



## CITY OF BEVERLY HILLS STAFF REPORT

**Meeting Date:** April 3, 2012

**To:** Honorable Mayor & City Council

**From:** Daniel E. Cartagena, Senior Management Analyst  
Noel Marquis, Assistant Director Administrative Services-Finance

**Subject:** Request by Vice Mayor Mirisch to Discuss a Dispute by a Resident Regarding Their Water Utility Bill

**Attachments:**

1. Policies Regarding Utility Service, Billing and Accounting Collections
2. STARS Daily Consumption Report
3. STARS Interval Consumption Report
4. Utility Rates and Fees

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### **INTRODUCTION**

This report was prepared at the request of Vice Mayor Mirisch and is intended to examine the dispute of the water charge. Matt Leipzig, a Beverly Hills resident, received a large utility bill in the amount of \$3,500.11 from the City in December of 2011. This large utility bill was the direct result of water usage in the amount of 327 units or approximately 246,000 gallons by the customer. Mr. Leipzig is requesting water usage above his average be charged at a lower rate than the City by policy and application has allowed to date.

### **BACKGROUND**

The City of Beverly Hills provides Water and Wastewater (sewer) utility services and residential and commercial trash removal services through the operation of Enterprise Funds. Residential Water, Wastewater, Clean Water and Refuse charges are billed bi-monthly on a unified bill. These bills are due and payable when presented and become delinquent if not paid within 30 days as outlined in Beverly Hills Municipal Code (BHMC) section 6-1-107 Payment as follows:

*Bills for city utility services shall be due and payable on issuance and mailing of the bill to the user. Bills shall be deemed received by the user seventy two (72) hours after deposit in the United States mail. Bills shall be paid at the location specified on the billing. If the bill is not paid within thirty (30) days of issuance and mailing, it shall be deemed delinquent, and an interest charge as established by resolution of the city council, shall attach on any balance which is delinquent thirty (30) or more days. (Ord. 10-O-2592, eff. 11-18-2010)*

The City, like all metered utility providers, bills for its services at the meter as required by BHMC section 6-1-203 Conditions of Service which in subsection I states as follows:

*Water service is supplied to users subject to the following conditions:*

- *That the city's responsibility for delivery of water service shall terminate at the curb stop valve or the water meter, and the city shall not be responsible in any way for damages or injuries caused by the escape of water from faucets, pipe connections, appliances or other facilities on the user's premises;*

Utility bills are prepared and collection and posting of utility accounts is provided by the City's Administrative Services Department. These procedures are performed in compliances with the departments' collection policies (Attachment 1 – Policies Regarding Utility Service, Billing and Account Collections). These policies have been in place for many years and provide for the consistent treatment and application to all customers.

### **DISCUSSION**

Matt Leipzig contacted the City of Beverly Hills on December 19, 2011, regarding his utility service bill for the October 10 through December 11 billing cycle. Included in his bi-monthly bill was a water charge of \$3,223.75 for the consumption of 327 units of water registered at his property. The water charge made up most of his overall utility service bill for this period of \$3,500.11.

Mr. Leipzig reported that no evidence of a leak was apparent to account for the amount of water registered and questioned the accuracy of his meter. In response to his request, Mr. Leipzig's water meter was removed and tested for accuracy by an independent third party, the City of Santa Monica. The meter passed the test and certified as operating correctly. This certification is industry guaranteed as having an accuracy rate of 99.8%.

In an effort to address his dispute, the City revised the amount of the water charge in his utility bill. Mr. Leipzig was charged a tier-2 rate for all water consumed above his calculated average resulting in a reduction in the amount due of \$1,775.17 reducing Mr. Leipzig's utility bill from \$3,500.11 to \$1,724.94. In addition Mr. Leipzig was granted a credit of \$52.50 for late charges applied to his account and he was only charged half of the meter testing charge \$230.15 (per the City's policies when a customer requests a meter accuracy test and the test proves the accuracy of the meter the customer is assessed the full cost of meter testing, \$460.30).

### **Disputed Utility Bill Process**

As a municipal utility with over 11,000 customer accounts, the City receives customer calls contesting the amount of a utility bill on a fairly consistent basis. These calls are handled in accordance with the City's established written policies for bill dispute and are completely described in Attachment 1 - Policies Regarding Utility Service, Billing and Account Collections.

Once a dispute advances to the assessment phase, it is the City's standard practice to require full payment of an outstanding balance from the customer as a deposit. A customer is advised that should their case be resolved in their favor - resulting in a

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reduced billing amount – a deposit amount in excess of the final bill is returned to the customer, per the City's policy.

A major contention from customers disputing their bill is the operational accuracy of the meter. When such a claim is presented a field review of the Customers property is done and a leak test is performed to determine if any leaks are apparent. Also a field flow test is performed to assess the meters accuracy.

A meter leak test attempts to isolate a source of a leak on the customer's side of the meter. The technician is usually accompanied by the property owner and they attempt to locate a source of a leak. If a leak is found or suspected, City Water personnel advises the property owner to contact a plumber to conduct a more complete and thorough leak detection effort or repair.

If the customer remains unsatisfied with the results after the Public Works staff checks the meter customers are offered the opportunity to have their water meter tested for accuracy. As listed in the City's Utility Rates Schedule, the cost for a meter accuracy test is \$460.30 and the customer is required to post a deposit of this amount. If the test proves the meter inaccurate the customers deposit is refunded. If the test proves the meter accurate the customer forfeits the deposit amount. A customer can decline to accept this service.

Because of the meters design there is very little possibility of a meter reading inaccurate or too high. Most commonly, as meters age they tend to read under because of corrosion. Most meter-read errors are the result of human error. A meter is improperly installed or a meter head and body are not properly matched. These types of errors are apparent during field tests and do not correct themselves as was the case with Mr. Leipzig's sudden spike in usage which lasted a few short days and then ceased.

#### Mr. Leipzig's Dispute

In his initial call to the City in December Mr. Leipzig adamantly denied any leak on his property that would result in such a high registered water use. A review of Mr. Leipzig's historic consumption for the same billing cycle from 2008 to 2011 indicates an average water use of 77 units of water (equivalent to tier-3 use). It should be noted Mr. Leipzig's account has registered consumption between 262 to 700 units in a billing cycle three times since 2004, none since 2005. Therefore usage of 327 units, while not frequent, is not a first occurrence either.

After his initial call Mr. Leipzig came to City Hall and spoke to Noel Marquis, Assistant Director of Administrative Services, to discuss his bill. In this meeting Mr. Leipzig was advised that his bill was accurate and therefore subject to full payment. Furthermore, Mr. Marquis requested a work order be prepared to have water utility staff verify meter functionality, size and check property for any signs of a leak.

On December 20, 2011, water utility staff performed a meter leak and verification test. Field staff met with Mr. Leipzig providing a report of the outcome of the tests. At the time, a minor leak of 1.42 gallons per minute (gpm) was observed. Mr. Leipzig was also advised of the possibility that water from a leak of 12.26 gmp over a 10 day period, from October 17<sup>th</sup> to October 27<sup>th</sup>, could have been absorbed into the ground leaving little observable evidence. Many leaks do indeed present themselves below ground and are therefore undetectable by common observance.

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Unsatisfied with the results of his initial inquires, Mr. Leipzig contacted the City a third time inquiring if there were other department or staff personnel that would assist him in addressing this issue. On December 21<sup>st</sup> and 25<sup>th</sup> Mr. Leipzig contacted PW&T by phone call and email summarizing his situation with details of his earlier contacts with City staff. Shortly thereafter he contacted the City Manager's Office requesting further assistance.

### STAR Network Report

The STAR Network reports identifies the 10-day period within two-month billing cycle in which Mr. Leipzig's average water consumption was approximately 20,000 gallons per day. The two reports convey the same information in two different manners. The Daily Consumption Report measures the amount of water, in gallons, the meter registered for the full billing cycle. The Interval Consumption Report measures the amount of water, in gallons, the meter registered every six-hours for the full billing cycle (See Attached).

From the STAR Network reports, Mr. Leipzig's meter indicates continuous flow. It is difficult to determine if the continuous flow was due to a leak. It is atypical for a meter to operate properly, malfunction, then operate properly again as depicted in the graph. However, the City is familiar with instances in which an irrigation sprinkler valve gets stuck in an "open position" causing a continuous flow. The valve then closes, on its own, resulting in the end of the continuous flow. In this instance a property owner has clearly stated he was not aware of a leak and therefore did not take any corrective actions. There is no way for the City to know with certainty what may or may not have caused the up-tick in water usage during this billing cycle.

Mr. Leipzig stated in his December 21<sup>st</sup> email to PW&T "I had not had any new construction or irrigation projects, nor any leak repairs other than perhaps minor items like a sprinkler valve replacement." Mr. Leipzig concluded in his email that he believed the water registered at his meter for the billing period in question was the result of a meter error.

Assistant City Manager, Mahdi Aluzri, spoke to Mr. Leipzig on December 27, 2011. Mr. Aluzri consulted with David Gustavson, Director of Public Works & Transportation, and Mr. Marquis on the status of Mr. Leipzig's issue. The outcome of their discussion was to offer the following to Mr. Leipzig:

- Test Mr. Leipzig's residential meter at an independent facility (cost is \$460.30)
- If meter is found to be working properly, split test fee on a 50/50 basis
- Mr. Leipzig pays the bill presented to him by Finance
- If meter is found to be malfunctioning the City would pay for the meter test in its entirety and the City would recalculate Mr. Leipzig's bill for the period in question using a 3-year average for the same period cycle in 2008, 2009 & 2010

These terms were presented to Mr. Leipzig. Mr. Leipzig continued to object to the City's position that he is responsible for cost of water registered at his meter.

At this point, Mr. Aluzri and Mr. Gustavson met Mr. Leipzig at his home to gain a greater understanding of his point of view and discuss a resolution to this matter. After the meeting the City's offer was revised. The City presented Mr. Leipzig with an adjusted bill where excess water consumed above his 3-year average was charged a tier-2 rate (56% of the City's utility bills are for tier-2 consumption). Mr. Leipzig has submitted full

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payment for his outstanding balance but continues to contest the City's billing process. Mr. Leipzig is requesting that the City use the tier-1 rate in calculating his adjusted bill.

The City has concluded its review of Mr. Leipzig's disputed utility bill. Staff believes that the credits and adjustments the City has granted are fair, equitable and in excess of its normal policies in as much as the policies would allow billing for the over usage at tier-3, not the tier-2 rate that has been granted and the customer is required to pay the full amount of an independent meter test (Attachment 1 – Policies Regarding Utility Service, Billing and Account Collections).

**FISCAL**

Mr. Leipzig's utility account is current.

**RECOMMENDATION**

If the City Council wishes to revise the City's standard policies concerning disputes of water bills, staff seeks direction regarding such revisions.



~~David~~ David Gustavson

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Approved By

# **Attachment 1**

Attachment 1

**City of Beverly Hills  
Department of Finance Administration  
Policies Regarding Utility Service, Billing  
and Account Collections**

**Purpose:**

The purpose of these policy statements is to develop a consistent manner and method for dealing with customer service issues related to the City's utility services.

**Customer:**

Single service customers shall mean properties where each unit is serviced by a separate meter. In these instances the applicant for service may be either the property owner or a tenant.

Multi-service customers shall mean properties on which two or more units are serviced by one meter. In these instances the applicant for service must be the property owner or the property owners authorized agent (i.e. a licensed property management company).

**Who needs a security deposit (Municipal Code Section 6-1.103):**

All applicants who are not single family residential customers and have not had utility service from the City of Beverly Hills within the past two years or have had utility services within the past two years but exhibit a poor payment history with the City are required to post a security deposit. *all applicants who*

Single family residential applicants who exhibit poor credit histories, either on a prior City utility account or through a credit reporting agency, are required to post a deposit.

Any utility customer who has had service terminated due to non payment or who has had four or more delinquencies within the most recent six (6) billing cycles is required to post a new deposit or increase an existing deposit to the current amount.

**Calculation of required deposit amounts:**

When a security deposit is required for a customer's utility account, the amount of the security deposit shall be equal to twice the average bill for utility service to the location served. The average bill shall be calculated by averaging all bills to the location served during the most recent six bimonthly billing periods that utility service was rendered to that location. Staff shall have authority to make adjustments for anomalies (i.e. unusual usage during one billing cycle) to avoid excessive deposit requirements.

Customer Service staff is authorized to establish a payment schedule, not to exceed 120 days, for new customers proving financial hardship. Payments may be extended

for up to 120 days, from the date of service application, and are to be made in equal installments. The first deposit installment payment, of at least 20% of the required deposit, is to be made at the time of the application for service. Each subsequent payment is to be made at intervals of no more than thirty (30) days.

**Credit histories for single family residential customers:**

The term "whose credit histories do not meet the standards set forth by the Director of Finance Administration" for single family residential customers as found in Municipal Code section 6-1.103 shall mean:

If the customer has had a City utility account within the prior two years:

Fewer than four (4) delinquencies on a prior City of Beverly Hills Utility Account within the most recent one year period of time. Utility service must not have been terminated for lack of payment during this period.

If the customer has not had a City utility account within the prior two years:

From a current credit report (TRW or comparable credit reporting agency), the customer shall demonstrate consistent on time payment of reported accounts with no incidence of account write off and fewer than four (4) incidents of late pays of more than thirty (30) days.

**Disputed bills:**

When a customer calls Finance Administration and asks for an explanation of a billing, Finance Administration will endeavor to answer their questions immediately. In some cases, research is required to answer the customer's questions. Finance Administration will endeavor to answer all questions about billing within seventy-two (72) hours of receiving the call. If it is impossible to obtain an answer within that time period, the customer will be notified of the delay and the reason for the delay and will be provided with a reasonable estimate of when to expect resolution of their question.

If a customer claims a high reading, Finance Administration will schedule a rereading to verify the accuracy of the questioned reading. The customer will be notified of the results of the meter read within seventy-two (72) hours of their initial telephone call.

If, after this review, the customer still believes the bill is wrong, the customer may send the bill and a letter explaining why they believe the bill is wrong, along with a deposit equal to the amount of the disputed bill to:

**City of Beverly Hills  
Utility Billing Division  
455 N. Rexford Drive  
Beverly Hills, CA 90210**

Finance Administration will then review the case and either return the deposit to the customer or apply it to their account, depending on the results of the investigation. Finance Administration will notify the customer of the outcome of its investigation.

Finance Administration will not terminate an account or disconnect utility service for non-payment while the bill is being reviewed as long as the customer has posted a deposit equal to the disputed amount and all other utility bills (those not under investigation) are paid promptly.

#### **Meter Replacement and Testing:**

In cases where the City has reason to believe that a water meter is not accurately recording usage, the City will arrange to have the meter replaced and tested. Once the meter testing is complete, adjustments to customer accounts will be made as follows:

<b>Test Findings</b>	<b>Action</b>
1. Meter test accurate by industry standard	No account adjustment is made.
2. Meter tests undercharging customer	No account adjustment is made.
3. Meter tests overcharging customer	Account is adjusted by amount of overcharge for up to last six (6) billing cycles. No adjustment for charges over 1 year old can be made.

If an account holder requests, in writing, a meter test, the City will arrange to have the meter replaced and tested after the account holder has paid the current meter test fee as established by Council action in the City's schedule of fees and charges. Once the meter testing is complete, adjustments to customer accounts will be made as follows:

<b>Test Findings</b>	<b>Action</b>
1. Meter test accurate by industry standard	No account adjustment is made.
2. Meter tests undercharging customer	No account adjustment is made.
3. Meter tests overcharging customer	Account is adjusted by amount of overcharge for up to last six (6) billing cycles. No adjustment for charges over 1 year old can be made. In addition, the meter test fee will be refunded.

#### **Water Leaks or Unexplained High Usage:**

The City of Beverly Hills, like all utilities, charges for service delivered at the meter or unit measuring device installed at the account location. The City's policy is that all usage is to be charged to the account associated with the meter. The City will not waive usage charges in cases of detected leaks, unexplained high usage or other circumstances, other than proven meter faults as described above. However, the City may, upon receiving a written request from the account holder, reduce the amount

charged per unit of consumption to a lower rate established by Council action in the City's schedule of fees and charges as follows:

In instances where a customer discovers **and has repaired** a leak within their plumbing system, submits proof of such leak and its subsequent repair and **requests in writing** relief from the City, Customer Service Staff is authorized to recalculate the billing period affected, but only one (1) billing period, using the following method:

Staff will calculate the average usage for the service in question based on the prior 12 cycles (approximately 2 years) actual usage.

For all water usage up to the 12 cycle average, the customers bill be calculated using the current rates and levels of usage, i.e. normal billing.

For all water usage above the 12 cycle average, the customers bill will be calculated using the tier rate 1 step below their highest rate (for example if the customers highest usage is at tier 4 their over average usage will be billed at tier 3).

For accounts where sewer charges are based on water consumption, the customers sewer charge will be limited to the 12 cycle average.

In instances of unexplained high water usage where no evidence of leak or meter error can be discovered, the Director of Finance Administration or Director of Public Works, or their designates, may direct 'Customer Service staff, **in writing**, to recalculate one periods water usage, but only one (1) billing period, using the above described method.

**Unpaid bills:**

Utility bills are due and payable the date they are mailed. Utility bills become delinquent thirty (30) days after they are mailed if they remain unpaid. If Finance Administration does not receive payment within the thirty (30) days, Finance Administration will mail the customer a notice reminding them that their utility bill has not been paid and that their utility service could be discontinued. This notice gives the customer thirty (30) days from the date Finance Administration mails it to pay the bill.

If the customer does not respond by paying their account balance within sixty (60) days from the date the original bill is mailed, a final notice of service termination will be mailed to the customer. This notice provides the customer with ten (10) days in which to pay their bill. Eight (8) days after the mailing of the final termination notice, if the account balance remains unpaid, a forty-eight (48) hour notice will be posted on the property. If the customer fails to make payment by close of business on the shut-off date, service will be discontinued. The account will be considered terminated at close of business on the shut-off date. Physical termination of service by closing of the service valve will occur within seventy two (72) hours of the shut-off date as the schedule of the Public Works service personnel permits. All requirements for service reinstatement charges and deposits take effect at close of business on the shut-off date, regardless of the current state of the water valve.

If the customer is unable to pay their utility bill before the final date shown on the notice, Finance Administration will discuss payment arrangements to keep the utility account open.

Finance Administration utility collection staff are authorized to make payment provisions not to exceed 120 days. Payment provisions are made to accommodate customers experiencing financial hardship. Proof of financial hardship may be required. The customer must keep their current usage paid for in a timely manner in addition to making their arranged payments on time. Payments may be extended for up to 120 days, from the date of service disconnection, and are to be made in equal installments. The first installment payment, of at least twenty percent (20%) of the current amount owed (current amount owed is the total currently owing the City which includes past due and current billed amounts), is to be made immediately. Each subsequent payment is to be made at intervals of no more than thirty (30) days.

*4 mos*

If Finance Administration does make payment arrangements and the customer misses these deadlines or fails to make payments for their current usage in a timely manner, the entire unpaid balance will become immediately due and payable. Service will be discontinued after posting of a forty eight (48) hour shut-off notice.

**Returned checks:**

When a customer writes a check to pay a utility account and the check is subsequently not honored by the bank, the customers account will be assessed a returned check fee.

When a customer writes a check to reestablish utility service which had been discontinued for non-payment, and the bank subsequently does not honor the check, the customer's utility account will be assessed a returned check fee and service will immediately be discontinued without additional notice.

Returned checks must be cleared through payment by cash, money order or cashiers check only. The City will not accept a check to clear a returned check.

**Vital service:**

Finance Administration will not discontinue or terminate utility service for non-payment if the customer can prove, to our satisfaction, that being without the utility service would be especially dangerous to the health of a member of the household. The customer must, however, make a partial payment and agree to pay the past due bill in reasonable installments while paying other utility bills on time. Finance Administration will ask the customer to show certification from a licensed physician, public health nurse or social worker.

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# **Attachment 2**



# **Attachment 3**



Attachment 4**Utility Rates & Fees**

BHMC 6-1- REFERENCE	TYPE OF UTILITY CHARGE	2011/12 RATE	
		Inside City	Outside City
08-0-2552	<b>Water Rates:</b>		
	<b>Service charges (bimonthly):</b>		
	<b>Meter size (per meter):</b>		
	1 inch and smaller	35.17	43.96
	1-1/2 inches	60.46	75.58
	2 inches	90.80	113.50
	3 inches	161.61	202.01
	4 inches	262.76	328.45
	6 inches	515.63	644.54
	<b>Quantity charge:*</b>		
	<b>Bimonthly Water Usage - units of 100 cu ft (per 100 cu ft)</b>		
	Single Family Residences		
	& Duplexes (SFR)		
	Multi-Family Residential (MFR)		
	(Tier acts as a multiplier by # of units.)		
	Tier 1 - from 1 and up to 10	3.17	3.97
	Tier 2 - over 10 and up to 55	4.12	5.15
	Tier 3 - over 55 to 120	6.41	8.01
	Tier 4 - over 120 +	12.22	15.28
	Non-residential rate (Commercial, Governmental and Schools)	5.39	6.74
	*Capital charge incorporated in usage.		
08-0-2552	<b>Fire Protection Service Charge (bimonthly):</b>		
	<b>Size of Connection:</b>		
	2 inch and smaller	23.86	29.82
	2-1/2 inches	35.60	44.50
	3 inches	51.85	64.81
	4 inches	100.14	125.16
	6 inches	273.44	341.80
	8 inches	572.34	715.42
	10 inches	1,021.95	1,277.44
08-0-2552	<b>Wastewater Rates:</b>		
	<b>Bimonthly Service Charge:</b>		
	Residential (Per dwelling)	87.38	N/A
	<b>Commercial:</b>		
	Fixed Charge	34.20	N/A