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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

4	Charles P. Varvayanis,)	Case 16-10-005
5	Complainant,)	(Filed October 6, 2016)
6	vs.)	
7	Odd Fellows Sierra Recreation Association,)	
8	Defendant.)	

VERIFIED REPLY TO DEFENDANT'S JANUARY 20, 2017 RESPONSE TO JANUARY 12, 2017 RULING

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January 20, 2017

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6 **BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

7 Charles P. Varvayanis,) Case 16-10-005
8 Complainant,) (Filed October 6, 2016)
9 vs.) Related Modification Decision 16-08-006
10 Odd Fellows Sierra Recreation Association,) (Issued August 19, 2016)
11 Defendant.) Related Original Decision 16-01-047
12) (Issued January 29, 2016)
13) Related Case 12-03-017
14) (Filed March 14, 2012)

15 **VERIFIED REPLY TO DEFENDANT'S**
16 **JANUARY 20, 2017 RESPONSE TO**
17 **JANUARY 12, 2017 RULING**

18 **REPLY TO DEFENDANT ODD FELLOWS SIERRA RECREATION ASSOCIATION'S**

19 **RESPONSE TO EMAIL RULING RE EVIDENCE**

20 Pursuant to the E-mail Ruling of Administrative Law Judge Eric Wildgrube dated
21 January 12, 2012 Complainant Charles Paul Varvayanis (hereafter "Complainant"), files his
22 reply Defendant Odd Fellows Sierra Recreation Association's Response to Email Ruling RE
23 Evidence as follows:

24 **LATE FILING**

25 Due to extreme weather including both snow and wind I experienced loss of Internet
connectivity on January 20, 2017 at 6:51 PM followed by loss of electric power, loss of
telephone service and loss of cell phone service. It was not safe to travel to town but I did so

1 once only on January 25, 2017 to transport the park's caretaker to the emergency room in
2 Sonora, CA due to a head injure. During that trip I attempted to contact the CPUC but found my
3 cell phone inoperative due to a firmware update failure caused by loss of signal during the update
4 process. My systems came back on-line on January 26, 2017 about 5:30 PM. Soon after that I
5 received the Defendant Odd Fellows Sierra Recreation Association's Response to Email Ruling
6 RE Evidence. Because of the above, this filing is late and the Complainant requests the
7 Commission to accept this filing and adjust the schedule if the Commission deems it necessary.
8 Attached is an e-mail sent by Sierra Park Services, Inc. last night January 26, 2017 at 10:50 PM
9 partially documenting the situation in the subdivision I reside in (Exhibit: Current Conditions in
10 the Park). Sierra Park Services, Inc. was spun off by Defendant's Odd Fellows Sierra Recreation
11 Association (hereafter "Odd Fellows") at the same time as Sierra Park Water Company, Inc. in
12 2013.

14 **I. ADDITIONAL DOCUMENTARY EVIDENCE**

15 The Complainant has no objection to the items added and identified in Defendant Odd
16 Fellows Sierra Recreation Association's Response to Email Ruling RE as follows:

17 OF-9. Letter from Odd Fellows to Timothy Sullivan, Executive Director of the
18 CPUC, dated June 28, 2016.

19 OF-10. Letter from Timothy J. Sullivan to Odd Fellows dated June 29, 2016.

21 **II. OBJECTIONS TO ADMISSION INTO EVIDENCE**

22 The Complainant objects to admission into evidence the following items identified in
23 Defendant Odd Fellows Sierra Recreation Association's Response to Email Ruling RE Evidence
24 for the same reasons as specified in the Complainant's Response to January 12, 2017 Ruling as
25 follows:

- 1
- 2 OF-1. Odd Fellows Credit Memo #635, dated December 11, 2012.
- 3 OF-2. Odd Fellows Credit Memo #636, dated December 11, 2012.
- 4 OF-3. Odd Fellows Credit Memo #637, dated December 11, 2012.
- 5 OF-4. Odd Fellows Credit Memo #638, dated December 11, 2012.
- 6 OF-5. Odd Fellows Invoice #599, dated December 12, 2012.
- 7 OF-6. Odd Fellows Invoice #600, dated December 12, 2012.
- 8 OF-7. Odd Fellows Invoice #601, dated December 12, 2012.
- 9 OF-8. Odd Fellows Invoice #602, dated December 12, 2012.

10 The Complainant was not aware of the existence of the above items prior to Odd
11 Fellows', January 5, 2017 e-mail to Ravi Kumra titled "RE: case 16-10-005: Payments made by
12 complainants" (Exhibit CV-22).

13 Odd Fellows' Agent/Account Carlson, Hass and Associates (hereafter "Agent") claims it
14 uses QuickBooks Pro for Odd Fellows' accounting and invoicing. QuickBooks Pro
15 automatically issues transaction numbers sequentially but allows transaction dates to set to a
16 desired date.

17 The Complainant objects the use of OF-1 through OF-8 as evidence because the
18 Complainant was not previously aware of the existence of OF-1 through OF-8 and because the
19 authenticity of Odd Fellows' claim is questionable because the transaction sequence numbers do
20 not support the order of the transactions as claimed in Exhibit CV-22 on page 2, paragraph 2:

21 *"On December 11, 2012, Odd Fellows credited Mr. Varvayanis \$571.60 on each*
22 *of the original invoices attached hereto as Exhibit "1" (thereby reducing the*
23 *balance due for such original invoices to \$452.40 (\$1,024-\$571.60)). Copies of*
24 *such credit memos are attached hereto as **Exhibit "2"**. The next day, December*
25 *12, 2012, Odd Fellows invoiced Mr. Varvayanis \$571.60 for water for each of his*
*four lots. Copies of such invoices are attached hereto as **Exhibit "3"**."*

1 The Complainant also objects to admission into evidence the following item identified in
2 Defendant Odd Fellows Sierra Recreation Association's Response to Email Ruling RE Evidence
3 for the same reasons as specified in the Complainant's Response to January 12, 2017 Ruling as
4 follows for the proposed purpose to establish Odd Fellows stated a budgeted expense of \$571.60
5 per lot for water service for fiscal year 2012:

6 ALJ-1. *Report of the Odd Fellows Sierra Recreation Association*, filed on
7 December 7, 2012 in C-12.03.017.

8 Since it may be inappropriate to object the ALJ-1's admission into evidence, it is
9 however appropriate to request the use of ALJ-1 be excluded from the proposed purpose to
10 establish Odd Fellows stated a budgeted expense of \$571.60 per lot for water service for fiscal
11 year 2012 for the following reasons:

12 The contents of ALJ-1 were never verified, confirmed or endorsed by the Commission in
13 any way. Eventually the Division of Water and Audits (hereafter "DWA" or "Water Division")
14 requested updates to estimated information.

15 On September 30, 2014 the California Public Utilities Commission, Division of Water
16 and Audits issued its "STAFF REPORT ON APPLICATION OF Odd Fellows Sierra Recreation
17 Association and Sierra Park Water Company, Inc. For Certificate of Public Convenience and
18 Necessity A. 13-09-023 AND Complaint by Fred Coleman, Steven Wallace, Larry L. Vaughn
19 and Ruth Dargitz Vs Odd Fellows Sierra Recreation Association C 13-03-017" (Exhibit CV-23).
20 The DWA questioned the updates to estimated information in CV-23, Page 7, starting at paragraph
21 1:

22 *"The Recreation Association provided its financial report updated to May 31, 2013.¹²*
23 *In the financial report, the auditors state that*

24 ¹² Odd Fellows Sierra Recreation Association Inc., Compiled Financial Statements, May 31,
25 2013.

1
2 . . . the financial statements do not express an opinion or provide any
3 assurances about whether the financial statements are in accordance with
4 accounting principles generally accepted in the United States of America . . .
5 The policy is to prepare the financial statements on the modified basis of each
6 cash receipts and cash disbursements. Accordingly, the accompanying
7 financial statements are not intended to present the financial position or
8 results of operations in conformity with accounting principles generally
9 accepted in the United States of America. . . . We are not independent with
10 respect to Odd Fellows Sierra Recreation Association, Inc. ¹³

11
12 *The financial report did not segregate all water related income and expenses.
13 Rather, it presented all information for the Recreation Association for all
14 activities that were handled by the Recreation Association. The Recreation
15 Association also stated that it did not segregate records for the water service
16 offered. Due to this, Staff could not rely on the accuracy of the historical financial
17 information presented by the Recreation Association. In addition to the financial
18 statements, Staff reviewed the invoices that justified the expenses reported by
19 the Recreation Association in A. 13-09-023. However, staff was unable to find
20 sufficient explanations to justify many of the expenditures claimed.*"

21 Note: Underlining and bolding added for emphasis.

22
23 Based on the above, Odd Fellows report ALJ-1 should not be used to establish Odd
24 Fellows stated a budgeted expense of \$571.60 per lot for water service for fiscal year 2012.

25 **III. NO OBJECTIONS TO ADMISSION INTO EVIDENCE**

26 The Complainant has no objection to the ALJ taking official notice, pursuant to
27 Commission Rule 13.9 and Evidence Code section 450 et. seq., of the following documents
28 identified in Defendant Odd Fellows Sierra Recreation Association's Response to Email Ruling
29 RE as follows:

30 ALJ-2. Commission Decision No. 16-01-047 issued on January 29, 2016 in A-
31 13.09.023.

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¹³ Id, at page 1

1 ALJ -3. Petition Of Odd Fellows Sierra Recreation Association For Modification
2 Of Decision No. 16-01-047 (Decision Resolving A Complaint And Authorizing A Certificate Of
3 Public Convenience And Necessity As Modified) filed on June 29, 2016 in A-13.09.023.

4 ALJ -4. Decision Granting Petitions to Modify Decision 16-01-047 and Clarifying
5 Ordering Paragraphs 3.a and 3.b issued on August 19, 2016 in A-13.09.023.

6 **IV. WITNESSES, ANTICIPATED TESTIMONY AND TIME ESTIMATES**

7 The Complainant has no objection to the witnesses, testimony and time estimates
8 identified in Defendant Odd Fellows Sierra Recreation Association's Response to Email Ruling.
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11 DATED: January 27, 2017

Respectfully submitted,

12 By: *Charles P. Varvayanis*
13 Charles P. Varvayanis
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VERIFICATION

I am the Complainant Charles P. Varvayanis and I am authorized to make this verification on my behalf. The statements in the foregoing are true of my own knowledge, except as to the matters which are therein stated on information and believe, and as to those matters I believe them to be true.

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

Executed on January 27, 2017, at Long Barn, California.

By: *Charles P. Varvayanis*
Charles P. Varvayanis