRWC's interpretation of Section 4 is entirely consistent
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1 with the plain meaning of that portion of the Order.

2 Staff's contention that "CRRWC utterly fails to offer any testimony, such as Board
3 resolutions, that demonstrate that these contracts have been legally terminated by CRRWC" is
4 incorrect in light of the Declaration of James Rooks tendered to the Public Utility Commission. In
5 that Declaration James Rooks plainly states that both his contracts with CRRWC were terminated.
6 This is not an "opinion" as suggested by PUC Staff. It is in fact a practical reality. No Board
7 resolution was necessary to terminate the contracts which could not be complied with pursuant to
8 Commission Order 07-527. A Board resolution terminating those contracts would have been an
9 unnecessary waste of precious time and resources particularly in light of the high volume of
10 regulations that Water Company operations are now subject to and the Water Company Staff and
11 Board of Directors' obligations under those regulations.

12 **Section 5:**

13 In order to claim noncompliance with Order 07-527, Staff has once again isolated several
14 words from Section 5 of that Order. Staff has alleged that CRRWC has failed to "file an
15 accounting." However, the term "accounting" has not been defined and CRRWC has no guidance
16 regarding what it is required to produce. *Webster's Dictionary* defines accounting as "the system
17 of recording and summarizing business and financial transactions and analyzing, verifying and
18 reporting the results." CRRWC provided spreadsheets which showed all special assessment funds
19 collected, all disbursements made from the Special Assessment Fund and how those funds were
20 spent. In addition to the spreadsheet synthesizing this data CRRWC accounted for all checks
21 associated with the account. Michael Dougherty's Staff Report conclusively demonstrates that the
22 information requested was provided as it contains several pages of analysis of that information. The
23 information provided by CRRWC was entirely consistent with Section 5 of Order No. 07-527 as
24 well as the well established definition of "accounting."

1 In their motion Staff alleged that “the Commission required very specific accountings and
2 reports, which CRRWC has not provided.” CRRWC will not argue whether or not Section 5 was
3 “very specific” as that is a general term and there are various degrees of specificity except to say that
4 CRRWC complied with Section 5 as required under any reasonable interpretation.

5 **Section 6:**

6 Section 6 requires four different information components. In order to avoid a Staff
7 accusation that CRRWC is non-responsive CRRWC will address all four informational components
8 of Section 6, even though the first informational component is dispositive of the rest. These
9 informational components include: a) new capital improvements; b) intended projects; c) estimated
10 cost of each project; and d) time each investment would be required.

11 In the Declaration of James Rooks it is clearly explained that there are no new capital
12 improvements are planned. The intended projects were not approved at the last rate hearing and
13 consequently no additional work for those projects has been performed including cost and time
14 estimates. When CRRWC prepares its next request for a rate increase, the Company will attempt
15 to prioritize any capital improvements needed and provide PUC Staff with the facts establishing that
16 priority including projected cost and timeframe.

17 The Board of Directors for CRRWC has fully complied with Order No. 07-527. Neither the
18 Board of Directors nor the General Manager have willfully violated any portion of paragraphs 4, 5
19 and 6 as alleged. As there is no violation there should be no penalty against any Board Member or
20 the General Manager.

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1 RESPECTFULLY submitted this _____ day of March 2008.

2 GLENN, SITES, REEDER & GASSNER, LLP
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CERTIFICATE OF SERVICE

I certify that on March _____ 2008, I served the foregoing upon the following, by mailing a copy by postage prepaid first class to:

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