



November 10, 2015

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

Mike Feuer
Los Angeles City Attorney
James K. Hahn City Hall East, Suite 800
Los Angeles, CA 90012

Dear Mayor Garcetti and City Attorney Feuer:

We are disappointed that you failed to respond to our October 30th letter asking you to modify the Los Angeles Department of Water and Power overbilling settlement. For the second time, a Los Angeles Superior Court judge refused to accept the flawed deal on November 3rd.

A new settlement with modifications will be presented to the court by November 17th and once again you have an opportunity to act to protect ratepayers.

First, we ask that you address some fundamental problems that will remain for ratepayers unless you alter the agreement.

Second, we invite you to a lunch with overbilled LADWP ratepayers, after the revised settlement is completed, so that you can personally explain to them how the newly modified negotiated settlement will work in their favor.

We have tentatively scheduled the lunch for November 18th at 12 Noon at Consumer Watchdog offices, but will work with your schedulers to accommodate your schedule in any way. We will invite the media so ratepayers across the city can have the benefit of your explanation and answers to ratepayer questions.

Profound problems remain with the proposed settlement that we urge you to fix before presenting the settlement to overcharged ratepayers. As our last letter noted, the claims process needs to be made fairer, more easily understood, and more transparent.

As Judge Berle made clear, ratepayers are being asked to give up broad, significant legal rights against DWP. While some ratepayers will receive refunds, many have or will

receive notices that state they owe back bills and have underpaid on their account. This group requires your immediate attention.

Under the last settlement agreement that the court rejected, ratepayers would have to give up their legal right to dispute back bills without being told how much DWP says they underpaid. This is unacceptable, as consumers will opt in and be forced to pay a debt without retaining the legal right to dispute it. Without ratepayers knowing how much they will owe first, a decision to accept the settlement will be like playing Russian roulette.

In fact, there should be no back billing at all. All underpayments should be forgiven. It's wrong that ratepayers would be asked to pay bills that they haven't been charged for since 2013. Most consumers don't have thousands of dollars extra to cover bills that they would have received in a timely fashion but for DWP's negligence.

While at the last hearing the City claimed in court that back billing for underpayments would be limited to nine months, the rejected settlement agreement only states that the DWP will seek a rule change from its oversight commission to limit back billing mistakes to 270 days going forward.

In other words, ratepayers in this settling class will have to pay back bills from when DWP first started under billing or neglecting to bill customers, despite representations to the public and the court that there would be a 270 day limit on back billing for underpayments.

The proposed Rule 17 change, even if adopted, will not help anyone who received a back bill already or is due one, and would only apply prospectively. Mayor, that's a bait and switch that your office needs to end. You owe Angelenos broad forgiveness of all back billing. The City is seeking compensation for the billing errors in a separate case from Price Waterhouse Cooper and will recoup its losses. (Does it intend to repay ratepayers when it wins that case?) This is a gesture that citizens of this city need for DWP to make amends.

Also, the rejected settlement agreement includes a proposed DWP rule change that limits repayment of DWP overcharges to nine months. So if DWP overcharges residential customers for four years, going forward, the proposed amendments to Rule 17 will now provide DWP only refund overcharges for the last nine months, instead of four years. That's not fair, especially in light of the potential problem with the smart meters systematically overcharging.

In addition, DWP claims to have determined the amount of refunds consumers are due, but has not issued any refund checks, only back bills for underpayments. It's time the refunds start to flow, with or without a signed settlement. That's what an entity that overcharges its customers, particularly a public agency, is supposed to do – correct bills.

Finally, we have pointed to the lack of ratepayer representation in this settlement, but the same holds true for ratepayer representation at DWP in general. The ratepayer advocate's office has been silent as this and other scandals unfolded, making it an accomplice. In fact Mr. Fred Pickel, the city's "ratepayer advocate" who heads the Office of Public Accountability, signed off on the rejected settlement and has refused to discuss his operations with Consumer Watchdog. He stated he would only answer written questions.

It's time for an overhaul of the Office of Public Accountability, beginning with Mr. Pickel's replacement, and including a significant public outreach and advocacy function.

Fred Pickel was a bad choice for ratepayer advocate because of his history as an energy consultant and his intimacy with Enron in the years leading up to the California electricity crisis. He has spent nearly his entire career as an energy consultant, including as the Vice President of Tabors Caramanis & Associates, President of Wilshire Energy Associates, and President of Virtual Energy Corp. At these firms he consulted for utilities and energy companies, both private and public, and did not work defending ratepayers' interests.

Throughout his career, Pickel consulted for Enron, both in co-writing a report espousing the benefits of electricity deregulation and, later, by producing an anti-consumer analysis of the Western electricity market referenced in Enron emails released after the scandal.

Pickel co-authored a report for Enron in March of 1995 titled, "Unbundling the US Electric Power Industry: A Blueprint for Change" ([Article Link Here](#)) The report explains all of the benefits of an 'unbundled' power system that ultimately bilked Californians for tens of billions of dollars. Yet the report claims that under the new deregulated system, consumers would save \$60 billion. In this way, Mr. Pickel was part of the Enron conspiracy that defrauded Californians.

Emails publicly posted after the Enron scandal include an August 2000 email from then-consultant Pickel to Jeff Dasovich, an Enron official. In that email, Pickel attached a draft of a memo on supply and demand for electricity in the West, as the price and supply crisis was taking hold. While the memo itself was not made public, in the email he points out a memo revision that states in a footnote, "even with the increases and without the rebates, San Diego residential bills are below the national average." ([Article Link Here](#)) The memos appear to be a defense of Enron's high electricity rates.

In 2003, Pickel was an expert witness for Powerex, a power trader during the electricity crisis that ended up paying \$750 million to settle allegations of abuse. ([Article Link Here](#))

In 2003, when Attorney General Bill Lockyer, the Electricity Oversight Board and California's Investor Owned Utilities went to bat at the Federal Energy Regulatory Commission (FERC) on behalf of Californians, Pickel testified on behalf of energy trader

Powerex. Lockyer and his attorneys blasted Pickel: "Through the testimony of Dr. John W. Wilson ... Frederick H. Pickel... the sellers allege that economic forces and market design flaws caused the high prices. In taking this position, they have largely avoided any consideration of the individual behavior of their own clients or of the multitude of other evidence produced in this proceeding. Thus, after more than 100 days of discovery, the sellers produced theoretical hypotheses that are divorced from fact." ([Article Link Here](#))

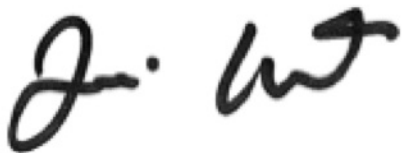
It's no wonder DWP customers have suffered so many indignities at the Department given Mr. Pickel's history. Mayor, he never should have been named ratepayer advocate, with your support, and his failure to speak out for ratepayers during these last years of scandal makes clear he should be replaced with a true consumer advocate immediately.

We, along with aggrieved ratepayers, look forward to your explanation of how a revised settlement addresses these issues, and your response to the status of the ratepayer advocate's office at our lunch. We ask that you not bring your lawyers, as ratepayers who will be asked to sign this agreement will not have the benefit of attorneys.

If you decline to attend a lunch, we will hold the meeting with ratepayers and the media anyway to go through the revised agreement. If you cannot stand before ratepayers to justify the deal, how can you expect Angelenos to sign onto it?

Thanks for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Court".

Jamie Court
President, Consumer Watchdog

A handwritten signature in black ink, appearing to read "Liza Tucker".

Liza Tucker
Consumer Advocate, Consumer Watchdog