

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Douglas Gregor,

Complainant,

vs.

San Jose Water Company (U168W),

Defendant.

(ECP)

Case 24-10-011

DECISION DENYING RELIEF IN PART

Summary

This decision denies Complainant's (Douglas Gregor's) requested relief that San Jose Water Company (U 168 W) (Defendant) refund the \$4306.20 that he alleges was overcharged, on the grounds that the Complainant has failed to prove that the Defendant has violated any applicable rule, law, mandated tariff, or terms of service of, or administered by, the California Public Utilities Commission (Commission). The Commission will, however, review and revise the Complainant's repayment plan.

The Complainant's request for relief is denied in part.

Case 24-10-011 is closed.

1. Procedural and Factual Background

On October 2, 2024, Douglas Gregor (Complainant or Mr. Gregor) filed the instant complaint disputing the balance owed on his November 2023 water bill. Defendant (San Jose Water Company (U168W)) answered the complaint on November 25, 2024. This matter was submitted as of December 12, 2024, the date of the hearing on the expedited Complaint.

Complainant resides in Los Gatos and is a customer of San Jose Water Company (San Jose Water), an investor-owned water utility under the jurisdiction of the California Public Utilities Commission (Commission). Mr. Gregor received a water bill in November 2023, indicating high water consumption during the September to October billing period. In communication with San Jose Water, Mr. Gregor alleged that many neighbors also received large water bills during the same period and requested that San Jose Water investigate whether a systemic failure in the water system caused Complainant's high bill. Additionally, Mr. Gregor reported that he experienced an irrigation leak.

In December of 2023, Mr. Gregor submitted proof to San Jose Water that his leak had been repaired, and he received a courtesy adjustment to his bill pursuant to the utility's leak adjustment policy. From December 2023 onward, Mr. Gregor paid his water bills but left a balance owed from his November 2023 bill. Mr. Gregor filed a complaint with the Commission disputing the balance owed for his November 2023 bill. San Jose Water instituted service shut off proceedings to recoup the outstanding balance. Complainant currently repays \$360.40 a month in a repayment plan on the \$4,306.20 outstanding bill in contest.

2. Complainant's Contentions

Mr. Gregor asserts that his November 2023 bill is five (5) times larger than his other water bills and that many of his neighbors received large water bills during the same timeframe. Mr. Gregor attached a chart to his complaint allegedly providing details about his neighbors' water usage and bills. Although Mr. Gregor identified and fixed an irrigation leak in his front yard during the billing period at issue, he alleges that the utility overcharged for his water usage, despite the acknowledged leak. Mr. Gregor asserts that a systemic failure in San Jose Water's system must have caused the high bills in his neighborhood during that billing period, apart and separate from the acknowledged leak on his property.

Mr. Gregor admits that from September 2023 to October 2023, the irrigation system in his front yard leaked. Complainant requests that San Jose Water refund the \$4306.20 that he alleges was overcharged during that period because it's the difference between the average of the bills charged before and after the September-October billing period.

3. Defendant's Response

San Jose Water acknowledges that the Complainant's water bill in November of 2023 was high. Per San Jose Water's tariff schedule, San Jose Water can only bill a customer for water that goes through the customer meter. Under current regulations and technological capacity, however, the utility is not obligated to determine how water is used by a customer once it enters the home. Before issuing the bill, San Jose Water inspected the meter to confirm its accuracy. San Jose Water confirmed that there was no registration on the meter,

meaning that the meter was not recording water usage when no water was being used, and checked with the meter manufacturer, Neptune, to ensure that the water meter met manufacturing standards.

Additionally, San Jose Water investigated Mr. Gregor's neighborhood system for potential high water usage causes, and found no evidence of system failure. After receiving proof that Mr. Gregor had fixed an irrigation leak, San Jose Water provided a courtesy credit of \$500.00. Complainant is responsible for paying for water consumed even if such water usage is the result of a leak.

Subsequently, San Jose Water shut off service to Complainant's household because, at the time, Mr. Gregor had failed to pay his outstanding November 2023 balance due or enter into a payment plan. As noted, *supra*, Complainant currently repays \$360.40 a month in a repayment plan on the \$4,306.20 outstanding bill.

4. Discussion

To succeed in an expedited complaint, Complainant bears the burden of proving, by a preponderance of evidence, that defendant violated an applicable law, rule, tariff or statute administered by the Commission. Here, Complainant alleges two claims: first, that there must have been a systemic failure in the San Jose Water system which resulted in high water usage bills for Mr. Gregor and his neighbors. Second, Complainant alleges that he was overcharged on his November 2023 water bill because it was five (5) times higher than the previous and subsequent bill. Complainant requests that San Jose Water refund the \$4306.20 that he alleges he was overcharged. Each allegation will be dealt with in turn:

4.1. Dismissing Claim of System Failure

Mr. Gregor is not eligible to represent his unidentified neighbors. Under the Commission's Rule of Practice and Procedure (Rules), Rule 4.1(b), the Commission may not entertain complaints about the reasonableness of water utility charges unless the group representative is the mayor, president, chairman of the board of trustees or a majority of the council, commission, or other legislative body of the city where the alleged violation occurred, or the group includes at least 25 actual utility customers. Complainant is not one of the individuals indicated by the rule, nor does he represent at least 25 customers.

We find that the documentary evidence presented regarding the neighbors' bills is hearsay. Hearsay is defined as statements made by someone other than a witness, offered at a hearing, as the truth of the matter. Complainant presented a graph indicating his neighbors' water billing data, but the data was not presented accompanying verifiable billing statements, nor were the neighbors presented as witnesses to attest to the data. The chart, however, was presented as the unverified truth. It is therefore unsubstantiated hearsay evidence and is given no weight.

Although we are dismissing this allegation, we appreciate that San Jose Water investigated the allegation of system failures resulting in high neighborhood bills. San Jose Water investigated the Mountain Springs pressure zone, the area that serves Mr. Gregor and his neighbors, for systemic failures. San Jose Water stated that the service area is gravity fed, and the investigation did consider issues such as whether air was entering the system, and whether the sewer construction on Shannon Road, at the time, impacted San Jose Water's

service. San Jose Water concluded that no system issues impacted water service in the area during that time.

This allegation is dismissed.

4.2. November 2023 Water Bill

To prevail here, Complainant must show that he either did not use the water at issue or that Defendant's violation of an applicable law, rule, tariff or statute administered by the Commission resulted in the excessive bill.

Complainant provided three household water bills issued by San Jose Water detailing the amount of water used and the total bill owed. Per the bill dated September 5, 2023, Complainant was charged \$1357.37 for 102 centum cubic feet (CCF) of water.¹ The bill dated November 3, 2023, the bill in dispute, charged Complainant \$6124.98 for 554 CCF of water. The bill dated January 9, 2024, charged Complainant \$780.19 for 93 CCF of water and showed that Complainant paid \$1000.00 on the previous bill and received a \$500.00 courtesy adjustment. Mr. Gregor's complaint shows that his water usage during the period of September-October 2023 was 554 CCF, or five times more than his average usage.²

Complainant called San Jose Water to dispute his November 2023 water bill on November 20, 2023. Mr. Gregor described noticing a pool of water in his front yard during a morning walk in early September. He stated that he had not seen the pool of water before and surmised that the water came from his above-

¹ 1 CCF = 748 gallons.

² The bill the period before indicated a usage of 102 CCF of water and the period just after notes a usage of 93 CCF of water.

ground irrigation system. Mr. Gregor stated that he shut off the water to the irrigation line and hired a contractor to have the line replaced. The billing period with the leak directly corresponded with the period of high-water usage.

4.3. Modification to Complainant's Payment Plan

Mr. Gregor's account is in good standing beyond the outstanding balance owed from his November 2023 water bill which is currently in dispute. In July of 2024, however, San Jose Water notified Complainant that it was commencing water shut-off protocols to recoup the overdue balance. San Jose Water shut off service on October 2, 2024. To restart water service, Mr. Gregor paid 15 percent of the outstanding balance and a reconnection fee. Mr. Gregor failed to enter into a repayment plan at that point, so San Jose Water shut off Mr. Gregor's water service a second time a week later. To restart service a second time, Mr. Gregor paid another 15 percent on the outstanding balance and an additional \$50.00 fee to enter a third party-managed repayment plan. It is unclear if Mr. Gregor paid a second water service reconnection fee.

We find, considering that Complainant paid down his outstanding balance to restart his water service, that the second water shut-off within a two-week period of the first was imposed too quickly. San Jose Water should have given Mr. Gregor additional time to enter the third party-managed repayment plan, especially since there was an additional start-up fee associated with joining a plan. As a result, the Commission will review and revise Complainant's repayment plan.

San Jose Water is directed to allocate two service reconnection fees and the repayment plan entry fee towards Complainant's outstanding water bill balance.

San Jose Water shall use the cost of a nighttime reconnection fee, or \$35.00, when calculating the fee to allocate to Complainant's outstanding water bill balance, for a total of \$70.00. With the addition of the repayment plan fee, of \$50.00, San Jose Water shall reduce the outstanding balance owed on Complainant's November 2023 water bill by \$120.00.

Additionally, San Jose Water is directed to extend Mr. Gregor's payment plan period to 24 months, providing Complainant a longer opportunity to repay the outstanding balance at a lower installment rate.

5. Conclusion

For all the reasons discussed above, we find that the Complainant has failed to show that the Defendant violated any applicable Commission rule, law, tariff, or statute as to the current outstanding charges. We find that San Jose Water acted too quickly in shutting off the Complainant's water the second time. Given the Complainant made a payment on the outstanding balance and was making payments for current water use, he should have been given a reasonable amount of time to enter into a third party managed repayment plan.

San Jose Water shall allocate \$120.00 in service reconnection fees and the fee paid to enter a payment plan, directly to Complainant's outstanding November 2023 water bill balance. Additionally, San Jose Water shall extend Complainant's repayment plan to 24 months, lowering monthly payments.

The Complaint is denied in part. The preceding is closed.

6. Waiver of Comment Period

Under Rule 14.7(b), the Commission may waive the otherwise applicable 30-day period for public review and comment on the decision of the assigned

ALJ in a complaint under the expedited complaint procedure. Under the circumstances of this case, it is appropriate to waive the 30-day period for public review and comment.

7. Assignment of Proceeding

Darcie L. Houck is the assigned Commissioner and Jamie Ormond is the assigned Administrative Law Judge and Presiding Officer in this proceeding.

O R D E R

IT IS ORDERED that:

1. Complainant's request for relief is denied in part.
2. San Jose Water shall allocate \$120.00 in reconnection fees and repayment plan entry fees, directly to Complainant's outstanding water bill balance, and extend out Complainant's repayment plan to 24 months.
3. Complainant must pay San Jose Water the remaining balance due in no more than 24 monthly installments.
4. Case 24-10-011 is closed.

This order is effective today.

Dated ___, at San Francisco, California