



## B. SR Environmental Rates

The SROA Motion requests a vast amount of irrelevant, confidential and proprietary material from SR Environmental based solely on the incorrect and misleading assertion that SR Environmental’s rates have “dramatically (and erratically) increased from year to year.” SR Motion 2. It is not entirely clear how the SROA arrived at the figures provided at page 13 of the SR Motion, but what is clear is that the figures are both incorrect and misleading.

The following chart depicts the rate increases for the typical residential customer utilizing a ¾ inch water meter. The ¾ inch connection is the most common and accounts for over 80% of SR Environmental’s customer base, including most residential units in Sunriver. The chart demonstrates that the rates for the typical SR Environmental customer have increased a total of 37% over the past 13 years, averaging a 2.5% yearly average increase. SR Water’s rates, by contrast, have increased 72% over the same 13-year period, with an average 4.3% yearly increase. For no other purpose but to demonstrate the reasonableness of the utilities’ rate increases, the chart also shows that the SROA’s own assessments have increased 320% over the same time period.

Year	Sunriver Environmental Co.				Sunriver Water Co.				Sunriver Owners Assoc.			
	Base Rate	Assessment	Typical Residential Bill	Index to 2004	Base Rate	Use Rate	Average Bill (100 cf/mo basis)	Index to 2004	Maintenance Fees	SHARC Assessment	Monthly Resident Bill	Index to 2004
2017	\$58.10	Incl in rate	\$58.10	1.37	\$12.02	\$1.39	\$22.42	1.72	\$122.82	\$32.57	\$155.39	4.20
2016	\$42.30	\$13.03	\$55.33	1.31	\$12.02	\$1.39	\$22.42	1.72	\$118.10	\$32.57	\$150.67	4.07
2015	\$39.90	\$13.03	\$52.93	1.25	\$12.02	\$1.39	\$22.42	1.72	\$112.48	\$32.57	\$145.05	3.92
2014	\$39.12	\$15.03	\$54.15	1.28	\$10.84	\$1.19	\$19.74	1.51	\$107.64	\$32.57	\$140.21	3.79
2013	\$38.17	\$13.85	\$52.02	1.23	\$10.84	\$1.19	\$19.74	1.51	\$103.00	\$32.57	\$135.57	3.66
2012	\$38.17	\$13.85	\$52.02	1.23	\$10.84	\$1.19	\$19.74	1.51	\$98.10	\$32.57	\$130.67	3.53
2011	\$36.35	\$13.85	\$50.20	1.19	\$10.84	\$1.19	\$19.74	1.51	\$92.55	\$0.00	\$92.55	2.50
2010	\$34.40	\$13.85	\$48.25	1.14	\$ 9.28	\$1.05	\$17.13	1.31	\$87.93	\$0.00	\$87.93	2.38
2009	\$33.08	\$13.85	\$46.93	1.11	\$ 9.28	\$1.05	\$17.13	1.31	\$57.93	\$0.00	\$57.93	1.57
2008	\$31.50	\$13.85	\$45.35	1.07	\$ 9.28	\$1.05	\$17.13	1.31	\$54.66	\$0.00	\$54.66	1.48
2007	\$30.00	\$13.85	\$43.85	1.04	\$ 9.28	\$1.05	\$17.13	1.31	\$51.57	\$0.00	\$51.57	1.39
2006	\$30.00	\$13.85	\$43.85	1.04	\$ 6.45	\$0.88	\$13.03	1.00	\$41.47	\$0.00	\$41.47	1.12
2005	\$29.00	\$13.85	\$42.85	1.01	\$ 6.45	\$0.88	\$13.03	1.00	\$39.22	\$0.00	\$39.22	1.06
2004	\$28.50	\$13.85	\$42.35	1.00	\$ 6.45	\$0.88	\$13.03	1.00	\$37.00	\$0.00	\$37.00	1.00

The chart demonstrates that SR Environmental's rates have not "dramatically (and erratically) increased" nor have they increased "at a much faster rate than Sunriver Water's rates". The SROA Motion is predicated on the false assertion that there has been a disproportionate increase in sewer rates. Simply stated, because there has been no "dramatic" increase in sewer rates there is absolutely no basis to argue that the alleged rate increases are due to improper "shuttling" of costs. Because there is no evidence "shuttling" or "dramatic" rate increases, there is plainly no valid reason to compel an unregulated company to disclose confidential financial information to prove a negative.

The SROA Motion is a thinly veiled fishing expedition designed to force an unregulated company to open its books to SROA scrutiny. The SROA admits that it wants to review SR Environmental's books "to discover whether this practice still goes on –whether it is a reason for Sunriver Environmental's rate increases." SROA Motion 10. SR Environmental's rates are not before the PUC. As a non-regulated utility SR Environmental's rates could increase or decrease for any number of reasons, or no reason at all. Absent some evidentiary support and legal authority, there is no basis to compel an un-regulated entity to open its confidential books to disprove an unsubstantiated claim unrelated to the rate case.

### **C. Response to Documents Sought**

Without waiving the above objections, the following constitutes SR Water's response to the individual items referenced in the SROA Motion. The SROA Motion seeks to compel SR Water to provide information from SR Environmental generally corresponding to the information provided in SR Water's Annual Results of Operations Report submitted annually to the Oregon PUC (the "Annual Report"). First, SR Environmental is not a regulated utility and does not prepare annual reports in the same manner and to the same detail as SR Water. Accordingly, it is unduly burdensome for SR Environmental to provide the requested documents,

since to do so would require SR Environmental to compile a significant amount of data and create a new responsive document. This is not required under the Commission rules or ORCP 36 and 43. More importantly, the Annual Report covers nine separate general categories of revenue and expenses, including: (1) consumption and revenue; (2) revenue other than water sales; (3) average monthly consumption and billing; (4) taxes other than income tax; (5) income taxes; (6) deferred and provision for deferred income taxes; (7) gains and losses from utility property sales; (8) expenses; and (9) plant assets. Much of this requested information is not relevant to the matters at issue in this rate case and each specific category is discussed in turn below.

### **1. Consumption and Revenue**

Pursuant to OAR 860-001-0500(1) “Discovery must be commensurate with the needs of the case, the resources available to the parties, and the importance of the issues to which the discovery relates.” ORCP 36 B(1) provides that parties may inquire regarding any matter, not privileged, which is *relevant to the claim* or defense of the party seeking discovery[.]” Finally, OAR 860-001-0500(2) provides that “[d]iscovery that is unreasonably cumulative, duplicative, burdensome, or overly broad is not allowed.”

The SROA seeks “annual consumption and revenue, number of customers, non-utility revenues” of SR Environmental. SROA Motion at 14. The SROA Motion asserts that it needs SR Environmental’s revenue information because, as framed by the SROA, if SR Environmental’s “revenues are not sufficient to cover its expenses and that its retained earnings were decreasing, that could be evidence that Sunriver Environmental is not collecting water service expense that are being incurred in its rates.” SROA Motion at 16. The requested information is not relevant to the present rate case. SR Environmental is not a regulated utility. Whether it elects to charge rates that result in a profit, loss or break-even position, is entirely within SR Environmental’s discretion. Whether SR Environmental breaks even, books a loss or

has a profitable year is not relevant to the SROA's unsupported contention that SR Environmental is inappropriately paying SR Water's costs. Simply stated, the revenue side of the ledger is not relevant to the unfounded claim that SR Water is improperly "shuttling" costs to SR Environmental.

## 2. **Non-Utility Revenues**

Pursuant to OAR 860-001-0500(1) "Discovery must be commensurate with the needs of the case, the resources available to the parties, and the importance of the issues to which the discovery relates." ORCP 36 B(1) provides that parties may inquire regarding any matter, not privileged, which is *relevant to the claim* or defense of the party seeking discovery[.]” Finally, OAR 860-001-0500(2) provides that “[d]iscovery that is unreasonably cumulative, duplicative, burdensome, or overly broad is not allowed.”

The requested information is not relevant to the present rate case. Whether SR Environmental had revenues from collection or treatment billings or significant revenue from the sale of equipment has no bearing on the rate case. Again, as a non-regulated utility, SR Environmental may set its rates at levels it believes are reasonable, may elect to sell assets and may engage in other legitimate business activities. The SROA has not demonstrated how revenues collected by SR Environmental—especially non-utility revenues—are relevant to their claim. Again, even assuming that SR Environmental was paying expenses for SR Water (which it is not), whether SR Environmental was profitable in any given year due to non-utility revenues has no bearing on or relevancy to their claim.

## 3. **Average Monthly Consumption and billing**

Pursuant to OAR 860-001-0500(1) "Discovery must be commensurate with the needs of the case, the resources available to the parties, and the importance of the issues to which the discovery relates." ORCP 36 B(1) provides that parties may inquire regarding any matter, not

privileged, which is *relevant to the claim* or defense of the party seeking discovery[.]” Finally, OAR 860-001-0500(2) provides that “[d]iscovery that is unreasonably cumulative, duplicative, burdensome, or overly broad is not allowed.”

It is not entirely clear whether the SROA Motion requests production of this information. To the extent that the SROA Motion does request production of this information, the request is not relevant to the claim asserted by the SROA. How much sewage is collected and treated on a monthly or yearly basis has no relevance to the rate case or the SROA’s claim of improper “shuttling.” Similarly, how much SR Environmental bills for such services has no bearing on the SROA’s claims or the rate case.

#### **4. Taxes and Property Sales**

Pursuant to OAR 860-001-0500(1) “Discovery must be commensurate with the needs of the case, the resources available to the parties, and the importance of the issues to which the discovery relates.” ORCP 36 B(1) provides that parties may inquire regarding any matter, not privileged, which is *relevant to the claim* or defense of the party seeking discovery[.]” Finally, OAR 860-001-0500(2) provides that “[d]iscovery that is unreasonably cumulative, duplicative, burdensome, or overly broad is not allowed.”

The SROA has articulated no basis for the production of this information. The amount of property tax, federal excise tax or any other tax is simply not relevant to the SROA’s claim or the rate case. Similarly, whether SR Environmental sold equipment or other assets, and the amount of such transactions, is irrelevant to the rate case and the SROA has established no basis for the production of this information.

Without waiving its objection to this request, as a compromise, SR Water will obtain from SR Environmental a list of taxes paid by SR Environmental with the amount of the taxes paid redacted. The SROA’s claim is that SR Water is shuttling costs to SR Environmental. Thus

for purposes of relevancy, the initial question is whether an SR Water expense was improperly paid by SR Environmental. The amount of a tax paid by SR Environmental is only relevant to the rate case once the SROA establishes—and the PUC agrees—that the cost should have been borne by SR Water.

## **5. Expenses**

Pursuant to OAR 860-001-0500(1) “Discovery must be commensurate with the needs of the case, the resources available to the parties, and the importance of the issues to which the discovery relates.” ORCP 36 B(1) provides that parties may inquire regarding any matter, not privileged, which is *relevant to the claim* or defense of the party seeking discovery[.]” Finally, OAR 860-001-0500(2) provides that “[d]iscovery that is unreasonably cumulative, duplicative, burdensome, or overly broad is not allowed.”

Without waiving its objections to this request, and again as a compromise, SR Water will obtain from SR Environmental a list of all expenses for the years 2015 and 2016, with the amount of all expenses redacted. These two years are relevant because they correspond with the last rate case. As with taxes discussed above, the amount of a particular expense has no relevancy to the SROA’s claim unless the SROA is first able to demonstrate conclusively that the expense in question was improperly “shuttled” from SR Water to SR Environmental. For example, if SR Environmental paid \$10,000 or \$100,000 for new equipment, the value of that expenditure is irrelevant to the SROA’s claim unless the SROA is able to demonstrate that the equipment in question is actually a SR Water asset. Only then does the amount of the expenditure become relevant.

## **6. Plant**

Pursuant to OAR 860-001-0500(1) “Discovery must be commensurate with the needs of the case, the resources available to the parties, and the importance of the issues to which the

discovery relates.” ORCP 36 B(1) provides that parties may inquire regarding any matter, not privileged, which is *relevant to the claim* or defense of the party seeking discovery[.]” Finally, OAR 860-001-0500(2) provides that “[d]iscovery that is unreasonably cumulative, duplicative, burdensome, or overly broad is not allowed.”

Without waiving its objections to this request, again as a compromise, SR Water will obtain from SR Environmental a comprehensive list of its entire plant, for the years 2015 and 2016, with the value of all plant accounts redacted. These two years are relevant because they correspond with the last rate case. As with expenses discussed above, the value of an SR Environmental plant item has no relevancy to the SROA’s claim unless the SROA is first able to demonstrate conclusively that the item in question is actually a SR Water plant asset. Unless the SROA is able to demonstrate that the plant asset in question is actually a SR Water asset, the value of the particular asset is irrelevant to the SROA’s claim.

#### **7. CIAC; Advances for Construction**

Pursuant to OAR 860-001-0500(1) “Discovery must be commensurate with the needs of the case, the resources available to the parties, and the importance of the issues to which the discovery relates.” ORCP 36 B(1) provides that parties may inquire regarding any matter, not privileged, which is *relevant to the claim* or defense of the party seeking discovery[.]” Finally, OAR 860-001-0500(2) provides that “[d]iscovery that is unreasonably cumulative, duplicative, burdensome, or overly broad is not allowed.”

The SROA contends that they need information regarding CIAC, advances for construction and depreciation to determine the reasonableness of the office space and north reservoir leases. As a starting point, as an unregulated wastewater company, SR Environmental does not classify any of its assets as CIAC or Advances for Construction. Under OAR 860-001-0500(4), neither SR Water nor SR Environmental can be required to “develop information or

prepare a study for another party[.]” An order compelling production of the information sought by the SROA would require a non-party to develop or prepare a study or report that it is not otherwise required to maintain in violation of OAR 860-001-0500(4). Second, the material sought is not relevant to the SROA’s claim or concerns, namely the lease rate for the North Reservoir Site of Office lease. The SROA Motion states that the “SROA needs to see the original cost information and the depreciation schedules so that it can determine how much of Sunriver Environmental’s investment remains.” SROA Motion 16. Whether the value of the underlying assets is \$1 or \$10,000,000 has no bearing on the reasonableness of the lease rates at the North Reservoir Site or the office and warehouse. In UI 355 SR Water sought and received a waiver from the cost requirement of OAR 860-036-0739(4)(e) for both leased sites. While the PUC may review the lease rate for reasonableness, the present rate case is not an opportunity to re-litigate issues addressed in UI 355.

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**D. Conclusion**

SROA is using unsupported and inaccurate accusations to support overly broad and unduly burdensome irrelevant data requests on third-parties that are both strangers to this action and not regulated by this Commission. This fishing expedition is neither supported by Oregon law or the facts of this matter, and would result in an extraordinary expansion of discovery obligations by non-party SR Environmental. Notwithstanding this, SR Water has proposed compromises to certain sub-requests within the overly broad Request No. 6 that should meet the discovery needs of SROA. Accordingly, law and reason dictate that the Commission should deny the SROA Motion. SR Water will then voluntarily make the information identified in Subsections C (4), (5) and (6) above available to SROA.

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