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BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON

UM 1248

		ROATS WATER SYSTEM, INC., an active Oregon business corporation,
	)	Complainant,
	)	vs.
	)	GOLFSIDE INVESTMENTS, LLC, an active Oregon limited liability company,
	)	Defendant.

COMPLAINANT'S RESPONSE  
TO DEFENDANT'S OBJECTIONS  
TO COMPLAINANT'S MOTION  
TO FILE A REPLY

Complainant Roats Water System, Inc. ("Roats") filed a request to allow it to respond to Defendant Golfside Investments, LLC ("Golfside's"). Answer to raise certain issues including good faith and fair dealing, waiver and reciprocal attorney fee rights. Golfside filed an Objection.

Golfside "questions whether Complainant can assert *any* affirmative defenses in light of the fact that Defendant has not alleged any counterclaims". It should be noted that in this matter, Roats originally asked the PUC for a simple declaratory ruling as to whether its tariffs apply in a case where the developer initially indicates that it will develop its property as one tax lot with manufactured homes and subsequently changes its plan to an individually owned multiple tax lot subdivision in which the developer can build any type of home on any of the lots. Roats was advised by the Commission to file a complaint after Golfside argued to the Commission that there were factual issues in dispute. On that suggestion, Roats filed this complaint seeking a determination of whether the tariffs apply to Golfside.

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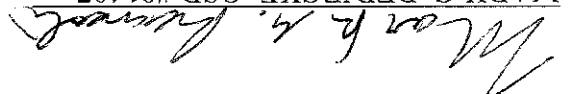
1 Golfside not only denies that it is responsible for the charges, but also alleges a right to  
2 reimbursement for its attorney fees based on its allegation that Roats' tariff charges are  
3 unreasonable. Although Golfside may not have titled this a "claim", the result is the same. It is  
4 clear that Golfside is making a claim that it is entitled to reimbursement of its attorney fees  
5 based on the statute it relies upon. Roats did not seek attorney fees in the original Complaint  
6 because it was not entitled to them under the claims it filed. However, now that Golfside has  
7 alleged that Roats is in violation of the statute requiring judgment in Golfside's favor and an  
8 award of attorney fees, the reciprocal nature of that attorney fee provision is just as applicable  
9 to Roats. If the court believes that Roats' should title its claim to reimbursement of its attorney  
10 fees in some other way, it will be happy to do so. Roats chose to address the reciprocal  
11 provision in what appeared to be the most simple and logical way.

12 Golfside further objects to Roats' attorney fee claim as untimely and prejudicial.

13 Interestingly, Golfside filed its Answer one day after the parties submitted their stipulated facts.  
14 Golfside is attempting to use the stipulated facts as a sword rather than to narrow the issues for  
15 the court and hopefully reduce the litigation expenses. In preparing Roats' Opening Brief, it  
16 was determined that the otherwise unavailable claim for attorney fees is available now that  
17 Golfside has filed a claim under the statute.

18 Golfside has provided nothing in the form of evidence as to how it has been prejudiced.  
19 Golfside had to expect that by raising a new claim with a reciprocal attorney fee right, Roats  
20 would make the same claim. Despite Golfside's unsupported statement to the contrary, it has  
21 not been prejudiced. Any and all strategies, arguments and settlement potential are still  
22 available to Golfside. Roats respectfully requests that its Reply be included in the pleadings.  
23 DATED this 3 day of November 2006.

24 BRYANT LOVLIN & JARVIS,

  
25 MARK G. REINECKE, OSB #91407  
26 Of Attorneys for Roats Water Systems

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CERTIFICATE OF SERVICE

I hereby certify that I served on the date set forth below the foregoing

COMPLAINANT'S RESPONSE TO DEFENDANT'S OBJECTIONS TO COMPLAINANT'S  
MOTION TO FILE A REPLY on the following persons by the following indicated method(s):

Brian C. Hickman  
Peterkin & Associates  
222 NW Irving Ave.  
Bend, OR 97701  
bhickman@peterkinpc.com

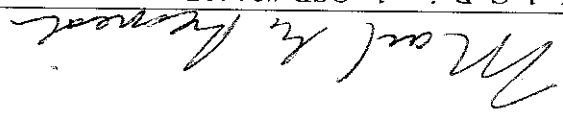
Jason W. Jones  
Assistant Attorney General  
1162 Court Street NE  
Salem, OR 97301-4096  
jason.w.jones@doj.state.or.us

[ X ] by MAILING a full, true and correct copy in a sealed, postage paid  
Envelope, addressed to the above and deposited with the US Postal  
Service in Bend, OR 97701

[ ] by causing full, true and correct copies to be hand delivered to the  
above persons

[ X ] by E-MAILING a full, true and correct copy to the above.  
DATED this 3 day of November, 2006.

BRYANT, LOVLIEN & JARVIS

  
Mark G. Reineck, OSB #91407

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23 DATED this \_\_\_\_\_ day of November 2006.

24 BRYANT LOVLIE & JARVIS,

25 \_\_\_\_\_  
26 MARK G. REINECKE, OSB #91407  
Of Attorneys for Roats Water Systems

1 CERTIFICATE OF SERVICE

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3 I hereby certify that I served on the date set forth below the foregoing  
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6 Brian C. Hickman  
7 Peterkin & Associates  
8 222 NW Irving Ave.  
9 Bend, OR 97701  
10 [bhickman@peterkinpc.com](mailto:bhickman@peterkinpc.com)

11 Jason W. Jones  
12 Assistant Attorney General  
13 1162 Court Street NE  
14 Salem, OR 97301-4096  
15 [jason.w.jones@doj.state.or.us](mailto:jason.w.jones@doj.state.or.us)

16 [ X ] by MAILING a full, true and correct copy in a sealed, postage paid  
17 Envelope, addressed to the above and deposited with the US Postal  
18 Service in Bend, OR 97701

19 [ ] by causing full, true and correct copies to be **hand delivered** to the  
20 above persons

21 [ X ] by **E-MAILING** a full, true and correct copy to the above.

22 DATED this \_\_\_\_ day of November, 2006.

23 BRYANT, LOVLIE & JARVIS

24 \_\_\_\_\_  
25 Mark G. Reineck, OSB #91407  
26