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JAN 28 2008

Public Utility Commission of Oregon
Administrative Hearing Division

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January 24, 2008

P.U.C.

Judge Samuel J. Petrillo
Administrative Law Judge
Public Utility Commission of Oregon
550 Capitol St. NE, Suite 215
Salem, OR 97308-2148

via Fax: 1-503-378-6163 - 5 pages including this page

Subject: Seventh Mountain Golf Village Water Company – UW 124

Dear Judge Petrillo:

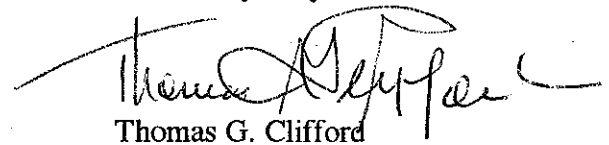
As discussed with you, enclosed is a joint Petition to Intervene by 3 intervenors in the above subject matter before the Commission. We believe that we represent interests which meet the requirements of OAR 860-013-0012.

A signed original will be sent to you by mail.

If you have any questions regarding the Petition, please contact me at 541-318-1295 or by e-mail at tjcliff@bendcable.com.

Thank you for your consideration.

Yours very truly,



Thomas G. Clifford

Encl.

CC: Michael Dougherty, PUC Staff; Fax 1-503-373-7752
Nita Slater, SMGV: Fax 1-541-598-7728
Dale Bernards, SMGV: Fax 1-503-274-1756

BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON

Docket No. UW 124

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JAN 28 2008

Public Utility Commission of Oregon
Administrative Hearing Division

In the matter of:

Seventh Mountain Golf Village Water Co.
3030 Moody Ave. Suite 103
Portland, Oregon 97201

PETITION
TO
INTERVENE

Names of Petitioners:

Robert J. Selder
60512 Elkai Woods Dr.
Bend, Or 97702
541-312-8800
rjselder@aol.com

Thomas G. Clifford
60757 Golf Village Loop
Bend, Or. 97702
541-318-1295
tjcliff@bendcable.com

Leo Mottau
60780 Currant Way.
Bend, Or. 97702
541-312-4487
mottau@yahoo.com

Name of Counsel: None

Petitioners Organization:

Petitioners are individual customers of the Company and members of the Widgi Creek / Elkai Woods Water Committee. The Committee represents the interests of the approximately 175 - 180 domestic customers of the Company. Petitioners participated in the Company's prior 2 rate cases (UW 95 (2003 / 2004) and UW 116 (2006))

NATURE AND EXTENT OF THE PETITIONERS INTEREST IN THE PROCEEDING:

Petitioners are residents of Widgi Creek and Elkai Woods, are domestic water customers of SMGV Water Company and are members of the Water Committee which serves the interests of the Widgi Creek/ Elkai Woods community. Petitioners object to the proposed rate increase of approximately 47% to domestic customers and have specific concerns regarding a number of issues including those identified below.

ISSUES, AMONG OTHERS, THE PETITIONERS INTEND TO RAISE AT THE PROCEEDING:

- **Whether the proposed rate increase is justified based on costs claimed by the Company;**
- **Inclusion of un-paid back property taxes and interest and penalties thereon in rates. Petitioners' position is:**
 - **Rates paid since April 1, 2004 have included provision for property taxes significantly in excess of amounts actually billed by the County;**
 - **Interest and penalties should be excluded;**
 - **The issue of 1997 – 2003 back property taxes and other prior 2004 expenses not addressed in the 2004 rate case was dealt with in the settlement discussions and agreement of UW 95. Petitioners would not have agreed to dropping demands that the Golf Club (owned by same parties that owned the Water Company) pay water rates for the period 1997 – March 31, 2004 as determined by the PUC in the 1997 rate case without the assurance that any prior 2004 expenses not already addressed in rates would not be included in future rates. The issue of the unpaid property taxes for the period 1997 – 2003 was specifically discussed during settlement discussions. The Golf Club / Water Company stated that the Golf Club had incurred numerous expenses including the back property taxes which had not been billed to the Water Company and thus the Golf Club was justified in not paying more than \$100,000 of water rates during the period.**
 - **Issues related to including back taxes in rates for excess capacity related to vacant lots owned by the owners of the Water Company and how much of the back taxes would have been allocated to the Golf Club as an irrigation customer. The Golf Club withdrew as an irrigation customer in 2006. Dales Bernards agreed at the January 17, 2008 open house that this issue needed to be addressed.**
 - **Issues related to the recent Order of Default obtained by Deschutes County (the Water Company needs to show cause by February 8 as to why the order should not be implemented) and the impact on the Water Company need to be addressed. The Order impacts all of the Water Company's operating assets.**
- **Water Meters: This issue was discussed during UW 116 and the UW 116 stipulation stated that the parties to the stipulation would discuss the issue prior to the next rate case. The Water Company held no discussions on this issue which included the intervenors who were parties to the UW 116 stipulation. UW 124 includes handling water meters in a manner not discussed with nor agreed to by the UW 116 intervenors. It ignores requirements imposed in the initial 1997 rate case regarding refunds due the initial 31 residential customers including use of \$200 of the refund due customers for purchase and installation of water meters from the Water Company (thus such water meters must be treated as contributed capital). It also ignores the terms of the settlement of the lawsuit between the Elkai Woods Homeowners Assn, the Elkai Woods Fractional Homeowners Assn, and various defendants including the Water Company which explicitly addressed the issue of**

payment of connection / hook-up fees and the installation of water meters – such costs were / are the responsibility of the developer / builder. The Water Company explicitly agreed as part of the settlement that connection / hook-up fees and the cost of installing water meters serving the Elkai Woods Homeowners Assn and one building in the Elkai Woods Fractional Homeowners Assn. would not be passed on to such parties. Such costs were the responsibility of the developer who was also the owners of the Water Company. Until 2005, all other homeowners were required to pay connection /hook-up fees and install their own water meters at their own cost. Ownership of such water meters was then transferred to the Water Company as contributed capital. The Water Company has been / will be installing water meters for the last 10% of homes built / being built in Elkai Woods / Widgi Creek. The costs for installing such water meters should not be included in rates. Consistent with practice prior to 2005 and covering almost 90% of the homes, the builders / owners of new homes since 2004 should be charged for the cost of the water meters installed by the water company with such water meters being contributed back to the Water Company.

- **Billing and related administrative procedures:** The Water Company's long-standing rate and billing practices are proposed to be changed from a flat rate basis where customers prepaid water rates at the beginning of each quarter and where the 2 townhome associations were treated as the customers on behalf of their members. The proposed rate structure includes changing the definition of the customer with respect to the townhome associations and their members, changing to a metered versus flat rate basis, and changing to a monthly instead of prepaid quarterly method for billing. These changes significantly increase the administrative costs to be incurred by the Water Company and also impose significant corresponding cost increases to be incurred by customers in processing water bills. These changes result in unnecessary increased costs and waste of resources (paper, energy, etc.). Further, based on how water lines are installed and the nature of the townhome associations, there is no fair or reasonable way to invoice individual residents; the 2 townhome associations will need to continue to be the customers on behalf of their members. During the January 17, 2008 open house, Dale Bernards offered to work with customers to modify such procedures to minimize the impact of the changes on both costs and environmental impact.
- **Issues involving the agreement between the Water Company and BHelm LLC** regarding sharing costs for the well and the operation of the well and the amount of such costs to be allowed in rates.
- **Issues involving Tract A – land used by the Water Company in Elkai Woods.** The status of Tract A was explicitly dealt with in the settlement of the Elkai Woods lawsuit and as part of the settlement, a judicial stipulation was issued that amended the CCRs, in particular with respect to Tract A. The developer of Elkai Woods and the builders of the last 11 townhomes, not the Water Company, should be responsible for (1) the costs of landscaping Tract A in accordance with the terms of the settlement of the lawsuit and as a result of the impact of construction activity on

Tract A and (2) the costs associated with the temporary driveway on Tract A during the construction period.

ANY SPECIAL KNOWLEDGE OR EXPERTISE OF THE PETITIONERS THAT WOULD ASSIST THE COMMISSION IN RESOLVING THE ISSUES IN THE PROCEEDING:

- **Petitioner Robert Selder is a retired CPA and prior intervenor**
- **Petitioner Thomas Clifford is a retired Attorney and prior intervenor**
- **Petitioner Leo Mottau has extensive business experience as a CFO and business owner and is a prior intervenor**

Based on the information provided above in accordance with the Commission's rules of procedure, we request to participate in the proceeding as intervenors. We will not unreasonably broaden the issues, burden the record, or unreasonably delay the proceeding. (OAR 860-012-0001).

Robert G. Selder
Petitioner or Petitioner's representative

1/24/08
Date

Thomas M. Clifford
Petitioner or Petitioner's representative

1/24/08
Date

Leo E. Mottau
Petitioner or Petitioner's representative

1/24/08
Date