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ADMITTED IN OREGON AND WASHINGTON

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August 17, 2023

VIA EMAIL - puc.filingcenter@puc.oregon.gov

Public Utility Commission of Oregon

ATTN: Filing Center

201 High Street SE, Suite 100

P.O. Box 1088

Salem, OR 97308-1088

Re: NC 405 – In the Matter of Public Utility Commission of Oregon v. City of
Portland

Dear Filing Center:

Oregon Association of Clean Water Agencies respectfully submits its Response
Testimony regarding NC 405.

Very truly yours,

A handwritten signature in blue ink that reads 'Laura Maffei'.

Laura C. Maffei, R.G.

LCM:arh
Enclosure

**BEFORE THE
PUBLIC UTILITY COMMISSION OF OREGON
NC 405**

In the Matter of)
Public Utility Commission of Oregon v. City of)
Portland)
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**RESPONSE TESTIMONY OF SUSIE SMITH
ON BEHALF OF
INTERVENORS OREGON ASSOCIATION OF CLEAN WATER AGENCIES**

ACWA EXHIBIT 100

August 17, 2023

UE NC 405 – Response Testimony of Susie Smith

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092, FACSIMILE (503) 224-3176

1 **Q. What is your name, occupation, and business address?**

2 A. Susie Smith, Executive Director of Oregon Association of Clean Water Agencies (ACWA),
3 located at 81 E. 14th Avenue in Eugene, Oregon 97401.

4 **Q. How long have you been in that role?**

5 A. Seven years.

6 **Q. Is ACWA represented by counsel in this proceeding?**

7 A. No.

8 **Q: Who is ACWA and what does your Association do?**

9 A: ACWA is a not-for-profit organization whose members include Oregon's municipal, county
10 and special district wastewater treatment and stormwater management agencies, and their
11 consultants. It has about 130 local government and consultant members. ACWA is dedicated to
12 protecting Oregon's water environment through development of effective environmental policies
13 and programs, education outreach, and collaborative water resources management. Members
14 provide public wastewater treatment and stormwater management services to over 3,000,000
15 Oregonians, serving over 70% of Oregon's homes and businesses. ACWA provides high-value,
16 science-based, practical services to its membership, including education, peer support, regulatory
17 advocacy, and partnerships.

18 **Q: Why does ACWA have an interest in this proceeding?**

19 A: Nearly all ACWA's local government members have pipes placed in easements or public
20 rights of way (ROW). It is not uncommon for private pipes, whether owned by a homeowner or
21 other utility provider, to share ROW with publicly owned sewer or storm pipes. The public sewer
22 and storm infrastructure is built to meet exacting public standards, then accepted into the local
23 government's database and is thereafter locatable, which is most typically not the case with
24 private lines. ACWA members concur that marking their own pipes in the ROW, consistent with
25 OUNC requirements, is critical to protect infrastructure and the public. However, if public
26 agencies are required to also mark private infrastructure, this places a tremendous additional

UE NC 405 – Response Testimony of Susie Smith

1 burden and potential liability on public agencies that should be borne by the private owner.

2 While ACWA member agencies may voluntarily for their own reasons attempt to mark private
3 lines when requested, ACWA will argue that this is a choice, not a legal or regulatory
4 requirement.

5 **Q: Does ACWA have any experience or special knowledge related to utility marking?**

6 A: Yes. The knowledge and expertise that ACWA brings to this issue comes from the collective
7 knowledge, experience, roles, and responsibilities that our 650 local government ACWA
8 member volunteers bring to the issues faced by public agencies. These public agencies face the
9 daily challenges of planning, building, and operating public wastewater and stormwater
10 infrastructure in communities across the state. Their agencies often face tight budgets and have a
11 duty to spend public dollars for public purposes, not private benefit. ACWA member agencies
12 are knowledgeable about ROW and utilities management and responsibilities. Finally, member
13 agencies work with private property owners to carry out their duty to manage the public system
14 to comply with environmental regulations and building codes, fostering necessary extension of
15 their public utilities, responsible growth, and environmental protection.

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**RESPONSE TESTIMONY OF STEVE FANCHER
ON BEHALF OF
INTERVENORS OREGON ASSOCIATION OF CLEAN WATER AGENCIES**

ACWA EXHIBIT 200

August 17, 2023

UE NC 405 – Response Testimony of Steve Fancher

1 **Q. What is your name, occupation, and business address?**

2 A. My name is Steve Fancher. I am Assistant City Manager for the City of Gresham. My
3 business address is 1333 NW Eastman Pkwy, Gresham, Oregon.

4 **Q. How long have you been with City of Gresham and in which roles?**

5 A. I have been with the City of Gresham since July 2006 as the Watershed Division Manager,
6 Department of Environmental Services Director and Assistant City Manager.

7 **Q. Are you familiar with the City of Gresham’s provisions and policy directives pertaining**
8 **to nonconforming private sewer laterals and to the construction, operation, and**
9 **maintenance of the public sewer system?**

10 A. Yes.

11 **Q: How does the City of Gresham define public sewer facilities within its jurisdiction?**

12 A: The public sewer facilities owned and operated by City of Gresham include the main line and
13 the portion of the lateral that extends from “T” or “wye” at the main line to the property line.
14 Public lines are built to specific design standards (which consider, among other things, proper
15 materials for safety, longevity and locations allowing access for repair) and must be inspected to
16 meet those requirements prior to being accepted into the public system for future maintenance.
17 Unlike private lines, public lines are added to GIS systems for maintenance, repair and utility
18 marking purposes.

19 **Q: How does the City of Gresham define private sewer laterals or facilities within its**
20 **jurisdiction?**

21 A: Private sewer laterals generally begin at a private structure and end at a structure where it
22 connects to the public system – for sanitary lines, this is typically a cleanout at the edge of right-
23 of-way, but private storm laterals often discharge out a weephole to the gutter, connect directly
24 to public catch basins, manholes, or pipes. The City of Gresham does not own private laterals
25 that were installed by private individuals and the City of Gresham generally does not take
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UE NC 405 – Response Testimony of Steve Fancher

1 responsibility for the maintenance or operation of these private laterals, even if they are located
2 within a public right-of-way.

3 **Q: Are there private sewer laterals or facilities within the City of Gresham’s jurisdiction**
4 **that are located in a public right-of-way?**

5 A: Yes.

6 **Q. Are you familiar with the Oregon Utility Notification Center’s (“the OUNC”)**
7 **requirements pertaining to utility locates, including its Standards Manual?**

8 A. Yes.

9 **Q: How does the City of Gresham address utility locates for private sewer laterals or**
10 **facilities located within a public right-of-way?**

11 A: The City of Gresham does not provide utility locates for private sewer facilities located within
12 a public right-of-way. The City of Gresham focuses on marking public sewer facilities that are
13 mapped and known.

14 **Q: Does the City of Gresham have a map or other documentation of the locations of private**
15 **sewer laterals within its jurisdiction?**

16 A: The City of Gresham has limited private systems mapped.

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**RESPONSE TESTIMONY OF JENNIFER WIRSING
ON BEHALF OF
INTERVENORS OREGON ASSOCIATION OF CLEAN WATER AGENCIES**

ACWA EXHIBIT 300

August 17, 2023

UE NC 405 – Response Testimony of Jennifer Wirsing

CABLE HUSTON LLP
1455 SW BROADWAY, SUITE 1500
PORTLAND, OREGON 97201-3412
TELEPHONE (503) 224-3092, FACSIMILE (503) 224-3176

1 **Q. What is your name, occupation, and business address?**

2 A. My name is Jennifer Wirsing. I am the City Engineer/Deputy Director for the Public Works
3 and Community Development Department for the City of Coos Bay. My business address is 500
4 Central Avenue, Coos Bay OR 97420.

5 **Q. How long have you been with Coos Bay and in which roles?**

6 A. I have been with the City of Coos Bay since September 2010 as the Engineering Services
7 Coordinator, Wastewater Administrator, Wastewater Engineer, City Engineer and currently City
8 Engineer/Deputy Director for the Public Works and Community Development Department.

9 **Q. Are you familiar with the City of Coos Bay's provisions and policy directives pertaining**
10 **to nonconforming private sewer laterals and to the construction, operation, and**
11 **maintenance of the public sewer system?**

12 A. Yes.

13 **Q: How does Coos Bay define public sewer facilities within its jurisdiction?**

14 A: The public sewer facilities owned and operated by Coos Bay include the main line and the
15 portion of the lateral that extends from "T" or "wye" at the main line to the structure. Public
16 lines are built to specific design standards (which consider, among other things, proper materials
17 for safety, longevity and locations allowing access for repair) and must be inspected to meet
18 those requirements prior to being accepted into the public system for future maintenance. Unlike
19 private lines, public lines are added to GIS systems for maintenance, repair and utility marking
20 purposes.

21 **Q: How does Coos Bay define private sewer laterals or facilities within its jurisdiction?**

22 A: Private sewer laterals generally begin at the structure and end at the mainline and includes the
23 connection. Coos Bay does not own private laterals that were installed by private individuals
24 and Coos Bay generally does not take responsibility for the maintenance or operation of these
25 private laterals, even if they are located within a public right-of-way.

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UE NC 405 – Response Testimony of Jennifer Wirsing

1 **Q: Are there private sewer laterals or facilities within Coos Bay’s jurisdiction that are**
2 **located in a public right-of-way?**

3 A: Yes.

4 **Q. Are you familiar with the Oregon Utility Notification Center’s (“the OUNC”)**
5 **requirements pertaining to utility locates, including its Standards Manual?**

6 A. Yes.

7 **Q: How does Coos Bay address utility locates for private sewer laterals or facilities located**
8 **within a public right-of-way?**

9 A: Coos Bay does not provide utility locates for private sewer facilities located within a public
10 right-of-way. Coos Bay only marks the public sewer facilities.

11 **Q: Does Coos Bay have a map or other documentation of the locations of private sewer**
12 **laterals within its jurisdiction?**

13 A: Coos Bay has historic documentation of some of the private laterals within the city limits.
14 However, it is approximately 50-70 years old and has not been maintained or confirmed. It is
15 provided only if requested and with the understanding the city cannot verify its accuracy.

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**RESPONSE TESTIMONY OF JESSICA MACCLANAHAN
ON BEHALF OF
INTERVENORS OREGON ASSOCIATION OF CLEAN WATER AGENCIES AND THE
LEAGUE OF OREGON CITIES**

ACWA EXHIBIT 400

August 17, 2023

UE NC 405 – Response Testimony of Jessica MacClanahan

1 **Q. What is your name, occupation, and business address?**

2 A. My name is Jessica MacClanahan. I am the Director of Public Works/City Engineer for the
3 City of Redmond. My business address is 243 E. Antler Ave. Redmond, OR 97756.

4 **Q. How long have you been with City of Redmond and in which roles?**

5 A. I have been with the City of Redmond since January 2022 as City Engineer and most recently
6 as Director of Public Works.

7 **Q. Are you familiar with the City of Redmond's provisions and policy directives pertaining**
8 **to nonconforming private sewer laterals and to the construction, operation, and**
9 **maintenance of the public sewer system?**

10 A. Yes.

11 **Q: How does City of Redmond define public sewer facilities within its jurisdiction?**

12 A: The public sewer facilities owned and operated by City of Redmond include the main line and
13 applicable pressure mains. Public lines are built to specific design standards (which consider,
14 among other things, proper materials for safety, longevity and locations allowing access for
15 repair) and must be inspected to meet those requirements prior to being accepted into the public
16 system for future maintenance. Unlike private lines, public lines are added to GIS systems for
17 maintenance, repair, and utility marking purposes.

18 **Q: How does City of Redmond define private sewer laterals or facilities within its**
19 **jurisdiction?**

20 A: Private sewer laterals generally begin at house and end at the City main. City of Redmond
21 does not own private laterals that were installed by private individuals and City of Redmond
22 generally does not take responsibility for the maintenance or operation of these private laterals,
23 even if they are located within a public right-of-way.

24 **Q: Are there private sewer laterals or facilities within City of Redmond's jurisdiction that**
25 **are located in a public right-of-way?**

26 A: Yes.

UE NC 405 – Response Testimony of Jessica MacClanahan

1 **Q. Are you familiar with the Oregon Utility Notification Center’s (“the OUNC”)**
2 **requirements pertaining to utility locates, including its Standards Manual?**

3 A. Yes.

4 **Q: How does City of Redmond address utility locates for private sewer laterals or facilities**
5 **located within a public right-of-way?**

6 A: City of Redmond does not provide utility locates for private sewer facilities located within a
7 public right-of-way. City of Redmond only marks the public sewer facilities.

8 **Q: Does City of Redmond have a map or other documentation of the locations of private**
9 **sewer laterals within its jurisdiction?**

10 A: No.

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