

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UW 120

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

DISPOSITION: STAFF MOTION TO COMPEL GRANTED

On June 6, 2008, the Public Utility Commission of Oregon Staff (Staff) filed a motion to compel data responses from Crooked River Ranch Water Company (Crooked River or the Company). Crooked River filed a response to Staff's motion on June 16, 2008.

Staff states that it served its Data Requests Nos. 166 through 175 on May 6, 2008. According to Staff, Crooked River did not provide full and complete answers to Data Requests Nos. 166, 167, 170, 171, 173, 174, and 175.

In its motion Staff explains the relevance of each request. In its reply Crooked River offers some information or disputes the relevance of each of Staff's requests.

In its Data Requests Nos. 166 and 167 Staff requested information regarding legal services provided to the Company "performed by five legal firms during the November 2007 through March 2008 timeframe." In its reply Crooked River provides some information regarding matters of "public record," but objects to providing any further information, citing the attorney-client privilege.

The purpose of the attorney-client privilege is to encourage full disclosure to attorneys so they are able to render effective legal assistance. There has been no showing that disclosure of the information requested by Staff would intrude on the Company's communications with its attorneys. The attorney-client privilege does not apply here. The information requested is relevant and shall be disclosed.

In its Data Requests Nos. 170, 171, 173, 174, and 175 Staff requested information concerning the Company's Board of Directors, Board minutes and resolutions, and Board elections. In support of its motion Staff cites ORS 756.070.¹

In its reply Crooked River argues that the information "is outside the scope of the PUC's authority," citing a ruling by the Jefferson County Circuit Court in a contempt proceeding regarding the Company's failure to respond to data requests propounded by intervenor Soule in this matter. The Company further argues that information regarding actual employee compensation is not relevant for setting rates.

This Commission has exclusive jurisdiction over its ratemaking function, and a circuit court has no authority to decide what information is relevant for purposes of the Commission's business. The circuit court's reported ruling is of no moment in this proceeding.

Discovery is an integral part of the Commission's ratemaking process. Where a party believes that discovery responses have been inadequate, it may file a motion for an order to compel the production of that information. The opposing party may file in opposition to the motion to compel.

If the motion to compel is granted, and if the information is not provided, the moving party may choose how to proceed further. The party may request a subpoena, and if the information is not provided, may proceed to Circuit Court with a motion and order to show cause for failure to produce the information. Alternatively, the party simply may deem the evidence "willfully" suppressed and invoke Evidence Code Section 311(c): Evidence willfully suppressed would be adverse to the party suppressing it. (ORS 40.135(1)(c)). The Commission's rules do not require that a party initiate contempt proceedings as a condition precedent to invoking the Evidence Code.

The information requested by Staff is plainly relevant to the management of the Company. Utilities provide essential public services and the Commission has both the authority and the responsibility to take such measures as are necessary and convenient in the exercise of its power and jurisdiction.

IT IS ORDERED that: Within five days, Crooked River Ranch Water Company shall provide full and complete answers to Staff's Data Requests Nos. 166, 167, 170, 171, 173, 174, and 175.

Dated at Salem, Oregon, this 25th day of June, 2008.

PATRICK POWER
Administrative Law Judge

¹ ORS 756.070 provides: The Public Utility Commission may inquire into the management of the business of all public utilities and telecommunications utilities and shall keep informed as to the manner and method in which they are conducted and has the right to obtain from any public utility or telecommunications utility all necessary information to enable the commission to perform duties.