



**FILED**

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

Charles Paul Varvayanis,

Complainant,

vs.

Odd Fellows Sierra Recreation  
Association,

Defendant.

CASE (C.) 16-10-005  
(Filed October 6, 2016)

**DEFENDANT ODD FELLOWS SIERRA RECREATION ASSOCIATION'S  
RESPONSE TO EMAIL RULING RE EVIDENCE**

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**January 20, 2017**

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

Charles Paul Varvayanis,

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vs.

Odd Fellows Sierra Recreation  
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RESPONSE TO EMAIL RULING RE EVIDENCE**

Pursuant to the Administrative Law Judge's Email Ruling re Evidence dated January 12, 2017 from ALJ Eric Wildgrube of the California Public Utilities Commission ("Commission"), Defendant Odd Fellows Sierra Recreation Association, a California corporation ("Odd Fellows"), files this Response to Email Ruling re Evidence in connection with the Complaint filed by Complainant Charles Paul Varvayanis ("Complainant") in the above-referenced matter:

**I. DOCUMENTARY EVIDENCE WHICH DEFENDANT INTENDS TO RELY ON IN THIS PROCEEDING**

1. Odd Fellows intends to rely on the following documents in addition to CV-1 to CV-8 identified in the ALJ's Email Ruling:

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

- OF-8. Odd Fellows Invoice #602, dated December 12, 2012.
- OF-9 Letter from Odd Fellows to Timothy Sullivan, Executive Director of the CPUC, dated June 28, 2016.
- OF-10 Letter from Timothy J. Sullivan to Odd Fellows dated June 29, 2016.

Copies of such documents are being filed simultaneously with this filing.

2. Odd Fellows hereby requests that the above-referenced documentary evidence (including CV-1 to CV-8) be moved into evidence in this proceeding.

3. Odd Fellows further requests that the ALJ take official notice, pursuant to Commission Rule 13.9 and Evidence Code section 450 *et. seq.*, of the following documents in addition to ALJ-1:

- ALJ-2. Commission Decision No. 16-01-047 issued on January 29, 2016 in A-13.09.023.
- ALJ-3. Petition Of Odd Fellows Sierra Recreation Association For Modification Of Decision No. 16-01-047 (Decision Resolving A Complaint And Authorizing A Certificate Of Public Convenience And Necessity As Modified) filed on June 29, 2016 in A-13.09.023.
- ALJ-4. Decision Granting Petitions to Modify Decision 16-01-047 and Clarifying Ordering Paragraphs 3.a and 3.b issued on August 19, 2016 in A-13.09.023.

## **II. OBJECTIONS OF DEFENDANT OF ADMISSION INTO EVIDENCE**

1. Although Odd Fellows questions the relevancy of certain documents identified by the ALJ in his Email Ruling, Odd Fellows has no objections to admission into evidence of CV-1 through CV-18 identified in the body of the ALJ ruling including the propriety of taking judicial notice of ALJ-1. Odd Fellows would like to clarify however that CV-13 is actually an email from Del Wallis to Complainant not Rosie Wallis. Mr. and Mrs. Wallis share an email account however CV-13 is clearly from Mr. Wallis and not Mrs. Wallis.

## **III. STATEMENT/AGREEMENT OF DEFENDANT OF ADMISSION INTO EVIDENCE**

1. Odd Fellows has no objections to admission into evidence of CV-1 through CV-18 and ALJ-1 identified in the body of the ALJ ruling and agrees that such documents may be entered into evidence.

**IV. WITNESSES OF DEFENDANT AT HEARING**

1. Odd Fellows intends to call the following witnesses in its direct examination in this proceeding:

A. Del Wallis. Odd Fellows expects to take approximately **30 minutes** on the direct examination of Mr. Wallis. Mr. Wallis is expected to testify as to the amounts Complainant was invoiced for FY2012 by Odd Fellows, the amounts billed for water by Odd Fellows for FY2012 to all lot owners, the invoices and credits issued to Complainant for FY2012, the amounts paid by Complainant for FY2012, how Odd Fellows calculated the refund due for FY2012 after receipt of the Original Decision (as defined in Odd Fellows' Answer in this proceeding), the request for an extension to comply with Ordering Paragraph 3(b) of the Original Decision, the basis for the Petition to Modify (as defined in Odd Fellows' Answer in this proceeding), how Odd Fellows calculated the refund due for FY2012 after receipt of the Decision to Modify (as defined in Odd Fellows' Answer in this proceeding), the amount of refunds sent to Complainant since March 2015 until filing of complaint, how the refunds were sent to Complainant, the cost incurred by Odd Fellows for any stop payments on previously issued checks as of July 2015, etc.

B. Ron Hawke. Odd Fellows expects to take approximately **10 minutes** on the direct examination of Mr. Hawke. Mr. Hawke is expected to testify as to the amounts Complainant was invoiced for FY2012 by Odd Fellows, the amounts billed for water by Odd Fellows for FY2012 to all lot owners, the invoices and credits issued to Complainant for FY2012, the amounts paid by Complainant for FY2012, how Odd Fellows calculated the refund due for FY2012 after receipt of the Original Decision (as defined in Odd Fellows' Answer in this proceeding), the request for an extension to comply with Ordering Paragraph 3(b) of the Original Decision, the basis for the Petition to Modify (as defined in Odd Fellows' Answer in this proceeding), how Odd Fellows calculated the refund due for FY2012 after receipt of the Decision to Modify (as defined in Odd Fellows' Answer in this proceeding), the amount of refunds sent to Complainant since March 2015 until filing of complaint, how the refunds were sent to Complainant, the cost

incurred by Odd Fellows for any stop payments on previously issued checks as of July 2015, etc.

2. Odd Fellows is not certain of the witnesses that Complainant intends to call other than Complainant himself. Odd Fellows intends to cross-examine Complainant and expects to take approximately **20 minutes** to cross-examine Complainant.

Respectfully submitted,

DAMBACHER, TRUJILLO & ASSOCIATES, a professional  
law corporation

By: /s/ Timothy T. Trujillo  
TIMOTHY T. TRUJILLO, ESQ.

Attorneys for Defendant Odd Fellows Sierra Recreation  
Association

**Index of Attached Proposed Documentary Evidence of Defendant**  
**CASE (C.) 16-10-005**

- OF-1. Odd Fellows Credit Memo #635, dated December 11, 2012.
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- OF-10 Letter from Timothy J. Sullivan to Odd Fellows dated June 29, 2016.

ODD FELLOWS SIERRA RECREATION  
 ASSOCIATION INC  
 c/o 14570 MONO WAY, STE. G  
 SONORA, CA 95370

# Credit Memo

Date	Credit No.
12/11/2012	635

Customer
Charles P Varvayanis P.O. Box 395 Long Barn, CA 95335 Lot # 09.006

P.O. No.	Project

Description	Qty	Rate	Amount
Water and maintenance of water system for 2012-2013		571.60	-571.60

<b>Total</b>	-571.60
<b>Invoices</b>	\$571.60
<b>Balance Credit</b>	\$0.00

ODD FELLOWS SIERRA RECREATION  
 ASSOCIATION INC  
 c/o 14570 MONO WAY, STE. G  
 SONORA, CA 95370

# Credit Memo

Date	Credit No.
12/11/2012	636

Customer
Charles Varvayanis P.O. Box 395 Long Barn, CA 95335 09.007A

P.O. No.	Project

Description	Qty	Rate	Amount
Water and maintenance of water system for 2012-2013		571.60	-571.60
		<b>Total</b>	-571.60
		<b>Invoices</b>	\$571.60
		<b>Balance Credit</b>	\$0.00



ODD FELLOWS SIERRA RECREATION  
 ASSOCIATION, INC.  
 c/o 14570 MONO WAY, STE. G  
 SONORA, CA 95370

# Credit Memo

Date	Credit No.
12/11/2012	637

Customer
Charles Varvayanis P.O. Box 395 Long Barn, CA 95335 09.014

P.O. No	Project

Description	Qty	Rate	Amount
Water and maintenance of water system for 2012-2013		571.60	-571.60

<b>Total</b>		-571.60
<b>Invoices</b>		\$571.60
<b>Balance Credit</b>		\$0.00

ODD FELLOWS SIERRA RECREATION  
 ASSOCIATION INC  
 c/o 14570 MONO WAY, STE. G  
 SONORA, CA 95370

# Credit Memo

Date	Credit No.
12/11/2012	638

Customer
Charles Varvayanis P.O. Box 395 Long Barn, CA 95335 24.041

P.O. No.	Project

Description	Qty	Rate	Amount
Water and maintenance of water system for 2012-2013		571.60	-571.60
		<b>Total</b>	-571.60
		<b>Invoices</b>	\$571.60
		<b>Balance Credit</b>	\$0.00

**ODD FELLOWS SIERRA  
RECREATION ASSOCIATION, INC.**

c/o 14570 MONO WAY, STE. G  
SONORA, CA 95370

# Invoice

Date	Invoice #
12/12/2012	599

<b>Bill To</b>
Charles P Varvayanis P.O. Box 395 Long Barn, CA 95335 Lot # 09.006

We now accept Credit Cards - please circle one  
 Visa Mastercard AmEx Discover

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 ZipCode \_\_\_\_\_  
 Card # \_\_\_\_\_  
 Expiration date \_\_\_\_\_  
 3 or 4 digit security code \_\_\_\_\_  
 e-mail address \_\_\_\_\_

TERMS
Payable upon receipt

Description	Amount
Water and maintenance of water system for 2012-2013	571.60

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<b>Total</b>	\$571.60
--------------	----------

Phone #
209-532-5171

**ODD FELLOWS SIERRA  
RECREATION ASSOCIATION, INC.**

c/o 14570 MONO WAY, STE. G  
SONORA, CA 95370

# Invoice

Date	Invoice #
12/12/2012	600

Bill To
Charles Varvayanis P.O. Box 395 Long Barn, CA 95335 09.007A

We now accept Credit Cards - please circle one  
 Visa Mastercard AmEx Discover

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 ZipCode \_\_\_\_\_  
 Card # \_\_\_\_\_  
 Expiration date \_\_\_\_\_  
 3 or 4 digit security code \_\_\_\_\_  
 e-mail address \_\_\_\_\_

TERMS
Payable upon receipt

Description	Amount
Water and maintenance of water system for 2012-2013	571.60

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<b>Total</b>	\$571.60
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Phone #
209-532-5171

**ODD FELLOWS SIERRA  
RECREATION ASSOCIATION, INC.**

c/o 14570 MONO WAY, STE. G  
SONORA, CA 95370

# Invoice

Date	Invoice #
12/12/2012	601

Bill To
Charles Varvayanis P.O. Box 395 Long Barn, CA 95335 09.014

We now accept Credit Cards - please circle one  
 Visa Mastercard AmEx Discover

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 ZipCode \_\_\_\_\_  
 Card # \_\_\_\_\_  
 Expiration date \_\_\_\_\_  
 3 or 4 digit security code \_\_\_\_\_  
 e-mail address \_\_\_\_\_

TERMS
Payable upon receipt

Description	Amount
Water and maintenance of water system for 2012-2013	571.60

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<b>Total</b>	<b>\$571.60</b>
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Phone #
209-532-5171

**ODD FELLOWS SIERRA  
RECREATION ASSOCIATION, INC.**

c/o 14570 MONO WAY, STE. G  
SONORA, CA 95370

# Invoice

Date	Invoice #
12/12/2012	602

<b>Bill To</b>
Charles Varvayanis P.O. Box 395 Long Barn, CA 95335 24.041

We now accept Credit Cards - please circle one  
 Visa Mastercard AmEx Discover

Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 ZipCode \_\_\_\_\_  
 Card # \_\_\_\_\_  
 Expiration date \_\_\_\_\_  
 3 or 4 digit security code \_\_\_\_\_  
 e-mail address \_\_\_\_\_

TERMS
Payable upon receipt

Description	Amount
Water and maintenance of water system for 2012-2013	571.60

<b>Total</b>	\$571.60
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<b>Phone #</b>
209-532-5171

**ODD FELLOWS SIERRA RECREATION ASSOCIATION  
P.O. BOX 116  
Long Barn, CA 95335  
209-586-4065**

Mr. Timothy Sullivan  
Executive Director  
California Public Utilities Commission  
505 Van Ness Avenue  
San Francisco, CA 94102

Re: Request of Odd Fellows Sierra Recreation Association for Extension of Time to Comply with Ordering Paragraph 3.b of Decision No. 16-01-047

Dear Mr. Sullivan:

As permitted by Rule 16.6 of the Commission's Rules of Practice and Procedure, Odd Fellows Sierra Recreation Association ("Odd Fellows") requests an extension of 120 days (to October 28, 2016) to fully comply with the first two (2) sentences of Ordering Paragraph 3.b of Decision No. 16-01-047 ("Decision"). As will be explained below, on June 29, 2016, Odd Fellows filed a Petition for Modification of the Decision. The Petition for Modification seeks to modify Ordering Paragraph 3.b of the Decision ("OP 3.b") to clarify that certain refunds required by OP 3.b need only be made to customers who have actually paid water bills and that the amount shall be limited to the amount actually paid by such customers. June 30, 2016 is the next date for compliance, as that is the next date on which refunds must be sent.

Without the requested extension of time, refunds would be required to be made to customers in excess of the amount actually paid by such customers for water or who either did not pay water bills at all, or paid less than was due, resulting in a windfall to such customers. Odd Fellows is hopeful that the Commission will rule on its Petition for Modification before expiration of the requested 120 day extension.

Background

The Commission issued the Decision on January 29, 2016, conditionally granting Water Company a certificate of public convenience and necessity. (Decision, OP 1, pp. 35-36.) OP 3.b (Decision, p. 37) provided:

Odd Fellows must make a full refund of \$109,432, allocated proportionately to the improved and unimproved lots as otherwise shown in the Division of Water and Audits Staff Report, 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 Staff Report. Additionally, Odd Fellows must refund to the Water Company no later than June 30, 2016, \$1,200 to reflect the \$600 per year it received from the Water Company for the use of easements on six miles of pipe

for Fiscal Years 2013 and 2014, and any monies received from Water Company for the six miles of pipe easements for Fiscal Year 2015.

However, as pointed out in Odd Fellows Petition to Modify, the Decision used the Water Division's "backcasted" rates for FY 2012 as if such rates were the actual rates charged by Odd Fellows when in fact those were not the actual rates charged for FY2012 by Odd Fellows. In addition, the Decision elsewhere recognized that customers who did not pay the actual rates charged "would not be entitled to a refund." (Decision, 1 of 2 p. 24.) The Decision also recognizes that "the actual refund amount" may be "less than what we order" because customers who did not pay in full would not be entitled to a refund. (Decision, p. 24.) Odd Fellows' Petition to Modify requests modifications to OP 3.b clear refunds need be calculated only up to the total amount actually collected from customers and so that customers who did not pay in full or at all would receive a smaller or no refund. This would prevent a windfall for customers.

Request

For the reasons stated above, Odd Fellows respectfully requests an extension of 120 days to October 28, 2016, to comply with OP 3.b. Odd Fellows is hopeful that the Commission will rule on Odd Fellow's Petition for Modification by that date.

Odd Fellows will continue to make the quarterly refunds calculated in its Petition for Modification until October 28, 2016. Odd Fellows is also willing to escrow the balance of the quarterly payments due as set forth in the Decision during the pendency of the Petition for Modification.

Thank you for your consideration of this request.

Respectfully,  
Del Wallis  
President  
Odd Fellows Sierra Recreation Association



## PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE  
SAN FRANCISCO, CA 94102-3298



June 29, 2016

File No.: A.13-09-023  
C.12-03-017

Del Wallis, President  
Odd Fellows Sierra Recreation Association  
P.O. Box 116  
Long Barn, CA 95335

**RE: Request of Odd Fellows Sierra Recreation Association for Extension of Time to Comply with Ordering Paragraph 3.b of Decision 16-01-047**

Dear Mr. Wallis:

We are in receipt of your letter of June 29, 2016, on behalf of Odd Fellows Sierra Recreation Association (Odd Fellows), requesting an extension of time to comply with Ordering Paragraph 3.b of Decision 16-01-047. We note the request is made pursuant to Rule 16.6 of the Commission's Rules of Practice and Procedure.

We recognize this request has been made in conjunction with the filing by the Odd Fellows on June 29, 2016 of a Petition for Modification of Ordering Paragraph 3.b of Decision 16-01-047.

Although Rule 16.6 requires a request for extension be received by the Executive Director at least five business days before the date for compliance, we previously granted the Sierra Park Water Company an extension for compliance with Ordering Paragraph 3.a and consistency and the interests of fairness support granting an extension in this instance.

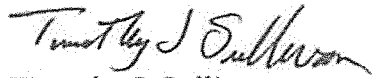
Due to the pending Petition for Modification, the request for an extension of time appears to be reasonable. Therefore, we grant the Odd Fellows an extension of 60 days from June 30, 2016 to August 29, 2016 to comply with Ordering Paragraph 3.b of Decision 16-01-047 and deny the request for an extension of 120 days to October 28, 2016. We consider a limited extension of 60 days to be appropriate to avoid further delay in compliance with Ordering Paragraph 3.b.

Pursuant to Rule 16.6, you must promptly inform all parties to the consolidated proceeding in Application 13-09-023 and Case 12-03-017 of the extension of time until August 29, 2016 to comply with Ordering Paragraph 3.b of Decision 16-01-047 and must

Del Wallis, President  
June 29, 2016  
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state in the opening paragraph of the document that the Executive Director has authorized the extension.

Sincerely,

A handwritten signature in black ink that reads "Timothy J. Sullivan". The signature is written in a cursive style with a large, stylized "T" and "S".

Timothy J. Sullivan  
Executive Director