

Control Number: 45645



Item Number: 4

Addendum StartPage: 0

DOCKET NO. 45645

COMPLAINT OF MONICA BRIEGER §
AGAINST SWWC UTILITIES, INC. §
D/B/A HORNSBY BEND UTILITY §

PUBLIC UTILITY COMMISSION
OF TEXAS

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COMMISSION STAFF'S STATEMENT OF POSITION

COMES NOW the Staff (Staff) of the Public Utility Commission of Texas, representing the public interest and files this Statement of Position and would show the following:

I. BACKGROUND

On August 10, 2015, Monica Brieger (Complainant) filed a formal complaint against SWWC Utilities d/b/a Hornsby Bend Utility (Hornsby) regarding water billing practices and related charges. Order No. 1, issued on February 24, 2016, required Staff to file a statement of position no later than March 23, 2016. This pleading is timely filed.

II. COMPLIANCE WITH THE REQUIREMENTS OF INFORMAL RESOLUTION

The procedural rules of the Public Utility Commission of Texas (Commission) require that a complaint against a utility must first be presented to the Commission for informal resolution. The applicable Commission's procedural rule states: "A person who is aggrieved by the conduct of an electric utility or telecommunications utility or other person must present a complaint to the commission for informal resolution before presenting the complaint to the commission."¹

Staff has verified that prior to the filing of this formal complaint against Hornsby, Complainant presented an informal complaint to the Customer Protection Division (CPD) of the Commission which concluded its investigation on February 12, 2016 due to no response from Hornsby.² Therefore, Complainant has complied with the requirements of informal resolution.

¹ 16 TAC § 22.242(c).

² CPD # 2016010653.

4

III. STAFF'S STATEMENT OF POSITION

Complainant Position

Complainant argues the following issues:

- (a) She has had to pay late fees every month for the past 14 years because her fixed income check does not arrive until after the due date of her water bill.³
- (b) She applied for the catastrophic assistance program offered by the utility on March 4, 2015 and February 21, 2016 and was denied with no explanation.⁴
- (c) When she calls Hornsby, she is often unable to speak with a supervisor and she cannot receive a call back when a supervisor is available due to not wanting to give out her home phone number.⁵
- (d) Complainant says that one of the payments made on her behalf by a church was not correctly applied to her account until months after it was sent.⁶
- (e) Her base rates are too high at a cost of \$88.47 for water and sewer service.⁷

Complainant requests that Hornsby be required to have flexible billing cycles that can be in line with customers on fixed incomes, and that the late fee structure be changed to a \$5.00 late charge rather than a 10% late charge.⁸ Complainant informed Staff by telephone that after her complaint was filed, her water service was disconnected due to a lack of payment of a bill. Complainant's water service has since been reconnected.

Utility Position

Hornsby responds that:

- (a) Late fees are charged at a 10% rate in accordance with the approved Hornsby Bend Utility tariff and the Commission rules. Due dates are set according to the approved tariff and Commission Rules.⁹

³ *Complaint of Monica Brieger Against SWWC Utilities, Inc. d/b/a Hornsby Bend Utility, Formal Complaint at 1 (Feb. 22, 2016).*

⁴ *Id.* at 4.

⁵ *Id.* at 3-4.

⁶ *Id.* at 2.

⁷ *Id.* at 4-5.

⁸ *Id.* at 4.

⁹ Hornsby Response to Order Number 1, at 3.

- (b) Complainant was denied catastrophic assistance because the program is meant to offer assistance to those customers who have had a one-time devastating life event in their lives and that Complainant's application did not meet these requirements.¹⁰
- (c) Supervisors are often assisting other customers when Complainant calls, and offers to call her back when they are available are rejected.¹¹
- (d) The church's payment was deposited in the wrong account initially, and this error was corrected on January 4, 2016.¹²
- (e) Rates are made in accordance with their tariff to cover fixed costs.¹³

Hornsby responds that they did not reply to the initial informal complaint because it was not emailed to the correct address. Hornsby also says it reconnected Complainant on the same day of the disconnect and waived the fee associated with the service.

Staff Position

Staff's position in regards to the issues stated above is as follows:

- (a) Pursuant to 16 Tex. Admin. Code § 24.87(b) (TAC), a bill's due date must be at least 16 days after it was issued. The postmark on the bill or the recording date of mailing by the utility constitutes proof of the date of issuance. The billing dates and due dates listed on the invoices provided by Complainant show at least a 16 day period between the date of issuance and the due date.
- (b) Pursuant to 16 TAC § 24.87(m), any time a customer contacts a utility to discuss their inability to pay a bill or indicate that they are in need of assistance with their bill payment, the utility shall provide information to the customer, if requested, of alternative payment and payment assistance programs available from the utility and of the eligibility requirements and procedure for applying for each. Complainant was able to apply for such a program and was denied. The application form lists certain factors that are to be looked at, including prior payment history, and length of time

¹⁰ *Id.* at 2.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

with utility company.¹⁴ Additionally, Hornsby's response listed additional factors. Complainant is now on an alternate payment plan.

- (c) Commission rules do not show a violation.
- (d) The payments made by and on behalf of Complainant have been recorded under her account at this time. Complainant still has an amount due for an unpaid bill for the month of October, and has worked out a payment plan with Hornsby.
- (e) The rates being charged and the type of late payment fee issued is in accordance with Hornsby's latest tariff.

At this time, Staff finds no actionable grievances upon which a remedy can be given. Complainant has indicated telephonically that she intends to provide a supplement to her original complaint. Staff is unopposed to this supplement, and reserves the right to file additional comments if new evidence is presented.

IV. CONCLUSION

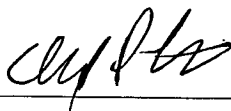
Staff respectfully requests the entry of an Order consistent with this recommendation.

Dated: March 23, 2016

Respectfully Submitted,

Margaret Uhlig Pemberton
Division Director
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Karen S. Hubbard
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¹⁴ *Id.* at 7.

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CERTIFICATE OF SERVICE

I certify that a copy of this document will be served on all parties of record on March 23, 2016 in accordance with 16 TAC § 22.74.



Alexander Petak