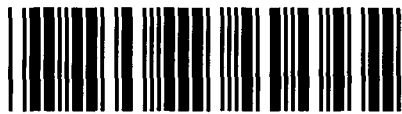


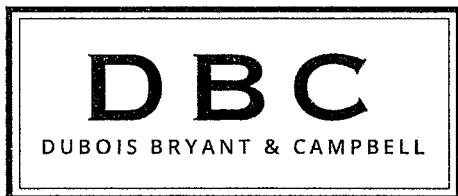


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Addendum StartPage: 0



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2018 MAY 24 AM 11:13

PUBLIC UTILITY COMMISSION
FILING CLERK

Peter T. Gregg

(512) 381-8085

pgregg@dbcllp.com

303 Colorado, Suite 2300

Austin, TX 78701

www.dbcllp.com

May 24, 2018

Via Hand DeliveryPUC – Central Records
1701 N. Congress, Suite 8-100
Austin, Texas 78701Re: Application for Sale, Transfer, or Merger of a Retail Public Utility and Request for
Exception to Certain Procedural Requirements

Dear Sir or Madam,

Enclosed is the Application for Sale, Transfer, or Merger of a Retail Public Utility for the water systems owned by Chuck Bell Water Systems, LLC ("CBWS") to be acquired by Undine Texas, LLC ("Undine") (the "STM Application"). Undine hereby requests that the Commission expedite this Application as allowed under Commission rules, and in support thereof provides the following information and support.

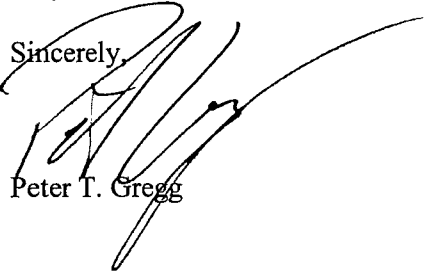
On April 26, 2018, Commission Staff filed an Application for an Order Requesting the Appointment of a Receiver to Chuck Bell Water Systems LLC and Requesting Civil Penalties for Violations of Commission Rules Pursuant to Tex. Water Code Ann. §§13.412 and 13.414 and 16 TAC § 24.142 ("Application for Appointment of a Receiver"), attached as Exhibit A (without exhibits). The Application for Appointment of a Receiver requests that the Commission refer the matter to the Attorney General to bring suit for the appointment of a receiver for CBWS, alleging that CBWS has "abandoned" the operation of its facilities pursuant to TWC 13.412(f) and 16 TAC 24.142(c) based on CBWS's "pattern of hostility toward Commission Staff and the utility's customers" and "by repeatedly failing to respond to the Commission." The Commission is scheduled to consider the Application for Appointment of a Receiver at its Open Meeting on Friday, May 25th.

In light of the alleged ongoing operational deficiencies that resulted in the filing of the Application for Appointment of a Receiver, it is in the interest of the customers of the water system and all other involved parties that the Commission process the STM Application as expeditiously as possible. The Commission rules allow for an STM application to be expedited upon a finding of good cause. *See, e.g.*, 16 TAC 22.5; 16 TAC 24.109(b). Undine asserts that the circumstances supporting the Application for Appointment of a Receiver evidence good cause under the rules. In further support of the position that good cause exists, Undine notes that the parties previously submitted an STM application for this system on March 27, 2017. *See* Docket No. 46996. Commission Staff is therefore familiar with this application based on that previous submittal. Further, Commission Staff is familiar with the financial, managerial, and technical capabilities of Undine as indicated in the Commission's approval of other STM applications for the company. *See, e.g.*, Docket No.'s 45745 and 47206.

PUC – Central Records
May 24, 2018
Page 2

For the interest of the customers of the system that is the subject of the STM Application and all other involved parties, Undine requests that this application be expedited to the maximum extent allowed under Commission rules. Undine looks forward to working with Commission Staff to that end.

Sincerely,



Peter T. Gregg

cc: Matthew Arth
Attorney
Public Utility Commission
1701 North Congress
Austin, Texas 78701

EXHIBIT A

PUC DOCKET NO. **48315**

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PUBLIC UTILITY COMMISSION
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PUBLIC UTILITY COMMISSION

OF TEXAS

APPLICATION FOR AN ORDER §
REQUESTING THE APPOINTMENT §
OF A RECEIVER TO CHUCK BELL §
WATER SYSTEMS LLC AND §
REQUESTING CIVIL PENALTIES §
FOR VIOLATIONS OF §
COMMISSION RULES PURSUANT §
TO TEX. WATER CODE ANN. §§ §
13.412, AND 13.414, AND 16 TAC §
24.142 §
§

**APPLICATION FOR AN ORDER REQUESTING THE APPOINTMENT OF A
RECEIVER TO CHUCK BELL WATER SYSTEMS LLC AND REQUESTING CIVIL
PENALTIES FOR VIOLATIONS OF COMMISSION RULES PURSUANT TO TEX.
WATER CODE ANN. §§ 13.412 AND 13.414, AND 16 TAC § 24.142**

NOW COMES the Staff of the Public Utility Commission of Texas (Commission Staff) and files this Application for an Order Requesting the Appointment of a Receiver to Chuck Bell Water Systems LLC (Application) and Requesting Civil Penalties for Violations of Commission Rules.

I. Introduction

For the reasons discussed below, Commission Staff requests that the Commission refer this matter to the Attorney General (OAG) to bring suit for the appointment of a receiver for Chuck Bell Water Systems LLC (CBWS) and seek civil penalties for CBWS's violations detailed in this application and in the Notice of Violation (NOV) in Docket 47767.

In support of this Application, Commission Staff respectfully shows the following:

II. Background

On November 9, 2017, the Executive Director of the Commission issued the NOV in Docket 47767, seeking administrative penalties for violations of Texas Water Code (TWC) §§ 13.131, 13.132, 13.133, 13.1872, 13.242, and 13.250, and 16 Texas Administrative Code (TAC) §§ 24.21, 24.83, 24.87, 24.88, and 24.101. While investigating the violations detailed in

the NOV along with new customer complaints, Commission Staff discovered additional evidence that has resulted in Commission Staff's recommendations detailed in this application. On November 21, 2017, Commission Staff received body camera footage from the Johnson County Sheriff's department, depicting an interaction between Mr. Chuck Bell, the owner and operator of CBWS, and Mr. Wester, a prospective customer of CBWS. The interaction involved sheriff's deputies investigating Mr. Bell's report of a previous customer's meter tampering and the refusal to provide water service to Mr. Wester. In another instance, CBWS informed Commission Staff a lien was the basis for a \$700 charge to a new customer. Commission Staff discovered the lien had been satisfied years before CBWS charged the customer, indicating that CBWS provided false or misleading statements to the Commission. The additional evidence, along with a previous warning on similar violations, the facts in this application detailing a pattern of hostility by CBWS, and the facts detailed in the NOV in Docket 47767, result in Commission Staff's recommendation that the Commission request the OAG to bring suit for the appointment of a receiver and seek civil penalties for CBWS's violations of Commission rules.

III. Jurisdiction and Legal Authority

A. Commission Authority to Request the OAG to Appoint a Receiver and Seek Civil Penalties

Under TWC § 13.412, at the request of the Commission, the attorney general is required to bring suit for the appointment of a receiver to collect the assets and carry on the business of a water utility that has abandoned operation of its facilities. TWC § 13.412(f) and 16 TAC § 24.142(c) enumerate actions that constitute "abandonment," including but not limited to "displaying a pattern of hostility toward or repeatedly failing to respond to the commission or the utility's customers." Under TWC § 13.412(b), the court is required to appoint a receiver if an appointment is necessary: (1) to guarantee the collection of assessments, fees, penalties, or interest; (2) to guarantee continuous and adequate service to the customers of the utility; or (3) to prevent continued or repeated violation of the final order. The receiver shall execute a bond to assure the proper performance of the receiver's duties in an amount to be set by the court.¹ After appointment and execution of bond, the receiver shall take possession of the assets of the utility specified by

¹ TWC § 13.412(c).

the court.² Until discharged by the court, the receiver shall perform the duties that the court directs to preserve the assets and carry on the business of the utility, and shall strictly observe the final order involved.³ A receiver appointed under TWC § 13.412 may seek approval from the Commission to acquire the water or sewer utility's facilities and transfer the utility's certificate of convenience and necessity.⁴ Additionally, the receiver may, subject to the approval of the court and after noticing all interested parties, sell or dispose of property of the utility to pay the costs incurred in the operation of the receivership.⁵

Under TWC § 13.414(a), any retail public utility or affiliated interest that violates the Texas Water Code, fails to perform a duty imposed on it, or fails, neglects, or refuses to obey an order, rule, direction, or requirement of the Commission or decree of judgment of a court is subject to a civil penalty of not less than \$100 nor more than \$5,000 for each violation.⁶ A retail public utility or affiliated interest commits a separate violation each day it continues to violate TWC § 13.414(a).⁷ The Attorney General shall institute suit on his own initiative or at the request of, in the name of, and on behalf of the Commission in a court of competent jurisdiction to recover the penalty under TWC § 13.414. Suits for injunction or penalties may be brought in Travis County, in any county where the violation is alleged to have occurred, or in the county or residence of any defendant.⁸

IV. Factual allegations

CBWS received a certificate of convenience and necessity (CCN) on September 20, 1988.⁹ CBWS provides water utility services to seven public water systems (PWSs), Bear Creek Estates, Bell Manor, Buffalo Creek, Crowley II Acre, John Dame, Martin Creek Estates, and Rock Creek Estates, all of which are in Crowley, Texas. CBWS has approximately 328 service connections. The system is owned and operated by Mr. Chuck Bell.

Commission Staff, after investigating CBWS for alleged violations of Commission rules, has determined that CBWS has abandoned operations by displaying a pattern of hostility toward

² TWC § 13.412(d).

³ *Id.*

⁴ TWC § 13.412(g). The receiver must apply in accordance with TWC §§ 13.301-304.

⁵ TWC § 13.413.

⁶ TWC § 13.414(a).

⁷ TWC § 13.414(b).

⁸ TWC § 13.419.

⁹ CCN No. 12190.

Commission Staff and the utility's customers. Commission Staff has also found that CBWS has abandoned operations by repeatedly failing to respond to the Commission. Because CBWS has been statutorily abandoned, Commission Staff recommends the Commission to request that the Attorney General appoint a receiver and seek civil penalties for violations of Commission rules detailed in this application and in the NOV issued in docket 47767.

A. CBWS has Abandoned Operation of the Utility by Displaying a Pattern of Hostility Toward CBWS's Customers and the Commission.

While not all violations of Commission rules are hostile, many of the violations committed by CBWS are hostile in nature. Further, a water utility manager can exemplify hostility in his actions during the execution of a rule violation. CBWS has displayed a pattern of hostility toward its customers and the Commission, exemplified by the nature of the violations in which it has committed, its treatment of customers, and its responses to Commission investigations.

1. CBWS Displayed Hostility Toward its Customers in its Refusal to Serve an Applicant, Mr. Wesley Wester.

On September 19, 2017, the Commission's Customer Protection Division (CPD) received a complaint¹⁰ from Mr. Wesley Wester, a new resident within CBWS's CCN area. Mr. Wester alleged in the complaint that CBWS refused to serve him until he agreed to pay more than \$500 in charges owed by the previous tenant of the property.¹¹ 16 TAC § 24.83(c) prohibits CBWS from refusing water service to Mr. Wester due to delinquency in payment for service by a previous occupant of the premises.

In its initial response to CPD on this matter, CBWS stated that Mr. Wester was not the customer of record at the address and if a disconnection had occurred at the property, it was due to meter tampering by the current customer. CBWS identified a "Mr. Weaver" as the current customer at the property. Later, CBWS provided CPD a supplemental response with a photograph of the alleged meter tampering. Because CPD was unable to view the photograph, CPD requested CBWS to resend the photograph in a different format. CBWS replied, "The picture does not matter as i stated before Mr Wester is NOT a customer of Chuck Bell Water Systems . Can u get that

¹⁰ Complaint no. CP2017090576.

¹¹ Complaint document no. CP2017090576_17091709006507 (Attachment 1).

thru ur thick skull or if necessary u may need to drill a hole . He cannot complain because he has NO STATUS !!!¹² [sic].

CPD then referred the matter to the Commission's Oversight and Enforcement Division (O&E) to continue the investigation.¹³ O&E's investigation found that CBWS conducts itself in an aggressive and extortive fashion towards his current and potential customers. O&E Staff received body camera footage from the Johnson County Sheriff's Department, depicting an interaction between Mr. Bell and Mr. Wester, while the deputies investigated the criminal matter of the alleged tampering.¹⁴ According to statements given by deputies, which is supported by the body camera footage, Mr. Bell acknowledged several times that Mr. Wester was not the person responsible for the alleged meter tampering, but that it was due to the previous home owner, Mr. Justin Weaver. However, Mr. Bell still insisted that he did not care who made the payment for the damages, but until he was compensated, he would not provide water service to the residence.¹⁵ Mr. Bell advised Mr. Wester if he paid the \$578 owed by Mr. Weaver, CBWS would begin water service. When pressed by the Johnson County Sheriff's Deputies about having Mr. Wester pay for Mr. Weaver's alleged meter tampering, Mr. Bell explained that he has done this several times before, that it was his "M.O.,"¹⁶ and that he was fully within his rights under the Texas Commission on Environmental Quality (TCEQ) rules. Mr. Wester's grandfather arrived around this time, and wrote Mr. Bell a check for \$578 so that Mr. Wester could have water service.¹⁷

O&E Staff believes that the statements and body camera video evidence support its characterization that CBWS has exhibited hostility in its tone, actions, and statements related to its refusal to serve Mr. Wester. Once Mr. Bell acknowledged that Mr. Wester was a new customer and not responsible for the meter tampering, CBWS's refusal to provide service to Mr. Wester was

¹² Complaint document no. CP2017090576_17091709007500.txt, sent on 09/21/2017 at 12:30 PM (Attachment 2); CBWS subsequently requested an immediate decision in CPD's investigation and noted that the criminal matter of tampering was being investigated by the Johnson County Sheriff's Department.

¹³ CPD requested the assistance from O&E with the informal investigation. Because CPD initially received little information from the complainant, Mr. Wester, and because CPD was not receiving cooperation from CBWS, O&E began its own investigation.

¹⁴ Johnson County Sheriff's Department body camera DVD (Attachment 3).

¹⁵ "Reporting Officer Narrative" by Deputy E. MacDonald (2013), OCA no. 17-00005220, 09/19/2017 09:38 (Attachment 4); "Case Supplemental Report" by Corporal J.M. Torres (1402), OCA no. 1700005220, 09/20/2017 (hereinafter *Torres Report*) (Attachment 5).

¹⁶ "M.O." stands for "Modus Operandi," which is defined by Oxford Dictionary as "a particular way or method of doing something;" https://en.oxforddictionaries.com/definition/modus_operandi.

¹⁷ At the time Mr. Wester's grandfather paid Mr. Bell, an altercation almost occurred between the two parties, but the deputies were able to defuse the situation; *Torres Report*, *supra* footnote 20, page 6.

hostile. O&E Staff finds this behavior particularly egregious because CBWS improperly used its exclusive control over water utility service as a tool to extort current and potential customers for utility losses.

2. CBWS Displayed Hostility Toward its Customers in its Treatment of Ms.

Linda Wood.

In another recent customer complaint filed with CPD,¹⁸ Ms. Linda Wood stated she reported a break in the water line serving her home to CBWS, but CBWS informed her it was her responsibility to repair the line. Ms. Wood countered that the break was located on the CBWS side of the water meter, and as such, the utility was obligated to make the necessary repairs. Ms. Wood also alleged CBWS had refused to serve her residence initially when she moved in until she paid the previous occupant's delinquent water bill.

CBWS responded to CPD's investigation via email, only stating, "The leak is on Ms. Woods side of the service . There was a leak on the utility side but it has been repaired by the utility . Her leak is 200 feet away downstream from the meter . And she didn't pay the previous owners bill ." ¹⁹ [sic]. The response included no other information or supporting documentation for CBWS's refusal of service.

CBWS later conceded that the damaged pipe was not located on Ms. Wood's property. CPD reminded CBWS that, under Commission rules,²⁰ the water utility is responsible for any breaks located beyond the property. CPD also specified that the cost of the water lost due to the break could not be billed to Ms. Wood. CBWS agreed to repair the break, but it still billed Ms. Wood for the lost water. When CPD informed CBWS of the violation and their decision to refer the matter to O&E, CBWS reluctantly agreed to refund the cost. In its response, CBWS advised CPD it would, "send that POS another bill with her average usage plus her unpaid balance ." ²¹

Ms. Wood also claims that CBWS would not provide her with water utility services until she paid over \$700 in the previous owner's unpaid bills. Ms. Wood provided CPD two handwritten

¹⁸ CP2017100803, received by CPD on October 24, 2017.

¹⁹ Complaint document no. CP2017100803_17101710008972.txt, sent on 10/24/2017 at 08:55 PM (Attachment 6).

²⁰ 16 TAC § 24.86(a)(2)(b) and 24.86(a)(3).

²¹ Complaint document no. CP2017100803_17111711003270.txt, sent on 11/08/2017 at 08:03 PM (Attachment 7).

receipts on CBWS's bills detailing payments she made to CBWS in 2016.²² Ms. Wood explained in her complaint that she paid \$335 down and then paid the rest on a monthly basis.²³ When CPD questioned CBWS about the alleged payment and refusal of service, CBWS provided a copy of a lien on the property that he had filed on February 13, 2004 in Johnson County for unpaid water services to the previous owner of the property. CBWS claimed the lien was the basis for the charges to Ms. Wood in 2016.²⁴ CBWS also conceded that it did not dispute the payments, but that it could also not confirm them as its computer that contained all of its records crashed. However, Johnson County real property records indicate that the lien²⁵ filed in 2004 for \$633.21 was satisfied on July 19, 2011 when Ms. Wood and her husband purchased the property.²⁶ Richard "Chuck" Bell's signature was on the release of lien document. Therefore, CBWS's continued assertion of an outstanding lien in 2016 is unsupported by the facts in this matter and any related charges on Ms. Wood's bill more than 5 years after satisfaction of the lien is in violation of Commission rules. Additionally, CBWS's misrepresentation of the status of the lien to CPD's inquiry unnecessarily delayed resolution of Ms. Wood's complaint.

When CBWS required customers to satisfy prior owners' debts (and overpay those debts in at least one instance) and induced customers to pay for overall repairs to the water system CBWS exhibited statutory hostility toward customers. These are not the acts of a prudent or responsible water utility owner or manager. The need to deter CBWS from committing other such acts against water utility customers is imminent. None of CBWS's actions indicate contrition or, more importantly, a change in course to comply with Commission statutes and rules.

3. CBWS Displayed a Pattern of Hostility Toward the Commission.

CBWS, in countless responses to Commission Staff inquiries, has displayed a pattern of "hostility towards or repeatedly failing to respond to the commission." CBWS rarely simply responds to a Commission inquiry, but rather uses the opportunity to verbally attack Commission

²² Complaint document no. CP2017100803_1710010492; One invoice was dated 6-17-16 for \$335, and marked "I receipt... only part payment Paid 335.00.... 6-17-16," the other dated 6-21-16 for \$741.08 reads "What I paid to have water turned on in full" (Attachment 8).

²³ Complaint document no. CP2017100803_1710010492 (Attachment 8).

²⁴ "Regarding the payment made was for a lien I had filed against the property and it's [sic] owner Mr Smith for water service rendered and unpaid. She paid off the lien to allow her clear title ."; Complaint document no. CP2017100803_17101710009327, sent on 10/25/2017 at 02:42 PM (Attachment 9).

²⁵ Claim of Lien, Real Property Records of Johnson County, Texas, volume 3230, page 0350-0352 (Attachment 10).

²⁶ Release of Lien, Real Property Records of Johnson County, Texas, Instrument no. 201100017285 (Attachment 11).

Staff. In this Application, Staff offers the following excerpts from CBWS's statements, exemplifying CBWS's hostility in responses to basic requests for information that Commission Staff solicits to conduct investigations. The following bullets are unedited, verbatim quotes that Commission Staff has received from CBWS in response to various inquiries:

- "As to professionalism I've been slogging it out in the trenches dealing with the trailer trash, hillbillies, dope addicts, pistol packers, hate mongers , death threats, lawsuit ers , the TCEQ , and now the PUC and somehow I'm still here , doing the dirty jobs without so much as a thank you for 30+ years , if only I could sit on my butt in a fancy glass palace in Austin passing out judgements on hard working persons with the threat of the big bad PUC stick to wield upon the huddled masses like ur own personal whipping post , if only I was professional."²⁷
- "Please inform the customers that call you to attempt to work it out or listen to explanations before contacting you . You can't get them water from the glass tower in Austin or an explanation of the problem that persists . I encourage you to encourage them to contact the utility exhaustively to get answers first ."²⁸
- "Things like this take time to get right and we stayed until it was right. Remember to tell the Cp that the PUC does not supply them with water the operators and owners and the workers do that job , not office workers in Austin . I fully understand my responsibilities to the people of the systems I serve and while my method may come into question occasionally my results never will ."²⁹
- "I still cant get over the fact that this information was available to anyone in that office. And why in heavens name couldn't one of the lower end staffers get this info and pass it to the customer is beyond me either they're so lazy or so unknowledgeable why are they still working there???? the PUC now does the pass thru s and the rate cases too , its in your data base why overwork me when i'm already OVERWORKED AS IT IS !!!!! My State Senators Name is Brian Birdwell I've put a call thru to his office over this matter . i don't want heads to roll I want them pulled out of your"³⁰
- "I guess ur as daft as the rest of the fools at the PUC complaint division . The copy of the original bill is included in the original complaint attachment . If you need help figuring it out maybe my 16 year old daughter who showed me could go to work for ur office . She would be a great asset considering I've trained her to think and do on a higher level . Once again the laziness or lack of competency shows up

²⁷ Complaint document no. CP2016050575_16061606001017.txt, sent on 06/02/2016 at 05:58 PM (Attachment 12).

²⁸ Complaint document no. CP2016070257_16071607002854.txt, sent on 07/08/2016 at 10:25 AM (Attachment 13).

²⁹ Complaint document no. CP2016070257_16071607011607.txt, sent on 07/28/2016 at 07:11 AM (Attachment 14).

³⁰ Complaint document no. CP2017060183_17061706005675.txt, sent on 06/19/2017 at 08:36 PM (Attachment 15);
Complaint document no. CP2017060215_17061706005673, sent on 06/19/2017 at 08:31 PM (Attachment 16).

in your work once again . How many more times can ur ignorance show on these petty little problems ur too afraid to address??? Maybe you should save the tax payers of this great state some \$\$\$ by taking a buy out and moving on to something u can handle like pouring sodas at McDonalds or something .³¹

- “The picture does not matter as i stated before Mr Wester is NOT a customer of Chuck Bell Water Systems . Can u get that thru ur thick skull or if necessary u may need to drill a hole . He cannot complain because he has NO STATUS !!!³²
- “Please send your supervisors email address. Maybe he/she can help me in a timely manner . As you are decidedly incompetent and unable to render a simple decision.”³³
- “If he were a customer you would have jurisdiction . So your telling me anyone who's not a customer on any Water System anywhere can file a complaint with your agency even if they are not a party to that system and are not a customer of the system?? I believe you have expanded your authority beyond the boundaries of your intended scope . How can your agency be a party to this issue , that means I can file a complaint against all the Water Systems in the State even though I'm not a customer . Your both out of bounds on this one and you know it your trying to bluff your way to a non decision while doing harm to the utility . How much longer must I provide free water before I get relief?? I have 2 daughters who depend on me to provide for them , I can't do that giving it away to criminals who have already stolen from me and are continuing same under your skillful indecision and guidance . I am being harmed and request immediate relief !!!!³⁴
- “The original complaint is already proven false . No money has been exchanged and Mr. Wester's failure to complete the application in a timely manner only exacerbates the issue of my losses. How much longer must I wait while you and staff continue to support an on going criminal activity , what's it going to take short of your indictment on RICO Act charges before something happens ??³⁵
- “I am waiting on a response it's been 48 hours now and no word from your office. Can't find anyone with the gravitas to make a decision ?? Typical³⁶
- “I don't know if it's your hormone deficiency or anal warts that's causing cognitive disfunction but your insane repeated insistence that a disconnection has even occurred has totally missed the mark. Who specifically has stated that service has been disconnected ? Surely not Mr. Wester because his service was NEVER disconnected for any reason whatsoever . Maybe you can wrap your gnat sized

³¹ Complaint document no. CP2017060183_17061706006719.txt, sent on 06/21/2017 at 09:34 PM (Attachment 17).

³² Complaint document no. CP2017090576_17091709007500.txt, sent on 09/21/2017 at 12:30 PM (Attachment 18).

³³ Complaint document no. CP2017090576_17091709008183.txt, sent on 09/22/2017 at 11:42 AM (Attachment 19).

³⁴ Complaint document no. CP2017090576_17091709008245.txt, sent on 09/22/2017 at 01:18 PM (Attachment 20).

³⁵ Complaint document no. CP2017090576_17091709008258.txt, sent on 09/22/2017 at 01:37 PM (Attachment 21).

³⁶ Complaint document no. CP2017090576_17091709008951.txt, sent on 09/25/2017 at 06:46 PM (Attachment 22).

brain around that fact if only you could remove your cranium from your colon . If you want a photo of the tampering I'll need and address to which to send it to but again your insistence of a disconnect is FALSE !!! So I don't know why I even need to send anything for something that never happened . Please explain why your continued harassment over this non issue persists ?? Close it up and let's move on everyone else has .³⁷

- “As far as making it to the structure I have no idea if it is or is not making it there. One of her " people" threatened to kill me yesterday during the leak repair because I had turned the water off to facilitate repairs. U sit in ur golden palace passing judgement over me and others without regard for the daily trials and abuses owner /operators like myself go thru Every Day . U start with the assumption that the ' person ' on the other end of the line is right, and that's wrong. Then to drown the operator in oppressive requests after u have been informed in ludicrous at best. While u sip wine with friends backyards and leave the office behind some of us are here with the battle bot hillbillies who are drunk and vindictive most of the time. They steal , they drink, they threaten all on a whim I deal with them every day . Just think of how strong one must be to continually be subjected to that kind of environment and still be happy like me !!! U wonder why I am so critical in my responses to ur onslaught of questions ?? And I wonder how I can be so sweet with them .³⁸
- “Mr Ford has Ms wood even provided your office with a canceled check documenting that money and specifically the amount she claims has even changed hands ?? I'm sure you have that information . Please forward that with your next correspondence to me . Also why has she not provided a closing statement from the title company ?? You demand all this proof from me yet where's her evidence ?? Are the PUC folks running on suppositions now so that anybody who makes a statement true or not is now credible ?? And what happened to Richard Cranium I thought this was his case ?? Did he pass it to you or are there 2 claims ?? Something you may need to know Ms wood wears tin foil on her head to block out government gamma rays that try to control her thoughts and she has a cat that she claims is Jesus !!! I think it's just that she does too much meth but I'm not a doctor I just play one on tv .³⁹
- “Jesus (her cat) must have imparted the futility of further accusations against me . Why else would she go radio silent in the middle of such an important referendum ?? Unless she knew she was full of it and had been lead onto the lance points by members of the staff to believe she was going to spank me AND collect funds she never had coming. Why o' why do u think Richard Cranium⁴⁰ passed this to u Mr

³⁷ Complaint document no. CP2017090576_17101710001718.txt, sent on 10/05/2017 at 02:49 PM (Attachment 23).

³⁸ Complaint document no. CP2017100803_17101710009322.txt, sent on 10/25/2017 at 02:32 PM (Attachment 24).

³⁹ Complaint document no. CP2017100803_17101710010192.txt, sent on 10/27/2017 at 11:29 AM (Attachment 25).

⁴⁰ The reference to “Richard Cranium” appears to reference the Complaint Resolution Coordinator of CPD Staff, Mr. Richard Kindred.

Ford Pinto⁴¹ because he knew early on she was a kook. Idk why ur staff continually tries to coax a paying for past customers bills out of my complainants but if u like attempting to push me around with ur State Might then I guess I'll just have to continue to play David to ur Goliath !!! Idk how many more times it'll take u getting ur butt kicked by the little pissant from Johnson County but ... Being forced to respond to these BS complaints from my customers I know will continue but being branded by ur office as a cheat and thief does fuel my ire . U wonder why I'm so acidic in these emails NYK . :-)"⁴²

- "Don't u just love rambling manifestos !!!!"⁴³
- "Mr Pinto I try very hard to do the right thing without being bullied by my customers with threats of Big Brother. It seems that I must fend off attacks from 360' at all times and balance that against a backdrop of leaks, complaints, 'lost my bill' requests, u mis- read my meter because I got a bid bill and why do I have to pay these PUC approved surcharges . And it seems more and more that if I make even the most minuscule of mistakes I will b water boarded by ur office?!!?? I'm just trying to make a living in the water business . Am I a fierce collector , u bet. But by the same token I strive to be fair and try desperately not to lose my compassion for others not doing so well , but keeping in the back of my mind, I also ,have 2 teenage daughters who need clothes, a car, \$\$ to go places with friends and a college education . Ur getting a deep look inside of me , is it complicated u bet , but don't make me out the monster I'm not . End of Transmission"⁴⁴
- "What now ?? What EXACTLY is the problem with the bill ?? She has been given notice of disconnection for her balance of \$36.99. Pretty standard when u don't pay ur bill. The new bill with the charges on it plus the unpaid balance from the previous month , once again standard . What is the discrepancy?? I've been pretty nice and didn't turn her off , as I could have after ur investigation was closed last week, but no . Now this plus I just found out today she called the TCEQ on me too. He called to tell me his findings ... " no further action required " on the complaint from Ms. Wood . U better tell her to pay her bill to me to avoid disconnection and pay in full. She owes \$36.99 before Oct. 28th and I haven't gotten Pmt yet . Her current bill will be due and payable by Nov.28 to avoid disconnection on the balance due after her Pmt of \$36.99. I will disconnect after this investigation is closed if I don't get paid"⁴⁵
- "I'll send that POS another bill with her average usage plus her unpaid balance ."⁴⁶
- "Notice u didn't instruct me not to disconnect service for her past due bills so ...

⁴¹ The reference to "Mr. Pinto" appears to reference CPD Staff, Mr. Kenneth Ford.

⁴² Complaint document no. CP2017100803_17111711000904.txt, sent on 11/02/2017 at 04:11 PM (Attachment 26).

⁴³ Complaint document no. CP2017100803_17111711000905.txt, sent on 11/02/2017 at 04:12 PM (Attachment 27).

⁴⁴ Complaint document no. CP2017100803_17111711000920.txt, sent on 11/02/2017 at 04:44 PM (Attachment 28).

⁴⁵ Complaint document no. CP2017100803_17111711002454.txt, sent on 11/07/2017 at 12:27 PM (Attachment 29).

⁴⁶ Complaint document no. CP2017100803_17111711003270.txt, sent on 11/08/2017 at 08:03 PM (Attachment 30).

got nothing else to do tomorrow.”⁴⁷

- “Lonnie Do you or the staff even read the email thru and take from it the context of the writings?? Is ur education level so astounding low that you can't comprehend the message as written?? It's obvious to any 5th grade English student that she clearly states that I replied " no" when asked by her if she was disconnected ?!?!? Now the complaint is for discontinuance of service ?? Maybe you should return to the 5 th grade and do intensive review in comprehension that will prove beneficial in allowing you to grasp the true subject matter of a given text. She also states she hasn't lived there for a year and that she's not there now . How in the name of all that's holy would she know if her water is either on or off?? She stated I said no and she hasn't lived there , simple conclusion would be ,has she sent anyone there to check the service to determine its status?? No she just wants to complain . If you were not such a cerebral midget you would have told her to determine for sure the service was off before sending out a complaint form , but your laziness and restricted thought processes only allow you to do the same ole same o send out a form . The term investigation as stated on your emails must be a huge laughing point at ur office as no such effort is expended on this claim !!! lol everybody laugh !!! Mr Lonnie Fatso⁴⁸ did u drink a lot of expired milk and live under power lines as a child , thru ur teenage years and as an adult also . Maybe a return to 5th grade could be just the ticket for you , a chance to regroup , refocus and you get to ride that cool short bus again !!!”⁴⁹
- “Dear Lonnie Fatso, At what point are u going to close this bogus complaint. She must not have followed your advice because she didn't pay her bill in full. She will be receiving a disconnect notice of which I will make a copy and if she doesn't pay the \$5.00 late charge assessed from last months late payment she will be terminated and a \$25.00 charge will be assessed . I also have the original envelope from her payment in January with the post mark of Jan 22 ,2018. I will also have a print out of her billings and payments for the preceding 4-6 months that will show the late payment in Jan. But because of your lack of initiative , my guess is u never had any to begin with , I won't be able to shut her off till the complaint is complete. At some point it will be and she will have her notice and on the day you get around to dismissing any further action I'll be at the ready with lock and cutoff key. Also your fellow male employees have asked me to ask u to plz stop lingering in the restroom .”⁵⁰
- “Hello Maryjane RC,⁵¹ How lazy r u ?? U don't even have the wherewithal to search ur data base and find out I have an approved minor tariff adjustment that allows me to collect the monies indicated on Mr Wester's bill ??? Tell Wester to pay up n shut up and u need to try to do something besides sitting on ur oversized

⁴⁷ Complaint document no. CP2017100803_17111711003271.txt, sent on 11/08/2017 at 08:23 PM (Attachment 31).

⁴⁸ The references to “Lonnie” and “Lonnie Fatso” appear to reference CPD Staff, Mr. James “Ronnie” Fraustro.

⁴⁹ Complaint document no. CP2018011164_18021802000571.txt, sent on 02/02/2018 at 07:59 AM (Attachment 32).

⁵⁰ Complaint document no. CP2018011164_18021802005026.txt, sent on 02/10/2018 at 03:55 PM (Attachment 33).

⁵¹ The reference to “Maryjane RC” appears to reference CPD Staff, Ms. Maribel Powers.

burn writing little complaints because ur LAZY !!! I guess ur prom date was right u have no understanding of what's going on here .”⁵²

These statements, taken directly from CBWS’s communications, along with the documented pattern of billing errors (and misrepresentations) and service disruptions, make it clear that CBWS has displayed “a pattern of hostility” toward customers and the Commission.

B. CBWS has Abandoned Operation of its Water System by Repeatedly Failing to Respond to the Commission.

In addition to CBWS displaying hostility towards water utility customers and Commission Staff, CBWS has repeatedly failed to respond to the Commission to the point that investigations cannot be properly concluded due to CBWS’s lack of cooperation and refusal to provide useful information. CBWS has prior history with failing to provide required information to the Commission. On October 2, 2015, O&E Staff issued a warning letter to CBWS for its failure to meet reporting requirements.⁵³ While a warning was appropriate in this first documented failure to respond, CBWS’s more recent unpredictable and defiant actions highlight Commission Staff’s grave concerns with Mr. Bell’s continued ownership and management of the water system. As such, the recommendation that he be removed from the water utility’s operation is supported by the evidence collected over the course of this investigation.

Pursuant to the TWC, every water utility is required to keep and render to the Commission uniform accounts of all business transacted.⁵⁴ Additionally, every utility is required to keep and render its books, accounts, records, and memoranda accurately and faithfully in the manner prescribed by the utility commission and to comply with all directions of the regulatory authority relating to those books, accounts, records, and memoranda.⁵⁵ The Commission may require the

⁵² Complaint document no. CP2018040373_18041804005086.txt, sent on 04/13/2018 at 10:38 PM (Attachment 34).

⁵³ Warning Letter, (Attachment 35); On April 5, 2015, the Commission issued a Notice of Approval in Docket No. 43245, approving an application of Check bell for a water rate/tariff change and capital investments surcharge. The approval also required Chuck Bell to file a compliance report, in Project No. 44610, 30 days after the Notice of Approval was signed. That compliance report must be updated every six months thereafter, until the full amount of the surcharge has been recovered. The compliance report “shall include copies of invoices for the cost incurred for the capital asset surcharge.” On May 24, 2015, CBWS filed a late compliance report. The report included a monthly schedule of the amounts billed and collected related to the surcharge. The report failed to include all invoices for the costs incurred. Specifically, CBWS failed to provide an invoice or bill for the “tax burden on additional funds” and a payment made to the Fort Worth Municipal Court.

⁵⁴ TWC § 13.131(a).

⁵⁵ TWC § 13.131(e).

examination and audit of all accounts.⁵⁶ The Commission may require CBWS to report to it any information that it considers useful in the administration of the Water Code.⁵⁷ The Commission may, at reasonable times and for reasonable purposes, inspect and obtain copies of the papers, books, accounts, documents, and other business records of any utility within its jurisdiction.⁵⁸

CPD is the Commission's first line of receiving information and insight into potential violations that are reported by water utility customers in Texas. CPD conducts informal investigations, using powers granted by the Commission to request information from water utilities and other entities regulated by the Commission. When CPD determines that there is a potential violation of a Commission rule or a Texas statute, it may refer the investigation to O&E or the Commission's Legal Division, depending on the nature of the case. When CPD does not receive information from a water utility that it is required by law or rule to provide, it cannot properly and accurately make a determination on the alleged violation.

In CPD's investigations of CBWS, CPD has been misled by CBWS's responses and subjected to an endless dialogue of combative and unfruitful responses.⁵⁹ Additionally, many times when CPD requested specific information, such as a photograph or a copy of a bill, CBWS would refuse to respond fully or respond instead with insults and rants.⁶⁰

On many occasions, CBWS has repeatedly failed to respond to O&E Staff's Requests for Information (RFIs) during the course of O&E's investigation of CBWS for alleged violations of TWC and 16 TAC.⁶¹ In one RFI from February 1, 2017, O&E specifically requested information that CBWS now claims was lost due to a computer crash. The deadline to respond to that RFI was February 21, 2017. CBWS did not submit responses by the February 21, 2017 deadline. On February 24, 2017, upon CBWS's request, O&E extended CBWS's deadline for the second RFI to March 3, 2017. CBWS finally replied to the second RFI on March 3, 2017, claiming that he could not provide the requested information for hard copies of billing records "[d]ue to the proprietary nature of the billing and customer service software" and because the system does not keep copies of disconnection notices. In contradiction to this response, CBWS had previously provided, without objection, copies of other disconnection notices in CBWS's August 23, 2016

⁵⁶ *Id.*

⁵⁷ TWC § 13.132.

⁵⁸ TWC § 13.133.

⁵⁹ See bulleted quotes *supra* pages 9-13.

⁶⁰ See bulleted quotes *supra* pages 9-13.

⁶¹ O&E Staff issues RFIs under the aforementioned reporting and inspection authority TWC §§ 13.131-133.

RFI response. If CBWS later became hesitant to share confidential information, he made no inquiry as to how that could be done in a way to fully answer Commission Staff's lawful request for information.

Instead of directly responding to the request as is required by rule, CBWS indicated it had self-audited and identified the billing problems investigated by O&E. CBWS responded, "... it would take [it] through March to finish [its] review and to make the remaining refunds at the beginning of April." On or about April 3, 2017, CBWS provided O&E with a spreadsheet containing information from this self-audit, along with six disconnection notices.⁶² In this response, CBWS also indicated that the utility's computer "crashed a horrible death" and that "all the information was lost and what is here is all I have." CBWS stated in its affidavit that all refunds had been made to all affected customers for any double billing.⁶³

In the same response, CBWS included a receipt for billing software purchased on March 9, 2017 and for a computer purchased on March 14, 2017. It appears that CBWS purchased this software and computer 21 days after the original RFI deadline and 11 days after the extended RFI deadline, when CBWS insisted that the information did not exist and was not producible.

CBWS claims to have finished its audit of the accounts before the computer crashed. CBWS made no attempt to inform O&E during the pendency of the RFI request that there were any issues with the water utility's computer. Additionally, CBWS does not offer any supporting documentation for this claim aside from the receipt for the new computer and software. He makes no claim as to whether there was any good faith effort to retrieve the data stored on the computer at issue. Without other supporting evidence that the water utility's computer was irretrievably broken, Commission Staff is forced to question the validity of such claim, particularly in light of CBWS's ability to perform a self-audit during the same timeframe. In the end, CBWS had a duty to respond to the RFIs in a complete and timely manner, and CBWS cannot perform a self-audit in lieu of providing a complete and timely response to Commission Staff's RFIs. The primary purpose of this second set of RFIs was to determine whether double-charges to customers that were identified in the first set of RFIs were ever remedied before the purported crash of the water system

⁶² Another contradiction to the statement previously offered by CBWS that records of termination notices were not maintained by the system.

⁶³ Commission Staff received CBWS's affidavit on April 7, 2017.

computer. Without any proof that these customers were made whole, O&E must continue to hold CBWS accountable for these billing errors.

Apart from complaint investigations, CBWS has also failed to respond to matters relating to regulatory filings with the Commission. On March 27, 2017, CBWS filed an application for Sale-Transfer-Merger of the water utility.⁶⁴ After careful review, Commission Staff reviewing this matter has deemed the application incomplete. Over the course of seven months, Commission Staff has repeatedly tried to assist CBWS with rehabilitating this application and four different attempts have ended with a still incomplete application.⁶⁵ The application was eventually withdrawn on February 22, 2018.⁶⁶

At this point, Commission Staff recommends that the Commission deem the utility “abandoned” due to the well-documented pattern of hostility from CBWS as well as its history of failing to offer useful and complete responses. Commission Staff is not seeking, nor has it obtained, an emergency order from TCEQ.

V. Staff Recommends that the Commission Request the Office of the Attorney General Bring Suit for the Appointment of a Receiver and Seek Civil Penalties

Staff respectfully requests that the Commission refer this matter to the Office of the Attorney General (OAG) to bring suit for appointment of a receiver to CBWS because the utility has displayed a pattern of hostility toward and repeatedly failed to respond to the Commission or the utility’s customers. CBWS has ceased to operate as a responsible utility and has abandoned the utility under the meaning of the statute. Commission Staff also recommends that the Commission request that the OAG seek civil penalties for violations detailed in this application and the NOV in Docket 47767.

While Commission Staff recommends the pursuit of a civil monetary penalty for CBWS to answer for its violations of Commission rules, Staff does not believe that a monetary penalty alone will have the deterrent effect necessary to influence CBWS’s future actions, prevent hostility to the Commission or CBWS’s customers, or make CBWS any more responsive.

⁶⁴ Docket No. 46996.

⁶⁵ The four findings of an administratively incomplete application were made on 06/23/2017, 08/16/2017, 10/13/2017, and 12/06/2017, with the final deadline for response falling on 01/19/2018.

⁶⁶ Docket No. 46996, Response to Order No.8 and Motion to Withdraw.

VI. Statement Relating to CBWS's Rights

The factual allegations listed in Commission Staff's Application could be deemed admitted and the relief sought herein could be granted by default if you fail to timely request a hearing.

Pursuant to 16 TAC § 22.74, Commission Staff will provide a copy of this request by certified mail, return receipt requested, to the last known address of CBWS in the Commission's records:

Mr. Chuck Bell
Chuck Bell Water Systems LLC
P.O. Box 731
Crowley, TX, 76036

Commission Staff will also provide a copy of this request by certified mail, return receipt requested, to Chuck Bell Water Systems LLC's attorney:

Mr. Mark H. Zeppa
Law Offices of Mark H. Zeppa, P.C.
4833 Spicewood Springs Road, Suite 202
Austin, Texas 78759

WHEREFORE, PREMISES CONSIDERED, Commission Staff respectfully requests that the Commission grant Commission Staff's Application for an Order Requesting the Appointment of a Receiver to Chuck Bell Water Systems LLC and Requesting Civil Penalties for Violations of Commission Rules.