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February 8, 2012

Agriculture and Natural Resources Committee

Co-Chair Brian Clem

Co-Chair Sal Esquivel

900 Court St. NE

Salem, OR 97301

Dear Co-Chairs Clem and Esquivel:

The language in HB 4090 creates some significant concerns for both Sunrise Water Authority and Clackamas River Water. These two water service providers jointly serve approximately 90,000 residents of Clackamas County including the City of Happy Valley, large portions of the City of Damascus and swaths of urban unincorporated Clackamas County around the Clackamas and Milwaukie areas and southern areas adjacent to the City of Oregon City.

While service providers are in general in favor of extending new service where needed, the language in this bill moves from allowing service providers to extend service where it is economically and technologically possible to compelling service providers to extend service at the behest of any single land owner. Our concerns are as follows:

1. ORS 195 was intended to assure that there was an orderly and well planned extension of urban services in conjunction with appropriate land use planning. The effect of this bill is to trump that intent and allow any individual the power to compel service providers to extend service to an individual piece of property, outside of a comprehensive evaluation and the application of sound long term planning and service delivery principles. Section 2 (1) renders Urban Services Agreements moot. An urban services agreement is intended to allow a service provider to conduct long range infrastructure, capital and financial planning to the best effect for the entire rate paying public; they are not intended to assure that any individual piece of property can receive service "on demand".
2. Section 2 (2), "..., the owner may select and cause a service provider to provide services if the provider has adequate capacity to provide the services and maintain adequate service levels in the providers area". The elemental problem with this section is that "capacity" today is not the same as "planned capacity". A service provider must install infrastructure to meet the planned capacity within their planning area. Developed capacity has been constructed in anticipation of a

particular demand projection for a particular planning area. Capacity that is directed away from the planning area to land receiving service under this bill may result in a capacity deficit over time and additional costs incurred by the ratepayers at large.

3. Further; the service providers indicated in Section 2 (1) have more options for denying service than do the service providers under Section 2 (2). Under Sec. 2(1), "cannot provide service", includes being unwilling or unable to provide service and being willing but cannot due to legal or topographic impediments, or due to lack of capacity or infrastructure. Under Section 2(2) service providers compelled to provide service may only avoid being compelled to provide service if they do not have adequate capacity. The standard should be the same from one service providing entity to another.

4. The implication in Section (3) is that the service provider avoids all harm by virtue of the property owner paying the costs for extension of service to his property. This may in fact be true if this were a one-time incident. However; any bill adopted may be applied indefinitely and the results compounded. If a property owner is only required to pay the expense for the extension of service to his property, then the resulting infrastructure will be sized to provide service to only that property, no intervening or adjacent properties. Assuming another property owner on the same street desires to implement the power granted him/her under this bill, an additional line, sized to support that specific parcel would need to be installed.

Under normal planning scenarios, the service provider would only extend service into an area that they planned to service in gross over time. At the time of the first extension, a service provider would pay an "upcharge" to install one line that will service the entire planning area. One cut in the street, one contracting crew interrupting traffic, one pipeline to avoid when installing other services later. This process minimizes cost to ratepayers and assures long term service availability in a planning area. In order to avoid the risk of stranded investment cost Sunrise Water Authority and Clackamas River Water would be reluctant to invest that "upsized" cost in an area that they have no assurance that they will serve in the future and that is not integrated into their long term planning process. I have already mentioned under number 2, the problems associated with "capacity" issues versus "planned capacity". Without adequate comprehensive long term planning, there is significant potential for the existing ratepayers to find it necessary to finance additional capacity improvements as a result of reallocation of planned capacity.

5. Service providers are potentially obligated to provide service indefinitely on an extra-territorial basis. This is particularly troubling for Sunrise because of the unique

situation in Damascus. Section (5) requires only that a property owner agree to annex, not that an annexation must actually occur. Properties that would be requesting services to the east of Sunrise are all within the boundaries of the City of Damascus. As a result, the annexation process requires that the City provide a resolution supporting an annexation application. Sunrise has committed five years to negotiating an urban services agreement with the City of Damascus to no avail, largely due to their declared intent to “keep their options open”. Without a provision that requires that an annexation must be completed before service is delivered Sunrise is potentially placed in the position of delivering service and installing infrastructure to an area that will later be claimed by the City of Damascus, as those improvements occurred outside of the jurisdiction of Sunrise Water Authority. This bill strips service providers of the ability to require annexation as a precondition for water service, as any property owner may claim the privilege that the bill confers on the property owner of compelling service provision if they simply agree to annex.

6. Finally Section 4, provides the property owner with recourse to the County if they do not get satisfaction through any of the available service providers. Subsection (a) compels the County to rewrite an existing Urban Services Agreement, which would have been directly negotiated between the service providers, in order to satisfy the desires of a single property owner and (b) is so vague as to provide no direction at all. Once again, this provision renders the intent of Urban Services Agreements moot.

This bill attempts to address planning of service provision on a parcel by parcel basis. In an ideal scenario the provisions under ORS 195.065, would be implemented and Urban Services Agreements put in place in all applicable areas. Sunrise Water Authority encourages this process and has engaged in attempts to negotiate urban services agreements with the cities included in our service territory. To my knowledge, the Urban Services Agreement Sunrise has in place with the City of Happy Valley is the only urban service agreement between a water provider and a city that exists in Clackamas County. Urban Services Agreements allow service providers to focus their efforts and finances on designated areas, resulting in a more orderly and cost effective extension of services to communities.

Kim Anderson

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Sunrise Water Authority &
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