

QUARTERLY REPORT OF THE INDEPENDENT CONSUMER ADVOCATE
OF THE METROPOLITAN DISTRICT COMMISSION
APRIL - JUNE 2018

This is the second quarterly report of the Independent Consumer Advocate (ICA) as required by statute.

Several of the issues identified in the first report have continued—longer term bond issues, outreach to

Commissioners, addressing customer issues, and understanding the workings of the MDC. Additional focus on these matters will continue.

CUSTOMER ISSUES

Ten customer issues were addressed during the quarter. Most of these consisted of issues affecting individual customers. Several, however, indicated more widespread concerns.

Three separate condominium associations reached out to discuss what they considered inappropriate opposition by MDC to the utilization of irrigation wells to provide irrigation to common areas of each condominium. All three wanted to preserve MDC service for potable water but wanted the option of disconnecting from MDC for irrigation water. Each was prepared to dig a well for such irrigation and provide protection to prevent the backflow of well water into the MDC system. The condominiums agreed with the MDC that such backflow prevention was necessary. The disagreement concerns the nature of the backflow prevention required. A meeting was convened in late June which included MDC and representatives of the condominiums. The State Department of Public Health, the agency charged with enforcing backflow prevention requirements, was invited but could not attend. No resolution was reached. As the price of MDC water increases, it is fair to assume that this issue will become relevant to more condominiums. ICA anticipates continued attention to this matter.

The second issue of widespread concern, revolves around back billing. This involves issues where customers are billed for service months, or even years, after the service is rendered. Such back billing can result from faulty meters, faulty automatic reading devices (allowing remote reading of meters), incorrect classification of customers, estimated billings for extended periods, failure to render bills, etc.. It can also result from customer action, e.g. disconnect meters, refuse MDC access to premises to read meters, theft of service, etc..

Pursuant to State statute(C.G.S. sec. 16-259a(a)) utilities regulated by PURA can only back bill for a period of twelve months, assuming no adverse customer action caused the faulty billing. MDC reserves the right to back bill as far as it can arguing that the customer in fact received the

service and therefore ought to pay for it. If that customer does not pay, MDC argues, other customers will need to pay more to make up the difference. To be fair, MDC has been willing to make adjustments to some of these back bills once attention is drawn to a specific instance.

The best approach is, of course, to eliminate situations requiring back billing. MDC does appear to be taking some steps to accomplish this. It is however, impossible to eliminate all such instances.

Back billing incurs its own costs. Each such instance needs to be investigated, old bills recalculated, adjustments explained to customers, settlements reached and efforts at collection initiated. When balancing these additional costs against the revenue actually collected, the wisdom of the policy supporting (C.G.S. 16- 259a(a)) becomes clear. When the adverse customer relations as well as equitable concepts are considered, there is a strong case for MDC adopting an equivalent regulation.

In the absence of voluntary action by MDC, state legislation should be considered.

STATE WATER PLAN

During the quarter, the General Assembly considered the adoption of the draft of the State Water Plan as prepared by the state agencies involved—Department of Public Health, Department of Energy and Environment Protection, Public Utility Regulatory Agency, and Office of Public Management. Although the Plan consists of hundreds of pages and includes consideration of a myriad of contentious issues regarding use of water resources, debate focused on whether and to what extent the Plan should reference statutory language stating a ‘public trust’ in the ‘waters of the state’. Water companies, commercial water users, and the business community lined up to argue the reference is irrelevant in the context of the Plan and even if relevant, it was being cited inappropriately. The environmental community argued that its inclusion was critical to the Plan and that indeed it should be given some prominence. Interestingly, neither side provided an interpretation of what in fact the language meant in the context of the Plan.

While not popular with either side, the ICA took the position that the Plan had taken decades to get to this point, that it included much of substance, and that it provided the first clear blueprint for resolving a series of issues that had gone unaddressed over the years. While, as a technical legal matter, the ‘public trust’ language was being misapplied in the context of the Plan, its exclusion or inclusion should not cause the rejection of the Plan by the legislature. In balancing the positive momentum to resolving water issues which have long plagued the state, which would flow from the adoption of the Plan, versus the negative of its inclusion or exclusion, the positive outweighs the negative. The General Assembly took no action on the Plan presumably due to the disagreement.

Subsequently, the Governor issued Executive Order 66 which appears to direct the state agencies to include the public trust language in the Plan and submit it again to the General Assembly for action in 2019. The ICA will work for the adoption of the State Water Plan so that the process of resolving longstanding water issues in the state can move forward.