

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 MOTION TO COMPEL

9 **INTRODUCTION**

10 On March 27, 2008, the Public Utility Commission of Oregon (Staff) served Data
11 Request No. 156 on Crooked River Ranch Water Company (CRRWC or Company). The
12 Company's response was due April 11, 2008. The data request asked the Company to provide
13 the December 1, 2007, customer list. The Company's response to Staff's data request was
14 "Why?"

15 On April 10, 2008, Staff served Data Request Nos. 157 and 158 on CRRWC. The
16 Company's responses were due April 25, 2008. Staff has received no responses.

17 On April 11, 2008, Staff served Data Request Nos. 162 and 163 on CRRWC. The
18 Company's response was due April 28, 2008. The data requests asked the Company to provide
19 specific information concerning the water operator qualifications of the General Manager and the
20 currently employed Field Technician. The Company's response to Staff's data request was,
21 "N/A – has nothing to do with rates or service."

22 Pursuant to OAR 860-014-0070(3), Staff files this motion to compel production and
23 respectfully requests a ruling or order requiring CRRWC to provide full and complete answers.

24 Consistent with OAR 860-014-0070(3), Staff has conferred with counsel for CRRWC
25 and we are unable to resolve this matter.

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1 **DISCUSSION**

2 Staff respectfully requests a ruling granting Staff’s motion to compel full and complete
3 answers to Data Requests No. 156, 157, 158, 162, and 163.

4 **Data Request No. 156**

5 This request asked for the December 1, 2007, customer list. This list was requested to
6 allow Staff the opportunity to determine which customers paid the \$8 per month assessment
7 charge in 2007. Although Staff has a June 1, 2007, customer list, Staff desired to be prepared
8 with an updated customer list in the event the Commission ordered a refund of the remaining
9 balance of the assessment fund. Subsequently, the Commission ordered refunds in Commission
10 Order No. 07-177¹ and Commission Order No. 08-243.

11 Although Commission Order No. 08-243 ordered the Company to refund the balance of
12 the assessment fund, \$130,656.26, within 15 days of the date of the order (May 2, 2008), Staff
13 still considers the December 2007 list discoverable in order to verify the actual shareholders to
14 whom the refund was distributed.

15 **Data Request No. 157**

16 Data request 157 states:

17 As a follow-up to the company’s response to data request 155, please provide a
18 copy of check 1001 written off the contingency account. Was this check used for
Cooney & Crew legal services? Please explain.

19 Staff requested a copy of the check because it was a significant amount (\$15,000 – reflected in
20 the 4/30/2006 statement) and is, as February 20, 2008, the only check written off the contingency
21 account. The data request is to determine the use of the funds, specifically if the funds were used
22 for the intent of the Special Assessment Fund.

23 This information is especially necessary in light of Commission Order No. 08-242, which
24 states on page 7:

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26 ¹ Commission Order No. 07-177 was stayed in part by Commission Order No. 07-181. The stay referred to the
refund of the assessment charge.

1 In a general rate case, the Commission looks at all financial aspects of a utility's
2 operations, including its cash reserves. In this case Crooked River withheld
information regarding these accounts (and, possibly, other accounts). These funds
were not accounted for in Order No. 07-527.

3 The rate case is reopened to consider the ratemaking treatment of the Company's
4 surplus capital (in excess of the amount recognized in Order No. 07-527). That
5 action will be coordinated with the accounting of the surcharge balance as
addressed above. With its comments of the Company's assessment fund balance,
the Staff also shall make a recommendation for the ratemaking treatment of the
remaining funds.

6 Data Request No. 157 seeks discoverable information in order to further Staff's investigation
7 into the use of the funds and to fulfill the directive of the Commission.

8 **Data Request 158**

9 Data Request No. 158 requests copies of all Board minutes and resolutions from July 1,
10 2005, through April 24, 2008. These documents are discoverable to determine the actions of the
11 Board concerning rates and service. The Company's By-laws, As Amended September 24,
12 2004,² states:

13 The Board shall have general supervision and control over and shall manage and
14 conduct the affairs and business of the Corporation, and shall make all necessary
15 rules and regulations, not inconsistent with law or with the Bylaws of Articles of
Incorporation, for the management of the Corporation and the guidance of the
officers, employees and agents of the Corporation.³

16 Because the Board is charged with this responsibility to manage and conduct the affairs and
17 business of the Company, these minutes and resolutions are discoverable.

18 **Data Request Nos. 162 and 163**

19 Data Requests Nos. 162 and 163 asked the Company to provide specific information
20 concerning the water operator qualifications of the General Manager and the currently employed
21 Field Technician. The Company's response to Staff's data request was, "N/A – has nothing to
22 do with rates or service."

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25 ² Although the Company issued revised Bylaws as a Cooperative on June 30, 2006, Commission Order No. 06-642
26 states: CRRWC's efforts to reorganize as a cooperative under ORS Chapter 62 are without legal effect. However,
the June 30, 2006, Bylaws state the same as the quoted only replacing "Corporation" with "Cooperative."

³ Bylaws for Crooked River Ranch Water Company, Bylaw 4.7.

1 Despite the Company's response, this information is related to both rates and service. In its
2 UW 120 testimony (Staff 100, Dougherty/22), Staff included a part-time Water Operator 3 in
3 rates and stated:

4 It is also interesting to note that CRRWC's system is a Distribution System 2,
5 which requires a Water Operator 2. However, the General Manager only
6 maintains a Water Operator 1 certification. As a result, CRRWC obtained the
7 services of a Water Operator 3 on a part-time basis to meet the certification
8 requirements of the State's Drinking Water Program. This employee, who may
9 also an employee of the City of Madras, lists 5 hours per week on his timecards.

10 If the General Manager or field technician received the required Water Operator 2 qualifications,
11 then the Company would no longer need to obtain the services of a part-time Water Operator 3,
12 resulting in a potential cost savings to customers.

13 Additionally, the General Manager received a significant 63 percent increase in his wage
14 (\$25 increased to \$40.63) since issuance of Commission Order No. 07-527. Staff is trying to
15 determine if the increase was related to an increase in qualifications.

16 The data request is also related to service because CRRWC's system requires a Water
17 Operator 2 based on its size. According to the Drinking Water Program's (DWP) web site:⁴

18 Larger water systems are classified requiring persons to be certified as
19 Distribution Levels 1-4 according to the population served by the system.
20 Treatment plants are classified as 1-4 by assigning points for each unit process
21 and then totaling these points (see the Water Treatment Worksheet). These
22 systems need operators certified at the corresponding Levels 1-4. Each system is
23 required to submit a DRC Form (Direct Responsible Charge) to the Drinking
24 Water Program within 30 days of any change of DRC operator. Certification
25 requires applying for and passing a written exam, yearly certification fees, and
26 attendance at approved continuing education. See Oregon Education Services
27 Advisory Council OESAC web site for a list of approved classes. Experience and
28 education requirements must be met before acceptance to an exam (see Grade
29 Level Requirements).

30 Without a Water Operator 2, CRRWC would not fulfill state requirements in the event the part-
31 time Water Operator 3 is no longer able to provide services to the Company. This is potentially
32 a major service issue and the requested information is discoverable.

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⁴ <http://egov.oregon.gov/DHS/ph/dwp/certif.shtml>

1 **CONCLUSION**

2 For the foregoing reasons, Staff respectfully requests that CRRWC be compelled to
3 produce the information discussed herein. Assuming Staff's motion is granted, Staff will
4 subpoena for information not provided pursuant to Staff's motions to compel.

5 DATED this 14th day of May 2008.

6 Respectfully submitted,

7
8 **HARDY MYERS**
9 Attorney General

10 s/Jason W. Jones
11 Jason W. Jones, #00059
12 Assistant Attorney General
13 Of Attorneys for the Public Utility Commission
14 of Oregon
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1 **CERTIFICATE OF SERVICE**

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3 I certify that on May 14, 2008, I served the foregoing Motion to Compel upon all parties
4 of record in this proceeding by delivering a copy by electronic mail and by mailing a true and
5 exact copy by postage prepaid first class mail or by hand delivery/shuttle mail.

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18 **CROOKED RIVER RANCH WATER CO**
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