

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 WJ 8

4 In the Matter of)
5 CROOKED RIVER RANCH WATER) STAFF RESPONSE TO MOTION FOR
6 COMPANY) PROTECTIVE ORDER
7 An Investigation Pursuant to ORS 756.515)
8 To Determine Jurisdiction.)

9 **BACKGROUND**

10 On May 29, 2007, the Public Utility Commission of Oregon Staff (Staff) received
11 Crooked River Ranch Water Company’s (CRRWC) motion for protective order, filed in Docket
12 No. WJ 8. CRRWC’s motion for protective order (Motion) requests relief from Staff Data
13 Requests 1-58, which are discovery requests in Docket No. UW 120. The Motion requests relief
14 under Oregon Civil Rules of Procedure Rule (ORCP) 36(C). Specifically, it appears that the
15 Motion requests relief under ORCP 36(C)(4) and ORCP 36(C)(9).

16 Docket No. WJ 8 was the jurisdictional docket that asserted jurisdiction over CRRWC
17 based upon the petitions of its members. After several extensions allowing additional time,
18 CRRWC filed the tariffs required by the final order in WJ 8 on April 23, 2007. The tariff filing
19 is docketed as UW 120.

20 At the Public Utility Commission of Oregon’s (Commission) public meeting held on
21 May 8, 2007, the Commission suspended CRRWC’s tariffs for six months to allow for further
22 investigation. In order to begin Staff’s investigation, on May 4, 2007, it served CRRWC with its
23 first set of data requests, referred to as DR 1-58.

24 On May 11, 2007, Staff counsel received a letter from CRRWC counsel requesting a
25 blanket extension of 30 days to answer DR 1-58.¹ As stated in CRRWC’s Motion, Staff did not

26 _____
¹The letter is included as Attachment A.

1 agree to the blanket 30-day extension. Instead, on May 11, 2007, Staff referenced the
2 Commission rules for data responses and the need for information to complete its investigation
3 within the parameters of the suspension period.²

4 DISCUSSION

5 **1. Docket No. WJ 8 contains no data requests for which to seek a protective order.**

6 First and foremost, CRRWC's Motion must be dismissed because there are no
7 outstanding data requests in Docket WJ 8 for which to seek a protective order. While the Motion
8 does not specifically mention any data requests, it seems to raise four main themes; it needs more
9 time, relevancy of data requests, confidentiality, and expense of compliance.

10 Concurrent with the filing of this responsive motion, Staff is filing a motion to compel in
11 Docket UW 120. In that motion, Staff will discuss in more detail the data requests and ask for an
12 order compelling CRRWC to provide requested information. While Staff believes that
13 CRRWC's Motion must be dismissed in this docket, Staff also takes this opportunity to discuss
14 some of the issues raised in CRRWC's Motion.

15 **2. OAR 860-014-0070(1) provides that data requests must be answered in ten business** 16 **days.**

17 CRRWC's Motion offers no authority to support its request for additional time to answer
18 data requests that are commonly sent to Commission-regulated utilities. A meager statement that
19 Staff has asked 58 questions, some with sub-parts, is a wholly insufficient reason to grant a
20 blanket request for more time. OAR 860-014-0070(1) governs this issue and CRRWC should be
21 directed to follow the rules applicable to all regulated utilities.

22 **3. Information that predates the assertion of jurisdiction is relevant or likely to lead to** 23 **relevant information and is discoverable.**

24 In its motion to compel in Docket UW 120, which is being filed concurrently with this
25 responsive motion, Staff will discuss the particular discoverability of specific data requests.

26 _____
²The letter is included as Attachment B.

1 CRRWC’s Motion, however, requests a determination as to the relevancy of the requested
2 information that predates the assertion of jurisdiction or relates to the General Manager.

3 Information from the years proceeding jurisdiction is relevant. In rate proceedings to
4 establish future rates, it is common to look at previous years for trends in different expenses
5 categories. Furthermore, historic information is also necessary to establish rate base. This is
6 especially true in this proceeding because this is the first rate proceeding for CRRWC.

7 Likewise, information that involves CRRWC and the General Manager is relevant or
8 likely to lead to relevant information. As an employee of CRRWC, and the General Operations
9 Manager, information related to James Rooks’ financial transactions with CRRWC are relevant
10 or likely to lead to the discovery of relevant information.

11 **4. If CRRWC believes that there is confidential information that needs to be protected,**
12 **it should file for a protective order under the Commission’s rules.**

13 The Commission has adopted the ORCP. *See* OAR 860-011-0000(3). The
14 Commission’s adoption of the ORCP includes ORCP 36(C)(7), which provides protection
15 against unrestricted discovery of “trade secrets or other confidential research, development, or
16 commercial information.” If CRRWC wishes to apply for a protective order, it should file a
17 motion for a standard or modified protective order under the Commission’s rules, OAR 860-012-
18 0035(1)(k).

19 **5. CRRWC’s request for expenses related to compliance is premature and**
20 **inappropriate.**

21 Docket UW 120 is the appropriate proceeding to request recovery of expenses related to
22 compliance with rate case proceedings. Specifically, rate proceedings often involve requests for
23 rate case expenses, along with expenses for accounting and other services. CRRWC’s request
24 for expenses to comply with Staff’s first set of data requests is premature and is an issue in the
25 investigation of CRRWC’s filed tariffs.

26 ///

1 CONCLUSION

2 For the foregoing reasons, Staff respectfully urges the Commission to deny CRRWC's
3 Motion.

4 DATED this 7th day of June 2007.

5 Respectfully submitted,

6 HARDY MYERS
7 Attorney General

8
9 s/ Jason W. Jones
10 Jason W. Jones, #00059
11 Assistant Attorney General
12 Of Attorneys for Public Utility Commission of
13 Oregon Staff
14
15
16
17
18
19
20
21
22
23
24
25
26

GLENN, SITES, REEDER & GASSNER, LLP
ATTORNEYS AT LAW
205 S. E. Fifth Street, Madras, OR 97741-1632
Telephone: (541) 475-2272
Fax: (541) 475-3944

RECEIVED

MAY 11 2007

Department of Justice
General Counsel-Salem

DAVID C. GLENN
EDWARD E. SITES
DONALD V. REEDER
TIMOTHY R. GASSNER

BOYD OVERHULSE
1934-1966 (Deceased)
SUMNER RODRIGUEZ
1949-2005 (Deceased)

May 9, 2007

Jason Jones
Oregon Dept. of Justice
Regulated Utility and Business Section
1162 Court St. NE
Salem, OR 97301-4096

RE: Staff Request: DR1-58
Docket No.: W-120

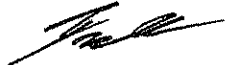
Dear Mr. Jones:

The Crooked River Ranch Water Company received a letter from Mr. Michael Dougherty dated May 4, 2007, which requests responses to 58 different inquiries, some with several parts. The response due date given was May 21, 2007.

The General Manager of the Water Company, Mr. James Rooks, has reviewed the requests and has informed me that the information requested cannot be compiled prior to May 21, 2007. The Water Company would request 30-days to compile their response to this request.

Please get back to me at your earliest convenience regarding the PUC's position on the due date for a response.

Very truly yours,
GLENN, SITES, REEDER & GASSNER, LLP


TIMOTHY R. GASSNER
TRG:skk

H:\Tim\CRR Water\PUC APPEAL\LT-Jones-30-day request.wpd

cc: James Rooks

Attachment A
Page 1 of 1



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

FILE COPY

May 11, 2007

Timothy Gassner
205 S.E. Fifth St.
Madras, OR 97741-1632

RE: Staff Data Request: DR1-58
Docket No.: UW 120

Dear Mr. Gassner,

On May 11, 2007, I received your letter regarding data requests DR1-58 in Docket No. 120. Staff will not agree to the Company's blanket request for a 30-day extension to compile their data requests.

The response due date of May 21, 2007, is based upon Commission rules for data responses. See OAR 860-014-0070(1). Furthermore, data requests are common in these utility rate case proceedings and the ten business day time response period is necessary to allow Staff the opportunity to develop its recommendations within the necessary timeframe.

As I have just received your letter today, I'm faxing this response to you as well as sending it via regular mail.

Sincerely,

Jason W. Jones
Assistant Attorney General
Regulated Utility & Business Section

JWJ:jwj/DOCUMENT2

Attachment B
Page 1 of 1

1 **CERTIFICATE OF SERVICE**

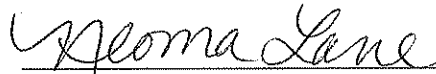
2
3 I certify that on June 7, 2007, I served the foregoing upon all parties of record in this
4 proceeding by delivering a copy by electronic mail and by mailing a copy by postage prepaid
5 first class mail or by hand delivery/shuttle mail to the parties accepting paper service.

6 **CRRWC**
jr@crrwc.com

7 **GLENN SITES & REEDER LLP**
8 DAVID C GLENN
205 SE 5TH ST
9 MADRAS OR 97741-1632
gsr-dcg@crestviewcable.com

10 **PUBLIC UTILITY COMMISSION OF OREGON**
11 MICHAEL DOUGHERTY
550 CAPITOL ST NE - STE 215
12 SALEM OR 97301
michael.dougherty@state.or.us

13 MARC HELLMAN
PO BOX 2148
14 SALEM OR 97308-2148
marc.hellman@state.or.us

15
16 
17 _____
18 Neoma Lane
19 Legal Secretary
20 Department of Justice
21 Regulated Utility & Business Section
22
23
24
25
26