



Nov. 17, 2016

Mayor Eric Garcetti
Los Angeles City Hall
200 N. Spring St.
Los Angeles, CA 90012

Dear Mayor Garcetti,

We are appalled to learn that, while DWP ratepayers will have to wait at least one year extra for refunds owed them under DWP's massive billing fraud, the attorneys in the case, who have failed to prosecute it, will receive a new windfall. Meanwhile, ratepayers will not even receive interest on the money owed them for the last three years.

The latest settlement agreement on tens of millions in DWP overcharges to ratepayers, filed just days before Friday's court hearing, includes a whopping \$19 million payment to attorneys, up from \$13 million in the last proposed agreement. This represents a 46% fee increase over the last proposed settlement. Plus, lawyers will receive 29 percent of the actual money recovered by ratepayers through the claims process and completion of field investigations.

The settlement, which has ballooned to \$67.5 million in refunds from an original \$44 million due to a 2013 billing software snafu, also adds \$20 million more for computer system upgrades and consultants without explanation. The public spending on the attorneys and the DWP computer fixes comes without the public knowing how and why the problems occurred at DWP, why additional computer software engineers are needed, and what will be done fix the system to justify the \$20 million expense.

The so-called "independent monitor," Paul Bender, whose work increased the refund amounts and identified the need for \$20 million in computer upgrades and computer consultants, now stands to make \$2.5 million for his overseeing the process closed to the public, up from \$750,000.

The settlement is an outrageous example of lawyers and insiders larding themselves at the public trough. Meantime, ratepayers are at the back of the bus—they don't get paid back with interest, and they have to wait until late 2017 to see a penny.

You should not allow this to stand. The public deserves the right to know what went wrong and ratepayers deserve interest on stolen money.

Mr. Mayor, the settlement with ballooning public costs offers no public transparency into why these billing errors occurred or how they will be prevented in the future, let alone how ratepayers know they will receive appropriate refund amounts without an independent claims administrator.

No discovery or litigation has been done to determine why the software billing problem occurred in the first place, though a DWP quality assurance expert warned that the system wasn't ready just a few

weeks before it was implemented to disastrous effect. (See attached timeline setting out the course of events.) There has been no transparency in ascertaining what customers should be paid beyond taking the word of DWP-hired utility consultant Paul Bender whose business interests are mixed with the lead plaintiff attorneys and DWP in this case.

Paying \$19 million to attorneys who have not taken a single deposition in this case and failed to represent ratepayers aggressively is an abuse of taxpayer dollars. Overall, more than \$42 million in public money from this over \$100 million expenditure is going to attorneys, computer consultants, and computer systems without ratepayers receiving any explanations.

The attorneys in this case appear to have entered a deal with the defense attorneys for the City, who are also the private plaintiff attorneys prosecuting the City's case against Price Waterhouse Cooper (PWC), to inflate this settlement in a way that guarantees maximum payout in their case against PWC. Those private plaintiff attorneys working for the City defending the ratepayer case have a conflict of interest in that they also stand to receive a windfall in contingency fees from the case against PWC. Our Public Records Act requests to determine how much these attorneys have received from taxpayers to date have not been answered by DWP for the last two months.

Moreover, we have no independent ratepayer advocate to determine whether what ratepayers receive is fair, reasonable, or adequate. You failed to replace Fred Pickel, the head of the DWP's Office of Public Accountability. His own self-dealing was one reason why voters rejected Charter Measure RRR, which would have allowed you to wash your hands of this dysfunctional utility and let DWP police itself. As you know, Pickel, a former Enron consultant, wrote Measure RRR to include a new five-year contract paying him \$276,000 a year but failed to disclose this in the ballot summary he wrote. He should be replaced with a true independent ratepayer advocate immediately.

At the same time, DWP continues to mask its insider dealings from the public. The utility has put off for weeks a response to our Public Records Act requests for an accounting of all fees and expenses associated with attorneys and consultants defending the City, the DWP, and ratepayers, plus any documents concerning billing system problems, and has required \$1,500 to give us the list of customers disconnected for nonpayment of bills from January 2014 on. All this information rightly belongs to the public and you should have them supply it immediately free of charge.

On top of this, DWP continues to threaten to terminate customers with tens of thousands of dollars in utility back-bills and/or "estimated" bills that they do not believe they owe. Customers have been railroaded into big down payments to avoid service termination. Instead, all terminations should be immediately stopped pending thorough investigation. Customer service representatives should be putting people directly in touch with DWP personnel who read their meters and with DWP supervisors. Any back bills customers received should be forgiven as they are entirely the fault of DWP and a billing system that does not appear to be fixed even now. Interest should be paid to customers on all overcharges.

The latest settlement agreement falls woefully short in proposing any major reforms, a fact that should worry you. The creation of a "Tiger Team" in customer service by utility consultant Paul Bender to

handle sticky billing questions is not a solution. As you will recall, when you ran for Mayor, you made reform of this utility your centerpiece. Last year, you told *The Los Angeles Times*, "Reform is a value and will be an ongoing mission...It's not just changing some of the systems, but it has to have systems change as well."

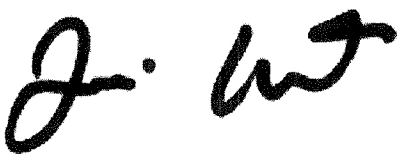
We see no such fundamental change, and are beginning to think you have no interest in it. You will recall that a year ago, we invited you to meet with ratepayers to explain how the second version of the settlement agreement benefitted them, after we pointed out its flaws, which included no neutral forum to resolve ratepayer bills and the retention of Pickel. You declined.

It has been more than three years since the DWP's billing system malfunctioned, and not only has that billing system not been fixed and ratepayers refunded, but the DWP continues to display systemic callousness towards ratepayers.

Its behavior sent one Northridge resident, Velma Matthews, to the emergency room with high blood pressure after she received two bills two months apart totaling nearly \$30,000, and feared disconnection. Matthews lives alone, and has let all grass and trees die in her front and back yards. She was visited by DWP officials only after her story was covered by KCBS-TV and Steve Lopez of the LA Times. That was two months ago, and she is still waiting for resolution—which should be an immediate apology for grossly incorrect "guestimates" as her meter was caked with two inches of dirt and its face unreadable. Instead, DWP insisted that she has a leak, though a thorough check by independent experts turned up nothing.

Now is the time for you to make good on your promises of DWP reform by cleaning up self-dealing wherever it arises, revamping customer service to bring it into the 21st century, and appointing a true consumer advocate to act in ratepayers' best interests. Once again this settlement falls short. Your involvement is critical to ending this nightmare for DWP ratepayers who should not have had to wait for years to see justice done. We are waiting for you to step up to the plate and do what you promised to do when you ran for Mayor. We stand ready to assist you in such an overhaul now that voters have rendered their verdict on City Hall's prescription by rejecting Measure RRR.

Sincerely,



Jamie Court, President Consumer Watchdog



Liza Tucker, Consumer Advocate