

Control Number: 48174



Item Number: 46

Addendum StartPage: 0

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2 London, Ontario, N6B3N1, Canada

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PUBLIC UTILITY COMMISSION  
FILING CLERK

3 DOCKET NO. 48174

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5  
6 COMPLAINT OF PHIL BRUNETTE )  
7 AGAINST ) PUBLIC UTILITY COMMISSION  
8 PALM SHADOWS MH & RV PARK ) OF  
9 AND ) TEXAS  
10 ) Docket No. 48174  
11 PALM SHADOWS RESORT, LLC )

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14 In Mr. Gottlieb's answer to Docket No. 48174, **Item 2**  
15 **Allegations Raised in the Complaint** he states, "They complained  
16 that we were not in compliance because we billed the water,  
17 sewer and trash on a daily basis".  
18 This was *NOT* the basis of the complaint. The complaint was, and  
19 is, that the Corporation has refused to provide the required  
20 documentation that would show the water rate being charged is a  
21 pass-through of what the park is charged AND that common areas  
22 are not included in the rate allocation to the residents.  
23 Mr. Gottlieb then continues, "After reviewing the PUC  
24 regulations and researching how other mobile home park bill(*sic*)  
25 we decided that because we did not have water meters and the  
26 trash charge was also included we should include the water,  
27 sewer and trash in the rent charge and not bill it individually  
28 to the tenants."  
Mr. Gottlieb is obfuscating in his response.

1 The park has master water metering. It does not have  
2 submetering for its tenants.

3 He does not present any regulatory statutes that would permit  
4 such billing and does not demonstrate the extent of his research  
5 of other parks.

6 There may well be other parks in the RGV that include water &  
7 sewer charges in their rent. For example, Paradise Resort  
8 Estates, 301 East Hall Acres Rd, Pharr, TX does imbed its  
9 water/sewer/trash charge into the rent. This happens to be  
another park owned by Mr. Gottlieb.

10 This "research" does not supersede PUC rules and does not make  
11 it a legal billing practice for a manufactured home community in  
12 the State of Texas.

13 Mr. Gottlieb fails to mention that following the request for  
14 water rate information mid-December, his reaction was to impose  
15 a flat rate "Facilities Convenience Fee" (FCF). This went into  
16 effect late December so people arriving after Christmas were  
17 charged a full \$60 for only a few days in December. There was  
18 an outcry from the tenants and some people received a refund.  
19 The park manager told residents that the new policy was from  
20 Corporate Office who determined they were an RV park and did not  
21 have to bill using an allocated method. The FCF then became a  
22 firm \$60 regardless of days of occupancy. Then the Corp issued  
23 its new rate sheet with the water/sewer/trash included in the  
24 rent effective April 1, 2018. People leaving the park a few  
days into April were charged the full \$60.

25 Mr. Gottlieb states in **Item 3 Applicable statutes, rules**  
26 **and tariffs provisions**, "There are no applicable statutes(*sic*)  
27  
28

1 because water, sewer and trash will now be included in the rent  
2 charge."

3 To better understand what Mr. Gottlieb has done by including  
4 water, sewer and trash into the rent, we need to look at the  
5 numbers.

6 For a single lot (6 month in, 6 month out occupancy) a tenant  
7 had previously paid \$2547 for the 2017 season (no water  
8 inclusion).

9 For the 2018 season, the same lot with water/sewer/trash  
10 included will be \$2925.

11 This is an increase of \$378.

12 If the previous \$2 per day was a valid charge and based on a 6  
13 month occupancy from Nov 1 to Apr 30 (362 days), the seasonal  
14 charge would be \$362.

15 Mr. Gottlieb has now raised this to \$378 with no PUC oversight.

16 For a double lot, the annual rate changes from \$3335.75 to  
17 \$3735. This is an increase of \$399.25, or \$21.25 more than a  
18 single lot and \$37.25 more than the \$2 per day method.

19 Having a double (or triple) lot does not mean an increase in  
20 actual water use. In fact, in my case, the second lot does not  
21 even have water or electrical service provided by the park and  
22 there is no increase in the occupancy, but they intend to charge  
23 more anyway.

24 There are multiple rules and regulations cited in the Informal  
25 Complaint and as specified and verified by the Customer  
26 Protection Division (CPD) of the PUC (attachment 1, page 10 of  
27 the individual Formal Water Complaints), which Palm Shadows  
28 Resort has violated and chosen to ignore.

1 Palm Shadows Resort, LLC is also in violation of the following  
2 Texas PUC regulation:

3 *SUBCHAPTER M. SUBMETERING AND NONSUBMETERING FOR APARTMENTS AND*  
4 *MANUFACTURED HOME RENTAL COMMUNITIES AND OTHER MULTIPLE USE*  
5 *FACILITIES*

6 *Sec. 13.5031. NONSUBMETERING RULES. Notwithstanding any other*  
7 *law, the utility commission shall adopt rules and standards*  
8 *governing billing systems or methods used by manufactured home*  
9 *rental community owners, apartment house owners, condominium*  
10 *managers, or owners of other multiple use facilities for*  
11 *prorating or allocating among tenants nonsubmetered master*  
12 *metered utility service costs. In addition to other appropriate*  
13 *safeguards for the tenant, those rules shall require that:*

14 (1) *the rental agreement contain a clear written*  
15 *description of the method of calculation of the allocation of*  
16 *nonsubmetered master metered utilities for the manufactured home*  
17 *rental community, apartment house, or multiple use facility;*

18 (2) *the rental agreement contain a statement of the*  
19 *average manufactured home, apartment, or multiple use facility*  
20 *unit monthly bill for all units for any allocation of those*  
21 *utilities for the previous calendar year;*

22 (3) *except as provided by this section, an owner or*  
23 *condominium manager may not impose additional charges on a*  
24 *tenant in excess of the actual charges imposed on the owner or*  
25 *condominium manager*  
26 *for utility consumption by the manufactured home rental*  
27 *community, apartment house, or multiple use facility;*

28 (4) *the owner or condominium manager shall maintain*  
*adequate records regarding the utility consumption of the*

1 manufactured home rental community, apartment house, or multiple  
2 use facility, the charges assessed by the retail public utility,  
3 and the allocation of the utility costs to the tenants;

4 (5) the owner or condominium manager shall maintain  
5 all necessary records concerning utility allocations, including  
6 the retail public utility's bills, and shall make the records  
7 available for inspection by the tenants during normal business  
8 hours; and

9 (6) the owner or condominium manager may charge a  
10 tenant a fee for late payment of an allocated water bill if the  
11 amount of the fee does not exceed five percent of the bill paid  
12 late.

13 The penalty for violation of this section is spelled out in the  
14 same document:

15 *Sec. 13.505. ENFORCEMENT.* In addition to the enforcement  
16 provisions contained in Subchapter K, **if an apartment house**  
17 **owner, condominium manager, manufactured home rental community**  
18 **owner, or other multiple use facility owner violates a rule of**  
19 **the utility commission regarding** submetering of utility service  
20 consumed exclusively within the tenant's dwelling unit or  
21 multiple use facility unit or **nonsubmetered master metered**  
22 **utility costs, the tenant may recover three times the amount of**  
23 **any overcharge, a civil penalty equal to one month's rent,**  
24 **reasonable attorney's fees, and court costs from the owner or**  
25 **condominium manager.** However, an owner of an apartment house,  
26 manufactured home rental community, or other multiple use  
27 facility or condominium manager is not liable for a civil  
28

1 penalty if the owner or condominium manager proves the violation  
2 was a good faith, unintentional mistake.

3  
4 SUBCHAPTER K. VIOLATIONS AND ENFORCEMENT

5 Sec. 13.411. ACTION TO ENJOIN OR REQUIRE COMPLIANCE.

6 (a) **If the utility commission or the commission has reason**  
7 **to believe that any retail public utility or any other person or**  
8 **corporation is engaged in or is about to engage in any act in**  
9 **violation of this chapter or of any order or rule of the utility**  
10 **commission or the commission entered or adopted under this**  
11 **chapter or that any retail public utility or any other person or**  
12 **corporation is failing to comply with this chapter or with any**  
13 **rule or order, the attorney general on request of the utility**  
14 **commission or the commission, in addition to any other remedies**  
15 **provided in this chapter, shall bring an action in a court of**  
16 **competent jurisdiction in the name of and on behalf of the**  
17 **utility commission or the commission against the retail public**  
18 **utility or other person or corporation to enjoin the**  
19 **commencement or continuation of any act or to require compliance**  
20 **with this chapter or the rule or order.**

21 Mr. Gottlieb has apparently made no attempt over the previous  
22 three months to apprise himself of PUC rules and regulations  
23 despite the multiple references in the complaints.


24 He has made no attempt to provide his tenants with water rate  
25 information as required by PUC.

26 He has made no attempt to correct his billing practices and has  
27 compounded the illegality by imposing a rent increase to hide  
28 the water rate from PUC and his residents.

1 This is hardly a "good faith, unintentional mistake" but is a  
2 very deliberate attempt to hide the real water rate and  
3 allocation method from any oversight.

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5 We respectfully request that the Commission apply the full  
6 extent of its Rules, Regulations and Enforcement against Palm  
7 Shadows Resort, LLC.

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11 Dated this 22 of April, 2018

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16 Phil Brunette  
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