

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UP 384

In the Matter of the Joint Application for
Approval of the Sale of

SUNRIVER WATER, LLC,

to

NW NATURAL WATER OF OREGON,
LLC,

Pursuant to ORS 757.480 and
OAR 860-036-2120.

PREHEARING CONFERENCE
MEMORANDUM

On December 17, 2018, the Public Utility Commission of Oregon held a prehearing conference in this docket. At the prehearing conference representatives appeared on behalf of Sunriver Water, LLC, NW Natural Water of Oregon, LLC, and the Staff of the Public Utility Commission of Oregon.

Prior to the prehearing conference, the Sunriver Owners Association filed a petition to intervene in this proceeding. On December 12, 2018, joint applicants filed a response to the petition, stating that they do not object to SROA's intervention but do request that the Commission limit the scope of SROA's participation. Specifically, they ask that I rule that SROA may not raise any issues relating to a purported right of first refusal or a first offer right to acquire the ownership interests in Sunriver Water. On December 14, 2018, SROA filed a response in opposition to joint applicants' filing arguing that its petition should be granted without conditions.

This is an issue that was first raised by joint applicants in a letter dated December 5, 2018, where they expressed their concerns regarding the breadth and scope of planned participation in this proceeding by SROA in light of its statement in its petition that its interest in the proceeding includes its claim of a right of first refusal regarding a sale of Sunriver Water. In joint applicants' view, regardless of whether such a right exists, contractual issues relating to its existence are not within the Commission's jurisdiction and should be pursued in court.

I will not address the merits of joint applicants' view until presented with an actual controversy, where an issue has been squarely framed and the positions of the parties fully briefed. I find that Sunriver Owners Association has sufficient interest in the proceedings to participate and that its participation will not unreasonably broaden the issues, burden the record, or delay the proceedings.¹ The petition to intervene is therefore granted.

At the prehearing conference, NW Natural stated its intent to file a motion for a modified protective order intended to limit disclosure of the terms of the purchase agreement between itself and SROA. NW Natural is directed to file the motion for a modified protective order by December 19, 2018. Pending a ruling on its motion, I suspend SROA's access to the unredacted version of the purchase agreement in Huddle.

The parties agreed to the following procedural schedule, which was adopted:

EVENT	DATE
Workshop	January 10, 2019
Applicants' Direct Testimony	January 17, 2019
Staff and Intervenor Responsive Testimony	February 21, 2019
Parties' Settlement Conference	February 28, 2019
All Parties' Rebuttal/Cross Answering Testimony	March 21, 2019
Hearing	April 4, 2018
Simultaneous Opening Briefs	April 25, 2019
Simultaneous Closing Briefs	May 9, 2019
Commission Decision (Tentative)	June 24, 2019

In addition, the parties are directed to meet and confer regarding scheduling a date for public comment to be held at Sunriver.

Dated this 17th day of December, 2018, at Salem, Oregon.

Patrick Power
Administrative Law Judge

Attachment: Notice of Contested Case Rights and Procedures

¹ See OAR 860-001-0300(6).

NOTICE OF CONTESTED CASE RIGHTS AND PROCEDURES

Oregon law requires state agencies to provide parties written notice of contested case rights and procedures. Under ORS 183.413, you are entitled to be informed of the following:

Hearing: The time and place of any hearing held in these proceedings will be noticed separately. The Commission will hold the hearing under its general authority set forth in ORS 756.040 and use procedures set forth in ORS 756.518 through 756.610 and OAR Chapter 860, Division 001. Copies of these statutes and rules may be accessed via the Commission's website at www.puc.state.or.us. The Commission will hear issues as identified by the parties.

Right to Attorney: As a party to these proceedings, you may be represented by counsel. Should you desire counsel but cannot afford one, legal aid may be able to assist you; parties are ordinarily represented by counsel. The Commission Staff, if participating as a party in the case, will be represented by the Department of Justice. Generally, once a hearing has begun, you will not be allowed to postpone the hearing to obtain counsel.

Administrative Law Judge: The Commission has delegated the authority to preside over hearings to Administrative Law Judges (ALJs). The scope of an ALJ's authority is defined in OAR 860-001-0090. The ALJs make evidentiary and other procedural rulings, analyze the contested issues, and present legal and policy recommendations to the Commission.

Hearing Rights: You have the right to respond to all issues identified and present evidence and witnesses on those issues. *See* OAR 860-001-0450 through OAR 860-001-0490. You may obtain discovery from other parties through depositions, subpoenas, and data requests. *See* ORS 756.538 and 756.543; OAR 860-001-0500 through 860-001-0540.

Evidence: Evidence is generally admissible if it is of a type relied upon by reasonable persons in the conduct of their serious affairs. *See* OAR 860-001-0450. Objections to the admissibility of evidence must be made at the time the evidence is offered. Objections are generally made on grounds that the evidence is unreliable, irrelevant, repetitious, or because its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or undue delay. The order of presenting evidence is determined by the ALJ. The burden of presenting evidence to support an allegation rests with the person raising the allegation. Generally, once a hearing is completed, the ALJ will not allow the introduction of additional evidence without good cause.

Record: The hearing will be recorded, either by a court reporter or by audio digital recording, to preserve the testimony and other evidence presented. Parties may contact the court reporter about ordering a transcript or request, if available, a copy of the audio recording from the Commission for a fee set forth in OAR 860-001-0060. The hearing record will be made part of the evidentiary record that serves as the basis for the Commission's decision and, if necessary, the record on any judicial appeal.

Final Order and Appeal: After the hearing, the ALJ will prepare a draft order resolving all issues and present it to the Commission. The draft order is not open to party comment. The Commission will make the final decision in the case and may adopt, modify, or reject the ALJ's recommendation. If you disagree with the Commission's decision, you may request reconsideration of the final order within 60 days from the date of service of the order. *See* ORS 756.561 and OAR 860-001-0720. You may also file a petition for review with the Court of Appeals within 60 days from the date of service of the order. *See* ORS 756.610.