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BEFORE THE OREGON PUBLIC UTILITY COMMISSION

PUBLIC UTILITY COMMISSION OF OREGON,

Complainant,

v.

VCI COMPANY f/k/a STAN EFFERDING and STANLEY JOHNSON d/b/a VILAIRE, and VCI COMPANY, a Washington corporation,

Defendants.

Docket No. UM1288

REPLY IN SUPPORT OF DEFENDANTS' MOTION TO REOPEN DOCKET, RECONSIDERATION OF CLOSURE, STAY EXECUTION, AND REQUEST FOR RULING ON PENDING MOTIONS

(ORAL ARUGUMENT REQUESTED)

Defendants have moved the Commission to reopen this docket, rule on the pending motions, and stay execution until the defendants have been given a hearing. The Complainant has taken the position that the Commission no longer has jurisdiction to consider this motion given that Defendants have also filed a notice of appeal in the Court of Appeals. However, filing in the Court of Appeals does not deprive the Commission of jurisdiction to reopen the docket and reconsider its failure to act on the pending motions. ORS 183.482(6) specifically provides that:

At any time subsequent to the filing of the petition for review and prior to the date set for hearing the agency may withdraw its order for purposes of reconsideration

...

Thus, it is fully within the Commission's authority and jurisdiction to reopen this docket and reconsider Defendant's motions.

As for the stay of execution, as noted in Defendants' motion, the execution against

1 Defendants is not based on a determination on the merits of the case, but on a faulty default order
2 entered without due process. Further, the collection actions were initiated *ex parte*, not allowing
3 Defendants the opportunity to immediately respond, thus depriving them of property, again
4 without due process. Thus, Defendants have more than demonstrated their right to a stay in
5 execution.
6

7 Dated this 20th day of July, 2011.

8 SCHWABE, WILLIAMSON & WYATT, P.C.

9
10 By: 

11 William J. Ohle, OSB #913866
12 wohle@schwabe.com
13 Facsimile: 503.796.2900
14 Of Attorneys for VCI COMPANY f/k/a
15 STAN EFFERDING and STANLEY
16 JOHNSON d/b/a VILAIRE, and VCI
17 COMPANY, a Washington corporation
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1 CERTIFICATE OF SERVICE

2 I hereby certify that on this 20th day of July, 2011, I served the foregoing REPLY IN
3 SUPPORT OF DEFENDANTS' MOTION TO REOPEN DOCKET, RECONSIDERATION,
4 STAY EXECUTION, AND REQUEST FOR RULING ON PENDING MOTIONS on the
5 following party at the following address:

6 David B. Hatton
7 David.Hatton@state.or.us
8 Assistant Attorney General
9 1162 Court Street NE
10 Salem, OR 97301-4096
11 Attorney for the Public Utility
12 Commission of Oregon

13 John Kroger (*via U.S. Mail only*)
14 Oregon Attorney General
15 Department of Justice
16 1162 Court Street NE
17 Salem OR, 97301

18 by electronic filing and emailing to him a true and correct copy thereof, certified by me as such,
19 placed in a sealed envelope addressed to him at the address set forth above, and deposited in the
20 U.S. Post Office at Portland, Oregon, on said day with postage prepaid.

21 
22 _____
23 William J. Ohle
24
25
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