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COMPLAINT OF RANDALL COLLINS §
AGAINST MONARCH UTILITIES I §
L.P. §

PUBLIC UTILITY COMMISSION
PUBLIC UTILITY COMMISSION
OF TEXAS

**JOINT INITIAL BRIEF
OF MONARCH UTILITIES I L.P. AND COMMISSION STAFF**

Monarch Utilities I L.P. (“Monarch”) and Staff for the Public Utility Commission of Texas (“Commission Staff”) (collectively, the “Parties”) file this Joint Initial Brief in the above-styled and numbered docket. Pursuant to Order No. 8¹ this brief is timely filed, and in support the Parties show the following:

I. EXECUTIVE SUMMARY

Monarch charges its customers for water service in accordance with the base rates and gallonage charges approved in its tariff, and for billing purposes rounds the volume usage down to the nearest 1,000-gallon increment as appropriate and specifically contemplated in 16 Texas Administrative Code (TAC) § 24.43(c). Monarch avoids under-recovering actual water usage by carrying forward any remaining amounts and applying them to a subsequent month’s bill to recover the underbilled amount as allowed by 16 TAC § 24.165(h).

II. BACKGROUND

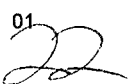
On May 22, 2020, Mr. Collins filed a formal complaint against Monarch alleging that the utility was overcharging for water service at his residence.² Mr. Collins has since confirmed that the time in question is the six-month period spanning from May 18, 2019 to November 20, 2019.³ Monarch responded to the complaint indicating that Mr. Collins’ monthly meter readings and billings are correct and consistent with Monarch’s approved tariff.⁴ Commission Staff has expressed its opinion in its second supplemental statement of position that Monarch was charging

¹ Order No. 8 Establishing Procedural Schedule (Nov. 6, 2020).

² Complaint of Randall Collins against Monarch Utilities I L.P. (May 22, 2020).

³ Complainant’s Response to Commission Staff’s First Request for Information (Nov. 16, 2020).

⁴ Monarch’s Response to Order No. 1 (Jun. 17, 2020).

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Mr. Collins the correct water and sewer base rates, as well as the correct water pass-through gallonage charge, based on the meter readings Monarch recorded during the relevant time period.⁵ Based on this position, Commission Staff also moved for a summary decision pursuant to 16 TAC § 22.182(a) because there is no genuine issue as to any material fact.⁶

The administrative law judge (“ALJ”) issued Order No. 7, granting the majority of Commission Staff’s motion, but denying in part with regards to Monarch’s water meter readings and billing practices.⁷ Specifically, the ALJ mentioned that while it is clear that Monarch’s tariff identifies a rate per 1,000 gallons, it is less clear that a customer’s monthly usage can be rounded down to the nearest 1,000 gallons and the remainder carried forward to the customer’s next monthly bill.⁸ The ALJ mentioned that additional information would be of benefit in resolving the issue, and ordered the parties to file additional evidence and briefing on Monarch’s billing practices.⁹

III. ANALYSIS

A. Monarch Data Available Regarding Mr. Collins’ Actual Water Usage.

The ALJ indicates in Order No. 7 that without knowing Mr. Collins’ actual water usage, it is impossible to determine whether he was correctly billed under Monarch’s tariff.¹⁰ The ALJ references detailed daily usage reading charts from the meter at Mr. Collins’ service address that were previously provided to Mr. Collins and Commission Staff in order to suggest that more accurate information is available other than the worksheet Monarch provided in this docket wherein water use appears to be adjusted to the nearest 1,000-gallon increment.¹¹ However, the

⁵ Commission Staff’s Second Supplemental Statement of Position and Motion for Summary Decision (Aug. 18, 2020).

⁶ *Id.*

⁷ Order No. 7 Granting in Part and Denying in Part Commission Staff’s Motion for Summary Decision (Oct. 19, 2020).

⁸ *Id.* at 4.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

more detailed daily usage charts the ALJs reference are notably not part of the record in this proceeding. Accordingly, Monarch has included these daily usage charts herein as Attachment A. These readings are for the period of time spanning from August 23, 2019 to January 23, 2020. The automated meter reading (“AMR”) technology Monarch uses to generate these more specific usage charts requires additional steps to permanently save data; otherwise, it is not stored outside of a limited time window. For this reason, Monarch is unable to provide more specific usage data further back than what is included in Attachment A.

B. Monarch’s Billing Practices are in Accordance with its Approved Tariff and Commission Rules

The Commission’s rules provide that a utility may not directly or indirectly demand, charge, or collect any rate or charge, or impose any classifications, practices, rules, or regulations different from those prescribed in its approved tariff.¹² Monarch’s approved tariff authorizes the utility to collect a monthly minimum charge (also known as a base rate) as well as a gallonage charge (also known as a volume charge) based on the customers’ actual water usage.¹³ The gallonage charge is multi-tiered based on increasing volumes, but each of these rate amounts are applicable per 1,000 gallons of usage. Regarding volume charges specifically, the Commission’s rules expressly state such charges “shall be based on metered usage...rounded up or down as appropriate to the nearest 1,000 gallons.”¹⁴

In accordance with this rule, Monarch’s monthly billing practice is to round down to the nearest 1,000-gallon increment when assessing the gallonage charge. By rounding the usage down, Monarch is underbilling for actual usage. To recover the underbilled amount of usage, Monarch then takes the amount of usage that was not included in the bill because of the rounding and carries that amount forward to be recovered in a subsequent monthly bill. This allows Monarch to accurately recover payment for a customer’s actual water usage. Otherwise, simply

¹² 16 TAC § 24.25(a)

¹³ *Application of Monarch Utilities I, L P. for a Minor Tariff Change for New Federal Tax Credit Rider, Water Utility Tariff* (Feb. 25, 2019) (Attachment 1).

¹⁴ 16 TAC § 24.43(c)

rounding down each month without carrying the remaining usage amounts forward would result in under-recovery of actual water usage. Monarch's contemplated billing practice is merely an accounting function to recover the specific amount of payment approved in its tariff.

Overbilling and underbilling is specifically contemplated under the Commission's rules, 16 TAC § 24.165(h) states:

If billings for utility service are found to differ from the utility's lawful rates for the services being provided to the customer, or if the utility fails to bill the customer for such services, a billing adjustment shall be calculated by the utility...If the customer was undercharged, the utility may backbill the customer for the amount that was underbilled.

So taking 16 TAC § 24.43(c) as authorization for rounding bills, and 16 TAC § 24.165(h) as authorization to collect underbilling, Monarch's monthly billing practice is authorized.

While part of one month's usage may be picked up in the next billing cycle, Monarch never charges customers for any water usage they did not actually receive. The acceptability of this practice is reflected in the express language of 16 TAC §§ 24.43(c) and 24.165(h), wherein the Commission deliberately contemplates the necessity of such rounding practices and allows for utilities to collect for underbilling. That 16 TAC § 24.43(c) also allows for rounding up instead of just rounding down evidences the Commission's understanding that flexibility is needed when a utility is recovering payments for customers' water usage via a method based on 1,000-gallon increments.

IV. CONCLUSION

For the foregoing reasons, the Parties respectfully request that the ALJ acknowledge that Monarch's billing practices are in accordance with its approved tariff and Commission rules, and grant the Parties such other relief to which they may be entitled.

Respectfully submitted,

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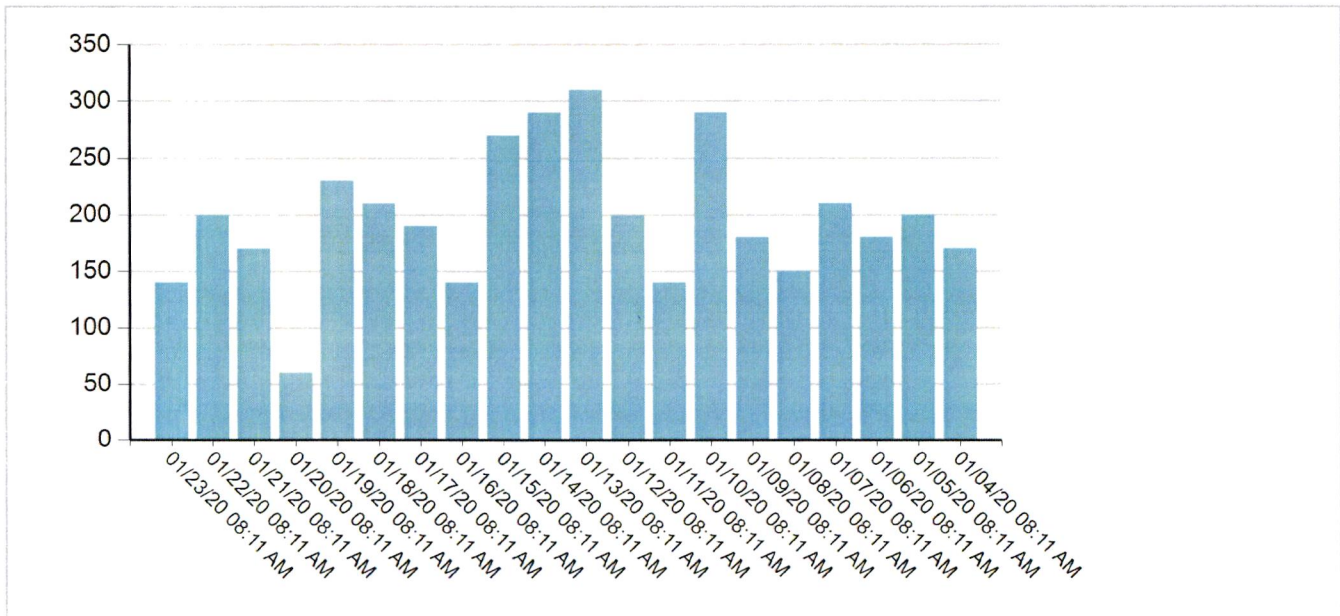
CERTIFICATE OF SERVICE

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 November 20, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.

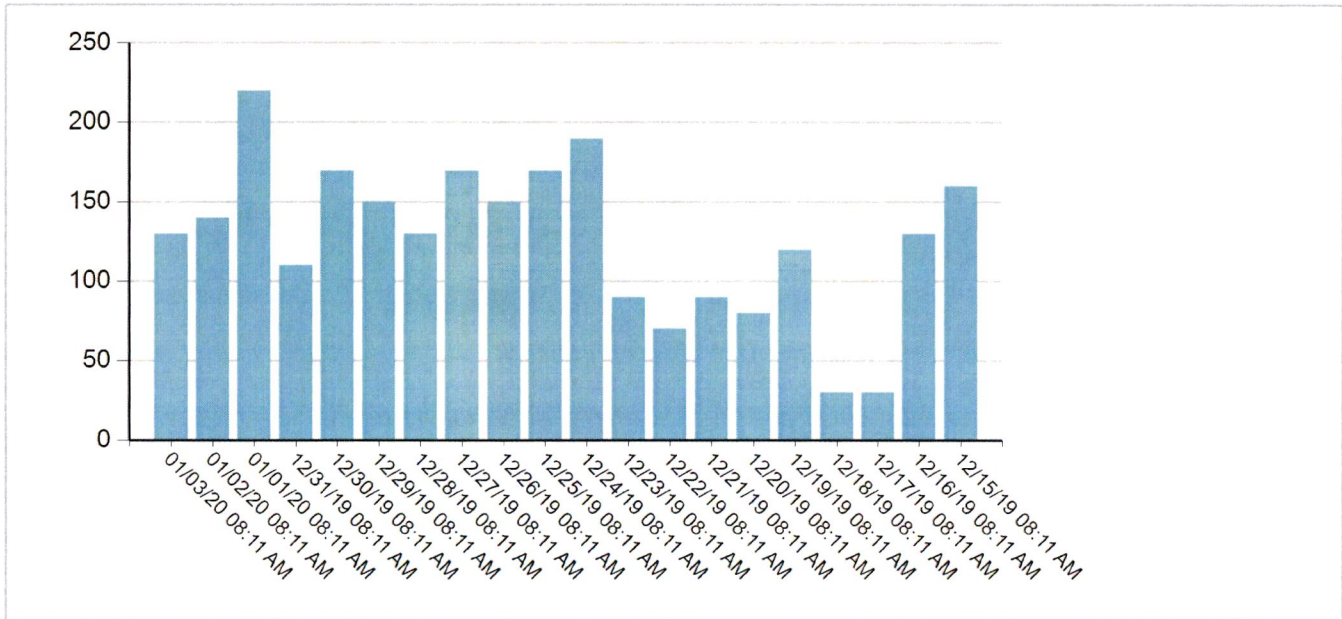
/s/ Reid Barnes

REID BARNES

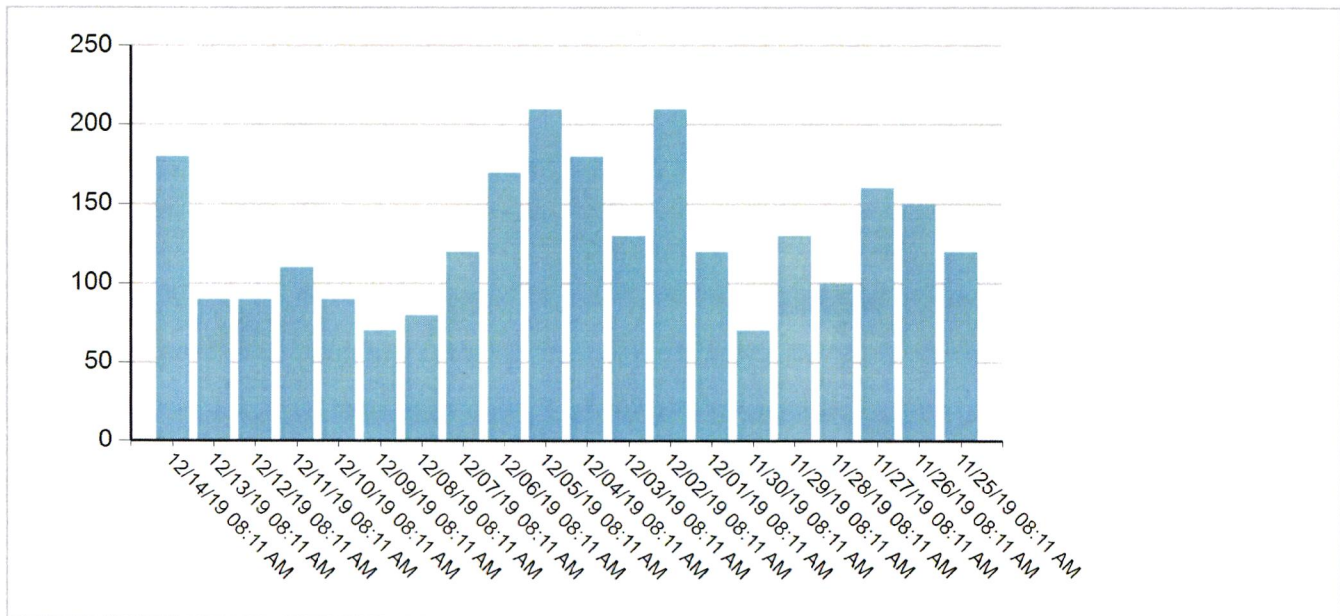
ATTACHMENT A



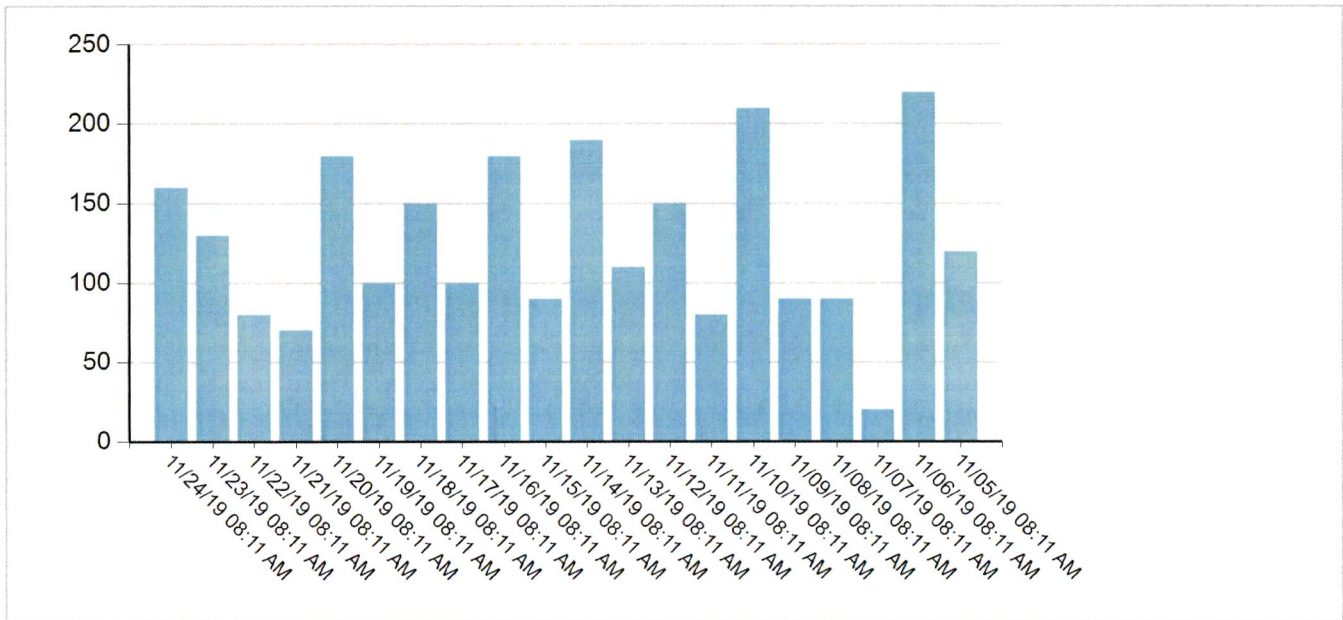
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8	01/16/20 08:11 AM	133650	140	1337	
9	01/15/20 08:11 AM	133510	270	1335	
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18	01/06/20 08:11 AM	131470	180	1315	
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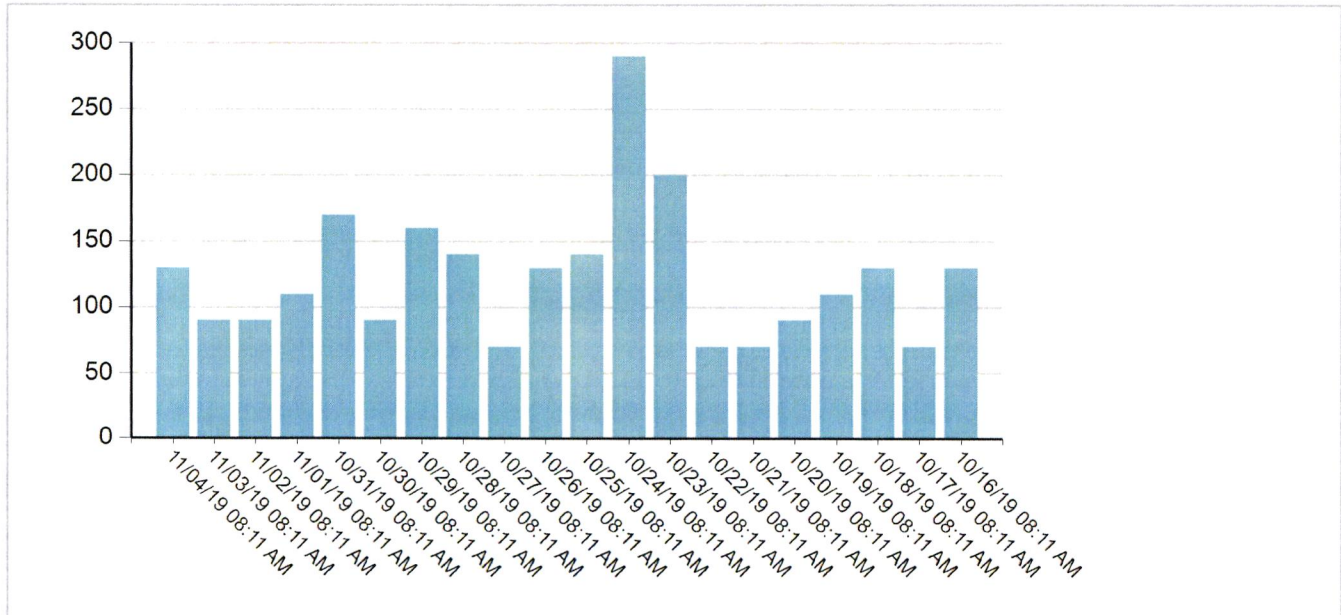
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28	12/27/19 08:11 AM	129870	170	1299	
29	12/26/19 08:11 AM	129700	150	1297	
30	12/25/19 08:11 AM	129550	170	1296	
31	12/24/19 08:11 AM	129380	190	1294	
32	12/23/19 08:11 AM	129190	90	1292	
33	12/22/19 08:11 AM	129100	70	1291	
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35	12/20/19 08:11 AM	128940	80	1289	
36	12/19/19 08:11 AM	128860	120	1289	
37	12/18/19 08:11 AM	128740	30	1287	
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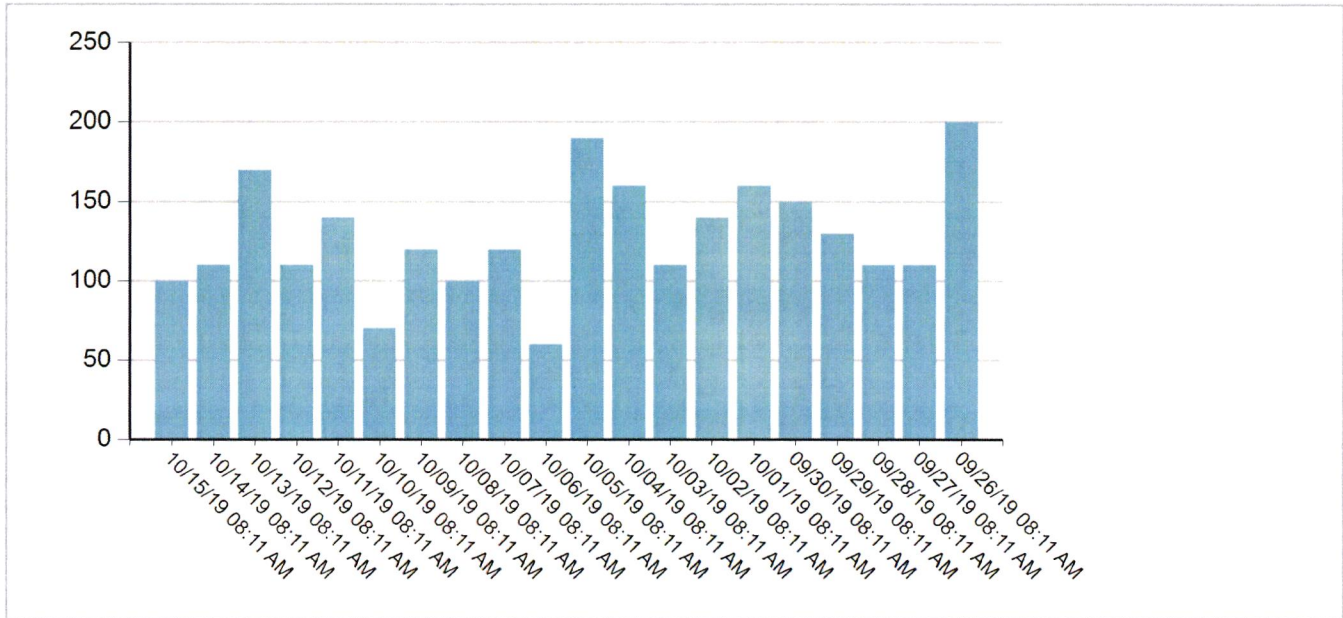
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47	12/08/19 08:11 AM	127760	80	1278	
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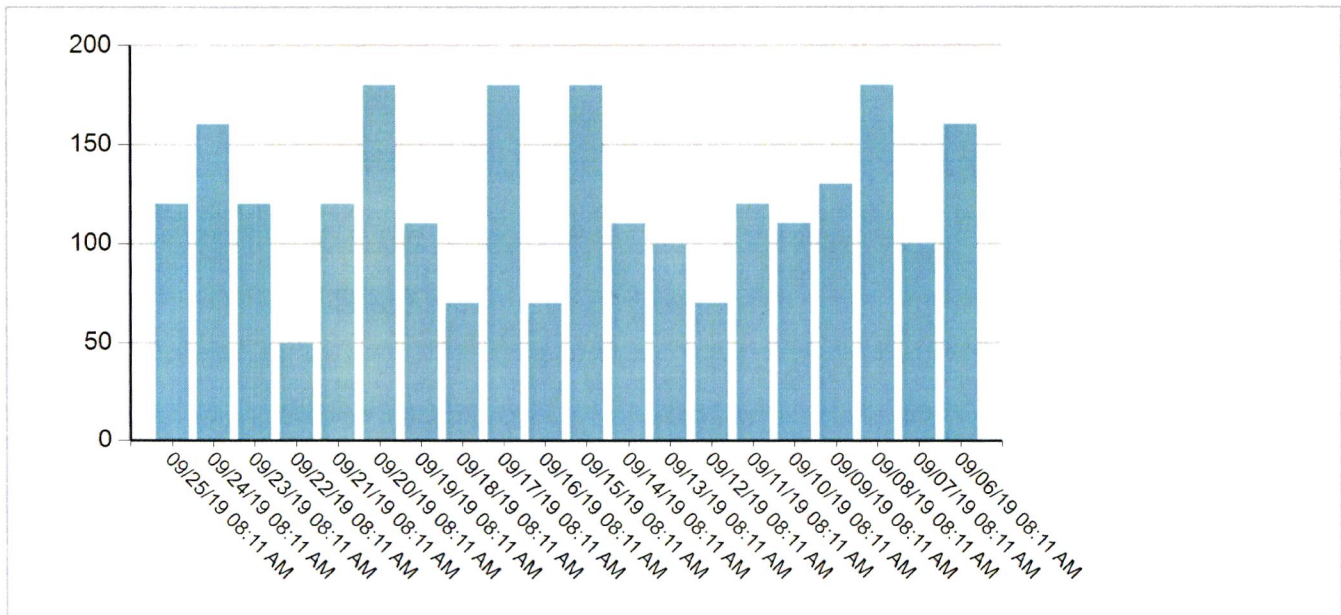
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67	11/18/19 08:11 AM	125090	150	1251	
68	11/17/19 08:11 AM	124940	100	1249	
69	11/16/19 08:11 AM	124840	180	1248	
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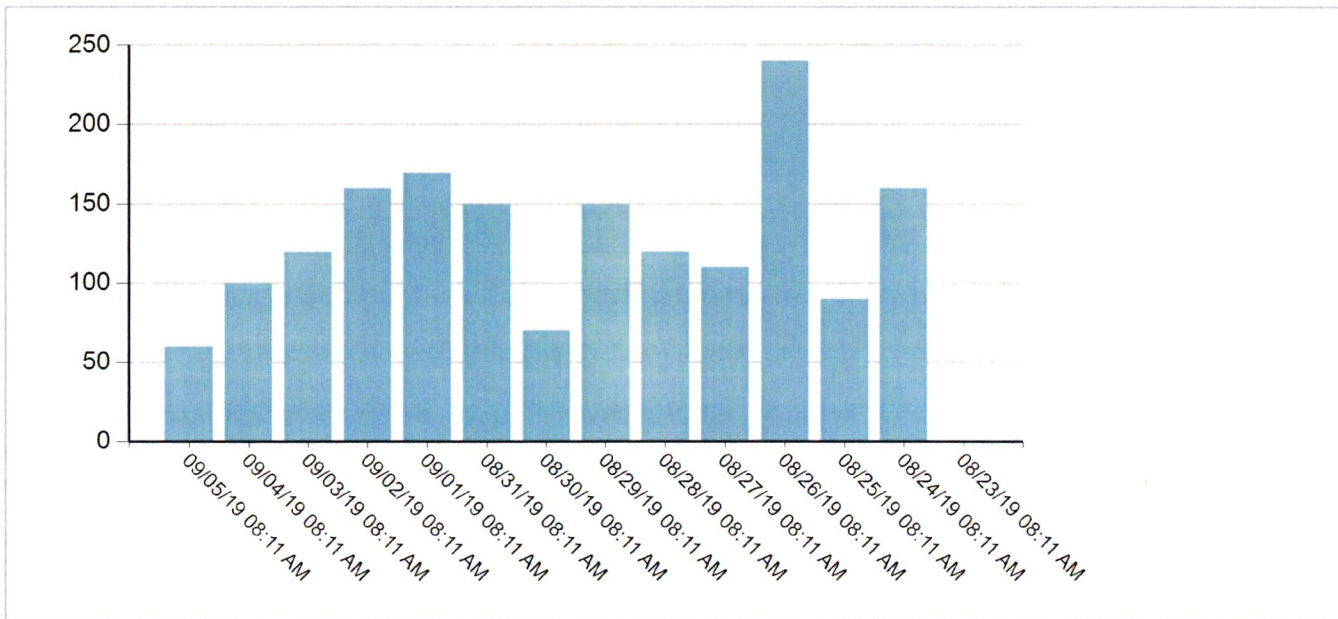
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128	09/18/19 08:11 AM	117390	70	1174	
129	09/17/19 08:11 AM	117320	180	1173	
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