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ATTORNEYS & COUNSELORS AT LAW

UI 282

PORTLAND OFFICE
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SEP 15 2008

Public Utility Commission of Oregon
Administrative Hearings Division

September 12, 2008

VIA CERTIFIED MAIL

ARTICLE NO. 7007 2680 0000 2884 5320

Court Administrator
OREGON COURT OF APPEALS
Supreme Court Building
1163 State Street
Salem, OR 97301-2563

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2008 SEP 15 A 9:02
P.U.C.

Re: *Crooked River Ranch Water Co. v. Public Utility of Oregon*
PUC Case No. UI 282
Oregon Court of Appeals Case No. _____

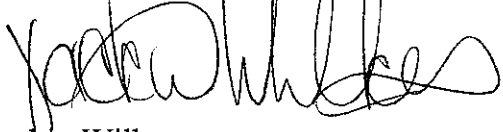
Dear Administrator:

Enclosed for filing please find the original Petition for Judicial Review.

Also enclosed is this firm's check in the amount of \$212.00, for the filing fee.

Sincerely,

HARRANG LONG GARY RUDNICK P.C.



Jackie Wilkes
Legal Assistant
/jw
Encls.

c: Mary Williams, Esq. (w/encl.)
Timothy R. Gassner (w/encl.)
Crooked River Ranch Water Co. (w/encl.)

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DOCKETED

UI 282

IN THE COURT OF APPEALS OF THE STATE OF OREGON

In the Matter of

**CROOKED RIVER RANCH WATER
COMPANY**

**Affiliated Interest Application with
Jacquie Rooks,**

Petitioner,

v.

**THE PUBLIC UTILITY COMMISSION
OF OREGON,**

Respondent.

Public Utility Commission
Case NO. UI 282

CA A _____

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SEP 15 2008

Public Utility Commission of Oregon
Administrative Hearing Division

PETITION FOR JUDICIAL REVIEW

Petitioner seeks judicial review of the final order on reconsideration of the Public Utility Commission, in case number UI 282, Order No. 08-378, dated July 16, 2008, and the order underlying the order on reconsideration, Order No. 08-353, dated July 1, 2008.

The parties to this review are:

Crooked River Ranch Water Company
P.O. Box 1388
Crooked River Ranch, OR 97760

Public Utility Commission of Oregon
P.O. Box 2148
Salem, OR 97308

DOCKETED

- A. Attached to this Petition are copies of the orders for which judicial review is sought.
- B. Petitioner was a party to the administrative proceeding which resulted in the orders for which review is sought.
- C. Petitioner is not willing to stipulate that the agency record may be shortened.

Dated this 12th day of September, 2008.

HARRANG LONG GARY RUDNICK, P.C.



C. Robert Steringer, OSB #983514

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Telephone: (503) 242-0000

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Attorneys for Petitioner

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UI 282

In the Matter of)	
)	
CROOKED RIVER RANCH WATER)	ORDER
COMPANY)	
)	
Affiliated Interest Application with Jacquie)	
Rooks.)	

DISPOSITION: APPLICATION APPROVED WITH CONDITIONS

On May 20, 2008, Crooked River Ranch Water Company (the Company) filed an application with the Public Utility Commission of Oregon (Commission) pursuant to ORS 757.015, ORS 757.495, and OAR 860-036-0730, requesting approval of an affiliated interest contract with Jacquie Rooks. A description of the filing and its procedural history is contained in the Staff Report, attached as Appendix A, and incorporated by reference.

Based on a review of the application and the Commission's records, the Commission finds that the application satisfies applicable statutes and administrative rules. At its Public Meeting on June 25, 2008, the Commission adopted Staff's recommendation.

OPINION

Jurisdiction

ORS 757.005 defines a "public utility," and the Company is a public utility subject to the Commission's jurisdiction.

Affiliation

An affiliated interest relationship exists, as defined under ORS 757.015.

Applicable Law

ORS 757.495 requires public utilities to seek approval of contracts with affiliated interests within 90 days after execution of the contract.

ORS 757.495(3) requires the Commission to approve the contract if the Commission finds that the contract is fair and reasonable and not contrary to the public interest. However, the Commission need not determine the reasonableness of all the financial aspects of the contract for ratemaking purposes. The Commission reserves that issue for subsequent proceedings.

CONCLUSIONS

1. The Company is a public utility subject to the jurisdiction of the Commission.
2. An affiliated interest relationship exists.
3. The agreement is fair, reasonable, and not contrary to the public interest.
4. The application should be granted, as modified herein, including certain conditions and reporting requirements.

ORDER

IT IS ORDERED that the application of Crooked River Ranch Water Company to enter into an affiliated interest contract with Jacquie Rooks is approved, subject to the conditions further stated in Appendix A.

Made, entered, and effective JUL 01 2008

BY THE COMMISSION:



Becky L. Beier

Becky L. Beier
Commission Secretary

A party may request rehearing or reconsideration of this order pursuant to ORS 756.561. A request for rehearing or reconsideration must be filed with the Commission within 60 days of the date of service of this order. The request must comply with the requirements in OAR 860-014-0095. A copy of any such request must also be served on each party to the proceeding as provided by OAR 860-013-0070(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480-183.484.

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: June 25, 2008

REGULAR _____ CONSENT X EFFECTIVE DATE _____ NA _____

DATE: June 12, 2008

TO: Public Utility Commission

FROM: Marion Anderson *MSA*

THROUGH: *u* Lee Sparling, *#* Marc Hellman, and *u* Michael Dougherty

SUBJECT: CROOKED RIVER RANCH WATER COMPANY: (Docket No. UI 282)
Affiliated interest application with Jacquie Rooks.

STAFF RECOMMENDATION:

The Commission should approve the application of Crooked River Ranch Water Company (Crooked River or the Company) for an affiliated interest agreement with Jacquie Rooks subject to the following conditions:

1. Crooked River shall provide the Commission access to all books of account, as well as all documents, data, and records that pertain to any transactions with affiliates.
2. The Commission reserves the right to re-review, for reasonableness, all financial aspects of this arrangement in any rate proceeding or earnings review under an alternative form of regulation.
3. Crooked River shall notify the Commission in advance of any substantive changes to the agreement, including any material changes in any cost. Any changes to the agreement terms that alter the intent and extent of activities under the agreement from those approved herein, shall be submitted for approval in an application for a supplemental order (or other appropriate format) in this docket.
4. Assuming 2007 as the base year, the maximum that the Commission should allow in rates concerning the employment contract with Mrs. Rooks is \$44,250 in total compensation (wages and benefits). Subsequent years should be escalated by the consumer price index (CPI-U). Any overage above this amount should be disallowed for ratemaking purposes.

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June 12, 2008
Page 2

5. Crooked River shall file a written employment contract for Mrs. Rooks within 15 days of the June 25, 2008, Public Meeting date. In addition, the Company shall file all associated Board of Directors' minutes and resolutions concerning Mrs. Rooks' employment and pay with Crooked River within 15 days of the June 25, 2008, Public Meeting date.

DISCUSSION:

This application was filed on May 20, 2008, pursuant to ORS 757.015, 757.495 and OAR 860-036-0730. Docket UW 120, Order No. 08-243 dated 5/02/08, stated that:

Crooked River Ranch Water Company shall file with the Public Utility Commission of Oregon its application for approval of its contracts with James and Jacquie Rooks within 15 days of the date of this order.

Calendar days are normative for Commission purposes in this determination unless some other specification is made. Therefore, this filing is overdue. Jacquie Rooks is the spouse of James Rooks, General Manager of Crooked River and is employed as Office Manager. The filing arises from UW 120 Order No. 07-527, dated 11/29/07, page 2:

Because the General Manager also is a member of the Board, and because he has relatives that are also employed by Crooked River, we treat the manager and his family as "affiliated interests" and require that the Company file any contracts with the manager and his family for Commission approval.

In its application, Crooked River states:

Crooked River Ranch Water Company submits this application under compulsion by the PUC without waiving its position that the PUC has no authority to demand the filing of this application and that Crooked River Ranch Water Company is under no legal obligation to obtain PUC's approval of the employment relationship described herein.

The Company is factually wrong concerning its legal obligation to obtain the Commission's approval. The Commission asserted jurisdiction of Crooked River in Commission Order No. 06-642 dated November 11, 2006. Because the Commission clearly has jurisdiction over Crooked River, the Company is obligated to follow the

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 June 12, 2008
 Page 3

Commission's statutes and rules. As a result, Staff takes no recognition of the application's disclaimers of Commission authority concerning this filing.

The following issues were investigated:

- Scope of the Agreement
- Transfer Pricing
- Determination of Public Interest Compliance
- Records Availability, Audit Provisions, and Reporting Requirements

Scope of the Agreement

As previously noted, no written agreement was submitted in the filing. Per the application, Mrs. Rooks' duties include personnel oversight and training, bookkeeping (A/R, A/P, and payroll), general clerical duties, office equipment maintenance, and customer interactions.

Transfer Pricing

The application requests an hourly wage of \$18.00 plus medical and dental benefits. The \$18.58 hourly wage approved in Order No. 07-527 exceeds the application's request. However, pursuant to OAR 860-036-0739, Allocation of Costs by a Water Utility, the amount paid by a utility to an affiliated interest is required to be at cost of the market rate, whichever is lower.

For comparative purposes, the Oregon Employment Department's Oregon Labor Market Information System (OLMIS-www.olmis.org) was referenced. The following hourly wage range was obtained for First-Line Supervisors/Managers of Office and Administrative Support Workers employed in Crooks/Deschutes/Jefferson counties:

<u>10th Percentile</u>	<u>50th Percentile</u>	<u>90th Percentile</u>
\$14.26	\$20.97	\$29.29

In UW 120, Staff examined the Company's costs concerning medical and dental benefits. Staff recommended and the Commission accepted the Company amount of \$28,390 for 5 Full-time Employees (FTE). As a result, \$28,390 divided by 5 FTE equals \$5,678 for medical and dental benefits for each FTE.

The aforementioned calculations yield the following schedule:

<u>Position</u>	<u>Hourly Wage</u>	<u>Annual Benefits Cost</u>	<u>Annual Compensation</u>
Office Manager	\$18.58	\$5,678	\$44,250

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June 12, 2008
Page 4

It is noted that the \$44,250 remuneration for Mrs. Rooks is all that the Commission will allow in rates.

Determination of Public Interest Compliance

This agreement is presumed fair and not unreasonable and therefore not demonstrably contrary to ratepayer interest by virtue of the UW 120 rate case decisions.

Records Availability, Audit Provisions, and Reporting Requirements

Staff Recommendation Condition No. 1 affords necessary access to any relevant records.

PROPOSED COMMISSION MOTION:

The compensation to Jacquie Rooks recognized for ratemaking purposes at Crooked River Ranch Water Company be approved subject to the five recommended conditions.

UI 282

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UI 282

In the Matter of)

CROOKED RIVER RANCH WATER)
COMPANY)

Affiliated Interest Application with Jacquie)
Rooks.)

ORDER ON RECONSIDERATION

**DISPOSITION: APPLICATION FOR RECONSIDERATION GRANTED;
ORDER NO. 08-353 CORRECTED**

In Order No. 08-353, the Public Utility Commission of Oregon (Commission) approved an affiliated interest agreement between Crooked River Ranch Water Company (Crooked River or Company) and Jacquie Rooks. In that order, the Commission identified ORS 757.005 as the basis for its jurisdiction over Crooked River as a water utility.

On July 8, 2008, Crooked River filed an application for reconsideration of Order No. 08-353. Crooked River correctly states that the reference to ORS 757.005 was incorrect. Crooked River is subject to jurisdiction under ORS 757.063.

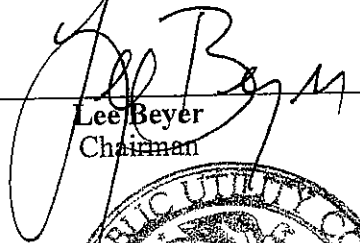
Accordingly, Crooked River's application for reconsideration is granted. The first sentence under the heading of "Jurisdiction" in Order No. 08-353 should be deleted and replaced with the following:

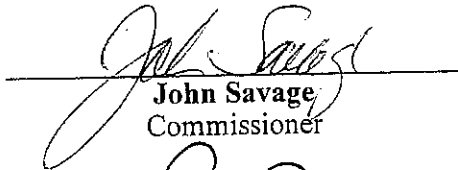
The Company is subject to Commission jurisdiction pursuant to ORS 757.063. See Order No. 06-642.

The remainder of the order is unchanged.

IT IS SO ORDERED.

Made, entered, and effective JUL 16 2008


Lee Beyer
Chairman


John Savage
Commissioner


Ray Baum
Commissioner



CERTIFICATE OF FILING AND SERVICE

I certify that on September 12, 2008, I filed the original of the foregoing PETITION FOR JUDICIAL REVIEW via certified mail, at Portland, Oregon, addressed to the following:

State Court Administrator
OREGON COURT OF APPEALS
Records Section
Supreme Court Building
1163 State Street
Salem, OR 97301-2563

I further certify that on September 12, 2008, I served a copy of the foregoing document, via First Class Mail, postage prepaid, at Portland, Oregon, addressed to the following:

Attorney General of the State of Oregon
Office of the Solicitor General
400 Justice Building
1162 Court Street NE
Salem, OR 97301-4096

Mary Williams, Solicitor General
OREGON DEPARTMENT OF JUSTICE,
APPELLATE DIVISION
1162 Court Street, NE
Salem, OR 97301

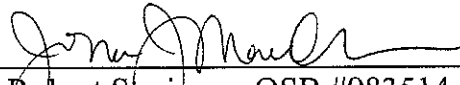
Of Attorneys for Respondent, Public
Utility Commission of Oregon

Public Utility Commission of Oregon
P.O. Box 2148
Salem, OR 97308-2148

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Of Attorneys for Petitioner