BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 2014-481-WS

IN RE:	)	
	)	
B2 HOLDINGS, L.L.C	)	
COMPLAINANT,	)	**COMPLAINANT"S RESPONSE TO MOTION TO DISMISS AND NOTICE OF MOTION TO AMEND COMPLAINT.**
	)	
	)	
v.	)	
CAROLINA WATER SERVICE, INC.,	)	
DEFENDANT.	)	
	)	

The COMPLAINANT above-named, (B2 Holdings) would respectfully show this honorable Court the following in response to Defendant/Carolina Water Service's Motion to Dismiss.

Complainant notes that Defendant moves for judgment on the pleadings. These pleadings should include pre-filed testimony of Ken Bozeman and exhibits filed by the Complainant before Defendant had an attorney on record and before the Motion to Dismiss was filed. Under SC Regulation 103-805(D), an attorney who represents a party before this court is required to file a notice of appearance. When I filed Mr. Bozeman's testimony, and the accompanying exhibits, there was no attorney listed for defendant Water Service and no Motion to Dismiss had been filed. I had to ask around to discover who was representing defendant.

B2 Holdings also moves to amend the Complaint because the Complaint was filed before the Complainant had representation in this case. An amended

complaint would state the same arguments stated below in this Response and a clearer set of facts than Mr. Bozeman filed on his own.

ARGUMENT

1. **SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL CONTROL (DHEC) AGREES WITH THE COMPLAINANT THAT CURRENT WASTEWATER COLLECTION RATES ARE UNREASONABLE**.

B2 Holdings argues that the rates charged under the present tariff for wastewater collection from a business are unreasonable. Apparently the South Carolina Department of Health and Environmental Control agrees. Proposed amendments to R.61-67 (the DHEC document used by Defendant water company to set wastewater collection rates) are attached as EXHIBIT 3 to complainant's testimony.

The amendments would reduce the cost of wastewater removal charged each business by approximately 25 percent. DHEC states, "The purpose of this amendment is to reduce unit loading flows in Appendix A by 25 percent based on the knowledge of water savings fixtures and improved designed of sewer collection systems." (Exhibit 3, page 1).

According to *Utilities Services of South Carolina, Inc., v. South Carolina Office of Regulatory Staff*, ""the PSC retains its duty to fix 'just and reasonable' rates following the 2004 amendments to its role in ratemaking. Accordingly, the PSC is not precluded from considering fairness, provided it does so in the context of a just and reasonable framework." 708 S.E.2d 764-75 (SC 2011).

Since DHEC has requested an amendment to R.61-67, the framework for establishing wastewater collection rates has changed.

This amendment to R.61-67 had not been proposed, or complainant was unaware it had been proposed, during the previous case brought by complainant, - 2013-71-WS. B2 Holdings is also alleging different facts and disputing a penalty charge. The present Complaint is therefore not barred by *res judicata*.

2. **THE RESTAURANT ON COMPLAINANT'S PREMISES WAS CLOSED FROM OCTOBER 2012 TO NOVEMBER 2013**.

The Complainant, B2 Holdings, pays the water and sewer bill for this building, which contains restaurant space and an office. During the time when the restaurant was closed, The restaurant used no water, but B2 Holdings was charged for wastewater collection in the amount of three Single Family Equivalents (three SFEs). A business office with one full-time and one part-time employee was operating in the building during that year, but not a restaurant.

Complainant asks for repayment of however much he was overcharged for wastewater collection during that year.

3. **IF REQUIRED TO PAY**, **B2 HOLDINGS SHOULD HAVE SIX MONTHS TO REPAY THE $1140.**

The Complainant disputes that he should be required to pay the difference between three SFEs and 9.4 SFEs for the six months preceding January 2015. If this amount is charged under South Carolina Regulation 103-533, then Complainaint should be given six months to repay this amount, under S.C. Code Reg. 103-533 (2) (c).

For these reasons, B2 Holdings asks that Defendant's Motion to Dismiss be denied in its entirety.

DATE: February 12, 2015

/s/ Laura P. Valtorta
Laura P. Valtorta
Attorney for Plaintiff
903 Calhoun Street
Columbia, S.C. 29201
(803) 771-0828