

**BEFORE THE PUBLIC UTILITY COMMISSION
OF OREGON**

UM 2297

In the Matter of

SUN COUNTRY WATER, INC.,

Request for Approval Under ORS 757.068
to Reimburse Avion Water Company, Inc.,
for Emergency Repair Work Completed on
the Sun Country Water, Inc.'s Water
System.

ORDER

DISPOSITION: STAFF'S RECOMMENDATION ADOPTED

At its public meeting on August 22, 2023, 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. RA3

**PUBLIC UTILITY COMMISSION OF OREGON
STAFF REPORT
PUBLIC MEETING DATE: August 22, 2023**

REGULAR X CONSENT _____ EFFECTIVE DATE _____ N/A _____

DATE: August 14, 2023

TO: Public Utility Commission

FROM: Scott Shearer

THROUGH: Bryan Conway and Marc Hellman **SIGNED**

SUBJECT: SUN COUNTRY WATER, INC:
(Docket No. UM 2297)
Approval under ORS 757.068 to reimburse Avion Water Company, Inc. for emergency repair work completed on Sun Country Water, Inc’s system.

STAFF RECOMMENDATION:

Approve the use of Commission funds to reimburse Avion Water Company, Inc. for performing necessary, emergency repairs for the Sun Country Water, Inc. water system.

DISCUSSION:

Issue

Whether the Commission should approve the use of funds to reimburse Avion Water Company, Inc. (Avion) for making repairs on a Sun Country Water, Inc. (Sun Country) owned fire hydrant when Sun Country Water, Inc. was unwilling or unable to make necessary repairs.

Applicable Rule or Law

Under ORS 757.068, the Commission may use up to \$5,000 per biennium to make emergency repairs to the plants of public utilities providing water service.

This money may be used if:

- a) Customers of a utility are without service and are likely to remain without service;

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- b) The utility is unwilling or unable to make emergency repairs, or cannot be found after reasonable effort; and
- c) Restoration of the service is necessary for the health and safety of the customers of the utility.

Once these fees are used, the Commission must attempt to recover these fees from the utility providing water service. These monies are not available to other utilities unless and until they are reimbursed to the Commission. The current biennium ends June 30, 2025. The Commission may also recover a penalty from the utility when fees are expended under ORS 756.350, in the amount of two percent of the fees for each month or fraction thereof that they remain unpaid.

Analysis

Background

Dean Rogers has owned Sun Country since 2004. Sun Country serves approximately 110 customers in the Bend area.

From 2013 to 2018, the Commission appointed a regent, Avion, to operate the utility under a five-year agreement. In June 2018, Avion declined to continue as a regent. In August 2018, Mr. Rogers regained operational control of Sun Country. Subsequently, in March 2019, the regency was removed.

On August 22, 2022, Sun Country notified customers that the rates will be raised beyond the maximum rate threshold set by the Commission. The Commission, after being petitioned by over half the customers of Sun Country, proceeded to assert rate regulation. The Commission ordered Sun Country to file a general rate revision within 90 days of the date of the Final Order issued on December 1, 2022.¹ Sun Country did not file a rate case by the deadline and still has not.

The lack of a rate case, and failure to issue monthly bills, prompted Staff to issue a Notice of Proposed Financial Penalties, Docket No. UM 2280. The subsequent investigation revealed Sun Country to be in deep financial trouble. Sun Country owes approximately \$45,000 in unpaid taxes to Deschutes County. Sun Country also owes a contractor for work done on a secondary well; Aiken Drilling sued Mr. Rogers for \$36,303 over this. Aiken secured a default judgment after Mr. Rogers failed to respond.²

Since the hearing in Docket No. UM 2280, the Commission has received additional customer complaints regarding low water pressure, lack of water, inability to reach Mr. Rogers, and repairs needed to the system. Furthermore, per Oregon Health

¹ *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).

² 8 Docket No. UM 2280, June 22, 2023, Comments of John Blankfort.

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Authority, Drinking Water Services records, Sun Country is out of compliance on filing Consumer Confidence Reports for 2022, filing required boil water notices due to loss of system pressure, and failing to complete routine sampling for Coliform.

On July 25, 2023, the Commission issued Order No. 23-277, which imposed substantial penalties on Sun Country for failure to file a rate proceeding. Also on July 25, 2023, the Commission issued Order No. 23-276, accepting Staff's recommendation to appoint a regent to manage Sun Country and requested that Staff review the water systems managed or owned by Dean Rogers.

Circumstances Relating to the Repair by Avion Water Company

In June 2023, a customer reported to Staff that a fire hydrant connected to the Sun Country system was leaking. This leak affected the water pressure of some Sun Country customers, and Sun Country did not attempt to repair to the hydrant for multiple weeks. The large leak at the hydrant is also likely to have been a source for the draining of the reservoir and cause of outages to the system. Additionally, this raised the risk of potential health and safety issues with the loss of service and/or pressure by potentially introducing contaminants into the system.

On July 19, 2023, following a call made to Mr. Rogers from Staff, Mr. Rogers attempted to make a repair. Mr. Roger's repair received negative reports from local customers. On July 21, 2023, Jeff Freund, an Environmental Health Specialist from Deschutes County Environmental Health physically inspected the hydrant and noticed water was still leaking from the hydrant and the repair was being held together with a C-clamp.

Upon receiving this information, Chief Administrative Law Judge Nolan Moser and Rates, Safety, and Utility Performance Program Director Bryan Conway reached out to Avion to make a proper repair. The next day, Saturday July 22, 2023, Avion stepped in to make repairs. While Avion was unable to fully complete the repair on July 22, they were able to cap the valve and ordered parts necessary to properly complete the repair. Boil notices were posted in the neighborhood by Avion.

Avion was able to successfully complete the repair on Friday, August 4, 2023, after necessary parts were delivered. The total cost of this repair was \$3,724.21. An invoice from Avion outlining the individual repair costs is attached to this memo as Attachment A.

Recommendation and Conclusion

Sun Country has consistently faced problems with failing infrastructure and inadequate management. In this case, by ignoring the repair of a leaking fire hydrant for over a month until receiving a call from Staff, Sun Country caused outages and showed no signs of being able or willing to make the necessary repairs. When Mr. Rogers attempted to make the emergency repair at the behest of Staff, he failed to adequately

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restore service. Accordingly, it was necessary for the health and safety of customers for the Commission to request that Avion make the repair to restore service. Under ORS 757.068, Avion may be reimbursed by the Commission for the emergency repairs they performed.

Avion is located at 60813 Parrell RD, Bend OR, 97702. ORS 757.068 allows the Commission to utilize its fees for the purposes of such repairs. However, the Commission should be reimbursed for these costs from Sun Country.

PROPOSED COMMISSION MOTION:

Approve the reimbursement of Avion Water Company, Inc. in the amount of \$3,724.21 for the necessary repairs they conducted due to Sun Country Water, Inc.'s inability to do so. Order Sun Country to remit to the Commission \$3,724.21 in no less than 180 days or penalty fees, as described above will begin to accrue.

Avion UM 2297



Invoice #	Date	Terms
1018	8/9/23	Due on Receipt

Bill To
Oregon Public Utility Commission 201 High Street SE, Suite 100 Salem, OR 97301-3398 503-378-6600 puc.consumer@puc.oregon.gov

Description	Quantity	Unit Price	Amount
Labor, Saturday, July 15 th . 4 crew members at 3 hours each.	12 hrs	\$70.00	\$840.00
Vactor	3 hrs	\$80.00	\$240.00
Mini Excavator	3 hrs	\$80.00	\$240.00
Labor, Friday, August 4 th . 3 crew members at 10.1 hours each.	30.3 hrs	\$70.00	\$2,121.00
Parts	1	\$283.21	\$283.21
Total			\$3,724.21

Hydrant repair for Sun Country Water on Saturday, July 15th and Friday, August 4th. The above equipment, parts, and labor reflect the costs to repair.

Avion Water Company, Inc.
 60813 Parrell Rd
 Bend, OR 97702
 Office: 541-382-5342
 Fax: 541-382-5390

