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Attorneys for Marian L. Seamons

BEFORE THE PUBLIC SERVICE COMMISSION OF UTAH

**In the Matter of Marian L. Seamons v.
Ticaboo Utility Improvement District**

**COMPLAINANT’S POST
HEARING BRIEF**

Docket No. 15-2508-01

COMES NOW MARIAN L. SEAMONS (“Complainant”), by and through her counsel of record from SALCIDO LAW FIRM, PLLC, pursuant to the Public Service Commission of Utah’s (“Commission”) Order issued July 27, 2016, and submits her Post Hearing Brief, based upon the following:

COMMISSION’S REQUEST

The Commission made specific requests to be addressed by the parties in their post hearing briefs. Complainant responds to the Commission’s requests as follows:

1. As to **Docket No. 13-2508-T02:**
 - a. Did TUID notice and hold public meetings for customers to comment on the utility’s proposed tariff changes, including its plan to impose standby fees on vacant lots?

Complainant's Response: Consistent with her testimony at the July 27, 2016 hearing before the Commission, Complainant has no personal knowledge of any notice or that there was a public meeting, except for the allegations made by TUID.

b. If a public Meeting was held, was written notice of the meeting sent by mail to all customers at least 10 days prior to the meeting?

Complainant's Response: Consistent with her testimony at the July 27, 2016 hearing before the Commission, Complainant has no personal knowledge of receiving any written notice nor does she have any personal knowledge that any written notices were sent.

2. As to **Docket No. 15-2508-T01:**

a. Did TUID notice and hold a public meeting for customers to comment on the utility's proposed tariff changes, including its plan to impose a per-day penalty for tampering with utility equipment?

Complainant's Response: Consistent with her testimony at the July 27, 2016 hearing before the Commission, Complainant has no personal knowledge of a specific meeting to comment on the utility's proposed tariff changes, including the imposing of a per-day penalty for tampering with utility equipment prior to any conducting of any such meeting.

b. If a public meeting was held, was written notice of the meeting sent by mail to all customers at least 10 days prior to the meeting?

Complainant's Response: Consistent with her testimony at the July 27, 2016 hearing before the Commission, Complainant has no personal knowledge of receiving any written notice or that there was written notice sent concerning a specific meeting concerning commenting on proposed tariff changes, including any imposing of a per-day penalty for tampering with utility equipment.

3. Should Ms. Seamons be considered to have waived her right to request review of the Commission's September 10, 2015 order in Docket No. 15-2508-T01 in light of TUID's board meeting held on August 27, 2015?

Complainant's Response: Complainant should not have her right to request a review of the Commission's Order waived since she had no personal knowledge of the meeting or its purpose concerning the proposed tariff or the imposing of a per-day penalty for tampering with utility equipment. Further, consistent with Complainant's testimony, Complainant diligently sought out and was informed of an October 2015 meeting for the purpose of commenting, although such meeting was canceled. Likewise, the Docket clearly shows that there was a stipulation entered into by TUID on August 20, 2015, prior to the alleged board meeting on August 27, 2015.

Notwithstanding, it reasonable and equitable for Complainant to rely upon the Commission's docketing for notice concerning her rights. Since the Docket reflected that there was a right for Complainant to request a review within 30 days of September 10, 2015, regardless of any alleged meeting being held earlier, Complainant did not waiver her right for such request when relying on the Commission's Docket. TUID's failure to timely notify and ensure that the Docket was accurate should not and does not impede Complainant's rights where she reasonably and justifiably relied upon the Commission's Docket.

COMMISSION'S REQUEST FOR BILLING

Complainant provides a bill from April 2014, which is consistent with current billing, where Complainant did not see the need to inundate the Commission with similar billing. *See Exhibit A.* However, much of Complainant's previous billing was sent back with her payment, until TUID started sending out payment sheets that could be sent back with the payment. *See*

Exhibit B. Therefore, Complainant does not have most of her earlier billing, including 2013, since she would send her payment with the bill she received.

CLOSING ARGUMENTS

Complainant has owned her properties prior to the creation of the tariffs, where most of her properties are vacant. Complainant believes that the tariff and the enforcement of the tariff are inequitable and unreasonable. Further, Complainant believes that the tariff is not properly created procedurally.

In 2013, TUID began the implementation of standby fees. All of Complainant's properties were assessed standby fees, regardless of whether they were vacant or not. Complainant demonstrated that most of her properties were vacant, and had been vacant for long periods of time, prior to the implementing of the standby fees. Notwithstanding, TUID imposed standby fees on all of Complainant's properties, regardless of whether they were vacant or not. Complainant demonstrated that the imposing of standby fees on her properties that were vacant was inconsistent with the tariff and severely inequitable.

Complainant also demonstrated that she did not receive notice of the standby fees until approximately six months after they started incurring. TUID started charging standby fees in October 2013, although Complainant did not receive notice of the fees assessed until March 2014. Complainant demonstrated that TUID's own records showed that notices or bills concerning the standby fees were not even printed until March 2014. As a result, Complainant was shocked to receive a bill containing six months' worth of standby fees.

Complainant also demonstrated at the hearing the TUID removed meters from her properties without any notice. Complainant testified that by TUID removing the meters, she could not access electricity for her properties. Complainant demonstrated that TUID's removal

of the meters without notice, thereby not allowing for electrical consumption, violated the tariff and any due process for Complainant. Further, it also violated the Commission's rules. Complainant testified that it is inequitable for TUID to have the power and authority to unilaterally remove meters from Complainant's properties without notice, which is also a violation of Complainant's rights.

Complainant demonstrated that TUID's decision making concerning abandonment and long term tenants is arbitrary. TUID testified that only the director and SITLA have been granted long term tenant status. Complainant is liable for any tenants concerning TUID and is liable after the tenant leaves. This arbitrary standard followed by TUID is inequitable.

Likewise, TUID's abandonment procedure is overburdensome, particularly where Complainant was denied her request. *See Exhibit C*. The requirement for a party to be liable for 24 months or 2 years of fees despite a lot being vacant is unfair and puts a major burden and strain on Complainant, especially where she owns multiple lots.

Complainant demonstrated that TUID is not consistent with its own tariff in making the notices or tariff available. TUID testified at the hearing that they do not have an office, although the tariff requires TUID to maintain certain items at the office for inspection. As a result, TUID is in constant violation of the tariff since it cannot provide the required items readily available. Further, TUID is uncooperative in making items available despite not having an office.

Finally, Complainant demonstrated that TUID has not followed proper procedures in providing proper notice of meetings concerning the tariff. Complainant did not receive notices by mail concerning Docket 13-2508-02 or Docket 15-2508-T01. However, when Complainant did receive notice of a meeting it was severely untimely. Complainant received notice of a meeting to be held on November 5, 2015 on a bill from TUID that was printed on November 2, 2015. *See*

Exhibit D. TUID has failed to provide proper notice and therefore has inhibited proper due process as to Complainant. Due to TUID's inability to provide proper notice, Complainant has been impeded from enacting on any procedures concerning TUID's tariffs. As a result, the tariffs may not be legitimate.

Based upon the foregoing, Complainant demonstrated that TUID has not been diligent and fair in creating its tariffs or enforcing them. Complainant comes to the Commission seeking for a just resolution concerning her billing and the restraints put upon her rights. Complainant respectfully requests for the Commission to make an adjustment to her billing, particularly concerning unnoticed and unsupported standby fees imposed upon vacant lots. Complainant also requests that TUID be admonished and instructed to cease in preventing due process to Complainant. Complainant requests for the Commission to address the arbitrary standard used by TUID in assessing abandonment and tenant billing. Finally, Complainant requests for the Commission to enforce TUID's requirement to make the tariff and notices readily available upon request.

Complainant appreciates the Commission's willingness and time for allowing Complainant to address the issues that have been brought forward.

DATED AND SIGNED this 26th day of August, 2016.

SALCIDO LAW FIRM, PLLC

/s/ Jon M. Hogelin
Jon M. Hogelin
Attorney for Complainant

CERTIFICATE OF DELIVERY

I hereby certify that on this 26th day of August, 2016, a true and complete copy of the foregoing was provided to the following, via email:

Utah Public Service Commission
psc@utah.gov

Adam Long
Attorney for TUID
along@shutah.law

pschmid@utah.gov

rolsen@utah.gov

jjeter@utah.gov

/s/ Jon M. Hogelin
Jon M. Hogelin
Attorney for Complainant

EXHIBIT A

Group Billing Invoice

April 30, 2014

SHARON A SEAMONS
 MARIAN L SEAMONS
 PO BOX 262
 Eureka, UT 84628-0



Service	Meter Reading		Usage	Charges
	Present	Previous		
Water	110	110	0	39.00
Sewer				28.00
Garbage				12.00
Late Fee				18.86
Electric Base				75.00
Tax				3.19
Past Due				1,946.25

Ticaboo Utility Improvement I Meter Read
 Month Day Class
Due Date: 5/21/2014 4 30 2
 Customer Name: SHARON A SEAMONS
 Service Address: LOT 005 - MHP
 Account 1000 Route Number: 3
Net Amount Due: 2,122.30
 Pay Gross Amount after Due Date
Gross Amount Due: 2,141.16

STANDBY FEES FOR UTILITIES

Service	Meter Reading		Usage	Charges
	Present	Previous		
Water	154470	154470	0	39.00
Electric	77480	77480	0	0.00
Sewer				28.00
Garbage				12.00
Late Fee				20.26
Electric Base				75.00
Tax				3.19
Past Due				296.00

Ticaboo Utility Improvement I Meter Read
 Month Day Class
Due Date: 5/21/2014 4 30 1
 Customer Name: SHARON A SEAMONS
 Service Address: LOTS 001-002 - MHP
 Account 1002 Route Number: 3
Net Amount Due: 473.45
 Pay Gross Amount after Due Date
Gross Amount Due: 492.31

Service	Meter Reading		Usage	Charges
	Present	Previous		
Water	0	0	0	39.00
Sewer				28.00
Garbage				12.00
Late Fee				18.86
Electric Base				75.00
Tax				3.19
Past Due				213.49

Ticaboo Utility Improvement I Meter Read
 Month Day Class
Due Date: 5/21/2014 4 30 2
 Customer Name: SHARON A SEAMONS
 Service Address: LOTS 003-004 - MHP
 Account 1115 Route Number: 1
Net Amount Due: 1,464.54
 Pay Gross Amount after Due Date
Gross Amount Due: 1,490.00

STANDBY FEES FOR UTILITIES

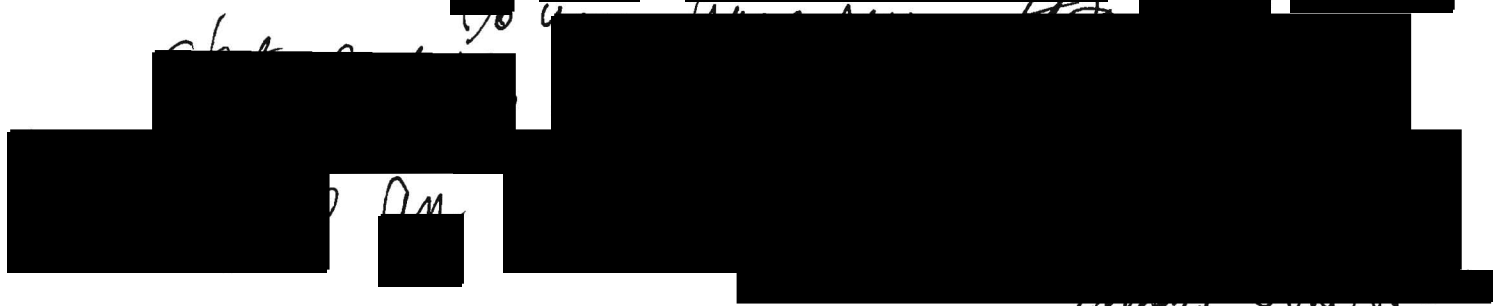


EXHIBIT B

1707 S. 50 E
OREM, UT 84058

Group Billing Invoice Summary

October 31, 2015

Ticaboo Utility Improvement District
PO Box 2140
Ticaboo, UT 84533

Account	Customer Name:	Service Address:	Due Date: 11/21/2015	
			Amount Due w/ Vol. Chg	Amount Paid
1000	SHARON A SEAMONS	LOT 005 - MHP	5,272.34	
1002	SHARON A SEAMONS	LAKE DR N 193 (001/002)	(34.06)(CR)	
1115	SHARON A SEAMONS	LAKE DR N 189 (003/004)	391.36	<u>391.36</u>
1131	SHARON A SEAMONS	LOT 007-008 - MHP	4,539.58	
1133	SHARON A SEAMONS	LOT 098 - MHP	4,539.58	

Total Due \$14,708.80

On Or Before: 11/21/2015

Total Due If Paid After 11/21/2015 \$14,812.34

Please Return With Payment

STANDBY FEES FOR UTILITIES
PLACE ACCT # ON CHECK
Next Meeting: 11/05/2015

*Sorry my bill came late like
on Friday - so we weren't able to attend
the meeting 11/05/15*

EXHIBIT C



Ticaboo Utility Improvement District
 Highway 276, Mile Marker 27
 PO Box 2140
 Ticaboo, UT 84533
 435.788.8343
 customercare@TicabooUID.com
 Providing Power, Water, Wastewater, Solid Waste Services
 Since 2012

TICABOO UTILITY IMPROVEMENT DISTRICT

ABANDONMENT OF UTILITY SERVICES AND TAP APPLICATION

I, Marion Seimons, am an owner of a parcel of real estate located in Ticaboo, Utah that receives electric, water, and/or wastewater from the Ticaboo Utility Improvement District (the "District"). The property is located at All of lot 3 & 4 Ticaboo sub d. street address, Ticaboo, Utah 84533, the property description is 003-004 189 & 187 N Lake Drive, and is parcel number 20-0031-0003/ERTS³ on the records of Garfield County, Utah. 20-0031-0004/ERTS⁴

This property has been vacant in excess of twenty-four months (24), my account is current and in good standing, and it is my desire to permanently disconnect from electric, water, and wastewater service provided by the District, and abandon all taps. I, therefore, request that the District discontinue service, and abandon all taps and other infrastructure owned by Ticaboo Utility Improvement District leading to or located on my property.

Upon approval of abandonment of all taps and District-owned infrastructure as described in the preceding paragraph, I will be released of the obligation to pay monthly fees for electric, water, and wastewater service. I acknowledge that by discontinuing electric, water, and wastewater service, and abandoning all taps that I or any of my successors in interest will be required to pay a tap fees, connection fees, impact fees, and any other expenses in place in the District at the time associated with new electric, water, and wastewater service from the Ticaboo Utility Improvement District at the time that electric, water, and wastewater service is recommenced. At present, the combined fees for new connections to electric, water, and wastewater service would be in excess of \$9,000.00.

I agree to disclose to any person or entity acquiring an interest in the property, in writing, the absence of utility connections or taps on the property, the requirements for reconnection to utility services, and the approximate costs of such reconnection (including all fees required by the Ticaboo Utility Improvement District). I acknowledge that the Ticaboo Utility Improvement District may cause such abandonment of utility services to be recorded with the proper county office under the records of the particular parcel.

Marion Seimons 29 Oct 2015 20-31-0003/ERTS³
 Property Owner Signature Date Parcel Number
20-0031-0004/ERTS⁴

For District Use Only

This abandonment was approved by the Ticaboo Utility Improvement District on the _____ day of _____, 20____

By: _____

Title: _____
 Ticaboo Utility Improvement District



Ticaboo Utility Improvement District
Highway 276, Mile Marker 27
PO Box 2140
Ticaboo, UT 84533
435.788.8343
customercare@TicabooUID.com
Providing Power, Water, Wastewater, Solid Waste Services
Since 2012

TICABOO UTILITY IMPROVEMENT DISTRICT
ABANDONMENT OF UTILITY SERVICES APPLICATION

INSTRUCTIONS:

1. There is an application fee of \$75.00 payable to Ticaboo Utility Improvement District, which must be accompanied with your application. ***Applications received without the application fee WILL NOT be reviewed or considered.***
2. Print the application, fill out, and sign the application.
(NOTE: a separate application must be completed for each individual parcel)
3. If you do not know the parcel number of your property, you may contact the

Garfield County Assessor's Office
435-676-1152

4. The application must be signed by the property owner of record, as recorded with Garfield County. If that person is not able to complete and sign the application, then their trustee may sign the application, so long as the trustee provides the District with documentation authorizing the trustee's actions (e.g. Power of Attorney).
5. Once completed and signed, mail the application with a check for the application fee to:

Ticaboo Utility Improvement District
Abandonment of Utility Services
PO BOX 2140
Ticaboo, UT 84533-2140

6. Your application will be reviewed by the District, and you will be notified as to the status of your application.
7. Please note that as part of the District's review of your application, your account must be in good standing with the District, and remain in good standing until the utility services have been abandoned on your property. Once utility services have been abandoned, as described in the application, you will be released from the obligation to pay monthly fees for utility service. Payments on your account can be made payable to:

Ticaboo Utility Improvement District
PO BOX 2140
Ticaboo, UT 84533
(please include your account number on the payment)

8. For questions regarding your application, please contact the District via email to customercare@ticabooid.com.



Ticaboo Utility Improvement District
Highway 276, Mile Marker 27
PO Box 2140
Ticaboo, UT 84533
435.788.8343
mail@TicabooUID.com
Providing Power, Water, Wastewater, Solid Waste Services
Since 2012

October 31, 2015

Delivered via E-Mail

Sharon A. Seamons
Marian L. Seamons
1707 S. 50 E
Orem, UT 84058
E-Mail: sharonmarian@yahoo.com

RE: ABANDONMENT OF UTILITY SERVICES APPLICATION

Dear Customer,

Please accept this letter in response to the aforementioned application hand delivered to us on Friday, October 30, 2015.

We have reviewed your application, and in accordance with the rules and regulations of the District, we are **not** able to process your application for the following reasons:

1. The application provided has two parcels listed. In accordance with the District's requirements (Instructions #2), and to properly record the abandonment with the county recorder, an application must be completed for each individual parcel where the customer is applying for abandonment;
2. Section 03.12 of the District's Tariff states, "*Permanent abandonment of utility services and taps will only be allowed if the property in question has been continuously vacant and unused for at least 24 months prior to the request.*". The parcels applied for have not been vacant and unused for more than 24 months as the properties were occupied by tenants for the past 12 months;

Since we are unable to process your application, we are returning your Check No. 0007, for \$75.00, via U.S. Postal Mail along with a copy of this letter.

If you should have any questions, or require any additional information, please call us at (435) 788-8343 Monday through Friday, 9:00 AM to 5:00 PM, or email customercare@ticabooid.com.

Sincerely,

TICABOO UTILITY IMPROVEMENT DISTRICT

MARIAN SEAMONS
MARI BROADBENT
1707 S 50 E
OREM UT 84058

Open Since
8/14/2014

0007

97-7751/3243

DATE 29 Oct 2015

PAY TO THE
ORDER OF

Jacobs TWD District

\$ 75⁰⁰/₁₀₀

seventy five & 00/100

DOLLARS



P.O. Box 9199
Ogden, UT 84409
www.americafirst.com

FOR _____

Marian L. Seamons

⑆324377516⑆ 746028710127⑈ 0007

EXHIBIT D

Ticaboo Utility Improvement District
 PO Box 2140
 Ticaboo, UT 84533
 (435) 788-8343

Group Billing Invoice

October 31, 2015

SHARON A SEAMONS
 MARIAN L SEAMONS
 1707 S. 50 E
 OREM, UT 84058

Service	Meter Reading		Usage	Charges
	Present	Previous		
Water	110	110	0	39.00
Sewer				28.00
Garbage				12.00
Late Fee				18.86
Electric Base				75.00
Tax				3.19
Past Due				5,096.29

Meter Read		
Month	Day	Class
10	31	2

Due Date: 11/21/2015

Customer Name: SHARON A SEAMONS

Service Address: LOT 005 - MHP

Account 1000 Route Number: 3

Net Amount Due: 5,272.34

Pay Gross Amount after Due Date

Gross Amount Due: 5,291.20

STANDBY FEES FOR UTILITIES

Service	Meter Reading		Usage	Charges
	Present	Previous		
Water	167370	167170	200	39.00
kWh	77756	77744	12	8.40
Sewer				28.00
Garbage				12.00
Electric Base				75.00
Tax				3.54
Credit				(200.00)

Meter Read		
Month	Day	Class
10	31	1

Due Date: 11/21/2015

Customer Name: SHARON A SEAMONS

Service Address: LAKE DR N 193 (001/002)

Account 1002 Route Number: 2

Net Amount Due: (34.06) (CR)

Pay Gross Amount after Due Date

Gross Amount Due: (34.06)

Service	Meter Reading		Usage	Charges
	Present	Previous		
Water	604690	604610	80	39.00
kWh	65284	65220	64	0.00
Sewer				28.00
Garbage				12.00
Late Fee				20.85
Electric Base				300.00
Tax				12.75
Credit				(21.24)

Meter Read		
Month	Day	Class
10	31	1

Due Date: 11/21/2015

Customer Name: SHARON A SEAMONS

Service Address: LAKE DR N 189 (003/004)

Account 1115 Route Number: 2

Net Amount Due: 391.36

Pay Gross Amount after Due Date

Gross Amount Due: 438.32

Ticaboo Utility Improvement District
PO Box 2140
Ticaboo, UT 84533
(435) 788-8343

Group Billing Invoice

Service	Meter Reading		Usage	Charges
	Present	Previous		
Water	0	0	0	39.00
Sewer				28.00
Garbage				12.00
Late Fee				18.86
Electric Base				75.00
Tax				3.19
Past Due				4,363.53

Due Date: 11/21/2015

Meter Read		
Month	Day	Class
10	31	2

Customer Name: SHARON A SEAMONS
 Service Address: LOT 007-008 - MHP
 Account 1131 Route Number: 1

Net Amount Due: 4,539.58
 Pay Gross Amount after Due Date
Gross Amount Due: 4,558.44

STANDBY FEES FOR UTILITIES

Service	Meter Reading		Usage	Charges
	Present	Previous		
Water	0	0	0	39.00
Sewer				28.00
Garbage				12.00
Late Fee				18.86
Electric Base				75.00
Tax				3.19
Past Due				4,363.53

Due Date: 11/21/2015

Meter Read		
Month	Day	Class
10	31	2

Customer Name: SHARON A SEAMONS
 Service Address: LOT 098 - MHP
 Account 1133 Route Number: 1

Net Amount Due: 4,539.58
 Pay Gross Amount after Due Date
Gross Amount Due: 4,558.44

STANDBY FEES FOR UTILITIES

Water	Sewer	Garbag	Late F	On/Off	Adjust	kWh	Base	Tax	EqFee	SvcCal	Past Due
195.00	140.00	60.00	77.43			8.40	600.00	25.86			\$13,602.11
Date Printed											
11/2/2015 PLACE ACCT # ON CHECK											Total Due: \$14,708.80
Next Meeting: 11/05/2015											Total Due After 11/21/2015 \$14,812.34