



AVU-E-16-02

December 29, 2015

Idaho Public Utilities Commission
472 W. Washington
Boise, Idaho 83720-0074
Attn: Ms. Jean Jewell, Commission Secretary

Idaho Public Utilities Commission
Office of the Secretary
RECEIVED

JAN 08 2016

Boise, Idaho

RE: Avista Utilities / Via USPS Priority Mail

Dear Ms. Jewell,

I would like to file a formal complaint against Avista Utilities for incorrect billing with respect to our utility bills from the period of April 2008 to August 2015.

Although I realize that the time period for remediation of billing errors is typically 36 months, as detailed in **IDAPA 31.21.01, Section 204** whereby the maximum amount of time a Utility Company may seek restitution from a customer is established for "**Errors in Preparation [of billing statements] - Malfunctions [in equipment] - Failure to Bill**", in this particular situation, there are exigent circumstances that I would like to take this opportunity to address:

1. This is not a situation of a simple billing error, a malfunction in the meter/other equipment, or a failure to bill but rather it is a situation where we have been billed for another company's usage for over seven (7) years.
2. In this situation, after several months of high bills, I contacted Avista in August of 2008 to address my concerns regarding what I considered to be extremely high bills. Avista responded by sending a technician out to investigate the situation and I was assured that everything was in order.
3. In September 2015, the neighboring office, North Idaho Home Health, vacated their office when they moved to another location and our utility bills dramatically decreased. It was obvious that there was an issue and we contacted Avista. Avista came out and once again, advised that there were no issues; the meter and equipment were performing correctly.
4. In October 2015, we AGAIN contacted Avista and asked that they look at this situation further as there was obviously an issue. They scheduled a time to come out and inspect both office suites on October 27, 2015. It was discovered that the two (2) meters were incorrectly registered at Avista whereby our usage was being billed to North Idaho Home Health and their usage was being billed to us. As you will note below, there is a significant difference in not only the office square feet, but in the number of employees; therefore, this error negatively affected us for over seven (7) years.

5. If Avista had properly researched the issue back in 2008 when it was first brought to their attention, this situation could have been resolved back then; therefore, we should not be penalized due to their failure to properly address the situation.

To further clarify above item #1 and #2:

Our building is set up as a commercial duplex in the Riverstone Complex and as such has two (2) separate office suites with (2) two separate meters for utilities. The overall building has 4,951 square feet and our particular suite is substantially smaller than the adjacent suite with only 1,468 sq. ft. (or 29.6% of the overall building space) and the adjacent suite has 3,483 sq. ft. (See Exhibit A). To put the space differential in prospective, the adjacent suite, North Idaho Home Health, had a staff of 20-25 people and they were open 7-days a week. Our understanding is that they also held monthly company meetings with sometimes up to 30+ people in attendance.

Our business, Your Equity Source, LLC, has a much smaller staff which consisted of four (4) people from 2008 until 2014 and only five (5) people in 2015. Not only are we not open on weekends, but we were only open ½ days on Fridays.

As mentioned above, the utility bills seemed extremely high for such a small space with limited equipment and employees which is why we asked Avista to research the situation back in 2008. When Avista advised us that everything was correct, we then contacted the owner of the building, MICA CREEK LLC and expressed our concerns. As a result, they had extra insulation put in to see if this would help with the high utility bills. The utility bills never changed and now we can see why since the benefit was likely realized by the neighboring office.

To further clarify above item #3 and #4:

In September, 2015 North Idaho Home Health vacated their office suite when they relocated to another location and when we received our October 2015 statement, our average billing went from \$200+/- per month to \$50+/- per month. We again contacted Avista Utilities to express our concerns.

On Thursday, October 22, 2015, they sent their utility personnel out to check the meter. At that time, they again verified that the meters were in working order and once again advised that everything was in order. Basically, it was the same response we received from them in 2008.

I strongly disagreed with their analysis and we once again contacted Avista and expressed our concerns - they scheduled a second inspection for Tuesday, October 27, 2015 whereby the Avista utility personnel conducted a test of the meters in both suites (our suite and the now vacant suite which was formerly occupied by North Idaho Home Health). They instructed us to shut all our electric equipment off prior to their coming out in the morning and upon their arrival and we had our staff member-Amy Adkinson on sight to assist and confirm that the test was actually conducted. They instructed her to stay upstairs in our office while they activated the electrical panel.

It was determined by this physical testing of the meters that in fact, the meter to our business and the business next door to us (North Idaho Home Health) were crossed; thereby, creating a major billing error. We were assured that they would correct the issue and that we would be adjusted for any overpayments.

In Summary:

The end result is that we were being billed for North Idaho Home Health's usage for the entire time we occupied our office starting April, 2008. The utility personnel said they would report this to their billing department and request that we be reimbursed for the overages we had been charged.

We received a letter dated November 13, 2015 from Avista Utilities stating that a recent investigation of the electric metering equipment revealed that the meter was mixed with another address. Our account was credited in the amount of \$1,866.20 for 18510 kWhs billed between 10/2/2012 and 8/3/2015. (See attached Exhibit B). There was nothing included to show how they arrived at their calculations and they only went back 36 months.

Although *IDAPA 31.21.01, Section 204 and Section 61-642* indicate the timeframe for restitution is 36 months, this appears to be more in line with the maximum amount of time a Utility Company may seek restitution from a customer for "*Errors in Preparation [of billing statements] - Malfunctions [in equipment] - Failure to Bill*". Not only is this not the case in this situation, but the fact of the matter is that we did bring this to Avista's attention back in 2008 and they did not take the time or the initiative to properly research this situation. They had complete control of the situation with full access to evaluate the meter wiring and the ability to compare the two office suite billing data upon our initial request in 2008. Instead, their only initiative was to check for the functionality of the meter itself.

Since April of 2008, we have paid a total of \$19,219 to Avista which actually represents the adjacent space's billing and as detailed below, their space is 70% of the overall square footage.

It would appear that such problems are not uncommon and State Utility Commissions and Governing officials do have the ability to allow for remediation beyond the typical period established within state statutes.

For example, in Grace Edwards vs. Connecticut Light and Power, the consumer was awarded restitution for 25 years of overcharges when it was determined that additional items were incorrectly connected to her Meter.

As another example, there have been so many such instances in the State of New York whereby consumers were harmed by Utility Company errors that the laws were changed to give consumers the ability to seek restitution for the actual amount of time they were financially harmed. In their statement:

Billing errors caused by faulty wire connections, incorrect computations, installation mishaps or other mistakes often continue for years without detection, the bill says. Even when a utility company acknowledges the error and can account for the amount of the mistake, the liability is for [a limited period, according to current state statutes.

"This causes an inequitable situation whereby a customer can prove the overcharge for a longer period of time, but cannot be compensated for his total loss," the measure says. "This legislation changes the statute of limitations for these utility company billing errors ..., thereby providing a fairer basis to settle these matters."

EXHIBIT
A

FOR LEASE
2426 Merritt Creek Loop
Coeur d'Alene, ID 83814



SPACE AVAILABLE:
Unit B - ±3,483 SF

LEASE RATE:
\$3,900 / MO / Modified Gross

±3,483 square foot Class A office space located in beautiful Merritt Creek Office Park with in Riverstone

PROPERTY DETAILS

- Built-in reception area
- Copy / Supply Room
- Break room
- 4 large private offices
- Large office area for cubicals
- Lower level conference room
- Secured file storage



Casey Brazil
208.770.2595
casey.brazil@khco.com

Josh Beebe, SIOR
208.699.7980
josh.beebe@khco.com

**KIEMLE &
HAGOOD
COMPANY**

208.770.2590
khco.com



No warranty or representation, expressed or implied, is made by Kiemle & Hagood Company, its agents or its employees as to the accuracy of the information contained herein. All information furnished is from sources deemed reliable and submitted subject to errors, omissions, change of terms and conditions, prior sale, lease or financing, or withdrawal without notice. No one should rely solely on the above information, but instead should conduct their own investigation to independently verify themselves.

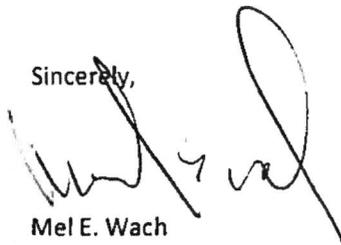
1 of 2

Our request is simple. We have, in good faith, substantially overpaid for our utility services since 2008 when Avista failed to properly research the problem after our initial complaint; therefore, we feel we should not be encumbered by the 36 month period. We are requesting that Avista Utilities make available the actual billing information from April 2008 to December 2015 for our actual usage and we are requesting for the commission to set aside the 36 month review period due to the unique circumstances and require Avista Utilities to promptly refund to us the full amount overpaid. We not requesting interest on the amount due; however, we are requesting that they issue us a refund check instead of a credit on the account.

***Also, Avista Utilities bills us not only for the electrical portion of our utilities, but also for the gas portion of our utilities. We have asked for the gas meter to also be checked and thus far, this has not been addressed. We are requesting that Avista check to ensure that the gas meters are not also incorrectly wired.

As a small business owner, I can assure you that keeping every expense in line is critical, especially for a small business in the Mortgage Industry (such as ours) which has endured decreased revenue over the past 10 years due to the real estate market. I appreciate your time and consideration in this matter and should you have any questions or need any additional information, please do not hesitate to contact me.

Sincerely,



Mel E. Wach
Owner

CC: Daniel Klein, Idaho Utilities Compliance Investigator (via email)
Raúl Rafael Labrador, Idaho Congressman 1st District (hand delivered)

*YOUR EQUITY SOURCE
YES Mortgage, NMLS #3079
2426 N. Merritt Creek Loop, Suite A
Coeur d'Alene, ID 83814
208-664-9260 PHONE
208-667-8516 FAX*

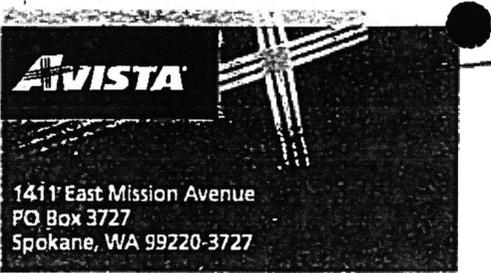


EXHIBIT B

November 13, 2015

Your Equity Source
2426 N Merritt Creek Loop Ste A
Coeur d'Alene ID 83814

Re: Account Number 5658810000

Dear Your Equity Source,

A recent investigation of the electric metering equipment at 2426 N Merritt Creek Loop Ste A revealed that the meter was mixed with another address.

We have credited your account \$1866.20 for 18510 kwhs billed between 10/2/2012 and 8/3/2015.

If you have any questions, please contact our office. Avista Customer Service Representatives are available to assist you Monday through Friday 7:00 a.m. to 7:00 p.m. and Saturday 9:00 a.m. to 5:00 p.m. at (800) 227-9187. You can also visit us at www.avistautilities.com.

Sincerely,

...

They only credited
3 years - we've
been here since
April 2008 -
So there should be
a credit for the other
4 years.

Also, that's
only \$51 +/- /mo.
which is odd since
they had 20-25
EMPLOYEES & were
open 7 days/wk. VS
5 here in our office.

UTILITY CUSTOMER RELATIONS RULES IDAPA 31.21.01

204. INACCURATELY BILLED SERVICE UNDER CORRECT TARIFF SCHEDULE – FAILURE TO BILL FOR SERVICE (Rule 204).

01. Errors in Preparation – Malfunctions – Failure to Bill. Whenever the billing for utility service was not accurately determined for reasons such as a meter malfunctioned or failed, bills were estimated, metering equipment was incorrectly installed or programmed, or bills were inaccurately prepared, the utility shall prepare a corrected billing. If the utility has failed to bill a customer for service, the utility shall prepare a bill for the period during which no bill was provided. (4-2-08)

02. Rebilling Time Period. (4-2-08)

a. If the time when the malfunction or error began or the time when the utility began to fail to bill for service cannot be reasonably determined to have occurred within a specific billing period, the corrected billings shall not exceed the most recent six (6) months before the discovery of the malfunction, error, or failure to bill. (4-2-08)

b. If the time when the malfunction, error, or failure to bill began can be reasonably determined and the utility determines the customer was overcharged, the corrected billings shall go back to that time, but not to exceed three (3) years from the time the error or malfunction occurred as provided by Section 61-642, Idaho Code. (4-2-08)

c. If the time when the malfunction or error can be reasonably determined and the utility determines the customer was undercharged, the utility may rebill for a period of six (6) months unless a reasonable person should have known of the inaccurate billing, in which case the rebilling may be extended for a period not to exceed three (3) years. Utilities shall implement procedures designed to monitor and identify customers who have not been billed or who have been inaccurately billed. (4-2-08)

03. Refunds. The utility shall promptly prepare a corrected billing indicating the refund due to the customer and issue a credit on the customer's next bill. Any remaining credit balance shall be credited against future bills unless the customer, after notice from the utility, requests a refund. The utility shall advise the customer of the option to have any remaining credit balance refunded to the customer. (4-2-08)

04. Additional Payments. The utility shall promptly prepare a corrected billing for a customer who has been undercharged indicating the amount owed to the utility. An unbilled or undercharged customer shall be given the opportunity to make payment arrangements under Rule 313 on the amount due. At the customer's option, the term of the payment arrangement may extend for the length of time that the underbilling accrued or the customer was not billed. (4-2-08)

[Adopted as Rule 8.2 and 8.3, O.N. 17744; amended and recodified, G.O. 177.]

Statutory Reference: *Idaho Code* § 61-642.

Cross-Reference: Rules 005, 203, 313.