

SANFORD LAW OFFICE, PLLC

Jo Anne Sanford, Attorney at Law

May 28, 2021

Ms. Kimberley A. Campbell, Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325

Via Electronic Delivery

Re: Carolina Water Service, Inc. of North Carolina
Docket No. W-354, Sub 385
Respondent Carolina Water Service, Inc. of North Carolina's
Answer and Motion to Dismiss Complaint of Paola Davila

Dear Ms. Campbell:

Attached hereto for filing by Carolina Water Service, Inc. of North Carolina (CWSNC or Company) is the Company's Answer and Motion to Dismiss Complaint filed in this docket by the Complainant Paola Davila. CWSNC has also separately filed four **Confidential Exhibits** which consist of copies of water and sewer bills rendered by the Company to Complainant Davila.

I hereby certify that CWSNC's Answer and Motion to Dismiss Complaint and the **Confidential Exhibits** have today been served on the Complainant by both email and United States mail, first class postage pre-paid.

Thank you and your staff for your assistance; please feel free to contact me if there are any questions or suggestions.

Sincerely,

Electronically Submitted

/s/Jo Anne Sanford

State Bar No. 6831

Attorney for Carolina Water Service,
Inc. of North Carolina

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. W-354, SUB 385

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Paola Davila, 303 Sugar Top Drive, Unit 2206,)	
Unit 2206, Sugar Mountain, North Carolina)	
28604,)	
)	
Complainant)	RESPONDENT'S
v.)	ANSWER AND MOTION
)	TO DISMISS COMPLAINT
)	
Carolina Water Service, Inc. of North Carolina,)	
)	
Respondent)	

NOW COMES, Carolina Water Service, Inc. of North Carolina (CWSNC or Company) and files this Answer and Motion to Dismiss Complaint in response to the North Carolina Utilities Commission (Commission or NCUC) Order Serving Complaint in this matter, issued on May 3, 2021. In response to the Complaint, CWSNC shows the Commission as follows

On April 30, 2021, Ms. Paola Davila (Ms. Davila or Complainant), a CWSNC water and sewer customer, filed a formal complaint with the Commission alleging, in pertinent part, that she "...received an outrageously expensive water bill of \$900 for the month of January 2021..." at her property located at 303 Sugar Top Drive (Unit 2206) in Sugar Mountain, North Carolina.

The Complainant further stated that her property is part of "...a resort style condo building" which consists of "...a small 2-bedroom condo..." and that her "...typical water bill is \$120 a month." Ms. Davila further asserted that she has

“...not had any leaks, repairs, or issues with the plumbing system in any way.” The Complainant requested the following relief: that she be charged no more than the amount of approximately \$120 per month for water and sewer service that she “usually” pays.

On May 3, 2021, the Commission entered an Order Serving Complaint in this docket whereby Ms. Davila’s formal complaint was served on CWSNC and the Company was directed to either satisfy the demands of Complainant or file an answer with the Commission on or before May 13, 2021. On May 13, 2021, CWSNC filed a request for an extension of time until Friday, May 28, 2021, to file the Company’s response to the complaint. By Order dated May 14, 2021, the Commission granted the requested extension of time.

CWSNC’s Answer to Ms. Davila’s Complaint

CWSNC hereby files the attached Affidavit of Deborah S. Clark, the Company’s Communications and Community Engagement Manager, as its Answer in response to Ms. Davila’s Complaint.

In addition, regarding the ten numbered statements or paragraphs denominated by the Complainant as “Facts” in her Complaint, CWSNC responds as follows:

1. CWSNC has no reason to generally dispute or deny Paragraph 1 of the Complaint, but does object to and does not accept the Complainant’s use of the terminology “...outrageously expensive water bill of \$900.00 for the month of January 2021...” First, that amount was for two months of water and sewer utility service, not one month. Second, the Clark Affidavit clearly demonstrates that the

portion of the bill for the second billing period for service from December 29, 2020, through January 27, 2021, in the amount of \$146.81 based on monthly usage of 4,659 gallons is certainly not subject to a high-bill challenge. Third, the Clark Affidavit substantiates that 52,169 gallons of water in fact passed through Complainant's water meter during the applicable first billing period. CWSNC concedes that a monthly charge of \$752.49 for this customer's premise is certainly high; however, the bill in question was calculated by application of the Commission-approved tariff to Ms. Davila's measured usage. It is the Company's position that the Complainant experienced a leak or leaks on her premises and that such leakage was the proximate cause for the high amount of her utility bill for gallonage which actually passed through the Complainant's meter.

2. CWSNC does not generally dispute Paragraph 2 of the Complaint, but asserts that the Complainant's statement that her typical bill for water and sewer utility service is \$120 per month is not exact and that her bills vary from month to month.

3. CWSNC disputes Paragraph 3 of the Complaint insofar as it alleges that the Complainant has not "...had any leaks, repairs, or issues with the plumbing in any way." CWSNC asserts that the "high bills" alleged by Ms. Davila resulted from leaks on her premises. Although the Company is itself unable to specifically verify whether the Complainant has made repairs to or experienced leaks or issues with her residential plumbing system, upon information and belief, CWSNC operating personnel have reason to believe that maintenance personnel for the Complainant's condominium complex fixed a leaking toilet in Ms. Davila's master

bathroom in March 2021. (See Footnote No. 4 of the attached Affidavit of Deborah S. Clark)

4. Regarding Paragraph 4 of the Complaint, CWSNC cannot accept the information contained therein, as the Company, upon information and belief, has reason to believe that maintenance personnel for the Complainant's condominium complex fixed a leaking toilet in Ms. Davila's master bathroom in March 2021. (See the Company's response to Paragraph No. 3 above)

5. Regarding Paragraph 5 of the Complaint, CWSNC generally accepts and does not dispute this statement, although the information contained in the Clark Affidavit is a much more specific and accurate statement of the Company's position in this case.

6. Regarding Paragraph 6 of the Complaint, CWSNC wholly disputes this characterization of the Company's customer service generally and with respect to the Complainant in particular. The Company cannot speak to the specific allegations against the Public Staff, but has never found its relationship with the Staff in dealing with consumer complaints to be anything but professional.

7. Regarding Paragraph 7 of the Complaint, CWSNC does not generally dispute this characterization, but does take exception to the Complainant's use of the term "outrageous." The Company has taken extraordinary measures in its attempt to be fair with the Complainant in that instance.

8. Regarding Paragraph 8 of the Complaint, CWSNC disputes this characterization of the Company's actions, particularly when considered in the light of the information set forth in the Clark Affidavit.

9. Regarding Paragraph 9 of the Complaint, CWSNC is unable to respond to the veracity of this hearsay statement, but does concede that other customers at these premises have raised high-bill complaints which the Company has investigated. Similar to the situation with Ms. Davila, those complaints were also found to be related to internal leaks in the residential premises.

10. Regarding Paragraph 10 of the Complaint, CWSNC does not dispute this statement, but notes that intermittent leaks---such as a leaky toilet or faucet---can be consistent with periods of higher bills when leaks are happening and a return to normal bills when leaks stop. (See Paragraph No. 18 of the Clark Affidavit)

CWSNC's Motion to Dismiss Ms. Davila's Complaint

G.S. 62-73 provides, in pertinent part, that:

Complaints may be made by...any person having an interest, either direct or as a representative of any persons having a direct interest in the subject matter of such complaint by petition or complaint in writing **setting forth any act or thing done or omitted to be done by any public utility, including any rule, regulation or rate heretofore established or fixed by or for any public utility in violation of any provision of law or of any order or rule of the Commission, or that any rate, service, classification, rule, regulation or practice is unjust and unreasonable....** (Emphasis added)

In support of this Motion to Dismiss Complaint, CWSNC asserts that the Complainant has not demonstrated that the Company has violated any of the statutory language in G.S. 62-73 highlighted above to substantiate a finding by the

Commission that reasonable ground exists for further investigation of the Complaint at issue in this docket. The Affidavit of Deborah S. Clark is dispositive on that point in terms of the verified facts supplied by the Company in support of its position that the Company bears no responsibility for the January 2021 “high bills” complained of by Ms. Davila. The Company conducted multiple investigations in 2020 and 2021 to-date to determine if there was any validity to the claims made by Ms. Davila that she was apparently mis-billed as a result of a billing error for which the Company was at fault. That is simply not the case. Rather, the Company is convinced, and has so told the Complainant, that the high bills about which she has complained resulted from leaks, constant or intermittent, at her residence.

Accordingly, CWSNC respectfully asserts that no reasonable ground exists pursuant to G.S. 62-73 for the Commission to further investigate Ms. Davila’s Complaint and that her Complaint should, therefore, be dismissed. Accordingly, CWSNC requests that the Commission, based upon its independent review of the Complaint and the Company’s Answer, enter an Order finding no reasonable ground for further investigation and provide Ms. Davila notice and opportunity be heard on that conclusion, as required by G.S. 62-73. Thereafter, if Ms. Davila, by her response, is unable to demonstrate to the satisfaction of the Commission that reasonable ground does in fact exist to continue with an investigation, CWSNC requests that the Commission enter an Order dismissing the Complaint and closing this docket premised on a finding that the Complainant has failed to state a claim upon which relief can be granted.

The Commission has utilized the "no reasonable ground" procedure in many complaint cases in the past and CWSNC asserts that such a disposition is clearly applicable, reasonable, fair, efficient, and justifiable in this particular case. In addition, CWSNC asserts that this is precisely the type of straightforward case where it is reasonable and appropriate for the Commission to conclude, after review of the pleadings, that no reasonable ground exists pursuant to G.S. 62-73 for further investigation.

Based upon the foregoing, CWSNC asserts that no compelling reason exists for any adjustment of the water and sewer charges in the amount of \$899.30 billed to Complainant for services she in fact received during the billing periods from November 24, 2020, through January 27, 2021. Accordingly, the Company respectfully submits that this case can most efficiently and fairly be decided based upon the pleadings submitted by the parties. The Complainant, not CWSNC, bears the burden of proof in this proceeding. Ms. Davila should be held to that standard and should be ordered by the Commission to demonstrate and show that reasonable ground in fact exists in order for the Commission to proceed with further investigation of her Complaint.

Respectfully submitted this the 28th day of May, 2021.

**ATTORNEYS FOR CAROLINA WATER SERVICE,
INC. OF NORTH CAROLINA
Electronically Submitted**

/s/Jo Anne Sanford
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CERTIFICATE OF SERVICE

I hereby certify that on this the __28__ day of May 2021, a copy of the foregoing **Answer and Motion to Dismiss Complaint** has been duly served upon Paola Davila, Complainant, in Docket No. W-354, Sub 385 by both electronic service and United States Mail, as follows:

Ms. Paola Davila
3119 Park Road
Charlotte, North Carolina 28209
Email: pdbam2013@gmail.com

Electronically Submitted

/s/Jo Anne Sanford
sanford@sanfordlawoffice.com
Tel: 919.210.4900

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH

DOCKET NO. W-354, SUB 385

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Paola Davila, 303 Sugar Top Drive,)	
Unit 2206, Sugar Mountain, North Carolina)	
28604,)	
)	
Complainant)	AFFIDAVIT OF
v.)	DEBORAH S. CLARK
)	
Carolina Water Service, Inc. of North Carolina,)	
)	
Respondent)	

AFFIDAVIT OF DEBORAH S. CLARK
COMMUNICATIONS AND COMMUNITY ENGAGEMENT MANAGER
CAROLINA WATER SERVICE, INC. OF NORTH CAROLINA

Deborah S. Clark, Communications and Community Engagement Manager for Carolina Water Service, Inc. of North Carolina ("CWSNC" or "Company"), first being duly sworn, deposes and says:

1. On April 30, 2021, Ms. Paola Davila (Ms. Davila or Complainant), a CWSNC water and sewer customer, filed a formal complaint (Complaint) with the North Carolina Utilities Commission (Commission or NCUC) alleging, in pertinent part, that she "...received an outrageously expensive water bill of \$900 for the month of January 2021..." at her property located at 303 Sugar Top Drive (Unit 2206) in Sugar Mountain, North Carolina.

2. The Complainant further stated that her property is part of "...a resort style condo building" which consists of "...a small 2-bedroom condo..." and that

her "...typical water bill is \$120 a month." Ms. Davila further asserted that she has "...not had any leaks, repairs, or issues with the plumbing system in any way." The relief requested by Complainant is that she be charged no more than the amount of approximately \$120 per month for water and sewer service that she "usually" pays.

3. On May 3, 2021, the Commission entered an Order Serving Complaint in this docket whereby Ms. Davila's formal complaint was served on CWSNC and the Company was directed to either satisfy the demands of Complainant or file an answer with the Commission on or before May 13, 2021. On May 13, 2021, CWSNC filed a request for an extension of time until Friday, May 28, 2021, to file the Company's response to the complaint. By Order dated May 14, 2021, the Commission granted the requested extension of time.

4. The verified information set forth in this Affidavit constitutes CWSNC's Answer to Ms. Davila's Complaint and provides verification and support for the Company's Answer and Motion to Dismiss Complaint.

5. Since January 2020, the Complainant has lodged multiple high-bill complaints with the Company alleging that she was, in effect, overbilled for water and sewer utility service.

6. On January 10, 2020, Ms. Davila complained about a high bill. On that same day, CWSNC's field operator inspected the meter and re-read the usage. There was no indication of a meter-related leak or misread usage. However, due to the age of the meter, it was subsequently exchanged and replaced with a new meter on January 22, 2020, in an attempt to ensure no further

high-bill issues. The old, replaced meter was sent by CWSNC for independent testing by Mid America Meter, Inc. in Medina, Minnesota. On January 28, 2020, the meter was tested and the results of that testing indicated that the meter met or exceeded the standards specified by the American Water Works Association (AWWA). The average testing accuracy was 99.59%.

7. The high-bill complaint registered by Ms. Davila with CWSNC on January 10, 2020, was related to the Complainant's water and sewer bill dated January 9, 2020, which covered a 27-day billing period from November 22, 2019 through December 19, 2019. That bill totaled \$462.78 based upon recorded usage of 38,900 gallons and an average daily usage of approximately 1,441 gallons. A copy of that bill is attached hereto as Confidential Exhibit 1.

8. The Complainant's next water and sewer bill was dated January 29, 2020 (a copy of which is attached hereto as Confidential Exhibit 2). That bill included the previous unpaid balance from the Complainant's December 19, 2019 bill of \$462.78 plus \$255.65 for water and sewer service rendered during the billing period from December 19, 2019 through January 22, 2020, based upon total usage 18,400 gallons for the 34-day billing cycle. As an accommodation to Ms. Davila based on her January 10, 2020 high-bill complaint, CWSNC made a billing adjustment on Ms. Davila's January 29, 2020 utility bill totaling \$346.55 for water service and \$190.40 for sewer service; thereby reducing the Complainant's water and sewer bills for those two months by \$536.95 to a total of \$181.48.

9. This billing adjustment was provided in good faith to Ms. Davila on her bill dated January 29, 2020, to mitigate the financial impact of the two water

and sewer bills in question based on the combined meter readings of 57,300 gallons of usage for the applicable two-month period. This billing adjustment was also made notwithstanding the Company's position, conveyed to the Complainant, that there was no evidence of a meter malfunction or misreading which would account for Ms. Davila's "high-bill" complaint; that the water in question actually passed through the meter serving Ms. Davila's premises; and that, therefore, any high usage during the two billing periods resulted from a leak or leaks on the Complainant's premises.

10. On or about April 22, 2020, Ms. Davila's water meter was replaced with a new meter in conjunction with the Company's Automatic Meter Reading (AMR) meter exchange and installation project serving the Complainant's water and sewer utility system.

11. On June 10, 2020, Ms. Davila called CWSNC's Customer Experience Department to report another high bill. Ms. Davila's water and sewer bill dated April 30, 2020, for the billing period from March 26, 2020 through April 26, 2020, reflected zero usage. Her charge for water and sewer utility service for that billing period totaled \$85.23 and consisted solely of the applicable water and sewer residential base charges minus small Federal Deferred Tax Refund credits and a small Sewer System Improvement Charge credit. There were no water or sewer usage charges reflected on this bill, because the Complainant's water meter registered no usage during the billing period. Thus, there was no validity to or evidence of a high-bill complaint. In addition, upon inspection by a

Company field employee on June 11 2020, the Complainant's meter did not indicate any issues with the meter read or any leaks.

12. On July 30, 2020, the Complainant again called the Company's Customer Experience Department and complained of a high bill. The meter was re-read; it was indicated as working properly and no **leaks** were detected.

13. Ms. Davila's next contact with the Company involved interaction with CWSNC's Area Manager and me in my capacity as CWSNC's Communications and Community Engagement Manager. That contact was related to Ms. Davila's August 4, 2020 water and sewer bill in the amount of \$624.43. During the 29-day billing period from June 25, 2020 through July 24, 2020, the Complainant's water meter registered total usage of 42,193 gallons, including an average daily use of approximately 1,455 gallons. As a second good faith billing accommodation¹ to Ms. Davila, CWSNC made a billing adjustment totaling \$348.94 for water service and \$193.67 for sewer service; thereby reducing the Complainant's water and sewer bills for that billing period to a total of \$81.82. This second billing adjustment was also made notwithstanding the Company's position, again conveyed to the Complainant, that there was no evidence of a meter malfunction or misreading which would account for Ms. Davila's "high-bill" complaint; that the water in question actually passed through the meter serving the Complainant's premises; and that, therefore, any high usage during the billing period resulted from a leak or leaks on the customer's premises.

¹ This second billing adjustment was in addition to the billing credit previously made by the Company in the amount of \$536.95 for the benefit of the Complainant in January 2020. See Paragraphs 7 – 9 above.

14. The Complainant's pending high-bill complaint is related to the formal complaint filed with the NCUC by Ms. Davila in this docket on April 30, 2021. On January 27, 2021, CWSNC sent Ms. Davila two water and sewer bills (copies of which are attached hereto as Confidential Exhibits 3 and 4). Because the Complainant's meter registered an unusually high usage reading of 52,189 gallons for the 35-day billing period from November 24, 2020 through December 29, 2020, the Company chose not to bill Ms. Davila until a field employee could confirm the correct usage amount by re-reading the meter and checking for a leak.²

15. The Complainant was subsequently sent a bill in on January 27, 2021, in the amount of \$752.49 for utility service rendered between November 24, 2020, and December 29, 2020, reflecting total usage of 52,169 gallons, for a daily average of approximately 1,491 gallons. On that same day, the Complainant was also sent a second water and sewer bill in the total amount of \$899.30, which included the past-due balance of \$752.49 plus \$146.81 for service provided during the 29-day billing period which extended from December 29, 2020, through January 27, 2021, based upon metered usage of 4,659 gallons, for an average usage of approximately 161 gallons per day.

16. In her Complaint filed with the NCUC, the Complainant contests the entire amount of \$899.30 shown on both of the bills rendered by the Company on January 27, 2021. Ms. Davila has no claim of merit for a high bill adjustment for the water and sewer service she received during the 29-day billing period from

² The meter reading was confirmed and no leak was found on January 28, 2021.

December 29, 2020 through January 27, 2021. Her usage during that period was less than 4,700 gallons and her total bill for that usage was \$146.81, including base facility charges of \$87.83. There is no indication of fault on the part of the Company during this billing period that would justify a billing adjustment based on leakage. Leakage on the customer's premises is the responsibility of the customer.

17. That leaves the Complainant with, at best, a high-bill claim for the billing amount of \$752.49 for the water and sewer service which she received during the 35-day billing period which extended from November 24, 2020, through December 29, 2020. CWSNC has been reasonable in its prior interactions with the Complainant since January 2020, as reflected by the two very significant billing adjustments in Ms. Davila's favor in January and August of 2020, totaling approximately \$1,100.00. CWSNC made those good faith billing adjustments to the benefit of Ms. Davila notwithstanding that (a) multiple investigations by Company personnel showed no leaks related to the utility's water meters serving Ms. Davila; (b) meter testing showed no irregularities with any of the meters serving the Complainant's premises which would account for inaccurate or faulty, high-meter reads; and (c) there is no indication of any mis-billing by the Company related to the Complainant's account. In addition, one meter was replaced in January 2020 to accommodate Ms. Davila and a new AMR meter was installed to serve the Complainant's premises in April 2020.

18. Multiple CWSNC employees³ have consistently advised Ms. Davila that all evidence leads to a conclusion that she has a leak or leaks in her residence which account for the high bills she received during 2020 and to-date in 2021. For instance, a running toilet is caused when the flapper is prevented from completely closing properly onto the flush valve (it gets "hung-up"). This allows water to run continuously from the tank, into the bowl, and down the drain. A running toilet can waste 4.5 gallons of water per minute (that's nearly 300 gallons per hour, or 6,480 gallons per day). In addition, all flappers deteriorate over time, causing leaks. Leaks can also be caused by small pieces of grit or other debris in the tank getting between the flapper and the flush valve, causing the water in the tank to leak into the bowl. A leaking flapper can waste up to 200 gallons of water per day. In addition, leaks can result from dripping or running faucets in the home or malfunctioning hot waters heaters which are vented to drains.

19. As is clear by the information contained in this Affidavit and the attached Exhibits, CWSNC, in good faith and based upon prior high-bill complaints, made significant billing adjustments or credits to Complainant's water and sewer account during the 2020 calendar year. Those billing credits, which totaled approximately \$1,100.00 (as detailed above in Paragraphs 7, 8, 9, and 13 of this Affidavit), were given notwithstanding the fact that multiple investigations by CWSNC operating personnel revealed no billing or meter irregularities or culpability by the Company. To the contrary, Ms. Davila has been consistently

³ CWSNC's Customer Experience Team, Area Manager, Operations Field Staff, and I have all spoken with Ms. Davila about the potential for leaks inside the residence.

advised by the Company that her high bills are the result of a leak or leaks at her residence and that those leaks are her responsibility to detect and correct.

20. Based on the facts set forth in this Affidavit and the attached Exhibits, CWSNC is unwilling to make further financial accommodations to the Complainant based upon unsubstantiated high-bill claims for leakage which are not the fault of the Company. Accordingly, CWSNC has determined that the water usage registered on the customer's two bills dated January 27, 2021, in the dollar amount of \$899.30 is correct and that no billing adjustment is warranted or required.⁴

21. CWSNC is open to continued dialogue with Ms. Davila to explain the meter usage, billing, and leak detection aspects of this situation.

22. In addition, Ms. Davila may use the Company's online internet application to not only receive notifications, but to also monitor monthly usage, pay bills, and to start and stop service. We encourage all customers to activate their account in the My Utility Connect system by downloading the application from either the Apple Store or Google Play, in order to stay informed.

23. CWSNC's Customer Experience Center is available to answer any questions customers may have concerning service issues related to their water and sewer utility service, as well as the rates for such service and billing issues.

⁴ On March 25 and 26, 2021, Ms. Davila again called CWSNC's Customer Experience Department to request a meter read and leak detection. The operations team read the meter on March 30, 2021, and inspected the meter for a leak. The meter read was within parameters and no leak was detected by CWSNC operations staff. Upon information and belief, CWSNC operating personnel have reason to believe that maintenance personnel for the Complainant's condominium complex fixed a leaking toilet in Ms. Davila's master bathroom in March 2021.

The Customer Service Center can be contacted via telephone at (800) 525-7990
or, via email, at customerservice@carolinawaterservicenc.com.

FURTHER AFFIANT SAYETH NOT.

This the 28 day of May, 2021.

Deborah S. Clark
Deborah S. Clark
Communications and Community Engagement Manager
Carolina Water Service, Inc. of North Carolina

Sworn and subscribed before me this 28 day of May, 2021.

Leonora Stewart (SEAL)
Notary Public

My Commission Expires: July 4, 2021

