

**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: INTERIM DECISION; RATES REDUCED;  
CONTRACTS TO BE FILED

**I. SUMMARY**

In this decision the Commission sets rates for Crooked River Ranch Water Company, (Crooked River) a non-profit corporation organized as a “Nonprofit Corporation, Mutual Benefit with Members.” Our actions are in accord with ORS 757.063, which was enacted by the Oregon Legislature in 2003, and provides for Commission jurisdiction over such a utility under specified circumstances that did occur. (Order No. 06-042).

In its application Crooked River reported annual revenues of \$806,833, and requested to increase its revenues to \$868,453, an increase of 8.13 percent. In this decision we adopt revenues of \$502,539, a reduction of \$304,294, or 37.7 percent.

The adopted results of operations are based on Staff’s estimates of revenues, operating expenses, and plant in service and reflect Staff’s experience in setting rates. Because the customers of Crooked River also are its owners, we recognize certain unique aspects of this case in setting rate of return and addressing the Company’s collection of a capital assessment surcharge.

In the typical case, we balance the interests of ratepayers and investors in setting the return on equity at a rate that is a) commensurate with the return on investments in other enterprises having corresponding risks; and b) sufficient to ensure confidence in the financial integrity of the utility, allowing the utility to maintain its credit and attract capital. (ORS 756.040) In this case, the owners are not “investors” in that they receive no return on their investment that can be reclaimed. As a result, we find that the interest of the customer/owners is best served by setting the return on their capital at zero.

The capital assessment surcharge was applied for a purpose that is not consistent with Commission ratemaking policy, and the surcharge is eliminated. We treat the remaining balance of the surcharge funds as a constructive trust, and order the Company to maintain the funds, pending further review of its need for capital for new plant.

However, we also recognize that Crooked River does have outstanding debts (loans on an office building and truck) that prudent management would pay off out of the surcharge proceeds. For ratemaking purposes we impute the pay-off of the loans. The result is that the Company has no long term debt for ratemaking purposes.

With no long term debt and the no return on capital, the adopted rate of return is zero. This is the most favorable outcome for the customer/owners and is unique to this case.

We adopt Staff's proposed rate design.

Because the General Manager also is a member of the Board, and because he has relatives that also are 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.

## **II. INTRODUCTION**

Crooked River Ranch Water Company (Crooked River) is a non-profit corporation organized as a "Nonprofit Corporation, Mutual Benefit with Members," that provides domestic water to Crooked River Ranch, a planned development community in Central Oregon. According to its application, Crooked River serves about 1550 members.

In Order No. 06-642, dated November 20, 2006, this Commission found that it has jurisdiction over Crooked River pursuant to ORS 757.063, and ordered Crooked River to file appropriate tariffs within 60 days. Crooked River petitioned the Oregon Court of Appeals for review of the Order. That petition is still pending.

Following several extensions of time, Crooked River filed this application on April 23, 2007, with rates to be effective on May 30, 2007. By Order No. 07-181 the Commission suspended the rate filing for a period of time, not to exceed six months.

A public meeting and pre-hearing conference was held in Terrebonne, Oregon, on June 11, 2007. The public meeting attracted a large crowd, with many persons participating.

Three customers petitioned to intervene, and each petition was granted. The intervenors are Charles Nichols (Nichols), Craig Soule (Soule), and Steven Cook (Cook). Each intervenor participated in the proceedings.

Settlement conferences were held on August 13, 2007, and August 28, 2007. No issues were “settled.”

Commission Staff (Staff) submitted the direct testimony and accompanying exhibits of Michael Dougherty on September 7, 2007. Intervenor Cook also served direct testimony that same date.

Crooked River submitted its rebuttal testimony on September 24, 2007. The Company’s submission included a statement by its General Manager, James Rooks, rebuttal testimony sponsored by Mr. Rooks, rebuttal testimony sponsored by the Company’s accountant, Wes Price, and a “challenge” to the qualifications of Staff witness Dougherty. The administrative law judge (ALJ) treated the “challenge” as a motion to disqualify Mr. Dougherty and issued a ruling denying the motion on September 24, 2007.

On September 21, Crooked River also filed a motion for a change of the ALJ that was denied by a ruling that same date. On October 9, 2007, the Company filed a request for reconsideration of the ALJ’s ruling. By Order No. 07-437, dated October 11, 2007, the Commission denied the Company’s motion.

A public hearing was held, beginning on October 25, 2007, in Redmond, Oregon. Again there was a large public turnout. This matter was submitted on opening briefs, filed November 13, 2007, and reply briefs, filed November 19, 2007.

Prior to the hearing, motions to strike some or all of Crooked River’s testimony were filed by Staff and Soule. At the hearing the ALJ ruled that the statement submitted by Mr. Rooks would be treated as correspondence, not as evidence.

Opening briefs were filed by Crooked River, Staff, Intervenor Soule and Nichols (jointly) and Intervenor Cook. Crooked River and Staff also filed reply briefs.

### **III. BACKGROUND**

The water system consists of two wells (Well No. 2 and Well No. 4) both with a capacity rating of 800 gallons per minute (gpm) (1,152,000 gallons per day per well; Well No. 4 was renumbered by the Company as Well No. 1); two reservoirs - the Tower with a capacity of 700,000 gallons and the Cistern, with a capacity of 100,000 gallons; piping; a booster pump system; pressure reducing valves; hydrants; and standpipes. Well No. 4 was brought on line in December, 1995, when Well No. 2 was changed to standby.

According to Crooked River’s 20-Year Master Plan, Well No. 2 is used on a regular basis; however, the Company has numerous concerns about the operation of the

well. According to the Company's Water Management and Conservation Plan, both wells feed off the same aquifer.

The Company has a water permit of 5 cubic feet per second (cfs) and 3.23 million gallons per day (MGD) under permit No. G-11376, which has a priority date of June 18, 1991. The water rights are assumed to cover 2,600 potential lots at Crooked River Ranch.

Based on data received from the Company, customer usage in 2006 was approximately 20 million cubic feet. This annual usage equates to an approximate average of 410,000 gallons per day (gpd). Actual peak demand in August 2006 was 927,182 gallons per day. This usage aligns with the Company's 20-Year Master Plan which lists peak demand of 970,362 gpd. As a result, the Company appears to have sufficient water rights for current and future operations.

Although the Company has sufficient water rights, Crooked River applied for and received an Order (T-9663) from the Oregon Water Resources Department (OWRD) to change the point of appropriation of a new well, Well No. 3. To fulfill the Order, Crooked River must perfect its water right by October 1, 2008. If the Company fails to meet this date, it will need to refile with OWRD.

As previously demonstrated, the actual peak demand of 927,182 gpd is substantially lower than the permit amount of 3.23 MGD and current wells have sufficient capacity to fulfill current usage. Even though the Company has recently experienced customer growth of approximately 10.7 percent from January 2004 through January 2007, much of this growth appears to be a result of the numerous main-line extensions installed by the Company.

Average use per customer is 1,066 cf per month or 35.5 cf per day (approximately 266 gallons per day). Crooked River estimates 2.5 persons per household, which is lower than the Census 2002 figure of 2.8 persons per household for Jefferson County and reflects the higher percentage of retired persons inhabiting Crooked River Ranch.

#### **IV. PRELIMINARY MATTERS**

This Commission has a long history regulating rates and terms of service of water utilities. Consistent with historic practice, Staff undertook to investigate the Company's proposed rates, including conducting discovery. The Company refused to cooperate fully with Staff, in many instances, providing only partial or no responses to Staff's data requests. Crooked River went so far as to file a "Motion for Protective Order," asking to be "protected" from the Staff's discovery requests (and then asked for reconsideration of the ALJ ruling denying its motion).

As incomplete discovery proceeded, Staff filed a series of motions to compel. The Company did not respond to any of Staff's motions. Each motion was

granted, but to little effect. Staff served a subpoena duces tecum on the Company that likewise was not effective in eliciting additional information. Ultimately, Staff resorted to serving a subpoena on the Board of Directors.

Meanwhile intervenor Soule also undertook to conduct extensive discovery from the Company. He received no replies to any of his data requests. He too filed motions to compel. Again the Company did not reply. Each of his motions was granted, to no useful end. He requested subpoenas that he served on the Company with no results.

Intervenor Nichols also served data requests on the Company. He also received no responses. He too filed a motion to compel which was granted by ruling dated November 29, 2007.

On October 9, 2007, Crooked River filed a motion to quash one of Soule's subpoenas. The ALJ denied the motion on October 11, 2007.

The Attorney General's office has initiated contempt proceedings against the General Manager of the Company and its Board of Directors. The Commission will consider further remedies as may be appropriate, to address future misconduct by the Company.

## **V. MOTIONS TO STRIKE**

Prior to the hearing, Staff and Soule submitted motions to strike directed at Crooked River's Rebuttal Testimony. Their grounds for their motions were the Company's failure to respond to some of the data requests (Staff) or any of the data requests (Soule) (Nichols).

At the hearing the ALJ took the motions under submission. He allowed the parties to cross-examine the Company's witnesses, pending a Commission ruling on the motions.

On balance, the testimony is admitted. Crooked River's discovery failures seriously erode the weight to be given to its testimony.

## **VI. RATE PROPOSALS**

### **A. Current and Proposed Rates**

Under its schedule of charges, the Company charges a base rate of \$27.50 per month. The base rate includes the first 700 cubic feet of water. The Company's variable rate is \$0.72 per 100 cubic feet for all usage above 700 cubic feet. The Company does not distinguish between residential and commercial customers, nor does it distinguish between meter sizes. In addition, the Company assesses an \$8 per month charge for capital improvements.

Crooked River proposes to change the base rate to \$36.50, which includes the \$8 surcharge, but no consumption allowance. The Company also proposes to raise the variable rate to \$0.80 per 100 cf. Based on the above rate structure, the Company gave notice to its customers that the average bill would increase from \$40.97 (includes surcharge) to \$44.30 (includes surcharge), an increase of 8.13 percent.

## **B. Staff's Rate Proposal**

Staff calculated a revenue requirement of \$525,295, a reduction of 34.9 percent from current rates. Staff proposes a base rate of \$18.58 per month with no consumption allowance, and a variable rate of \$0.86 per 100 cf. Staff proposes to eliminate the \$8 per month surcharge.

## **VII. ISSUES**

### **A. Revenue**

#### **1. Staff**

Staff's first adjustment is to remove miscellaneous revenue of \$48,746 associated with events such as hook-up fees, disconnections, reconnections, late charges, etc. Regarding hook-up fees, Staff proposes to exclude the revenue because the corresponding costs should be booked as contributions in aid of construction (CIAC) and excluded from rates. Regarding other fees and charges, Staff states that its proposed treatment is "standard practice," removing revenues that are a result of actions and inactions of specific customers that should not be passed through to all customers, since the specific customers were charged applicable rates.

Staff's second adjustment is to include \$8,100 in rental revenue derived from cellular and internet leases for equipment installed on the Company's reservoir tower. The revenue includes payments from T-Mobile and an imputed payment by Webformix. The Webformix revenue is imputed because the Company and Webformix agreed to exchange services – the Company receives its internet service from Webformix.

#### **2. Company**

Crooked River states that "cost causative events, such as disconnections, reconnections and late-charges cost [the Company] money." The Company argues that "the Commission should defer to the historical costs and approve [Crooked River's] revenue request in this regard."

#### **3. Discussion**

We adopt the Staff revenue adjustments. Staff's removal of the miscellaneous revenues is consistent with Commission practice.

Likewise, the recognition of rental revenue for use of the utility property is consistent with sound ratemaking practice. We note that the Webformix contract treatment results in a wash in this case. That relationship may change over time, and we prefer to keep the revenues and costs separate.

## **B. Capital Assessment Fund**

Staff proposes to remove from revenue the \$142,430 collected from the \$8 per month capital assessment surcharge presently collected by the Company.

The \$8 per month capital assessment is collected for future projects. Staff cites a March 29, 2004, Board Resolution that states the funds are being collected for:

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

Staff notes that the first three of these items relate to future construction. Staff argues that costs of property not presently used for providing service are not recoverable in rates, pursuant to ORS 757.355(1).

Staff notes that ORS 757.355(2) does allow the Commission to include in water utility rates the costs of a specific capital improvement “if the water utility is required to use the additional revenues solely for the purpose of completing the capital improvement.” Staff states that it only allows inclusion of construction work in progress (CWIP) where the water utility is able to provide specific costs and the in-service date is within six months or an approved timeline shows completion soon afterwards. In this case the Company has not provided specific costs and completion of the well is at least 14 months off. Further, the Company has not used the funds “solely for the purpose of completing the capital improvement[s].”

According to Staff, the Company is not in jeopardy of losing its current water permit if it does not complete the Well No. 3 project by any particular date. The Company would have to reapply for the change in the point of appropriation to demonstrate beneficial use of the volumes now on its permit.

The Company has not provided total estimated costs for the project. Many draws from the assessment fund were not related to the well and building.

Further, Crooked River considers the aquifer from which it draws its water to be both adequate and reliable, and does not anticipate future restrictions on its supply.

Thus, the well may result in excess capacity, meaning that a further analysis of the need for the well should be performed before the cost is included in rates.

Staff observes that the Company now is subject to cost of service regulation. Under cost of service regulation, the Company cannot make a special assessment for future costs that may or may not come to fruition.

According to Staff, the Company reports that, as of July 25, 2007, \$137,945 remained in the capital assessment account. Assuming no intervening expenditures, the amount in the account as of the date of the decision in this matter will be about \$200,000.

As regards to the disposition of the funds collected, Staff offers two options:

1. Amortize the balance in the fund over three years as an offset to the revenue requirement (\$45,982 per year);
2. Assume the funds are used for future capital improvements and reduce future capital costs by such amounts for inclusion in rates.

Staff claims that the first result can be achieved without either a reduction in the final revenue requirement, or a reduction in rates.

According to Staff, this result is possible because the revenue-sensitive adjustment, based on Staff's recommended level of expenses and net income is a decrease of \$97,631. That amount is higher than the proposed adjusted amount of \$45,982. If Staff removed \$45,982 from customer adjusted revenue, the adjusted revenue requirement would be \$576,943. This adjusted amount would reduce the revenue-sensitive adjustment from \$97,631 to \$51,649. The final proposed results would still equal \$517,194 and recommended rates would not change. Staff proposes the three-year amortization because the fund balance was collected over a three-year period.

## **2. Company**

Regarding the special assessment, Mr. Rooks testified that the Company believes it should be continued. He cited ORS 94.595 as the basis for his contention that state law requires that the Company be allowed to continue the assessment and establish the reserve fund. The same claim is made in the testimony of Crooked River witness Price.

Mr. Rooks testified that the elimination of the assessment surcharge would mean that the Company will not be able to begin its planned new well. Accordingly, the Company will have to file a request for an extension for its water rights and need to request another point of diversion transfer. He states that the costs of these actions are not included in the cost of service results presented by Staff.



### 3. Intervenor Soule and Nichols

Intervenor Soule and Nichols cite the resolution that authorized the special assessment. They state that, although the resolution was clear on the purpose of the assessment, the Company has spent much of the proceeds on items that were not authorized by the enabling resolution. They argue that “the complete willful mismanagement of the special assessment fund by the Board of Directors and Management of CRRWC has demonstrated a complete disregard for the membership.”

Mr. Soule and Mr. Nichols also oppose the inclusion of the costs of the proposed new well in rates. They find an inconsistency between the Company’s 20-year master plan and the stated intentions of the General Manager. Based on that conflict, they support Staff’s recommendations.

Intervenor Soule and Nichols recommend that the amount remaining in the fund be used for two purposes. First, they propose to use the fund to pay off the remaining balance on the office building loan (“the only item in the enabling resolution that is still viable and has a chance of completion”). Second, they propose that the remaining balance of the fund be refunded to members/customers “in a method that the Commission determines to be fair and equitable.”

### 4. Discussion

The capital assessment surcharge is not an appropriate charge and is discontinued. On its face, ORS 94.595 does not apply to Crooked River.

The treatment of the funds raised by the surcharge must be addressed in this order.

Staff proposed two alternatives – amortizing the fund balance over a three year period, or allowing the Company to retain the funds to be used for future capital improvements to reduce future capital costs. In this decision we adopt Staff’s alternate recommendation – the Company may retain the funds for future capital improvements, pending further order of this Commission.

Crooked River collected the surcharge for capital improvements and to pay off the loan on the office building. In effect, the Company created a constructive trust for its members. We intend that the purpose of the trust be preserved.

Within 30 days of the date of this order, we direct the Company to file a report that accounts for all funds received from the surcharge and all expenditures of those funds for whatever purpose. The report must also include a detailed statement of the Company’s forecast of its future use of those funds for capital improvements. Staff will review that report and accounting and is ordered to recommend to the Commission a fund balance to carry forward and the Staff’s view of the need for, and

timing of, the plant additions anticipated in the report. If the plant additions are not likely to be undertaken within a reasonable time, or in a sufficient amount, the Commission may consider other disposition of the fund balance.

Our action is based on the grant of general powers to the Commission by ORS 756.040(1) to “protect . . . customers, and the public generally, from unjust and unreasonable exactions and practices” and by ORS 756.040(2), which vests in the Commission the “power and jurisdiction to supervise and regulate every public utility . . . and to do all things necessary and convenient in the exercise of such power and jurisdiction.” Our action is “necessary and convenient” in the context of the unique circumstances of Crooked River, where the customers are the owners of the utility and the dual beneficiaries of the constructive trust.

Soule/Nichols propose that we order the Company to pay off the loan balance on the building. The building loan was one of the original uses designated for the assessment surcharge, and its payment would be a reasonable use of the assessment funds. We will impute the payoff of the building loan for ratemaking purposes.

Crooked River also has a loan outstanding for a truck. Although the truck loan was not among the intended uses of the surcharge funds, we also impute the payoff of the truck loan from the assessment fund balance for ratemaking purposes.

The fund balance to be set aside for future capital improvements is the remaining amount of the fund as set by the accounting, less the amount of the building and truck loans.

Whether the Company will pay off the building and truck loans remains a matter for management’s discretion. Given that the interest cost on the loans is greater than the interest income earned on the fund balance, prudent utility management most likely would pay off the two loans.

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.

## **C. Expenses**

### **1. Salaries and Wages – Employees**

#### **a. Staff**

In the test year, Crooked River listed \$313,500 in employee expenses and requested \$30,000 for an additional full-time equivalent (FTE), a total of \$343,500.

Apparently the \$313,500 includes the 2006 W-3 wages of \$285,082 and \$28,418 in payroll taxes.

Included in its application were the hourly rates the Company pays its employees. Staff used the hourly rates to calculate annual expenses and escalated the hourly wages by the 2007 Consumer's Price Index.

Staff made three other adjustments. These adjustments were:

- 1) Increased the part-time field position to a full-time position, based on Company growth;
- 2) Removed an approximate amount of labor for time donated to the Fire Hall for installation of water lines and other construction.
- 3) Excluded overtime.

Staff's three adjustments reduced wage expense to \$227,817, a reduction of \$115,683 from the amount requested by the Company. Staff proposes to move \$19,756 from Salaries and Wages to Payroll Tax, resulting in a net reduction of \$95,927.

In its application, Crooked River calculated its Salaries and Wages expense assuming that its employees work over 240 hours per month (60 hours per week). Staff notes that the 240 hours per month is 67 hours per month greater than the standard 173 hours per month (based on a 40 hour work week). The application includes 16.75 hours per week of overtime for each full-time employee. Staff states that its standard practice is to not include overtime in wages, citing Commission Orders No. 07-219 and 07-359. Staff did not include any overtime for the full-time employees.

Staff requested and received time cards for the first four months of 2007. Staff notes that the "vast majority" of overtime was claimed by the General Manager (James Rooks) and Office Manager (Jacquelyn Rooks), although the General Manager's daughter also reported periods of overtime.

Staff characterizes this situation as "problematic, because both the general manager and office manager positions typically are salaried and are not paid overtime. Staff offers examples of other water companies that pay management salaries and do not pay managers overtime.

Staff also notes that the Company also has contracted separately with the General Manager to perform maintenance and repair of Company equipment. The payment to Mr. Rooks pursuant to this contract is \$500 per week, in addition to his wages. Staff notes "there is a possibility of duplication of time spent on independent contractor duties and time spent performing duties as an employee of the Company."

Staff compared the resulting staffing of Crooked River to two other utilities and believes that it is “sufficient.” Staff compared the customer to employee ratio in the Company’s Master Plan (392 to 1) to its test year proposal (235 to 1) and concluded that the staffing should be sufficient and capable of performing the work within a normal workweek.

Further regarding the General Manager’s pay, the Staff compared his wages to American Water Works Association (AWWA) pay classifications for smaller utilities, those with fewer than 25 employees. Staff makes a distinction between those managers who have ultimate responsibility for running their companies and Crooked River, where that authority resides with the Board of Directors:

The Board shall have general supervision and control over and shall manage and conduct the affairs and business of the Cooperative, and shall make all necessary 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 Cooperative

Staff took those circumstances into account in formulating its recommendation.

Staff then proposes a further adjustment, directed at the actions of the General Manager. Staff cites the Company’s failure to respond to data requests and the high number of customer complaints as factors that support its further adjustment.

Staff reports that the Commission’s Consumer Services Section had received 42 calls from Crooked River customers with one or more complaints, as of the date the Staff submitted its testimony. The 42 calls account for 53 separate complaints, all registered in the time since this Commission asserted jurisdiction over the Company.

Because Staff holds the General Manager responsible for these matters, Staff proposed to reset the job classification for the General Manager to the level of a Senior/Lead Water Treatment Plant operator, reducing the allowance for the General Manager’s compensation by \$9,239 annually. This adjustment was proposed to reflect the failure of the General Manager to conduct himself in the manner that his position and scope of responsibility (and corresponding compensation) reasonably would require.

#### **b. Company**

Mr. Rooks testified that Crooked River is “labor intensive.” According to Mr. Rooks, Crooked River does “98% of all repairs and improvements in-house.”

Mr. Rooks testified that Staff’s use of the Company’s 1997 Master Plan is not appropriate. According to Mr. Rooks, in the intervening years work that had been farmed out is now done in house at a considerable savings. He cites several instances of the savings he claims from work that now is performed by the Company for itself.

Mr. Rooks testified that he works under a contract with the Company that calls for an hourly wage. He claims that Staff's recommendation will result in the Company violating state and federal laws.

According to Mr. Rooks, in the history of Crooked River, no one has been salaried – wages always have been hourly, and the Company intends to continue in this manner. Mr. Rooks states that the policy allows the Company to better match revenues and expenses.

The Company warns that exclusion of overtime will impair its ability to provide fire protection service.

Mr. Rooks testified that his actions do not warrant the Staff's adjustment for failure to comply with data requests. He states that answers were provided that "were deemed relevant to the company regarding the rate case."

#### **c. Intervenors Soule and Nichols**

Intervenors Soule and Nichols support the Staff's adjustments to salaries and wages. They also note that the Company incurs higher costs (\$5,980 annually) on account of the General Manager's failure to obtain a Water Operator 2 classification, requiring the Company to use the services of a Water Operator 3 on a part-time basis, to meet the certification requirements of the state's Drinking Water Program.

#### **d. Discussion**

We adopt Staff's proposal. The Commission does not prescribe the amount of compensation for any utility employee to be paid by the utility. We determine a reasonable amount of compensation to be recovered from customers through rates.

In its application, the Company proposes wage levels for three employees that include very substantial amounts of overtime. As Staff notes, in most cases a General Manager position is salaried and the general manager would not earn overtime. Further, there is no evidence that the hours claimed are reasonable or necessary to perform the duties of the three positions.

Staff has calculated a reasonable level of salary and wage expense. The allowance for an additional full time employee should assure that the staff proposal is adequate to provide reliable service. Crooked River has the burden of proving that its estimate of test year salaries and wages is reasonable. The Company has failed to meet its burden of proof.

Staff's further adjustment to the General Manager's salary to reflect discovery failures is well taken. In the case of an investor-owned utility we might respond to management indiscretion by way of an adjustment to return on equity. Given

the circumstances of Crooked River, an adjustment to the compensation level of the General Manager is more appropriate.

## **2. Employee Pension and Benefits**

Staff used actual 2007 medical and dental plans and added an amount for the one additional full-time equivalent, reflecting the change in the field tech position from part-time to full-time. Staff's total adjusted cost is \$28,390, \$4,610 lower than the Company's proposed cost.

Staff's position is adopted.

## **3. Telecommunications**

### **a. Staff**

Staff used actual contract costs for T-Mobile, the pager, and QWEST. Staff also imputed \$1,200 for Webformix internet costs, offsetting the amount attributed to rental income. Staff's calculated amount is \$9,078 and results in a reduction of \$6,922 from the Company's estimate.

Staff states that the Company's claim that Staff was provided a copy of the SCADA servicing contract is misleading. Staff only received a copy of the SCADA contract at the November 5, 2007, Subpoena Duces Tecum meeting.

### **b. Company**

Crooked River states that it has substantiated \$6,720 that was slashed from the communications budget as related to monthly service charges on the SCADA lines and annual repair costs to the system. The Company states that it provided a copy of the SCADA to Staff, but that it was ignored. Crooked River also tries to report the SCADA costs as "Contract Services – Other."

According to Mr. Rooks, the Company has four office lines that are used daily, and one fax line

### **c. Discussion**

The Company cites information it claims to have provided to Staff. It does not cite information in the record. Staff has explained that the information was not provided on a timely basis. Staff's estimate is adopted.

## **4. Purchased Power**

Staff took the Company's 2006 power costs and made two adjustments. Staff added 5 percent to account for Pacific Power's rate increase in UE 179. Staff also

added 10 percent to reflect the Company's loss of its BPA Residential Exchange Credit for its irrigation use. Staff's estimate is \$54,404, an increase of \$5,404 above the Company's forecast.

Staff's position is adopted.

## **5. Office Supplies**

Staff used actual 2006 invoices for supplies and copier costs. After moving some costs into other accounts, Staff's estimate is \$15,821, a decrease of \$719 from the Company's forecast.

Staff's position is adopted.

## **6. Postage**

Staff used 2006 invoices for mailing and shipping charges and increased the amount to reflect the 2007 increase in the first-class postage cost. Staff's estimate is \$6,658, which is an increase of \$158 above the Company's estimate.

Staff's position is adopted.

## **7. Materials and Supplies**

### **a. Staff**

Staff was provided only one invoice for 2006 costs. Accordingly, Staff used four months of 2007 invoices, plus certain VISA receipts, and annualized the costs, resulting in an estimate of \$3,666. Staff's method results in a decrease of \$30,334 from the Company's estimate.

Staff acknowledges that its estimate is "significantly lower" than what the Company forecasted. Staff states that annualizing is an accepted method for determining expenses, and notes that the burden of proof is on the Company.

### **b. Company**

Mr. Rooks testified that Staff's reduction is "irresponsible." According to Mr. Rooks, Staff chose not to use the year end financial statement for 2006, preferring to cut the Company budget, "making it impossible to cover even one repair to the system."

### **c. Discussion**

Staff's position is based on information provided by the Company. Crooked River provided no evidence, only argument. Staff's position is adopted.

## **8. Repairs to Plant**

### **a. Staff**

Using 2007 invoices, Staff transferred \$13,828 into plant and excluded \$3,467 for materials used for the Fire Hall donation. Staff annualized the six months of data and added the \$26,000 cost of the maintenance contract between the Company and Mr. Rooks. Staff's estimate is \$30,633, and results in a reduction of \$51,367 from the Company's forecast.

Staff states that it would have preferred to use 2006 invoices, but the Company refused to provide such information. Again Staff notes that the burden of proof is on the Company.

### **b. Company**

Crooked River argues that Staff's proposed rates will detract from its quality of service. Not only are the rates not adequate to finance a new well, the rates would not allow for service on existing lines.

Crooked River argues that, not only will Staff's proposed rates not allow for repairs, other improvement projects will be "destroyed." The Company claims that for the last 10 years its management has worked diligently "to bring this company in line with all county, state and federal requirements." The Company warns that these efforts will be discontinued if Staff's proposed rates are adopted.

### **c. Discussion**

As Staff notes, the burden of proof is on the Company. Crooked River has failed to substantiate its claims, having failed to provide data requested by Staff. We adopt Staff's estimate.

## **9. Contract Services – Accounting**

According to Staff, the Company's 2006 invoices match the submitted test-year amount. Staff escalated that amount to 2007.

The Company also submitted additional invoices for services performed in support of the rate application. Staff moved those costs into Account 666, Amortization of Rate Case Expenses.

We adopt Staff's estimate.



## **10. Contract Services – Legal**

### **a. Staff**

Staff notes that the Company incurred \$41,578 in legal costs in 2006, and \$18,444 during the first six months of 2007. According to Staff, “this is an extraordinary amount for a Class ‘B’ water utility.”

Staff reallocated \$28,065 to plant for costs associated with litigation for easements for Well No. 3. Staff eliminated \$3,875 associated with charges of criminal mischief and trespassing. Staff also amortized WJ 8 costs over two years and added an inflation adjustment to the remaining costs. Staff’s forecast is \$6,109, a reduction of \$34,891 from the Company’s estimate.

Regarding the adjustment for the Well No. 3 litigation costs, Staff notes that the well has not been placed in operation and has not undergone a prudency review. Staff classified the legal expenses as construction work in progress (CWIP).

### **b. Company**

The Company cites legal expenses as one of the areas slashed by the Staff without sufficient explanation or justification. Crooked River states that its necessary legal expenses relate in part to actions of dissatisfied customers.

### **c. Discussion**

Staff has fully explained its proposed adjustments. Staff’s adjustments are reasonable and are adopted.

## **11. Contract Services – Testing**

Staff calculated testing expense of \$4,299, using a four-year average of the costs for scheduled tests, based on documentation provided. Staff’s adjustment increases testing expense by \$2,099.

Staff’s estimate is adopted.

## **12. Contract Services – Labor**

Staff notes that the Company estimated \$10,000 for contract services – labor. Actual invoices for 2007 equaled \$1,643; no invoices were received for 2006.

Because Staff proposed to expand the part-time Field Tech position to full-time, Staff recommends \$0 for contract services – labor for the test year.

The Staff estimate is adopted.

### **13. Small Tools**

#### **a. Staff**

Staff proposes to allow \$175 for small tools. This is a reduction of \$4,825 from the Company's proposed expense of \$5,000.

#### **b. Company**

Mr. Rooks testified that Staff's proposal "is ridiculous for a company that does most repairs in house." Mr. Rooks claims that "one set of good wrenches costs more than \$175."

#### **c. Discussion**

Again the Company fails to meet its burden of proof. Crooked River failed to show why "a company that does most repairs in house" doesn't already have the tools it needs to do those repairs. The Company offered no evidence regarding what tools it needs.

### **14. Computer/Electronic Expense**

According to Staff, 2006 invoices for computer/electronic operating and maintenance expenses were \$1,250. Staff escalated this amount for 2007 to \$1,290. Staff also proposes treating as plant three pieces of equipment purchased in 2006 for \$942. Staff's estimate is a reduction of \$8,720 from the Company's forecast.

The Staff estimate is adopted.

### **15. Transportation**

#### **a. Staff**

Staff reports that, during 2006, the Company reported \$3,042 in tire expenses, \$13,266 in repair expenses, and \$12,816 for vehicle fuel expense. Because the Company has a maintenance and repair contract with Mr. Rooks, Staff removed the repair expenses from the test year to avoid double counting. Staff included the tire expense and escalated the fuel expense to reflect more current prices. Staff calculated a test year expense of \$17,160, a \$1,340 decrease from the Company's forecast of \$18,500.

Staff states that it has been told by "various customers" that they believe that the General Manager uses company fuel for personal use. According to Staff, it was told by Mr. Rooks that he separately purchases fuel for his personal use, but he has not provided any documentation to support that claim. Because Staff does not have any evidence to support the customers' claims, Staff did not make an additional adjustment for that purpose.

**b. Company**

Mr. Rooks testified that Staff's figures do not allow for the parts needed to repair the equipment. He states that Staff ignores a crane, which is an "important asset" to the Company.

**c. Discussion**

Staff's estimate is based on information supplied by the Company. Mr. Rooks' testimony lacks any foundation. The Company has the burden of proof. Staff's position is adopted.

**16. Vehicle Insurance**

Staff states that it did receive documentation to confirm the Company's estimate of \$3,884.

**The Company's** estimate is adopted.

**17. General Liability Insurance**

**a. Staff**

After reviewing all policies provided by the Company, Staff recommends \$1,072 for commercial property, \$4,096 for commercial liability, and \$1,144 for contractor equipment – a total of \$6,312. Staff removed one half of the total for contractor equipment because about 50 percent of the cost is attributable to an excavator owned by Mr. Rooks. Staff's estimate is a reduction of \$4,151 from the Company's forecast.

**b. Company**

Crooked River cites General Liability Insurance as one of the areas where Staff slashed expenses without sufficient explanation or justification. The Company claims that the excavator has been used primarily for water company business and is a legal responsibility of the Company.

**c. Discussion**

Staff did sufficiently explain the basis for its adjustment. Staff's estimate is adopted.

**18. Workers' Compensation****a. Staff**

The Company estimated its expense at \$14,000. Staff multiplied the Company's workers' compensation rate times its recommended wage allowance and calculated a cost of \$6,835.

**b. Company**

In his testimony, Mr. Rooks observes that Staff states that the Company may decide for itself how much to pay in wages and salaries, but has reduced workers' compensation expenses to reflect the Staff's proposed pay level. He asks, if the Company were to continue to pay its employees the same wages, where would the funds come from for the higher workers' compensation costs.

**c. Discussion**

Workers Compensation expense should be consistent with salaries and wages allowed. Staff's estimate is adopted.

**19. Amortization of Rate Case Expense**

The Company included \$3,000 for rate case expenses. Staff reviewed all 2006 and 2007 legal invoices for expenses that related to the rate application and asked the Company for more information.

Subsequently the Company estimated its costs at \$10,000. Staff adjusted that to \$6,220 and added \$4,131 for accounting costs and \$1,000 for future costs. Staff took the total (\$11,351) and amortized the cost over two years, resulting in an estimate of \$5,676.

Staff's estimate is adopted.

**20. System Capacity Development Program**

Staff notes that the Company estimated \$6,000 in expenses for future system capacity needs. Because the Company has no current expenses related to System Development, Staff recommends \$0 for this account.

Staff's estimate is adopted.

**21. Training and Certification**

Staff notes that the Company estimated \$1,000 in expenses for training and certification. Although the Company did not substantiate this figure, Staff

recommends that it be retained because the Company most likely will incur training and certification costs.

Staff's estimate is adopted.

## **22. Consumer Confidence Report**

In its application the Company mistakenly recorded the expense for the Consumer Confidence Report in public relations. Staff moved the \$800 expense to the proper account, while excluding the Company's proposed additional expense of \$1200 in Account 660, Public Relations/Advertising.

Staff's estimate is adopted.

## **23. General Expense**

In its application the Company forecasts \$1,500. After its review of 2007 invoices, Staff estimates \$738, a reduction of \$762.

Staff's estimate is adopted.

## **24. Payroll Tax**

In its application, the Company proposed an amount of \$0. Staff moved \$19,756 in payroll tax expense from Salaries and Wages – Employees to the appropriate account. Staff calculated its estimate using its recommended wage expense and the corresponding number of employees.

Staff's estimate is consistent with the adopted level of salaries and wages and is adopted.

## **D. Adjustments to Plant**

### **1. Staff**

After its review of the application and responses to data requests, Staff determined that the Company's Utility Net Plant is \$543,506, an upward adjustment from the Company's calculation of \$500,549. Staff's net plant calculation excludes:

1. Original contributions in aid of construction (CIAC) that occurred during the development of the original subdivision;
2. Mainline extensions paid for by customers receiving service from the extensions (also CIAC);
3. Meters paid for by customers (also CIAC);

4. New construction for 2005, 2006, and 2007 for which the Company has not provided documentation of the costs;
5. Costs for a crane that appears to have been purchased twice by the Company;
6. A hammer attachment for the excavator owned by the General Manager;
7. Three entries in the Company's depreciation schedule, two for capitalized interest and one for a construction draw. These amounts should have been embedded in the costs of the applicable equipment;
8. Land for Well No. 3 that currently is not used and useful for utility operations.
9. Land for future development (Staff did allow one-third of the costs, based on the Company's claim that it stores dirt and gravel on the land; and
10. Equipment that was sold or disposed of in 2006.

As noted above, Staff moved certain equipment from operating expenses into plant. Staff readjusted the office building from a 35-year depreciation life to a 25-year life to correspond with the current loan on the property. Staff also added 10 capital items that had not been included by the Company totaling \$26,372.

Staff explained some of its exclusions in detail.

Staff defines CIAC as any amount of money, services or property received by a utility, from any person or governmental agency, any portion of which is provided at no cost to the utility, which represents an addition or transfer to the capital of the utility, and which is used to offset the acquisition, improvement or construction costs of the utility's property, facilities, or equipment used to provide utility services to the public. In the case of Crooked River, the original plant was contributed to the Company by the developer. OAR 860-036-0756(3) requires that CIAC be excluded from rates and depreciated on a separate schedule, outside the ratemaking process.

Staff cites main line extensions that were not paid through rates, but through monetary contributions of customers served by these lines. For example, "each customer being served on the Peninsula line extension paid the Company \$6,500 to receive water service." With respect to meters, Staff cites the Company's statement that "the only time a meter is not charged to a customer is when the company replaces it due to damage, etc." Therefore, both the main line extensions and meters are properly classified as CIAC and should not be included in rate base.

Staff states that CIAC must be removed from rates to avoid customers paying twice for plant equipment. Staff states that it did include in rates all assets that were purchased through loans or purchased through funds collected in rates.

Using its plant adjustments, Staff calculated depreciation expense of \$43,991. Staff's estimate is \$56,281 less than the Company's request of \$100,272.

Staff calculated Accumulated Depreciation using Average Service Lives, consistent with a method developed by the National Association of Regulatory Utility Commissioners. Staff's derived an amount of \$407,818, compared to the Company's estimate of \$1,571,505.

Staff removed three entries from the Company's depreciation schedule, two for capitalized interest and one for a construction draw. Staff could not identify what equipment the capitalized interest was for, and if that equipment was still being depreciated.

Regarding Staff's inclusion in plant of one-third of a parcel of land used for storing dirt and gravel, Staff notes that the Company purchased this land for expansion. The Company can order dirt and gravel as needed. The allowance of one third of the land into rates recognized that the land is being used. Staff continues to question the usefulness and purpose of the land. Staff's proposed one-third inclusion is a compromise.

## **2. Company**

Crooked River states that neither the Company nor Staff "knows exactly what the rate base is because the historic records are not available." The Company states that the Staff position is that the Company "is not entitled to certain portions of a rate base because there are no records" but ignores the pipe in the ground. Crooked River argues that "everybody knows that the system is there." How much it costs has yet to be determined, and is likely to be the subject of a future rate case.

Regarding new construction for 2005, 2006, and 2007, Crooked River states that Staff provided no explanation why such costs are not included, "other than the allegation that the Company did not provide documentation of the costs." Crooked River states that "all 2007 records for new construction have been provided."

According to Crooked River, the purchase of the crane has been explained "again and again." The Company further states that the hammer attachment works on any excavator and has been used "in countless projects on behalf of customers."

Regarding depreciation, Crooked River states that Staff did not understand the entries in its depreciation schedule. "capitalized interest and construction draws are properly added to the original cost," not subtracted.

Regarding CIAC, the Company contends that Staff treated as CIAC a number of system line extensions and meter sets that were only partially paid for by users. Crooked River argues that there are thousands of feet of line extensions and many meter installations that were paid for through rates and should not be treated as CIAC.

Crooked River argues that system development charges and charges to customers for line extensions prior to PUC regulation are not CIAC. “Unregulated revenue generated by [Crooked River] used to build an infrastructure cannot be treated as an asset.”

Further regarding the removal of CIAC from rate base, the Company cites testimony by its witness Price to the effect that the Company should be able to recover CIAC depreciation in rates “if staff is unwilling to allow a reasonable rate of return.” To do otherwise “puts an unhealthy squeeze on utility operations.”

Ultimately Crooked River blames Staff for its failure to meet with Price to discuss rate base issues. The Company claims that Staff refused to adjust its schedule to work with Price, and characterizes as “disingenuous” Staff’s testimony to the effect that it “will work with the company,”

Regarding Staff’s inclusion in rate base of one-third of the costs of land held for future development that presently is used to store dirt and gravel, Crooked River cites testimony by Dougherty to the effect that he used judgment to decide how much of the land to treat as used and useful. According to the Company, “one of the tragedies of this case is that many of the important decisions . . . come down to the subjective discretion of one individual,” the Staff witness.

### **3. Intervenor Cook**

Intervenor Cook argues that Staff’s adjustments are not consistent. Mr. Cook argues that Staff should have used unaudited financial statements provided by the Company, claiming that Staff has used such information in other cases. Mr. Cook also contends that Staff erred in allowing only a “fraction of property” in rate base, referring to a particular parcel. Mr. Cook argues that its exclusion is inconsistent with the used and useful test.

### **4. Discussion**

Staff determined the Company’s plant in service, making use of information was provided by the Company and applying standard regulatory practices. We adopt Staff’s estimate of plant in service.

Regarding CIAC, CIAC is not included in rates because customers already have paid for the plant. To include CIAC in rates would have some customers paying twice for plant.



In terms of the “pipe in the ground” and the meter sets allegedly paid for out of Company funds, Crooked River failed to offer any evidence that supports its claim that much of this investment was funded out of rates, rather than contributed to the Company. Staff’s treatment of such costs is reasonable and is adopted.

We acknowledge that Staff exercised judgment in deciding what portion of certain land used for storing dirt and gravel should be included in rate base. Judgment is a necessary element of ratemaking, particularly where the utility fails to meet its burden of proof, and its weight depends on the qualifications of the witness and the nature of the interest represented. In this case we adopt the recommendation of the Staff witness, while recognizing that the use of the property for utility purposes is marginal.

## **E. AMR Project**

### **1. Staff**

Staff excluded an automated meter reading (AMR) system that would have the Company replace its meters with automated meters. Staff presented evidence to show that the proposed AMR project would not be cost-effective.

Staff notes that the AMR devices have not been purchased or installed, and, thus, their inclusion would be unlawful. The Company cannot finance the AMR project because of insufficient funds.

Staff determined that the cost of the project would be \$611,810 (or more). Based on Staff’s Net Present Value analysis, for the project to break-even, the annual savings must be at least \$30,591 over the 20-year life of the meters. Assuming the Company would reduce its personnel, Staff found that the project would save the Company only \$11,853 per year. Staff determined that the net present value of the project would be a negative \$432,269.

### **2. Company**

Crooked River defends its AMR project on several grounds. It claims that the project is a safety and workers compensation insurance issue – “a number of meter sets are in steep and difficult to access locations exposing the company to loss of time insurance issues.” It states that a number of the complaints about the Company received by the Commission relate to inaccurate meter reads – “the Company desires to reduce complaints and promote accurate billings to customers.” Also, according to the Company, the payroll savings could be substantially greater than the Staff’s estimate.

### **3. Discussion**

Regarding the proposed AMR project, the Company offered no evidence to suggest that such a project would be cost effective. Staff’s analysis clearly establishes

that such a proposal is highly dubious and should not be undertaken without a full-scale cost-benefit analysis that shows a clear benefit-cost ration greater than 1.

## **F. Rate of Return**

### **1. Staff**

In its application the Company requested an 8.48 percent return on its proposed rate base of \$596,743. The Company's proposed return on equity is 12 percent. The 8.48 percent return would result in net income of \$50,585.

Staff recommended a 4.13 percent rate of return. Staff's proposed return on equity is 2.94 percent. The 4.13 percent return applied to the Staff's recommended rate base of \$615,453 yields net income of \$25,394.

Staff's cost of debt was calculated from the two outstanding loans (building and truck). The weighted cost of debt was calculated using the original loan amounts, not the loan balances. Although loan balances typically would be used, Staff states it was concerned about available cash flow for the Company to service its two outstanding loans.

According to Staff, if it used the loan balances instead of the loan amounts, the weighted cost of debt would be 1.08 percent. That return, plus the related depreciation expense, would yield a revenue stream that is less than the actual payments made by the Company. Thus, Staff used the loan amounts to provide enough revenue to cover the annual loan payments.

Staff states that its proposed cost of equity was calculated using the method prescribed by this Commission in Order No. 07-137, where we adopted a method for calculating rates for pole attachments for consumer-owned electric utilities – the utility's embedded cost of long-term debt, plus 100 basis points. Staff calculates the Company's embedded cost of long-term debt at 1.94 percent.

In its reply brief, Staff states that its original cost of capital calculation was incorrect. Staff should have removed the building loan from the cost of capital calculations because of a balloon payment due on March 15, 2008. Also, Staff erroneously added 100 basis points to the weighted cost of debt, instead of applying the 100 basis points to the embedded cost of debt.

Because its rate of return is lower than the Company's, Staff addressed the question whether the Company's cash flow would be sufficient to finance future plant expansion. Staff noted that its proposed results include depreciation expense of \$43,991 in rates. When added to the net income of \$25,394, the annual cash flow for future investments is \$69,385.

Staff noted that it appears that about \$62,128 has been spent for future plant expansion since 2004. Based on historical experience then, Staff believes that the depreciation expense and net income should be sufficient to finance future plant expansion.

According to Staff, many of the recent expansions of the system were handled as main line extensions, with the extensions paid for by customers receiving the service. In Staff's proposed tariffs, rules to be adopted require that the Company collect a reasonable, cost-based charge for mainline extensions and equitably distribute the costs of such expansions among customers that receive service there from.

Staff now proposes that the Company pay off both loans – for the building and the truck. In that case Staff supports the recommendation of Intervenor Cook to set the return on equity at the 10-year treasury note rate, plus 200 basis points. Staff calculates the resulting return on equity as 6.16 percent.

## **2. Company**

Crooked River states that, not only is PUC regulation new for the Company, regulation of not-for-profit water companies is new for the PUC. The Company argues that “the lack of a clear standard and process for ratemaking” has left the Company subject to the whims of the Staff.

The Company cites Staff testimony to the effect that 10 percent is a benchmark that Staff sometimes uses. Crooked River notes that Staff chose not to use the 10 percent benchmark, and instead relied on the Commission decision setting rates for municipal utility pole attachments (Order No. 07-137). The Company quotes Dougherty's testimony to the effect the pole attachment case “was a very good analogy,” and argues “this explanation for determining rate of return is far from sufficient.”

Crooked River is skeptical of its ability to borrow money or obtain timely rate relief to meet cash flow requirements in the event of a genuine emergency. According to the Company, the criteria to get a loan from a program such as the State Drinking Water Revolving Loan Fund “are both limited and time consuming.”

## **3. Intervenor Cook**

Intervenor Cook states that Staff “has very creatively used” Order No. 07-037 to derive its recommended return on equity. Cook notes that the order provided for two alternate methods of determining return on equity, depending on whether the entity has long term debt.

Mr. Cook compares the Company to an electric utility “where . . . the capital structures are typically 50-50 and the debt is secured by utility plant with very long term loans.” In contrast, “the Company has minor debt, even its largest debt is less than (sic) eight years.”

Mr. Cook argues that “the return on equity, due to its inherent risk, should always be higher than the cost of debt.” He proposes the return be set using the 10-year treasury rate, plus 200 basis points, with adjustments to recognize differences in water and service quality and management effectiveness.

#### **4. Discussion**

We acknowledge the relevance of Order No. 07-137, where the Commission adopted formulae for deriving the equivalent of a return on capital for a consumer-owned electric utility. Both Staff and Intervenor Cook have calculated their proposed returns using one of those formulae. Staff calculated its recommendation based on the method prescribed where the utility does have long term debt. Mr. Cook calculated his recommendation based on the method prescribed where the utility has no long term debt. Although either method might be applied, we make an exception to the general policy of Order No. 07-137 in this case because the owners of Crooked River (who also are its customers) have no actual investment in the Company that can be reclaimed.

A customer/owner of Crooked River has no investment in the company that can be reclaimed in any form, by selling “stock”, selling their property, receiving dividends or getting disbursements of amounts in capital accounts. The Company bylaw states: “Memberships in the co-operative shall vest only voting rights and shall not vest in any member a financial interest in the co-operative or its assets.”

In the typical case, we balance the interests of ratepayers and investors in setting the return on equity at a rate that is: a) commensurate with the return on investments in other enterprises having corresponding risks; and b) sufficient to ensure confidence in the financial integrity of the utility, allowing the utility to maintain its credit and attract capital. (ORS 756.040). In this case, the owners are not “investors” in that they receive no return on their investment that can be reclaimed. As a result, we find that the interest of the customer/owners is best served by setting the return on their capital at zero.

With no long term debt and the zero return on capital, the adopted rate of return is zero. This is the most favorable outcome for the customer/owners and is unique to this case.

#### **G. Well No. 3**

##### **1. Staff**

Staff believes that a new well is not necessary. Staff argues the current two wells appear to have sufficient capacity and access to water to supply current customers.

Staff characterizes as “incorrect” the Company’s claim that it has only one well. Staff repeats its observation that the Company has two wells and that its system is capable of supplying about two times the actual peak demand.

According to Staff, the Company is not in jeopardy of losing its current water permit if it does not complete the Well No. 3 project by any particular date. The Company would have to reapply for the change in the point of appropriation to demonstrate beneficial use of the volumes now on its permit.

Further, Staff notes that installation of a new well can be very costly. Based on the Company’s 20-Year Plan, published in 1997, the estimated cost of the new well is in a range from \$830,000 to \$1.9 million, in 2007 dollars.

Staff notes that the Company does not have an in-service date for the well, has not presented Staff a project timeline for the well, and has not presented Staff with total estimated costs of the well. Staff states that Crooked River “has not even provided a known cost that Staff would be able to place into plant and its inclusion would be unlawful.”

Even if the well were necessary, Staff states a capital assessment fee would be unnecessary. The Company may obtain a loan. Alternatively, the Commission may set rates for a water utility that include the costs of a specific capital improvement in rates, if the utility is required to use the additional revenues solely for the purpose of completing the capital improvement.

## **2. Company**

Crooked River defends its plans for Well No. 3 in terms of fire protection benefits. “Prior to regulation by the PUC, [Crooked River] had a plan to provide increased fire protection by drilling a new well.” While acknowledging that “with the advent of PUC regulation a monthly assessment will no longer be available to provide the funds for this necessary project,” the Company states that debt financing for the project would be risky and unduly expensive.

Crooked River objects to any inference by Staff that the new well would provide excess capacity. According to Crooked River, the new well would allow it to provide “necessary backup and emergency capacity.” The new well will allow the Company to perform regular maintenance and save the company and its customers thousands of dollars.

Crooked River cites the testimony of Mr. Rooks to the effect that the Company has only one well, and that well is 1,000 feet deep with 500 feet of rubber bearings in it. Mr. Rooks describes Well No. 3 as a second well that will allow the Company to prove up its water rights.

Crooked River argues that the Well No. 3 project “would be in a more advanced stage were it not for the amount of time expended by Company in contending” first, with WJ 8, the proceeding to establish jurisdiction, and second, the current rate case. “It is the PUC that is responsible for [the Company’s] inability to fix a date and costs associated with Well No. 3.”

Crooked River further claims that Staff failed to recognize the value of the Well No. 3 project for proving up the Company’s water rights. According to Crooked River, if it does not true up its water rights, “then the Crooked River Ranch Club and Maintenance Association will attempt to capture those water rights.” The Company characterizes this circumstance as “the reason for the litigation with the Crooked River Ranch Club and Maintenance Association over the easements and access.”

### **3. Discussion**

We agree with Staff that the Company has not met its burden of proof in justifying a third well. If the Company decides to go ahead with a new well, it may seek loan financing as noted by Staff or file an application for rate treatment with this Commission.

## **H. Fire Safety**

### **1. Staff**

Staff disputes the Company’s claim that the adoption of Staff’s recommendations will in any way increase the risk of fire. Staff proved that the Company now has sufficient pressure, storage and capacity to meet the State of Oregon Fire Marshal’s requirements for both residential structure fire (1,000 gallons per minute (gpm) for 2 hours) and commercial structure fire (1,500 gpm for 2 hours). The Company’s current plant configuration allows for approximately 1,300 gpm continuously and 1,500 gpm for approximately four hours. Staff states: “this is sufficient water flow to combat residential and commercial structural fires.”

Staff notes that part of the Company’s plan to perfect its water right permit for Well No. 3 was to include instantaneous fire flow in the calculations concerning demand projections. Staff cites an email to Crooked River from the Oregon Water Resources Department (ORWD) that indicates that does not consider emergency fire flow as a justification for demand projections.

### **2. Company**

Crooked River states that “one of the biggest problems” with Staff’s rate proposal is its effect on fire protection. The Company argues that fire protection service will suffer if Staff’s proposed rates are adopted.

Crooked River is responsible for fire protection water service on Crooked River Ranch. The Company works closely with the fire chief when installing fire hydrants and pumps.

According to the Company, Staff's proposed rates are inadequate for effective fire protection for several reasons. First, Staff has not allowed any overtime in rates. The Company cites testimony from Mr. Rooks to the effect that he has had to work overtime to manage the water system in the case of fire – "fires don't get fought only from 9-5 Monday through Friday."

Crooked River also contends that Staff's proposed rates would not allow the Company to maintain an adequate water supply. Citing Mr. Rooks' expertise in firefighting, the Company claims that it needs 1.5 million gallons of storage and increased pumping capacity. "With all due respect to the state fire marshal the local fire chief and water operations manager are in the best position to judge the amount of fire flow capacity that is appropriate and necessary." The Company warns that adoption of Staff's proposed rates would endanger people and property at Crooked River Ranch.

As noted above, Crooked River also argues that its proposed Well No. 3 is needed for fire protection.

### **3. Discussion**

There is no evidence that there is any action needed within the test year to address the Company's stated concerns.

Staff has shown that the Company's existing system is adequate to meet all fire safety regulations imposed by the state fire marshal.

If and when the Company determines that it needs a new well, additional storage or other new facilities, and that it needs to finance such new plant through rates, this Commission will entertain its application and evaluate the prudence of its plans.

The Company's plans will not ripen during the test year and the costs associated therewith are not includable in rates.

## **I. Revenue Sufficiency**

### **1. Staff**

Staff notes that the Company claims that Staff's recommendation does not allow the Company sufficient funds for operations. Staff defends its overall results as based on a thorough review of Company-provided documentation. Staff states that those results compare "favorably" to the revenue requirements adopted for two other water utilities of similar staff or size in central Oregon.

Despite the onset of regulation, Staff states that the Company's Board of Directors has a fiduciary duty to its members and is responsible for making the "correct decisions" concerning operations of the Company. Staff states that it will investigate any claim regarding inadequate funds for system operations, using the full range of its investigative powers, including data requests, motions to compel, subpoenas and motions for contempt as it did in this case.

Staff repeats its observation from the hearing that the Company can submit a finance application for a loan for capital improvements and/or a rate application requesting an interim rate increase. There is a revenue stream for borrowing that is incorporated into rates through rate of return and depreciation expense.

## **2. Company**

Crooked River argues that the proposed rates will not allow the Company "to provide adequate domestic irrigation water services and fire protection supply to it's (sic) customers." Crooked River compares its cash paid operating expenses averaged over the past four years (\$558,395) to what it calculated would be the cash paid operating cash level proposed by Staff (\$457,408) and argues that "any company regardless of it's (sic) form will suffer from having their (sic) budget cut by this amount."

Crooked River further argues that Staff's comparisons to the two other water companies are not valid, "as both companies are different in size, ownership, etc." Crooked River calculates what it considers to be the cost of service per customer in this case, compared to the cost per customer for Roats Water System, Inc., and concludes that their respective costs do not "compare reasonably as Staff asserts."

## **3. Discussion**

In setting rates, the Commission looks at each element of cost of service and derives a value based on the evidence. We have done that in this case. Our findings are based on evidence, not on the Company's failure to present evidence. The resulting rates that are set are just and reasonable, meaning that the revenue requirement is sufficient to provide the necessary service, while not burdening customers with unnecessary charges.

## **J. Rate Design**

### **1. Staff**

For its rate design, Staff proposes to eliminate the \$8 per month surcharge (not to roll it into the base rate, as proposed by the Company). Staff also proposes to eliminate the 700 cf consumption allowance now built into the base rate.

According to Staff, it routinely recommends a 60/40 split between base and variable rates. However, in this case Staff recommends a 67/33 split between base



and variable rates. Staff's rate proposal is intended to ensure the Company will be able to recover its fixed costs in the base rate. Staff also did not want to propose a variable rate that would be "dramatically" different from the current rate.

Staff states that it did not propose a two-tier rate for two reasons. First, the Company did not provide multiple years of consumption data, leaving Staff without complete and accurate information. Second, the Company has an adequate supply of water so that the stronger conservation signal sent by an increasing block rate is not required at this time.

Staff's proposed base rate is \$18.58 per meter per month. Staff's proposed variable charge is \$0.86 per 100 cubic feet. Staff further recommends a connection charge of \$450 or cost, if cost is higher. Staff recommends against any membership fee.

## **2. Intervenor Cook**

Intervenor Cook argues that the Commission should adopt inverted rates. He states that conservation should always be encouraged. He cites uncertainty associated with fire risk, drought, and unknown demands that might be placed on the aquifer. He argues that an inverted block rate would encourage conservation and provide a price signal.

## **3. Discussion**

We adopt Staff's proposed rate design.

Intervenor Cook argues that we should adopt an inverted two-tier rate design to promote conservation. As Staff points out, there is inadequate data to design a two tier rate that reflects the true cost of providing service.

Without sufficient data, there is the risk that some customers might face rate shock by moving to a two-tiered rate, as well as the risk that the Company's revenues might vary significantly from the test year revenues, solely because of the uncertain effect on revenues of the poorly designed rates.

## **K. Affiliated Interest**

### **1. Staff**

Staff notes that the General Manager of the Company is a member of its Board. According to Staff, this relationship is not an "affiliated interest" under ORS 757.015(1) through (6), but may meet the criteria of ORS 757.015(7).

Although Staff has not requested an investigation into this relationship, it states it will continue to monitor the operations of the Company. Staff will request the

Commission to open an investigation if there is substantial evidence to support an investigation of the General Manager's affiliated interest with Crooked River.

## **2. Intervenors Soule and Nichols**

Mr. Soule and Mr. Nichols believe that the General Manager's influence as a Board member falls within the scope of ORS 757.016(7) and request that the Commission open an investigation into the General Manager's affiliated interest(s) under ORS 757.495.

## **3. Discussion**

ORS 757.495(1) provides that "when any public utility . . . enters into any contract to make any payment . . . to any person or corporation having an affiliated interest, for service . . . which shall be recognized as an operating expense. . . in any rate . . . proceeding, the contract shall be filed with the Public Utility Commission within 90 days of execution. ORS 757.015 defines "affiliated interest" to include "(4) every person who is an officer or director of such public utility."

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 Intervenors Soule and Nichols that the contracts must be filed with this Commission.

There is no evidence in the record regarding other contracts the Company might have with Mr. Rooks or with any other members of the Rooks family. Given Mr. Rooks' status as a Board member, we deem any contracts between the Company and members of Rooks' family to be subject to ORS 757.495(1) and order the Company to file any such contracts with the Commission.

When any such contract is submitted to the Commission, the Commission "promptly shall examine and investigate the contract. If . . . the commission determines that the contract is fair and reasonable and not contrary to the public interest, the commission shall enter findings and an order to this effect . . . whereupon any expenses . . . incurred by the public utility under the contract may be recognized in any rate . . . proceeding . . . . If, after such investigation, the commission determines that the contract is not fair and reasonable in all its terms and is contrary to the public interest, the commission shall enter findings and an order accordingly. . . ." (ORS 757.495(3)) If the Commission determines that the contract is not fair and reasonable, the statute further provides that it is unlawful for this Commission to recognize the contract for ratemaking purposes.

We order Crooked River to file its contracts with Mr. Rooks and with members of his family within 30 days of the issuance of this order. The filing shall include written direct testimony and exhibits as necessary to support the reasonableness of the contracts.

### **VIII. ADOPTED RESULTS OF OPERATIONS AND RATES**

Based on the foregoing, the adopted results of operations are shown in Appendix A. Using Staff's rate design construct, the resulting rates are a monthly basic charge of \$17.76 and a commodity charge of \$0.82 per hundred cubic feet.

### **IX. STATUS OF ALJ**

The Company persists in its attack on the authority of the ALJ to preside in this case. First, the Company filed a motion to dismiss the ALJ, based on its presumption that it had a right to a peremptory challenge. Next, it requested reconsideration of the ALJ's ruling denying its motion. The Commission denied its motion in Order No. 07-437.

Meanwhile, the attorney for Crooked River filed a complaint with the Oregon State Bar, alleging that the ALJ is engaged in the unauthorized practice of law in Oregon in violation of ORS 9.160(1). On behalf of the Oregon State Bar, Ronald Somers has issued an opinion letter announcing his view that the work of an ALJ does constitute the practice of law and threatening the ALJ with prosecution.

On November 28, 2007, Donald C. Arnold, Chief Counsel of the General Counsel Division of the State of Oregon Department of Justice, rendered the opinion that PUC ALJs do not "practice law" within the meaning of ORS 9.160(1). The Commission now will deal directly with the State Bar to resolve this matter. For purposes of this decision it is sufficient to note that the Attorney General is the Commission's attorney and expresses the view of the Commission that the work of an ALJ on behalf of the Commission does not constitute the practice of law. We ratify every action taken by the ALJ in presiding over this matter.

### **X. TARIFFS**

Attached as Appendix B is the tariff to be filed by Crooked River. The effective date of the tariffs is December 1, 2007.

### **XI. NOTICE OF ACCEPTANCE OF TERMS**

Pursuant to ORS 765.575, this Commission adopted OAR 860-014-0094, which provides:

The Commission may require any utility affected by any order to notify the Commission within a specified time whether the terms of the order are accepted and the time within which the order will be obeyed.

Crooked River is ordered to provide verified written notice regarding whether the terms of this order are accepted and the time within which the order will be obeyed. If the

Company's notice does not state the Company's clear intent to accept the terms of this order and to obey immediately, we will pursue other remedies.

The deadline for the Company's notice is December 4, 2007.

## **XII. CONCLUSION**

Staff was able to put together a complete cost of service showing for Crooked River that allows us to adopt just and reasonable rates. We acknowledge the work of intervenors who also made a substantial contribution to this decision.

The Company failed to meet its burden of proof on the contested issues.

In light of our order that the Company submit for approval its contracts with Mr. Rooks and his family, if any, this order is interim. The record also remains open to receive any additional materials obtained by Staff and intervenors through further discovery associated with any outstanding subpoenas or related to earlier data requests.

## **FINDINGS OF FACT**

1. Crooked River is organized as a "Nonprofit Corporation, Mutual Benefit with Members" that provides domestic water service to Crooked River Ranch in Central Oregon.
2. In Order No. 06-642 this Commission found that it has jurisdiction over Crooked River and ordered Crooked River to file appropriate tariffs.
3. Crooked River filed this application on April 23, 2006, with rates to be effective on May 30, 2007.
4. By Order No. 07-181 the Commission suspended the rate filing for a period not to exceed six months.
5. The Crooked River water system consists of two wells, two reservoirs, piping, a booster pump system, pressure reducing valves, hydrants and standpipes.
6. Crooked River's responses to data requests in many cases were incomplete or not provided.
7. Staff's adjustments to revenues are based on typical rate case methods and Commission precedent.
8. The capital assessment surcharge was not collected for the purposes specified in the Board's resolution.

9. The purposes of the capital assessment surcharge are inconsistent with Commission policy.

10. The funds remaining from the capital assessment surcharge are held in constructive trust by Crooked River.

11. The capital assessment surcharge fund is an equity interest in the Company held collectively by its owners.

12. Utility management positions typically are salaried. Crooked River's are not.

13. Crooked River's Board of Directors is responsible for general supervision and control of the Company.

14. Crooked River's management is responsible for the Company's failure to comply with discovery orders.

15. Staff calculated its cost of service showing based on information provided by the Company, using methods typically used to set rates, including averaging, annualizing and informed judgment.

16. Staff removed CIAC from utility net plant.

17. Staff calculated depreciation expense using Average Service Lives.

18. Crooked River uses a parcel of land for storing dirt and gravel.

19. Crooked River has not shown that its proposed AMR project is cost-effective.

20. Crooked River's cost of debt includes loans on its office building and a truck.

21. Prudent management would use the capital assessment surcharge funds to pay off the loans on the office building and truck.

22. Crooked River owners have no equity interest in the company that can be reclaimed in any form.

23. For the customer/owners of Crooked River, the most advantageous return on equity is zero.

24. Well No. 3 is not needed for water supply.

25. Well No. 3 is not needed for fire protection.

26. Crooked River has adequate water supply to meet fire safety requirements.

27. There is inadequate data to design a two-tier rate.

28. The results of operations are based on evidence presented by Staff, not the Company's failure to present evidence.

29. Crooked River's General Manager is a member of its Board of Directors.

30. There are one or more contracts between the Company and the General Manager and his family.

31. In view of the circumstances, Crooked River should be ordered to provide verified written notice whether the terms of this order are accepted.

#### **CONCLUSIONS OF LAW**

1. The Commission has jurisdiction to set rates for Crooked River.
2. Staff's revenue adjustments are reasonable.
3. The capital assessment surcharge should be discontinued.
4. The capital assessment surcharge fund is a security within the meaning of ORS 59-015(19)(a).
5. Staff's adjustments to salaries and wages are reasonable.
6. Staff's adjustments to operating expenses are reasonable.
7. Staff's adjustments to plant in service are reasonable.
8. Crooked River's proposed AMR project should not be included in rates.
9. Rates should be set assuming Crooked River has no long term debt.
10. The return on equity should be set at zero.
11. Crooked River has not shown any need for Well No. 3.
12. The rates set in this decision are just and reasonable.
13. Staff's proposed rate design is reasonable.

14. Contracts between Crooked River and the General Manager and his family members must be submitted to this Commission for approval.

15. In view of the circumstances, Crooked River should be ordered to provide verified written notice whether the terms of this order are accepted.

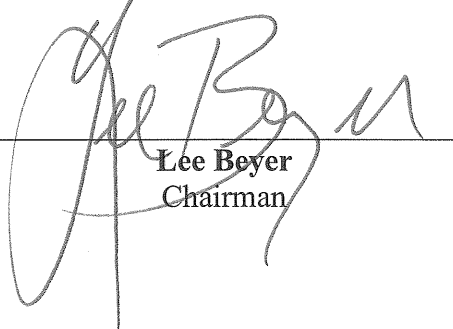
**ORDER**

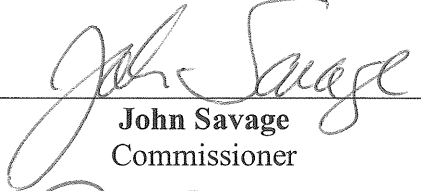
IT IS ORDERED that:


1. Advice No. 07-12 filed by Crooked River Ranch Water Company is permanently suspended.
2. Not later than December 4, 2007, Crooked River Ranch Water Company shall file its tariff in the form provided in Appendix B.
3. Not later than December 4, 2007, Crooked River Ranch Water Company shall provide verified notice regarding whether the terms of this order are accepted and the time within which the order will be obeyed.
4. 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.
5. 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.

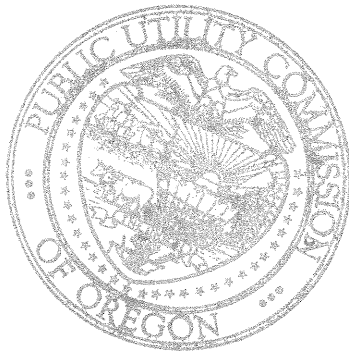
6. Not later than 30 days from the date of this order, Crooked River Ranch Water Company shall file a report stating its need for funds for new capital improvements, including the intended projects, the estimated cost of each such project, and the time that each investment would be required.

Made, entered, and effective NOV 29 2007.

  
\_\_\_\_\_  
**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.



CRRWC  
UW 120  
Test Year: 2006/2007

Company Case  
7.6%

Staff  
-34.9%

Commission  
-37.7%

		A	B	C	D	E	F	G	H
Acct. No.		Balance Per Application Test Year: 2006/2007	Proposed Company Adjustments	Adjusted Results (A+B=C)	Proposed Staff Adjustments	Adjusted Results (A+D=E)	Staff Proposed Rev Changes	Proposed Results (E+F=G)	Commission Ordered Results
<b>REVENUES</b>									
1	461.1 Residential / Commercial Water Sales	615,657	204,050	819,707	(832)	614,825	(97,607)	517,218	494,439
3	462.1 Fire Department	0	0	0	0	0	0	0	0
4	472 Rental Income (Cell Antenna; Equipment)	0	0	0	8,100	8,100	0	8,100	8,100
5	471 Misc. Revenues	48,746	0	48,746	(48,746)	0	0	0	0
6	468 Special Contracts	142,430	(142,430)	0	(142,430)	0	0	0	0
7									
8	TOTAL REVENUE	806,833	61,620	868,453	(183,908)	622,925	(97,606)	525,319	502,539
<b>OPERATING EXPENSES</b>									
10	601 Salaries and Wages - Employees	313,500	30,000	343,500	(85,683)	227,817		227,817	218,578
11	603 Salaries and Wages - Officers	0	0	0	0	0		0	0
12	604 Employee Pension & Benefits	24,000	9,000	33,000	4,390	28,390		28,390	28,390
13	610 Purchased Water	0	0	0	0	0		0	0
14	611 Telephone/Communications	16,000	0	16,000	(6,922)	9,078		9,078	9,078
15	615 Purchased Power	49,000	0	49,000	5,404	54,404		54,404	54,404
16	618 Chemical / Treatment Expense	0	0	0	0	0		0	0
17	619 Office Supplies	19,600	(3,600)	16,000	(4,319)	15,281		15,281	15,281
18	619.1 Postage	6,500	0	6,500	158	6,658		6,658	6,658
19	620 O&M Materials/Supplies	34,000	0	34,000	(30,334)	3,666		3,666	3,666
20	621 Repairs to Water Plant	82,000	0	82,000	(51,367)	30,633		30,633	30,633
21	631 Contract Svcs - Engineering	0	0	0	0	0		0	0
22	632 Contract Svcs - Accounting	4,427	1,573	6,000	142	4,569		4,569	4,569
23	633 Contract Svcs - Legal	41,000	0	41,000	(34,891)	6,109		6,109	6,109
24	634 Contract Svcs - Management Fees	0	0	0	0	0		0	0
25	635 Contract Svcs - Testing	2,050	150	2,200	2,249	4,299		4,299	4,299
26	636 Contract Svcs - Labor	6,200	3,800	10,000	(6,200)	0		0	0
27	637 Contract Svcs - Billing/Collection	0	0	0	0	0		0	0
28	638 Contract Svcs - Meter Reading	0	0	0	0	0		0	0
29	639 Contract Svcs - Other	0	0	0	0	0		0	0
30	641 Rental of Building/Real Property	0	0	0	0	0		0	0
31	642 Rental of Equipment	1,000	0	1,000	(933)	67		67	67
32	643 Small Tools	5,000	0	5,000	(4,825)	175		175	175
33	648 Computer/Electronic Expenses	8,200	1,800	10,000	(6,910)	1,290		1,290	1,290
34	650 Transportation	17,900	600	18,500	(740)	17,160		17,160	17,160
35	656 Vehicle Insurance	3,884	0	3,884	0	3,884		3,884	3,884
36	657 General Liability Insurance	10,463	0	10,463	(4,151)	6,312		6,312	6,312
37	658 Workers' Comp Insurance	11,000	3,000	14,000	(4,165)	6,835		6,835	6,835
38	659 Insurance - Other	0	0	0	0	0		0	0
39	660 Public Relations/Advertising	800	1,200	2,000	(800)	0		0	0
40	666 Amortz. of Rate Case	0	3,000	3,000	5,676	5,676		5,676	5,676
41	667 Gross Revenue Fee (PUC)	1,895	154	2,049	(338)	1,557	(244)	1,313	1,256
42	668 Water Resource Conservation	0	0	0	0	0		0	0
43	670 Bad Debt Expense	0	0	0	0	0		0	0
44	671 Cross Connection Control Program	0	0	0	0	0		0	0
45	672 System Capacity Dev Program	0	6,000	6,000	0	0		0	0
46	673 Training and Certification	1,000	0	1,000	0	1,000		1,000	1,000
47	674 Consumer Confidence Report	0	0	0	800	800		800	800
48	675 General Expense	500	1,000	1,500	238	738		738	738
49	TOTAL OPERATING EXPENSE	659,919	57,677	717,596	(223,522)	436,397	(244)	436,153	426,857
<b>OTHER REVENUE DEDUCTIONS</b>									
50	403 Depreciation Expense	100,272	0	100,272	(56,281)	43,991		43,991	43,991
51	407 Amortization Expense	0	0	0	0	0		0	0
52	408.11 Property Tax	0	0	0	0	0		0	0
53	408.12 Payroll Tax	0	0	0	19,756	19,756		19,756	19,756
54	408.13 Other Tax	0	0	0	0	0		0	0
55	409.11 Oregon Income Tax	0	0	0	0	0	0	0	0
56	409.10 Federal Income Tax	0	0	0	0	0	0	0	0
57	TOTAL REVENUE DEDUCTIONS	760,191	57,677	817,868	(260,046)	500,145	(244)	499,901	490,605
58	NET OPERATING INCOME	46,642	3,943	50,585	76,138	122,780	(97,362)	25,418	11,935
59	101 Utility Plant in Service	3,610,965	0	3,610,965	(2,659,641)	951,324		951,324	951,324
60	Less:								
61	108.1 Depreciation Reserve	1,571,505	0	1,571,505	(1,979,323)	(407,818)		(407,818)	(407,818)
62	271 Contributions in Aid of Const	1,538,911	0	1,538,911	(1,538,911)	0		0	0
63	272 Amortization of CIAC	0	0	0	0	0		0	0
64	281 Accumulated Deferred Income Tax	0	0	0	0	0		0	0
65	Net Utility Plant	500,549	0	500,549	42,957	543,506	0	543,506	543,506
66	Plus: (working capital)			500,549		543,506		543,506	543,506
67	151 Materials and Supplies Inventory	41,201	0	41,201	(5,621)	35,580		35,580	35,580
68	Working Cash (Total Op Exp /12)	54,993	0	54,993	(18,627)	36,366	0	36,366	35,596
69	TOTAL RATE BASE	596,743	0	596,743	18,710	615,453	0	615,453	614,683
70	Rate of Return	7.82%		8.48%		19.95%		4.13%	1.94%

**Containing Rules and Regulations  
Governing Water Utility Service**

**NAMING RATES FOR**

**CROOKED RIVER RANCH WATER COMPANY**

13845 S. W. COMMERCIAL LOOP  
CROOKED RIVER, OREGON, 97760

541-923-1041

Serving water in the vicinity of

**CROOKED RIVER RANCH, OREGON**

Issue Date	NOVEMBER 28, 2007	Effective Date	December 1, 2007
Issued By	<b>CROOKED RIVER RANCH WATER COMPANY</b>		
Signed By			
	J. R. ROOKS	GENERAL MANAGER	

Advice No.  
(FOR PUC USE ONLY)

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Advice No.  
 (FOR PUC USE ONLY)

**SCHEDULE NO. 1**

RESIDENTIAL / COMMERCIAL METERED RATES

Available: To customers of the Utility at CROOKED RIVER RANCH, Oregon, and vicinity.

Applicable: To residential and commercial premises.

**Base Rate**

Service Meter Size	Monthly Base Rate	Usage Allowance	Unit of Measure
All Meters	\$17.76	N/A	cubic feet

**Commodity Usage Rate**

Commodity Rate		Number of Units	Unit of Measure	Base Usage Allowance	Unit of Measure
\$0.82	Per	100	cubic feet	N/A	cubic feet

Special Provisions:

1. These rates are based on continuous service. Discontinuation of service may not be employed to avoid monthly charges for service. See Rule No. 26, Voluntary Discontinuance.
2. Water used during the construction of buildings, etc., shall be metered. Charges shall be made at the rates specified in this schedule. When setting of a meter is impracticable, the amount of water used shall be estimated, and the charges shall be made at specified rates for the amounts so estimated.
3. Water Haulers will be charged the commodity rate of \$0.82 per 100 cf.

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## SCHEDULE NO. 2

### MISCELLANEOUS SERVICE CHARGES

This schedule lists the miscellaneous charges included in the utility's Rules and Regulations; refer to the appropriate rules for an explanation of charges and conditions under which they apply.

<u>Connection Charge for New Service</u> (Rule No. 9)	
Standard ¾-inch service	\$450.00
Nonstandard ¾ inch service	At cost
Larger than ¾-inch	\$450.00 (plus additional costs)
Irrigation hookup (if provided on separate system)	\$450.00
<u>Meter Test</u> (Rule No. 21)	
First test within 12-month period	N/C
Second test within 12-month period	\$35.00
<u>Pressure Test</u> (Rule No. 40)	
First test within 12-month period	N/C
Second test within 12-month period	\$35.00
<u>Late-Payment Charge</u> (Rule No. 22)	
Charged on amounts more than 30 days past due	Pursuant to OAR 860-036-0130 (as of 1/1/07 – 1.7%)
<u>Deposit for Service</u> (Rule No. 5)	
Pursuant to OAR 860-036-0040(2)	Pursuant to OAR 860-036-0050 (as of 1/1/07 – 5%)
<u>Returned-Check Charge</u> (Rule No. 23)	\$27.00
<u>Trouble-Call Charge</u> (Rule No. 36)	
During normal office hours	\$25.00 per hour
After normal office hours on special request	\$50.00 per hour
<u>Reconnect Charge</u> (Rule No. 28 & 29)	
During normal office hours	\$25.00
After normal office hours on special request	\$50.00
<u>Unauthorized Restoration of Service</u> (Rule No. 30)	Reconnection charge plus costs
<u>Damage/Tampering Charge</u> (Rule No. 34)	At cost
<u>Disconnect Field-Visit Charge</u> (Rule No. 29)	\$35.00

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Signed By			
	J. R. ROOKS	GENERAL MANAGER	

**Advice No.**  
 (FOR PUC USE ONLY)

**RULES AND REGULATIONS**

Rule 1: Jurisdiction of the Commission

The utility rules and regulations herein shall be subject to the rules and regulations of the Public Utility Commission of Oregon.

Rule 2: Definitions

- A. "Utility" shall mean CROOKED RIVER RANCH WATER COMPANY.
- B. "Applicant" shall mean any person, business, or organization that applies for service or reapplies for service at a new existing location after service has been discontinued, except as noted in the definition of "Customer."
- C. "Commission" shall mean the Public Utility Commission of Oregon.
- D. "Customer" shall mean any person, business, or organization who has applied for, been accepted to receive, or is currently receiving service. A customer who voluntarily discontinues service at the same or different premises within 20 (twenty) days after discontinuance retains customer status.
- E. "Residential customer premises" shall mean any dwelling and its land including, but not limited to, a house, apartment, condominium, townhouse, cottage, cabin, mobile home, recreational vehicle, or trailer house.
- F. "Commercial customer premises" shall mean any premises at which a customer carries on any major activity of gaining a livelihood or performing a public service. Such activity may be of a business, industrial, professional, or public nature.
- G. "Main" shall mean the pipe laid in the street, alley, or other right-of-way for the distribution of water to customers. It shall not include service lines.
- H. "Service connection" shall mean the pipe, stops, fittings, meter, and meter box laid from the main to the property line of the premises served.
- I. "Customer line" shall mean the pipe, stops, and fittings leading from the property line to the premises served.
- J. Point of Delivery is the property line or the outlet swivel/union of the meter defining where the utility service connection stops and the customer line starts.

Issue Date	NOVEMBER 28, 2007	Effective Date	December 1, 2007
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Signed By			
	J. R. ROOKS	GENERAL MANAGER	

Advice No.  
 (FOR PUC USE ONLY)

**APPLICATION FOR SERVICE**

Rule 3: Customer/Applicant Information (OAR 860-036-0015)

The utility shall provide or be able to provide customers or applicants with the following information:

- A. Instructions on how to read meters, either in writing or by explanation;
- B. A written application for water service and contract forms;
- C. Utility rules and regulations;
- D. Commission rules and regulations;
- E. Approved tariffs;
- F. Rights and Responsibilities Summary for Oregon Utility Consumers;
- G. Notices in foreign languages, if applicable;
- H. The utility's business address, telephone number, and emergency telephone number;
- I. Membership bylaws, and
- J. Notices approved by the Commission.

Rule 4: Application for Service (OAR 860-036-0035)

A written application shall be provided to all applicants/customers seeking water service. An application for water service must be made for each individual service. The application shall identify the applicant, the premises to be served, the billing address if different, the type of use to which the water is to be put, and an agreement to conform to the Rules and Regulations of the utility as a condition for receiving such service. The applicant shall, at this time, pay any scheduled fees or deposits. An application is a request for water utility service and shall not be accepted until the applicant establishes credit as set forth in OAR 860-036-0040.

An application for water service must be made where:

- A. An applicant who has not previously been served by the utility requests service;
- B. Service has been involuntarily discontinued in accordance with the utility and Commission rules, and service is sought;
- C. Service has been voluntarily discontinued and a request to restore service has not been made within 20 days; or
- D. There is a change in the identity of a customer, the type of use to which the water is put, or the number of premises served.

Issue Date	NOVEMBER 28, 2007	Effective Date	December 1, 2007
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Signed By			
	J. R. ROOKS	GENERAL MANAGER	

Advice No.  
 (FOR PUC USE ONLY)

Rule 5: Deposit for Service (OAR 860-036-0040)

In accordance with the Commission's rules for credit establishment and deposit waiver, an applicant or a customer may be required to make a deposit to secure payment of bills for service. The deposit shall not exceed one-sixth (1/6) the amount of reasonable estimated billings for one year's use of service at the premises during the prior year or upon the type and size of the customer's equipment that will use the service. (OAR 860-036-0040)

The utility shall pay interest on deposits at the rate established by the Commission. After the customer has paid bills for service for 12 consecutive months without having had service discontinued for nonpayment, or more than two occasions in which a shut-off notice was issued, and the customer is not then delinquent in the payment of bills, the utility shall promptly and automatically refund the deposit plus accrued interest by **(highlight one)** 1) issuing the customer a refund check: **2) crediting the customer's account**. The customer is entitled to a refund check upon request.

Rule 6: Customer Service Line

The customer shall own and maintain the customer service line and promptly repair all breaks and leaks. The utility shall not be responsible for any damage or poor service due to inadequacy of the customer line or any portion of the customer's plumbing. All leaks in the customer line, faucets, and all other parts of the plumbing owned or controlled by the customer shall be promptly repaired so as not to waste water.

Rule 7: Separate Control of Service

All premises supplied with water will be served through service lines so placed as to enable the utility to control the supply to each individual premise using a valve placed within and near the line of the street, the utility right-of-way, or at the meter.

Rule 8: Service Connections (OAR 860-036-0060)

The utility shall furnish and install at its own expense all necessary trenching, pipe, valves, and fittings between its main line and the customer's service line. Such installation shall be designated as the service connection. The utility shall own, operate, maintain, and replace the service connection when necessary and promptly repair all breaks and leaks. The customer shall not be responsible for any damage or poor service due to inadequacy of the service lines or any portion of the utility's plumbing.

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Rule 9: Service Connection Charge

An applicant requesting permanent water service to premises not previously supplied with permanent water service by the utility shall be required to pay the service connection charge listed in the utility's Miscellaneous Service Charges Schedule.

Rule 10: Main Line Extension Policy (OAR 860-036-0065)

The utility shall specify the size, character, and location of pipes and appurtenances in any main line extension. Main line extensions shall normally be along streets, roads, highways, or other satisfactory rights-of-way. All construction work shall conform to all applicable rules, regulations, codes, and industry standards. Each main line extension shall normally extend along applicant's property line to the point the applicant's service line would be at a 90-degree angle to the street or main line.

Rule 11: Main Line Advances and Refunds Policy

Each new customer requesting a main line extension shall advance the utility the cost-base amount necessary to extend the main line to provide service.

**For a period of 5 years** after construction of the requested main line extension, the utility shall also collect from any additional applicants whose service connections or service lines shall connect to said main line extension an amount equal to the new applicant's proportionate share of the main line extension cost for that portion used. The utility will then refund the share differential amount to those customers who previously shared the cost of said main line extension. Refunds shall not exceed the amount originally advanced.

No part of the distribution system installed prior to the request for a main line extension shall be used to calculate any customer advance or refund.

Rule 12: Types of Use

Water service may be supplied for residential, commercial, irrigation, temporary construction, special contracts, fire prevention, and other uses. The utility shall file separate rate schedules for each type of use and basis of supply.

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Rule 13: Multiple Residences

An apartment building, mobile home park, motel, trailer camp, duplex, townhouse, or any other property consisting of more than one residential unit, if served through one service line, shall be considered to be equivalent to the number of dwelling units when determining the customer count.

Rule 14: Utility Access to Private Property (OAR 860-036-0120(3)(b) and OAR 860-036-0205(3))

Customers shall provide access during reasonable hours to utility-owned service lines that extend onto the premises of the customer for the purposes of reading meters, maintenance, inspections, or removal of utility property at the time service is to be discontinued. Where the customer does not cooperate in providing reasonable access to the meter or to the premises, as required by law or to determine if a health or safety hazard exists, it is grounds for disconnection.

Rule 15: Restriction on Entering a Customer Residence (OAR 860-036-0085)

No water utility employee shall enter the residence of its customers without proper authorization except in an emergency when life or property is endangered.

**REFUSAL OF SERVICE**

Rule 16: Refusal of Service Due to Customer Accounts (OAR 860-036-0080(1-3))

The utility may refuse to serve an applicant until receipt of full payment of overdue amounts, or other obligations related to a prior account of the applicant with the utility, when the following circumstances exist:

- A. An overdue amount remains outstanding by a customer at the service address;
- B. The applicant resided at the service address indicated in (A) during the time the overdue charges were incurred; and
- C. The person indicated in (A) will reside at the location to be served under the new application.  
(OAR 860-036-0080)

Service shall not be refused for matters not related to water service. Residential service shall not be refused due to obligations connected with nonresidential service.

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If service is refused under this rule, the utility shall inform the applicant or customer of the reasons for the refusal and of the Commission's dispute resolution process.

Rule 17: Refusal of Service Due to Utility Facilities (OAR 860-036-0080(7))

The utility shall not accept an application for service or materially change service to a customer if the utility does not have adequate facilities or water resources to render the service applied for, or if the desired service is of a character that is likely to unfavorably affect reasonable service to other customers.

For refusal of service under this rule, the utility shall provide a written letter of refusal to the applicant informing applicant that the details upon which the utility's decision was based may be requested. A copy of such notice will be sent to the Commission. The details will include, but not be limited to:

- A. Current capacity and load measured in gallons or cubic feet per minute;
- B. Current capacity and load measured in pounds per square inch;
- C. Cost to the utility for additional capacity in order to provide the additional service; and
- D. Information regarding the appeal process of the utility's refusal to provide service is available through the Commission's dispute resolution process pursuant to OAR 860-036-0025.

Rule 18: Refusal of Service Due to Customer Facilities (OAR 860-036-0080(4-6))

The utility shall refuse service to an applicant or customer whose facilities do not comply with applicable plumbing codes or, if in the best judgment of the utility, are of such a character that safe and satisfactory service cannot be given.

If service is refused under this rule, the utility will provide written notification to the customer, within 10 working days of receiving the application, stating the reason(s) for refusal and providing information regarding the Commission's complaint process. A copy of the notification will also be sent to the Commission.

**METERS**

Rule 19: Utility Meters (OAR 860-036-0105)

The utility shall own, maintain, and operate all meters. Meters placed in service shall be adequate in size and design for the type of service, set at convenient locations, accessible to the utility, subject to the

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utility's control, and generally placed in a meter box or vault between the street curb and property line. Each meter box or vault shall be provided with a suitable cover.

Where additional meters are furnished by the utility or relocated for the convenience of the customer, a reasonable charge may be made in accordance with a schedule approved by the Commission.

The water utility shall have the right to set meters or other devices for the detection and prevention of fraud or waste without notice to the customer.

Each customer shall provide the utility with regular access to the meter on the customer's property. Failure to permit access at reasonable times and after reasonable notice by the utility requesting access is grounds for disconnection. (OAR 860-036-0120) Should damage result to the meter from molesting, tampering, or willful neglect on the part of the customer, the utility shall repair or replace the meter and may bill the customer for the reasonable cost. (OAR 860-036-0105(6))

Rule 20: Meter Testing (OAR 860-036-0110)

The meter shall be tested prior to or within 30 (thirty) days of installation to determine it is accurate to register not more than 2 percent error. No meter shall be allowed to remain in service if it registers an error in excess of 2 percent under normal operating conditions. The utility shall maintain a record of all meter tests and results. Meter test result records shall include:

- A. Information necessary to identify the meter;
- B. Reason for making the test;
- C. Date of test;
- D. Method of testing;
- E. Meter readings;
- F. Test results; and
- G. Any other information required to permit convenient checking of methods employed.

Rule 21: Customer-Requested Meter Test (OAR 860-036-0115)

A customer may request that the utility test the service meter; such test shall be made within 20 working days of the receipt of such request at no cost to the customer. The customer has the right to be present during said test, which is to be scheduled at a mutually agreeable time. A written report shall be provided to the customer on utility letterhead stating:

- A. Customer's name;

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- B. Date of the customer's request;
- C. Address at which the meter has been installed;
- D. Meter identification number;
- E. Date of actual test; and
- F. Test results.

If a customer requests a meter test more often than once in any 12-month period, the deposit listed on the Miscellaneous Service Charges Schedule may be required to recover the cost of the test. If the meter is found to register more than 2 percent fast under conditions of normal operation, the utility shall refund the deposit to the customer.

**BILLING**

Rule 22: Billing Information/Late-Payment Charge (OAR 860-036-0120, OAR 860-036-0125 and OAR 860-036-0130)

Bills are due and payable when rendered by deposit in the mail or other reasonable means of delivery. As near as practical, **meters shall be read at monthly intervals on the corresponding day of each meter reading or billing period.** The bill shall be rendered immediately thereafter. (OAR 860-036-0120(3) requires water utilities to bill at monthly intervals. A utility may request upon application special authority by the Commission to bill at intervals other than monthly.) The utility shall make reasonable efforts to prepare opening and closing bills from actual meter readings. When there is good reason for doing so, estimated bills may be submitted. Any estimated billings shall be clearly designated as such.

The late-payment charge determined by the Commission and listed on the Miscellaneous Service Charges Schedule shall be applied to all overdue balances at the time of preparing the subsequent months' bill or balances owing that are 30 days old. **No late charges may be assessed on water rate charges that are not at least 30 days old.**

**All bills become delinquent if not paid within 15 days** of the date of transmittal of the bill. (OAR 860-036-0125 requires a minimum of 15 days.) If permitted to become delinquent, water service may be terminated after proper notice as provided in Rule 29, Disconnection/Reconnection Visit Charge.

All water service bills shall show:

- A. Beginning and ending meter readings for the billing period;
- B. Beginning and ending dates of the period of service to which the bill applies;
- C. For all metered bills, beginning and ending meter readings for the period for which the bill is rendered;

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- D. Number of units of service supplied stated in gallons or cubic feet;
- E. Schedule number under which the bill was computed;
- F. Delinquent date of the bill;
- G. Total amount due; and
- H. Any other information necessary for the computation of the bill.

Rule 23: Returned-Check Charge

The returned-check charge listed on the Miscellaneous Service Charges Schedule shall be billed for each occasion a customer submits a check for payment that is not honored, for any reason, by a bank or other financial institution.

Rule 24: Prorating of Bills

Initial and final bills will be prorated according to the number of days service was rendered and on the basis of a 31-day month. For metered services, the meter will be read upon opening and closing a customer's account. Consumption will be charged at scheduled rates. Any minimum monthly charge will be prorated.

Rule 25: Adjustment of Bills (860-036-0135)

When an underbilling or overbilling occurs, the utility shall provide written notice to the customer detailing the circumstances, period of time, and the amount of the adjustment. If it can be shown that the error was due to an identifiable cause, the date of which can be fixed, the overcharge or undercharge shall be computed back to such date. If no date can be fixed, the utility shall refund the overcharge or rebill the undercharge for no more than six months' usage. In no event shall an overbilling or underbilling be for more than three years' usage. No billing adjustment shall be required if a meter registers less than 2 percent error under conditions of normal operation.

When a customer is required to repay an underbilling, the customer shall be entitled to enter into a time-payment agreement without regard to whether the customer already participates in such an agreement. If the customer and the utility cannot agree upon payment terms, the Commission shall establish terms and conditions to govern the repayment obligation. The utility shall provide written notice advising the customer of the opportunity to enter into a time-payment agreement and of the Commission's complaint process.

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**DISCONNECTION OF WATER SERVICE**

Rule 26: Voluntary Discontinuance (OAR 860-036-0210)

Except for emergencies, customers who (for any reason) wish to have service discontinued shall provide the utility with at least five days' advance notice of the requested date of discontinuance of service. Until the utility receives such notice, the customer shall be held responsible for all service rendered. Should the customer wish to recommence service within 12 months at the same premises, the customer will be required to pay the customary minimum monthly charge as if service had been continuous. The reconnection charge listed on the Miscellaneous Service Charges Schedule will be applicable at the time of reconnection.

Rule 27: Emergency Disconnection (OAR 860-036-0215)

The utility may terminate service in emergencies when life or property is endangered without following the procedures set forth in OAR 860-036-0245. Immediately thereafter, the utility will notify the customer and the Commission. When the emergency termination was through no fault of the customer, there shall be no charge made for restoration of service.

Rule 28: Disconnection of Water Service Charge for Cause (OAR 860-036-0205 and 0245)

When a customer fails to comply with the utility's rules and regulations, or permits a bill or charge for regulated services to become delinquent (except for nonpayment of a time-payment agreement\*), the utility shall give at least five days' written notice before water may be shut off. The notice shall state:

- A. The reason(s) for the proposed disconnection;
- B. The earliest date for disconnection;
- C. The amount to be paid to avoid disconnection;
- D. An explanation of the time-payment provision of OAR 860-036-0125;
- E. Information regarding the Commission's dispute resolution process; and
- F. The Commission's Consumer Services toll-free number, 1-800-522-2404.

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Prior to disconnection on the day that the water utility expects to disconnect service, the utility must make a good-faith effort to physically contact the customer to be disconnected or an adult at the customer's premise to be disconnected to advise the customer or adult of the proposed disconnection. If contact is not made, the utility shall leave a notice in a conspicuous place at the customer's premise informing the customer that service has been or is about to be disconnected. The utility shall document its efforts to provide notice and make that documentation available to the customer upon request.

Service shall not be shut off for nonemergencies on a Friday or the day of a state- or utility-recognized holiday or the day prior to such holiday. (OAR 860-036-0220)

The utility shall not disconnect residential service due to the failure to pay or meet obligations associated with nonresidential service. (OAR 860-036-0225)

A water utility may not disconnect residential service for nonpayment if a customer enters into a written time-payment plan. The utility will offer such customers a choice of payment agreements between a levelized-payment plan and an equal-pay arrearage plan or some other mutually agreeable alternate payment arrangement agreed to in writing. (OAR 860-036-0125)

\*When a customer fails to comply with the terms of a written time-payment agreement between the customer, and/or the utility permits a time-payment agreement charge to become delinquent, the utility shall give at least 15 days' written notice before the water may be shut off.

Rule 29: Reconnection Charge and Disconnection Visit Charge (OAR 860-036-0080 and 0245(7))

Service shall not be restored until the utility's rules and regulations are complied with and/or payment is made in the amount overdue and any additional disconnection, reconnection, or disconnection visit charges incurred as listed on the Miscellaneous Service Charges Schedule are paid.

Rule 30: Unauthorized Restoration of Service

After the water has been disconnected or shut off at the curb stop or at the meter, if any person not authorized by the utility should turn it on, the water service line may be disconnected without notice. Service shall not be reconnected until all arrearages, all cost-of-service disconnection and reconnection, and the reconnection charge listed on the Miscellaneous Service Charges Schedule are paid in full.

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Rule 31: Unauthorized Use

No person shall be allowed to make connection to the utility mains, or to make any alteration to service connections, or to turn a curb stop off or on to any premises, without written permission of the utility. Meter tampering, diverting service, or any other unauthorized use of service will automatically cause a disconnection of the water service and meter removal. All fees, costs of disconnection and reconnection, past-due billings, and service charges listed on the Miscellaneous Service Charges Schedule must be paid in full before any service is restored. An advance deposit for restoration of service may be required.

Rule 32: Interruption of Service (OAR 860-036-0075)

The utility shall have the right to shut off the water supply temporarily for repairs and other necessary purposes. The utility shall use all reasonable and practicable measures to notify affected customers in advance of such discontinuance of service except in the case of emergency repairs. The utility shall not be liable for any inconvenience suffered by the customer or damage to the customer's property arising from such discontinuance of service.

The utility shall keep a record of all service interruptions affecting its whole system or a major section thereof, including the time and date of interruption, duration, and cause or purpose of interruption.

Rule 33: Water Supply/Usage Restrictions (OAR 860-036-0325)

The utility shall exercise due diligence to furnish a continuous and adequate supply of water to its customers. If water restrictions are necessary to equitably apportion its available water supply among its customers with due regard to public health and safety, the utility shall provide written notification to its customers and the Commission including:

- A. Reason for the restriction;
- B. Nature and extent of the restriction;
- C. Effective date of the restriction; and
- D. Probable date of termination of such restriction.

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Rule 34: Damages/Tampering

Should damage result to any of the utility's property from molesting or willful neglect by the customer to a meter or meter box located in the customer's building, the utility will repair or replace such equipment and will bill the customer for the costs incurred.

**SERVICE QUALITY**

Rule 35: System Maintenance (OAR 860-036-0305)

The utility shall have and maintain its entire plant, distribution system, and hydrants in such condition that it will furnish safe, adequate, and reasonable continuous service. The utility shall inspect its facilities in such manner and with such frequency as may be necessary to ensure a reasonably complete knowledge of its condition and adequacy at all times.

The utility shall keep such records of all routine maintenance as considered necessary for the proper maintenance of its system, including regular flushing schedules, exercising of valves, and valve inspections.

Rule 36: Trouble Call

The trouble-call charge listed on the Miscellaneous Service Charges Schedule may be billed whenever a customer requests that the utility visit the customer's premises to remedy a service problem and the problem is due to the customer's facilities.

Rule 37: Water Purity (OAR 860-036-0310)

The utility shall deliver water for domestic purposes free from bodily injurious physical elements and disease-producing bacteria and shall cause such tests to be made and precautions taken as will ensure the constant purity of its supply.

The utility shall keep a record of all water quality testings, results, monitoring, and reports.

The utility shall deliver domestic water that is reasonably free from elements that cause physical damage to customer property such as pipes, valves, appliances, and personal property. A water

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supply that causes such damage will be remedied until the conditions are such as to not reasonably justify the necessary investment.

Rule 38: Water Pressure (OAR 860-036-0315)

Each water utility shall maintain pressure at a minimum of 20 pounds per square inch (psi) for health reasons to each customer at all times not to exceed 125 psi. The 20 psi and 125 psi standards are not presumed to be adequate service and do not restrict the authority of the Commission to require improvements where water pressure or flow is inadequate.

In general, 40 psi of water pressure in the water mains is usually adequate for the purposes of this rule. Adequate pressure may vary depending on each individual water system and its customers' circumstances. In the case of a dispute, the Commission will determine the appropriate water pressure for the water utility.

Rule 39: Pressure Surveys (OAR 860-036-0320)

The utility shall have a permanently placed pressure gauge located on a main that is representative of the system's pressure. A portable gauge in good working condition shall be available for checking pressure conditions in any part of the distribution area.

Rule 40: Customer-Requested Pressure Test (OAR 860-036-0320)

Upon customer request, the utility will perform a water pressure test within 20 working days of the request at no cost to the customer. If the customer requests more than one pressure test within any 12-month period, a deposit to recover the reasonable cost of the additional test may be required of the customer. The deposit shall be returned if the pressure test indicates less than 20 psi. The customer or designated representative has the right to be present at the pressure test, and said test shall be conducted at a mutually agreeable time.

For metered service, the pressure will be tested at a point adjacent to the meter on the customer's service line. For nonmetered service, the pressure will be tested at the customer's service line or hose bibb or other reasonable point likely to best reflect the actual service pressure.

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Rule 41: Maps/Records (OAR 860-036-0335)

The utility shall keep on file current maps and records of the entire plant showing size, location, character, and date of installation of major plant items, including shut-off valves.

Rule 42: Utility Line Location (One Call Program) (OAR 860-036-0345)

The utility and its customers will comply with the requirements of OAR 952-001-0010 through and including OAR 952-001-0090 (One Call Program) regarding identification and notification of underground facilities.

Rule 43: Cross Connection/Backflow Prevention Program

*Insert the utility's cross connection/backflow prevention program as required by law.*

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