

# LAW OFFICES OF DAVID HILGEMANN

The Equitable Center, Suite 700  
530 Center Street N.E.  
Salem, Oregon 97301-3740

David A. Hilgemann

Raymond A. Reid  
Christopher B. Matheny  
Associates

Telephone: (503) 585-2236  
Facsimile: (503) 585-1006

E-mail: [hilged@dhilgemannlaw.com](mailto:hilged@dhilgemannlaw.com)

Estelle J. Watson  
Certified Legal Assistant

Lisa D. Cline  
Legal Secretary

April 10, 2006

The Honorable Samuel J. Petrillo  
Administrative Law Judge  
Public Utility Commission of Oregon  
P. O. Box 2148  
Salem, OR 97308-2148

VIA FAX: 503-378-5505;  
FIRST CLASS MAIL; AND  
ELECTRONIC FILING

Re: Roats Water System, Inc. v. Golfside Investments, LLC  
Case No. UM-1248

Dear Judge Petrillo:

Enclosed for your consideration and filing, please find Defendant's Motion for Reconsideration in the Alternative Request for Certification in regard to the above-entitled matter.

Please note that I have been associated as counsel of record and am assisting Brian Hickman in representing Defendant Golfside Investments, LLC.

If you have any questions, please do not hesitate to contact me.

Respectfully submitted,

David A. Hilgemann

DAH/lc  
Enclosure

cc: Mark G. Reinecke (w/enclosure) (via FAX and First Class Mail)  
Jason W. Jones (w/enclosure) (via FAX and First Class Mail)  
Brian C. Hickman (w/enclosure) (via FAX and First Class Mail)

TOTAL PAGES FAXED: 6



1 a statute that is within the jurisdiction of the Commission. ORS 756.500(1). But the ruling  
2 allows Plaintiff to file the Complaint against Golfside, whose business is not regulated by the  
3 Commission.

4 *RECONSIDERATION*

5 The 1939 legislature enacted the provisions now in ORS 756.500(1) through (4)  
6 as part of the Uniform Practice Act of the Public Utilities Commissioner. 1939 Oregon Laws  
7 Chap. 320, Sec. 4. The legislature added subsection (5), relied upon in the ruling, in 1971.

8 Subsection (1) of the statute defines who can file a complaint with the  
9 Commission: “Any person may file a complaint,” or the Commission on its “own initiative,  
10 [may] file such complaint.” Subsection (1) *also* defines the “defendant” in a complaint filed  
11 by a “person” or by the Commission:

12 “The complaint shall be against any person whose business or  
13 activities are regulated by [the Commission] \* \* \*.”  
14

15 There is a relationship between subsection (1) and subsection (5) of ORS  
16 756.500. After all, the two subsections are part of the same statute. The provisions of all  
17 subsections in ORS 756.500 must be considered in the determining the meanings of subsections  
18 (1) and (5). *PGE v. Bureau of Labor and Industries*, 317 Or 606, 611, 859 P2d 1143 (1993).  
19 Subsection (5) should not be considered in isolation.

20 Subsections (2) through (4) contain additional procedural provisions regarding  
21 a “complaint.” These procedural provisions must apply to a “complaint” brought by a public  
22 utility under subsection (5) because the procedural provisions are not only part of the same  
23 statute but there are no other procedural provisions applicable to a complaint under  
24 subsection (5).





1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I served the foregoing MOTION FOR RECONSIDERATION IN THE ALTERNATIVE REQUEST FOR CERTIFICATION on:

Mark G. Reinecke  
Bryant, Lovlien & Jarvis, PC  
P. O. Box 1151  
Bend, OR 97709-1151  
FAX No. (541) 389-3386  
Of Attorneys for Complainant

Jason W. Jones  
Assistant Attorney General  
Regulated Utility & Business Section  
1162 Court Street NE  
Salem, OR 97301-4096  
FAX No. (503) 378-5300

by FAXing and mailing to said attorneys a full, true, and correct copy thereof at the FAX numbers and addresses listed above on the 10<sup>th</sup> day of April, 2006.

LAW OFFICES OF DAVID HILGEMANN

By: \_\_\_\_\_  
David A. Hilgemann, OSB #72121  
Of Attorneys for Defendant