

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UW 120

In the Matter of	)	
	)	
CROOKED RIVER RANCH WATER	)	ORDER
COMPANY	)	
	)	
Request for rate increase in total annual	)	
revenues from \$806,833 to \$868,453, or	)	
8.13 percent.	)	

**DISPOSITION: MOTION DENIED**

By motion filed September 21, 2007, with the Public Utility Commission of Oregon (Commission), Crooked River Ranch Water Company (Crooked River) requested “a change of administrative law judge (ALJ).” In support of its motion Crooked River cited OAR 471-060-0005(3) in support of its claim that the first request for a change in ALJ must be granted automatically.

By ruling issued September 21, 2007, the ALJ denied Crooked River’s motion, noting that the rule cited by Crooked River applies to the Office of Administrative Hearings (OAH), and that the OAH rules do not apply to this agency.

By motion filed October 9, 2007, Crooked River asks for “reconsideration of the earlier ALJ ruling denying its motion for reassignment.” The motion for reconsideration will be treated as an appeal from an ALJ ruling and is decided by the Commission.

In support of its motion, Crooked River argues that “[P]ursuant to ORS 756.014, the Public Utility Commission (PUC) is designated as a state administrative agency.” No such language appears in the statute<sup>1</sup>; however, the Commission is an administrative agency as that term is ordinarily used.

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<sup>1</sup> ORS 756.014 provides:

(1) There is created the Public Utility Commission of Oregon. The Commission shall be composed of three members appointed by the Governor, subject to confirmation by the Senate pursuant to section 4, Article II of the Oregon Constitution. No more than two of such members shall be of the same political party.

(2) Each commissioner shall hold office for the term of four years. A commissioner shall hold office until a successor has been appointed and qualified. The chairperson shall be designated by the Governor and shall serve as the chairperson at the pleasure of the Governor.

As noted by Crooked River, the Commission is subject to certain provisions of the Administrative Procedures Act (Chapter 183 of the Oregon Revised Statutes). See ORS 183.315(6). Crooked River now acknowledges that the Commission is not required to use an ALJ assigned by the office of Administrative Hearings. (ORS 183.635(2)(T)) However, Crooked River claims that “no part of ORS 183.635 relieves the Public Utility Commission from complying with other provisions of the Administrative Procedures Act and Oregon law for the administration of contested case hearings in Administrative Law Courts.” Crooked River cites no other legal authority for its position.

ORS 183.645 is the only provision in the Administrative Procedures Act that provides for a peremptory challenge to the assignment of an ALJ. On its face the statute applies only to proceedings convened through the Office of Administrative Hearings:

- (1) After assignment of an administrative law judge from the Office of Administrative Hearings to conduct a hearing on behalf of an agency, the chief administrative law judge shall assign a different administrative law judge for the hearing upon receiving a written request from any party in the contested case or from the agency. The chief administrative law judge may by rule establish time limitations and procedures for requests under this section.

There is no merit to Cooked River’s motion.

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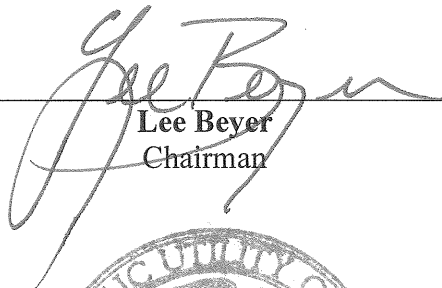
(3) Any vacancy occurring in the office of commissioner shall be filled by appointment by the Governor to hold office for the balance of the unexpired term.

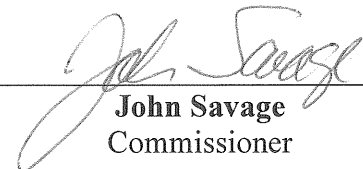
(4) The Governor may at any time remove a commissioner for any cause deemed by the Governor sufficient. Before such removal the Governor shall give the commissioner a copy of the charges and shall fix a time when the commissioner can be heard, which shall not be less than 10 days thereafter. The hearing shall be open to the public. If the commissioner is removed, the Governor shall file in the office of the Secretary of State a complete statement of all charges made against the commissioner, and the findings thereon with a record of the proceedings. Such power of removal is absolute, and there is no right of review of the same in any court.

**ORDER**

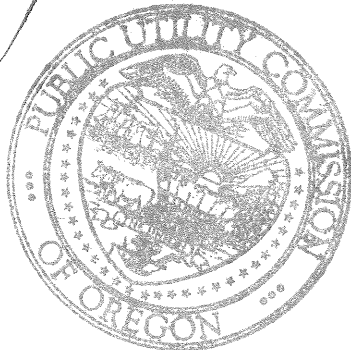
IT IS ORDERED that Crooked River Ranch Water Company's motion for reassignment of the administrative law judge is denied.

Made, entered, and effective OCT 11 2007.

  
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**Lee Beyer**  
Chairman

  
\_\_\_\_\_  
**John Savage**  
Commissioner

  
\_\_\_\_\_  
**Ray Baum**  
Commissioner



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.