

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

3 **UW 120**

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6 In the Matter of
7 CROOKED RIVER RANCH WATER
8 COMPANY
9 Request for Rate increase resulting in
10 total annual revenues of \$868,453.
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INTERVENER – CHARLES NICHOLS
SUBPOENA REQUEST
DATA REQUEST NUMBER 1 TO 3

13 **INTRODUCTION**

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15 On November 26, 2007 Intervener – Charles Nichols (Nichols) filed a motion to compel
16 Crooked River Ranch Water Company (CRRWC) to produce the information requested
17 by Nichols in data request number 1 to 3. On November 21, 2007 Nichols served copies
18 of the motion to compel on CRRWC. CRRWC did not provide a response to the subject
19 motion to compel.

20 On November 29, 2007, ALJ Patrick Power granted the motion to compel and ordered
21 CRRWC to provide full and complete answers to Nichols date request number 1 to 3,
22 within five days.

23 As of December 5, 2007, CRRWC has not responded to Nichols granted motion to
24 compel data request number 1 to 3.

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1 **DISCUSSION**

2 **Data Request 1** - CRRWC did not provide the documentation requested concerning the
3 presence of James Rooks – General Manager of CRRWC on the CRRWC Board of
4 Directors (Board). Data request 1 asks for documentation to adequately demonstrate
5 that James Rooks is legally on the Board. The Board has the legal duty to represent
6 and act in the best interest of the membership as a whole. The legitimacy of the Board
7 is critical to the representation of the membership in the rate/tariff setting process and
8 therefore highly relevant. A subpoena should be issued ordering the production of the
9 subject documentation.

10 **Data Request 2** – Data request 2 addresses statements in CRRWC's rebuttal
11 testimony concerning the Board. Data request 2 asks for documentation to adequately
12 demonstrate that the current and former (from 1999 forward) members of the Board
13 were legally elected to the Board. The Board has a legal duty to represent and act in
14 best interest of the membership as a whole. The legitimacy of the Board is critical to the
15 representation of the membership in the rate/tariff setting process and therefore highly
16 relevant. A subpoena should be issued ordering the production of the subject
17 documentation.

18 **Data Request 3** – The subject data requests asks for documentation to demonstrate
19 that the current and former (from 1999 forward) Board has the authority to act on behalf
20 of the membership and that all of their actions have been in the best interest of the
21 membership. Demonstrating the ability of the Board to act on behalf of and in the best
22 interest of the membership in legal matters and the subsequent rate/tariff setting issues
23 is highly relevant and a subpoena should be issued ordering the production of the
24 subject documentation.

25 On November 29, 2007 the PUC issued Order No. 07-527, Interim Decision. Section XII
26 – CONCLUSION states in part,

"The record also remains open to receive any additional materials obtained by Staff and interveners through further

1 *discovery associated with any outstanding subpoenas or*
2 *related to earlier data requests."*

3 Nichols data request number 1 to 3 was served on CRRWC prior to the cutoff
4 date ending the service of data requests in this proceeding.

5 Nichols is requesting a subpoena be issued for the documents requested in data
6 request numbers 1 to 3 to provide additional materials for the open record.

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8 The Management of CRRWC has failed to provide full and complete
9 documentation/information commanded in four subpoenas that have been issued and
10 served on CRRWC in this proceeding.

11 **CONCLUSION**

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13 The CRRWC is governed by a Board. The Board is the highest authority within
14 CRRWC. Due to failure of Management and in order to provide all entities within
15 CRRWC with the full opportunity to respond to the subject data requests; pursuant to
16 OAR 860-014-0040(2) Nichols is requesting a subpoena be issued to CRRWC,
17 CRRWC Board of Directors – Richard Miller, Brian Elliot, Randolph Scott, Richard Keen
18 & James Rooks and the general manager of CRRWC – James Rooks for the production
19 of documents/information requested by Nichols in data request numbers 1 to 3.

20 DATED this 6th day of December 2007.

21 Respectfully submitted,

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26 Charles Nichols – Intervener UW 120