

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 120

In the Matter of)	
)	
CROOKED RIVER RANCH WATER)	
COMPANY)	RULING
)	
Request for rate increase in total annual)	
revenues from \$806,833 to \$868,453, or)	
8.13 percent.)	

DISPOSITION: MOTION TO COMPEL GRANTED

On July 29, 2008, Intervenor Craig Soule (Soule) filed a motion to compel data request responses from Crooked River Ranch Water Company (Crooked River or Company). On August 1, 2008, Crooked River filed a response to Mr. Soule’s motion.

Mr. Soule’s motion encompasses his data requests nos. 75 to 85. Mr. Soule states that he served the data requests on Crooked River on June 27, 2008. Having received no response, on July 21, 2008, Mr. Soule conferred (via email) with Crooked River’s attorney. On July 23, 2008, he received an email from counsel for Crooked River indicating that some information would be forthcoming. However, no information has been provided to Mr. Soule.

In his motion, Mr. Soule addresses the relevance of each data request.

In Data Request No. 75, Mr. Soule asks for information regarding the dissolution of Crooked River as a non-profit mutual benefit corporation, He states that Crooked River’s corporate status “is critical to identifying the entity” appearing before the Commission.

In Data Request No. 76, Mr. Soule asks for information regarding the formation and operation of the purported Crooked River Ranch Water Cooperative. He again states that Crooked River’s corporate status “is critical to identifying the entity” appearing before the Commission.

In Data Requests Nos. 77 and 78, Mr. Soule seeks to elicit information regarding Crooked River's acquisition of equipment. He states that such information is relevant to rate setting.

In Data Request No. 79, Mr. Soule asks that he be provided copies of Crooked River's responses to certain enumerated Staff data requests. Mr. Soule cites OAR 860-014-0070 (2) in support of his motion.

In Data Requests Nos. 80, 81 and 82, Mr. Soule asks for information regarding accounting issues associated with Crooked River's special assessment surcharge account. Mr. Soule argues that such information is relevant to rate setting.

In Data Request No. 83, Mr. Soule asks for information regarding the use of Crooked River funds and resources on behalf of the "Crooked River Ranch Water Cooperative." Mr. Soule argues that such information is relevant to rate setting.

In Data Request No. 84, Mr. Soule asks for information regarding Crooked River's legal expenses. Mr. Soule argues that such information is relevant to rate setting.

In Data Request No. 85, Mr. Soule asks for information that expands upon information provided by Crooked River in a filing with this Commission. He argues that such information "is of major importance to the rate setting process."

Crooked River responds to Data Request No. 75 subparts separately. Regarding (a), the Company argues that the data request is argumentative and calls for a legal conclusion. Regarding (b), the Company claims the information is "not available." Regarding (c), Crooked River states that a copy of the requested information is attached to its response. Regarding (d), the Company argues that the data request calls for a legal conclusion and no documentation is available.

Regarding Data Request No. 76, Crooked River argues that the request is argumentative and calls for a legal conclusion. The Company states that Mr. Soule is well aware of the ongoing litigation regarding its corporate status.

Regarding Data Request Nos. 77 and 78, Crooked River states that it has no information available.

Regarding Data Request No. 79, Crooked River states that it will provide Mr. Soule the requested information in the same manner as has been ordered by the Jefferson County Circuit Court.

Regarding Data Requests Nos. 80, 81 and 82, Crooked River states: "no response available."

Regarding Data Request No. 84, Crooked River repeats its response to No. 76: the request is argumentative and calls for a legal conclusion. Mr. Soule is well aware of the ongoing litigation regarding its corporate status.

Regarding Data Request No. 84, Crooked River objects to the request as “both argumentative and privileged.”

Regarding Data Request No. 85, Crooked River states: “no information available.”

More generally, Crooked River states that “When the Jefferson County Circuit Court reviewed the legal relevancy of Data Request’s (sic) submitted by [Mr. Soule] a substantial portion of those data requests were deemed irrelevant, argumentative or both.” However, according to Crooked River, the Jefferson County Circuit Court did order the Company to provide some responses to Soule because “there was no harm in requiring (the Company) to produce certain information.”

Now, according to Crooked River, “the harm in producing that information has become readily apparent.” Crooked River argues that Mr. Soule’s actions are in bad faith: “Soule has taken the information provided and used it to justify further inquiry which is irrelevant, argumentative and constitutes harassment of [Crooked River].” Crooked River states that Mr. Soule “continues to submit data requests the likes of which have already been denied by the Circuit Court, in an effort to harass” the Company. Crooked River requests an order prohibiting further data requests from Mr. Soule “and a ruling denying the Motion to Compel in it’s (sic) entirety.”

Mr. Soule’s motion is granted.

Data Requests 75 and 76 raise serious issues regarding the corporate status of the Company enterprise. Mr. Soule may be aware of the ongoing litigation regarding the Company’s corporate status, however, that knowledge does not disqualify him from propounding discovery; it informs his discovery.

Crooked River’s responses to Data Requests Nos. 77 and 78 – the Company “has no information available” – are not adequate. Mr. Soule either may demand the Company to explain and defend its responses, or he may ask that the Commission draw certain inferences from the Company’s failure to provide the information.

In regard to Data Request No. 79, Crooked River states that it will furnish the information to Mr. Soule in the same manner as has been ordered by the Jefferson County Circuit Court. Without knowing what is intended by that response, the Company is ordered to provide the information to Mr. Soule.

In its responses to Data Requests Nos. 80, 81 and 82, Crooked River states: “no response available.” One cannot discern whether the Company means

anything different than its responses to Data Requests Nos. 77, 78 and 85: “no information available.” The responses are not adequate. Mr. Soule either may demand the Company to explain and defend its responses, or he may ask that the Commission draw certain inferences from the Company’s failure to provide the information.

Crooked River’s objection to Data Request No. 84 is misinformed. Queries regarding the Company’s legal expenses are highly relevant to rate setting and do not implicate any privilege.

In its response to Data Request No. 85, Crooked River repeats its response to Nos. 77 and 78: no information is available. Again, Mr. Soule either may demand the Company to explain and defend its responses, or he may ask that the Commission draw certain inferences from the Company’s failure to provide the information.

Whether any of the data requests are of “the likes of which have already been denied by the Circuit Court” is irrelevant. The Circuit Court has no jurisdiction to decide the relevance of data requests in a proceeding before this Commission. Whether the Circuit Court has that authority in the case of a contempt proceeding is not an issue in this proceeding.

IT IS ORDERED that, within ten days of the date of this ruling, Crooked River Ranch Water Company provide full and complete answers to Intervenor Craig Soule’s Data Request Nos. 75 to 85.

Dated at Salem, Oregon, 8th day of August, 2008.

Patrick Power
Administrative Law Judge