

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

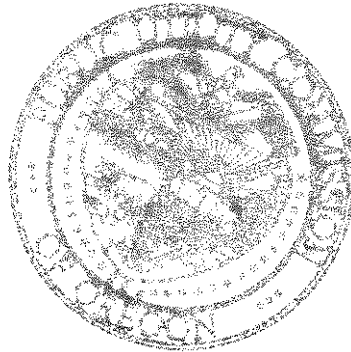
Investigation under ORS 756.515 into Sun  
Country Water, Inc.'s billing practices.

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 X 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

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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.

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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

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

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

## FUTURE BILLINGS

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

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

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

4.  
21

## PAST BILLINGS

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

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.  
26

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.

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  
Butch Rogers  
Sun Country Water, Inc.

Date

5/9/12

State of Oregon, Public Utility Commission

By:

Jason Jones  
Jason Jones  
Assistant Attorney General

Date

5/8/12

## Sun Country Water Survey Results

Attachment B  
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## 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 unsolvent 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.