ORDER NO. 22-142

ENTERED May 09 2022

BEFORE THE PUBLIC UTILITY COMMISSION

OF OREGON

UM 2071(2)

In the Matter of SUNRIVER WATER LLC Application for Reauthorization to Defer Costs Associated with the COVID-19 Public Health Emergency.	ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on May 5, 2022, the Public Utility Commission of Oregon adopted Staff's recommendation in this matter. The Staff Report with the recommendation is attached as Appendix A.

BY THE COMMISSION:

Nolan Moser
Chief Administrative Law Judge

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 Circuit Court for Marion County in compliance with ORS 183.484.

ITEM NO. CA11

PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: May 5, 2022

REGULAR ____ **CONSENT** __X__ **EFFECTIVE DATE** __March 26, 2022__

DATE: April 20, 2022

TO: Public Utility Commission

FROM: Scott Shearer

THROUGH: Bryan Conway, Marc Hellman, and Bruce Hellebuyck **SIGNED**

SUBJECT: SUNRIVER WATER LLC:
(Docket No. UM 2071(2))
Requests reauthorization of deferred accounting of costs from COVID-19 Public Health Emergency.

STAFF RECOMMENDATION:

Staff recommends that the Public Utility Commission of Oregon (Commission) approve Sunriver Water LLC (Sunriver or Company) request for reauthorization of deferred accounting of COVID-19 related costs for the 12-month period beginning March 26, 2022, and direct Sunriver to file a report on utility costs resulting from COVID-19 for the period March 26, 2022, to March 25, 2023, as further specified herein.

DISCUSSION:

Issue

Whether the Commission should approve Sunriver's request for reauthorization of deferred accounting of costs from the COVID-19 Public Health Emergency for the 12-month period beginning March 26, 2022.

Whether the Commission should direct Sunriver to report to the Commission on COVID-19-related costs for the period March 26, 2022 to March 25, 2023.

Applicable Law

ORS 757.259 allows the Commission to authorize deferred accounting for later incorporation into rates. Specific amounts eligible for deferred accounting treatment with interest authorized by the Commission include “[i]dentifiable utility expenses or revenues, the recovery or refund of which the Commission finds should be deferred in order to minimize the frequency of rate changes or the fluctuations of rate levels or to match appropriately the costs borne by and benefits received by ratepayers.” ORS 757.259(2)(e).

In OAR 860-036-2170, the Commission directs water utilities to comply with the deferred account rule for energy and telecommunications utilities in OAR 860-027-0300. Under OAR 860-027-0300(4), the Commission sets the requirements for the contents of applications to reauthorize the use of deferred accounting. Notice of the application must be provided pursuant to OAR 860-027-0300(6).

Unless subject to an automatic adjustment clause under ORS 757.210(1), amounts deferred under ORS 757.259(5) and OAR 860-027-0300 are allowed in rates only to the extent authorized by the Commission in a proceeding under ORS 757.210 to change rates and upon a prudence review and review of the utility’s earnings. With some exceptions, a company’s amortization of amounts deferred under ORS 757.295(5) cannot exceed an amount equal to three percent of the company’s gross revenues from the preceding year. ORS 757.295(6).

Under ORS 756.090, a utility must keep and maintain records as required by the Commission. The Commission may require a utility to furnish information to carry into effect the provisions of ORS chapters 756, 757, 758, and 759, per ORS 756.105.

Analysis

Background

On March 8, 2020, Oregon Governor Kate Brown declared a statewide state of emergency due to the public health threat posed by the novel infectious coronavirus, COVID-19.[1] Several extensions of that order have been issued, and the state of emergency expired on April 1, 2022.[2]

On March 26, 2020, Sunriver filed UM 2071, requesting the Commission authorize the Company to defer for later ratemaking treatment costs from the COVID-19 public health emergency.

On June 9, 2020, the Commission held a Special Public Meeting on the impacts of COVID-19. As a result of the Special Public Meeting, the Commission opened an

[1] EO 20-03 (March 8, 2020).
[2] EO 22-03 (March 17, 2022).

investigation into the effects of COVID-19, which would later be docketed as UM 2114. The purpose of the investigation was to:

a. Develop and share relevant information concerning actions taken by utilities concerning COVID-19;
b. Ensure the PUC takes an integrated, timely approach to COVID-19 related issues, and that all relevant aspects of the challenge are considered;
c. Ensure stakeholder engagement, input, and awareness; and
d. Provide information that will inform other related dockets and Commission process.

Staff, five water utilities, and interested stakeholders participated in a series of workshops and meetings, leading to the creation of a Stipulated Agreement by Sunriver, Cline Butte Water, Mountain Lakes Water, Salmon Valley Water, Avion Water, Staff, Citizens' Utility Board (CUB), and Community Action Partnership of Oregon (CAPO). In Docket No. UM 2120, the Commission adopted the Stipulated Agreement, issuing Order No. 20-400 in November 2020.

Among the items addressed in the Stipulated Agreement, specifically paragraph 15, is the affected utilities' applications for deferred accounting related to COVID-19 costs and benefits.

Order No. 20-400 - Deferrals
The five water utilities filed initial applications for deferred accounting of costs and benefits resulting from the COVID-19 health epidemic. Paragraph 15 states:

- The signatory parties agree that the Utilities' applications for deferred accounting of COVID-19 related costs and benefits should be approved by the Commission, and recovery of those amounts deferred will be subject to a future Commission prudence review proceeding to assure deferrals are either directly related to this Stipulated Agreement or are related to other increased costs due to COVID-19. These COVID-19 related deferrals shall consist of the following:

    - Direct costs for reasonable measures taken by the Utility in response to the COVID-19 pandemic, including, but not limited to: incremental personal protective equipment, cleaning supplies and services, contact tracing, medical testing, financing costs to secure liquidity including carrying costs associated with TPAs, information technology updates and administration needed to enact this Stipulated Agreement, and equipment needed for remote work options. Direct costs are net of credits, payments, cost savings, or other benefits received by the Utility from shareholder contributions or a federal, state, or local government that are directly related to a COVID-19 direct cost, including federal, state, or local tax credits or benefits. Due to the unprecedented nature of the COVID-19 pandemic, not all costs may be known at this time. Utilities are not limited to deferring costs that are expressly enumerated above; provided, however, that all such costs are subject to a future Commission prudence review proceeding.

- The amount of late payment fees not assessed to customers between March 1, 2020, and when the Utility resumes collection activity and disconnections. The amount of late payment fees not assessed shall be calculated assuming only one late payment fee is assessed per customer, (if such customer would have been charged a late payment fee over the March through November 2020 time period) with such late payment amount equal to the current bill and any past due amounts (up to November 30, 2020) excluding the effects of any compounding of interest charges.[3]

- For bad debt expense, the amount that is currently being collected from customers for bad debt, as determined in its last general rate proceeding, would be the baseline. Any amount of bad debt expense incurred above this baseline in would be deferred for later recovery.

- The amount of forgone reconnection charges, field visits that do not result in disconnection, and field connection charges not assessed to customers between March 1, 2020 and December 1, 2020. These forgone reconnection charges and field connection charges shall not exceed the difference between the actual charges recorded by the utility in 2020 and the authorized annual level of reconnection charges and field connection charges authorized in the Utility's last rate case.[4]

- The amount of forgone reconnection charges incurred through November 15, 2020, related to customers that may have been disconnected prior to the March 13, 2020, suspension of disconnects. Forgone reconnection fees shall not exceed the amount equal to one reconnection fee per customer who was reconnected to service without charge, pursuant to paragraph 9. The reconnection fee shall be calculated

[3] [3] Staff notes that utilities have begun assessing late payment fees and disconnection/reconnection fees, so costs related to these items no longer apply.
[4] Staff notes that this only applies to the period listed and does not apply to the current deferral request.

using the applicable reconnection fee available in the Utility's tariff for reconnection during regular working hours for the reconnected customer.[5]

- The deferral balance, whether being accrued or being amortized, shall accrue the same interest rate, and equal to the blended Treasury rate plus 100 basis points. To the extent the amortization of the deferral is more than two years for a utility, the utility may request a larger basis point spread reflecting the pattern of interest rates in the then current yield curve for Treasury securities.

Request for Reauthorization
On March 16, 2022, Sunriver filed a request for reauthorization of this deferral, for the 12-month period beginning March 26, 2022 through March 25, 2023. Sunriver seeks reauthorization from the Commission to continue to defer, for future amortization, costs incurred to respond to the COVID-19 public health emergency. The company has incurred costs related to the public health emergency, including providing additional safety equipment for employees, voluntarily suspending disconnections and assessment of late payment charges (which may significantly increase bad debt expense), and implementing and supporting technology that enables employees to work from home. The company also expects to incur additional costs that cannot currently be predicted given the unprecedented nature of this public health emergency.

Based on the request for reauthorization of this deferral, Sunriver has complied with the reauthorization requirements of OAR 860-027-0300(4).

Description of Expense
As described above, the amount subject to deferral are the direct costs for reasonable measures taken by the utility in response to the COVID-19 pandemic, net of credits, payments, direct cost savings or other benefits received by the utility from a federal, state, or local government that are directly related to a COVID-19 direct cost, including federal state, or local tax credits or benefits.

Reason for Deferral
Sunriver's application notes that it requests reauthorization of this deferral in order to appropriately match the costs borne by and benefits received by customers. The Company also notes that the deferral is being sought as the associated risks of the COVID-19 public health emergency are "well outside reasonable business risk for the Company."[6]

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[5] Staff notes that this applies to fees previously forgone due to COVID-19 and not the current deferral request.
[6] UM 2071, Sunriver's Initial Application, page 2.

Proposed Accounting
Sunriver is proposing to record the deferral as a regulatory asset in NARUC Account 186 (Miscellaneous Deferred Debits) and credit the appropriate NARUC accounts associated with the expense or waived fee.

Estimated Deferrals in Authorization Period
The actual amount subject to deferral is dependent on the outcomes of the COVID-19 pandemic. As it is unknown what the full ramifications of the COVID-19 pandemic will be in Sunriver's service area, including the duration and scale of the impact, the Company notes that the estimated deferral balance is at this time unknown.[7]

Information Related to Future Amortization

- Earnings Review – Prior to amortization, an annual earnings review will be conducted pursuant to ORS 757.259(5).

- Prudence Review – Prior to amortization, a prudence review will be conducted. The prudence review will include the verification of the accounting methodology used to determine the final amortization balance, as well as a review of all costs proposed for amortization (including any offsetting cost savings). For this deferral, prudence reviews will be conducted annually.

- Interest Rate - The deferral balance, whether being accrued (pre-prudence), found to be prudent in an annual prudence review (pre-amortization), or being amortized, shall accrue the same interest rate, equal to the Blended Treasury rate plus 100 basis points.[8] To the extent the amortization of the deferral is more than two years for a utility, that utility may request that the Commission authorize a larger basis point spread. For regulatory and ratemaking purposes, the financing of the deferral will not be included in the capital structure of the utility.

- Sharing - This deferral is not subject to a sharing mechanism. However, as described above, Sunriver has agreed to accrue interest on this deferral equal to the blended treasury rate plus 100 basis points.[9] This is a departure from the standard established by the Commission to use the Company's authorized rate of return for deferral balances not yet reviewed for

[7] UM 2114, Order No. 20-324.
[8] The Modified Blended Treasury rate is updated annually by the Commission as authorized by Order Nos. 08-263, and 09-065. For 2022, the Modified Blended Treasury rate is equal to 1.82 percent.
[9] UM 2114, Order No. 20-324.

prudence.[10] This is a substantive interest differential and materially benefits customers by reducing the amounts recoverable by the utilities.

- Three Percent Test (ORS 757.259(6)) – The three percent test measures the annual overall average effect on customer rates resulting from deferral amortizations. The three percent test limits (with exceptions) the aggregated deferral amortizations during a 12-month period to no more than three percent of the utility's gross revenues for the preceding year.

Reporting
Paragraph 16 of the Stipulated Agreement provides:

- Each Utility that has requested regulatory assets for costs associated with COVID-19 shall provide the Commission with the following reports that itemize the utility costs resulting from COVID-19 described in the previous paragraphs. The first report will be for the period between March 1, 2020 and September 30, 2020, and shall be filed by December 1, 2020. The second report will be for the period between October 1, 2020 and December 31, 2021, and shall be filed by February 26, 2022.

The Company has filed all the required reports to date. Approval of Sunriver's request for reauthorization will extend the deferral period past the last date for reporting required under the Stipulated Agreement (December 31, 2021). The information required in those prior reports will remain important throughout the deferral period to assess the full impact of the COVID-19 pandemic in Sunriver's service area. Therefore, Staff recommends the Commission direct the Company to report similar information as required under paragraph 16 of Order No. 20-400, Appendix A for the period between March 26, 2022 and March 25, 2023, to be filed with the Commission by May 26, 2023.

End of State of Emergency
On February 28, 2022, Governor Brown announced that Oregon Health Authority rules requiring masks in indoor public places and schools would be lifted after 11:59 on March 11. The easing of COVID-19 pandemic related requirements in Oregon was linked to declining case rates and hospitals across the West; similar transitions are taking place in neighboring states, California and Washington, and the Centers for Disease Control and Prevention (CDC) updated guidance to the same effect. Nationally, the White House COVID-19 task force has initiated plans to transition the pandemic into an "endemic phase." The plan includes a continued focus on vaccinations and genome sequencing for variants to better control for them in the future and prevent shutdowns.

[10] Sunriver's current authorized rate of return is 6.75 percent.

Staff considered whether or not to limit deferred accounting for COVID-19 related expense to the pandemic phase of the crisis and reviewed the types of costs and potential benefit (i.e. funding) that would be associated with COVID-19. Ultimately, Staff found it prudent to extend the deferral authorizations beyond the policy changes to align with the customer protections included in Order No. 20-400, several of which include deferred costs to the utility. Thus, for the time being, Staff is recommending the reauthorization of deferred accounting for COVID-19 related costs and benefits and will continue to monitor the necessity of this provision amid changing policies, lifting restrictions, and expiring customer protections over the next 12 months.

Staff notes that many pandemic-related protections are set to expire in Fall 2022 barring another extension of these protections, meaning that the deferral period would extend beyond the pandemic-related protections driving many of its costs. Staff recommends reauthorization based on the understanding that only expenses authorized for deferral under Order No. 20-400 may be included in this deferral during the 12-month period.

Conclusion

Based on Staff's review of Sunriver's request for reauthorization, Staff concludes that the proposal represents an appropriate use of deferred accounting under ORS 757.259. Further, Staff believes that the Company's request for reauthorization, in light of the provisions of the stipulation executed by the Parties, supports Staff's goals of ensuring that both customers and the Company are sufficiently protected from the impacts of the COVID-19 pandemic. Sunriver has reviewed this memo and agrees with Staff.

PROPOSED COMMISSION MOTION:

Approve Sunriver's request for reauthorization of deferred accounting of COVID-19 related costs for the 12-month period beginning March 26, 2022, and direct Sunriver to file a report on utility costs resulting from COVID-19 for the period March 26, 2022 and March 25, 2023, as specified in the Staff report.

UM 2071(2) – Sunriver Requests reauthorization of deferred accounting of costs from COVID-19 Public Health Emergency