



**SOAH DOCKET NO. 473-20-1120.WS
PUC DOCKET NO. 49261**

**COMPLAINT OF MICHAEL E.
MOORE AGAINST C WILLOW
WATER COMPANY**

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**BEFORE THE STATE OFFICE
OF
ADMINISTRATIVE HEARINGS**

COMMISSION STAFF'S INITIAL BRIEF

Dated: July 8, 2020

Respectfully submitted,

**PUBLIC UTILITY COMMISSION OF TEXAS
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COMMISSION STAFF’S INITIAL BRIEF

I. INTRODUCTION

C-Willow Water Company (C-Willow) charged Michael Moore \$1,749.75¹ for allegedly using 495,280 gallons of water between July 27, 2018 and September 14, 2018.² Staff will show that: (1) Moore was not a qualified service applicant at the time he was charged for water use; (2) errors and discrepancies in C-Willow’s records and documentation call into question the validity and accuracy of C-Willow’s records; and (3) it is highly unlikely that Moore used 495,280 gallons of water during the 49-day period in question. Staff respectfully urges the Administrative Law Judge to (ALJ) find that C-Willow must refund Moore \$1,783.58 for charges, late fees paid, and interest for because the record does not support a conclusion that Moore used the 495,280 gallons giving rise to this water bill.

**II. QUALIFIED SERVICE APPLICANT UNDER 16 TEXAS ADMINISTRATIVE
CODE (TAC) § 24.161(a)**

**A. Moore was not a Qualified Service Applicant under 16 TAC § 24.161(a) until
September 13, 2018**

Moore was not a qualified service applicant under 16 TAC § 24.161(a) until September 13, 2018.³ Under 16 TAC § 24.161(a), a qualified service applicant is someone “who has met all of the retail public utility’s requirements contained in its tariff, schedule of rates, or service policies and regulations for extension of service including the delivery to the retail public utility of any service connection inspection certificates required by law.” Moore did not become a qualified

¹ Customer History, Staff Exhibit 7.

² Staff Exhibit 7.

³ Direct Testimony of Kathryn Eiland, Staff Exhibit 1 at 1.

service applicant until September 13, 2018.⁴ This is because Moore did not sign a Water Service Agreement with C-Willow until September 13, 2018.⁵

C-Willow argues that because Moore moved in on June 8, 2020 he is required to pay for the amount of water Moore used beginning on the date he moved in.⁶ C-Willow further argues that the builder of Moore's home, Keith Johanson (Johanson), simply forgot to cut off service when Moore moved in and Johanson ended service via email on October 2, 2018.⁷ Nevertheless, the account for 303 Hickory Trail remained in Johanson's name until September 13, 2018,⁸ even though C-Willow received an email dated June 20, 2018 stating that Johanson was "closing on the property this Friday."⁹ The subject line of the email was "303 Hickory Trail."¹⁰

C-Willow had no authority under 16 TAC § 24.161 or any other rule or statute to back bill Moore simply because the prior customer failed to timely terminate service. Further, C-Willow has not explained why it did not terminate water service and lock the meter once it received information that Moore's closing date for 303 Hickory Trail was scheduled for June 28, 2018. Had C-Willow taken these steps, it would have ensured that any new occupant could not receive water service until a completed application for service was submitted regardless of whether Johanson officially requested a termination of service. Thus, C-Willow was not authorized to bill Moore for water usage at 303 Hickory Trail until he became a qualified service applicant on September 13, 2018, and Mr. Moore is due a refund of \$1,783.58 for charges, late fees paid, and interest on the unauthorized charges made by C-Willow.

III. C-WILLOW'S RECORDS

A. Introduction

The evidence in the record supports the conclusion that C-Willow did not keep accurate records of the meter readings for 303 Hickory Trail. Staff has identified substantial errors or

⁴ *Id.*

⁵ Water Service Agreement, Staff Exhibit 4 at 1-2.

⁶ Staff Exhibit 7; Tr. at HOM_1 2:02:45-2:03:11.

⁷ C-Willow Response to Staff Request for Information 2-1 through 2-9, Staff Exhibit 10 at Staff 2-9.

⁸ C-Willow Response to Formal Complaint, Staff Exhibit 19 at 5-6.

⁹ Staff Exhibit 19 at 5.

¹⁰ *Id.*

discrepancies (1) in C-Willow's Meter Reader List; (2) between C-Willow's Meter Reader List and Customer History for both Johanson and Moore; and (3) in responses to Staff's Requests for Information (RFIs). These errors and discrepancies raise grave concerns as to whether the meter readings on which Moore's disputed bill is based were accurately recorded.

B. Meter Reader List

There are multiple errors in the readings recorded for 303 Hickory Trail on C-Willow's meter reader list.

November 2017 Reading¹¹

4	Acct 7030	Active		Last Usage 0	
C	Johanson Keith		303 Hickory Trail	WR - Prev Rdg 0	6660
				La Verne	0
				Longitude	Latitude

Here, C-Willow recorded the first reading at 303 Hickory Trail for Johanson for the billing period ending November 27, 2017¹² as 6,640 gallons of water used. The "Last Usage" section refers to how many gallons were used for the month being read for. This number incorrectly states 0, when in fact 6,640 gallons were used over that month and the "Last Usage" should read 6,640. "WR-Prev Rdg" refers to what the previous month's reading should have been. Since November 2017 is the first time the meter was read at 303 Hickory Trail the zero for "WR-Prev Rdg" is correct. Thus, there is one identifiable error with the November 2017 reading.

December 2017 Reading¹³

4	Acct 7030	Active		Last Usage 0	
C	Johanson Keith		303 Hickory Trail	WR - Prev Rdg 0	6680
				La Verne	0
				Longitude	Latitude

Here, C-Willow recorded the reading at 303 Hickory Trail for Johanson for the billing period ending December 27, 2017 as 6,680. That means that 40 gallons were used between the

¹¹ Redacted Meter Reader List, Staff Exhibit 6 at page marked 11/15/2017.

¹² Tr. at HOM_1 2:13:20-2:13:40.

¹³ Staff Exhibit 6 at page marked 12/18/2017.

November 27, 2017 reading of 6,640 and the December 27, 2017 reading of 6,680. “Last Usage” again is incorrect. The last usage between November and December of 2017 would have been 40 gallons of water. Further, the “WR-Prev Rdg” number is also incorrect. The previous reading as shown on the November 2017 Reading above was 6,640 gallons used not zero gallons used. Thus, there are two identifiable errors with the December 2017 reading.

January 2018 Reading¹⁴

4	Acct 7030	Active	Last Usage 0
0	Johanson Keith	303 Hickory Trail	WR - Prev Rdg 0
			La Verne
			Longitude
			Latitude

Here, C-Willow recorded the reading at 303 Hickory Trail for Johanson for the billing period ending January 27, 2018 as “No Usage.” This means zero gallons of water were used from December 27, 2017 to January 27, 2018. “Last Usage” is correct here as zero gallons were used from December 27, 2017 to January 27, 2018. The “WR-Prev Rdg” number is incorrect for this reading. The previous reading as shown on the December 2017 Reading above was 6,680 gallons used not zero gallons used. Thus, there is one identifiable error with the January 2018 reading.

February 2018 Reading¹⁵

4	Acct 7030	Active	Last Usage 0
0	Johanson Keith	303 Hickory Trail	WR - Prev Rdg 0
			La Verne
			Longitude
			Latitude

Here, C-Willow recorded the reading at 303 Hickory Trail for Johanson for the billing period ending February 27, 2018 as 6,690. This means ten gallons were used from January 27, 2018 until February 27, 2018. “Last Usage” is incorrect as there were ten gallons used from January 27, 2018 until February 27, 2018 and not zero gallons. Further, the “WR-Prev Rdg” number is incorrect for this reading. The previous reading as shown on the January 2018 Reading above

¹⁴ Staff Exhibit 6 at page marked 1/24/2018.

¹⁵ Staff Exhibit 6 at page marked 2/18/2018.

was 6,680 gallons used not zero gallons used. Thus, there are two identifiable errors with the February 2018 reading.

March 2018 Reading¹⁶

Seq #	Customer	Address	City	State	Zip	Lat	Long
1	Acct 7030 Johanson Keith	Active	303 Hickory Trail	La Verne	CA	91705	
			WR-Prev Rdg	6690			
			Last Usage	6690			

Here, C-Willow recorded the reading at 303 Hickory Trail for Johanson for the billing period ending March 27, 2018 as 6,690. This means that zero gallons were used from February 27, 2018 to March 27, 2018. “Last Usage” is incorrect as zero gallons were actually used from February 27, 2018 to March 27, 2018 and the Meter Reader List states that 6,690 gallons were used in that time period. The “WR-Prev Rdg” is correct as the last month’s reading was in fact 6,690 gallons. Thus, there is one identifiable error with the March 2018 reading.

April 2018 Reading¹⁷

Seq #	Customer	Address	City	State	Zip	Lat	Long
1	Acct 7030 Johanson Keith	Active	303 Hickory Trail	La Verne	CA	91705	
			WR-Prev Rdg	6690			
			Last Usage	0			

Here, C-Willow recorded the reading at 303 Hickory Trail for Johanson for the billing period ending April 27, 2018 as 6,690. This means that zero gallons were used from March 27, 2018 to April 27, 2018. There are no identifiable errors for “Last Usage” or “WR-Prev Rdg” for April 2018.

¹⁶ Staff Exhibit 6 at page marked 3/26/2018.

¹⁷ Staff Exhibit 6 at page marked 4/20/2018.

May 2018 Reading¹⁸

Sec #	Account	Status	Address	Last Usage	WR - Prev Rdg	La Vernia	Longitude	Latitude
●	Acct 7030	Active	Johanson Keith	0	6690	0		
			303 Hickory Trail					

Here, C-Willow recorded the reading at 303 Hickory Trail for Johanson for the billing period ending May 27, 2018 as 6,690. This means that zero (0) gallons were used from April 27, 2018 to May 27, 2018. There are no identifiable errors for "Last Usage" or "WR-Prev Rdg" for May 2018.

June 2018 Reading¹⁹

Sec #	Account	Status	Address	Last Usage	WR - Prev Rdg	La Vernia	Longitude	Latitude
●	Acct 7030	Active	Johanson Keith	0	6690	0		
			303 Hickory Trail					

Here, C-Willow recorded the reading at 303 Hickory Trail for Johanson for the billing period ending June 27, 2018 as 6,690. This means that zero gallons were used from May 27, 2018 to June 27, 2018. There are no identifiable errors for "Last Usage" or "WR-Prev Rdg" for June 2018.

July 2018 Reading²⁰

Sec #	Account	Status	Address	Last Usage	WR - Prev Rdg	La Vernia	Longitude	Latitude
●	Acct 7030	Active	Johanson Keith	0	6690	0		
			303 Hickory Trail					

Here, C-Willow recorded the reading at 303 Hickory Trail for Johanson for the billing period ending July 27, 2018 as 6,690. This means that zero gallons were used from June 27, 2018 to July 27, 2018. There are no identifiable errors for "Last Usage" or "WR-Prev Rdg" for July 2018.

¹⁸ Staff Exhibit 6 at page marked 5/14/2018.

¹⁹ Staff Exhibit 6 at page marked 6/18/2018.

²⁰ Staff Exhibit 6 at page marked 7/19/2018.

Moore moved into 303 Hickory Trail on July 9, 2018,²¹ and the closing documents show that Moore closed on 303 Hickory Trail on July 6, 2018.²² This means that, according to C-Willow's own records, between July 9, 2018 when Moore moved into 303 Hickory Trail and July 27, 2018 when the meter was read at 303 Hickory Trail, that Moore used zero gallons of water in those nineteen days.

August 2018 Reading²³

08/20/2018 *Read 8/27 7/28 - 8/28*

C-Willow Water Company
Meter Readers List
From Account 0001 to Account 7034
Active Only

Customer	Address	Service	Reading
Acct 7030 Johanson Keith	303 Hickory Trail	Last Usage 0 WR - Prev Rtg 6690 La Verne Longitude	<i>Read 9/14/18 0504350</i> 504350 <i>f</i>

Here, C-Willow recorded the reading at 303 Hickory Trail for Johanson for the billing period ending August 27, 2018 as 504,350. This means that 495,280 gallons were used from July 27, 2018 to when the re-reading of the meter occurred on September 14, 2018. Once again, "Last Usage" is incorrect as it reads that zero gallons were used from July 27, 2018 to the re-reading on September 14, 2018 when C-Willow's records claim that 495,280 gallons were used. Thus, there is one identifiable error with the August 2018 reading as re-read on September 14, 2018.

. Without proof of a leak or some other extenuating circumstance, this reading is illogical. C-Willow's own records show that Moore used zero gallons of water from when he moved in on July 9, 2018 to when the meter was read on July 27, 2018, yet C-Willow claims Moore used 495,280 gallons from July 27, 2018 until the re-read on September 14, 2018. Such a drastic jump in usage must have an underlying cause, yet the record contains no plausible explanation. Further, the evidence in the record and simple logic support the conclusion that such high gallonage being used by a single household is next to impossible.

²¹ Michael Moore's Response to Staff Request for Information Staff 1-1 through 1-6, Staff Exhibit 15 at Staff 1-1.

²² Redacted Michel Moore Home Closing Disclosure for 303 Hickory Trail, Staff Exhibit 5.

²³ Staff Exhibit 6 at page marked 8/20/2018.

September 2018-January 2019 Readings²⁴

4	Acct 7030	Active	Last Usage 495280
98	Johanson Keith	303 Hickory Trail	WR - Prev Rdg 501970 <u>0505600</u>
			La Verne 0
			Longitude Latitude
4	Acct 7030	Active	Last Usage 3630
86	Moore Michael	303 Hickory Trail	WR - Prev Rdg 505600 <u>0508510</u>
			La Verne 0
			Longitude Latitude
4	Acct 7030	Active	Last Usage 2910
86	Moore Michael	303 Hickory Trail	WR - Prev Rdg 508510 <u>0511820</u>
			La Verne 0
			Longitude Latitude
4	Acct 7030	Active	Last Usage 3310
86	Moore Michael	303 Hickory Trail	WR - Prev Rdg 511820 <u>0514420</u>
			La Verne 0
			Longitude Latitude
4	Acct 7030	Active	Last Usage 2600
86	Moore Michael	303 Hickory Trail	WR - Prev Rdg 514420 <u>0517790</u>
			La Verne 0
			Longitude Latitude

Above are the September 2018 through January 2018 readings at 303 Hickory Trail recorded by C-Willow as follows:

September 2018: 505,600

October 2018: 508,510

November 2018: 511,820

December 2018: 514,420

January 2019: 517,990

Between the September 14, 2018 re-read, and the reading on January 27, 2019 (a 135-day period), C-Willow's records show that Moore used 13,640 gallons of water.²⁵ This means that: (1) in Moore's first 19 days living at 303 Hickory Trail Moore used zero gallons of water; (2) in the next 49 days between July 27, 2018 and September 14, 2018 Moore used 495,280 gallons; and (3) in the subsequent 135 days after September 14, 2018 Moore only used 13,640 gallons.

²⁴ Staff Exhibit 6 at page marked 9/28/2018-1/18/2019.

²⁵ 517,990 – 504,250 = 13,640.

Conclusion on Meter Reader List

Staff found eight identifiable errors in C-Willow's Meter Reader List from November 2017 to September 2018. These inaccuracies are consistent with inaccuracies throughout records provided by C-Willow in response to Staff Requests for Information.

Further, Staff finds the fact that C-Willow recorded zero usage on July 27, 2018, when C-Willow still believed Johanson and not Moore owned the property,²⁶ as evidence that C-Willow was not consistently reading the meter while Johanson owned the property. This is supported by the fact that Moore had been living at 303 Hickory Trail for 19 days, and likely was using water regularly, which should have led to a reading of higher than zero.²⁷ C-Willow could not give an explanation as to why this discrepancy existed.²⁸

Lastly, the fact that Moore used 13,640 gallons in the 135 days after September 14, 2018, yet used 495,280 gallons in the 49 days from July 27, 2018 to September 14, 2018 verges on inconceivable absent some extenuating circumstance such as a leak. Calculated as a percentage, in those 135 days after September 14, 2018 Moore used only 2.75% of the water he used in the 49 days from July 27, 2018 to September 14, 2018. Staff cannot conceive of how that is possible, nor did C-Willow provide any kind of evidence to its plausibility.

C. Discrepancies between Meter Reader List and Customer History

Staff has identified four major discrepancies between the Meter Reader List²⁹ and the Customer Histories for Johanson and Moore.³⁰

- (1) The Meter Reader list for November 2017 recorded 6,640 gallons used,³¹ yet the Customer History for Johanson states that there was no usage during that time.³²

²⁶ Tr. at HOM_1 2:08:40-2:09:20.

²⁷ Tr. at HOM_2 24:55-25:40.

²⁸ Tr. at HOM_1 56:40-57:15.

²⁹ Staff Exhibit 6.

³⁰ Redacted Customer History for 303 Hickory Trail, Staff Exhibit 7.

³¹ Staff Exhibit 6 at page marked 11/15/2017.

³² Staff Exhibit 7.

- (2) The Meter Reader list for December 2017 recorded 6,680 gallons used,³³ yet the Customer History for Johanson states that there was no usage during that time.³⁴
- (3) The Meter Reader list for January 2018 recorded “No usage,” which means that the meter still read 6,680 from the previous month,³⁵ yet the Customer History for Johanson states that there was still no usage at that meter.³⁶
- (4) The Meter Reader list for August 2018 recorded 504,350 gallons used,³⁷ while the Customer History for Moore reads 501,970 for August 2018.³⁸

Between C-Willow’s Meter Reader list and Customer Histories, Staff has found a total of twelve identifiable discrepancies in C-Willow’s records for 303 Hickory Trail. Further, Staff has identified two separate numbers that C-Willow claims on separate documents to be the reading for August 2018.

D. Discrepancies in response to Staff’s Requests for Information

Staff has identified five discrepancies in the responses to Staff’s Third Request for Information to C-Willow Water Company that raise further concerns regarding the precision of C-Willow’s record keeping.³⁹ In RFI 3-1, Staff asked: “Please explain why your Customer History Keith Johanson has no water usage listed for 303 Hickory Trail from October 27, 2017 until February 1, 2018.”⁴⁰ C-Willow responded: “Keith Johanson does have water usage from 0-6690. The question has incorrect and contradicting information.”⁴¹ C-Willow’s Customer History list

³³ Staff Exhibit 6 at page marked 12/18/2017.

³⁴ Staff Exhibit 7.

³⁵ Staff Exhibit 6 at page marked 1/24/2018.

³⁶ Staff Exhibit 7.

³⁷ Staff Exhibit 6 at page marked 8/20/2018.

³⁸ Staff Exhibit 7.

³⁹ C-Willow’s Response to Staff Request for Information 3-1 through 3-21, Staff Exhibit 11.

⁴⁰ Staff Exhibit 11 at Staff 3-1.

⁴¹ Staff Exhibit 11 at Staff 3-1.

does in fact show no usage for the period from October 27, 2017 until February 1, 2018.⁴² Therefore, C-Willow gave contradicting information in response to RFI 3-1.

In RFI 3-2, Staff asked: “Admit or deny that in you Customer History Keith Johanson used no water at 303 Hickory Trail from October 27, 2017 until February 1, 2018. If the answer is deny, please explain you answer in detail.”⁴³ C-Willow responded: “I deny this statement because his history shows 0-6690. It has low usage because the house is vacant and he does not use that much water in other builds but is also occupied with more than one build at a time so there is not always attention on just one house or it may be put on hold for a while.”⁴⁴ C-Willow’s Customer History list does in fact show no usage for the period from October 27, 2017 until February 1, 2018.⁴⁵ Therefore, C-Willow gave contradicting information in response to RFI 3-1.

In response to Staff RFI 3-6, C-Willow states that Moore’s meter reading on August 27, 2018 was 501,970 gallons,⁴⁶ yet in response to Staff RFI 1-5 C-Willow claimed that 501,970 was the reading that occurred on September 1, 2018.⁴⁷ C-Willow cannot provide a clear date that the meter read 501,970 and gives two dates that are 5 days apart but have the same reading.

In response to Staff RFI 3-10, C-Willow denied that the Meter Reader list meter read for November of 2017 was 6,640 gallons.⁴⁸ Yet, in C-Willow’s Meter Reader list for November of 2017 the meter read was in fact 6,640.⁴⁹ C-Willow in its RFI response contradicts its own Meter Reader list.

In response to Staff RFI 3-11, C-Willow denied that the Meter Reader list meter read for December of 2018 was 6,680 gallons.⁵⁰ Yet, in C-Willow’s Meter Reader list for November of 2017 the meter read was in fact 6,680.⁵¹ C-Willow in its RFI response contradicts its own Meter Reader list.

Staff has identified these five discrepancies in C-Willow’s responses to Staff’s Third Request for Information. With the addition of these discrepancies, the record contains a total of

⁴² Staff Exhibit 7.

⁴³ Staff Exhibit 11 at Staff 3-2.

⁴⁴ Staff Exhibit 11 at Staff 3-2.

⁴⁵ Staff Exhibit 7.

⁴⁶ Staff Exhibit 11 at Staff 3-6.

⁴⁷ C-Willow’s Response to Staff Request for Information 1-1 through 1-10, Staff Exhibit 3 at Staff 1-5.

⁴⁸ Staff Exhibit 11 at Staff 3-10.

⁴⁹ Staff Exhibit 6 at page marked 11/15/2017.

⁵⁰ Staff Exhibit 11 at Staff 3-11

⁵¹ Staff Exhibit 6 at page marked 12/18/2017.

seventeen clearly identifiable errors or discrepancies in C-Willow's records. In contrast, Staff has not found any identifiable discrepancies in Moore's testimony or any of the documentation he provided.

E. Conclusion on Discrepancies

Staff identified seventeen errors or discrepancies in the records provided by C-Willow in regard to water service at 303 Hickory Trail. These errors and discrepancies call into question the accuracy of C-Willow's records and the accuracy of meter reads done by C-Willow, which in turn call into question the validity of the 495,280 gallon meter reading at 303 Hickory Trail on September 14, 2018. Taken as a whole, the evidence shows a history of inaccuracies in documentation for 303 Hickory Trail, which Staff believes must be taken into consideration when assessing whether Moore actually used the 459,280 gallons for which he was billed.

IV. ACCURACY OF GALLONAGE USED AT 303 HICKORY TRAIL

A. Introduction

Staff urges the ALJ to reject C-Willow's claim that Moore used 495,280 gallons of water. As Moore points out in his direct testimony, if a trucking company with trucking tanks holding 300 gallons each were to use 495,280 gallons of water, it would take 1,650 of those trucks hooked up to Moore's faucet to use that amount of water.⁵² Moore also cites that an average swimming pool has 12,000 gallons of water,⁵³ which would mean that Moore would have had to fill up more than 41 swimming pools to use the amount of water for which he was billed. Staff cannot fathom how a family of two in a housing addition could use that much water absent some extenuating circumstance. No credible evidence of such an extenuating circumstance has been presented. Accordingly, C-Willow's arguments should be rejected, and Moore should receive the \$1,783.58 refund he argues that he is owed.

B. Analysis of Gallons Used

Staff has already provided an analysis of the inaccuracies in meter reading by C-Willow in the previous section and will not repeat that analysis here. Instead, Staff will focus on three areas: (1) Moore's gallons used in August of 2018 compared to his gallons used since August 2018; (2)

⁵² Direct Testimony of Michael Moore, Staff Exhibit 18 at 3.

⁵³ Staff Exhibit 18 at 3.

Moore's gallons used in August 2018 compared to the highest gallons used by other C-Willow customers; and (3) C-Willow's ability to read all meters every month given the very small size of its staff.

Staff begins with Moore's water usage history from July 2018 until March of 2019. From July 27, 2018 until September 14, 2018, C-Willow alleges that Moore used 495,280 gallons of water.⁵⁴ In September of 2018, C-Willow's records indicate that Moore used 3,680 gallons of water.⁵⁵ In October of 2018, C-Willow's records indicate that Moore used 2,910 gallons of water.⁵⁶ In November of 2018, C-Willow's records indicate that Moore used 3,310 gallons of water.⁵⁷ In December of 2018, C-Willow's records indicate that Moore used 2,600 gallons of water.⁵⁸ In January of 2019, C-Willow's records indicate that Moore used 3,570 gallons of water.⁵⁹ In February of 2019, C-Willow's records indicate that Moore used 1,880 gallons of water.⁶⁰ In March of 2019, C-Willow's records indicate that Moore used 2,670 gallons of water.

The September 14, 2018 reading is not in line with any other usage amount for Moore at 303 Hickory Trail. After that September 14, 2018 reading, Moore did not use more than 4,000 gallons of water in any one month, let alone 124 times that amount.⁶¹ Based upon the subsequent readings at 303 Hickory Trail, it is highly unlikely that Moore ever used 495,280 gallons in one month. Moore's water usage history shows consistent consumption between 2,000 and 4,000 gallons per month. His usage history does not however show even the probability that in one month he could use 495,280 gallons of water. Staff urges the ALJ to reject C-Willow's claim that Moore used 495,280 gallons of water.

Next, Staff wants compares Moore's usage to the highest usage for other C-Willow customers. C-Willow claims that Moore used 495,280 gallons of water from July 27, 2018 until September 14, 2018.⁶² Outside of Moore, the next highest monthly usage by any C-Willow

⁵⁴ Staff Exhibit 6 at page marked 8/20/2018.

⁵⁵ Staff Exhibit 7.

⁵⁶ *Id.*

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ $495,280 / 4,000 = 123.82$.

⁶² Staff Exhibit 6 at page marked 8/20/2018.

customer from January 1, 2017 until December 31, 2020 was 227,000 gallons used by Account No. 6262 in October of 2019.⁶³ If C-Willow's records are accurate, then, Moore used more than double the amount of water than any other C-Willow customer did over a three year period. Again, it is unlikely that Moore used more than double any other customer over that three-year period, and Staff urges the ALJ to reject C-Willow's claims.

Lastly, Staff has concerns about how C-Willow's staff size affects its ability to read all meters for customers they serve. C-Willow admitted that they only have a full time staff of three people.⁶⁴ Further, they have they have an undisclosed number of part time employees that C-Willow could not provide a number for.⁶⁵ C-Willow further has three meter readers including David Strozier for all systems they own. ⁶⁶C-Willow is only one of multiple water companies that the Strozier's own and read meters for and C-Willow alone has 275 meters to be read every month.⁶⁷ Staff has concerns that based upon the numerous errors and discrepancies Staff has outlined in this brief that such a small work force makes it difficult to accurately read the meter for every customer, every month. The record suggests that for customers like Johanson, and other builders, C-Willow does not consistently read those meters. For example, the evidence outlined in Staff's section on C-Willow's discrepancies in documentation show six straight month's in which Johanson's meter read 6,690. This included a month where the meter reading was 6,690, yet Moore was living at 303 Hickory Trail by that point and using water for 19 days. Staff urges the ALJ to reject C-Willow's claim that Moore used 495,280 gallons of water.

⁶³ Consumption Analysis Report, Staff Exhibit 14.

⁶⁴ Tr. at HOM_2 6:05-6:16.

⁶⁵ Tr. at HOM_2 6:15-7:03.

⁶⁶ Tr. at HOM_2 7:03-7:23.

⁶⁷ Tr. at HOM_2 7:23-7:51.

V. OTHER PRELIMINARY ORDER ISSUES TO BE ADDRESSED

In this section Staff will address preliminary order issues 1, 2, 3, 9, 10, 11, 12, 13, 14, and 15, which were not addressed elsewhere in this brief.

1. C-Willow Water Company is the utility at issue in the complaint.⁶⁸
2. The homebuilder, Keith Johanson, initiated service at 303 Hickory Trail on October 27, 2017.⁶⁹
3. The homebuilder, Keith Johanson, terminated service via email on October 2, 2018.⁷⁰
9. Moore is not complaining that his bill was calculated incorrectly because C-Willow did not use the rates in its current tariff—he is disputing the water usage of 459,280 that was used to compute his bill.⁷¹
10. C-Willow informed Moore that his water would be shut off if he did not pay the disputed bill.⁷² Because the disputed bill included charges for usage recorded before Moore became a qualified applicant for service on September 14, 2018, a disconnection of Moore’s service for failure to pay would have been a violation of 16 TAC § 24.167(c)(1), which prohibits disconnection for “failure to pay for utility service provided to a previous occupant of the premises.” .
11. C-Willow requires a “written note or email” to request termination of service;⁷³ Keith Johanson cancelled service via an email to C-Willow owner Sandra Strozier.⁷⁴
12. The previous account holder for 303 Hickory Trail, Keith Johanson, did not request termination of service until October 2, 2018.⁷⁵
13. C-Willow testified that Moore’s meter was tested “several times.”⁷⁶ Moore testified that he asked C-Willow if his meter had been tested and was told that it had been tested.⁷⁷ Neither

⁶⁸ Direct Testimony of C-Willow Water Company, Staff Exhibit 20 at 1.

⁶⁹ Staff Exhibit 3 at Staff 1-7.

⁷⁰ Staff Exhibit 19 at 5-6.

⁷¹ Staff Exhibit 18 at 3.

⁷² Staff Exhibit 18 at 2.

⁷³ Staff Exhibit 10 at Staff 2-9.

⁷⁴ Staff Exhibit 19 at 5-6.

⁷⁵ Staff Exhibit 19 at 5-6.

⁷⁶ Staff Exhibit 20 at 2.

⁷⁷ Staff Exhibit 18 at 3.

party provided additional detail as to when the tests were performed, who performed the tests, the results of the tests, or whether the meter was tested in accordance with 16 TAC § 24.169(e).

14. C-Willow stated that work order 101 was initiated by water operator Shannon Wylie because there was no meter reading in the book as of August 29, 2018.⁷⁸ The records are unclear as to the validity of this claim as the same paragraph states that the work order was completed on August 28, 2018 a day before the work order was issued.⁷⁹
15. The meter reading at issue in this complaint was a meter re-read due to a failure to record a meter reading on the regularly scheduled meter reading date of August 27, 2018.

VI. CONCLUSION

C-Willow should provide a refund to Moore for the \$1,783.58 in charges, late fees and interest because the record does not support a finding that Moore actually used the 495,280 gallons on which this charge was based. Staff urges this outcome for three reasons: (1) Moore was not a customer until September 13, 2018, and therefore, C-Willow could not charge him for any water usage before this date; (2) Staff found seventeen errors or discrepancies in C-Willow's records, which show a pattern of poor and inaccurate record keeping and call into question the veracity of the 495,280 gallon meter reading at 3030 Hickory Trail; and (3) based upon Moore's own water usage history, other C-Willow customer usage, and the small size of C-Willow's staff it is likely that C-Willow's reading for Moore's meter is incorrect. Staff respectfully urges the ALJ to find that Moore was over billed in the amount of \$1,783.58 and is owed a refund.

⁷⁸ Staff Exhibit 10 at Staff 2-5.

⁷⁹ Staff Exhibit 10 at Staff 2-5; Work Order 1010, Staff Exhibit 9.

**SOAH DOCKET NO. 473-20-1120.WS
PUC DOCKET NO. 49261**

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on July 8, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

/s/ Robert Dakota Parish
Robert Dakota Parish