



BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

FILED

11-25-09
10:12 AM

Lucas D. Hernandez, Mayela Barroso, Maria
Martinez, Trinidad Martinez, Janette Sandoval,
Erika Toledo, Marvi Bonilla, Maria Garcia,
Guadalupe Ramirez, Martha Amezcuita, Socorro
Hernandez, Daniel Gonzalez, Hugo Hernandez,
Patricia Hernandez, Maria Razo, Aurora Cabral,
Gabriel Cabrera, Severo Rosa, Mauricio Frias,
Celia Ruiz, Rosa Maria Montellano, Martha
Alvarado, Maria Palma, Ruben Zepeda, Adriana
Ceja, Jose Meza, Samuel Espinoza, Eva
Montellanos, Federico Garcia, Luis Morales,

Complainants,

vs.

Sunbird Mobile Home Park, Hawkeye Asset
Management, James Martin and Betty Martin,

Defendants

C0911019

CASE (C.) _____
(Filed November 25, 2009)

Complaint for Unjust Water Rates and for Restitution
(Rule 4.2)

California Rural Legal Assistance, Inc.
Attn: Megan Beaman Carlson, Esq.
1460 – 6th Street
Coachella CA 92236
Telephone (760) 398-7261 Ext 303
Email: mbeaman@crla.org

Attorneys for Complainants

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

(B) Lucas D. Hernandez et al.

CASE _____
(for Commission use only)

(A) Have you tried to resolve this matter informally with the Commission's Consumer Affairs staff? YES

vs.

Has staff responded to your complaint? YES

(C) Sunbird Mobile Home Park,
Hawkeye Asset Management
James Martin, and Betty Martin

Did you appeal to the Consumer Affairs Manager? NO

Do you have money on deposit with the Commission? NO

Is your service now disconnected? NO

COMPLAINT

Pursuant to Commission's regular formal complaint procedure.

(D) The complaint of Lucas D. Hernandez, P.O. Box 563, Coachella, CA 92236, 760-398-7261 (Telephone number of complainant's attorney, Megan Beaman Carlson) respectfully shows that:

(E) 1. Defendants Sunbird Mobilehome Park, 84950 Echol Road, Thermal, CA 92274; Hawkeye Asset Management, 1121 Glenneyre Street, Laguna Beach, CA 92651; James Martin, 1121 Glenneyre Street, Laguna Beach, CA 92651; and Betty Martin, 1121 Glenneyre Street, Laguna Beach, CA 92651;

(F) 2. Defendants are charging unjustly and unconscionably high water rates to Complainant, Lucas D. Hernandez, as well as all other Sunbird Mobile Home Park residents. Mr. Hernandez is a 90-year old retired farmworker who lived in Sunbird without incident for over a decade. After filing his informal CPUC complaint on December 22, 2008, he had no choice but to find a more affordable place to live.

In May 2006, Sunbird management provided a notice to all residents that residents using in excess of 250 gallons of water per day were out of compliance with state law. No law was cited. In the same notice, Sunbird explained an amended water billing rate schedule, which is attached to this complaint. In June 2006, the first month that the new billing schedule went into effect, Mr. Hernandez received a \$395.26 water bill, which was \$302.40 higher than his bill for the previous June (2005), and \$317.63 higher than a previous month in which he had used the exact same amount of water (May 2005). Mr. Hernandez's water bills dating to May 2005 are attached, as well as a timeline of those bills.

Since the new billing system was implemented, Mr. Hernandez has received monthly water bills ranging from \$14.16 (October 2006) to as high as \$595.26 (November 2008). The wide range of readings reported from his meter do not apparently reflect any changes in water usage, as there is no seasonal pattern and Mr. Hernandez does not alter his water usage by month. Indeed, Mr. Hernandez and his wife do not consume the Sunbird water because it contains impermissibly high levels of arsenic (as documented in notices from Defendants and inspection reports of the Riverside County Environmental Health Department). They do not use their washing

machine because the water is too expensive; and they do not use hoses, swamp coolers, or any other sort of water-using machines. County inspections of the Hernandezes' water meter confirms that it is providing accurate readings. There is no explanation for the variance.

The water rates charged to Mr. Hernandez and his fellow residents are unconscionably high and lack any apparent reasonable basis.

(G) 3. Scoping memo information

(a) the proposed category if the complaint is:

Ajudicatory

Ratesetting (if the complaint challenges the reasonableness of a rate)

(b) Are hearings needed? YES Complainant is disabled and 90 years of age, and therefore unable to travel. He requests the hearing to be held in or near Coachella, California.

(c) The issues to be considered are:

1. Whether the tiered water billing system constructed by Defendants in June 2006 results in unjustly high and unaffordable water rates in violation of Cal. Pub. Util. Code § 739.8(a), or any other applicable code;

2. Whether the Comission shall determine and fix, by order, the just, reasonable, or sufficient rates for water usage in Sunbird Mobile Home Park pursuant to Cal. Pub. Util. Code § 728 or any other applicable code;

3. Whether Complainant is entitled to reparation of the amounts he paid from June 2006 through January 2009 for unjustly high water rates pursuant to Cal. Pub. Util. Code § 734. 3 or any other applicable code; and

4. Whether Complainant is entitled to damages for Defendants failure to provide healthful water free of arsenic in violation of Cal. Pub. Util. Code § 739.8 or any other applicable code.

(d) The proposed schedule for resolving the complaint within 12 months (if adjudicatory) or 18 months (if ratesetting) is as follows:

Prehearing Conference: 30 to 40 days from the date of filing of the Complaint.

Hearing: 50 to 70 days from the date of filing of the Complaint.

Explain here if you propose a schedule different from the above guidelines.

(H) Wherefore, complainant requests an order: State clearly the exact relief desired. (Attach additional pages if necessary)

1. Determining that Defendants' tiered water billing system is unjust and results in unaffordable water rates in violation of the law;

2. Determining and fixing, by order, the just, reasonable, or sufficient rates for water usage in Sunbird Mobile Home Park;

3. Awarding Complainant restitution from defendants in the amount of \$2,909.35, to reflect the difference between amounts charged and paid under the tiered billing system and amounts charged and paid in corresponding months in the year before the tiered billing system was implemented.

4. Ordering Defendants to provide healthful water free of arsenic within six (6) months.

(I) OPTIONAL: I/we would like to receive the answer and other filings of the defendant(s) and information and notices from the Commission by electronic mail (e-mail). My email address is: mbeaman@crla.org.

(J) Dated Coachella, California, this 6 day of ~~May~~, 2009
June

Lucretia Hernandez

Signature of Complainant

Signature, address, telephone number, facsimile transmission number, and email address of representative of Complainant:

Megan Beaman Carlson, Attorney at Law

California Rural Legal Assistance, Inc.

1460 6th Street

Coachella, CA 92236

Tel: 760-398-7261 x 303

FAX: 760-398-1050

Email: mbeaman@crla.org

VERIFICATION

(for Individual or Partnerships)

I am the complainant in the above-entitled matter; the statements in the foregoing document are true of my knowledge, except as to matters which are therein stated on information and belief, and as to those matters, I believe them to be true.

I declare under penalty of perjury that the foregoing is true and correct.

(K) Executed on 6/9/09, at Coachella, California.

Lucretia Hernandez

Complainant

(M) FILE the original complaint plus six copies, plus 1 copy for each named defendant, with the Commission.

(N) MAIL TO:

California Public Utilities Commission

Attn: Docket Office

505 Van Ness Avenue, Rm. 2001

San Francisco, CA, 94102

EXHIBIT 1

Hernandez Water Charges Timeline

	<u>Month</u>	<u>Meter Reading</u>	<u>Charge</u>
<u>2005</u>	May	23	77.63
	June	27	92.86
	July	28	106.05
	August	29	106.73
	September	32	112.94
	October	29	102.56
	November	27	88.69
	December	24	69.97
<u>2006</u>	January	15	34.66
	February	17	48.53
	March	18	49.21
	April	18	49.21
	May	22	68.61
	June	23	395.26
	July	22	355.26
	August	25	475.26
	September	23	355.26
	October	10	14.16
	November	12	35.26
	December	15	95.26
<u>2007</u>	January	13	55.26
	February	14	75.26
	March	12	35.26
	April	13	55.26
	May	14	75.26
	June	19	235.26
	July	21	315.26
	August	20	275.26
	September	20	275.26
	October	15	95.26
	November	12	35.26
	December	15	95.26
<u>2008</u>	January	12	35.26
	February	12	35.26
	March	11	15.26
	April	10	14.16
	May	9	13.48
	June	12	35.26
	July	14	75.26
	August	12	35.26
	September	15	95.26
	October	27	555.26
	November	?	595.26

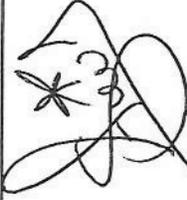
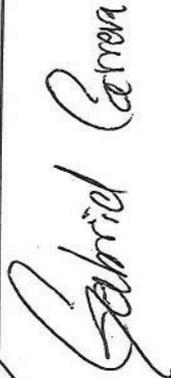
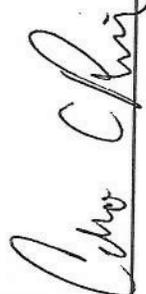
LIST OF ADDITIONAL ACTUAL OR PROSPECTIVE CONSUMERS
Pursuant to Rule of Practice 4.1(b)

Lucas Hernandez v. Sunbird Mobilehome Park, et al.

NAME (printed)	Address and Telephone	Signature
Mayela Barroso	84-950 Echol Rd. # 35 Thermal, CA 92274	Mayela Barroso
Maria Martinez	84-950 Echol Rd. sp. 219 Thermal, CA 92274	MARIA MARTINEZ
Trinidad Martinez	84-950 Echol Rd. SPC. 219 Thermal, CA 92274	Trinidad Martinez
JEANETTE SANDOVAL	84-950 Echol Rd. SPC. 227 Thermal, CA 92274.	Jeanette Sandoval

NAME (printed)	Address and Telephone	Signature
Erika Toledo	84-950 Echo/ Rd. Spc. 230 Thermal, CA 92274 (760) 977-5610	Erika Toledo
Marvi Bonilla	84-950 Echo/ Rd. Spc. 230 Thermal CA 92274	MARVI BONILLA
Maria Garcia	84-950 Echo/ Rd. Spc. 34 Thermal, CA 92274	Maria Garcia
* Guadalupe Ramirez	84-950 Echo/ Rd. Spc. 233 Thermal, CA 92274 (760) 397-3824	Guadalupe R.
Martha Amezcuita	84-950 Echo/ Rd. Spc. 40 Thermal, CA 92274 (760) 397-0372	MARTHA AMEZCUITA

NAME (printed)	Address and Telephone	Signature
SOCORRO HERNANDEZ	84950 Echo1 Rd. Spc. 226 Thermal, CA 92274	SOCORRO HERNANDEZ
Daniel Gonzalez	84950 Echo1 Rd. Spc. 226 Thermal, CA 92274	D G / M
Hugo Hernandez	84950 Echo1 Rd. Spc. 226 Thermal, CA 92274	HUGO H. H.
Patricia Hernandez	84950 Echo1 Rd. Spc. 226 Thermal, CA 92274	PATRICIA HERNANDEZ
MARIA RAZO	84950 Echo1 Rd. Spc. 226 Thermal, CA 92274 908 328 20 (760) 908-3220	MARIA RAZO

NAME (printed)	Address and Telephone	Signature
Aurora Cabral	84-950 Echo Rd #202 Thermal, CA 92274	
Gabriel Cabrera	84-950 Echo Rd #45 Thermal, CA 92274	
Seuro Rosa	84-950 Echo Rd #46 Thermal, CA 92274	SEURO ROSA
Mauricio Frias	84-950 Echo Rd #37 Thermal, CA 92274	
Celia Ruiz	84-950 Echo Rd #49 Thermal, CA 92274	

NAME (printed)	Address and Telephone	Signature
Rosa Maria Montellano	84-950 Echo RD #207 Thermal, CA 92274	Rosa Maria Montellano
Martha Alvarado	84-950 Echo RD #234 Thermal, CA 92274	Martha Alvarado
Maria Palma	84-950 Echo RD #208 Thermal, CA 92274	Maria Palma
Ruben Zepeda	84-950 Echo RD #205 Thermal, CA 92274	Ruben A. Zepeda
Adriana Ceja	84-950 Echo RD #236 Thermal, CA 92274	Adriana Ceja

NAME (printed)	Address and Telephone	Signature
Jose Meza	84-950 Echo1 Rd #210 Thermal, CA 92274	Jose A Meza
Samuel Espinoza	84-950 Echo1 # 48 Thermal, CA 92274	Samuel Espinoza Gomez
Eva Montellanos	84-950 Echo1 RD #213 Thermal, CA 92274	Eva Montellano
Federico Garcia	84-950 Echo1 RD #208 Thermal, CA 92274	Federico Garcia
Luis Morales	84-950 Echo1 RD #207 Thermal, CA 92274	LUIS MORALES