

**BEFORE THE PUBLIC UTILITY COMMISSION  
OF OREGON**

UW 169

In the Matter of

SUNRIVER WATER, LLC,

Request for a General Rate Revision.

RULING

DISPOSITION: MOTION DENIED

**I. INTRODUCTION**

By motion filed June 16, Sunriver Owners Association (SROA) requests an order compelling Sunriver Water, LLC (Sunriver Water) to produce certain documents requested in its Data Request No. 6:

Books of account as well as other documents, data, or records that provide a report of operations for Sunriver Environmental for years 2012, 2013, 2014, 2015, and 2016. The reports should be in the same or similar level of detail as found in Sunriver Water's Annual [Results] of Operations Report to the Oregon Public Utility Commission, or as close to that level of detail as Sunriver Environmental has.

As required by OAR 860-001-0500(7), SROA certified that it conferred with Sunriver Water before it filed its motion and that the parties had been unable to resolve the matter.

On June 30, 2017, Sunriver Water filed a response in opposition to the motion. SROA did not file a reply to Sunriver's response.

**II. SROA'S MOTION**

SROA is an association of homeowners who live in Sunriver. SROA is itself a Sunriver Water customer. Sunriver Water is an affiliate of Sunriver Environmental, the wastewater utility that serves essentially the same customers.

According to SROA, rates for wastewater service have increased dramatically from year to year. SROA claims that Sunriver Environmental has a history of paying certain expenses incurred by Sunriver Water to provide water service and collecting for those expenses in wastewater rates. SROA seeks production of the ordinary books of account of Sunriver Environmental to discover whether one of the reasons that Sunriver Environmental's rates have increased "so dramatically" is due to its payment and collection of expenses to provide water service.

In addition, SROA seeks information relating to Sunriver Environmental's leasing to Sunriver Water of office space and a reservoir site. Each of these leases were approved in

Order No. 15-245 (UI 355), where we reserved the right to review, for reasonableness, all financial aspects of the transactions in any rate proceedings. SROA contends that the office space should be treated as Contributions in Aid of Construction (CIAC) as to Sunriver Water and requests Sunriver Environmental's plant accounts and depreciation schedules to determine the appropriate lease rate.

SROA argues that its data request falls with the broad range of information requested that appears reasonably calculated to lead to the discovery of admissible evidence. (ORCP 36B(1)) Citing our responsibility to set just and reasonable rates, SROA argues that a "functionally-combined" water-wastewater utility should not be able to evade effective rate regulation by taking costs imposed on the water utility to meet its customers' needs and "shuttling" those costs off to the wastewater utility where they can be collected "free of a reasonableness determination by the Commission."<sup>1</sup> "SROA needs to be able to see the full picture."<sup>2</sup>

### III. SUNRIVER WATER'S RESPONSE

Sunriver Water observes that it is a separate company from Sunriver Environmental – each owned by Sunriver Resort Limited Partnership. Sunriver Environmental is not a party to this proceeding and cannot be compelled to respond to discovery: "data requests may only be submitted to a 'party' as defined by OAR 860-001-0010(7)."<sup>3</sup>

Sunriver Water disputes SROA's claim that Sunriver Environmental's rates have increased dramatically. According to its calculations, over the past 13 years the wastewater rates have increased by 37 percent, while the water rates have increased by 72 percent over the same period. Thus, there is no basis to argue that any increases in Sunriver Environmental's rates are due to improper shuttling of costs between the two companies.

In any event, Sunriver Environmental's rates are not before the Commission. As a non-regulated utility, Sunriver Environmental could increase or decrease its rates for any number or reasons.

Sunriver Water makes much that same point as it responds in more detail in terms of each of the general categories of revenue and expenses that make up its Annual Report to the Commission. Neither the revenues nor the expenses of Sunriver Environmental are relevant to Sunriver Water's rate case. However, Sunriver Water does offer to provide SROA with heavily redacted materials relating to Sunriver Environmental's taxes, expenses and plant.

As to the question whether the office space should be treated as CIAC, in UI 355 Sunriver Water sought and received a waiver from the cost based requirement of OAR 860-036-0739(4)(e) for both leased sites. While the Commission can review the lease rates for reasonableness, this is not an opportunity to re-litigate issued addressed in UI 355 (and decided in Order No. 15-245).

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<sup>1</sup> Motion, p. 6.

<sup>2</sup> Motion, p. 16.

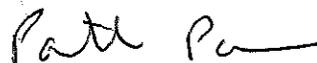
<sup>3</sup> Response, p. 1

#### IV. RESOLUTION

I deny the motion to compel. SROA has failed to establish the relevance of the requested information, even under the broad standard of relevance applicable to discovery generally. Evidence that Sunriver Resort Limited Partnership chooses to misallocate some portion of its water utility's expenses to its wastewater utility would only tend to show that its water utility rates are lower than otherwise. Absent a showing of financial hardship facing the water utility there is no relevance to a claim that it does fully recover its expenses in its rates. Whether the wastewater utility's rates are "too high," "too low," or "just right" is a matter outside the purview of the Commission.

As to the question whether the office space should be considered CIAC, Sunriver Water was granted an exemption from OAR 860-036-0739(4)(e) in Order No. 15-245. Sunriver Water has the burden of proving the reasonableness of the lease costs – just as it has the burden of proof of all aspects of its cost of service.

Dated this 13th day of July, 2017, at Salem, Oregon.



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Patrick Power  
Administrative Law Judge