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BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

**COMPLAINANT'S PHC STATEMENT**

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**December 8, 2016**

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4 BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

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

13  
14 Administrative Law Judge John A. Mikita directed parties, Complainant Charles  
15 Varvayanis (the "Complainant") and Defendant Odd Fellows Sierra Recreation Association,  
16 ("Odd Fellows") to meet and confer to identify stipulated facts, if any, and the key issues to be  
17 considered. Additionally, the parties were required to file PHC statements that will help focus the  
18 discussion at the PHC. This is that statement:

19  
20 The parties conferred via e-mail and arrived at a limited set of stipulated facts, but failed  
21 to agree on the issues to be considered.

22  
23 Below are the stipulated facts:

24 1. The Commission issued its Decision No. 16-01-047 (the "Original Decision") on  
25 January 29, 2016.

1           2.           As pertinent to the Complaint, the Original Decision also ordered certain  
2 refunds to be made by Odd Fellows. Ordering Paragraph 3.b on page 37 of the Original  
3 Decision originally specifically provided as follows:

4           *3.b Odd Fellows must make a full refund of \$109,432, allocated proportionately to the*  
5 *improved and unimproved lots as otherwise shown in the Division of Water and Audits*  
6 *Staff Report, its adjusted share prior to spinning-off Water Company. Odd Fellows must*  
7 *make the refund over five years (for a total of twenty payments by the dates set forth in*  
8 *Ordering Paragraph 3.a above by paying Water Company who, in turn, must refund*  
9 *customers as proposed in the Division of Water and Audits Staff Report. Additionally,*  
10 *Odd Fellows must refund to the Water Company no later than June 30, 2016, \$1,200 to*  
11 *reflect the \$600 per year it received from the Water Company for the use of easements on*  
12 *six miles of pipe for Fiscal Years 2013 and 2014, and any monies received from Water*  
13 *Company for the six miles of pipe easements for Fiscal Year 2015.*

14           3.           On June 29, 2016, Odd Fellows filed a Petition for Modification of the Original  
15 Decision with the Commission specifically seeking a modification of Ordering Paragraph 3.b of  
16 the Original Decision (the "Petition for Modification of the Original Decision"). Water  
17 Company also filed a separate Petition for Modification of the Original Decision with the  
18 Commission on June 10, 2016.

19           4.           On July 19, 2016, the Commission issued a Proposed Decision Granting Petitions  
20 to Modify Decision 16-01-047 and Clarifying Ordering Paragraphs 3.a and 3.b.

21           5.           The Decision to Modify specifically modified paragraph 3.b of the Original  
22 Decision as follows:

23           *3.b. Odd Fellows must make a refund **to all customers whom made***  
24 ***payments in excess of reasonable rates only, of up to \$109,432, allocated***  
25 *proportionately to the improved and unimproved lots as otherwise shown*  
*in the Division of Water and Audits Staff Report, as **its** adjusted share*  
*prior to spinning-off Water Company. Odd Fellows must make the refund*  
*over five years (for a total of twenty payments) by the dates set forth in*  
*Ordering Paragraph 3.a above by paying Water Company who, in turn,*  
*must refund customers as proposed in the Division of Water and Audits*

1           *Staff Report). **Odd Fellows may prepay all or any portion of the refund***  
2           ***payments then due in full at any time. Additionally, Odd Fellows must***  
3           *refund to the Water Company no later than June 30, 2016, \$1,200 to reflect*  
4           *the \$600 per year it received from the Water Company for the use of*  
5           *easements on six miles of pipe for Fiscal Years 2013 and 2014, and any*  
6           *monies received from Water Company for the six miles of pipe easements*  
7           *for Fiscal Year 2015.*

8           6.     On or about March 25, 2016, Odd Fellows' agent sent Complainant a refund of  
9           \$2.88 for each of the two lots owned by Complainant. Complainant received such refunds.

10          7.     On or about June 24, 2016, Odd Fellows' agent sent Complainant a refund of \$2.88  
11          for each of the two lots owned by Complainant.

12          8.     On or about July 15, 2016, Complainant informed Mr. Del Wallis, President of  
13          Odd Fellows, that he had not received the June 24, 2016 refund checks from Odd Fellows in the  
14          amount of \$2.88 each and asked Odd Fellows to reissue such checks to Complainant.

15          9.     On or about August 17, 2016, Odd Fellows' agent informed Complainant that they  
16          could put a stop payment on the June 24, 2016 refunds checks previously sent to Complainant,  
17          that the fee for such stop payment would be \$24.00 for each check and that Odd Fellows' agent  
18          could reissue such refund checks once the stop payment fees were paid by Complainant.

19          10.    On or about September 28, 2016, Odd Fellows' agent sent Complainant a refund  
20          of \$2.88 for each of the two lots owned by Complainant. Complainant received such refunds.

21                Below are some important facts presented by the Complainant but not stipulated to by  
22                Odd Fellows:

23                1.     The Original Decision found that Odd Fellows Sierra Recreation Association  
24                (Odd Fellows) has been acting as a public utility and is subject to this Commission's jurisdiction  
25                and regulation.

                2.     On or about March 13, 2016, Odd Fellows notified its rate payers it is refunding  
                \$57.60 to the paid property owners. This represents a large departure from the CPUC Ordered

1 refunds calculated by the DWA of \$311 for improved lots and \$245 for unimproved lots as  
2 documented in Decision 16-01-047, Attachment A, Page 25 Table 3, 6/1/2012-5/31/2013,  
3 Over(Under) collection. The amounts were not modified by Decision 16-08-006.

4 3. On or about June 6, 2012 Odd Fellows billed approximately 364 rate payers  
5 \$1,024.00 for FY2012. On or about December 12, 2012 Odd Fellows billed the approximately  
6 38 rate payers that had not paid the \$1,024.00 \$571.60 claiming it was for water for FY2012.  
7 However, the DWA and ALJ did not accept or approve and in fact rejected Odd Fellows  
8 arguments for using the figure of \$571.60 for water for FY2012 and the ALJ used the DWA's  
9 figures and calculations in its decisions of \$825 for water for improved lots or \$759 for water for  
10 unimproved lots. On or about March 26, 2013 Odd Fellows sued the rate payers that had not  
11 paid the full \$1,024.00. After the Decision to Modify was issued, Odd Fellows continued to  
12 calculate refunds as shown on the spreadsheet attached as Appendix B to its Petition to Modify  
13 Decision. Those who did not pay at all or only partially paid were rebilled as if the rate adopted  
14 by the Commission for FY 2012 (\$514) was already in place. As set forth in Appendix B to its  
15 Petition to Modify Decision, Odd Fellows calculated a refund of \$57.60 for each lot owner who  
16 had paid based on the not approved figure of \$571.60 for water and not on the ordered amounts  
17 of \$825 for water for improved lots or \$759 for water for unimproved lots.

18 4. Related to Odd Fellows Petition for Modification, Odd Fellows attached its  
19 proposed calculation of refunds to customers if its Petition for Modification of the Original  
20 Decision was granted (See Appendix B to Petition for Modification of Original Decision).

21 5. The Commission issued its Decision Granting Petitions to Modify Decision 16-  
22 01-047 and Clarifying Ordering Paragraphs 3.a and 3.b on August 19, 2016 (the "Decision to  
23 Modify"), specifically modified paragraph 3.b of the Original Decision as follows:

24 3.b. Odd Fellows must make a refund to all customers whom made  
25 payments in excess of reasonable rates only, of up to \$109,432, allocated

1 proportionately to the improved and unimproved lots as otherwise shown  
2 in the Division of Water and Audits Staff Report, as its adjusted share  
3 prior to spinning-off Water Company. Odd Fellows must make the refund  
4 over five years (for a total of twenty payments) by the dates set forth in  
5 Ordering Paragraph 3.a above by paying Water Company who, in turn,  
6 must refund customers as proposed in the Division of Water and Audits  
7 Staff Report). Odd Fellows may prepay all or any portion of the refund  
8 payments then due in full at any time. Additionally, Odd Fellows must  
9 refund to the Water Company no later than June 30, 2016, \$1,200 to reflect  
10 the \$600 per year it received from the Water Company for the use of  
11 easements on six miles of pipe for Fiscal Years 2013 and 2014, and any  
12 monies received from Water Company for the six miles of pipe easements  
13 for Fiscal Year 2015.

14 6. The Decision to Modify did not incorporate, reference or endorse Appendix B to  
15 Petition for Modification of Original Decision making it irrelevant.

16 7. On or about March 14, 2016, the Complainant wrote Odd Fellows asking to be  
17 refunded the full amount ordered by the decision.

18  
19 Below are some important issues to be considered presented by the Complainant but not  
20 stipulated to by Odd Fellows:

21 1. The Complainant states that his ordered refund amount is based the DWA's  
22 calculated amount of \$825 and ordered by Decision 16-01-047 while Odd Fellows claims the  
23 refund amount is based Odd Fellows' calculation amount of \$571.60 and the Decision to Modify.  
24 Which is correct?  
25

1           2.     The Complainant states he has not received the Odd Fellows June 2016 refund  
2 checks, but has received all others as of this date while Odd Fellows claims the June 2016 refund  
3 checks of \$2.88 each had been mailed. Complainant has asked for the checks that were not  
4 received to be replaced. Odd Fellows has agreed to replace the two \$2.88 checks not received by  
5 Complainant contingent on Complainant paying a separate \$24 Stop Payment Fee for each of the  
6 two to checks not received by the Complainant. Can Odd Fellows demand \$24 Stop Payment  
7 Fees for each of the two \$2.88 checks not received by Complainant prior to reissuing the checks?

8           3.     Stop Payment Fees are not provided by the WTD 440 Tariff Book. Can Odd  
9 Fellows demand Stop Payment Fees at all?

10          4.     Should Odd Fellows be fined by the CPUC for its actions in 1 through 3 above  
11 either inclusive or separately?

12  
13           Narrative:

14           The rate payers of Odd Fellows have been deceived, mistreated and overcharged by Odd  
15 Fellows causing the Case 12-03-017 and Decision 16-01-047 against Odd Fellows. Despite  
16 Decision 16-01-047 Odd Fellows continues these practices.

17           Related to this Case 16-10-005, Odd Fellows has refused to refund the amounts  
18 calculated by the DWA and ordered by Decision 16-01-047 but instead substituted its own  
19 calculations, generating substantially lesser refund amounts than ordered. The complainant  
20 requested Odd Fellows pay him the amount calculated by the DWA and ordered by Decision 16-  
21 01-047 and not the amount calculated by Odd Fellows. Odd Fellows has since distributed four  
22 payments using its calculations and not the amount calculated by the DWA and ordered by  
23 Decision 16-01-047.

24           The Complainant received only three of the four payments in the form of checks and  
25 asked Odd Fellows to reissue such checks not received by the Complainant. Allowing greater

1 than a moth to pass for the replacement checks to arrive, the Complainant again asked for Odd  
2 Fellows to reissue such checks not received by the Complainant. However, this time Odd  
3 Fellows' informed Complainant that they could put a stop payment on the checks not received by  
4 the Complainant and that the fee for such stop payment would be \$24.00 for each check and that  
5 Odd Fellows' would reissue such refund checks once the stop payment fees were paid by  
6 Complainant.

7 As a part of the meet and confer e-mailings, the Complainant offered to withdraw the  
8 second and third causes of the complaint related to this Case 16-10-005 if Odd Fellows made  
9 available for pick-up two \$2.88 checks from either the accountant or the lawyer's office without  
10 needing to paying a stop payment fee, before is statement was filed. Odd Fellows did not  
11 respond to this offer and this offer has expired.


12 The WTD 440 Tariff Book controls the fees Odd Fellows can charge. The WTD 440  
13 Tariff Book does not provide for charging stop payment fees prior to reissuing checks not  
14 received by rate payers.

15 Odd Fellows can be fined by the CPUC for its actions and the Complainant requests the  
16 CPUC to levy such fines.

17 In one or more Civil Cases, Odd Fellows has avoided penalties by saying "It was by  
18 mistake". Please do not allow that to happen in this case.

19  
20  
21 DATED: December 8, 2016

Respectfully submitted,

22 By:   
23 Charles P. Varvayanis



1 **VERIFICATION**

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

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

7 Executed on December 8, 2016, at Long Barn, California.

8  
9 By: *Charles P. Varvayanis*  
10 Charles P. Varvayanis