

## PUBLIC UTILITY COMMISSION OF OREGON

Docket No. UW 186

In the Matter of SUNRIVER WATER COMPANY LLC Request for a General Rate Revision

*I wish to voice comments and concerns regarding UW 186.*

### **Introduction**

Sunriver Utilities Company, also known as Sunriver Water/Environmental, provides water and wastewater services in an exclusive service territory in south Deschutes County.

Sunriver Water has requested that the Oregon Public Utilities Commission approve a 40% increase in customer water rates. This is the first general rate case filing following the transfer of ownership of Sunriver Water to Oregon Water.

There are four Sunriver Resort golf courses within the exclusive Sunriver Water service territory. Sunriver Water has not collected any revenue for water sales to golf courses since 2015.

The water rate increases are not fair and reasonable or in the public interest because water service to the golf courses was rendered free or at a lesser rate than that named in the published schedules and tariffs.

### **Discussion**

#### Oregon Law

Under Oregon law, ORS 537.110, “All water within the state from all sources of water supply belongs to the public.” [https://www.oregonlegislature.gov/bills\\_laws/ors/ors537.html](https://www.oregonlegislature.gov/bills_laws/ors/ors537.html)

#### Oregon Water Resources Commission

The Oregon Water Resources Commission is responsible for **managing the groundwater resource**. <https://www.oregon.gov/owrd/WRDPublications1/aquabook.pdf>

#### Oregon Public Utilities Commission

The Oregon Public Utility Commission (PUC) is a state agency of Oregon that regulates customer rates and services of Oregon’s investor-owned electric, gas, and telecommunications companies as well as a few water companies.

The PUC Mission is “To ensure Oregon utility customers have access to safe, reliable and **high quality utility services at just and reasonable rates**.” <https://www.oregon.gov/puc/Pages/default.aspx>

A long term goal of the PUC is to “Appropriately balance interests of customers, utilities, and other industry stakeholders in **setting rates and regulating service in accordance with the**

public interest.” <https://www.oregon.gov/puc/forms/Forms%20and%20Reports/Strategic-Plan.pdf>

### Sunriver Utilities Company

Sunriver Resort Limited Partnership sold Sunriver Water/Environmental to NW Natural Water of Oregon, LLC (“Oregon Water”) on May 31, 2019. Sunriver Water assigned or transferred certain assets to Sunriver Resort prior to the closing of the transaction.

Sunriver Water was granted an **exclusive service territory for water** by the PUC that includes the Sunriver, Caldera Springs, Crosswater and Vandeventer Ranch communities. <https://sunriverwater.com>

#### *ORS 758.305 - Exclusive service territories*

*(1) Designated service territories of a water utility approved by the Public Utility Commission shall be exclusive. A water utility or community water supply system shall not provide water utility service within the designated exclusive service territory of another water utility without the express approval of the commission.*

[https://oregon.public.law/statutes/ors\\_758.305](https://oregon.public.law/statutes/ors_758.305)

### Sunriver Resort Golf Courses

“Sunriver Resort offers 63 holes of the best golf in the West.” There are four Sunriver Resort golf courses within the Sunriver Water service territory: Crosswater, Woodlands, Meadows, and The Links at Caldera. <https://www.sunriverresort.com/central-oregon-bend-golf/golf-overview>

#### Woodlands Golf Course

“Sunriver Utilities... provide irrigation to an 18-hole golf course on the north end of Sunriver.” This refers to the Woodlands Golf Course. <https://sunriverwater.com/about-us/>

#### Crosswater Golf Course and The Links at Caldera

“Sunriver provides water service to two golf courses, Crosswater and Caldera Springs, through three meters and **charges for that water at the tariffed rates**... The GC (Golf Courses) are irrigated from a combination of **water from the main Sunriver water system and a separate irrigation system**. The majority of the GC's water is supplied by the irrigation system.”

“However, **Well No.12 does not always provide 100 per cent of the GC’s water supply**. Therefore, Staff allocated 8.85 percent of the remaining plant to the GC.” (OPUC, Case UW 160, Staff Exhibit 200, October 30, 2014) <https://edocs.puc.state.or.us/efdocs/HTB/uw160htb161251.pdf>

*Well #12 and the main water system provided irrigation to Crosswater and Caldera Springs golf courses.*

“As explained in Mr. O’Shea’s testimony, SRW uses **Well #12 to provide irrigation service to the Crosswater golf course and the Caldera Springs Owners Association (CSOA)**, and following closing of the Proposed Transaction, **SRW will use other wells to provide irrigation service to CSOA, and SRLP will have sole responsibility for irrigating the Crosswater golf course.**” -Justin Palfreyman, President of NW Natural Water of Oregon  
<https://edocs.puc.state.or.us/efdocs/HTB/up384htb16128.pdf>

*It would seem reasonable to conclude that the main Sunriver Water system is irrigating the Caldera Springs golf course since the sale of Sunriver Water to NW Natural because Well #12 provides irrigation only to the Crosswater golf course. So it appears that **Sunriver Water does not charge for that water.***

#### Meadows Golf Course

The irrigation system waters the golf course and the “Irrigation well... pumps groundwater into a pipe that feeds a water feature on third hole of the Meadows golf course.” (Sunriver Scene, July 2014)

#### Golf Courses Revenues

Sunriver Water reported **revenues of \$172,673 for the water service to the golf courses at Crosswater and Caldera Springs in 2013.** <https://edocs.puc.state.or.us/efdocs/HTB/uw160htb161251.pdf>

*Sunriver Water’s annual reports filed with the PUC report water sales to Crosswater and Caldera Springs, but not Woodlands and Meadows. Annual reports from CY 2016 to the present report no Water Sales to golf course/recreation revenue. <https://apps.puc.state.or.us/edockets/docket.asp?DocketID=17447>*

*Despite four golf courses in its service territory, Sunriver Water has collected **no golf course revenues for water sales since CY 2015 and prior to that only collected golf course revenue for the Crosswater and Caldera golf courses.***

#### Affect on Rates of Sale of Sunriver Water/Assignment of Wells

“I will explain why the sale meets the applicable legal standard—the “**no harm**” standard. SRW’s customers will not be harmed as a result of the sale because:

- SRW’s customers will **not be subject to a rate increase as a result of the acquisition.**”  
-J. Palfreyman <https://edocs.puc.state.or.us/efdocs/HTB/up384htb16128.pdf>

*The first general rate case filing following the transfer of ownership of Sunriver Water to Oregon Water requests that the Oregon Public Utilities Commission approve a **40% increase in customer water rates***

Sunriver Water LLC's request for a general rate revision, UW 186, seeks a rate increase of \$726,542 or 39.41 percent in current annual revenues, resulting in total annual revenues of \$2,569,990. The utility's most recent calendar year revenues are \$1,843,448.

"The monthly bill of the average residential customer served will increase from \$20.69 per month to \$29.36" or a 41.9 percent increase. <https://edocs.puc.state.or.us/efdocs/UAA/uaa141853.pdf>

#### Affect on Revenue of Sale of Sunriver Water/Assignment of Wells

"Tom O'Shea, Area Managing Director of Sunriver Resort Limited Partnership (SRLP), which is the current owner of SRW, will... describe the SRW assets that will be **transferred to SRLP prior to the closing of the transaction and explain why assignment of those assets will not harm SRW's ability to serve its customers.**"

"My understanding is that **the sale requires approval under ORS 757.480 (5)**, and that the Commission applies a "no harm" standard in its review of such transactions." -J. Palfreyman <https://edocs.puc.state.or.us/efdocs/HTB/up384htb16128.pdf>

*ORS 757.480 (5) states, "This section does not prohibit or invalidate the sale, lease or other disposition by any public utility of **property that is not necessary or useful** in the performance of the public utility's duties to the public.*

*The PUC Commissioners acknowledged in Order No. 19-147 dated April 24, 2019, that "those assets (Well #4 and Well #12) are **necessary or useful to SRW in the provision of water service and are under the Commission's jurisdiction**" and still ordered the transfer of those assets from Sunriver Water to its parent, Sunriver Resort contrary to ORS 757.480 (5). <https://apps.puc.state.or.us/orders/2019ords/19-147.pdf>*

*Well #12 generated revenue of \$172,673 in 2013 alone. Non-receipt of that revenue is a factor in the requested rate increase needed to achieve an annual revenue increase of \$726,542. **Residential customers will pay an increase of \$533,833 of that \$726,542.*** <https://edocs.puc.state.or.us/efdocs/UAA/uaa141853.pdf>

#### Affect on Costs of Sale of Sunriver Water/Assignment of Wells

##### Cost of Shared Management Services

"Oregon Water does not expect any incremental **cost burdens to be placed on SRW as a result of the change of ownership**, and anticipates that the shared services and functions currently provided by SRLP will be replaced by NW Natural under a **similar shared services agreement at an equivalent overall cost.**" -J. Palfreyman <https://edocs.puc.state.or.us/efdocs/HTB/up384htb16128.pdf>

*The Commission approves affiliated interest agreements if the terms are **fair, reasonable, and not contrary to the public interest.** ORS 757.495(3).*

*Sunriver Resort charged Sunriver Water \$254,729 for management services the year before the sale of Sunriver Water. NW Natural charged Sunriver Water \$301,409 for management services during the first full year of its ownership of Sunriver Water. The increase was \$46,680 (18.3 percent increase) and significantly more than the rate of inflation. <https://edocs.puc.state.or.us/efdocs/HAQ/rw14haq16391.pdf>*

Cost of Assignment of Well #12 to Sunriver Resort

“We further find that the proposed conditions imposed on the transactions described in the stipulation will **protect the interests of customers and result in fair, just, and reasonable rates and further the public interest**, convenience, and necessity.

The Stipulating Parties agree that SRW will calculate the bill credit for the **two customers on the Golf Course Rate Schedule (SRLP and Caldera Springs Owners Association (CSOA))** by apportioning the \$58,902 to those customers on **the basis of volumes used** by each customer in calendar year 2018. The amount due to CSOA will be made as a one-time bill credit. Because **SRLP will no longer be a Golf Course Irrigation customer following closing of the Transactions, SRW will pay the amount due to SRLP by check.**” -PUC Commissioners, Order No. 19-147 <https://apps.puc.state.or.us/orders/2019ords/19-147.pdf>

*A bill credit assumes that the water rates had been paid. The Resort (SRLP) had not paid any Golf Course water rates since CY 2015 according to the Water company's annual reports. So it seems that the Sunriver Water paid the Resort \$58,902 to use water to irrigate golf courses. This payment seems to promote private gain and not “protect the interests of customers and result in fair, just, and reasonable rates and further the public interest.”*

*If Sunriver Resort and Caldera Springs Owners Association were customers on the Golf Course Rate Schedule, then those customers should have been paying those rates.*

## **Conclusion**

*Costs to customers have increased exponentially relative to inflation since NW Natural acquired Sunriver Water and Sunriver Water transferred assets to Sunriver Resort. These increased costs are contrary to Oregon law.*

*Sunriver Water gave the Resort a well and then wrote the Resort a check for using the water in the well. This PUC-approved largesse to a customer who hadn't paid any golf course water rates for three years is not “in the public interest.” These actions would seem to be contrary to ORS 757.325 because they give **undue or unreasonable preference or advantage to Sunriver Resort.***

ORS 757.325 Undue preferences and prejudices

(1) No public utility shall make or give **undue or unreasonable preference or advantage** to any particular person or locality, or shall subject any particular person or locality to any undue or unreasonable prejudice or disadvantage in any respect.

(2) Any public utility violating this section is guilty of **unjust discrimination**.

ORS 757.020 states, “the charges made by any public utility for any service... shall be **reasonable and just**, and every unjust or unreasonable charge for such service is prohibited.”

*The proposed water rate increases are **not just and reasonable or in the public interest because water service to the golf courses was rendered free or at a lesser rate than that named in the published schedules and tariffs.***

ORS 757.320 Reducing rates for persons furnishing part of necessary facilities

(1) **No public utility shall demand, charge, collect or receive from any person less compensation for any service** rendered or to be rendered by the public utility in consideration of the furnishing by such person of any part of the facilities incident thereto.

ORS 757.330 Soliciting or accepting special privileges from utilities

No person shall knowingly solicit, accept or receive any rebate, concession or discrimination in respect to any service whereby any such service shall, by any device, be **rendered free or at a lesser rate than that named in the published schedules and tariffs** in force, or whereby any service or advantage is received other than authorized in this chapter.

*A reasonable argument can be made that **Sunriver Water receiving less compensation for water service from Sunriver Resort violates ORS 757.320 and Sunriver Resort receiving water service free or at a lesser rate than that named in the published schedules and tariffs in force violates ORS 757.330.***

*The alleged revenue shortage appears to be a result in large part of **not all water users in the service territory paying for their water usage.** The water Sunriver Resort uses to irrigate golf courses from Sunriver Water’s vested groundwater rights should be subject to water rates for golf courses. If all customers within the water service territory were paying for water used and the management fees and Golf Course rates were calculated and applied appropriately, then there would likely be no need for a rate increase.*

*If Golf Course rates were applied retroactively, then Sunriver Water would likely experience a revenue surplus relative to its goal of a 7.00 percent return on a rate base of \$5,392,022. That surplus could be refunded or credited to customers who have been paying water rates for their water usage.*

*It would seem reasonable to assume that PUC decisions contrary to Oregon Statutes do not supersede or preempt Oregon law and that those decisions would be corrected in the public interest.*

**Sunriver Water proposed revenue increase from a rate increase:**

\$5,012	Unmetered Water Sales
<b>\$533,833</b>	Metered <b>Residential</b> Water Sales
\$67,279	Metered Commercial/Industrial Water Sales
\$5,431	Fire Protection Sales Revenue
\$5,012	Unmetered Water Sales
\$114,987	Irrigation Water Sales
\$0	Golf Course Revenue
<b>\$726,542</b>	<b>Requested increase in current annual revenues</b>

<https://edocs.puc.state.or.us/efdocs/UAA/uaa141853.pdf> Utility Testimony Page 7 of 27

**Possible sources of revenue without a rate increase:**

\$58,902	<i>Bill Credit returned from Sunriver Resort to Sunriver Water</i>
\$46,680	<i>Refund of excess management fees (\$301,409-\$254,729)</i>
\$150,000	<i>Golf Course revenue from Woodlands (estimate)</i>
\$150,000	<i>Golf Course revenue from Meadows (estimate)</i>
\$150,000	<i>Golf Course revenue from Crosswater (estimate)</i>
\$75,000	<i>Golf Course revenue from Caldera 9 hole course (estimate)</i>
\$525,000	<i>Total Golf Course Water Revenue (estimate)</i>
<b>\$630,582</b>	<b><i>Subtotal</i></b>
\$2,625,000	<i>Payment of Golf Course Water Rates for CY 2016 to 2020 (estimate)</i>
<b>\$3,255,582</b>	<b><i>Total</i></b>

Very respectfully,  
 Robert Gamble  
 Sunriver, Oregon  
 September 20, 2021

**Re: Sunriver Water Annual Reports available on the PUC website:**

<i>Year</i>	<i>Total Operating Revenue</i>	<i>SOLD to SRLP Water Services</i>	<i>467 Water Sales to golf course/ recreation revenue</i>	<i>465 Sales to irrigation customers</i>	<i>PURCHASED from SRLP (Starting 06/01/2019 NW Natural) 634 Contractual Services - management</i>
<i>CY 2020</i>	<i>1,899,427</i>	<i>-</i>	<i>0</i>	<i>344,173</i>	<i>301,409</i>
<i>CY 2019</i>	<i>1,723,065</i>	<i>0</i>	<i>0</i>	<i>289,419</i>	<i>NW Natural 157,778</i>
					<i>SRLP 108,790</i>
<i>CY2018</i>	<i>1,928,410</i>	<i>279,718</i>	<i>0</i>	<i>409,209</i>	<i>254,724</i>
<i>CY 2017</i>	<i>1,742,875</i>	<i>271,272</i>	<i>0</i>	<i>338,039</i>	<i>220,200</i>
<i>CY 2016</i>	<i>1,740,180</i>	<i>249,175</i>	<i>0</i>	<i>374,654</i>	<i>174,816</i>
<i>CY 2015</i>	<i>1,719,517</i>	<i>254,412</i>	<i>121,089</i>	<i>251,232</i>	<i>169,728</i>
<i>CY 2014</i>	<i>1,536,518</i>	<i>128,814</i>	<i>128,814</i>	<i>203,387</i>	<i>166,401</i>
<i>CY 2013</i>	<i>1,596,375</i>	<i>172,673</i>	<i>172,673</i>	<i>215,936</i>	<i>166,060</i>
<i>CY 2012</i>	<i>1,447,961</i>	<i>-</i>	<i>139,187</i>	<i>212,522</i>	<i>155,196</i>
<i>CY 2011</i>	<i>1,415,596</i>	<i>-</i>	<i>92,413</i>	<i>214,319</i>	<i>145,044</i>

<https://apps.puc.state.or.us/edockets/docket.asp?DocketID=17447>