

BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION

| | | |
|----------------------------|---|-----------------------|
| WASHINGTON UTILITIES AND |) | |
| TRANSPORTATION COMMISSION, |) | DOCKET NO. UW-040367 |
| |) | ORDER NO. 01 |
| Complainant, |) | |
| |) | PREHEARING CONFERENCE |
| v. |) | ORDER |
| |) | |
| COUGAR RIDGE WATER SYSTEM, |) | |
| |) | |
| Respondent |) | |
| |) | |

- 1 **NATURE OF PROCEEDING.** Docket No. UW-040367 is a special proceeding initiated by the Commission pursuant to RCW 80.04.015 to determine whether Cougar Ridge Water System (Cougar Ridge or the Company) is subject to regulation under Chapter 80.128 RCW and is performing any act requiring approval of the Commission without securing such approval.

- 2 **CONFERENCE.** The Washington Utilities and Transportation Commission (Commission) convened a prehearing conference in this docket at Olympia, Washington on March 25, 2004 before Administrative Law Judge Theodora Mace.

- 3 **APPEARANCES.** Thomas A. Brown, Attorney, Aberdeen, Washington represents Cougar Ridge. Jonathan Thompson, Assistant Attorney General, Olympia, Washington, represents the Commission’s regulatory staff (“Commission Staff” or “Staff”).¹

¹ In formal proceedings, such as this case, the Commission’s regulatory staff functions as an independent party with the same rights, privileges, and responsibilities as any other party to the proceeding. There is an “*ex parte* wall” separating the Commissioners, the presiding

Contact information provided at the conference for the parties' representatives is attached as Appendix A to this order.

4 **PETITIONS FOR INTERVENTION.** No written petitions to intervene were filed, nor did anyone petition to intervene orally at the prehearing conference.

5 **DISCOVERY.** Discovery will be conducted pursuant to the Commission's discovery rules, WAC 480-07-400 – 425. The Commission urges the parties to work cooperatively together to avoid having to bring discovery matters forward for formal resolution.

6 **ISSUES.** The primary issues in the proceeding are whether the Commission has jurisdiction over Cougar Ridge, and, if so, whether the rates charged by Cougar Ridge are fair, just, reasonable and sufficient. In the first instance, Cougar Ridge contests the Commission's jurisdiction.

7 **PROCEDURAL SCHEDULE.** The parties agreed that a hearing was required to determine the initial question whether the Commission has jurisdiction over Cougar Ridge. However, they disagreed as to the date for the hearing. Counsel for Cougar Ridge practices in a small law office and has a full schedule from May through early July. He requested a hearing scheduled in the week of July 19, 2004. Commission Staff requested that hearing be held sometime between May 11 and June 17, 2004.

8 Counsel for Cougar Ridge pointed out that the Commission has been aware of Cougar Ridge's rates and the jurisdictional issue since September 2003 but waited until just recently to convene a proceeding to address the matter. Therefore he argued that waiting another few months until July to hold a hearing on the jurisdictional question should be acceptable. However, he indicated that,

if absolutely necessary, he might be able to accommodate a hearing date sometime during the May 24-27, 2004 time period.

- 9 Staff's concern with holding a hearing as late as July on the initial question of jurisdiction was that Cougar Ridge will continue to charge rates which may be objectionable. If the Commission determines that Cougar Ridge is under its jurisdiction, then delaying the jurisdiction hearing until July further delays Staff's examination of Cougar Ridge's rates and the establishment of rates that are fair, just, reasonable and sufficient.
- 10 The Commission appreciates that Cougar Ridge may not be able to prepare for a hearing on jurisdiction until July, but is also concerned by the delay this may cause in the examination of Cougar Ridge's rates. The Commission is also concerned about its overall schedule of hearings and its need to conserve its resources. To resolve the problem, the hearing on jurisdiction will be convened on July 19, 2004. The parties should be prepared to make oral argument at the conclusion of the hearing and a ruling on the issue will be made on the record on that date. If it is found that the Commission has jurisdiction, Cougar Ridge will be required to file a tariff on July 29. The parties will then be required to go forward with their respective cases on August 23. Prefiled testimony will not be required. The schedule is set out in full on the attached Appendix B.
- 11 **DOCUMENT PREPARATION AND FILING REQUIREMENTS.** Parties must file with the Commission an original plus 9 copies of all pleadings, motions, briefs, and other prefiled materials. Paper copies of these materials are required to conform to the format and publication guidelines set forth in WAC 480-07-395 and 480-07-460, and must be three-hole punched with *oversized* holes to allow easy handling. The Commission may require a party to refile any document that fails to conform to these standards.

- 12 All filings must be mailed to the Commission Executive Secretary, Washington Utilities and Transportation Commission, P.O. Box 47250, 1300 S. Evergreen Park Drive, S.W. Olympia, Washington 98504-7250, or delivered by hand to the Commission Executive Secretary at the Commission's Records Center at the Washington Utilities and Transportation Commission, 1300 S. Evergreen Park Drive, S.W., Olympia, Washington, 98504. Both the post office box and street address are required to expedite deliveries by the U.S. Postal Service.
- 13 An electronic copy of all filings must be provided by e-mail delivery to <records@wutc.wa.gov>. Alternatively, parties may furnish an electronic copy by delivering with each filing a 3.5-inch IBM-formatted high-density diskette including the filed document(s). The Commission prefers that parties furnish electronic copies in .pdf (Adobe Acrobat) format, supplemented by a separate file in MS Word 6.0 (or later), or WordPerfect 5.1 (or later) format. Parties are required to organize and identify electronic files as specified in WAC 480-07-140(5).
- 14 **ALTERNATE DISPUTE RESOLUTION.** The Commission supports the informal settlement of matters before it. Parties are encouraged to consider means of resolving disputes informally. The Commission does have limited ability to provide dispute resolution services; if you wish to explore those services, please call the Director, Administrative Law Division, at 360-664-1142.
- 15 **NOTICE TO PARTIES:** Any objection to the provisions of this Order must be filed within ten (10) days after the service date of this Order, pursuant to WAC 480-07-430 and WAC 480-07-810. Absent such objection, this Order will control further proceedings in this matter, subject to Commission review.

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Dated at Olympia, Washington, and effective this 29th day of March 30, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

THEODORA M. MACE
Administrative Law Judge

APPENDIX A

**PARTIES' REPRESENTATIVES
DOCKET NO. UW-040367**

| COMPANY | REPRESENTAIVE AND ADDRESS | PHONE | FACSIMILE | E-MAIL |
|---------------------------|---|--------------|------------------|--|
| Cougar Ridge Water System | THOMAS A. BROWN 1806 – 101 E. Market Aberdeen, WA 98520 | 360-532-1960 | 360-532-4116 | tom.brown@lawbljs.com |
| Commission Staff | JONATHAN THOMPSON Assistant Attorney General 1400 E. Evergreen Park Dr. SW PO Box 40128 Olympia, WA 98504-0128 | 360-664-1225 | 360-586-5522 | jthompson@wutc.wa.gov |

APPENDIX B
PROCEDURAL SCHEDULE
DOCKET NO. UW-040367

| EVENT | DATE | INTERVAL |
|---|----------------------------|----------|
| Hearing on jurisdiction | July 19, 2004 | |
| Tariff filing date | July 29, 2004 | 10 days |
| Prehearing conference (for marking exhibits and determining hearing procedures) | August 23, 2004 at 1:30 pm | 25 days |
| Evidentiary hearing on rates | August 24-25, 2004 | |
| Initial post-hearing briefs | September 15, 2004 | 21 days |
| Post-hearing reply briefs | September 27, 2004 | 12 days |