

**BEFORE THE WASHINGTON STATE
UTILITIES AND TRANSPORTATION COMMISSION**

WASHINGTON UTILITIES AND	)	DOCKET NO. UW-040367
TRANSPORTATION COMMISSION,)	
	)	ORDER NO. 01
Complainant,)	
	)	ORDER INITIATING
v.	)	CLASSIFICATION PROCEEDINGS
	)	UNDER RCW 80.04.015 AND
COUGAR RIDGE WATER SYSTEM,	)	COMPLAINT AGAINST RATES
	)	AND CHARGES; AND NOTICE
Respondent.	)	OF PREHEARING CONFERENCE
.....	)	(Set for March 25, 2004, 3:00 p.m.)

- 1 The Washington Utilities and Transportation Commission (Commission) hereby initiates a special proceeding pursuant to RCW 80.04.015 to determine whether Cougar Ridge Water System (Cougar Ridge or Company) is subject to regulation under Chapter 80.28 RCW and is performing any act requiring approval of the Commission without securing such approval.

- 2 Based on the results of an informal Staff investigation, the Commission believes that Cougar Ridge may be engaged in business as a water company, as defined by RCW 80.04.010 and WAC 480-110-255, without having filed a tariff as required by RCW 80.28.050 and WAC 480-110-295(3).

- 3 If the Commission determines, on the basis of evidence received in this formal proceeding, that Cougar Ridge’s activities are subject to the provisions of Title 80 RCW, the Commission may issue such orders as may be necessary to require Cougar Ridge to comply with the title and the Commission’s rules adopted under that title.

- 4 The Commission also hereby initiates a complaint proceeding pursuant to RCW 80.04.110 and RCW 80.28.020 as to the reasonableness of the rates and charges being charged or collected by Cougar Ridge.

5 The significant findings of the informal Staff investigation, which remain to be
proven in this formal proceeding, are as follows:

- 6 (1) Cougar Ridge owns, controls, and manages a water plant for the purpose of
providing water service to the public for hire in Thurston County,
Washington. Cougar Ridge provides water service to at least 43 customers.
- 7 (2) Cougar Ridge is solely owned by Paul A. Bitar.
- 8 (3) Cougar Ridge has not filed a tariff with the Commission.
- 9 (4) Water companies are exempt from Commission's jurisdiction if they have
fewer than 100 customers and receive average annual per-customer revenue
of less than \$429.00. Thus, a small company that is below the jurisdictional
threshold could come within the Commission's jurisdiction either upon
connecting its 100th customer or upon receiving, over a period of one year,
average per-customer revenue of more than \$429.00. WAC 480-110-255(5)
details how to determine when the jurisdictional threshold for per-customer
revenue is met.
- 10 (5) Until July of 2002, Cougar Ridge charged its customers a monthly rate of
\$32.50. Effective July 2002, the Company increased its monthly service charge
to \$37.50. In August of 2003 it increased the monthly rate again to \$43.00.
- 11 (6) As a result of the increases in its monthly service charge, Cougar Ridge—
which had previously been below the threshold—met the revenue test for
Commission jurisdiction as of the end of February 2003. As of that month, its
cumulative per-customer revenue for the twelve consecutive months ending
with February 2003, totaled \$430.00. Cougar Ridge's annual per-customer
revenue remained above the \$430.00 threshold through October 2003, at
which point it totaled \$466.50 for the twelve consecutive months ending
October 2003.

- 12 (7) In accordance with the Commission's rules, the Company should have filed a tariff to become effective on the date on which its revenues met the threshold for jurisdiction. *WAC 480-110-295*.
- 13 (8) The Company waived monthly charges for its customers for November and December of 2003. The Company has indicated it will lower its monthly charges to \$35.00 per month, which would eventually result in annual per-customer revenues of \$420.00.
- 14 (9) Staff's contention is that the Company's actions to lower its revenues after the date on which its revenues exceeded the threshold does not remove the Company from the Commission's jurisdiction. The statute provides that "a water company cannot be removed from regulation except with the approval of the Commission" and a company can petition the Commission for removal from regulation only if its "average annual revenue per-customer falls below three hundred dollars." *RCW 80.04.010* (defining "water company").
- 15 (10) On July 1, 2003, (three months after the date on which Staff contends the Company became jurisdictional) the Company increased its connection charge from \$600.00 to \$3,000.00. Had the Company filed a tariff in anticipation of having reached the threshold (that is, to become effective on March 1, 2003), this increase in the connection charge would have required an additional tariff filing. Staff would have reviewed that filing and if it were not supported by cost data, the Commission could have suspended the proposed tariff.
- 16 (11) The \$3,000.00 connection is much greater than connection charges set forth in the tariffs of regulated companies and may exceed the actual cost of connecting customers to the system.
- 17 THEREFORE, the Commission enters into a full and complete investigation into the matters alleged, and will commence hearings pursuant to Chapter 34.05 RCW and Chapter 480-07 WAC for the following purposes:

- 18 (1) To determine whether Cougar Ridge Water System is conducting business subject to regulation under Title 80 RCW and is performing any act requiring approval of the Commission without securing such approval.
- 19 (2) To determine whether the rates or charges demanded, exacted, charged or collected by Cougar Ridge Water System for water, or in connection therewith, or that the rules, regulations, practices or contracts affecting such rates are unjust, unreasonable, unreasonably discriminatory or unduly preferential, or in any way in violation of the provisions of law.
- 20 (3) If it is determined that Cougar Ridge Water System is conducting such business, to issue such orders as may be necessary to require the Company to comply with Title 80 RCW and the Commission's rules adopted under that title.
- 21 (4) If it is determined that Cougar Ridge Water System's rates or charges, including its connection charges, are unjust, unreasonable, unjustly discriminatory or unduly preferential, or in any way in violation of the provisions of the law, to determine the just, reasonable and sufficient rates or charges to be in force as of the issuance of this complaint.
- 22 (5) To make such other determinations and enter such orders as may be just and reasonable.

ORDER AND NOTICE OF PREHEARING CONFERENCE

23 IT IS HEREBY ORDERED That Cougar Ridge Water System appear before the Commission in this special proceeding to give testimony and evidence under oath as to its operations.

24 **PLEASE TAKE NOTICE That the Commission will convene a prehearing conference at 3:00 p.m. on Thursday, March 25, 2004, in the Commission's Hearing Room, Second Floor, Chandler Plaza Building, 1300 S. Evergreen Park Drive S.W., Olympia, Washington.** Cougar Ridge Water System shall appear at the time and

place set forth above unless the Secretary of the Commission, by notice of hearing, specifies a different time and place, and at such further times and places set for hearing in this matter.

25 If a limited English-speaking or hearing-impaired party needs an interpreter, a form is attached to this notice to be filled out and returned as indicated, so that a qualified interpreter may be appointed at not cost to the party or witness.

26 IT IS FURTHER ORDERED That, pursuant to RCW 80.04.015 and 80.04.130, Cougar Ridge Water System shall bear the burden of proving that the alleged operations are not subject to the provisions of RCW 80.04.010.

27 The hearing in this matter is being held pursuant to Part IV of the Administrative Procedure Act (APA), chapter 34.05 RCW. The Commission has jurisdiction over this matter pursuant to chapter 80.28 RCW, which authorizes the Commission to regulate any water system for hire within this state. In addition to the foregoing statutes, this matter involves chapter 80.01 RCW, including but not limited to RCW 80.01.040, chapter 80.04 RCW, including but not limited to RCW 80.04.010, 80.04.015, and 80.04.110. This matter also involves the administrative rules set forth in chapter 480-110 WAC and chapter 480-07 WAC.

28 **THE COMMISSION GIVES FURTHER NOTICE that any party who fails to attend or participate in the prehearing set by this notice, or any other stage of this proceeding, may be held in default in accordance with RCW 34.05.440.**

29 The names and mailing addresses of all parties and their known representatives are shown as follows:

Respondent: Cougar Ridge Water System
 Paul A. Bitar, Owner
 444 8th Street
 Hoquiam, WA 98550

Representative: Thomas A. Brown
Attorney at Law
Brown, Lewis, Janhunen & Spencer
Bank of America Building
101 East Market Street, Suite 501
Aberdeen, WA 98520
(360) 533-1600 or (360) 532-1960

Commission: Washington Utilities and
Transportation Commission
1300 S. Evergreen Park Drive S.W.
P.O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

Representative: Jonathan Thompson
Assistant Attorney General
1400 S. Evergreen Park Drive S.W.
P.O. Box 40128
Olympia, WA 98504-0128
(360) 664-1225

30 Theodora M. Mace has been appointed as the Administrative Law Judge from the Utilities and Transportation Commission's Administrative Law Division, 1300 S. Evergreen Park Drive S.W., Olympia, Washington 98504-7250, and will preside at the prehearing conference.

DATED at Olympia, Washington, and effective this 1st day of March, 2004.

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARILYN SHOWALTER, Chairwoman

RICHARD HEMSTAD, Commissioner

PATRICK J. OSHIE, Commissioner

Inquiries should be addressed to:

Executive Secretary
Washington Utilities and
Transportation Commission
Chandler Plaza Building
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250
(360) 664-1160

NOTICE

PLEASE BE ADVISED that the hearing facilities are accessible to interested people with disabilities; that smoking is prohibited; and that if limited English-speaking or hearing impaired parties or witnesses are involved in a hearing and need an interpreter, a qualified interpreter will be appointed at no cost to the party or witness.

The information needed to provide an appropriate interpreter or other assistance should be designated below and returned to:

Carole J. Washburn, Executive Secretary
Washington Utilities and Transportation Commission
1300 S. Evergreen Park Drive S.W.
P. O. Box 47250
Olympia, WA 98504-7250.

(SUPPLY ALL REQUESTED INFORMATION)

Docket No.: **UW-040367**

Case Name: **COUGAR RIDGE WATER SYSTEM**

Hearing Date: _____ Hearing Location: _____

Primary Language: _____

Hearing Impaired (Yes) (No)

Do you need a certified sign language interpreter: (Yes) (No)

Visual _____ Tactile _____

Other type of assistance needed: _____

English-speaking person who can be contacted if there are questions:

Name: _____

Address: _____

Phone No.: (____) _____