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**Before the Public Utility Commission**  
**Of Oregon**  
UW 119  
**August 2<sup>nd</sup>, 2007**

<p>In the Matter of</p> <p>AGATE WATER COMPANY Request for an increase in total annual revenues of \$202,800 or 45.7%</p>	<p>INTERVENOR DAVID N. WESTOBY’S OBSERVATION AND RESPONSE TO STAFF’S TESTIMONY FILED JULY 18<sup>th</sup>, 2007</p>
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**Introduction**

After review of Staff's direct testimony in response to the commission's direction to supplement record, I feel there are several items that have not been properly addressed in the aforementioned testimony. I would also like to reiterate the fact that it is the position of the intervenors that there are several other issues needing attention regarding the UW 119 rate case.

**Discussion**

While I was unable to locate information regarding the AWWA compensation survey referred to in (Staff/200 Dougherty/2), I was able to research information on the OLMIS web site. The pay structure represented at the OLMIS site differs greatly from that represented by PUC staff in Table 2-Recalculated OLMIS and AWWA Comparison of Wages (Staff/200 Dougherty/5).

It would appear that once again, Agate water Company customers may become financially penalized by *recalculations* made at the hands of PUC staff. Please note that I am aware of the disclaimer at the OLMIS web site stating that "Wage data do not include the self-employed." And "Annual wages are based on full-time employment. Not all jobs are full-time."

1 Understand that I am only trying to maintain consistency by using reference material  
 2 suggested by PUC staff in (Staff/200 Dougherty/1) please refer to table 1 below, taken  
 3 from the OLMIS web site at:

4 [OLMIS Plant Operator Wages](#)<sup>1</sup>

5 **Table 1-** Wages for Water And Liquid Waste Treatment Plant And System Operators

Region	----- 2007 Wages -----						
	Percentiles (hourly wages)					Avg Hourly (\$/hr)	Avg Annual
	10th	25th	50th (median)	75th	90th		
Oregon Statewide	\$14.75	\$17.41	<b>\$20.52</b>	\$23.54	\$26.89	\$20.51	\$42,661
<a href="#">Clatsop / Columbia / Tillamook</a>	18.00	19.27	<b>20.95</b>	22.55	25.03	21.10	43,893
<a href="#">Multnomah / Washington</a>	18.17	20.73	<b>24.08</b>	26.89	28.65	23.88	49,679
<a href="#">Marion / Polk / Yamhill</a>	13.64	18.20	<b>21.29</b>	24.02	26.52	20.66	42,970
<a href="#">Benton / Lincoln / Linn</a>	15.18	16.71	<b>19.99</b>	23.97	26.94	20.25	42,121
<a href="#">Lane</a>	15.87	17.61	<b>23.02</b>	26.06	27.80	21.81	45,378
<a href="#">Douglas</a>	13.45	15.00	<b>16.60</b>	18.66	21.29	16.78	34,903
<a href="#">Coos / Curry</a>	14.36	15.19	<b>16.52</b>	18.73	22.22	16.96	35,272
<a href="#">Jackson / Josephine</a>	16.17	18.80	<b>21.06</b>	24.29	27.78	21.33	44,377
<a href="#">Crook / Deschutes / Jefferson</a>	13.16	16.27	<b>19.53</b>	21.88	23.58	18.83	39,169
<a href="#">Morrow / Umatilla</a>	12.68	14.43	<b>16.61</b>	19.42	22.41	17.00	35,361
<a href="#">Clackamas</a>	14.48	15.99	<b>18.73</b>	24.26	27.22	19.80	41,204

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<http://www.qualityinfo.org/olmisj/OIC?areacode=410100000&rptype=full&action=report&occ=518031&go=Continue#section5>

1 Throughout the UW 119 rate case we have heard, or been provided with conflicting  
2 information regarding Fred Schilling's status as an employee of Agate water Company.  
3

- 4 1. At the UW 119 prehearing conference (February 16th 2007), Lynn Johnson  
5 verbally stated that Fred Schilling would be retiring this year.  
6
- 7 2. During the intervenors and PUC staff's combined tour of the facilities (May 2nd  
8 2007), Drew Johnson referred to Fred Schilling as "system operator 1", and  
9 himself as "system operator 2".  
10
- 11 3. (Docket No. UI 263, Item No. CA12) refers to Fred Schilling as a "hybrid part-  
12 timer (manager/operator/officer with 24/7 availability for emergencies and  
13 questions) with regular contact with the system operator."  
14
- 15 4. At the UW 119 evidentiary hearing (May 10th 2007) I asked Lynn Johnson about  
16 her previous comment claiming that Fred Schilling would be retiring this year.  
17 She rather aggressively responded by stating that she was sure he would like to  
18 retire since he is over 80 years old. (I do not recall her exact statement, but I am  
19 sure it could be found on the court recording also)  
20
- 21 5. In a document received by me from Agate water Company, dated July 17th 2007  
22 (without an affidavit and unsigned, so I can only assume that it was prepared by  
23 Lynn Johnson) the closing statement indicates that Mr. Schilling currently "puts  
24 in" an average of 20 to 30 hours per week.  
25

26 As with many issues in these proceedings, the multitude of answers for simple questions  
27 have left many of us confused when trying to offer possible solutions. However it does  
28 seem that the latest version of Fred Schilling's employment status with Agate water  
29 Company would be as a part-time employee.  
30

31 Several times throughout the UW 119 proceedings, PUC staff has brought to light the  
32 issue of Agate water Company being unable to provide benefits to its employees. Most  
33 recent of these referrals can be found in (Staff/200 Dougherty/7) regarding Mr. Schilling  
34 not receiving any benefits or pension contributions.

35 While Staff attempts to justify Mr. Schilling's inflated wages in (Staff/200 Dougherty/7)  
36 by referring to the absence of employee benefits, in my believe that these referrals are  
37 irrelevant based on the fact that Mr. Schilling is claiming part time status, and most  
38 companies do not provide benefits for part-time employees. Additionally, I find it

1 unreasonable to try and compensate for this lack of benefits by doubling Mr. Schilling's  
2 wages. I would also like to indicate that although intervenors have made several requests  
3 for this information, there has still not been any firm documentation supporting the  
4 full/part time status of *any* Agate water Company employees<sup>2</sup>.

5 *Question: Have Fred and Mary Beth Schilling's duties and responsibilities recently*  
6 *compounded to a point requiring that both of their salaries double?*

7  
8 In (Order No. 07-293), PUC Commissioners have expressed a more detailed report of Mr.  
9 Schilling responsibilities.

10  
11 As Lynn Johnson pointed out at the (February 16th 2007) prehearing conference, Fred  
12 Schilling is over 80 years old, and would like to retire. While I am not disputing Mr.  
13 Schilling's capabilities regarding decisions made within the company, I am a bit  
14 apprehensive of his current abilities with regards to field operations. I am merely stating  
15 that as we all get older, some of our physical capabilities become limited. It would seem  
16 that some of the duties formerly performed by Mr. Schilling would require delegation to  
17 other employees of Agate water Company at this time.

18 It is on this basis that I'm questioning the exorbitant wage increase proposed by PUC staff  
19 and Agate water Company for Mr. Schilling.

20 In earlier statements made by Drew Johnson, Fred Schilling was referred to as "System  
21 Operator 1". Intervening parties in this rate case have been briefed on some of the legal  
22 requirements and responsibilities of a person holding this title. It now seems that PUC  
23 staff claims Mr. Schilling's title should be "Top Operations and Maintenance Executive".

24 I am curious as to whether there are any additional physical, legal, educational or time  
25 requirements for a person holding this title, or is it simply a means of commanding more  
26 money with no additional effort?

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<sup>2</sup> (With Exception to current discussion regarding Mr. Schilling's employment status)  
Intervenor David N. Westoby's  
Observation and Response to  
Staff's Direct Testimony Responding to  
Commission Direction to Supplement Record

1 It is my observation that there are several factors contributing to Mr. Schilling's  
2 reluctance to retire. The most prominent one appears to be the prospect of securing a  
3 wage that would far exceed the expectations of any *reasonable* person in his position,  
4 ordered and endorsed by the Public Utility Commission.

5 I do not believe that it is the responsibility of Agate water Company customers to fund  
6 Fred and Mary Beth Schilling's retirement through elevated pay structures distributed  
7 solely amongst upper management of Agate water Company.

8 PUC staff has portrayed Agate water Company as a business that is struggling with  
9 expenditures, unable to meet financial obligations and unable to provide benefits for their  
10 employees. Yet their testimony would indicate that the way to solve these problems  
11 would be to double the wages for the two primary shareholders.

12 If I were to offer a "solution" to Agate water Company's financial problems, the wages  
13 proposed for both Fred and Mary Beth Schilling by PUC staff would be the farthest thing  
14 I can think of, opposite the "solution". Simply stated, it is the wrong answer.

1     **Conclusion**

2     Additionally, I would like to add that there are still other areas of concern in this case, as  
3     indicated through intervenors testimony. Some of which are:

- 4         • Requests for comprehensive and accurate reporting by Agate water Company  
5         • Tiered rate structure proposed by PUC staff is not a practical solution to Agate  
6             water Company's financial issues  
7

8     In closing, I would like to thank the Commission for allowing me to further express my  
9     concerns surrounding this aspect of the UW 119 rate case, and appreciate the extra effort  
10    put forth by the Commissioners in regards to this case.

11

12    Respectfully submitted,

13



14

David N. Westoby

1 **Before the Public Utility Commission**  
2 **Of Oregon**

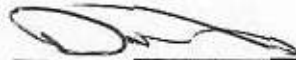
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4 UW 119  
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In the matter of: AGATE WATER COMPANY Request for an Increase in Total Annual Revenues of \$202,800 or 45.7%	<b>Affidavit of David N. Westoby</b>
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6  
7 I, David N. Westoby, due solemnly affirm and say:

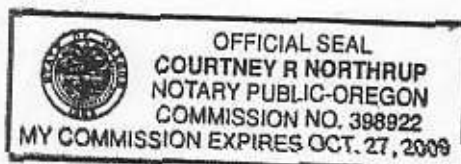
- 8 1. I am an automotive mechanic, and reside at 19244 Baker Road in Bend, Oregon.  
9 2. I am an Intervenor in the UW 119 rate case.  
10 3. I have prepared and filed supplemental testimony in the UW 119 rate case (See  
11 Intervenor David N. Westoby's observation in response to Staff's testimony filed  
12 July 18th 2007).  
13 4. I have first-hand knowledge of statements made within the above-mentioned  
14 document.  
15 5. Information in my supplemental testimony is true and correct to the best of my  
16 knowledge.  
17  
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19  
20

21 Dated this 2nd day of August, 2007



22  
23 David N. Westoby  
24

25 SUBSCRIBED AND SWORN to before me on this 2nd day of August, 2007



Courtney R. Northrup  
Notary Public, State of Oregon  
County of Deschutes  
My Commission Expires 10-27-2009

## CERTIFICATE OF SERVICE

UW 119

I certify that I have this day served the foregoing document upon all parties of record in this proceeding by delivering a copy in person or by mailing a copy properly addressed with first class postage prepaid, or by electronic mail pursuant to OAR 860-13-0070, to the following parties or attorneys of parties.

Dated at Bend, Oregon, this 2nd day of August, 2007.



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David N. Westoby (Intervener, UW 119)  
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(541) 388-3946  
[westoby@bendcable.com](mailto:westoby@bendcable.com)



## UW 119 Service List (Parties)

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Lawrence Riser  
60251 Winnebago Ln.  
Bend, OR 97702

Stephanie Michelsen  
19420 Indian Summer Rd.  
Bend, OR 97702

Timothy A. Rogers  
60194 Cinder Butte Rd.  
Bend, OR 97702

Agate Water Company c/o Fred & Beth Schilling  
60107 Minnetonka Ln.  
Bend, OR 97702

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