

1 **BEFORE THE PUBLIC UTILITY COMMISSION**
2 **OF OREGON**

3 UW 120

4 In the Matter of

5 CROOKED RIVER RANCH WATER
6 COMPANY

7 Request for Rate increase resulting in total
8 annual revenues of \$868,453.

STAFF'S MOTION REGARDING VIOLATIONS
OF ORDER NO. 07-527

9 Pursuant to OAR 860-013-0031, the Public Utility Commission of Oregon Staff (Staff)
10 respectfully moves for an order confirming that Crooked River Ranch Water Company
11 (CRRWC) is in violation of the Public Utility Commission of Oregon (Commission) Order No.
12 07-527, specifically ordering paragraphs 4, 5, and 6.

13 INTRODUCTION

14 On November 29, 2007, the Commission entered Order No. 07-527. Among other
15 dispositions and orders, the Commission ordered the CRRWC to do the following:

- 16 4. Not later than 30 days from the date of this order, Crooked River Ranch Water
17 Company shall submit any contracts between itself and its General Manager
18 Mr. Rooks and members of the Rooks' family, along with supporting
19 5. Not later than 30 days from the date of this order Crooked River Ranch Water
20 Company shall file an accounting of its collection of funds through its special
21 assessment surcharge and the disposition of such funds, from the inception of
22 6. Not later than 30 days from the date of this order, Crooked River Ranch Water
23 Company shall file a report stating its need for funds for new capital
24 improvements, including the intended projects, the estimated costs of each such
project, and the time that each investment would be required.

25 In response to inquiry on compliance with these requirements from Staff's counsel, on
26 January 28, 2008, CRRWC provided a signed Declaration of James Rooks (Declaration). The

1 Declaration is attached to this motion as Attachment A.

2 While Staff did not, and does not, believe this Declaration satisfies the requirements of
3 ordering paragraphs 4, 5, and 6 quoted above, the Declaration refers to information provided
4 pursuant to the order issued in Jefferson County case CV 07-0150. On January 8, 2008, the
5 CRRWC provided information. However, due to the lack of organization and voluminous nature
6 of the information, Staff was required to spend extensive time reviewing the information to reach
7 any conclusions.

8 Concurrently with the filing of this motion, Staff is also filing its Staff Report on the
9 UW 120 Contempt Proceedings. As Staff's Report details, the information provided in response
10 to the Jefferson County Circuit Court case does not satisfy the Commission requirements set
11 forth in ordering paragraphs 4, 5, and 6 of Order No. 07-527.

12 DISCUSSION

13 **1. CRRWC did not comply with ordering paragraphs 4, 5, and 6 of the Commission's**
14 **Order No. 07-527.**

15 Initially, Staff notes that the CRRWC filed nothing with the Commission purportedly
16 responsive to ordering paragraphs 4, 5, and 6. Instead, the CRRWC provided the Declaration to
17 Staff's counsel based upon an inquiry from Staff's counsel on the how CRRWC was going to
18 comply with the Commission Order.

19 In relation to ordering paragraph 4, the Declaration states that Rooks is an at-will
20 employee and that Michelle Comstock was an at-will employee, but no longer works for
21 CRRWC. The Declaration also states that an employment contract existed between Mr. Rooks
22 and CRRWC, but it was terminated by Order No. 07-527. The Declaration also states that there
23 was a verbal contract between Mr. Rooks and the Board of Directors¹ for maintenance and
24 repairs but this contract was also terminated by Order No. 07-527.

25 _____
26 ¹ Presumably a contract with the Board of Directors is a contract with the CRRWC. Staff assumes that
the Declaration uses these terms interchangeably as it refers to an employment contract between Mr.
Rooks and CRRWC and a maintenance and repair contract between Mr. Rooks and the Board of
Directors.

1 Order No. 07-527, ordering paragraph 4 provides:

2 4. Not later than 30 days from the date of this order, Crooked River Ranch Water
3 Company shall submit any contracts between itself and its General Manager
4 Mr. Rooks and members of the Rooks' family, along with supporting
testimony, to this Commission for approval.

5 (Emphasis added).

6 Mr. Rook's Declaration is not in compliance with the Commission's ordering
7 paragraph 4. First, CRRWC has not filed anything for Commission approval, nor have they filed
8 any supporting testimony. While the Declaration alleges that the maintenance and repair
9 contract between Mr. Rooks and the Board of Directors was verbal, the Commission ordered
10 CRRWC to provide any contracts, not only written contracts. *See also* ORS 757.495(2) (which
11 explicitly requires the filing of any contract, oral or written, with an affiliated interest relating to
12 maintenance of utility property.)

13 The Declaration further suggests that CRRWC is not required to file the contracts and
14 supporting testimony with the Commission because Order No. 07-527 "effectively terminated"
15 or "terminated" the contracts. In spite of CRRWC's opinions, Order No. 07-527 does not
16 "terminate" any contracts. Furthermore, CRRWC utterly fails to offer any testimony, such as
17 Board resolutions, that demonstrate that these contracts have been legally terminated by
18 CRRWC. Additionally, both Mr. Rooks and Jacquie Rooks are still employed at CRRWC.
19 Under any objective standard, CRRWC has failed to comply with ordering paragraph 4.

20 In relation to ordering paragraphs 5 and 6 of Order No. 07-527, CRRWC simply asserts
21 that it has complied with the Commission's orders in the context of providing information in the
22 Jefferson County Court case. Order No. 07-527, ordering paragraphs 5 and 6 provide:

23 5. No later than 30 days from the date of this order Crooked River Ranch Water
24 Company shall file an accounting of its collection of funds through its special
25 assessment surcharge and the disposition of such funds, from the inception of
26 the fund to the present.

1 6. Not later than 30 days from the date of this order, Crooked River Ranch Water
2 Company shall file a report stating its need for funds for new capital
3 improvements, including the intended projects, the estimated costs of each such
project, and the time that each investment would be required.

4 As a threshold issue, CRRWC has failed to file any accounting or report as required by
5 ordering paragraphs 5 and 6, respectively. The requirement to provide an accounting of the
6 special assessment fund and the requirement to file a report on capital projects is unrelated to the
7 production of underlying information requested through the discovery process. CRRWC has not
8 complied with the ordering paragraphs 5 and 6.

9 As detailed in the concurrently filed Staff Report, CRRWC has not complied with
10 ordering paragraphs 4, 5, and 6. *See* Staff Report at 2; 5-6. While Staff has expended substantial
11 time reviewing the documentation provided pursuant to the to Jefferson County Court case order,
12 and recommended certain findings regarding the provided information, CRRWC has not
13 complied with the Commission's ordering paragraphs 4, 5, and 6. The Commission required
14 very specific accountings and reports, which CRRWC has not provided. By any objective
15 standard, voluminous underlying documentation provided in response to Staff discovery requests
16 does not constitute compliance with the Commission's very specific requirements outlined in
17 Order No. 07-527.

18 **2. The Commission should make CRRWC comply with the ordering paragraphs 4, 5,**
19 **and 6 of Order No. 07-527.**

20 First and foremost, CRRWC should be made to comply with the Commission's Order.
21 As the Commission is aware from the UW 120 proceedings, CRRWC is a member-owned, non-
22 profit corporation.

23 Because the shareholders of CRRWC are its members, remedies that seek damages
24 against the shareholders would be borne by the members. Staff contends that the noncompliance
25 at issue here should be borne by the Board of Directors, who have control of the operations of
26 the CRRWC, because it is the members of the Board of Directors who are responsible for

1 complying (in this case, not complying) with the Commission's Order.

2 ORS 757.994 provides:

3 (1) In addition to all other penalties provided by law, a person who violates any
4 statute, rule or order of the Public Utility Commission related to water utilities
5 is subject to a civil penalty of not more than \$500 for each violation. The
6 commission may require that penalties imposed under this section be used for
7 the benefit of the customers of water utilities affected by the violation.

8 (2) Notwithstanding ORS 183.745(7)(d), 183.315(6) and 756.500 to 756.610, civil
9 penalties under this section must be imposed as provided in ORS 183.745.

10 ORS 757.994 provides that a person who violates an order of the Commission related to
11 water utilities is subject to a civil violation of up to \$500 for each violation. Based upon the
12 UW 120 record and organizational structure of CRRWC, its Board of Directors is responsible for
13 the operation of CRRWC. Therefore, each of the five individuals² that make up the Board is
14 responsible for complying with Commission orders.

15 In Order No. 07-527, entered November 29, 2007, the Commission ordered that CRRWC
16 comply with ordering paragraphs 4, 5, and 6 no later than 30 days from November 29, 2007.
17 Considering that the thirtieth day fell upon a Saturday, Staff calculated the due date to be
18 Monday, December 31, 2007.

19 As outlined in the concurrently filed Staff Report and in this motion, CRRWC has to date
20 not complied with ordering paragraphs 4, 5, and 6. At a minimum, noncompliance with each
21 ordering paragraph is a separate violation. The Commission should issue an order that confirms
22 that CRRWC is in violation of Order No. 07-527. In its new order, the Commission should
23 specifically name the five individual Board members and state its intention to seek civil penalties
24 against each of them if CRRWC does not comply by the stated time. If the individual members
25 of the Board of Directors do not comply with the new order, the Commission could seek civil
26 penalties against each board member for up to \$1500 per day (\$500 per separate violation).

² The members of the CRRWC Board of Directors are: James Rooks, Brian Elliott, President of the Board; Richard Keen, Vice President of the Board; Richard Miller, Secretary/Treasurer of the Board; and Randolph Scott, Director of the Board.

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RECEIVED

JAN 30 2008

Department of Justice
General Counsel-Salem

DAVID C. GLENN
EDWARD E. SITES
DONALD V. REEDER
TIMOTHY R. GASSNER

BOYD OVERHULSE
1934-1966 (Deceased)
SUMNER RODRIGUEZ
1949-2005 (Deceased)

January 28, 2008

Jason Jones
Oregon Department of Justice
Regulated Utility and Business Section
1162 Court Street NE
Salem, OR 97301-4096

RE: In the Matter of Crooked River Ranch Water Company Docket No. UW120

Dear Jason:

Enclosed please find the original signed Declaration of James Rooks in the above referenced matter.

Very truly yours,

GLENN SITES & REEDER, LLP

TIMOTHY R. GASSNER

TRG:jp

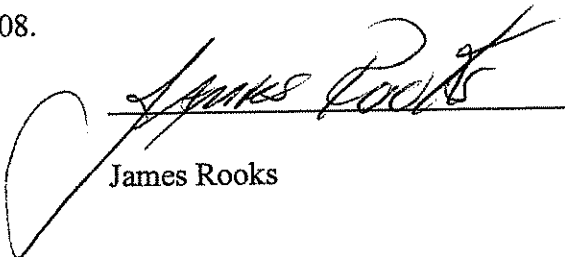
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cc: James Rooks, General Manager CRRWC

Attachment A
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or capital improvements are in progress or planned at the current time as the funds are not available. CRRWC anticipates that capital improvement projects and maintenance projects will be necessary to maintain the integrity of the water system in the future and will make application for increased rates when the appropriate estimations have been obtained.

Signed this 8 day of January 2008.


James Rooks

PUBLIC UTILITY COMMISSION OF OREGON

STAFF REPORT

DATE: March 7, 2008
TO: Public Utility Commission
FROM: Michael Dougherty
THROUGH: Lee Sparling and Marc Hellman
SUBJECT: UW 120 Contempt Proceeding Results

Summary

Crooked River Ranch Water Company (CCRWC or Company) was required to provide certain financial records as a result Jefferson County Circuit Court Case No. CV07-0150. On December 13, 2007, the Company agreed to provide outstanding information from two subpoenas duces tecum. The Company provided this information on January 8, 2008, and as a result, satisfied the subpoena. The following are results of Staff's review of this information.

Findings

1. Capital Assessment Fund – Only \$131,081 of the \$476,682 collected for the capital assessment fund (or 27.5 percent) was used for the intended purposes of the fund. In addition, the actual November 30, 2007, balance of the fund, \$118,028, is \$227,574 lower than the expected balance that would have resulted if the Company only used the assessment funds for the Board intended purposes.
2. Operating Expenses – Staff believes that the rates authorized by the Commission in UW 120 are sufficient to operate the Company. However, the continuation of abnormally high legal bills, excessive overtime, accounting expenses, and any future expenditure concerning Well #3, would more than likely place a financial strain on the Company.
3. Maintenance and Repair Records by JR Rooks – Mr. Rooks did not keep any records for maintenance provided under the verbal maintenance agreement.
4. Mainline Extensions – Staff calculated costs for the mainline extensions that result in lower costs to customers than the costs CRRWC has been charging its customers.
5. New Construction 2005, 2006, and 2007 - Information provided by the Company does not justify the new construction amounts reported in the Company's rate application and reflected on its federal depreciation schedules.

6. CRRWC has not complied with Commission Order No. 07-527, that ordered CRRWC to file within 30 days of issuance of such order, a report stating its need for funds for new capital improvements, including the intended projects, the estimated cost of each project, and the time that each investment would be required.
7. CRRWC has not complied with Commission Order No. 07-527, that ordered CRRWC to file within 30 days of issuance of said order, the statutorily required employee services and equipment maintenance affiliated interest contracts.

Recommendations

1. CRRWC should comply with Commission Order No. 07-527 and file a report stating its need for funds for new capital improvements, including the intended projects, the estimated cost of each project, and the time that each investment would be required.
2. CRRWC should comply with Commission Order No. 07-527 and file the required employee services and equipment maintenance affiliated interest contracts.
3. Staff should ensure that the Company only charges customers the Staff calculated cost for mainline extensions.
4. The Company should more accurately identify its expenditures to projects to properly determine the categorization of expenses (operating, plant or inventory).
5. Because Staff believes CRRWC satisfied the subpoena, no additional action concerning the subpoena should be taken. With that said, Staff reserves the ability to review Company financial and operational records, pursuant to the Commission's Investigatory Powers, ORS 756.070 through ORS 756.125.

Background

During UW 120 (Order No. 07-527), Oregon Public Utility Commission (Commission) Staff sent Crooked River Ranch Water Company (CRRWC or Company) 144 data requests. CRRWC failed to answer or provided incomplete answers to many of the data requests. As a result of the incomplete discovery, Staff filed a series of motions to compel. Each motion was granted by the Commission, but with little effect, as the Company did not respond to any of Staff's motions.

Because the Company did not respond to the motions to compel, Staff served subpoenas duces tecum on the Company's General Manager, James Harvard Rooks and the Company's Board of Directors. Although the Company provided some of the subpoenaed information in response to the subpoena duces tecum served on the Board of Directors, it did not provide certain records. Ultimately, Staff resorted to filing contempt charges against Mr. Rooks. The contempt case was docketed as Jefferson County Circuit Court Case No. CV07-0150.

The case reached an agreement at the Jefferson County Court on December 13, 2007, to satisfy the remaining requirements of the subpoena, requirements numbers 1, 2, 5, 7, and 8. The following lists, by subpoena number, the documents that the Company agreed to provide:

1. Bank records concerning the capital (special assessment) fund. Bank records should include all months that the special assessment fund has been in place, and copies of all checks written by the Company that were processed or recorded by the bank for the time period listed above. (Data requests nos. 3, 110, 121, 122, 124(b), and 126).
2. Bank records concerning the general (operating) funds for 2006, and to-date, 2007. Bank records should include copies of all checks written by the Company that were processed or recorded by the bank for the time period listed above. (Data request no. 128, dated September 6, 2007).
5. Maintenance and repair records for all company vehicles serviced by J. R. Rooks under the maintenance contract. (Data request no. 49).
7. Information concerning the main line extensions (Peninsula Drive, Chipmunk, Steelhead, Golden Mantel, Quail-Steelhead, Canary, and Hummingbird). Information provided should include number of potential customers on each main line, actual number of customers connected to each main line, cost per customer for each main line, copies of payments from customers connected to the main line extensions, and documentation (invoices, time cards, etc.) concerning the costs to install the systems. (Date requests nos. 51, 52, and 53).
8. Documentation concerning the new construction projects costs (invoices, time cards, etc.). (Data request no. 60).

On January 8, 2008, the Company provided documents to satisfy the subpoena.

Capital Assessment Fund (Subpoena Item #1)

On March 29, 2004, the CRRWC Board of Directors issued a Board Resolution to collect funds for future capital projects. These projects include:

- Drilling of Well No. 3, and plumbing to accommodate a chlorination system;
- Upgrading the Cistern and building a new pump house;
- Re-plumb and add a chlorination station to Well No. 1 (formally Well No. 4); and
- Pay-off the loan on the office building.

The Board set the capital assessment amount at \$8 per month per customer. The fund collection began in July of 2004 and ended in December 2007, when the Commission determined that:

The capital assessment surcharge is not an appropriate charge and is discontinued.¹

To fulfill the contempt settlement, the Company provided its “Daily Receipts Allocation” for the time period of July 2004 through December 2007, and checks and invoices for expenditures from the capital assessment fund. The Daily Receipt Allocations included the assessment fund receipts, which Staff tabulated at \$476,682. Staff also reviewed and calculated the capital assessment fund expenditures. Staff separated expenditure amounts in two categories: funds used for the intended purpose of the capital assessment fund, and funds used for purposes not in the scope of the capital assessment fund. The following table highlights these expenditures.

Total Revenue Collected		\$476,682
<i>Expenditures – Intended Purposes</i>		\$131,081
<i>Expenditures – Unintended Purposes</i>		\$75,777
<i>Calculated Balance (Revenues minus Expenditures)</i>		\$269,824
November 2007 Actual Balance		\$118,028
Difference (Funds not accounted for)		\$140,881
Hypothetical Balance of Fund if Fund was only used for Intended Purposes		\$345,602

The \$131,081 that Staff classified as “Expenditures – Intended Purposes” included \$71,535 in building loan payments,² \$22,998 in engineering costs, \$3,550 in easement surveying costs, \$4,311 in piping, and approximately \$28,065 in legal costs concerning easements for Well #3.³

In UW 120, Staff argued that Well #3 was not necessary as the Company has sufficient capacity for both potable water use and fire fighting. As a result, Staff classified the costs surrounding Well #3 as construction work in progress (CWIP). The Commission in UW 120 agreed with Staff’s analysis of Well #3 and stated:

¹ Commission Order No. 07-527 (UW 120), page 9.

² CRRWC routinely paid (until September 2007) \$1,000 above the monthly payment to reduce the principle payments of the loan.

³ The \$28,065 was determined by Staff in UW 120 and includes \$25,634 paid to Cooney and Crew, and \$2,431 to Glenn Sites.

We agree with Staff that the Company has not met its burden of proof in justifying a third well.⁴

The \$75,777 that Staff classified as “Expenditures – Unintended Purposes” included \$16,657 in legal costs concerning the Commission assertion of jurisdiction of CRRWC in WJ 8; \$10,753 in accounting costs related to WJ 8, UW 120, a civil complaint, standard financial reporting, and other Commission regulatory matters; \$2,984 in UW 120 legal costs concerning contributions in aid of construction, \$30,000 for land that was actually purchased in 2001 prior to the establishment of the capital assessment fund; and \$13,500 for a crane that was actually purchased in 2002 prior to the establishment of the capital assessment fund.

Although the Company stated that the purchases of the land and crane were made by transferring funds from the capital assessment fund to the operating account to replace funds in the operating account, this is not the case. All collections for the capital assessment fund were deposited directly into the operating account. The Company established a low interest bearing (~1.26 percent annual percentage yield) bank account for the capital assessment fund in March 2005 with an initial deposit of \$47,264. The only other deposit into the account was \$69,000 in February of 2007. The accounts show, and the Company has verified, that no checks have been written off the capital assessment bank account as of November 2007.

As of November 30, 2007, the balance of the capital assessment fund bank account was \$118,028. When Staff subtracts both the “Expenditures – Intended Purposes” and “Expenditures – Unintended Purposes” from the capital assessment fund revenues, the actual balance should equal \$269,824. If the Company properly only used the capital assessment fund for the Board intended purposes, the balance would have been \$345,602, as of November 30, 2007. This indicates that the Company has not implemented proper controls surrounding this capital assessment fund and appears to be using the capital assessment fund as an extension to its operating account. This is in violation of the Company’s Board Resolution, dated March 29, 2004.

The Commission had a valid concern over the Company’s use of the capital assessment fund and stated in the UW 120 order:

We are concerned that the Company has spent some of the proceeds of the surcharge for purposes not within the scope of the enabling resolution. In allowing the Company to retain the funds for now, we state our intent that the use of the funds be limited to capital improvements or the pay-off of loans; expenses incurred by the Company should be paid for out of operating revenues.⁵

⁴ Commission Order No. 07-527 (UW 120), page 30.

⁵ Commission Order No. 07-527 (UW 120), page 10.

As a result, the Commission ordered that CRRWC:

Not later than 30 days from the date of this order Crooked River Ranch Water Company shall file an accounting of its collection of funds through its special assessment surcharge and the disposition of such funds, from the inception of the fund to the present.⁶

As of March 7, 2008, the Company has not complied with the Commission Order.

In addition, the Commission ordered:

Not later than 30 days from the date of this order Crooked River Ranch Water Company shall file a report stating its need for funds for new capital improvements, including the intended projects, the estimated cost of each project, and the time that each investment would be required.⁷

As of March 7, 2008, the Company has not complied with the Commission Order.

Operating Funds – 2006 (Subpoena item #2)

Staff requested this information to determine the cash in, cash out, used for system operation and maintenance. The Company actually provided bank records for 2004, 2005, and 2006. Staff previously received bank records through September 2007. In addition, the Company provided copies of 2006 checks. The Company complied with the subpoena requirement.

In 2005, the Company's ending balance was \$102,460. In 2006, the Company's ending balance was \$106,948, and as of September 2007, the Company's ending balance was \$83,351.

Based on the analysis, Staff believes that the rates authorized by the Commission in UW 120 are sufficient to operate the Company. However, the continuation of abnormally high legal bills, excessive overtime, accounting expenses, and any future expenditure concerning Well #3 would more than likely place a financial strain on the Company.

⁶ *Ibid*, page 39.

⁷ Commission Order No. 07-527 (UW 120), page 40.

Maintenance and Repair Records for Maintenance Performed by James Harvard Rooks under a Maintenance Contract with CRRWC (Subpoena Item #5)

In response to this subpoena item, the Company submitted a December 28, 2007, statement from Mr. Rooks that stated:

The maintenance contract between JR Rooks and CRRWC was a verbal contract. It was for \$500 per week, with the company providing parts. Mr. Rooks provided the building, tools, labor, etc. No maintenance and repair records have been kept.

Because no records exist, the subpoena is technically satisfied.

In UW 120, the Commission found that there was an affiliated interest relationship between Mr. Rooks and the Company. The Commission stated:

Mr. Rooks is the Director of Crooked River. He has at least two contracts with the Company – as General Manager, and to perform maintenance services. These contracts fall squarely within the ambit of ORS 747.495 and we agree with Intervenor Soule and Nichols that the contracts must be filed with this Commission.⁸

As a result, the Commission ordered that CRRWC:

Not later than 30 days from the date of this order, Crooked River Ranch Water Company shall submit any contracts between itself and its General Manager Mr. Rooks and members of Rooks' family, along with supporting testimony, to this Commission for approval.

As of March 7, 2008, the Company has not complied with the Commission Order.

Mainline Extensions (Subpoena Item #7)

In the January 8, 2008, submittal of records in response to the contempt settlement, CRRWC provided material supply invoices from the time period of 2001 through 2007. However, the Company stated in its cover letter:

Invoices from all the plumbing suppliers used are in the boxes. We have no way of knowing if any of the pipe was used for the extensions. Pipe is purchased in bulk at substantial savings to the company. Pipe is used as needed in line extensions, repairs, etc. Individual sticks of pipe are not accounted.

⁸ Commission Order No. 07-527 (UW 120), page 34.

Staff requested this information to determine the true costs of the main line extension and what costs customers coming on to this line should be charged to connect to the extensions. Oregon Administrative Rule (OAR) 860-036-0065, Installation of Main Line Extensions, require customers to pay a reasonable, cost based charge for any mainline extensions.

Because CRRWC could not identify its costs for each extension, Staff was required to reconstruct the costs. From the time period of 2000 through 2005, the Company constructed seven main line extensions. These extensions were:

- Hummingbird Line Extension
- Quail (Chickadee) Line Extension
- Chinook/Minnow Court Line Extension
- Chipmonk Line Extension
- Canary Line Extension
- Peninsula Line Extension
- Golden Mantel Line Extension

These projects used 2" pipe, 6" pipe and a combination of the two sizes. Staff was able to reconstruct costs by the following methods:

1. Parts:

- a. Staff was able to determine enough information from the plats of the Canary (2" line) and Golden Mantel (6" line) projects to determine the costs of pipe, fittings, meters, valves, tubing, and other materials for the project. Staff was able to obtain the pricing for these parts from a plumbing supply company in the Bend, Oregon vicinity.
- b. Staff was able to determine the amount of fill required based on the dimension of the ditches excavated for Canary and Golden Mantel.
- c. Staff was able to obtain costs for necessary thrust blocks.

As a result, Staff was able to determine a parts cost per foot and parts cost per lot for the two projects based on the inputs above. Staff then applied the cost per foot to the other projects, based on pipe size of the projects, and adjusted for inflation based on the completion year of the project.

2. Labor: The Company submitted detailed timecards for the Hummingbird⁹ and Quail (Chickadee) projects. As a result, Staff was able to determine labor cost per lot for the two projects.

⁹ For Hummingbird, CRRWC actually provided a labor summary that was less than what Staff calculated from a thorough review of timecards.

3. Other Costs: Staff applied a 50 percent loading to the labor costs to account for miscellaneous costs such as insurance, gas, and equipment depreciation.

As with the parts, Staff applied these costs to the other projects and adjusted for inflation based on the completion year of the project. Staff did not apply a rate of return or profit variable to the calculated costs. This is because OAR 860-036-0065 requires charges to be cost-based, and in UW 120, the Commission authorized a zero rate of return. As a result, Staff determined the following customer costs for each project:

Project	Staff Cost per Foot	Staff Cost per Lot	CRRWC Cost per Lot ¹⁰	Difference
Hummingbird	\$12.03	\$2,316	\$4,352	\$2,036
Quail (Chickadee)	\$14.55	\$3,097	\$5,564	\$2,467
Chinook/Minnow Court	\$17.22	\$3,409	\$6,000	\$2,591
Chipmonk	\$15.64	\$2,580	\$5,137	\$2,557
Canary	\$13.80	\$2,053	\$5,688	\$3,634
Peninsula	\$18.75	\$3,601	\$6,274	\$2,673
Golden Mantel	\$21.13	\$3,170	\$4,000 ¹¹	\$830

Staff recognizes that the cost per foot of the projects are considerably less than what the Company would receive in bids from a third party, which is mainly a result of not adding a profit component. However, the charges to customers are required to be cost-based. In its calculations, Staff examined all costs or potential costs incurred by the Company.

Staff determined the number of potential customers for each project based on the lots that could be served through perpendiculars from the mainline. In other words, Staff counted lots on both sides of the street where the main line was installed. Staff also included lots that currently have wells, since at any time these customers could opt to receive service from CRRWC for any number of reasons.

Because the Company could not provide an accurate accounting of its costs, Staff's analysis is the most reliable source for project costing. With that said, Staff realizes that costs may vary slightly based on actual feet per project and lots served. The Company has yet to provide more accurate information concerning the projects.

Based on the receipts for mainline extensions and Staff's calculated total costs for all the projects, the company has recovered approximately 81 percent of the mainline costs based on connections to date. Since many of the projects still have the potential for additional

¹⁰ Staff is using an average cost per lot because CRRWC did not always charge the same cost to its customers.

¹¹ CRRWC states that the customer paid \$8,000, but a title search indicates that this customer actually owned two lots that the service was extended to. This indicates a charge of \$4,000 per lot.

connections, it is possible for the Company to recover all its costs concerning the mainline connections.

Staff also recognizes that the cost calculated by Staff only apply to customers who connected to the system after assertion of jurisdiction in April 2006.

New Construction Cost Documentation (Subpoena Item #8)

In UW 120, the Company included \$468,700 in plant costs for 2005, 2006, and 2007 new construction. During its rate case analysis, Staff added \$66,373 to the Company's rate base based on plant purchases during the time frame. In addition, Staff categorized \$59,806 in costs associated with Well #3 as construction work in progress. As a result, Staff through the subpoena, was trying to determine what new construction costs should be added to the Company's rate base for a future rate proceeding. Staff strove to ensure that none of the mainline extension costs were double counted in plant.

Information provided by the Company does not justify the new construction amounts reported in the Company's rate application and reflected on its federal depreciation schedules. However, the Company did provide documentation for 2007 for equipment that would be added to the Company's rate base. These purchases include a boom, backhoe engine repair, and HVAC equipment. In addition, there are other major purchases that have the potential to be added into rate base; however, the Company does not clarify if this equipment consists of repair parts, inventory, or plant expenditures.

The Company should more accurately identify its expenditures to projects to properly determine the categorization of expenses.

Conclusions

As a result of the documents received through the contempt case, Staff has been better able to identify and categorize costs for any future rate application. In addition, Staff will be able to quote more accurate costs to customers who desire to hook into the Company's system through the recent mainline extension projects.

Because Staff believes CRRWC satisfied the subpoena, no additional action concerning the subpoena should be taken. With that said, Staff reserves the ability to review Company financial and operational records, pursuant to the Commission's Investigatory Powers, ORS 756.070 through ORS 756.125.

1 **CERTIFICATE OF SERVICE**

2
3 I certify that on March 7, 2008, I served the foregoing upon all parties of record in this
4 proceeding by delivering a copy by electronic mail and by mailing a true and exact copy by
5 postage prepaid first class mail or by hand delivery/shuttle mail.

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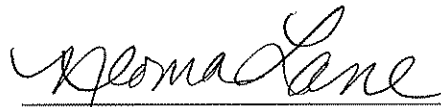
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