

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 120

In the Matter of

CROOKED RIVER RANCH WATER
COMPANY

**CRRWC's APPLICATION FOR
RECONSIDERATION OF PUC
ORDER NO. 08-177; REQUEST
FOR A HEARING; AND PETITION
FOR EXTENSION OF TIME TO
COMPLY**

MOTIONS

Crooked River Ranch Water Company (CRRWC) respectfully submits the following motions with respect to the portions of the Public Utility Commission (PUC) Order No. 08-177, entered March 24, 2008, dealing with the distribution of CRRWC's special assessment funds, including Order No. 2 stating:

"Crooked River Ranch Water Company shall distribute \$118,028 to its current members in a lump-sum amount of an equal share basis, not later than its next billing dates for its customers."

Order No. 08-177 at 11.

Motion Number 1: Pursuant to ORS 756.561 and OAR 860-014-0095, CRRWC applies for reconsideration of PUC Order No. 08-177 and specifically requests withdrawal of the portions of that order that are outside the scope of the Staff's Motion Regarding Violations of Order No. 07-527.

Motion Number 2: If PUC denies Motion No. 1, then in the alternative, pursuant to ORS 756.515(5), CRRWC requests a hearing on the portion of Order No. 08-177 directed at the distribution of the special assessment fund including Findings of Facts No. 5 & 6, Conclusion of Law No. 2, and Order No. 2.

Motion Number 3(a): In addition to Motions Nos. 1 and 2, pursuant to OAR 860-014-0093, CRRWC petitions for a stay of enforcement of the portion of Order No. 08-177 requiring that CRRWC distribute special assessment funds to its members.

Motion Number 3(b): In the alternative to Motion No. 3, pursuant to OAR 860-014-0093, CRRWC petitions for an extension of time, until no earlier than July 1, 2008, to comply with the portion of Order No. 08-177 requiring that CRRWC distribute special assessment funds to its members.

DISCUSSION

CRRWC's request in this combined motion is three-fold. First, CRRWC requests that PUC allow reconsideration and revise Order No. 08-177 to remove the findings, conclusion, and the specific order on distributing special assessment funds. Second, in the alternative to withdrawing those findings, conclusions, and the specific order on distributing the special assessment, CRRWC requests that PUC provide CRRWC a hearing on that portion of the order pursuant to ORS 756.515(5). Third, CRRWC requests that PUC stay the portion of Order No. 08-177 that requires CRRWC to distribute the special assessment funds to members pending reconsideration or in the alternative extend the time CRRWC has to comply with that requirement.

1. Discussion on Motion No. 1.

PUC should reconsider Order No. 08-177 and withdraw: (i) Findings of Facts No. 5 & 6; (ii) Conclusion of Law No. 2; and (iii) Order No. 2 (the "Distribution Order"). Order No. 08-177 was based on a motion by PUC Staff. The Distribution Order should be withdrawn because it is outside the scope of the Staff's Motion and CRRWC has had no notice or opportunity to present evidence or argument on the proper use or distribution of the special assessment fund. In

addition, CRRWC needs to have the special assessment funds available for planned and unanticipated capital expenditures.

1. The Staff's Motion did not seek an order to distribute the special assessment funds to CRRWC's members.

The Staff's Motion was directed entirely at requiring CRRWC to provide additional information to the Staff and the penalties to be imposed if CRRWC failed to do so. The Staff sought "an order confirming that Crooked River Ranch Water Company (CRRWC) is in violation of the Public Utility Commission of Oregon (Commission) Order No. 07-527, specifically with ordering paragraphs 4, 5, and 6." Staff's Motion at 1. The Staff's Motion requests that PUC "enter a new order that individually names each of the members of the Board of Directors and provides a specific date for compliance with the order paragraphs 4, 5, and 6 of Order no. 07-527." Staff Motion at 6. It further requests that PUC impose penalties on members of the Board of Directors if they fail to comply. Staff Motion at 6.

The Staff did not seek disbursement of the special assessment funds. PUC's order goes beyond the Staff's Motion and the relief the Staff expressly sought in that motion. On that basis alone, the order should be amended and the extraneous Distribution Order should be withdrawn.

2. CRRWC has had no notice or opportunity to be heard regarding the proper use or distribution of the special assessment funds.

CRRWC had no notice that the PUC was considering ordering distribution of the special assessment funds. PUC's budget and rates were set in Order No. 07-257. In that order, PUC discontinued the special assessment surcharge going forward and, in only a limited way, considered the proper treatment of the existing money in the special assessment fund. PUC stated that "Crooked River collected the surcharge for capital improvements and to pay off the loan on the office building. In effect, the Company created a constructive trust for its members.

We intend that the purpose of the trust be preserved.” PUC Order No. 07-527 at 9. PUC noted that it “may consider other disposition of the fund balance” if the plant additions are not likely to be undertaken within a reasonable time. PUC Order No. 07-527 at 10. PUC discussed potential use of the capital fund including paying off an outstanding truck loan, paying off the balance of the loan on CRRWC’s building, and stated that the “fund balance to be set aside for future capital improvements is the remaining amount of the fund as set by the accounting, less the amount of the building and truck loan.” PUC Order No. 07-527 at 10. The PUC also noted that it was concerned that some of the special assessment fund had been used for purposes outside the CRRWC’s Board’s enabling resolution and stated that “[i]n allowing the Company to retain the funds for now, we state our intent that the use of the funds be limited to capital improvements or the pay-off of loans[.]” PUC Order No. 07-527 at 10.

At no point in its Order No. 07-527 did PUC indicate that it would consider ordering distribution of the special assessment fund to CRRWC members. To the contrary, PUC stated that the funds would be used for the purposes set out in the enabling resolution. The Staff’s Motion did not seek to amend PUC’s prior Order No. 07-257 or request the issuance of a new order addressing the special assessment fund. Thus, nothing related to Order 07-257 provided CRRWC notice that PUC was considering ordering that the special assessment fund be distributed to CRRWC’s members. And, the hearing that preceded Order No. 07-257 did not provide CRRWC the opportunity to present evidence or argument on whether it was appropriate to distribute the special assessment assets to CRRWC’s members.

In Order No. 08-177, PUC states that its “Order is based on Staff’s motion and does not rely on extraneous information in Staff’s report.” PUC Order No. 08-177 at 8. Contrary to that statement, PUC did rely on information on the special assessment fund in the Staff Report.

Apparently to justify its use of the Staff Report on that issue, PUC points out that CRRWC “offered Staff’s accounting of the assessment fund surcharge balance as evidence that the Company did comply with Ordering Paragraph 5 [of PUC Order no. 07-527].” PUC Order No. 08-177 at 8. In its response to the Staff’s Motion, CRRWC indicated that it had provided a spreadsheet showing the balance of special assessment funds and that providing such information was entirely consistent with Section 5 of Order No. 07-527. CRRWC Response to Motion Regarding Violations of Order No. 07-527. CRRWC’s statement that it provided information to Staff is no indication that CRRWC has had the opportunity to address the proposed distribution of the special assessment fund or that CRRWC had the opportunity to respond to the Staff’s analysis of those funds.

CRRWC has in fact had no opportunity, in any proceeding, to address the propriety of distributing the special assessment fund to its members. Therefore, PUC should withdraw the portions of Order No. 08-177 that deal with that issue including Findings of Fact No. 5 & 6, Conclusion of Law No. 2, and Order No. 2.

3. CRRWC needs to have the special assessment fund on hand to pay for planned an unanticipated capital expenditures.

Under CRRWC’s current budget, mandated by PUC, no funds are held in reserve to pay for planned or unanticipated capital expenditures necessary to the safe and effective operation of CRRWC. PUC apparently based its order to distribute the special assessment funds on the statement by James Rooks in his declaration dated January 18, 2008, that: “No new construction or capital improvements are in progress or planned at the current time as the funds are not available.” Rooks Decl. (1/28/2008) at 2. However, the next statement in Rooks’ declaration is: “CRRWC anticipates that capital improvement projects and maintenance projects will be necessary to maintain the integrity of the water system in the future[.]” Rooks Decl. (1/18/2008)

at 2. In addition, as set forth in the Declaration of James Rooks in support of these combined motions, if CRRWC distributes the balance of its special assessment fund to its members, it will have no funds available for either planned or unanticipated capital improvements. Rooks Decl. (3/26/2008) at ¶ 2. Specifically, CRRWC's Well # 1 was rebuilt seven years ago and the rubber bearings are wearing out and will need to be replaced. Rooks Decl. (3/26/2008) at ¶ 3. In addition, the well is vibrating and requires improvements to prevent deterioration and maintain the integrity of the well. Rooks Decl. (3/26/2008) at ¶ 3. CRRWC's cistern is over 35 years old and is leaking. Rooks Decl. (3/26/2008) at ¶ 4. There is the potential that the cistern will collapse without additional improvements and maintenance. Rooks Decl. (3/26/2008) at ¶ 4. In addition, if there is any major line break, CRRWC needs funds available to effectively respond. Rooks Decl. (3/26/2008) at ¶ 5. A major line break interrupts domestic water service and fire protection for the members of CRRWC. Rooks Decl. (3/26/2008) at ¶ 5.

2. Discussion on Motion 2.

If PUC declines to withdraw the portions of its order addressing distribution of the special assessment funds, PUC should provide CRRWC with a hearing on that issue. As described above, to this point in time, CRRWC had no notice of opportunity for a hearing on the distribution of the special assessment funds. CRRWC requests that PUC provide a hearing pursuant to ORS 756.515(5) (providing right to a hearing to determine whether an order finding a rate unreasonable should continue in effect). ORS 756.515(6) provides that upon request for a hearing under ORS 756.515(5), the underlying order will be stayed.

The special assessment fund balance of \$233,889 is currently on deposit in local banks, primarily in interest-bearing accounts. Rooks Decl. (3/26/2008) at ¶ 6. CRRWC will not draw on those funds without PUC approval pending reconsideration and/or a hearing on the proper

distribution of those funds, and is willing to execute documentation mutually agreeable to CRRWC and PUC to memorialize that agreement. Rooks Decl. (3/26/2008) at ¶ 6. Thus, there is no danger that the funds will be dissipated during the time in which CRRWC is afforded a full and fair opportunity to address the proper use or distribution of the special assessment fund.

3. Discussion on Motions No. 3a and 3b.

Pursuant to OAR 860-014-0093, PUC should either stay the portion of Order No. 08-177 requiring that CRRWC distribute \$118,028 of the special assessment fund to its current members in the next billing cycle the special, or in the alternative, PUC should extend the time for CRRWC to comply with that portion of the order until at least July 1, 2008.

CRRWC seeks a stay of the portion of the order requiring distribution of the special assessment funds because, as described above, it had no notice or opportunity to present evidence and argument on the issue. PUC should stay enforcement of the portion of its order requiring distribution of the special assessment funds until CRRWC has had a full and fair opportunity to present evidence and argument on the issue.

In the alternative, and without waiving CRRWC's objection to PUC's action without providing CRRWC a full and fair opportunity to address the distribution issue, PUC should extend the time CRRWC has to comply with the Distribution Order. The Distribution Order requires that CRRWC make the distributions "not later than its next billing dates for its customers." Order No. 08-177 at 11. CRRWC seeks an extension because CRRWC's next customer billings will go out on Friday, March 28, 2008 – a mere four days after Order No. 08-177 was entered. Rooks Decl. (3/28/2008) ¶ 7. It will be extremely difficult, if not impossible, for CRRWC to comply with PUC's order in such a short time-frame. Rooks Decl. (3/28/2008) ¶ 7.

In addition, CRRWC has a portion of the capital fund assessment in Certificates of Deposit. Rooks Decl. (3/28/2008) ¶ 8 and Ex. A. Those Certificates mature on June 9, 2008. Rooks Decl. (3/28/2008) ¶ 8 and Ex. 8. Withdrawing the funds will result in bank penalties against the fund balances in the amount of at least \$943.27. Rooks Decl. (3/28/2008) ¶ 8 and Ex. A. CRRWC thus requests that PUC extend the time for distributing the special assessment funds until at least July 1, 2008, to allow CRRWC to withdraw the funds from the Certificates of Deposit without penalty and with time to process the distribution.

CONCLUSION

PUC should withdraw the portions of its order addressing distribution of the special assessment funds or, at the least, PUC should stay those portions of the order and provide CRRWC a hearing. If PUC declines to take either of those steps, PUC should extend the time CRRWC has to distribute the \$118,028 PUC ordered be disbursed to CRRWC's members.

Respectfully Submitted this 26th day of March, 2008

Timothy R. Gassner OSB#02309

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 120

In the Matter of

CROOKED RIVER RANCH WATER
COMPANY

Request for rate increase in the total annual
revenues from \$806,833 to \$868,453, or 8.13
percent.

**DECLARATION OF JAMES
ROOKS IN SUPPORT OF
CRRWC's APPLICATION FOR
RECONSIDERATION OF PUC
ORDER NO. 08-177; REQUEST
FOR A HEARING; AND PETITION
FOR EXTENSION OF TIME TO
COMPLY**

I, James Rooks, declare and state as follows:

1. I am the General Manager for the Crooked River Ranch Water Company ("CRRWC") and I make this declaration based upon my personal knowledge and in support of CRRWC's Application for Reconsideration; Request for a Hearing; and Petition for Extension of Time.
2. If CRRWC distributes the balance of its special assessment fund to its members, it will have no funds available for either planned or unanticipated capital improvements.
3. CRRWC's Well # 1 was rebuilt seven years ago and the rubber bearings are wearing out and will need to be replaced. The well is vibrating and requires improvements to maintain the integrity of the well.

4. CRRWC's cistern is over 35 years old and is leaking. There is the potential that the cistern will collapse without additional improvements to maintain the integrity of the cistern.

5. If there is a major line break, CRRWC needs funds available to effectively respond to such occurrences. A major line break would interrupt domestic water service and fire protection for the members of CRRWC.

6. The special assessment fund balance of \$233,889 is currently on deposit in local banks, primarily in interest-bearing accounts. CRRWC will not draw on those funds without PUC approval pending reconsideration and/or a hearing on the proper distribution of those funds, and is willing to execute documentation mutually agreeable to CRRWC and PUC to memorialize that agreement.

7. CRRWC's next customer billings will go out on Friday, March 28, 2008. It will be extremely difficult, if not impossible, for CRRWC to comply with PUC's order requiring distribution of the special assessment funds in that billing cycle.

8. CRRWC has a portion of the capital fund assessment in Certificates of Deposit. Attached as Ex. A are true and accurate copies of information regarding those Certificates of Deposit.

Dated: March 26, 2008

James Rooks

[Insert Certificate of Service]

Certificate Inquiry

Certificate 50511090 - CROOKED RIVER RANCH WATER

	Rel	Birthdate	Phone	Tax Identification
[01] CROOKED RIVER RANCH WATER COOPERATIVE PO BOX 2319 TERREBONNE OR 97760	-		[B] (541) 923-1041	EIN 93-0766082

Additional Relationships:
Tax Name: [1] CROOKED RIVER RANCH WATER

Account Classification

Portfolio:	500740	Responsibility Code:	[1261] Leslie Povey
Product:	[421001] PERSONAL LESS 100M	Account Type Code:	[204] Corporation - Non Profit
Accounting Branch:	[5]		

Summary

Memo Balance:	\$13,010.20	Term:	12 Months
Current Balance:	\$13,010.20	Maturity Date:	Jun 09, 2008
Interest Balance:	\$23.90	Last Anniversary Jun 09, 2007:	\$12,581.67
Redemption Amount:	\$12,888.71	Last Deposit Nov 09, 2006:	\$12,179.94
Forfeiture:	\$145.39	Original Issue Date:	Nov 09, 2006
Current Rate:	4.4700%		

Interest

Current Accrued Interest:	\$23.90	Current Rate:	4.4700%
Date Accrued Through:	Mar 23, 2008	Current Effective Rate:	4.4700%
Date Next Interest:	Apr 08, 2008	Deposit Rate Index:	[55] 12 MONTH CD
Interest Payment Frequency:	Monthly	Compounding Code:	Simple
Interest Payment Method:	Compound	Reg DD Compound Frequency:	Interest Frequency
Days Into This Period:	15	Interest Method:	[0] Date of Deposit-365/365
Previous Accrued Interest:	\$19.12	Interest Reporting Code:	1099-INT
Last Interest Mar 08, 2008:	\$46.04	Withholding Code:	No Withholding
Balance Last Interest:	\$13,010.20	Rate Change Frequency:	At Maturity
Net Interest Adjustment:	\$0.00	Rate Change Method:	[B] Variable Rate
Interest This Period:	\$49.39	Base Rate:	4.4700%
Total Days This Period:	31	Maturity Rate Method:	Current Rate
		Maturity Date:	Jun 09, 2008
		Interest Cycle Rate:	4.4700%
		Mar 09, 2008	

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Certificate 50511082 - CROOKED RIVER RANCH WATER			
	Rel	Birthdate	Phone
[01] CROOKED RIVER RANCH WATER COOPERATIVE PO BOX 2319 TERREBONNE OR 97760	*		[B] (541) 923-1041
			Tax Identification EIN 93-0766082
<u>Additional Relationships</u>			
Tax Name: [1] CROOKED RIVER RANCH WATER			

Account Classification			
Portfolio:	500740	Responsibility Code:	[1261] Leslie Povey
Product:	[421001] PERSONAL LESS 100M	Account Type Code:	[204] Corporation - Non Profit
Accounting Branch:	[5]		

Summary			
Memo Balance:	\$45,238.05	Term:	12 Months
Current Balance:	\$45,238.05	Maturity Date:	Jun 09, 2008
Interest Balance:	\$83.10	Last Anniversary Jun 09, 2007:	\$43,747.98
Redemption Amount:	\$44,815.61	Last Deposit Nov 09, 2006:	\$42,351.11
Forfeiture:	\$505.54	Original Issue Date:	Nov 09, 2006
Current Rate:	4.4700%		

Interest			
Current Accrued Interest:	\$83.10	Current Rate:	4.4700%
Date Accrued Through:	Mar 23, 2008	Current Effective Rate:	4.4700%
Date Next Interest:	Apr 08, 2008	Deposit Rate Index:	[55] 12 MONTH CD
Interest Payment Frequency:	Monthly	Compounding Code:	Simple
Interest Payment Method:	Compound	Reg DD Compound Frequency:	Interest Frequency
Days Into This Period:	15	Interest Method:	[0] Date of Deposit-365/365
Previous Accrued Interest:	\$66.48	Interest Reporting Code:	1099-INT
Last Interest Mar 08, 2008:	\$160.09	Withholding Code:	No Withholding
Balance Last Interest:	\$45,238.05	Rate Change Frequency:	At Maturity
Net Interest Adjustment:	\$0.00	Rate Change Method:	[B] Variable Rate
Interest This Period:	\$171.74	Base Rate:	4.4700%
Total Days This Period:	31	Maturity Rate Method:	Current Rate
		Maturity Date:	Jun 09, 2008
		Interest Cycle Rates	
		Mar 09, 2008	4.4700%

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Certificate 50511106 - CROOKED RIVER RANCH WATER

	Rel	Birthdate	Phone	Tax Identification
[01] CROOKED RIVER RANCH WATER COOPERATIVE PO BOX 2319 TERREBONNE OR 97760	*		[8] (541) 923-1041	Ein 93-0768982

Additional Relationships
Tax Name: [1] CROOKED RIVER RANCH WATER

Account Classification

Portfolio:	500740	Responsibility Code:	[1261] Leslie Povey
Product:	[421001] PERSONAL LESS 100M	Account Type Code:	[204] Corporation - Non Profit
Accounting Branch:	[5]		

Summary

Memo Balance:	\$13,144.94	Term:	12 Months
Current Balance:	\$13,144.94	Maturity Date:	Jun 09, 2008
Interest Balance:	\$24.15	Last Anniversary Jun 09, 2007:	\$12,711.96
Redemption Amount:	\$13,022.20	Last Deposit Nov 09, 2006:	\$12,306.07
Forfeiture:	\$146.89	Original Issue Date:	Nov 09, 2006
Current Rate:	4.4700%		

Interest

Current Accrued Interest:	\$24.15	Current Rate:	4.4700%
Date Accrued Through:	Mar 23, 2008	Current Effective Rate:	4.4700%
Date Next Interest:	Apr 08, 2008	Deposit Rate Index:	[55] 12 MONTH CD
Interest Payment Frequency:	Monthly	Compounding Code:	Simple
Interest Payment Method:	Compound	Reg DD Compound Frequency:	Interest Frequency
Days Into This Period:	15	Interest Method:	[0] Date of Deposit-365/365
Previous Accrued Interest:	\$19.32	Interest Reporting Code:	1099-INT
Last Interest Mar 08, 2008:	\$46.52	Withholding Code:	No Withholding
Balance Last Interest:	\$13,144.94	Rate Change Frequency:	At Maturity
Net Interest Adjustment:	\$0.00	Rate Change Method:	[B] Variable Rate
Interest This Period:	\$49.90	Base Rate:	4.4700%
Total Days This Period:	31	Maturity Rate Method:	Current Rate
		Maturity Date:	Jun 09, 2008
		Interest Cycle Rates	
		Mar 09, 2008	4.4700%

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Certificate Inquiry

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Certificate 50511098 - CROOKED RIVER RANCH WATER			
	Rel	Birthdate	Phone
[01] CROOKED RIVER RANCH WATER COOPERATIVE PO BOX 2319 TERREBONNE OR 97760	*		[B] (541) 923-1041
			Tax Identification EIN 93-0766082
<u>Additional Relationships</u>			
Tax Name: [1] CROOKED RIVER RANCH WATER			

Account Classification			
Portfolio:	500740	Responsibility Code:	[1261] Leslie Povey
Product:	[421001] PERSONAL LESS 100M	Account Type Code:	[204] Corporation - Non Profit
Accounting Branch:	[5]		

Summary			
Memo Balance:	\$13,015.59	Term:	12 Months
Current Balance:	\$13,015.59	Maturity Date:	Jun 09, 2008
Interest Balance:	\$23.91	Last Anniversary Jun 09, 2007:	\$12,586.88
Redemption Amount:	\$12,894.05	Last Deposit Nov 09, 2006:	\$12,184.98
Forfeiture:	\$145.45	Original Issue Date:	Nov 09, 2006
Current Rate:	4.4700%		

Interest			
Current Accrued Interest:	\$23.91	Current Rate:	4.4700%
Date Accrued Through:	Mar 23, 2008	Current Effective Rate:	4.4700%
Date Next Interest:	Apr 08, 2008	Deposit Rate Index:	[55] 12 MONTH CD
Interest Payment Frequency:	Monthly	Compounding Code:	Simple
Interest Payment Method:	Compound	Reg DD Compound Frequency:	Interest Frequency
Days Into This Period:	15	Interest Method:	[0] Date of Deposit-365/365
Previous Accrued Interest:	\$19.13	Interest Reporting Code:	1099-INT
Last Interest Mar 08, 2008:	\$46.06	Withholding Code:	No Withholding
Balance Last Interest:	\$13,015.59	Rate Change Frequency:	At Maturity
Net Interest Adjustment:	\$0.00	Rate Change Method:	[B] Variable Rate
Interest This Period:	\$49.41	Base Rate:	4.4700%
Total Days This Period:	31	Maturity Rate Method:	Current Rate
		Maturity Date:	Jun 09, 2008
		Interest Cycle Rates	
		Mar 09, 2008	4.4700%

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