



1 As such, the Company maintains its status as a Domestic Nonprofit Corporation, Mutual  
2 Benefit of Members, Secretary of State File, 120921-10. Because the Company is not a  
3 Cooperative and is a Domestic Nonprofit Corporation, Mutual Benefit of Members, it is subject  
4 to Commission regulation pursuant to ORS 757.063. Additionally, on December 14, 2010, Staff  
5 received an e-mail from the Board President stating that the Board voted down exploring the  
6 issue about becoming a Cooperative.

7 In its response to the ALJ's first question of providing oversight of CRRWC, Staff  
8 approaches this as a two part test. The two parts are:

9 1. Were sufficient customer petitions received from customers?

10 and

11 2. Is it in the public interest for the Commission to provide oversight?

12 Concerning the first part test, it is undisputable that petitions for regulation were received  
13 from over 20 percent of the Company's customers. As the Oregon Court of Appeals December  
14 24, 2008, ruling in Case No. A134177 states in endnote 1:

15 The PUC determined that it had received 397 petitions; the 20 percent threshold  
16 required 311.

17 Additionally, Staff in WJ 8 Staff/300, Dougherty/31 stated:

18 The member count used in WJ 8 was 1,552. Because 397 divided by 1,552 equals  
19 26 percent, the 20 percent requirement of ORS 757.063 was met. Additionally,  
20 what is impressive about the number of petitions received is that 103 members  
21 live out of state and an additional 195 members do not live in the Central Oregon  
areas of Madras, Bend, Sisters, or Prineville. As a result, many of these members  
may not have been available to sign petitions. This indicates significant support  
by members for regulation of the Company.

22 As a result, there are sufficient customer petitions for the Commission to assert regulation  
23 pursuant to ORS 757.063.

24 Concerning the second part test, in WJ 8 Staff/300, Dougherty/30, Staff list numerous  
25 reasons why the Commission should provide oversight of CRRWC. These reasons include:

26 1. The large amount of customer petitions received by the Commission met the petition  
requirement of ORS 757.063.

- 1           2. The Company has not been responsible with member money resulting in harm to  
2           members.
- 3                 a. Recent years show a significant diminishment of investment and other funds.  
4                 b. Not using the Capital Assessment Funds for its intended purposes.  
5                 c. Questionable capital expenditures that displace funds for the establishment of  
6                 member accounts.  
7                 d. Excessive legal expenses.  
8                 e. Excessive payments to management and directors.
- 9           3. The Company's Board is not providing adequate oversight of the Company resulting  
10           in harm to members.
- 11           4. The significant amount of customer complaints resulting in harm to members.

12           As can be seen from above, the reasons to provide oversight were directly related to the  
13           actions of the Company's previous management coupled with lack of oversight by the previous  
14           Company Board. Staff, in Staff/300 and related testimony in additional CRRWC dockets (UCR  
15           100 and WJ 120) consistently highlighted the need for Commission oversight.

16           However, as a result of actions taken in Jefferson County Case 09 CV-0049 that included  
17           the election of a new board (which subsequently resulted in the departure of previous  
18           management); the facts underlying this case have changed. The Company now has a duly and  
19           honestly elected board, the management that was an impetus to the many Commission dockets is  
20           no longer affiliated with CRRWC, and the water system is currently being serviced by Avion  
21           Water Company under a contract with the CCRWC Board.

22           In discussions with the new board, CRRWC has shown an interest in having the  
23           Commission maintain oversight of the Company. As a result, Staff would welcome the  
24           opportunity to work with the new board to recommend fair and reasonable rates, establish fair  
25           regulations and policy, to assist in budgeting, and assist in other aspects of water regulation.

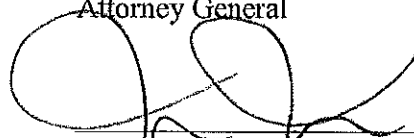
26           Staff believes the remaining issue left for the Commission to determine is whether or not  
          the public interest requires regulation. Staff has been in informal conversations with the new  
          Board and its counsel related to its future plans. It is possible that the new Board will accept the

1 assertion of Commission regulation. If so, the Commission should order a new order asserting  
2 jurisdiction. Otherwise, a prehearing conference should be scheduled to establish a process for  
3 resolving this remaining issue.

4 DATED this 29<sup>th</sup> day of December 2010.

5 Respectfully submitted,

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7 Attorney General

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10 Assistant Attorney General  
11 Of Attorneys for Staff of the Public Utility  
12 Commission of Oregon  
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