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DOCKET NO. 51619
SOAH DOCKET NO. 473-22-2652

COMPLAINANT SECOND REQUEST FOR INFORMATION TO
CONSERVICE

8/26/22

DOCKET NO. 51619
SOAH DOCKET NO. 473-22-2652

COMPLAINT OF JEFF CONNORS	§	PUBLIC UTILITY COMMISSION
AGAINST THE GALLERY	§	
APARTMENTS, ROSCOE PROPERTY	§	OF TEXAS
MANAGEMENT, AND CONSERVICE	§	

COMPLAINANT SECOND REQUEST FOR INFORMATION TO CONSERVICE

Pursuant to 16 Texas Administration Code (TAC) § 22.144, Jeff Connors (Complainant) requests that Conservice by and through its attorneys of record, provide the following information and answer the following question(s) under oath. The question(s) shall be answered in sufficient detail to fully present all of the relevant facts, within the time limit provided by the Presiding Officer or within 20 days, if the Presiding Officer has not provided a time limit. Please copy the question immediately above the answer to each question. These question(s) are continuing in nature, and if there is a relevant change in circumstances, submit an amended answer, under oath, as a supplement to your original answer. State the name of the witness in this cause who will sponsor the answer to the question and can vouch for the truth of the answer.

Provide responses to the Requests for Information by filing with the Commission solely through the Interchange on the Commission's website and provide notice, by email, to all other parties that the pleading or document has been filed with the Commission, unless otherwise ordered by the presiding officer pursuant to the Order Suspending Rules in Docket No. 50664.

Respectfully Submitted,

/s/Jeff Connors

Jeff Connors

Complainant

PUC DOCKET NO. 51619
SOAH DOCKET NO. 473-22-2652

COMPLAINANT SECOND REQUEST FOR INFORMATION TO CONSERVICE

DEFINITIONS

1. "Conservice" or "you" refers to Conservice and any person acting or purporting to act on their behalf, including without limitation, attorneys, agents, advisors, investigators, representatives, employees or other persons.

2. "Document" includes any written, recorded, or graphic matter, however produced or reproduced, including but not limited to correspondence, telegrams, contracts, agreements, notes in any form, memoranda, diaries, voice recording tapes, microfilms, pictures, computer media, work papers, calendars, minutes of meetings or other writings or graphic matter, including copies containing marginal notes or variations of any of the foregoing, now or previously in your possession. In the event any documents requested by this Request for Information have been transferred beyond the Company's control, describe the circumstances under which the document was destroyed or transferred and provide an exact citation to the subject document. In the event that documents containing the exact information do not exist, but documents do exist which contain portions of the required information or which contain substantially similar information, then the definition of "documents" shall include the documents which do not exist and these documents will be provided.

3. "Relating to" or "related to" or "involved" or "involving" shall mean in whole or in part consisting, defining, evidencing, containing, describing, concerning, discussing, embodying, reflecting, stating, referring to, dealing with, or in any way pertaining to.

4 "Complainant" shall mean Jeff Connors.

5. "Respondent" shall mean Conservice.

6. "You" or "Your" shall mean the named Respondent(s) or the Respondents' agents,

servants, employees, representatives and all other persons acting on behalf of the Respondents.

7. "Premises" or "property" refers to the property located at 3506 Menchaca Road, Austin, Texas 78704, and includes the grounds, all buildings, fixtures, structures and substances.

8. "Over-payment" The difference between the amount you received and the amount you were entitled under the terms of the Lease Agreement.

9. "Designated Period" refers to October 2019 to May 2020.

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**COMPLAINANT'S SECOND REQUEST FOR INFORMATION
TO CONSERVICE**

INSTRUCTIONS

1) Pursuant to 16 TAC § 22.144(c)(2), Complainant requests that answers to the requests for information be made under oath.

2) Please copy the question immediately above the answer to each question. State the name of the witness in this cause who will sponsor the answer to the question and can vouch for the truth of the answer.

3) These questions are continuing in nature, and if there is a relevant change in circumstances, submit an amended answer, under oath, as a supplement to your original answer.

4) Words used in the plural shall also be taken to mean and include the singular. Words used in the singular shall also be taken to mean and include the plural.

5) The present tense shall be construed to include the past tense, and the past tense shall be construed to include the present tense.

6) If any document is withheld under any claim of privilege, please furnish a list identifying each document for which a privilege is claimed, together with the following information: date, sender, recipients or copies, subject matter of the document, and the basis upon which such privilege is claimed.

7) Pursuant to 16 TAC § 22.144(g)(4), if the response to any request is voluminous, please provide a detailed index of the voluminous material.

8) Complainant requests that each item of information be made available as it is completed, rather than upon completion of all information requested.

BACKGROUND

Other than customer service, Conservice played a part in at least three activities that pertained to billing Gallery II residents for water usage:

1. Calculated the bills as shown in the calculations they did for my water bills in *HIMBC Unit 2-239.docx* in Item 10 ZIP folder
2. Sent out the monthly rental bills to residents which in addition to the water and wastewater charges also included rent and other fees
3. Provided online accounts accessible to residents that had a record of their utility charges

The charges and period that my questions apply to are my monthly water and wastewater usage charges that I was billed for on my October 2019 to May 2020 rental bills. These were the monthly bills that I contend that I was overcharged for water and wastewater usage. Roscoe managed The Gallery and Conservice calculated The Gallery II residents' water bills for every one of those months.

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Explanation of Appendix

Before I get into my questions I want to clarify what I am asking for and define some of the terms I'm using since there was some confusion regarding that in my First Request for Information (RFI) to Conservice. I have attached an Appendix to the end of this document, which can also be found in Item 66 of the Docket, to assist in this.

If you would, please pull up Item 66 in a separate browser window now so that I can step through the Appendix and explain it.

In the Appendix are the following:

1. On page A1 is a page of the City of Austin's water bill to The Gallery II from 9/13/19 to 10/14/19 which can be found in Item 60 on page 8 of the pdf.
2. On pages A2 and A3 are Conservice's calculations of my water and wastewater usage for my December 2019 rental bill which can be found in the ZIP folder of item 10 in the *HIMBC Unit 2-239.docx* on pages 5 and 6.
3. On page A4 I have a copy of my December 2019 rental bill that I was sent by Conservice, a copy of which can be found in Item 1 on pages 17 and 18.
4. On page A5 I have a blown-up snip of my December 2019 rental bill of the area on the bill inside of the yellow dashed box on page A4.

I have also have inserted shapes and comments to point out and highlight various parts of these documents.

On page A1, the orange outlined purple arrow points to the address that this City of Austin water bill is for, which is the address of The Gallery II (3506 Manchaca Rd.). In the green oval is the City of Austin water billing cycle of these charges to the complex, which is 9/13/2019 to 10/14/2019. In the blue box are the charges to the complex for water usage, which amount to \$1104.48, and in the red box is the charges to the complex for wastewater usage, which amount to \$987.00.

On page A2, in the purple box is the monthly rental bill these water charges are for, which is 12/2019. In the blue box we have the total charges for water usage on the 9/13/2019 to 10/14/2019 City of Austin water bill to the complex, which, as we saw on page A1, is \$1104.48. In the dashed blue box below is my share of the monthly charges for water usage that Conservice calculated for my December 2019 rental bill, which is \$13.31. In between the \$1104.48 and the \$13.31 are Conservice's calculations.

Within the brown oval on page A2 is the total amount allocated to Gallery II residents for water usage on their December 2019 rental bill, which is \$828.36. The text to the left of it explains how that figure is arrived at. It is the total amount that The Gallery II was charged for water usage minus 25% that The Gallery's ownership paid for common area water usage for the laundry room, pool, and irrigation system. The resulting amount, 75% of the cost of the monthly total water usage to the complex, was The Gallery II tenants' responsibility. **I will refer to this amount, 75% of the cost of the monthly total to the complex for water usage, as the "The Gallery II residents' total monthly financial responsibility for water usage"**. That amount will vary from month to month depending upon the amount charged to The Gallery II for water

usage, but for the entire time that I was overcharged for water it was 75% of the cost of The Gallery II's total monthly bill for water usage.

I will call the sum total that Gallery II residents were billed for water usage every month as “The Gallery II residents’ total monthly amount billed for water usage”. When I refer to “billed” in the above sentence I’m referring to the monthly rental bills that Gallery II residents were sent by Conservice. I’ll point out that “The Gallery II residents total monthly amount billed for water usage” ought to equal “The Gallery II residents’ total monthly financial responsibility for water usage” if residents are being billed properly.

On page A3, in the red box we have the total charges to the complex for wastewater usage (sometimes referred to as sewer usage) on the December 2019 rental bill, which, as we saw on the 9/13/2019 to 10/14/2019 City of Austin water bill to the complex, is \$987.00. In the dashed red box below it is my share of the monthly charges for wastewater usage that Conservice calculated for my December 2019 rental bill, which is \$11.90.

Inside the aqua oval on page A3 is the total amount allocated to Gallery II residents for wastewater usage on their December 2019 rental bill, which is \$740.75. The text to the left of it explains how that figure is arrived at. It is the total amount that The Gallery II was charged for wastewater usage minus 25% that The Gallery’s ownership paid for wastewater usage for the laundry room, pool, and irrigation system. The resulting amount, 75% of the cost of the monthly total wastewater usage to the complex, was The Gallery II tenants’ responsibility. **I will refer to this amount, 75% of the cost of the monthly total to the complex for wastewater usage, as “The Gallery II residents’ total monthly financial responsibility for wastewater usage”.**

I will call the sum total that Gallery II residents were billed for wastewater usage every month as “The Gallery II residents’ total monthly amount billed for wastewater usage”. Like with the water usage charges, “billed for wastewater usage every month” is in reference to the wastewater usage charges that Gallery II residents were literally billed for on their monthly rental bills. “The Gallery II residents’ total monthly amount billed for wastewater usage” also ought to equal “The Gallery II residents’ total monthly financial responsibility for wastewater usage” if residents are being billed properly.

On page A4, we have the December monthly rental bill that I was sent by Conservice. **I will refer to the monthly rental bills that Conservice sent Gallery II residents as the “monthly rental bill”.** The bill on page A4 is an example of one. I want to be clear that when I refer to the “monthly rental bill” I am not referring to the bills that Conservice created that Conservice references in their response to my Question A. 9.¹ from my first RFI to Conservice because the bills that Conservice claims they created may have been changed between the time they were created and when Gallery II residents were sent them, for instance the water billing periods on the bills may have been changed.

In the purple box on page A4 is the day that the December rental bill is due: 12/1/19. In the dashed red box are my charges for wastewater (sewer) for December 2019, which were \$11.90 as calculated by Conservice on page A3. In the green oval within the dashed red box is the water billing period I was charged for and it ought to match the water billing period for the monthly City of Austin water bill that Conservice did their calculations based upon, which was 9/13/2019 to 10/14/2019. In the dashed blue box are my charges for water for the month, which were \$13.31 as calculated by Conservice on page A2. In the green oval within the dashed red box is the water billing period I was charged for, which, as for the wastewater, should be the City of Austin water billing period (9/13/2019 to 10/14/2019) that Conservice based their calculations on.

While on the subject of billing, I’ll mention now that ClickPay was the company that Gallery II residents made their online payments to to pay their monthly rental bills.

In the yellow dashed box on page A4 is an outline of a snip of the bill that I enlarged on page A5. The text outlined mentions that utility information for my account could be accessed online once I registered my account. **When I refer to “online accounts” I am referring to these accounts that Conservice offered Gallery II residents access to for residents to see their utility information.**

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¹ *Response to Jeff Connors First Request for Information* found in Item 64 of the Docket on lines 22 to 24 on pdf page 5 (labeled page 4 on the bottom of page)

On Question A.4.² on my first RFI to Conservice I asked:

“From whom or what company did Conservice receive the monthly occupancy information (total number of occupants and total occupied space at the complex) used to calculate Gallery II residents' monthly bills?”

Conservice's response to the question was:

“Conservice received tenant data directly from the client's software on a daily basis to ensure accurate tenant information.”

When I refer to “tenant data” I am referring to the “tenant data” that Conservice references in this answer.

QUESTIONS

A. The water bill calculations for Gallery II residents

Background: As shown in *HIMBC Unit 2-239.docx* Conservice calculated my October 2019 to May 2020 monthly water and wastewater usage charges which are itemized as *Water 4* and *Sewage 4* in the monthly rental bills Conservice emailed me. On other Gallery II residents' monthly rental bills the number at the end of the charges may have been different, such as *Water 2*, *Water 3*, *Sewage 2*, or *Sewage 3*.

Questions (Please answer Questions A1 through A12 either ‘Yes’ or ‘No’):

A1. Did Conservice check if “The Gallery II residents’ total monthly amount billed for water usage” was equal to “The Gallery II residents’ total monthly financial responsibility for water usage” on every monthly billing?

² Response to Jeff Connors First Request for Information found in Item 64 of the Docket on lines 17 to 25 on pdf page 3 (labeled page 2 on the bottom of page)

A2. Was it Conservice's responsibility according to any contracts that Conservice had with Roscoe to check if Gallery II residents were being billed the proper amount for water usage?

A3. Was it part of Conservice's "quality process in place to ensure accuracy"³ to check if Gallery II residents were being billed the proper amount for water usage?

A4. Did Conservice check if "The Gallery II residents' total monthly amount billed for wastewater usage" was equal to "The Gallery II residents' total monthly financial responsibility for wastewater usage" on every monthly billing?

A5. Was it Conservice's responsibility according to any contracts that Conservice had with Roscoe to check if Gallery II residents were being billed the proper amount for wastewater usage?

A6. Was it part of Conservice's "quality process in place to ensure accuracy" to check if Gallery II residents were being billed the proper amount for wastewater usage?

A7. Did Conservice check if the water billing periods of Gallery II residents' water usage charges on Gallery II residents' "monthly rental bills" matched the water billing periods of the City of Austin bill that Conservice had based those water usage charges on?

A8. Was it Conservice's responsibility according to any contracts that Conservice had with Roscoe to check if the water billing periods on Gallery II residents' "monthly rental bills" were correct?

A9. Was it part of Conservice's "quality process in place to ensure accuracy" to check if the water billing periods on Gallery II residents' "monthly rental bills" were correct?

A10. Did Conservice check if the wastewater billing periods of Gallery II residents' wastewater usage charges on Gallery II residents' "monthly rental bills" matched the water billing periods of the City of Austin bill that Conservice had based those wastewater usage charges on?

A11. Was it Conservice's responsibility according to any contracts that Conservice had with Roscoe to check if the wastewater billing periods on Gallery II residents' "monthly rental bills" were correct?

A12. Was it part of Conservice's "quality process in place to ensure accuracy" to check if the wastewater billing periods on Gallery II residents' "monthly rental bills" were correct?

³ *Response to Jeff Connors First Request for Information* found in Item 64 of the Docket on lines 14 to 16 on pdf page 7 (labeled page 6 on the bottom of page)

B. Sending “monthly rental bills” to Gallery II residents

Background: Conservice sent “monthly rental bills” to residents which included residents’ monthly water charges.

Questions:

B1. What company did Conservice get the “monthly rental bills” from that Conservice sent Gallery II residents?

B2. What company or companies did Conservice have any contract with which involved Conservice sending Gallery II residents their “monthly rental bills”?

B3. Were any contracts which involved Conservice sending Gallery II residents their “monthly rental bills” the same contract as the one Conservice had with Roscoe to calculate Gallery II residents’ water bills?

Please answer Questions B4 through B6 either ‘Yes’ or ‘No’:

B4. Did Conservice have any contracts with ClickPay which involved the Gallery?

B5. Did Conservice have any contracts with ClickPay which involved billing Gallery residents?

B6. Did Conservice get the “monthly rental bills” from ClickPay that Conservice sent Gallery II residents?

C. Conservice’s “online accounts” for Gallery II residents

Background: Conservice provided online accounts accessible to Gallery II residents that had a record of their utility charges.

Questions:

C1. What company did Conservice get the Gallery II residents’ utility information from for Gallery II residents’ “online accounts”?

C2. What company or companies did Conservice have any contract with which involved providing “online accounts” for Gallery II residents?

Please answer Questions C3 and C4 either ‘Yes’ or ‘No’:

C3. Were any contracts which involved Conservice providing “online accounts” for Gallery II residents the same as any Conservice had with Roscoe to calculate Gallery II residents’ water bills?

C4. Were any contracts which involved Conservice providing “online accounts” for Gallery II residents the same as any Conservice had which involved Conservice sending Gallery II residents their “monthly rental bills”?

D. Documentation requested:

D1. Copies of any contracts that Conservice had with Roscoe to do the monthly water bill calculations for Gallery II residents.

D2. Copies of any contracts that Conservice had with any company or companies that involved sending out the “monthly rental bills” to Gallery II residents.

D3. Copies of any contracts that Conservice had with any company or companies that involved providing “online accounts” to Gallery II residents.

D4. Copies of any contracts that Conservice had with ClickPay that were related to billing Gallery II residents.

D5. The monthly sum totals that Gallery II residents were billed for their water and wastewater usage in the months of October 2019 to May 2020.

D6. Any evidence supporting those amounts mentioned in D5. such as a spreadsheet of those monthly charges like found in *gl070 – 3506 Highlighted final summary – 9.4.19.xls* in the Item 10 zip folder, copies of the “monthly rental bills” Conservice sent to Gallery II residents, or copies of the monthly charges from Gallery II residents’ online accounts.

D7. Copies of the “tenant data” that Conservice used to “ensure accurate tenant information”⁴. Conservice claims that they received this data daily. To make this request less burdensome I’m

⁴ *Response to Jeff Connors First Request for Information* found in Item 64 of the Docket on lines 23 to 25 on pdf page 3 (labeled page 2 on the bottom of page)

only asking for a printout of the Gallery II “tenant data” for one day from each of the months of the designated period.

*

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 on August 26, 2022 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Jeff Connors

Jeff Connors

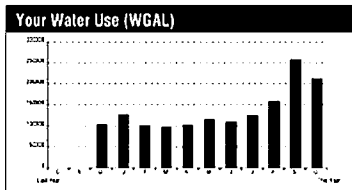
Complainant

**Appendix to Complainant's Second Request for Information to
Conservice**

DECEMBER 2019 BILLING

Found in Item 60 on page 8 of the pdf

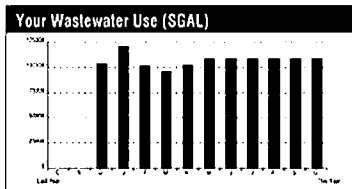
Service Details



Current Month

Days of service	31
Gallons used	212400
Avg. gallons per day	6851.6
Avg. cost per day	\$47.63

11 month avg. consumption: 137490.91



Current Month

Days of service	31
Gallons used	108700
Avg. gallons per day	3506.5
Avg. cost per day	\$32.17



WATER SERVICE

3506 MANCHACA RD, ZIP: 78704

Meter # 188462

Read Date	09/13/2019	10/14/2019	Consumption
Read	103809	105933	2124
		Reading Difference in Hundreds	2124
		Total Consumption in Gallons	212400

City of Austin Water - Multi-Family

Customer Charge	\$75.10
Fixed Charge	\$292.00
212,400 Gallons at \$5.00 per 1,000 - On Peak	\$1,062.00
212,400 Gallons at \$0.15 per 1,000 - Water Community Benefit Charge	\$31.86
212,400 Gallons at \$0.05 per 1,000 - Reserve Fund Surcharge	\$10.62
Private Hydrant Fee 2 @ \$2.44 ea	\$4.88

TOTAL CURRENT CHARGES \$1,476.46

\$1104.48



WASTEWATER SERVICE

3506 MANCHACA RD, ZIP: 78704

City of Austin Wastewater - Multi-Family

Customer Charge	\$10.30
108,700 Gallons at \$8.93 per 1,000	\$970.69
108,700 Gallons at \$0.15 per 1,000 - WW Community Benefit Charge	\$16.31

TOTAL CURRENT CHARGES \$997.30

\$987.00



Post Month 12/2019

Water Charges

Your water charges are calculated based on local utility provider bills. Conservice will take the monthly charges and subtract the designated common area deduction amount. A common area deduction occurs when a property decides to pay for commonly used areas (i.e., leasing office, fitness center, pool, etc.). After the common area expense has been removed, Conservice will use the number of occupants in the unit and the unit's square footage, compared with the total square footage (of all occupied units) at the community, to calculate your monthly water bill.

A 25% common area deduction is subtracted from the total water charge for your building to calculate the amount that will be allocated to residents.	$\$1104.48 - \$276.12 = \$828.36$
The adjusted expense is divided in half.	$\$828.36 / 2 = \414.18
Half of the expense is divided by the total number of occupants in your building to calculate the per occupant amount.	$\$414.18 / 70 \text{ occupants} = \$5.92 \text{ per occupant}$
If your apartment has 2 occupants, the per occupant charge will be multiplied by 2 to calculate your total monthly occupant charge.	$\$5.92 \times 1 \text{ occupants} = \5.92
The other half of the provider expense will be divided by the square feet of your building to calculate the per square foot charge.	$\$414.18 / 38877 \text{ square feet} = \$0.010654 \text{ per square foot}$
The per square foot charge will be multiplied by the square footage of your unit to calculate your total monthly square footage charge.	$\$0.010654 \times 694 \text{ square feet} = \7.39
Your monthly occupant charge will then be added to your monthly square footage charge to calculate your total monthly water charge.	$\$5.92 + \$7.39 = \$13.31$

Total amount allocated to Gallery II residents for water usage on Dec. 2019 rental bill



Sewer Charges

Your sewer charges are calculated based on local utility provider bills. Conservice will take the monthly charges and subtract the designated common area deduction amount. A common area deduction occurs when a property decides to pay for commonly used areas (i.e., leasing office, fitness center, pool, etc.). After the common area expense has been removed, Conservice will use the number of occupants in the unit and the unit's square footage, compared with the total square footage (of all occupied units) at the community, to calculate your monthly sewer bill.

A 25% common area deduction is subtracted from the monthly expense to calculate the amount that will be allocated to residents.	$\$987.00 - \$246.75 = \$740.75$
The adjusted expense is divided in half.	$\$740.75 / 2 = \370.13
Half of the expense is divided by the total number of occupants at your community to calculate the per occupant amount.	$\$370.13 / 70 \text{ occupants} = \$5.29 \text{ per occupant}$
If your apartment has 2 occupants, the per occupant charge will be multiplied by 2 to calculate your total monthly occupant charge.	$\$5.29 \times 1 \text{ occupants} = \5.29
The other half of the provider expense will be divided by the square feet in your community to calculate the per square foot charge.	$\$370.13 / 38877 \text{ square feet} = \$0.010654 \text{ per square foot}$
The per square foot charge will be multiplied by the square footage of your unit to calculate your total monthly square footage charge.	$\$0.010654 \times 694 \text{ square feet} = \6.61
Your monthly occupant charge will then be added to your monthly square footage charge to calculate your total monthly sewer charge.	$\$5.29 + \$6.61 = \$11.90$

Total amount allocated to Gallery II residents for wastewater usage on Dec. 2019 rental bill

Copy of Info found in Item 1 on pdf pages 17 and 18



Your utility statement due on **12/01/2019** is ready. A summary of your charges is below, for the account number ending in **2691**. To view the bill or see payment options, please click below.

We see that you have not logged in to our site. Before you can access your utility information, please click 'View Statement' and register your account using the pin: **7634**. To view the bill or see payment options, please click below.

Current Rent and Lease Charges

SERVICE TYPE	SERVICE PERIOD	CHARGES
Rent	12/01/2019 - 12/31/2019	\$1,050.00
Rent and Leasing Charges Due 12/01/2019		\$1,050.00

Current Utility Charges

SERVICE TYPE	SERVICE PERIOD	CHARGES
Water Base Charge 2	10/03/2019 - 10/29/2019	\$3.56
Drainage 5	10/03/2019 - 10/29/2019	\$12.53
Pest Control	12/01/2019 - 12/31/2019	\$5.00
Sewer Base 2	10/03/2019 - 10/29/2019	\$0.10
Sewer 4	10/03/2019 - 10/29/2019	\$11.90
Trash	12/01/2019 - 12/31/2019	\$9.00
Trash Admin Fee	Conservice is a service provider contracted to prepare monthly statements and provide residents with conservation resources.	\$3.00
Valet Trash	12/01/2019 - 12/31/2019	\$25.00
Water 4	10/03/2019 - 10/29/2019	\$13.31
Current Utility Charges due	the later of 16 days after the statement date listed above or 12/01/2019	\$83.40
Total Current Charges		\$1,133.40
Prior Balance		\$0.00
Grand Total Due		\$1,133.40

[VIEW STATEMENT](#)

We see that you have not logged in to our site. Before you can access your utility information, please click 'View Statement' and register your account using the pin: 7634. To view the bill or see payment options, please click below.

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 on August 26, 2022 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Jeff Connors
Jeff Connors
Complainant