


PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: August 6, 2013

REGULAR X CONSENT _____ EFFECTIVE DATE August 6, 2013

DATE: July 30, 2013

TO: Public Utility Commission

FROM: Kathy Willis 

THROUGH: Jason Eisdorfer, Bryan Conway, and Irv Emmons  

SUBJECT: SUN COUNTRY WATER INC: (Docket No. UM 1598) Request to reopen Docket No. UM 1598 and appoint a regent to perform all functions of the water utility.

STAFF RECOMMENDATION:

Staff recommends the Commission reopen Docket No. UM 1598 and enter an emergency order appointing a regent to temporarily perform all administrative, managerial, and operational functions for Sun Country Water, Inc. (SCW) until a permanent resolution can be found.

DISCUSSION:

SCW is a small service-regulated water system in Bend that serves approximately 100 customers. On June 7, 2010, Consumer Services received its first customer complaint regarding SCW's billing practices. Ten other customer complaints were received regarding SCW's inconsistent billings, failure to bill, and inaccurate billings.

Staff and Consumer Services worked with SCW to bring the utility into compliance with the Commission's billing rules and regulations. Butch Rogers, SCW's owner and operator, promised to meet billing deadlines. Occasionally, he would bill some of the customers late in the month then failed to continue the monthly billings. Mr. Rogers failed to meet the billing deadlines. Eventually Mr. Rogers stopped responding to Staff and Consumer Services emails and telephone calls.

Staff visited SCW's customers and conducted a service quality survey on April 2, 2012. The results of the survey are shown below. As you can see, of the 37 customers that responded to Staff's survey, 26 customers rated Accurate Billings as poor and 35

Sun Country Water, Inc.
 July 30, 2013
 Page 2

customers rated Timely Billings as poor. Timely Response to Calls/Complaints and Customer Service were also ranked poor by the majority of the survey respondents. Many customers questioned SCW's ability to operate and maintain the water system, stating, "If SCW is not billing, what else is it not doing?"

	Excellent	Good	Fair	Poor
Water Quality	22	13		2
Water Pressure	9	21	2	5
Accurate Billings	1	8	2	26
Timely Billings			1	35
Customer Service	1	4	2	30
Timely Response to Calls/Complaints	1	3	2	28

At the Commission's May 22, 2012, public meeting, Staff requested the Commission approve a Stipulation between Staff and Butch Rogers, owner of SCW. The Stipulation was to resolve SCW's past and future billing problems. The Commission approved the Stipulation in Order No. 12-189 entered on May 23, 2012. A copy of the order, including the Stipulation is attached as Attachment A.

According to customer reports, it appears that Mr. Rogers sent out billings for June, July, August, and September of 2012. However, in January 2013, Staff received a complaint that SCW had not mailed out any bills since September 2012. Consumer Services confirmed with other customers that they had not received any bills since that time. SCW had failed to comply with the Stipulation. The Stipulation stated in Section 1, Lines 18-21:

If SCW fails to comply with this Stipulation, Staff will take further legal actions including, but not limited to, requesting that the Commission appoint a regent to correctly bill and collect for water service.

Consumer Services and Staff tried to contact Mr. Rogers during January 2013. Mr. Rogers did not respond to numerous telephone messages and emails. The Department of Justice sent a certified letter to Mr. Rogers on February 8, 2013, stating that SCW has violated the Stipulation in Commission Order No. 12 -189, and the rules and regulations regarding adequate service. It further stated that Staff would be recommending action to the Commission, but did not state what action or when Staff would make its recommendation. A copy of the letter is attached as Attachment B.

Continued attempts to contact Mr. Rogers were unsuccessful. On February 13, 2013, Staff updated management in writing of the situation and recommended that Staff

immediately request bids for regent service, draft a regent contract, and request the Commission to appoint a regent.

As management was considering Staff's recommendation, as a last effort, the Administrator of Telecommunications and Water (the Administrator) successfully contacted Mr. Rogers on February 19, 2013. Mr. Rogers stated he would get the bills out. Management put Staff's recommendation on hold, and Staff responded that it would wait until further instructed.

On May 6, 2013, Staff was instructed to:

1. Give SCW until Monday, May 11, 2013, to send out bills. If SCW did not send out bills by May 11, Staff will send requests for regent bids for both billing and collection services and full regent services, and start the process for requesting a regent be appointed.
2. If SCW did send out bills by May 11, Staff will monitor SCW's monthly billings. If SCW fails to send out monthly bills within the first seven days of the month, Staff will send requests for regent bids for both billing and collection services and full regent services, and start the process for requesting a regent be appointed.

SCW failed to meet the May 11, 2013, billing deadline. On May 17, 2013, Staff sent out a request for regent bids and began preparing the required documents to appoint a regent.

The Administrator sent an email to Mr. Rogers on May 17, 2013 stating:

In our last conversation, you agreed to resolve Sun Country Water, Inc.'s (Sun Country) billing problems. It is now May 17, 2013. The customers report that they have not received their monthly bills for service through April 2013, which were due May 1, 2013. As I explained to you, the Commission's next decision will be to determine if a regency is necessary. I am concerned for your customers and have tried all that I know of to get you to correct this issue.

The purpose of this email is to let you know that I have directed my staff to request confidential bids from certain qualified water utilities to take over responsibilities as regent for Sun Country. I do not know what action the Commission may ultimately take,

so I requested two bids be submitted: 1) For billing and collection, and 2) For full administrative, management, and operation. It is unfortunate that Sun Country's problems have led to this action.

Mr. Rogers responded on May 23, 2013, saying:

I have sent out all of the bills except for 21 of them with ownership issues which I am in the process of resolving. I think a few of those are empty and in foreclosure.

It appears that Mr. Rogers had mailed out the majority of the billings on May 15, 2013.

The Administrator and the Commission's legal counsel visited Mr. Rogers on June 6, 2013. At that meeting, Mr. Rogers and Commission's legal counsel signed a second Stipulation (Stipulation 2); however, Stipulation 2 has not been approved by the Commission to date.¹ A copy of Stipulation 2 is attached as Attachment C. SCW had agreed to the following in Stipulation 2:

1. SCW will read all customer meters between June 25 and June 30, 2013.
2. On or before July 5, SCW will provide the Commission's Consumer Services Section with a list containing: 1) each customer's name, 2) the actual meter reading taken between June 25 and June 30, 2013, and 3) the date the meter was read.
3. SCW next billing will be mailed to customers sometime after June 30, 2013, and before July 5, 2013. The bill will represent the amount owed for services rendered in June 2013. Any other charges, including back billings or late payments will be itemized as separate line items on the bill.
4. SCW will inform the Commission's Consumer Services Section by the close of business on July 5, 2013, whether all customer bills for service rendered in June 2013 were deposited in the mail.
5. On or before July 5, 2013, SCW will deposit copies of seven (7) random customers bills for service rendered in June 2013 into the US Mail addressed to the Commission's Consumer Services.
6. On or before June 17, 2013, SCW will provide the Commission with a contact telephone number where Butch Rogers or a Sun Country representative may be reached during business hours (8:00 a.m. – 5:00 p.m.) and an emergency contact telephone number where Butch Rogers or a Sun Country representative can be reached at any time (24 hours a day).

¹ Staff had drafted a public meeting memo requesting the Commission approve Stipulation 2. However, when SCW violated the terms of Stipulation 2, Staff was directed to pursue a regent appointment.

7. SCW will respond to the Commission's Staff, Consumer Services Section, and customers telephone calls, messages, and emails within 24 hours. If the call is identified as an emergency call, SCW must respond within one hour.
8. SCW will consistently bill its customers in a timely fashion between the first and seventh of every month.

Staff was instructed to monitor SCW's actions in accordance with Stipulation 2. If SCW failed to meet the terms and conditions of Stipulation 2, Staff should pursue an appointment of a regent for all functions of the water system. On July 8, 2013, Staff asked Consumer Services if SCW had complied with the conditions due to date in Stipulation 2. Consumer Services responded that SCW had not. The only condition met by SCW was to provide SCW contact information, which he provided to the Administrator on the date Stipulation 2 was signed.

SWC is in violation of the original Stipulation, a Commission order, and the Commission's service rules and regulation. Although Stipulation 2 was not yet approved by the Commission, SCW did not meet the terms and conditions it agreed to in Stipulation 2.

It is imperative that SCW consistently and accurately bill its customers. Without revenues the infrastructure of the water system will fall into disrepair. SCW has experienced three years of declining revenues. Staff's experience has shown that lack of revenues results in deferred maintenance and repairs. Without proper maintenance and repairs the water infrastructure will begin to fail. SCW will experience increasing repairs and emergencies without sufficient revenue to handle them. Without proper revenue to operate and maintain the water system, the customers and their water service are at risk.

In addition to the inaccurate and untimely billings, SCW has not responded in a timely manner to inquiries and complaints. Two customers who complained in March 2013 about broken valves are currently still waiting for SCW to make the repairs. One customer who inquired in writing about an account on June 6, 2013, never received a response from SCW.

The preceding discussion supports a finding that SCW has demonstrated that it will not or cannot administrate, manage, and operate SCW to provide customers with adequate service. Under certain circumstances, the Commission may appoint a regent to operate and manage a water system pursuant to OAR 860-036-0365:

**OAR 860-036-0365 Compliance Enforcement by Commission
Appointment of Regent(s) to Operate and Manage a Water System**

- (1) In extreme circumstances when the water utility owner, operator, or representative demonstrates to the Commission's satisfaction an unwillingness or incapacity or refusal to effectively operate and manage the water system to provide safe and adequate service to its customers in compliance with Oregon statutes, rules, and standards, the Commission may appoint a regent(s) to operate and manage the water system. This procedure will be accomplished under an Interim Operating Agreement until long-term water provision can be ensured.
- (2) The regent(s) appointed to operate, maintain, and repair the system must be a certified operator(s) or a qualified water utility(ies).
- (3) The appointment of the regent(s) may also include responsibility for billing and collection, customer service, and administration of the system.
- (4) If the Commission authorizes an operating account for receiving and dispersing funds by the regent(s), a Commission staff member will be a signator on such account to monitor all transactions.
- (5) The regent will record all transactions in a general ledger and shall supply a copy of the ledger and bank statement to Commission staff member each month.
- (6) At the end of the Interim Operating Agreement, Commission staff will make a final accounting of all monies received and transacted. Disbursement of surplus funds will be determined by the Commission.

Staff only recommends the appointment of a regent if the situation is irresolvable by other means. SCW has had three years and multiple opportunities to comply with the Commission rules and regulations regarding customer billing and adequate service. According to Consumer Services, as of July 15, 2013, the customers of SCW have not received a June billing. Mr. Rogers will not respond to telephone calls and emails from Consumer Services, and has not responded to customer complaints.

Staff recommends that the Commission appoint a regent to oversee the administration, management, and operation of SCW until a permanent solution is found.

The bids for regent received by Staff were reviewed by Staff and the Commission's purchasing agent. Staff recommends Avion Water Company (Avion) be appointed as regent due to the proximity of Avion to SCW, the least cost bid, and Avion's reputation in the community. Upon appointment of a regent, an Interim Operating Agreement will be executed.

An alternative option would be to appoint a regent to do just the billing and collection.

Sun Country Water, Inc.
July 30, 2013
Page 7

PROPOSED COMMISSION MOTION:

Pursuant to ORS 756.040 and OAR 860-036-0365, Docket No. UM 1598 be reopened and an emergency order appointing a regent to operate, administrate, and manage Sun Country Water, Inc., be entered.

UM 1598 regent pmm

ORDER NO. 12 189

ENTERED MAY 23 2012

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 1598

In the Matter of

PUBLIC UTILITY COMMISSION OF
OREGON

Investigation under ORS 756.515 into Sun
Country Water, Inc.'s billing practices.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its Public Meeting on May 22, 2012, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter, attached as Appendix A, and noted that the investigation is now closed.

BY THE COMMISSION:



Becky L. Beier

Becky L. Beier
Commission Secretary

A party may request rehearing or reconsideration of this order under 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 860-001-0720. A copy of the request must also be served on each party to the proceedings as provided in OAR 860-001-0180(2). A party may appeal this order by filing a petition for review with the Court of Appeals in compliance with ORS 183.480 through 183.484.

ITEM NO. 4

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT

PUBLIC MEETING DATE: May 22, 2012

REGULAR CONSENT EFFECTIVE DATE May 22, 2012

DATE: May 15, 2012

TO: Public Utility Commission

FROM: Kathy Willis and Charla Muntz *CM*THROUGH: Bryan Conway *BC* and Marc Hellman *A*SUBJECT: SUN COUNTRY WATER INC: (Docket No. UM 1598) Request to open an investigation into the billing practices and approve a Stipulation to resolve the billing issues.

STAFF RECOMMENDATION:

Staff recommends that the Commission open an investigation, pursuant to ORS 756.515, into Sun Country Water, Inc.'s (SCW) billing practices and approve the negotiated Stipulation between Staff and SCW to resolve the issues in this docket.

DISCUSSION:

In 2004, Butch Rogers purchased Sun Country Water, Inc. (SCW) from Ted Lyster. SCW is a service regulated water utility. Under the ownership of Mr. Lyster, the water rates were raised above the residential rate threshold. This triggered an opportunity for the customers to petition for rate regulation; however, the Commission did not receive enough petitions to assert rate regulation. As a result, SCW is regulated for service, but not for rates. When Mr. Rogers purchased SCW, the service regulated company followed the water system through the sale.

In June 2010, Consumer Services received its first complaint against SCW. The customer stated that he had not received a monthly water bill since December 2009. Consumer Services received additional customer complaints claiming not to have received water bills or to have received inaccurate bills from SCW. Staff and Consumer Services attempted to resolve the issues repeatedly with SCW, but did not succeed. Two letters were issued from the Department of Justice (DOJ) requiring SCW to bill its customers. The first letter (January 2011) instructed SCW to bill its customers and resolve the billing issues to avoid further enforcement action. DOJ followed up with a

Sun Country Water, Inc.
May 15, 2012
Page 2

second letter (November 2011), warning SCW that penalties may be assessed if it did not resolve the billing issues by the first of the year. The billing problems continued.

Staff then scheduled a meeting with the customers. After SCW received the customer meeting notice, it sent out a billing to the customers. The meeting was held on April 2, 2012. Staff; Phil Boyle and Charla Muntz from the Consumer Services Section; Jason Jones, Assistant Attorney General; and a Melanie Forsyth, a Commission notary attended the meeting. SCW did not attend. At the meeting, customers filled out water system surveys, voiced their complaints and concerns, and filled out notarized affidavits documenting their complaints. The results of the survey and affidavits are attached as Attachment B. A review of the customer bills that had been recently mailed by SCW indicated that there were errors on the billings.

SCW has had a serious billing problem. Staff and the Company came to an agreement to resolve the billing issues on May 3, 2012. The attached Stipulation resolves the future bills and past bills. For future billings, SCW agrees to bill its customers on a monthly basis, using accurate meter readings, and a correct billing format beginning with the June 1, 2012, billing for service rendered during the month of May 2012.

SCW's current rates include a monthly base rate of \$16.00 that includes the first 500 cubic feet (cf) of water consumed and a consumption rate of \$1.00 for each 100 cf of water consumed above 500 cf, to be calculated from SCW's April 30, 2012, meter reading. SCW agrees to read meters each month on approximately the same day and bill customers on the first of each month. Estimated meter readings may be used, consistent with the Commission's rules, when necessary during the winter when the meter is not accessible.

As a reasonable compromise to resolve all past billing disputes and avoid Commission legal action, SCW agrees to bill the customers only the base rate for the past 12 months (i.e., April 2011 to April 2012). The base rate is \$16.00, so customers will be billed a total of \$192.00 per customer. This will satisfy all past billings. The back-billing will be shown on the June 1, 2012, bill as a separate line item. SCW will show a separate line item crediting each customer for all credits and payments they made during the same time period.

SCW further agrees that it will provide customers notification of time-payment arrangements, consistent with the Commission's rules, available for payment of the 12-month back-billing. SCW agrees that no fees, penalties, or interest will be charged on the 12-month back-billing. Finally, SCW agrees to provide Staff with a draft bill format for review prior to sending the final June 1, 2012, bills.

ORDER NO. 12 189

Sun Country Water, Inc.
May 15, 2012
Page 3

If a customer disputes the credits or payments applied by SCW to the 12-month back billing, the customer can file a complaint with the Commission's Consumer Services Section for resolution. The customer bears the burden of proof to demonstrate, with appropriate documentation, that their account was not appropriately credited for payments made for the past 12 months.

Staff, Consumer Services, and SCW have negotiated the attached Stipulation in good faith as a resolution to SCW's billing issues. The Stipulation states, "If SCW fails to comply with the Stipulation, Staff will take further legal actions including, but not limited to, requesting that the Commission appoint a regent to correctly bill and collect for water service."

PROPOSED COMMISSION MOTION:

An investigation be opened into the billing practices of Sun Country Water, Inc. and the Stipulation to resolve the billing issues be approved.

UM 1598 pmm

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BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON
UM 1598

In the Matter of)
SUN COUNTRY WATER INC) STIPULATED AGREEMENT
Agreement of Billing Resolution)

Butch Rogers, owner of Sun Country Water, Inc. ("SCW"), its successors,
heirs, or assignees, and the Public Utility Commission of Oregon Staff, appearing
by and through its attorney, Jason W. Jones, Assistant Attorney General ("Staff"),
collectively referred to as Parties, enter into this Stipulated Agreement
("Stipulation") as further detailed below to settle and resolve all billing issues
between them.

1.

The Commission received its first customer complaint against SCW in
June 2010, which stated that the customer had not received a monthly water bill
since December 2009. Additional customer complaints regarding inconsistent
and inaccurate bills followed. Staff and Consumer Services attempted to resolve
the issues repeatedly with SCW, but did not succeed.

Two letters were issued from the Department of Justice ("DOJ") to SCW.
DOJ's January 24, 2011, letter stated that Staff had contacted SCW several
times regarding the complaints, but SCW had not resolved the billing issues and
was not responding to Staff. The letter told SCW to resolve the billing issues to
avoid further enforcement action. A follow up letter was sent in November 2011.

1 The letter stated that the billing issues remained unresolved, listed SCW's
2 violations of the Commission rules, and warned that penalties may be assessed
3 for the violations if the situation was not resolved by the first of the new year.
4 SCW did not resolve the billing issues.

5
6 On March 22, 2012, Staff notified SCW and its customers that a local
7 meeting would be held to discuss the customers' concerns and determine the
8 scope of the problems the customers were experiencing. SCW subsequently
9 sent out a billing.

10 The customer meeting was held on April 2, 2012. A water system survey
11 was conducted and customer affidavits were received. The survey indicated that
12 the majority of customers' complaints were related to 1) accuracy and timeliness
13 of billings; 2) customer service; and 3) SWC's responses to calls and complaints.
14 In addition, the recent bills received by the customers who brought them to the
15 meeting appeared on the most part to be inaccurate.

16
17 On May 3, 2012, Staff, legal counsel, Consumer Services, and SCW
18 negotiated this Stipulation to resolve these billing disputes. If SCW fails to comply
19 with this Stipulation, Staff will take further legal actions including, but not limited
20 to, requesting that the Commission appoint a regent to correctly bill and collect
21 for water service.

22
23 2.

24 STIPULATION APPROVAL

25 The Parties request that the Commission enter an order approving this
26 Stipulation. The Parties have entered into this Stipulation as a reasonable

ORDER NO. 12 189

Attachment A
Page 3/6

1 resolution to SCW's billing issues over the past few years, in which SCW has not
2 made timely or accurate billings to its customers.

3
4 3.

5
6 FUTURE BILLINGS

7 SCW agrees to bill its customers no less frequently than on a monthly
8 basis, using accurate meter readings and a correct billing format beginning with
9 the June 1, 2012, billing for service rendered during the month of May 2012.

10 SCW will charge a monthly base rate of \$16, which includes the first 500
11 cubic feet (cf) of water consumed. In addition, SCW will charge a monthly
12 consumption rate of \$1.00 for each 100 cf of water consumed above 500 cf.
13 SCW will begin meter readings on April 30, 2012, and agrees to read meters
14 each month on approximately the same day, and bill customers at the first of
15 each month. Estimated meter readings may be used, consistent with the
16 Commission's rules, when necessary during the winter when the meter is not
17 accessible.

18 The June 1, 2012, billings discussed above will include the information on
19 past billings as detailed below.

20
21 4.

22 PAST BILLINGS

23 As a reasonable compromise to resolve all billing disputes and avoid
24 Commission legal action, SCW agrees to only bill the customers for the past 12
25 months (i.e., April 2011 to April 2012), charging only the base rate of \$16 for a
26 total amount of \$192.00 per customer. The June 1, 2012, billing will have this

1 \$192.00 line item charge on the bill, with another line item then crediting any
2 payments made by the specific customer for that period of time.

3 SCW further agrees that it will notify customers of the option as well as
4 provide time-payment arrangements consistent with the Commission's rules for
5 any customers requesting such arrangements related to the 12-months of back
6 billing of the base charge. SCW agree that no fees, penalties, or interest will be
7 charged on the past 12-month amount. Finally, SCW agrees to provide Staff with
8 a draft bill format for review prior to sending the final June 1, 2012, bills.
9

10 5.

11 DISPUTE RESOLUTION OF PAST BILLS

12 If a customer disputes credits or lack of credits applied to the past due
13 amount in the June 1, 2012, billing, the customer can file a complaint with the
14 Commission's Consumer Service Section for resolution. The customer bears
15 the burden of proof to demonstrate, with appropriate documentation, that their
16 account was not appropriately credited for payments made for the past 12-
17 month billing.
18

19 6.

20 STIPULATION BINDING

21 The rights and obligations under this Stipulation shall inure to the benefit of
22 and be binding on all Parties and their respective successors, legal
23 representatives, assignees, representatives, or any other person claiming a right
24 or interest through the Parties, whether or not it is specifically stated in this
25 Stipulation.
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7.

DISCLAIMER

By entering into this Stipulation, no Party shall be deemed to have approved, accepted, or consented to the facts, principles, methods, or theories employed by the other Party in arriving to this Stipulation.

8.

COMMISSION REJECTS STIPULATION

The Parties have negotiated this agreement in good faith and recommend that the Commission adopt this Stipulation in its entirety. The Parties have negotiated this Stipulation as an integrated document. Accordingly, if the Commission rejects all or any material portion of this Stipulation, each Party reserves the right, upon written notice to the Commission within 15 days of the date of the Commission's order, to withdraw from the Stipulation and request an opportunity for the presentation of additional evidence and argument.

9.

DISPUTE RESOLUTION

Any claims, issues, or disputes that may arise out of the interpretation or performance of this Stipulation as adopted by the Commission shall be resolved by the Commission.

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10.

AMENDMENTS

Any amendments to this Stipulation must be in writing, signed by all Parties, and approved by Order of the Commission.

11.

EFFECTIVE DATE

This Stipulation shall be effective as of the date of the Commission's Order approving this Stipulation.

12.

The Parties understand that this Stipulation is not binding on the Commission in ruling on this matter and does not foreclose the Commission from addressing other issues.

By: Butch Rogers 5/9/12
Butch Rogers Date
Sun Country Water, Inc.

State of Oregon, Public Utility Commission

By: Jason Jones 5/8/12
Jason Jones Date
Assistant Attorney General

ORDER NO. 12 189

Sun Country Water Survey Results

Attachment B
Page 1/20

37 TOTAL RECEIVED

	Excellent	Good	Fair	Poor
Water Quality	23	13		2
Water Pressure	10	21	2	5
Accurate Billings	1	8	2	27
Timely Billings			1	36
Customer Service	1	4	2	31
Timely Response to Calls/complaints	1	3	2	29

	2009	2010	2011	Unknown
Last Water Bill Received	4	17	14	2

Various comments on surveys included:

- *Bookkeeper could not apply credits correctly.
- *Concerned water not being tested
- *Customer moved into house November 2011 - requested multiple times a bill - to date has never received
- *Customer feels a business should be allowed to bill whenever they want as long as no hardship is endured on customers
- *Worried company will become insolvent if not receiving revenue
- *If company cannot bill timely or accurately, can they maintain the system correctly. Also worried during fire season not enough pressure
- *No annual reports
- *Payments not applied to account.
- *No communication from company.
- *Checks not being cashed.

ELLEN F. ROSENBLUM
Attorney General



MARY H. WILLIAMS
Deputy Attorney General

DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

February 8, 2013

CERTIFIED MAIL RECEIPT #7010 3090 0000 6750 0413

SUN COUNTRY WATER INC
BUTCH ROGERS
22648 NELSON RD
BEND OR 97701

Re: SUN COUNTRY WATER INC. BILLING AND COLLECTION

This letter is to inform you that the Oregon Public Utility Commission (Commission) Staff is planning to pursue remedies against Sun Country Water, Inc. (SCW) in order to ensure that the customers receive adequate service, specifically timely and accurate billings for their water service.

On May 9, 2012, you signed a binding Stipulation (Docket No. UM 1598) to resolve Sun Country Water, Inc., (SCW) billing disputes. In the Stipulation, you agreed to "read meters each month on approximately the same day, and bill customers at the first of each month."

On January 4, 2013, the Commission became aware that SCW customers have not received any water bills since September/October of 2012. Staff has confirmed with other SCW customers that they have not received a water service bill from SCW since September. This is a violation of the Stipulation, the Commission's order No. 12-189 approving the Stipulation, and the Commission's rules and regulations regarding adequate service.

OAR 860-036-0365 states:

(1) In extreme circumstance when the water utility owner, operator, or representative demonstrates to the Commission's satisfaction an unwillingness or incapacity or refusal to effectively operate and manage the water system to provide safe and adequate service to its customer in compliance with Oregon statutes, rules, and standards, the Commission may appoint a regent(s) to operate and manage the water system.

Sun Country Water, Inc.
February 8, 2013
Page Two

In the Stipulation, it clearly describes Staff's recourse should you fail to comply with the Stipulation. It states:

If SCW fails to comply with this Stipulation, Staff will take further legal actions including, but not limited to, requesting that the Commission appoint a regent to correctly bill and collect for water service.

Staff's recommendation to the Commission will be heard at an upcoming Commission's regular public meeting. You will be notified of the time and date as well as a copy of Staff's recommendations.

Sincerely,



Jason W. Jones
Assistant Attorney General
Business Activities Section

JWJ:nat/3988284-v2

cc: Bryan Conway
Irv Emmons
Kathy Willis
Charla Muntz

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 1598

5 In the Matter of)
 6 SUN COUNTRY WATER INC) STIPULATED AGREEMENT 2
 7)
 8 _____)

10 Butch Rogers, owner of Sun Country Water, Inc. ("SCW"), its successors,
 11 heirs, or assignees and the Public Utility Commission of Oregon Staff, appearing
 12 by and through its attorney, Jason W. Jones, Assistant Attorney General ("Staff"),
 13 collectively referred to as Parties, enter into Stipulated Agreement 2 ("Stipulation
 14 2") as further detailed below.

1. .

HISTORICAL PROBLEMS

18 In June 2010, the Commission's Consumer Services Section received its
 19 first billing complaint against SCW, wherein the customer stated that he had not
 20 received a monthly water bill since December 2009. Additional customer
 21 complaints followed regarding SWC's failure to bill customers in a timely manner
 22 and inaccurate billings.

2.

ORIGINAL STIPULATION

26 On May 3, 2012, SCW entered into the original Stipulation between Staff
 and SCW to settle and resolve all the billing issues between them. The

1 Stipulation was approved by the Commission in Order No. 12-189, on May 23,
2 2012. According to the Stipulation, SCW agree, in part, that it would resume
3 billing on June 1, 2012, using accurate meter readings and a correct billing
4 format. SCW also agreed to read meters on approximately the same day each
5 month and bill customer on the first of each month going forward.
6

7 3.

8 VIOLATION

9 In January 2012, Staff was informed that SCW had violated the terms of
10 the Stipulation, and the customers had not been billed since September 2012.
11 Staff attempts to contact SCW and resolve the issues were unsuccessful until
12 May 15, 2013. SCW sent out bills to the majority of its customers. The Parties
13 now enter into Stipulation 2 to avoid Commission legal action.
14

15 4.

16 CONDITIONS

17 SCW agrees to meet and comply with the following terms, conditions, and
18 timelines:

- 19 1. SCW will read all customer meters between June 25 and June 30,
20 2013.
21
22 2. On or before July 5, SCW will provide the Commission's Consumer
23 Services Section with a list containing: 1) each customer's name, 2)
24 the actual meter reading taken between June 25 and June 30, 2013,
25 and 3) the date the meter was read.
26

- 1 3. SCW next billing will be mailed to customers sometime after June 30,
2 2013 and before July 5, 2013. The bill will represent the amount owed
3 for services rendered in June, 2013. Any other charges, including
4 back billings or late payments will be itemized as separate line items
5 on the bill.
6
- 7 4. SCW will inform the Commission's Consumer Services Section by the
8 close of business on July 5, 2013, whether all customer bills for service
9 rendered in June 2013 were deposited in the mail.
- 10 5. On or before July 5, 2013, SCW will deposit copies of seven (7)
11 random customers bills for service rendered in June 2013 into the
12 US Mail addressed to the Commission's Consumer Services.
13
- 14 6. On or before June 17, 2013, SCW will provide the Commission with a
15 contact telephone number where Butch Rogers or a Sun Country
16 representative may be reached during business hours (8:00 a.m. –
17 5:00 p.m.) and an emergency contact telephone number where Butch
18 Rogers or a Sun Country representative can be reached at any time
19 (24 hours a day).
20
- 21 7. SCW will respond to the Commission's Staff, Consumer Services
22 Section, and customers telephone calls, messages, and emails within
23 24 hours. If the call is identified as an emergency call, SCW must
24 respond within one hour.
- 25 8. SCW will consistently bill its customers in a timely fashion between the
26 first and seventh of every month.

1 5.

2 BACK BILLINGS

3 SCW agrees it will only back bill customers from April 2011 through May
4 2013 at the \$16 base rate charge. SCW agrees that no fees, penalties, or
5 interest will be charged on any back billings. SCW agrees that it will provide
6 time-payment arrangements consistent with the Commission's rules for
7 customers requesting such arrangements related to back billings.
8

9 6.

10 CUSTOMER RECOURSE

11 If a customer disputes credits or lack of credits applied to the back billings,
12 the customer can file a complaint with the Commission's Consumer Service
13 Section for resolution. The customer bears the burden of proof to demonstrate,
14 with appropriate documentation, that their account was not appropriately credited
15 for payments.
16

17 7.

18 FAILURE TO COMPLY

19 SCW agrees that if it fails to meet any of the conditions included in
20 Stipulation 2, the Commission will proceed with the appointment of a regent to
21 administer, manage, and operate SCW.
22

23 8.

24 STIPULATION APPROVAL

25 The Parties request that the Commission enter an order approving
26 Stipulation 2.

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9.

STIPULATION BINDING

The rights and obligations under this Stipulation shall inure to the benefit of and be binding on all Parties and their respective successors, legal representatives, assigns, representatives, or any other person claiming a right or interest through the Parties, whether or not it is specifically stated in this Stipulation.

10.

DISCLAIMER

By entering into this Stipulation, no Party shall be deemed to have approved, accepted, or consented to the facts, principles, methods, or theories employed by the other Party in arriving to this Stipulation.

11.

COMMISSION REJECTS STIPULATION

The Parties have negotiated this agreement in good faith and recommend that the Commission adopt this Stipulation in its entirety. The Parties have negotiated this Stipulation as an integrated document. Accordingly, if the Commission rejects all or any material portion of this Stipulation, each Party reserves the right, upon written notice to the Commission within 15 days of the date of the Commission's order, to withdraw from the Stipulation and request an opportunity for the presentation of additional evidence and argument.

12.

DISPUTE RESOLUTION

Any claims, issues, or disputes that may arise out of the interpretation or performance of Stipulation 2 as adopted by the Commission shall be resolved by the Commission.

13.

AMENDMENTS

Any amendments to Stipulation 2 must be in writing, signed by all Parties, and approved by Order of the Commission.

14.

EFFECTIVE DATE

Stipulation 2 shall be effective as of the date of the Commission's Order approving this Stipulation 2.

15.

The Parties understand that Stipulation 2 is not binding on the Commission in ruling on this matter and does not foreclose the Commission from addressing other issues.

By:

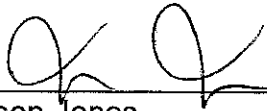
Butch Rogers
Butch Rogers
Sun Country Water, Inc.

Date

6/6/2013

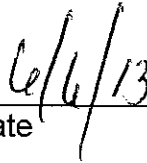
State of Oregon, Public Utility Commission

By:



Jason Jones
Assistant Attorney General

Date



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