



DEPARTMENT OF JUSTICE
GENERAL COUNSEL DIVISION

March 24, 2023

VIA CERTIFIED MAIL - 7022 0410 0003 2542 9627

Dean "Butch" Rodgers
Sun Country Water, Inc.
2264 Nelson Road
Bend, OR 97701

Re: Sun Country Water, Inc. – Proposed Financial Penalties

The Oregon Public Utility Commission issues this Notice of Proposed Financial Penalties under OAR 860-036-1720,¹ ORS 757.994, and OAR 860-36-1700 against Sun Country Water, Inc. (SCW) for its failure to comply with the Oregon Public Utility Commission ("Commission") orders and Oregon Administration Regulations as follows.

(1) SCW has failed to comply with Order No. 22-462 to make a rate case filing with the Commission within 90 days of November 30, 2022.

On December 1, 2022, the Commission issued Order No. 22-462 asserting rate regulation over SCW and ordering SCW to file a general rate revision consistent with OAR 860-036-2020 within 90 days of the date of the order.² SCW has not filed a general rate revision as ordered. SCW violated the rate filing requirement of Order No. 22-462 to make a rate case filing with the Commission within 90 days of December 1, 2022.

The proposed financial penalty for the continuing violation of Order No. 22-462 is a penalty of \$100 per day starting the 91st day after Order No. 22-462.

(2) SCW has failed to comply with Order Nos. 12-189 and 19-086 requiring monthly billing.

On May 23, 2012, the Commission issued Order No. 12-189 under which SCW is required to bill its customers monthly using accurate meter readings and a correct billing format.³ In 2013, after SCW did not comply with the requirement to read meters and bill monthly, the Commission

¹ OAR 860-036-1720 provides, in pertinent part:

In addition to any other penalty provided by law, the Commission may impose a civil penalty not to exceed \$500 per day for each violation of Commission statute, rule, or order as provided in ORS 757.994.

² *In the Matter of Sun Country Water, LLC, An investigation Pursuant to ORS 756.515 to Determine Jurisdiction*, WJ 45, Order No. 22-462 (December 1, 2022).

³ *In the Matter of Sun Country Water, Inc., Investigation under ORS 756.515 into Sun Country Water, Inc.'s Billing Practices*, Docket No. UM 1598, Order No. 12-189 (May 23, 2012).

adopted Staff's recommendation to appoint a regent to operate SCW. In 2019, the Commission issued Order No. 19-086 reinstating Mr. Rogers as the operator of SCW based in part on several commitments made by SCW, including his commitment to bill customers monthly.⁴ While SCW may use estimates to bill for usage in winter months when meter reading is difficult, SCW is still required to bill monthly for base charges.⁵

The Consumer Services Division has received multiple customer complaints that SCW is not billing monthly. Specifically, the Consumer Division received a customer complaint in June 2022 and in August 2022, and two complaints in February 2023.

While SCW may use estimates to bill for usage in winter months, to be trued up for actual meter reads when non-winter weather returns, SCW is still required to bill monthly for base charges. SCW has violated Order Nos. 12-189 and 19-086 requiring monthly billing.

The proposed financial penalty for the continuing violation of Order Nos. 12-189 and 19-086 is \$100.00 per monthly billing cycle starting January 1, 2023.

You may request a hearing to challenge the proposed financial penalties. The request for hearing must be in writing and be received by the Commission by April 17, 2023. The request must comply with the requirements set forth in OAR 860-001-0140 and 860-001-0170.

If you do not request a hearing within the time allowed, or if you request a hearing and fail to appear at the scheduled hearing, the Commission may issue a final order by default imposing the proposed penalty.

Active duty servicemembers have a right to stay the financial penalties under the federal Servicemembers Civil Relief Act. Active servicemembers may contact the Oregon State Bar at 1-800-452-8260 or the Oregon Military Department at 971-355-4127 or the United States Armed Forces Legal Assistance Legal Services Locator website at <https://legalassistance.law.af.mil/>

Appointment of Regent under OAR 860-036-1700

Commission Staff is investigating the need for a Commission order under OAR 860-036-1700 appointing a regent to operate SCW. OAR 860-036-1700 provides:

⁴ See *In the Matter of Sun Country Water, Inc., Staff's Request to Remove Regency and to Return Operation of System Dean Rogers*, Docket No. UM 1598, Order No. 19-086, App. A. (March 13, 2019).
⁵ *Id.*, pp. 3-4.

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If the Commission determines that a water utility's ownership or management results in inadequate service, threatens the health or safety of the customers, or threatens the financial viability of the water utility, then the Commission may appoint a regent to operate and manage the water utility.

SCW's violation of Commission orders requiring monthly billing and a rate filing, raises questions regarding SCW's management and ability to maintain operations of SCW. Further, SCW owes more than \$40,000 to the County of Deschutes for taxes. SCW's failure to comply with Commission orders regarding rates and billing and its failure to pay its tax obligations raises significant concerns regarding the financial viability of SCW.

Please be aware that Staff's investigation of the need for a regent and the financial penalties noticed above are separate matters. Staff will send separate correspondence regarding its conclusions regarding the regency. You should not wait for resolution of Staff's investigation regarding the regency to respond to this notice of financial penalties.

Please contact Russ Beitzel of Commission Staff to discuss steps SCW may take to avoid a Commission order appointing a regent by e-mail at russell.beitzel@puc.oregon.gov or by phone at 971-209-0533.

Sincerely,

/s/ Stephanie Andrus

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SSA/pjr/#36330767
c: Russ Beitzel, OPUC