

April 10, 2008

Public Utility Commission
550 Capitol Street NE
Salem, OR 97301

Re: AR 525

Dear Sirs:

The attached comments are being offered as testimony in regards to the rule-making hearing AR 525.

First and foremost, Crooked River Ranch Water Cooperative considers HB 2226 to be constitutionally incorrect and will make all efforts to have this bill rescinded.

Concerning AR 525, there are many revisions in this rule-making that we will be publicly and legally opposing. To mention a few, the PUC's involvement in petitions should be revoked. Also, any and all revisions or additions to the PUC rules concerning jurisdiction that commences on the day the commission determines the 20% threshold has been met, in our opinion, eliminates all due process and violates the rights of the other 80% of the people on the system. But, it goes against the basic principle of HB2226, as presented to the legislature by the PUC commissioners.

We believe this is a matter that should be brought before the supreme court of this state. Since this exact subject is a matter on appeal at the Appellate Court level at this time, we request AR 525 be rewritten to eliminate our concerns or be allowed a hearing on this subject.

Management of the CRRWC requests to attend the 4/21 hearing via phone conferencing. Our phone number is 541-923-1041.

Sincerely,

James Rooks,
General Manager

TESTIMONY OF CROOKED RIVER RANCH WATER CO-OP
Rule-making Hearing re AR 525
April 21, 2008

The following comments regarding the Commission Staff's Proposed Rules, are offered as testimony:

860-036-0010

(3): The **definition of "Association"** remains vague and unclear, and is used differently throughout this document, i.e. 860-036-0412 #1. The definition needs to be further defined and applied consistently throughout the rules.

(21): "**Large commercial customer**" should not be based on the size of meter or pipe. It should be based upon the amount of water used. A customer with a 1" meter who uses 20 gallons of water per day, should not have to pay more than a customer with a 5/8" meter using 2000 gallons of water per day. Determination and charge should be based upon usage.

(24): "**Otherwise-regulated utility**": You have formed a new classification here that is not well defined, as evidenced in #26 of this rule. It is referenced throughout this document, and seems to cover a different company category. It appears, basically, that you want all water company's to come under one type of regulation or another. If that's the case, then come out and say it simply and stop the multiple categories and varied rules.

(31): "**Small commercial customer**" again, as noted under (21), this should not be based on size of meter or pipe, but based on usage.

860-036-0040

(1) (b): The PUC should have nothing to do with a company's policy regarding **credit scoring**. If the PUC has a rule or guidelines already established that they want company's to follow, they need to be noted in the OAR's.

860-036-0080

(1) (b): "...five-business day notice.": **Business** day should not be a criteria. In our company, for example, there is a locked drop box located in our parking lot that is accessible to customers 7 days a week, 24 hours a day. If they want to pay, they can leave their payment in the box. The longer the time span on a letter, the less likely it is the customer will

remember to make contact. Five days, in general, is more than enough time.

860-036-0120

(2): The **meter number** has been added as a requirement to be entered on bills. For company's that have a billing program that does not accommodate this addition, there needs to be an increase in rates automatically applied by the PUC, and there needs to be an implementation date in which the company's are given time to accommodate the change. This is not an easy task to accomplish for smaller company's.

860-036-0247

(2): "Each water utility shall provide a means by which an applicant or customer may contact the water utility at any time to **request a service reconnection.**" Further clarification is required here. Does this mean the company needs to have an answering machine available to take the persons name, number, etc., to return a call to? Does it mean someone has to be available to open the office, take payment, etc., and then reconnect service at any hour of the day? When overtime has not been allowed in rates and the company runs with minimal staff, this is not an expectation that can be easily met. The PUC needs to provide further clarification and options that are reasonable to small company's.

860-036-0310

(3): The PUC should have nothing to do with **water quality laws.** There are already other state and federal agencies that deal with these issues. And they have the enforcement powers that are necessary to correct issues. This is a waste of taxpayers dollars, and would be dealt with by unqualified staff. Let the agencies that have been created to deal with these issues, and have staff qualified to deal with these, do their job. The PUC needs to concentrate on their own mission statement and stay within those guidelines.

(4): The standard has always been at 20 psi, as stated in (3). Where does the PUC come off saying they will determine the **appropriate water pressure** for the utility when they have no knowledge of the system? This is another case of unqualified people making determinations for systems of which they have no knowledge of terrain, pumping capacities, etc. Reading numbers from a piece of paper does not translate into reality. This needs to be removed.

860-036-0325

(5): This has got to be one of the most ridiculous additions to policy I have ever seen. **If a customer fails to comply with water restrictions the company is to seek Commission approval to disconnect?** By the time we could work our way through the bureaucratic process, the restrictions would be over. A company does not restrict unless there is a severe need. This should be left to the discretion of the company's and the Commission needs to butt out.

860-036-0364

A definition and example of "**discriminatory water service**" is needed. The PUC should not be allowed to impose jurisdiction for inadequate or discriminatory water service. Again, there are other state and federal agencies that are way more qualified to take care of these situations than the PUC. The Department of Human Services, Drinking Water Program, and the Health Division, have personnel with qualifications to make a determination of whether water poses a safety or health risk. They also have the authority to take what action is necessary to remedy the situation. This is another case of the PUC trying to enter into an area that is 1) already covered by other state agencies, and 2) is not part of their charter or qualifications. Remove this rule. You are overstepping your bounds.

860-036-0380

The PUC should not be allowed to **impose penalties** on any water system that is a non-profit, member owned company. These penalties will only be borne by customers placing a hardship on the customer and on the company. In #1, it states a civil penalty can be assessed for violation of Oregon Administrative rules. This is completely improper beings that the PUC staff do not follow their own rules. If you are going to hold a company liable for not following these rules, then the same should happen to the PUC. In addition, PUC staff interpret the rules to meet the situation, so there's no absolute way for company's to truly follow the rules. Unless the PUC firms up the rules and requires staff and company's alike to follow them as written, this should be removed.

(4) States the **water utility bears the burden of proof to demonstrate that the violations have been remedied**. Again, until rules are firmed up and PUC, Commissioners, and utilities are held accountable to the same degree, this is a non-winnable statement for the utility. PUC staff have already exhibited the ability to interpret their rules to their own whim, whether it truly fits the situation or not. No matter how hard the utility tries to meet the requirement, staff continue to say the utility has not met the order, etc. To continue to try to get an unbiased hearing through the Administrative Process is prejudicial to the utility and its members. This

should be taken straight to a circuit court in order for the company to receive a fair and unbiased ruling.

(5) To say the penalties imposed may be used for the benefit of the customers is hypocritical for water utilities that are non-profits, customer owned. We would just be paying ourselves.

860-036-0412

First off, there have been many additions made to this rule - it's gone from 8 to 18. Much of the changes have to do with petitions. It appears that there needs to be a rule just for petitions - separate it out so people can actually ascertain what the rules are. At this point, they are co-mingled in with everything else which leaves room for confusion.

Second, the rules regarding petitions should follow the state rules that are put out by the Secretary of States office. This would make the entire process more legal than this administrative process, and would hold the petitioners more accountable than what they are in this rule.

The PUC jurisdiction should be established by an investigative process conducted by a third party independent of the PUC and water utility, possibly a municipal court or attorney general's office. The PUC should not be involved in determining its own jurisdiction over utilities. Reason: to insure fair and just reason for PUC jurisdiction. Because the PUC has a financial interest and monumental impact on customers, whether or not they take jurisdiction, should be completely independent of the PUC. We believe this is the exact reason why the Supreme Court should rule on this.

However, noting that in all likelihood, the PUC will not throw out this rule, we offer the following testimony on this rule:

(1): Here you have inserted the word "only" in the **definition of association**. This is different that the definition provided in 860-036-0010. Definitions need to be consistent throughout the OAR.

(4): "Petitions **should** be in writing...". SHOULD??? In what other format will the PUC accept a "petition" if not in writing? The Webster's New College Dictionary defines petition as a formal written document or application. Remove "should" and put "must" back in.

"Lack of information on a petition will not necessarily invalidate the petition." Again, you need to be specific. What is **REQUIRED** on a petition? If it's required, then it must be on the petition. The "lack of

information" line needs to be removed. This leaves too much room for the PUC to pick and choose, depending on the company and situation, what they will and won't require. Again, make a rule stating what **must** be on a petition, then require the petitioners and PUC staff to follow that rule. What is the plan for validation of petitions if no phone numbers are required?

(5) Individual letters need to meet the same requirements as those listed in #4.

(9): There needs to be a closing date on the **acceptance of petitions**. My suggestion would be 60 days from the date the first petition is received. It seems that it is more work for PUC staff to continue to monitor dates of petitions, etc., and is certainly unfair to the utility to have this remain open so whenever a customer gets upset, they just have to submit a letter to the PUC. This needs to be tightened.

(11): How will the Commission notify the utility of the change in regulatory status?

(15): This section needs to be right after #10. The rights of the utility need to be fully noted and in plain sight. Jumping to tariff's and refunds before the validity of the petitions and general process has been determined is a complete disregard of the utility's right to a fair hearing via the judicial process.