

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

WJ8

In the Matters of

CROOKED RIVER RANCH WATER
COMPANY

**MOTION TO STRIKE
REHEARING DATES**

An Investigation Pursuant to ORS 756.515 to Determine Jurisdiction (WJ 8) **By Crooked River Ranch Water Company, nka Crooked River Ranch Water Cooperative**

Crooked River Ranch Water Company, nka Crooked River Ranch Water Cooperative (“CRRWC”), respectfully moves to strike the current dates and deadlines associated with the rehearing proceeding, including the hearing before ALJ Patrick Power scheduled for March 30-31, 2010, because the Court of Appeals granted CRRWC a temporary stay by Order dated March 2, 2010.

I. INTRODUCTION.

The Oregon Court of Appeals sent this case back to the Public Utility Commission of Oregon (“PUC”) for reconsideration. On reconsideration, PUC issued final order No. 09-026, finding that CRRWC is subject to PUC’s regulatory authority.

CRRWC petitioned for judicial review of that order. PUC withdrew Order No. 09-026 for reconsideration pursuant to ORS 183.482(6) and then issued final order No. 09-391. CRRWC again petitioned for review. PUC then moved the Court of Appeals for permission to withdraw Order No. 09-391 pursuant to ORS 183.482(5).

The Court of Appeals issued an order acknowledging that PUC had withdrawn Order No. 09-391 pursuant to ORS 183.482(6).

CRRWC sought reconsideration of the Court of Appeals order. CRRWC also moved to dismiss the rehearing scheduled in this case pending resolution of its motion for reconsideration by the Court of Appeals. CRRWC's motion before PUC was denied.

The Court of Appeals granted CRRWC's motion for reconsideration but allowed PUC to withdraw its order pursuant to ORS 183.482(5).

CRRWC moved for reconsideration of the Court of Appeals order and requested a temporary stay pending resolution by the court of CRRWC's motion for reconsideration. The Court of Appeals granted CRRWC's motion for temporary stay. A copy of that decision is attached as Exhibit A. CRRWC's motion for reconsideration is currently pending.

II. ARGUMENT.

By staying its order, the Court of Appeals retained jurisdiction over Order No. 09-391 pending its reconsideration of the order allowing withdrawal. Therefore, PUC is without jurisdiction to hold a rehearing in that matter, and proceeding with the rehearing would violate the Court of Appeals' temporary stay. Accordingly, the currently scheduled deadlines for testimony and briefing, along with the rehearing dates, must be stricken.

As ALJ Power noted when he denied CRRWC's previous request to dismiss the rehearing, he cannot "overturn the Court of Appeals' ruling." The PUC is bound by the Court of Appeals' ruling. The Court of Appeals has stayed its order allowing

PUC to withdraw Order No. 09-391 for a rehearing. Thus, PUC's Order No. 09-391 is not effectively withdrawn, the order is still before the Court of Appeals, and PUC has no jurisdiction to conduct the rehearing.

III. CONCLUSION.

The PUC should strike all dates and deadlines currently set in the rehearing proceeding.

Dated: March 8, 2010.

GLENN SITES REEDER & GASSNER LLP
Timothy R. Gassner, OSB #023090

HARRANG LONG GARY RUDNICK P.C.

s/ Jona J. Maukonen

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Of Attorneys for Crooked River Ranch
Water Cooperative

CERTIFICATE OF FILING AND SERVICE

I certify that on March 8, 2010, I filed the foregoing **MOTION TO STRIKE REHEARING DATES** on the Public Utility Commission by email and first class mail, postage prepaid, addressed as follows:

Public Utility Commission of Oregon
Attn: Filing Center
P.O. Box 2148
Salem, OR 97308-2148
PUC.FilingCenter@state.or.us

I further certify that on March 8, 2010 I served copies of the foregoing **MOTION TO STRIKE REHEARING DATES** addressed to the following email addresses:

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frank@imfd.com
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I further certify that on March 8, 2010, I served copies of the foregoing **MOTION TO STRIKE REHEARING DATES** addressed to the following, via first class mail, postpaid, as follows:

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Of Attorneys Crooked River Ranch Water
Cooperative

IN THE COURT OF APPEALS OF THE STATE OF OREGON

CROOKED RIVER RANCH WATER COMPANY,
Petitioner,

v.

PUBLIC UTILITY COMMISSION OF OREGON,
Respondent.

CROOKED RIVER RANCH WATER COMPANY,
Petitioner,

v.

PUBLIC UTILITY COMMISSION OF OREGON,
Respondent.

CROOKED RIVER RANCH WATER COMPANY,
Petitioner,

v.

PUBLIC UTILITY COMMISSION OF OREGON, G. T., and T. T.,
Respondents.

Public Utility Commission of Oregon Nos. WJ8, UW120, UCR100, UI281, UI282

Court of Appeals No. A141283

ORDER GRANTING TEMPORARY STAY

Petitioner moves for reconsideration of the Chief Judge's order dated February 17, 2010, granting respondent leave to withdraw its order for rehearing pursuant to ORS 183.482(5), and for a temporary stay of that order pending resolution of the motion for reconsideration. The motion for a temporary stay is granted. The court expects that the PUC will file its response to the motion within the 14 days permitted by ORAP 7.05(3). If petitioner intends to file a reply, the reply should be filed within five days after respondent files its response.

MAR 2 2010

DATE


James W. Nass, Appellate Commissioner

c: Timothy Richard Gassner
Judy C Lucas
Jona Jolyne Maukonen

DB/A141283ORAL100301

ORDER GRANTING TEMPORARY STAY

REPLIES SHOULD BE DIRECTED TO: State Court Administrator, Records Section,
Supreme Court Building, 1163 State Street, Salem, OR 97301-2563

Page 1 of 1

EXHIBIT
PAGE

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