

# DOCKET # C-2020-3020883

Hearing Date: October 6, 2020

Hersca-1 Formal Complaint

Hersca-2 Response to Motion for Summary Judgment

Hersca-3 Last Water Bill Received

Hersca-4 Letter from State Rep Peifer

Hersca-5 Statistical Research

Hersca-6 Section 1312 of Public Utility

Code and Additional Paid Water Bills

Hersca-7 Section 1301 of Public Utility Code

Hersca-8 Guide to Utility Ratemaking

Hersca-9 Case Law

Hersca-10 A November 13, 2019 Notice and

Section 526 of Public Utility Code

TLU-1 Quarterly Bill

TLU-2 Calculations and Charges

TLU-3 Results of Test

TLU-4 November 2019 Notice

TLU-5 Letter and Test Results

## Donna Hersca

---

**From:** Donna Hersca <donnahersca@yahoo.com> on behalf of Donna Hersca  
**Sent:** Thursday, July 30, 2020 3:07 PM  
**To:** Donna Hersca  
**Subject:** Fw: PA PUC DOCKET NO. C-2020-3020883 - Reply To Answer of Twin Lakes Utilities, Inc.  
**Attachments:** ResponseToAnswerOfTwinLakesUtilties\_C-2020-3020883.pdf

Sent from Yahoo Mail on Android

----- Forwarded Message -----

**From:** "Donna Hersca" <donnahersca@yahoo.com>  
**To:** "jkooper@middlesexwater.com" <jkooper@middlesexwater.com>  
**Sent:** Thu, Jul 30, 2020 at 3:05 PM  
**Subject:** PA PUC DOCKET NO. C-2020-3020883 - Reply To Answer of Twin Lakes Utilities, Inc.  
Attached is the Reply to Answer of Twin Lakes Utilities, Inc. in the above-referenced docket, which was filed on this date with the Pennsylvania Public Utility Commission.

John & Donna Hersca,  
Complainants and customers of Twin Lakes Utilities, Inc.

Sent from Yahoo Mail on Android

C-2020-3020883  
10/6/20

**Hersca-1**



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| eFiling Confirmation         |  |
|------------------------------|--|
| Representing:                | Formal Complaint of John & Donna Hersca                                    |
| Description:                 | Formal Complaint of John & Donna Hersca against Twin Lakes Utilities, Inc. |
| Transmission Date:           | 7/16/2020 3:34:56 PM   |
| Filed On:                    | 7/16/2020 3:34:56 PM   |
| eFiling Confirmation Number: | 1920149  |

### Uploaded File List

| File Name                                   | Document Class   | Document Type    |
|---|------------------|------------------|
| FormalComplaintOfJohn&DonnaHersca&Proof.pdf | Formal Complaint | Formal Complaint |

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# PENNSYLVANIA PUBLIC UTILITY COMMISSION

## Formal Complaint

*Filing this form begins a legal proceeding and you will be a party to the case.  
If you do not wish to be a party to the case, consider filing an informal complaint.*

**To complete this form, please type or print legibly in ink.**

### 1. **Customer (Complainant) Information** (required)

Provide your name, mailing address, county, telephone number(s), e-mail address and utility account number. It is your responsibility to update the Commission with any changes to your address and to where you want documents mailed to you.

Name: John & Donna Hersca

Street/P.O. Box: 110 Sagamore Road

City: Shohola State: PA Zip: 18458

County: Pike

Telephone Number(s) Where We Can Contact You During the Day: (required)

(\_\_\_\_\_) \_\_\_\_\_ (home) (570) 618-0487 (mobile)

E-mail Address (required): donnahersca@yahoo.com

Utility Account Number (from your bill): 0737594252

**If your complaint involves utility service provided to a different address or in a different name than your mailing address, please list this information below.**

Name \_\_\_\_\_

Street/P.O. Box \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

### 2. **Name of Utility or Company (Respondent)**

Provide the full name of the utility or company about which you are complaining. The name of your utility or company is on your bill.

Twin Lakes Utilities, Inc.

3. **Type of Utility Service**

Check the box listing the type of utility service that is the subject of your complaint (check only one):

- |   |   |
|---|---|
| <input type="checkbox"/> ELECTRIC         | <input type="checkbox"/> WASTEWATER/SEWER                                     |
| <input type="checkbox"/> GAS              | <input type="checkbox"/> TELEPHONE/TELECOMMUNICATIONS (local, long distance)  |
| <input checked="" type="checkbox"/> WATER | <input type="checkbox"/> MOTOR CARRIER (e.g. taxi, moving company, limousine) |
| <input type="checkbox"/> STEAM HEAT       |   |

4. **Reason for Complaint**

What kind of problem are you having with the utility or company? Check all boxes below that apply and state the reason for your complaint. Explain specifically what you believe the utility or company has done wrong. Provide relevant details including dates, times and places and any other information that may be important. If the complaint is about billing, tell us the amount you believe is not correct. Use additional paper if you need more space. **Your complaint may be dismissed without a hearing if you do not provide specific information.**

- The utility is threatening to shut off my service or has already shut off my service.
- I would like a payment agreement.
- Incorrect charges are on my bill. Provide dates that are important and an explanation about any amounts or charges that you believe are not correct. Attach a copy of the bill(s) in question if you have it/them.
- I am having a reliability, safety or quality problem with my utility service. Explain the problem, including dates, times or places and any other relevant details that may be important.

Other (explain): We oppose Twin Lakes Utilities, Inc.'s rate and amount billed to us because it is an illegal, unreasonable and unjust rate and bill amount, which is in direct violation of Pennsylvania Code Title 66 – Public Utilities, Chapter 13, Section 1301 – Rates to Be Just and Reasonable. It is unreasonable and unjust because Twin Lakes Utilities is charging us \$600.00 for our quarterly water bill for us (two people) when the average national and state monthly water bill is only \$40.00! We do not even drink the water and we have to spend even more money out-of-pocket buying bottled water at the store since the water in our community at Sagamore Estates previously tested positive for high levels of lead – so we use very little water.

The conduct of Twin Lakes Utilities, Inc. in charging us this outrageously high water bill in violation of Section 1301 above is particularly egregious since they hit us with this even higher rate during the time when a declaration of a state of emergency was being declared as a result of COVID-19, during which I have been laid off from work, and they thereby doubled the amount of our water bill and charged us with this egregiously unaffordable, unreasonable and unjust new quarterly water bill in the amount of \$600.00.

Note: If your complaint is only about removing or modifying a municipal lien filed by the City of Philadelphia, the Public Utility Commission (PUC) cannot address it. Only local courts in Philadelphia County can address this type of complaint. The PUC can address a complaint about service or incorrect billing even if that amount is subject to a lien.

In addition, the PUC generally does not handle complaints about cell phone or Internet service, but may be able to resolve a dispute regarding voice communications over the Internet (including the inability to make voice 911/E911 emergency calls) or concerns about high-speed access to Internet service.

**5. Requested Relief**

**How do you want your complaint to be resolved?** Explain what you want the PUC to order the utility or company to do. Use additional paper if you need more space.

We respectfully request that: (1) Twin Lakes Utilities immediately reduce our water rates down to a reasonable and just rate and be immediately ordered by the PUC to do so and mandate that our water bill does not exceed the national and statewide average water bill in Pennsylvania of \$40.00 per month, as required by Pennsylvania Code Title 66 – Public Utilities, Chapter 13, Section 1301 – Rates to Be Just and Reasonable; and (2) We further request that Twin Lakes Utilities reimburse us for all past monies we have overpaid to them as a result of them overcharging us an unreasonable and unjust rate.

Note: The PUC can decide that a customer was not billed correctly and can order billing refunds. The PUC can also fine a utility or company for not following rules and can order a utility or company to correct a problem with your service. Under state law, the PUC cannot decide whether a utility or company should pay customers for loss or damages. Damage claims may be sought in an appropriate civil court.

**6. Protection From Abuse (PFA)**

**Has a court granted a “Protection From Abuse” order that is currently in effect for your personal safety or welfare?** The PUC needs this information to properly process your complaint so that your identity is not made public. No.

Note: You must answer this question if your complaint is against a natural gas distribution utility, an electric distribution utility or a water distribution utility AND your complaint is about a problem involving billing, a request to receive service, a security deposit request, termination of service or a request for a payment agreement.

Has a court granted a “Protection From Abuse” order for your personal safety or welfare?

YES              
NO              X

If your answer to the above question is “yes,” attach a copy of the current Protection From Abuse order to this Formal Complaint form.

7. **Prior Utility Contact**

a. Is this an appeal from a decision of the PUC's Bureau of Consumer Services (BCS)?

YES

NO

Note: If you answered yes, move to Section 8. No further contact with the utility or company is required. If you answered no, answer the question in Section 7 b. and answer the question in Section 7 c. if relevant.

b. If this is not an appeal from a BCS decision, have you spoken to a utility or company representative about this complaint?

YES

NO

Note: You must contact the utility first if (1) you are a residential customer, (2) your complaint is against a natural gas distribution utility, an electric distribution utility or a water utility AND (3) your complaint is about a billing problem, a service problem, a termination of service problem, or a request for a payment agreement.

c. If you tried to speak to a utility company representative about your complaint but were not able to do so, please explain why.

I spoke with Paula, a representative at Twin Lakes Utilities, Inc., at (800) 523-7224 on July 16, 2020 and she would not adjust our water rate/water bill down to a reasonable, just rate when I requested.

Note: Even if you are not required to contact the utility or company, you should always try to speak to a utility or company representative about your problem before you file a Formal Complaint with the PUC.

8. **Legal Representation**

If you are filing a Formal Complaint as an individual on your own behalf, you are not required to have a lawyer. You may represent yourself at the hearing.

If you are already represented by a lawyer in this matter, provide your lawyer's name, address, telephone number, and e-mail address, if known. Please make sure your lawyer is aware of your complaint. If represented by a lawyer, both you and your lawyer must be present at your hearing.

Lawyer's Name \_\_\_\_\_

Street/P.O. Box \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Area Code/Phone Number \_\_\_\_\_

E-mail Address (if known) \_\_\_\_\_



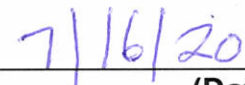
Note: Corporations, associations, partnerships, limited liability companies and political subdivisions are required to have a lawyer represent them at a hearing and to file any motions, answers, briefs or other legal pleadings.

9. **Verification and Signature**

**You must sign your complaint.** Individuals filing a Formal Complaint **must** print or type their name on the line provided in the verification paragraph below and **must** sign and date this form in **ink**. **If you do not sign the Formal Complaint, the PUC will not accept it.**

**Verification:**

*I, John Hersca and Donna Hersca, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief) and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).*

  
  
\_\_\_\_\_  
(Signature of Complainant) \_\_\_\_\_   
(Date)

\_\_\_\_\_  
**Title of authorized employee or officer** (only applicable to corporations, associations, partnerships, limited liability companies or political subdivisions)

Note: If the Complainant is a corporation, association, partnership, limited liability company or political subdivision, the verification **must** be signed by an authorized officer or authorized employee. If the Formal Complaint is **not signed** by one of these individuals, the PUC **will not accept** it.

10. **Two Ways to File Your Formal Complaint**

**Electronically.** You must create an account on the PUC's eFiling system – free of charge- which may be accessed at <http://www.puc.pa.gov/efiling/default.aspx>.

**Note:** If you are appealing your Bureau of Consumer Services (BCS) decision, you must file your formal complaint by mail.

**Mail. Mail the completed form with your original signature and any attachments, by certified mail, first-class mail, or overnight delivery to this address:**

**Secretary  
Pennsylvania Public Utility Commission  
400 North Street  
Harrisburg, Pennsylvania 17120**

**Note: Formal Complaints sent by fax or e-mail will not be accepted.**

**If you have any questions about filling out this form, please contact the Secretary's Bureau at 717-772-7777.**

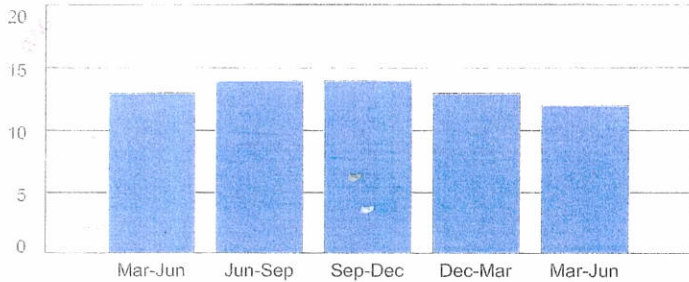
**Keep a copy of your Formal Complaint for your records.**



Twin Lakes Utilities, Inc.  
 Customer Service Center  
 485C Route 1 South, Suite 400 Iselin, New Jersey 08830  
 Telephone: 1-800-523-7224

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 07/25/20

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage         | Unit of Measure | Reading Type | Rate |
|--------------|----------|----------|-----------------|---------------|---------|---------------|-----------------|--------------|------|
|              | From     | To       |                 | Previous      | Present |               |                 |              |      |
| 82289999     | 03/28/20 | 06/27/20 | 91              | 156           | 168     | 12            | CCF             | REGULAR      | TLQ  |
|              |          |          |                 |               |         | EQUIVALENT TO | 8,976 GALLONS   |              |      |

FACILITIES CHARGE \$181.23 (PRO) \$41.82  
 WTR CHRG (\$14.60 PER 1,000 GAL) \$30.24  
 FACILITIES CHARGE \$344.52 (PRO) \$265.02  
 WTR CHRG (\$27.75 PER 1,000 GAL) \$191.60  
 TOTAL CURRENT CHARGES \$528.68

PAYMENT \$323.20 CR  
 TOTAL CREDITS \$323.20 CR

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

The Pennsylvania PUC has approved a rate increase in base rates for services rendered on and after April 19, 2020 STARTING 7/1/2020 YOU CAN VIEW THE TWIN LAKES WATER COMPANY WATER QUALITY REPORT ONLINE AT: [HTTP://MIDDLESEXWATER.COM/WATERQUALITY/TL](http://MIDDLESEXWATER.COM/WATERQUALITY/TL) THE REPORT CONTAINS INFORMATION ABOUT THE QUALITY OF YOUR DRINKING WATER. IF YOU PREFER A PAPER REPORT SENT TO YOUR HOME, PLEASE CALL (800) 523-7224.  
 If you use an online bill paying service to make your payments, please ensure that they have on file your correct account number as shown on this bill and that they mail the payment on your behalf to: P.O. Box 826538, Philadelphia, PA 19182-6538.

PLEASE DETACH HERE AND RETURN THE BOTTOM PORTION WITH YOUR PAYMENT IN THE RETURN ENVELOPE PROVIDED.

300 06232020  
 300 05232020

Twin Lakes Utilities, Inc.  
 Customer Service Center  
 485C Route 1 South, Suite 400  
 Iselin, New Jersey 08830

Forwarding Service Requested

Service Address: 110 SAGAMORE RD  
 SHOHOLA PA

Please check this box if you have made any information changes on the reverse side.

Account Number: 0737594252  
 Balance Forward \$0.00  
 Current Charges \$528.68  
**DUE 07/21/2020 \$528.68**

Please make payable to: Twin Lakes Utilities, Inc.

Payment Amount Enclosed \$ \_\_\_\_\_

000144

\*\*\*\*\*SINGLE-PIECE 144 T1:3 144 1 SP 0.500  
 JOHN & DONNA HERSCA  
 110 SAGAMORE RD  
 SHOHOLA PA 18458-4416



TWIN LAKES UTILITIES, INC.  
 PO BOX 826538  
 PHILADELPHIA PA 19182-6538



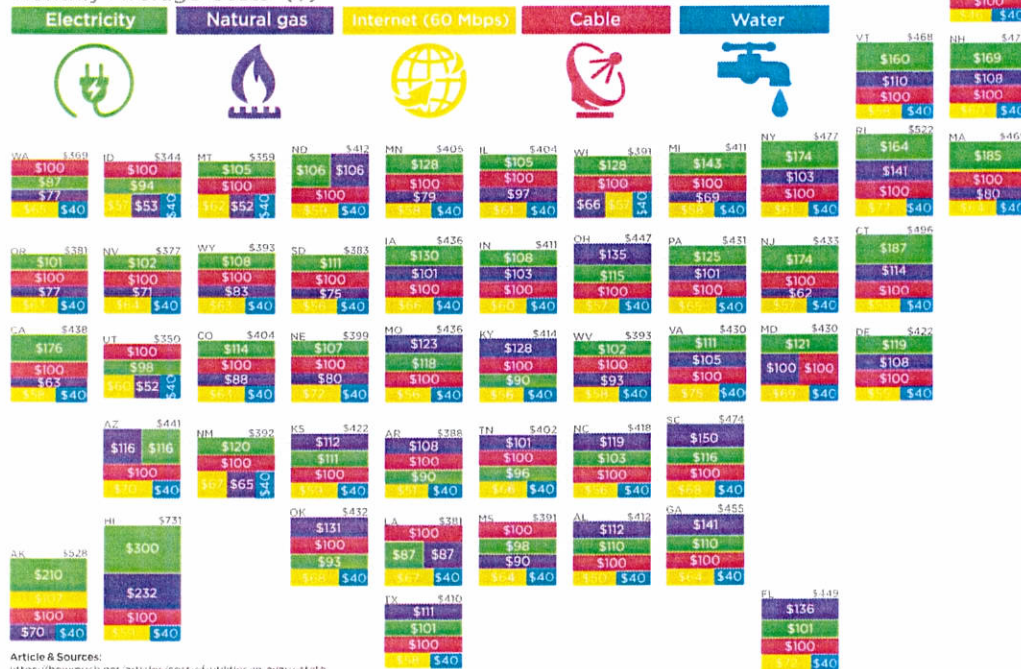
# What's the Average Cost of Utilities Where You Live?

If you are trying to save money, take a look at your electrical usage. That's the message from a new report detailing average utility costs across five different categories for every state across the country.

AS OF 11/2018

## The Cost of Utilities in Every State

Monthly Average Costs (\$)



Article & Sources:  
<https://howmuch.net/articles/cost-of-utilities-in-every-state>  
 Electricity - U.S. Energy Information Administration (EIA)  
 Natural Gas - U.S. Energy Information Administration (EIA)  
 Internet & Cable - Different Sources  
 Water - The US Environmental Protection Agency (EPA)




Use this visualization

Researchers at [move.org](https://move.org) crunched the numbers for five essential utilities. They looked to the U.S. Energy Information Administration (EIA) to determine average electrical consumption per U.S. resident. They also used EIA's figures for

## Average Cost Per Month:


Electricity  
 **\$183**

Natural Gas  
 **\$82**

Water  
 **\$40**

Garbage/Sewer/Recycling  
 **\$12-20**

Cable TV  
 **\$100**

Internet  
 **\$47**

## WHERE DO UTILITIES DO COST THE MOST?

### UTILITIES

### COST THE MOST?

Whether you're moving in or moving out, avoiding a high utility bill is as easy as avoiding these 10 US states with the highest average cost of utilities (/which-states-pay-most-utilities/) per month. (And maybe moving to one of the 10 states with the lowest average cost of utilities instead?)

## Heating and cooling: Why is it

**Average Cost Per Month:**

|  |  |
|--|--|
| <br>Electricity<br><b>\$183</b> | <br>Natural Gas<br><b>\$82</b>                |
| <br>Water<br><b>\$40</b>        | <br>Garbage/Sewer/Recycling<br><b>\$12-20</b> |
| <br>Cable TV<br><b>\$100</b>    | <br>Internet<br><b>\$47</b>                   |

**WHERE DO UTILITIES DO COST THE MOST?**

**UTILITIES**

**COST THE MOST?**

**UTILITIES**

Whether you're moving in or moving out, avoiding a high utility bill is as easy as avoiding these 10 US states with the highest average cost of utilities (/which-states-pay-most-utilities/) per month. (And maybe moving to one of the 10 states with the lowest average cost of utilities instead?)

**Heating and cooling: Why is it**

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Move <https://www.move.org/best-rental-agents/>

Search

[\(https://www.move.org\)](https://www.move.org/)

Pack and Prep [\(https://www.move.org/pack-and-prepare/\)](https://www.move.org/pack-and-prepare/)

## Utility Bills 101: Tips, Average Costs, Fees, and More

By Colin Holmes [\(https://www.move.org/author/colin-holmes/\)](https://www.move.org/author/colin-holmes/) |

Updated: February 14, 2019 [\(https://www.move.org/find-a-mover/\)](https://www.move.org/find-a-mover/)

Unless you live off the grid, most utilities—like electricity, gas, water, garbage, internet, and cable—are going to periodically cost you a buck or two. In fact, **the rule of thumb for apartment dwellers is to budget at least \$200 per month for utilities.**<sup>1</sup>

Considering the average consumer will spend 7% of their annual income on energy,<sup>2</sup> it's important to know where all of that money's going.

Let's take a look at what you should be paying for your utilities—and we'll show you how you can trim your energy costs along the way.

We may earn money ([disclosure](#)) when you click our links.

Move (<https://www.move.org/best-integrated>)

Search

(<https://www.move.org>)

Pack and Prep (<https://www.move.org/pack-and-prep>)

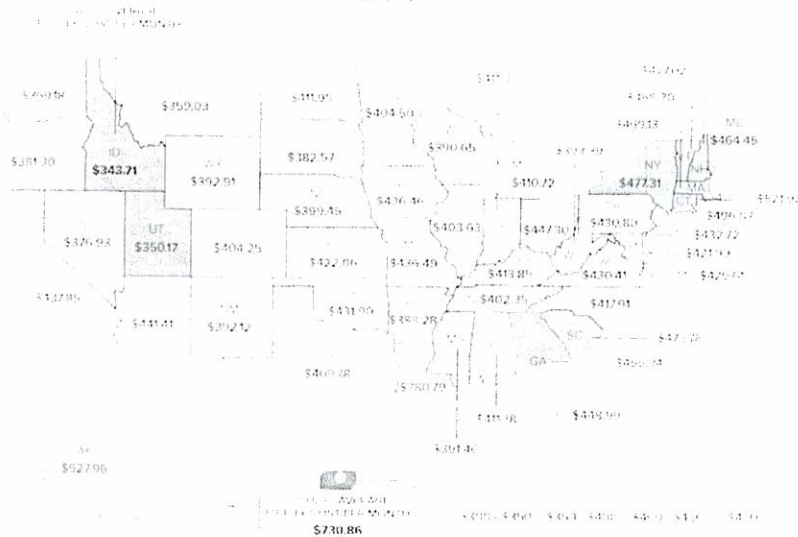
# The Cost of Utilities: Which States Pay the Most?

By [Colin Holmes](https://www.move.org/author/colin-holmes/) |

Updated: January 29, 2018 (<https://www.move.org/find-a-move/>)



THE COST OF UTILITIES:  
Which States Pay the Most?  
— Move.org



Let's face it: Nobody likes paying utility bills. They pop up each month and keep you from putting your paycheck toward more exciting areas of your budget, like your vacation fund or that cheese of the month club you've always wanted to join.

No matter what you're saving for, utility bills are a burden we all have to bear. But which states' residents bear the largest burden?

|                       |                                |                          |                              |                        |                           |
|-----------------------|--------------------------------|--------------------------|------------------------------|------------------------|---------------------------|
| <a href="#">Maine</a> | <a href="#">Wisconsin</a>      | <a href="#">Arkansas</a> | <a href="#">South Dakota</a> | <a href="#">Oregon</a> | <a href="#">Louisiana</a> |
|                       | <b>Total cost of utilities</b> |                          | \$431.90                     | 19                     |                           |

| Utility                        | Cost per month  | Ranking                 |
|--------------------------------|-----------------|-------------------------|
| Electricity                    | 92.57           | 46                      |
| Natural gas                    | \$131.28        | 8                       |
| Internet (60 Mbps)             | \$68.05         | 8                       |
| Cable                          | \$100.00        | <i>National average</i> |
| Water                          | \$40.00         | <i>National average</i> |
| <b>Total cost of utilities</b> | <b>\$431.90</b> | <b>19</b>               |

## #20: Pennsylvania

| Utility                        | Cost per month  | Ranking                        |
|--------------------------------|-----------------|--------------------------------|
| Electricity                    | \$125.22        | 16                             |
| Natural gas                    | \$100.97        | 25                             |
| Internet (60 Mbps)             | \$64.61         | 15                             |
| Cable                          | \$100.00        | <i>National average</i>        |
| <b>Water</b>                   | <b>\$40.00</b>  | <b><i>National average</i></b> |
| <b>Total cost of utilities</b> | <b>\$430.80</b> | <b>20</b>                      |

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**PRO TIP**

**TIP**

Interested in learning how you can cut your utility costs? Check out the tips in our [Utility Bills 101 article](#) (<https://www.move.org/utility-bills-101/>).

**National average utility cost**

| Utility                        | National average cost per month |
|--------------------------------|---------------------------------|
| Electricity                    | \$125.22                        |
| Natural gas                    | \$100.53                        |
| Internet (60 Mbps)             | \$62.33                         |
| Cable                          | \$100                           |
| <b>Water</b>                   | <b>\$40</b>                     |
| <b>Total cost of utilities</b> | <b>\$422.08</b>                 |

| Utility            | National average cost per month |
|--------------------|---------------------------------|
| Electricity        | \$125.22                        |
| Natural gas        | \$100.53                        |
| Internet (60 Mbps) | \$62.33                         |

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**PENNSYLVANIA**  
PUBLIC UTILITY COMMISSION

C-2020-3020883  
10/6/20  
**Hersca-2**

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| eFiling Confirmation         |   |
|------------------------------|---|
| Docket Number:               | C-2020-3020883                                    |
| Description:                 | John & Donna Hersca v. Twin Lakes Utilities, Inc. |
| Transmission Date:           | 8/18/2020 4:18:46 PM                              |
| Filed On:                    | 8/18/2020 4:18:46 PM                              |
| eFiling Confirmation Number: | 1954463   |

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| img-200818151157.pdf | Communication  | Answer to Motion |

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**No paper submission is necessary for filings under 250 pages.**

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# Transmission Report

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**This document : Confirmed  
(reduced sample and details below)  
Document size : 8.5"x11"**

John and Donna Hersca  
110 Sagamore Road  
Shohola, PA 18458

August 18, 2020

Honorable Rosemary Chiavetta  
Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

RE: John & Donna Hersca v. Twin Lakes Utilities, Inc.  
Docket No. C-2020-3020883  
Answer to Motion of Twin Lakes Utilities, Inc. for Summary Judgment

Dear Secretary Chiavetta:

Please find enclosed a copy of the Answer of John Hersca and Donna Hersca to the Motion of Twin Lakes Utilities Inc. for Summary Judgment and Certificate of Service in the above-captioned matter.

Should you have any questions concerning this correspondence please contact me at your convenience. Copies of this correspondence, the Answer to Motion of Twin Lakes Utilities Inc. for Summary Judgment and Certificate of Service have been served on the parties listed in the attached Certificate of Service.

Sincerely,

  
Donna Hersca  
(570) 618-0487

Enclosures

cc: The Honorable Joel L. Cheskis  
John J. Gallagher, Esq.  
Jay L. Kooper, Esq.

Total Pages Scanned : 7

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| No. | Job | Remote Station  | Start Time          | Duration | Pages | Line | Mode | Job Type | Results |
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#### Abbreviations:

HS: Host send  
HR: Host receive  
WS: Waiting send

PL: Polled local  
PR: Polled remote  
MS: Mailbox save

MP: Mailbox print  
RP: Report  
FF: Fax Forward

CP: Completed  
FA: Fail  
TU: Terminated by user

TS: Terminated by system  
G3: Group 3  
EC: Error Correct

John and Donna Hersca  
110 Sagamore Road  
Shohola, PA 18458

August 18, 2020

Honorable Rosemary Chiavetta  
Secretary  
Pennsylvania Public Utility Commission  
P.O. Box 3265  
Harrisburg, PA 17105-3265

RE: John & Donna Hersca v. Twin Lakes Utilities, Inc.  
Docket No. C-2020-3020883  
Answer to Motion of Twin Lakes Utilities, Inc. for Summary Judgment

Dear Secretary Chiavetta:

Please find enclosed a copy of the Answer of John Hersca and Donna Hersca to the Motion of Twin Lakes Utilities Inc. for Summary Judgment and Certificate of Service in the above-captioned matter.

Should you have any questions concerning this correspondence please contact me at your convenience. Copies of this correspondence, the Answer to Motion of Twin Lakes Utilities Inc. for Summary Judgment and Certificate of Service have been served on the parties listed in the attached Certificate of Service.

Sincerely,



Donna Hersca  
(570) 618-0487

Enclosures

cc: The Honorable Joel L. Cheskis  
John J. Gallagher, Esq.  
Jay L. Kooper, Esq.

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

|                            |                      |
|----------------------------|----------------------|
| John & Donna Hersca        | :                    |
|                            | :                    |
| v.                         | : No. C-2020-3020883 |
|                            | :                    |
| Twin Lakes Utilities, Inc. | :                    |

**ANSWER TO MOTION OF TWIN LAKES UTILITIES INC. FOR SUMMARY JUDGMENT**

**TO ADMINISTRATIVE LAW JUDGE JOEL H. CHESKIS:**

**I. INTRODUCTION**

AND NOW, comes plaintiffs, John Hersca and Donna Hersca ("the Herscas"), pro se, and file this Answer to defendant's, Twin Lakes Utilities, Inc. ("Twin Lakes"), Motion for Summary Judgment pursuant to the Pennsylvania Public Utility Commission's regulations and the Pennsylvania Rules of Civil Procedure, and respectfully requests that Twin Lakes' Motion for Summary Judgment be summarily dismissed, with prejudice.

As previously set forth in the Hersca's Complaint and Answer and in this Answer hereto, there are genuine issues of material fact and law which must be addressed at the upcoming October 6, 2020 hearing as follows.

**II. DISCUSSION**

**GENERAL ISSUES OF MATERIAL FACT AND LAW EXIST IN THIS MATTER**

As set forth in our/the Herscas', Formal Complaint, we/the Herscas oppose Twin Lakes' rate and amount billed to us/the Herscas because it is an illegal, unreasonable and unjust rate and bill amount, which is in direct violation of Pennsylvania Code Title 66 – Public Utilities, Chapter 13, Section 1301 – Rates to Be Just and Reasonable. It is unreasonable and unjust because Twin Lakes is charging us/the Herscas a higher rate that amounted to a bill to the Herscas in the amount of \$528.68 (which is

approximately \$600.00 for the entire quarterly billing cycle) for just us two people who use very little water and we/the Herscas do not even drink the water since the potability of it is questionable due to it possibly containing high levels of lead (as was confirmed in their/the Herscas' neighbor's prior water tests). So, in addition to paying this unjust and unreasonable bill amount, we/the Herscas spend approximately \$100.00 additional per month buying drinking water from the store.

We/the Herscas further stated that the conduct of Twin Lakes in charging us/the Herscas this outrageously high water bill as stated above in violation of Section 1301 above is particularly egregious since Twin Lakes unconscionably hit us/the Herscas with an even higher water rate/water bill during the time when a declaration of a state emergency was being declared as a result of COVID-19, during which plaintiff, Donna Hersca, was and continues to suffer the hardships of being laid off from work.

Plaintiff, Donna Hersca, who has a Juris Doctor Degree and who specialized in research as her vocation previously, showed by way of attachment to her/the Hersca's Formal Complaint that the national and state average water bill is \$40.00 per month. Twin Lakes is illegally billing the Herscas **five times above what the national and state average water bill amount is**. This, out of fairness and justice, is in part what the Herscas are asking this Court to take into consideration and remedy at the upcoming October 6, 2020 hearing. Due to this fact alone, it is clear the ALJ erred as a matter of law in rendering a decision in case docket no. R-2019-3010958 resulting in this illegal, unjust and unreasonably high bill amount of \$528.68 (\$600.00 for the entire three quarters). The ALJ additionally erred by not reflecting on an adequate remedy for the affordability issue that was previously presented and, as a result, we/the Herscas ask this Court, in the interests of fairness and justice, overturn the ALJ's decision in that case of docket no. R-2019-3010958 for purposes of this matter or, in the alternative, the Herscas respectfully request this Court consider the facts of this matter as they currently stand on their own (and notwithstanding the prior ALJ's decision) of Twin Lakes charging the Herscas an unreasonable and unjust water rate which are in violation of Section 1301. If rates are too high, which they are in this

instance, then not only does that violate the basic principles of rate setting in general, it will result in the customers, including the Herscas, not being able to afford water utility service. Under the Fifth Amendment's last clause as stated in the "PUC Guide to Utility Ratemaking" by James H. Cawley and Norma J. Kennard, 2018 Edition, under the "Price Regulation" section, this is "tantamount to confiscation of property" where the regulators set rates so high, causing the Herscas and other water customers to not be able to afford to pay for the water into the future, which nonpayment would result in no water service, which would result in the Herscas not being able to live in their home without no water and therefore being forced to vacate our/the Herscas' home.

In Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591, 603 (1944) that Court noted that "[t]he ratemaking process under the Act, i.e., the fixing of 'just and reasonable' rates, involves a balancing of the investor and consumer interests . . . and does not insure that the business shall produce revenues." Twin Lakes clearly should not be allowed to continue to seek certain profits at the costs of the Herscas not being able to afford to pay their outrageously unjust and unreasonable water rates/water bill. Twin Lakes must reduce their water rates so that it does not exceed the national and state average of \$40.00 per month for the total bill. Further, Twin Lakes should reimburse the Hersca's for all past monies the Herscas overpaid to Twin Lakes for their/Twin Lakes' rates which were in violation of Section 1301. The Herscas reserve the right to supplement this response and attach in their upcoming hearing exhibits their supporting documentation setting forth proof of their/the Herscas' prior overpayment to date to Twin Lakes, which currently totals \$4,647.00.

Additionally, it is the job of regulatory commissions to protect consumers, including the Herscas, from excessive rates and charges. See Permian Basin Area Rate Cases, 390 U.S. 747 (1968) at 794-95. Regarding affordability specifically, rates are required to be just and reasonable under Section 1301 of the Public Utility Code. 66 Pa. C.S. Section 1301. Rates, such as those being charged to the Herscas by

Twin Lakes that are set at a level above that zone of reasonableness are not considered to be just and reasonable. See Market St. R. Co. v. Railroad Comm'n of California, 324 U.S. 548 (1945); 65 S.Ct. 770.

Further, in a letter dated June 30, 2020 from Pennsylvania State Representative Michael Peifer to the Pennsylvania Public Utility Commission which Representative Peifer composed on behalf of the Herscas, Representative Peifer requested the Pennsylvania Public Utility Commission "refer this matter to its Bureau of Investigation and Enforcement to ensure that the ratepayers [including the Herscas] of Twin Lakes Utilities ... "are not being charged unjust or unreasonable rates" and "if the Bureau of Investigation and Enforcement determines that this revenue resulted in unjust or unreasonable receipt of revenue, or was in violation of any regulation or order, that **refunds** [emphasis added] be considered under 66 Pa. C.S. Section 1312." To date, the Herscas have not received a response from the Commission or from Twin Lakes to Rep. Peifer's letter and have not received any refund and have not received any notice from Twin Lakes or the Commission stating that their/the Herscas rates were being lowered down to a reasonable, just rate, nor were they/the Herscas made aware as to whether or not Twin Lakes or the Commission have even responded to Representative Peifer's letter. The Herscas respectfully reserve the right to supplement this response by submitting said June 30, 2020 letter from Representative Peifer into evidence and include it in their upcoming hearing exhibits which they will provide to the Court. Representative Peifer's request appears to have fallen upon deaf ears, which is all the more reason why the Herscas respectfully request this Court to hear and decide in favor of the Herscas on these outstanding issues.

### **III. CONCLUSION**

For the above reasons, the defendant's, Twin Lakes Utilities, Inc.'s, Motion for Summary Judgment should be denied. Genuine issues of material fact exist in this matter, and accordingly, a grant of summary judgment should not be sustained. Moreover, Defendant, Twin Lakes Utilities, Inc., is not

entitled to judgment as a matter of law for all the reasons discussed herein. We, John and Donna Hersca, pro se Plaintiffs, respectfully urge the Commission to deny Twin Lakes Utilities' Motion.

Respectfully submitted,



---

John Hersca  
110 Sagamore Road  
Shohola, PA 18458  
(570) 618-0487



---

Donna Hersca  
110 Sagamore Road  
Shohola, PA 18458  
(570) 618-0487  
Email: [donna Hersca@yahoo.com](mailto:donna Hersca@yahoo.com)

Date: August 18, 2020


**CERTIFICATE OF SERVICE**

We, John Hersca and Donna Hersca hereby certify that we have this day served a true copy of the Answer to Motion of Twin Lakes Utilities, Inc. for Summary Judgment upon the participants listed below, in the manner indicated below, and in accordance with the requirements of Section 1.54 (relating to service by a party).

Honorable Joel L. Cheskis  
Pennsylvania Public Utility Commission  
Office of Administrative Law Judge  
400 North Street, 2<sup>nd</sup> Floor West  
Harrisburg, PA 17120  
Fax: (717) 787-0481

John J. Gallagher, Esq.  
711 Forrest Road  
Harrisburg, PA 17112  
Counsel for Twin Lakes Utilities, Inc.  
[jgallagher@jglawpa.com](mailto:jgallagher@jglawpa.com)

Jay L. Kooper, Esq.  
485C Route One South  
Suite 400  
Iselin, NJ 08830  
Counsel for Twin Lakes Utilities, Inc.  
[jkooper@middlesexwater.com](mailto:jkooper@middlesexwater.com)

  
\_\_\_\_\_  
John Hersca  
110 Sagamore Road  
Shohola, PA 18458  
(570) 618-0487

  
\_\_\_\_\_  
Donna Hersca  
110 Sagamore Road  
Shohola, PA 18458  
(570) 618-0487  
Email: [donnahersca@yahoo.com](mailto:donnahersca@yahoo.com)

Date: August 18, 2020

C-2020-3020883  
10/6/20

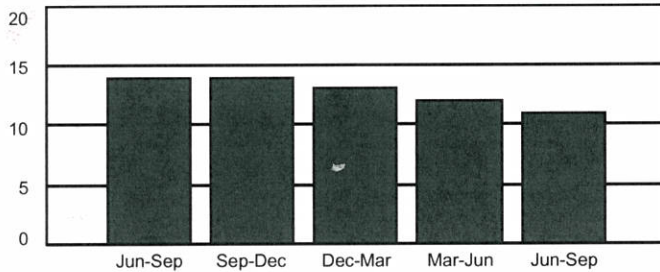
**Hersca-3**



**Twin Lakes Utilities, Inc.**  
Customer Service Center  
485C Route 1 South, Suite 400 Iselin, New Jersey 08830  
Telephone: 1-800-523-7224

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 10/24/20

**Billing Date:** 09/21/20  
**Account Number:** 0737594252

Previous Balance \$528.68  
Payment/Credit by 09/21/20 *THANK YOU* \$528.68  
Balance Forward \$0.00  
Current Charges \$572.85

**DUE 10/13/2020 \$572.85**

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage | Unit of Measure      | Reading Type             | Rate |
|--------------|----------|----------|-----------------|---------------|---------|-------|----------------------|--------------------------|------|
|              | From     | To       |                 | Previous      | Present |       |                      |                          |      |
| 82289999     | 06/27/20 | 09/19/20 | 84              | 168           | 179     | 11    | CCF<br>EQUIVALENT TO | REGULAR<br>8,228 GALLONS | TLQ  |

FACILITIES CHARGE \$344.52 \$344.52 PAYMENT \$528.68 CR  
WTR CHR (G) (\$27.75 PER 1,000 GAL) \$228.33 TOTAL CREDITS \$528.68 CR  
TOTAL CURRENT CHARGES \$572.85

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

The Pennsylvania PUC has approved a rate increase in base rates for services rendered on and after April 19, 2020 STARTING 7/1/2020 YOU CAN VIEW THE TWIN LAKES WATER COMPANY WATER QUALITY REPORT ONLINE AT: [HTTP://MIDDLESEXWATER.COM/WATERQUALITY/TL](http://MIDDLESEXWATER.COM/WATERQUALITY/TL)  
THE REPORT CONTAINS INFORMATION ABOUT THE QUALITY OF YOUR DRINKING WATER. IF YOU PREFER A PAPER REPORT SENT TO YOUR HOME, PLEASE CALL (800) 523-7224.  
If you use an online bill paying service to make your payments, please ensure that they have on file your correct account number as shown on this bill and that they mail the payment on your behalf to: P.O. Box 826538, Philadelphia, PA 19182-6538.

**Twin Lakes Utilities, Inc.**  
Customer Service Center  
485C Route 1 South, Suite 400  
Iselin, New Jersey 08830

Forwarding Service Requested

Service Address: 110 SAGAMORE RD  
SHOHOLA PA

Please check this box if you have made any information changes on the reverse side.

**Account Number:** 0737594252

Balance Forward \$0.00

Current Charges \$572.85

**DUE 10/13/2020 \$572.85**

Please make payable to: Twin Lakes Utilities, Inc.

**Payment Amount Enclosed** \$ \_\_\_\_\_

000011



PL : 11  
JOHN & DONNA HERSCA  
110 SAGAMORE RD  
SHOHOLA PA 18458-4416



TWIN LAKES UTILITIES, INC.  
PO BOX 826538  
PHILADELPHIA PA 19182-6538

3000737594252100000000005728546

**FOR INQUIRIES OR EMERGENCY SERVICE - CALL (800) 523-7224**

DIRECT ALL INQUIRIES TO MAIN OFFICE AT  
485C ROUTE 1 SOUTH SUITE 400  
P.O. BOX 1500  
ISELIN, NJ 08830

Office Hours - Monday to Friday  
9:00 AM - 5:00 PM

Meter Reading Hours  
Monday to Friday  
7:00 AM - 3:30 PM

\* DESCRIPTION CODES

- REGULAR = ACTUAL READING BY METER READER  
OR (MAYBE ELECTRONIC READ)
- ESTIMATE = ESTIMATED READING
- CUST READ = METER READ BY CUSTOMER
- PRO EST = A PRORATED BILL + BASED ON AN ESTIMATE
- PRO CUST = A PRORATED BILL + BASED ON A METER READ  
BY A CUSTOMER
- MTR CHG = METER CHANGE DURING BILLING
- PRO ACT = A PRORATED BILL + BASED ON ACTUAL READ

+ A PRORATED BILL IS ONE WHICH  
HAS FEWER THAN 80 OR MORE THAN  
100 DAYS IN THE CURRENT BILLING PERIOD.

RATE SCHEDULES FURNISHED UPON REQUEST

**COMPLAINT PROCEDURE**

If you have a complaint about your bill for water service, please contact our Customer Service Dept., 485C Route 1 South Suite 400, P.O. Box 1500, Iselin, NJ 08830, or by phone at (800) 523-7224 during office hours. Our customer service representatives will investigate your problem and do their best to resolve it.

If you are unable to pay your bill in full by the due date, contact our Collection Department at (800) 523-7224, extension 1412, to discuss the possibility of arranging a reasonable deferred payment agreement.

Telephone Number Change

( \_\_\_\_\_ ) \_\_\_\_\_

Name or Address Change

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**PAYMENT RETURN ADDRESS ON OTHER SIDE OF THE DOCUMENT MUST APPEAR IN ENVELOPE WINDOW**

**MIKE PEIFER, MEMBER**  
139<sup>th</sup> LEGISLATIVE DISTRICT

**HARRISBURG OFFICE:**  
P.O. BOX 202139  
HARRISBURG, PA 17120-2139  
PHONE: (717) 783-2037  
FAX: (717) 782-2910



**House of Representatives**  
Commonwealth of Pennsylvania  
Harrisburg

**DISTRICT OFFICE:**  
2523 Route 6  
Suite 2  
Hawley, PA 18428  
Phone: (570) 226-5959  
FAX: (717) 226-5955

Email: [mpeifer@pahousegop.com](mailto:mpeifer@pahousegop.com)  
[www.RepPeifer.com](http://www.RepPeifer.com)

June 30, 2020

Gladys Brown Dutrieuille, Chairman  
Pennsylvania Public Utility Commission  
Commonwealth Keystone Building  
3rd Floor, Room N-304

As the elected Representative of the 139<sup>th</sup> District in Pennsylvania, I have constituents who are served by Twin Lakes Utilities Inc., which is overseen by the Public Utility Commission. In March, Twin Lakes was permitted a rate increase of nearly 88%, which I understand follows the recommended decision of the Administrative Law Judge who presided over the rate increase request.<sup>1</sup>

It has come to my attention that Twin Lakes Utilities Inc. was awarded a grant of over \$4.6 million and a low-interest loan of over \$300,000 through PennVEST, either concurrent to or following the rate case before your Commission.<sup>2</sup> I understand that Twin Lakes allowed yearly revenue requirement in its rate case was \$245,290.00<sup>3</sup>.

I am respectfully requesting that the Commission refer this information to its Bureau of Investigation and Enforcement to ensure that the ratepayers of Twin Lakes Utilities, Inc., who are my constituents, neighbors and friends, are not being charged unjust or unreasonable rates given this unanticipated income. I would also request that if the Bureau of Investigation and Enforcement determines that this revenue resulted in unjust or unreasonable receipt of revenue, or was in violation of any regulation or order, that refunds be considered under 66 Pa.C.S. §1312.

Thank you for your consideration in this matter and for your work furthering the public interest in Pennsylvania.

Respectfully,

A handwritten signature in black ink, appearing to read "Michael Peifer".

Michael Peifer, State Representative  
Chairman, House Finance Committee  
139<sup>th</sup> Legislative District

Cc: Senator Lisa Baker  
Donna Hersca

<sup>1</sup> Reference generally Docket R-2019-3010958, Public Meeting held March 26, 2020

<sup>2</sup> Twin Lakes Utilities System Upgrade, Approved January 29, 2020

<sup>3</sup> Pg. 33, Opinion and Order, Docket R-2019-3010958, Public Meeting held March 26, 2020

C-2020-3020883  
10/6/20

**Hersca-4**

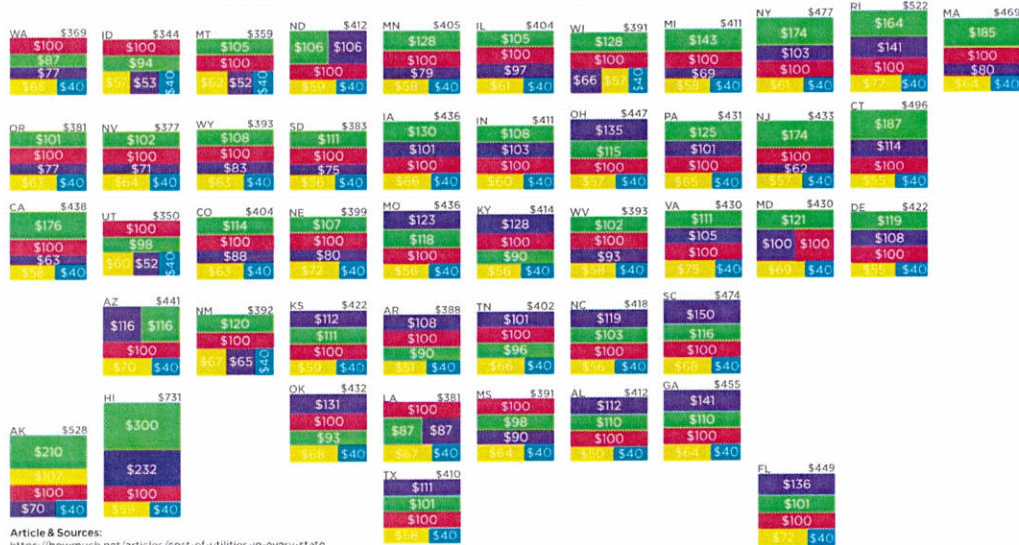


# What's the Average Cost of Utilities Where You Live?

If you are trying to save money, take a look at your electrical usage. That's the message from a new report detailing average utility costs across five different categories for every state across the country.

## The Cost of Utilities in Every State

Monthly Average Costs (\$)



AS OF 11/2018

Article & Sources:  
<https://howmuch.net/articles/cost-of-utilities-in-every-state>  
 Electricity - U.S. Energy Information Administration (EIA)  
 Natural Gas - U.S. Energy Information Administration (EIA)  
 Internet & Cable - Different Sources  
 Water - The US Environmental Protection Agency (EPA)



Use this visualization

C-2020-3020883  
 10/6/20  
**Hersca-5**

Researchers at [move.org](https://move.org) crunched the numbers for five essential utilities. They looked to the U.S. Energy Information Administration (EIA) to determine average electrical consumption per U.S. resident. They also used EIA's figures for

Average Cost Per Month:

Electricity  
\$183

Natural Gas  
\$82

Water  
\$40

Garbage/Sewer/Recycling  
\$12-20

Cable TV  
\$100

Internet  
\$47

WHERE DO UTILITIES DO COST THE MOST?

UTILITIES

COST THE MOST?

Whether you're moving in or moving out, avoiding a high utility bill is as easy as avoiding these 10 US states with the highest average cost of utilities (/which-states-pay-most-utilities/) per month. (And maybe moving to one of the 10 states with the lowest average cost of utilities instead?)

Heating and cooling: Why is it

We may earn money ([disclosure](#)) when you click our links.

[Move.org](#) ([https://www.move.org/best-credit-~~card~~](#))

Search

<https://www.move.org>

Pack and Prep (<http://moving.com/pack/>)

## Utility Bills 101: Tips, Average Costs, Fees, and More

By Colin Holmes (<https://www.move.org/author/colin-holmes/>) |

Updated: February 14, 2019 (<https://www.move.org/find-a-move/>)

Unless you live off the grid, most utilities—like electricity, gas, water, garbage, internet, and cable—are going to periodically cost you a buck or two. In fact, **the rule of thumb for apartment dwellers is to budget at least \$200 per month for utilities.**<sup>1</sup>

Considering the average consumer will spend 7% of their annual income on energy,<sup>2</sup> it's important to know where all of that money's going.

Let's take a look at what you should be paying for your utilities—and we'll show you how you can trim your energy costs along the way.

## Average Cost Per Month:



Electricity

**\$183**

Natural Gas

**\$82**

Water

**\$40**

Garbage/Sewer/Recycling

**\$12-20**

Cable TV

**\$100**

Internet

**\$47**

## WHERE DO UTILITIES

### DO COST THE MOST?

### UTILITIES

### COST

### THE

### MOST?

Whether you're moving in or moving out, avoiding a high utility bill is as easy as avoiding these 10 US states with the highest average cost of utilities (/which-states-pay-most-utilities/) per month. (And maybe moving to one of the 10 states with the lowest average cost of utilities instead?)

## Heating and cooling: Why is it



[Alaska](#)

[Rhode\\_Island](#)

[Connecticut](#)

[New\\_York](#)

[New\\_Hampshire](#)



**PRO TIP**

**TIP**

Interested in learning how you can cut your utility costs? Check out the tips in our [Utility Bills 101](#) article (<https://www.move.org/utility-bills-101/>).

National average utility cost

| Utility                        | National average cost per month |
|--------------------------------|---------------------------------|
| Electricity                    | \$125.22                        |
| Natural gas                    | \$100.53                        |
| Internet (60 Mbps)             | \$62.33                         |
| Cable                          | \$100                           |
| Water                          | \$40                            |
| <b>Total cost of utilities</b> | <b>\$422.08</b>                 |

| Utility            | National average cost per month |
|--------------------|---------------------------------|
| Electricity        | \$125.22                        |
| Natural gas        | \$100.53                        |
| Internet (60 Mbps) | \$62.33                         |

[Back to Top](#)

|                       |                           |                          |                              |                        |                           |
|-----------------------|---------------------------|--------------------------|------------------------------|------------------------|---------------------------|
| <a href="#">Maine</a> | <a href="#">Wisconsin</a> | <a href="#">Arkansas</a> | <a href="#">South_Dakota</a> | <a href="#">Oregon</a> | <a href="#">Louisiana</a> |
|                       |                           | \$431.90                 | 19                           |                        |                           |
|                       |                           |                          |                              |                        |                           |

| Utility                 | Cost per month | Ranking                 |
|-------------------------|----------------|-------------------------|
| Electricity             | 92.57          | 46                      |
| Natural gas             | \$131.28       | 8                       |
| Internet (60 Mbps)      | \$68.05        | 8                       |
| Cable                   | \$100.00       | <i>National average</i> |
| Water                   | \$40.00        | <i>National average</i> |
| Total cost of utilities | \$431.90       | 19                      |

**#20: Pennsylvania**

| Utility                 | Cost per month | Ranking                 |
|-------------------------|----------------|-------------------------|
| Electricity             | \$125.22       | 16                      |
| Natural gas             | \$100.97       | 25                      |
| Internet (60 Mbps)      | \$64.61        | 15                      |
| Cable                   | \$100.00       | <i>National average</i> |
| Water                   | \$40.00        | <i>National average</i> |
| Total cost of utilities | \$430.80       | 20                      |

[Back to Top](#)

[Electricity](#) 
[Natural Gas](#) 
[Telephone](#) 
[Water](#) 



# Water Companies Schedule of Utility Rates

Updated May 11, 2010

Unless otherwise noted, the following are estimated monthly bills for customers using 5,000 gallons. The rates listed are for reference use only. For up-to-date rates, please contact your utility or call the OCA directly at (717) 783-5048 or toll free at (800) 684-6560.

| Company & Meter Size                   | Monthly Bill |
|--|--------------|
| Aaronrod Company, Inc. (Flat Rate)     | 33.22 *      |
| Acorn Water Company, LLC (3/4 inch)    | 13.01        |
| Akron Borough Water Company            | 15.00        |
| All Seasons Water Company (Flat Rate)  | 27.50 *      |
| Borough of Ambler (5/8 inch)           | 21.66        |
| Appalachian Utilities, Inc. (5/8 inch) | 34.95        |
| Applewood Water Company (3/4 inch)     | 20.25        |

*one time ESTEES DIVISION*

*-Pocono Waterworks Co. unmetered; \$35.00 monthly 5,000 gallons per month*

*-PA WC zone 1 unmetered; \$60.80 monthly 5,000 gallons per month*

*-Hyndman Borough Water Co. unmetered; \$25.00 monthly 5,000 gallons per month*

\* Flat rate charged.

\*\* Usage measured in cubic feet. 668.4 cubic feet is equivalent to 5,000 gallons.

*Hershey's average monthly water usage: 3,300 gallons*



Chapter 13. - Title...  
legis.state.pa.us



**CHAPTER 13**  
RATES AND DISTRIBUTION SYSTEMS

**Subchapter**

- A. Rates
- B. Distribution Systems

**Enactment.** Chapter 13 was added July 1, 1978, P.L.598, No.116, effective in 60 days.

**Chapter Heading.** The heading of Chapter 13 was amended February 14, 2012, P.L.72, No.11, effective in 60 days.

**Cross References.** Chapter 13 is referred to in sections 528, 2203, 2607, 2804, 3019 of this title.

**SUBCHAPTER A**  
**RATES**

**Sec.**

- 1301. Rates to be just and reasonable.
  - 1301.1. Computation of income tax expense for ratemaking purposes.
- 1302. Tariffs; filing and inspection.
- 1303. Adherence to tariffs.
- 1304. Discrimination in rates.
- 1305. Advance payment of rates; interest on deposits.
- 1306. Apportionment of joint rates.
- 1307. Sliding scale of rates; adjustments.
- 1308. Voluntary changes in rates.
- 1309. Rates fixed on complaint; investigation of costs of production.
- 1310. Temporary rates.
- 1311. Valuation of and return on the property of a public utility.
- 1312. Refunds.
- 1313. Price upon resale of public utility services.
- 1314. Limitation on prices paid for property and fuel.
- 1315. Limitation on consideration



not conflict in substance and have both been given effect in setting forth the text of section 1311.

**§ 1312. Refunds.**

**(a) General rule.**--If, in any proceeding involving rates, the commission shall determine that any rate received by a public utility was unjust or unreasonable, or was in violation of any regulation or order of the commission, or was in excess of the applicable rate contained in an existing and effective tariff of such public utility, the commission shall have the power and authority to make an order requiring the public utility to refund the amount of any excess paid by any patron, in consequence of such unlawful collection, within four years prior to the date of the filing of the complaint, together with interest at the legal rate from the date of each such excessive payment. In making a determination under this section, the commission need not find that the rate complained of was extortionate or oppressive. Any order of the commission awarding a refund shall be made for and on behalf of all patrons subject to the same rate of the public utility. The commission shall state in any refund order the exact amount to be paid, the reasonable time within which payment shall be made, and shall make findings upon pertinent questions of fact.

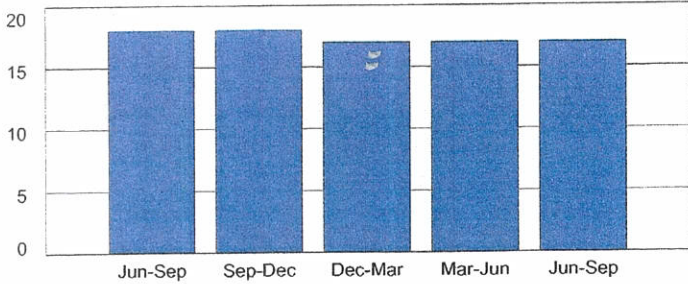
**(b) Suit for refund.**--If the public utility fails to make refunds within the time for payment fixed by any final order of the commission or court, any patron entitled to any refund may sue therefor and the findings and order made by the commission shall be prima facie evidence of the facts therein stated, and that the amount awarded is justly due the plaintiff in such suit, and the defendant public utility shall not be permitted to avail itself of the defense that the service was, in fact, rendered to the plaintiff at the rate contained in its tariffs in force at the time



**Twin Lakes Utilities, Inc.**  
**Customer Service Center**  
 1500 Ronson Road Iselin, New Jersey 08830-3049  
 Telephone: 1-800-523-7224

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 10/29/16

**Billing Date:** 09/27/16  
**Account Number:** 0737594252

Previous Balance \$212.29  
 Payment/Credit by 09/27/16 *THANK YOU* \$212.29  
 Balance Forward \$0.00  
 Current Charges \$366.94

**DUE 10/19/2016** **\$366.94**

**ESTIMATED BILL**

*10/9/16 check 3263 Paid in full*

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage | Unit of Measure             | Reading Type                      | Rate |
|--------------|----------|----------|-----------------|---------------|---------|-------|-----------------------------|-----------------------------------|------|
|              | From     | To       |                 | Previous      | Present |       |                             |                                   |      |
| 71635239     | 06/25/16 | 09/24/16 | 92              | 349           | 366     | 17    | CCF<br><i>EQUIVALENT TO</i> | SYSTEM ESTIMATE<br>12,716 GALLONS | TLQ  |

|                                  |                 |               |             |
|----------------------------------|-----------------|---------------|-------------|
| FACILITIES CHARGE \$181.23       | \$181.23        | PAYMENT       | \$212.29 CR |
| WTR CHRG (\$14.60 PER 1,000 GAL) | \$185.71        | TOTAL CREDITS | \$212.29 CR |
| <b>TOTAL CURRENT CHARGES</b>     | <b>\$366.94</b> |               |             |

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

THE PENNSYLVANIA PUC HAS APPROVED A RATE INCREASE IN BASE RATES FOR SERVICES RENDERED ON AND AFTER JUNE 15, 2016.  
 If you use an online bill paying service to make your payments, please ensure that they have on file your correct account number as shown on this bill and that they mail the payment on your behalf to: P.O. Box 826538, Philadelphia, PA 19182-6538.  
 STARTING 5/1/2016 YOU CAN VIEW THE TWIN LAKES WATER COMPANY WATER QUALITY REPORT ONLINE AT:  
[HTTP://MIDDLESEXWATER.COM/WATERQUALITY/TL](http://MIDDLESEXWATER.COM/WATERQUALITY/TL)  
 THE REPORT CONTAINS INFORMATION ABOUT THE QUALITY OF YOUR DRINKING WATER. PLEASE CALL 1-800-523-7224 IF YOU PREFER A PAPER REPORT SENT TO YOUR HOME

PLEASE DETACH HERE AND RETURN THE BOTTOM PORTION WITH YOUR PAYMENT IN THE RETURN ENVELOPE PROVIDED.

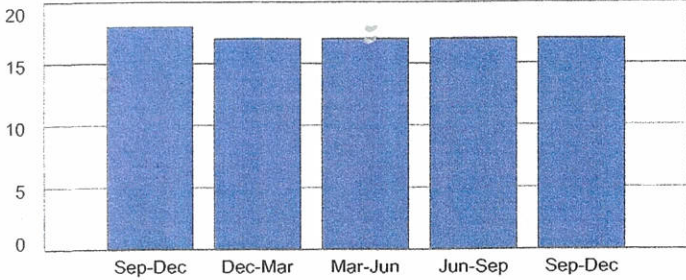
800-523-~~AAAT~~ 7224



**Twin Lakes Utilities, Inc.**  
**Customer Service Center**  
 1500 Ronson Road Iselin, New Jersey 08830-3049  
**Telephone: 1-800-523-7224**

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 01/28/17

**Billing Date:** 12/28/16  
**Account Number:** 0737594252

Previous Balance \$366.94  
 Payment/Credit by 12/28/16 *THANK YOU* \$366.94  
 Balance Forward \$0.00  
 Current Charges \$366.94

**DUE 01/19/2017** **\$366.94**

**ESTIMATED BILL**

*check 3293* *paid in full 1/9/17*

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage                      | Unit of Measure       | Reading Type    | Rate |
|--------------|----------|----------|-----------------|---------------|---------|----------------------------|-----------------------|-----------------|------|
|              | From     | To       |                 | Previous      | Present |                            |                       |                 |      |
| 71635239     | 09/24/16 | 12/24/16 | 92              | 366           | 383     | 17<br><i>EQUIVALENT TO</i> | CCF<br>12,716 GALLONS | SYSTEM ESTIMATE | TLQ  |

|                                  |                 |               |             |
|----------------------------------|-----------------|---------------|-------------|
| FACILITIES CHARGE \$181.23       | \$181.23        | PAYMENT       | \$366.94 CR |
| WTR CHRG (\$14.60 PER 1,000 GAL) | \$185.71        | TOTAL CREDITS | \$366.94 CR |
| <b>TOTAL CURRENT CHARGES</b>     | <b>\$366.94</b> |               |             |

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

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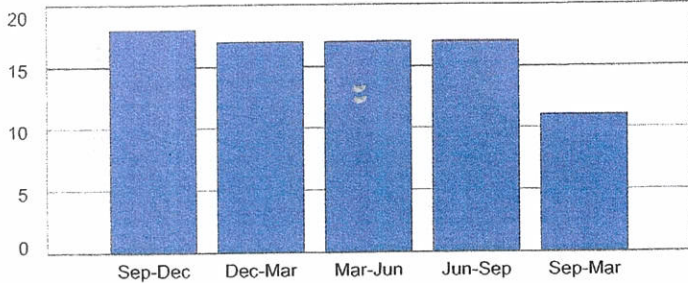


**Twin Lakes Utilities, Inc.**  
**Customer Service Center**  
 1500 Ronson Road Iselin, New Jersey 08830-3049  
 Telephone: 1-800-523-7224 Y

*www.middlesexwater.com*

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 04/22/17

**Billing Date:** 04/05/17  
**Account Number:** 0737594252

Previous Balance \$224.91  
 Total Payments and Credits \$591.85  
 Balance Forward \$366.94CR  
 Current Charges \$492.55

**DUE 04/27/2017** **\$125.61**

*paid in full 4/12/17  
 check 3348*

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage | Unit of Measure | Reading Type  | Rate |
|--------------|----------|----------|-----------------|---------------|---------|-------|-----------------|---------------|------|
|              | From     | To       |                 | Previous      | Present |       |                 |               |      |
| 71635239     | 09/24/16 | 03/30/17 | 188             | 366           | 377     | 11    | CCF             | REGULAR       | TLQ  |
| 82289999     | 03/30/17 | 03/30/17 | 1               | 0             | 0       | 0     | CCF             | REGULAR       | TLQ  |
|              |          |          |                 |               |         |       | EQUIVALENT TO   | 8,228 GALLONS |      |

|                                 |                 |                           |                    |
|---------------------------------|-----------------|---------------------------|--------------------|
| FACILITIES CHARGE \$181.23 (PRO | \$372.42        | Bill Segment Cancellation | \$224.91 CR        |
| WTR CHRG (\$14.60 PER 1,000 GAL | \$120.13        | Bill Segment Cancellation | \$366.94 CR        |
| <b>TOTAL CURRENT CHARGES</b>    | <b>\$492.55</b> | <b>TOTAL CREDITS</b>      | <b>\$591.85 CR</b> |

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

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 STARTING 5/1/2015 YOU CAN VIEW THE TWIN LAKES WATER COMPANY WATER QUALITY REPORT ONLINE AT:  
[HTTP://MIDDLESEXWATER.COM/WATERQUALITY/TL](http://middlesexwater.com/waterquality/tl)  
 Please disregard your previous bill. This is a corrected bill that reflects your current balance and due date.  
 THE REPORT CONTAINS INFORMATION ABOUT THE QUALITY OF YOUR DRINKING WATER. PLEASE CALL 1-800-523-7224 IF YOU PREFER A PAPER REPORT SENT TO YOUR HOME

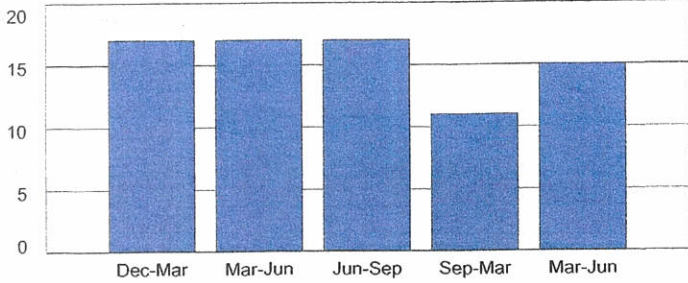
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**Twin Lakes Utilities, Inc.**  
**Customer Service Center**  
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**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 07/22/17

**Billing Date:** 06/26/17  
**Account Number:** 0737594252

|   |                 |
|---|-----------------|
| Previous Balance                            | \$125.61        |
| Payment/Credit by 06/26/17 <i>THANK YOU</i> | \$125.61        |
| Balance Forward                             | \$0.00          |
| Current Charges                             | \$345.04        |
| <b>DUE 07/18/2017</b>                       | <b>\$345.04</b> |

*7/10/17*  
*paid in full*  
*check 3382*

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage               | Unit of Measure       | Reading Type | Rate |
|--------------|----------|----------|-----------------|---------------|---------|---------------------|-----------------------|--------------|------|
|              | From     | To       |                 | Previous      | Present |                     |                       |              |      |
| 82289999     | 03/30/17 | 06/23/17 | 86              | 0             | 15      | 15<br>EQUIVALENT TO | CCF<br>11,220 GALLONS | REGULAR      | TLQ  |

FACILITIES CHARGE \$181.23  
 WTR CHRGE (\$14.60 PER 1,000 GAL)  
**TOTAL CURRENT CHARGES**

\$181.23  
 \$163.81  
**\$345.04**

PAYMENT  
**TOTAL CREDITS**

\$125.61 CR  
**\$125.61 CR**

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

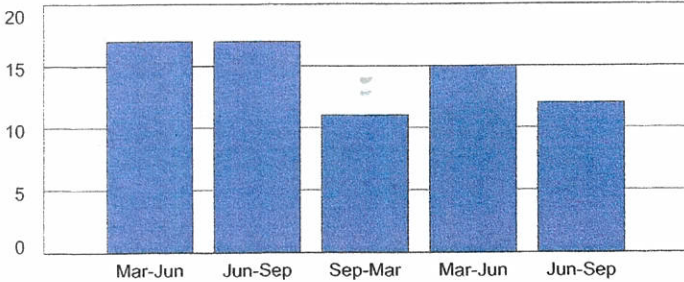
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**Twin Lakes Utilities, Inc.**  
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 1500 Ronson Road Iselin, New Jersey 08830-3049  
**Telephone: 1-800-523-7224**

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 10/28/17

**Billing Date:** 09/25/17  
**Account Number:** 0737594252

Previous Balance \$345.04  
 Payment/Credit by 09/25/17 *THANK YOU* \$345.04  
 Balance Forward \$0.00  
 Current Charges \$312.28

**DUE 10/17/2017** *10/6/17 Paid in Full* **\$312.28** *check 3422*

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage | Unit of Measure      | Reading Type             | Rate |
|--------------|----------|----------|-----------------|---------------|---------|-------|----------------------|--------------------------|------|
|              | From     | To       |                 | Previous      | Present |       |                      |                          |      |
| 82289999     | 06/23/17 | 09/23/17 | 93              | 15            | 27      | 12    | CCF<br>EQUIVALENT TO | REGULAR<br>8,976 GALLONS | TLQ  |

|                                   |                 |               |             |
|-----------------------------------|-----------------|---------------|-------------|
| FACILITIES CHARGE \$181.23        | \$181.23        | PAYMENT       | \$345.04 CR |
| WTR CHRGR (\$14.60 PER 1,000 GAL) | \$131.05        | TOTAL CREDITS | \$345.04 CR |
| <b>TOTAL CURRENT CHARGES</b>      | <b>\$312.28</b> |               |             |

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

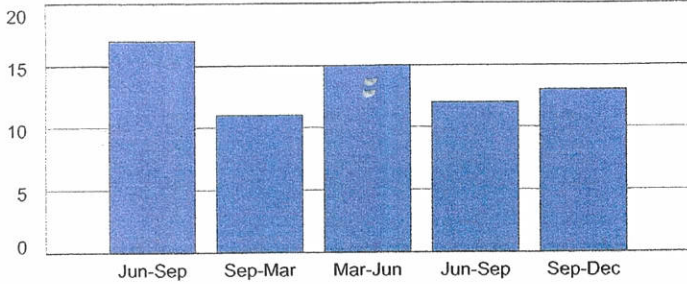
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**Twin Lakes Utilities, Inc.**  
**Customer Service Center**  
 1500 Ronson Road Iselin, New Jersey 08830-3049  
 Telephone: 1-800-523-7224

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 01/27/18

**Billing Date:** 12/27/17  
**Account Number:** 0737594252

Previous Balance \$312.28  
 Payment/Credit by 12/27/17 *THANK YOU* \$312.28  
 Balance Forward \$0.00  
 Current Charges \$323.20

**DUE 01/18/2018** **\$323.20**

*Paid in full  
 1/9/18  
 check 3474*

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage         | Unit of Measure | Reading Type  | Rate |
|--------------|----------|----------|-----------------|---------------|---------|---------------|-----------------|---------------|------|
|              | From     | To       |                 | Previous      | Present |               |                 |               |      |
| 82289999     | 09/23/17 | 12/26/17 | 95              | 27            | 40      | 13            | CCF             | REGULAR       | TLQ  |
|              |          |          |                 |               |         | EQUIVALENT TO |                 | 9,724 GALLONS |      |

|                                  |                 |               |             |
|----------------------------------|-----------------|---------------|-------------|
| FACILITIES CHARGE \$181.23       | \$181.23        | PAYMENT       | \$312.28 CR |
| WTR CHRG (\$14.60 PER 1,000 GAL) | \$141.97        | TOTAL CREDITS | \$312.28 CR |
| <b>TOTAL CURRENT CHARGES</b>     | <b>\$323.20</b> |               |             |

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

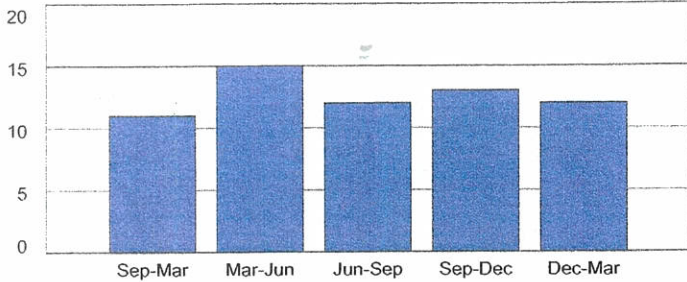
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 Telephone: 1-800-523-7224

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 04/28/18

|   |                   |
|---|-------------------|
| <b>Billing Date:</b>                        | <b>03/26/18</b>   |
| <b>Account Number:</b>                      | <b>0737594252</b> |
| Previous Balance                            | \$323.20          |
| Payment/Credit by 03/26/18 <i>THANK YOU</i> | \$323.20          |
| Balance Forward                             | \$0.00            |
| Current Charges                             | \$312.28          |
| <b>DUE 04/17/2018</b>                       | <b>\$312.28</b>   |

*4/9/18 Paid in Full check 3528*

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage | Unit of Measure      | Reading Type             | Rate |
|--------------|----------|----------|-----------------|---------------|---------|-------|----------------------|--------------------------|------|
|              | From     | To       |                 | Previous      | Present |       |                      |                          |      |
| 82289999     | 12/26/17 | 03/24/18 | 88              | 40            | 52      | 12    | CCF<br>EQUIVALENT TO | REGULAR<br>8,976 GALLONS | TLQ  |

|                                 |                 |               |             |
|---------------------------------|-----------------|---------------|-------------|
| FACILITIES CHARGE \$181.23      | \$181.23        | PAYMENT       | \$323.20 CR |
| WTR CHR (\$14.60 PER 1,000 GAL) | \$131.05        | TOTAL CREDITS | \$323.20 CR |
| <b>TOTAL CURRENT CHARGES</b>    | <b>\$312.28</b> |               |             |

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

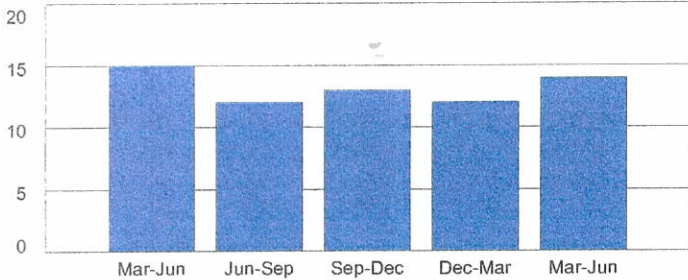
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**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 07/28/18

|   |                   |
|---|-------------------|
| <b>Billing Date:</b>                        | <b>06/26/18</b>   |
| <b>Account Number:</b>                      | <b>0737594252</b> |
| Previous Balance                            | \$312.28          |
| Payment/Credit by 06/26/18 <i>THANK YOU</i> | \$312.28          |
| Balance Forward                             | \$0.00            |
| Current Charges                             | \$334.12          |
| <b>DUE 07/18/2018</b>                       | <b>\$334.12</b>   |

*check 3574*

*paid in full 7/12/18*

Service To: **JOHN & DONNA HERSCA**

Service Address: **110 SAGAMORE RD SHOHOLA PA**

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage | Unit of Measure      | Reading Type              | Rate |
|--------------|----------|----------|-----------------|---------------|---------|-------|----------------------|---------------------------|------|
|              | From     | To       |                 | Previous      | Present |       |                      |                           |      |
| 82289999     | 03/24/18 | 06/25/18 | 93              | 52            | 66      | 14    | CCF<br>EQUIVALENT TO | REGULAR<br>10,472 GALLONS | TLQ  |

|                                  |                 |               |             |
|----------------------------------|-----------------|---------------|-------------|
| FACILITIES CHARGE \$181.23       | \$181.23        | PAYMENT       | \$312.28 CR |
| WTR CHRG (\$14.60 PER 1,000 GAL) | \$152.89        | TOTAL CREDITS | \$312.28 CR |
| <b>TOTAL CURRENT CHARGES</b>     | <b>\$334.12</b> |               |             |

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

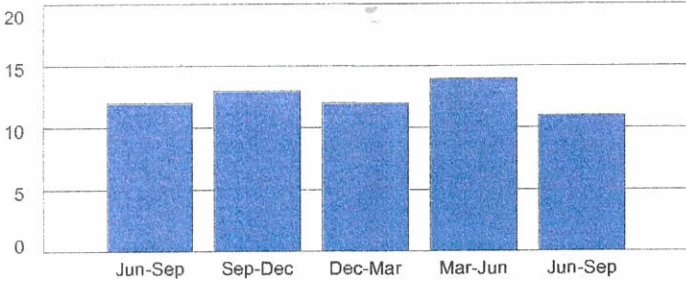
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**Twin Lakes Utilities, Inc.**  
**Customer Service Center**  
 1500 Ronson Road Iselin, New Jersey 08830-3049  
 Telephone: 1-800-523-7224

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 10/27/18

**Billing Date:** 09/24/18  
**Account Number:** 0737594252

Previous Balance \$334.12  
 Payment/Credit by 09/24/18 *THANK YOU* \$334.12  
 Balance Forward \$0.00  
 Current Charges \$301.36  
**DUE 10/16/2018 \$301.36**

*Pay in full check 3621 10/8/18*

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage | Unit of Measure      | Reading Type             | Rate |
|--------------|----------|----------|-----------------|---------------|---------|-------|----------------------|--------------------------|------|
|              | From     | To       |                 | Previous      | Present |       |                      |                          |      |
| 82289999     | 06/25/18 | 09/22/18 | 89              | 66            | 77      | 11    | CCF<br>EQUIVALENT TO | REGULAR<br>8,228 GALLONS | TLQ  |

|                                  |                 |               |             |
|----------------------------------|-----------------|---------------|-------------|
| FACILITIES CHARGE                | \$181.23        | PAYMENT       | \$334.12 CR |
| WTR CHRG (\$14.60 PER 1,000 GAL) | \$120.13        | TOTAL CREDITS | \$334.12 CR |
| <b>TOTAL CURRENT CHARGES</b>     | <b>\$301.36</b> |               |             |

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

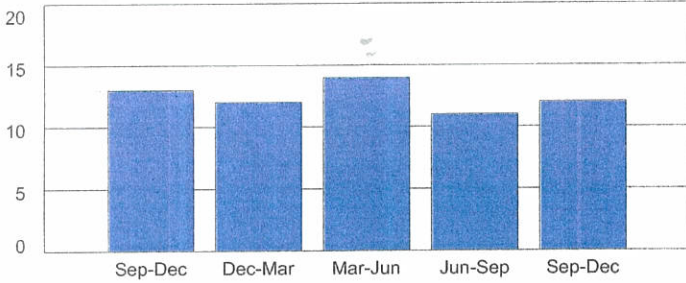
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1500 Ronson Road Iselin, New Jersey 08830-3049  
**Telephone: 1-800-523-7224**

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 01/26/19

|   |                   |
|---|-------------------|
| <b>Billing Date:</b>                        | <b>12/27/18</b>   |
| <b>Account Number:</b>                      | <b>0737594252</b> |
| Previous Balance                            | \$301.36          |
| Payment/Credit by 12/27/18 <i>THANK YOU</i> | \$301.36          |
| Balance Forward                             | \$0.00            |
| Current Charges                             | \$312.28          |
| <b>DUE 01/18/2019</b>                       | <b>\$312.28</b>   |

*Paid in Full*  
*1/8/19 check 3673*

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage               | Unit of Measure      | Reading Type | Rate |
|--------------|----------|----------|-----------------|---------------|---------|---------------------|----------------------|--------------|------|
|              | From     | To       |                 | Previous      | Present |                     |                      |              |      |
| 82289999     | 09/22/18 | 12/22/18 | 91              | 77            | 89      | 12<br>EQUIVALENT TO | CCF<br>8,976 GALLONS | REGULAR      | TLQ  |

|                                   |                 |                      |             |
|-----------------------------------|-----------------|----------------------|-------------|
| FACILITIES CHARGE \$181.23        | \$181.23        | PAYMENT              | \$301.36 CR |
| WTR CHRGR (\$14.60 PER 1,000 GAL) | \$131.05        | <b>TOTAL CREDITS</b> | \$301.36 CR |
| <b>TOTAL CURRENT CHARGES</b>      | <b>\$312.28</b> |                      |             |

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

If you use an online bill paying service to make your payments, please ensure that they have on file your correct account number as shown on this bill and that they mail the payment on your behalf to: P.O. Box 826538, Philadelphia, PA 19182-6538.  
STARTING 7/1/2018 YOU CAN VIEW THE TWIN LAKES WATER COMPANY WATER QUALITY REPORT ONLINE AT:  
[HTTP://MIDDLESEXWATER.COM/WATERQUALITY/TL](http://MIDDLESEXWATER.COM/WATERQUALITY/TL)  
THE REPORT CONTAINS INFORMATION ABOUT THE QUALITY OF YOUR DRINKING WATER. IF YOU PREFER A PAPER REPORT SENT TO YOUR HOME, PLEASE CALL (800) 523-7224.

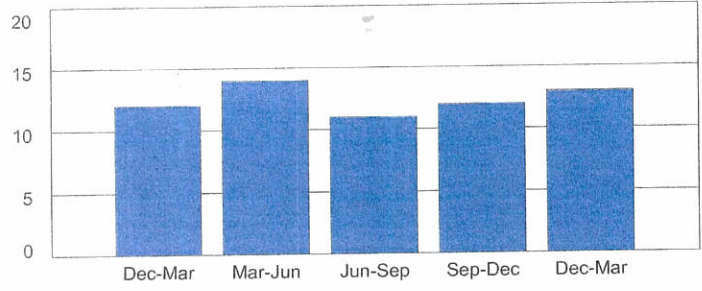
*Rock place*



**Twin Lakes Utilities, Inc.**  
**Customer Service Center**  
 485C Route 1 South, Suite 400 Iselin, New Jersey 08830  
 Telephone: 1-800-523-7224

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 04/27/19

|   |                   |
|---|-------------------|
| <b>Billing Date:</b>                        | <b>03/26/19</b>   |
| <b>Account Number:</b>                      | <b>0737594252</b> |
| Previous Balance                            | \$312.28          |
| Payment/Credit by 03/26/19 <i>THANK YOU</i> | \$312.28          |
| Balance Forward                             | \$0.00            |
| Current Charges                             | \$323.20          |
| <b>DUE 04/17/2019</b> <i>Paid in Full</i>   | <b>\$323.20</b>   |

*4/9/19 check 3719*

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage                      | Unit of Measure             | Reading Type | Rate |
|--------------|----------|----------|-----------------|---------------|---------|----------------------------|-----------------------------|--------------|------|
|              | From     | To       |                 | Previous      | Present |                            |                             |              |      |
| 82289999     | 12/22/18 | 03/23/19 | 91              | 89            | 102     | 13<br><i>EQUIVALENT TO</i> | CCF<br><i>9,724 GALLONS</i> | REGULAR      | TLQ  |

|                                  |                 |  |  |  |  |  |  |  |                      |
|----------------------------------|-----------------|--|--|--|--|--|--|--|----------------------|
| FACILITIES CHARGE                | \$181.23        |  |  |  |  |  |  |  | \$312.28 CR          |
| WTR CHRG (\$14.60 PER 1,000 GAL) | \$141.97        |  |  |  |  |  |  |  | \$312.28 CR          |
| <b>TOTAL CURRENT CHARGES</b>     | <b>\$323.20</b> |  |  |  |  |  |  |  |                      |
|                                  |                 |  |  |  |  |  |  |  | <b>PAYMENT</b>       |
|                                  |                 |  |  |  |  |  |  |  | <b>TOTAL CREDITS</b> |

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

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 THE REPORT CONTAINS INFORMATION ABOUT THE QUALITY OF YOUR DRINKING WATER. IF YOU PREFER A PAPER REPORT SENT TO YOUR HOME, PLEASE CALL (800) 523-7224.

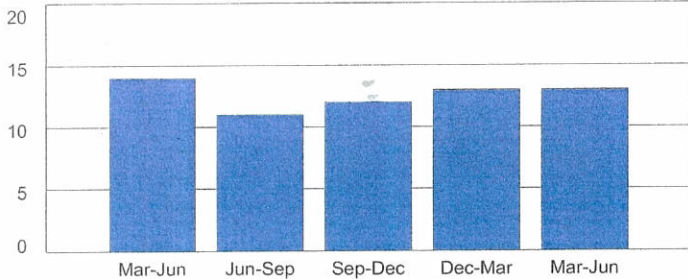


**Twin Lakes Utilities, Inc.**  
**Customer Service Center**  
 485C Route 1 South, Suite 400 Iselin, New Jersey 08830  
 Telephone: 1-800-523-7224

732-638-7506  
 Mr. Robert K. Fullagar, President  
 + Jay L. Cooper, Secretary +  
 4201-563-2654 General Counsel

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 07/27/19

**Billing Date:** 06/25/19  
**Account Number:** 0737594252

Previous Balance \$323.20  
 Payment/Credit by 06/25/19 *THANK YOU* \$323.20  
 Balance Forward \$0.00  
 Current Charges \$323.20

**DUE 07/17/2019** **\$323.20**

*PAID IN FULL*  
 7/11/19  
 check 3768

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage         | Unit of Measure | Reading Type  | Rate |
|--------------|----------|----------|-----------------|---------------|---------|---------------|-----------------|---------------|------|
|              | From     | To       |                 | Previous      | Present |               |                 |               |      |
| 82289999     | 03/23/19 | 06/21/19 | 90              | 102           | 115     | 13            | CCF             | REGULAR       | TLQ  |
|              |          |          |                 |               |         | EQUIVALENT TO |                 | 9,724 GALLONS |      |

FACILITIES CHARGE \$181.23  
 WTR CHRG (\$14.60 PER 1,000 GAL)  
**TOTAL CURRENT CHARGES**

91  
 \$181.23  
 \$141.97  
**\$323.20**

PAYMENT  
**TOTAL CREDITS**

\$323.20 CR  
**\$323.20 CR**

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

STARTING 7/1/2019 YOU CAN VIEW THE TWIN LAKES WATER COMPANY WATER QUALITY REPORT ONLINE AT:

[HTTP://MIDDLESEXWATER.COM/WATERQUALITY/TL](http://MIDDLESEXWATER.COM/WATERQUALITY/TL)

THE REPORT CONTAINS INFORMATION ABOUT THE QUALITY OF YOUR DRINKING WATER. IF YOU PREFER A PAPER REPORT SENT TO YOUR HOME, PLEASE CALL (800) 523-7224.

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*NO prompts → 1800-523-7224  
 J. R. P. W. 7*

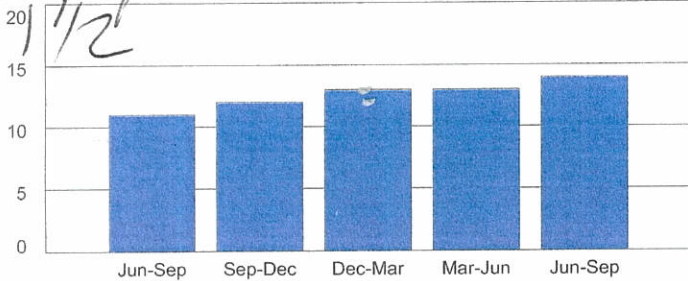


**Twin Lakes Utilities, Inc.**  
**Customer Service Center**  
 485C Route 1 South, Suite 400 Iselin, New Jersey 08830  
**Telephone: 1-800-523-7224**

*Well Pump 1 1/2*

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 10/26/19

**Billing Date:** 09/30/19  
**Account Number:** 0737594252

Previous Balance \$323.20  
 Payment/Credit by 09/30/19 *THANK YOU* \$323.20  
 Balance Forward \$0.00  
 Current Charges \$354.04

**DUE 10/22/2019** *paid in full* **\$354.04**

*10/14/19 check 3817*

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage | Unit of Measure             | Reading Type                     | Rate |
|--------------|----------|----------|-----------------|---------------|---------|-------|-----------------------------|----------------------------------|------|
|              | From     | To       |                 | Previous      | Present |       |                             |                                  |      |
| 82289999     | 06/21/19 | 09/30/19 | 101             | 115           | 129     | 14    | CCF<br><i>EQUIVALENT TO</i> | <b>REGULAR</b><br>10,472 GALLONS | TLQ  |

FACILITIES CHARGE \$181.23 (PRO *100*) \$201.15  
 WTR CHRG (\$14.60 PER 1,000 GAL) \$152.89  
**TOTAL CURRENT CHARGES \$354.04**

PAYMENT \$323.20 CR  
**TOTAL CREDITS \$323.20 CR**

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

STARTING 7/1/2019 YOU CAN VIEW THE TWIN LAKES WATER COMPANY WATER QUALITY REPORT ONLINE AT:  
[HTTP://MIDDLESEXWATER.COM/WATERQUALITY/TL](http://MIDDLESEXWATER.COM/WATERQUALITY/TL)  
 THE REPORT CONTAINS INFORMATION ABOUT THE QUALITY OF YOUR DRINKING WATER. IF YOU PREFER A PAPER REPORT SENT TO YOUR HOME, PLEASE CALL (800) 523-7224.  
 If you use an online bill paying service to make your payments, please ensure that they have on file your correct account number as shown on this bill and that they mail the payment on your behalf to: P.O. Box 826538, Philadelphia, PA 19182-6538.



Online banking customers can view and print check images that have cleared since their last statement.

# Check Images

|   |  |      |
|---|--|------|
| DONNA L. HERSCA<br>JOHN E. HERSCA<br>110 SAGAMORE ROAD<br>SHOMONIA, PA. 18258<br>(570) 296-2069 |  | 3817 |
| Date: 10/14/19  |  |      |
| Pay to the order of: <u>Twin Lakes Utilities Inc.</u> \$ <u>354.04</u>                          |  |      |
| <u>Three Hundred Fifty Four Dollars and 04/100ths</u>   |  |      |
| WELLS FARGO BANK, N.A.<br>WWW.WELLSFARGO.COM  |  |      |
| Acct. # <u>0137574252</u> <u>Donna Hersca</u>   |  |      |
| ⑆031000503⑆1010119876622⑆3817   |  |      |

REF#8128561198 CK# 3817 354.04



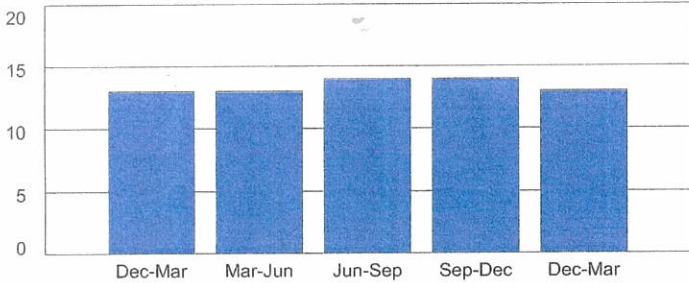
9-5 Mon-Fri.



**Twin Lakes Utilities, Inc.**  
**Customer Service Center**  
 485C Route 1 South, Suite 400 Iselin, New Jersey 08830  
 Telephone: 1-800-523-7224

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 04/25/20

**Billing Date:** 03/30/20  
**Account Number:** 0737594252

|   |                 |
|---|-----------------|
| Previous Balance                            | \$334.12        |
| Payment/Credit by 03/30/20 <i>THANK YOU</i> | \$334.12        |
| Balance Forward                             | \$0.00          |
| Current Charges                             | \$323.20        |
| <b>DUE 04/21/2020</b>                       | <b>\$323.20</b> |

*paid in Full*

*4/13/20 check 3908*

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage         | Unit of Measure | Reading Type  | Rate |
|--------------|----------|----------|-----------------|---------------|---------|---------------|-----------------|---------------|------|
|              | From     | To       |                 | Previous      | Present |               |                 |               |      |
| 82289999     | 12/29/19 | 03/28/20 | 90              | 143           | 156     | 13            | CCF             | REGULAR       | TLQ  |
|              |          |          |                 |               |         | EQUIVALENT TO |                 | 9,724 GALLONS |      |

|                                   |          |                 |               |             |
|-----------------------------------|----------|-----------------|---------------|-------------|
| FACILITIES CHARGE                 | \$181.23 | \$181.23        | PAYMENT       | \$334.12 CR |
| WTR CHR ( \$14.60 PER 1,000 GAL ) |          | \$141.97        | TOTAL CREDITS | \$334.12 CR |
| <b>TOTAL CURRENT CHARGES</b>      |          | <b>\$323.20</b> |               |             |

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

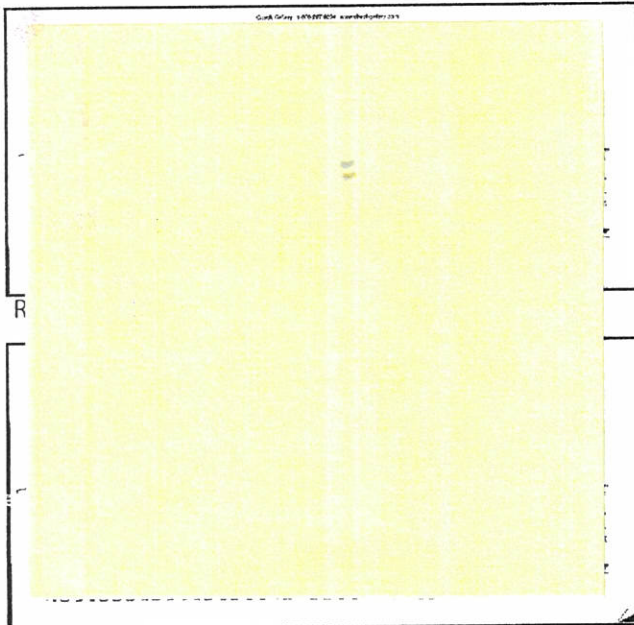
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[HTTP://MIDDLESEXWATER.COM/WATERQUALITY/TL](http://MIDDLESEXWATER.COM/WATERQUALITY/TL)  
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 If you use an online bill paying service to make your payments, please ensure that they have on file your correct account number as shown on this bill and that they mail the payment on your behalf to: P.O. Box 826538, Philadelphia, PA 19182-6538.





Online banking customers can view and print check images that have cleared since their last statement.

# Check Images



REF#8223011724 CK# 3950 28.00

3948

3948

7/13/20

DONNA I. HERSCA  
 JOHN C. HERSCA  
 110 SACASWORE ROAD  
 SHORUBLA, NY 10858  
 (516) 246-2439

Pay to the order of Twin Lakes Utilities, Inc. \$ 528.68

Five Hundred Twenty-eight Dollars and 68/100

WELLS FARGO BANK, N.A.  
 WWW.WELLSFARGO.COM

Acct# 0737594252 Donna Hersca

⑆031000503⑆1010119876622⑆ 3948

REF#8222609700 CK# 3948 528.68





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Pennsylvania Consolidated Statutes

# 2010 Pennsylvania Code

## Title 66 - PUBLIC UTILITIES

### Chapter 13 - Rates and Rate Making

#### 1301 - Rates to be just and reasonable.

#### CHAPTER 13

#### RATES AND RATE MAKING

##### Sec.

- 1301. Rates to be just and reasonable.
- 1302. Tariffs; filing and inspection.
- 1303. Adherence to tariffs.
- 1304. Discrimination in rates.
- 1305. Advance payment of rates; interest on deposits.
- 1306. Apportionment of joint rates.
- 1307. Sliding scale of rates; adjustments.
- 1308. Voluntary changes in rates.
- 1309. Rates fixed on complaint; investigation of costs of production.
- 1310. Temporary rates.
- 1311. Valuation of and return on the property of a public utility.
- 1312. Refunds.
- 1313. Price upon resale of public utility services.
- 1314. Limitation on prices paid for property and fuel.
- 1315. Limitation on consideration of certain costs for electric utilities.
- 1316. Recovery of advertising expenses.
- 1316.1. Recovery of club dues.

C-2020-3020883  
10/6/20

**Hersca-7**

1317. Regulation of natural gas costs.
1318. Determination of just and reasonable gas cost rates.
1319. Financing of energy supply alternatives.
1320. Fuel purchase audits by complaint.
1321. Recovery of certain employee meeting expenses.
1322. Outages of electric generating units.
1323. Procedures for new electric generating capacity.
1324. Residential telephone service rates based on duration or distance of call.
1325. Local exchange service increases; limitation (Repealed).
1326. Standby charge prohibited.
1327. Acquisition of water and sewer utilities.
1328. Determination of public fire hydrant rates.

**Enactment.** Chapter 13 was added July 1, 1978, P.L.598, No.116, effective in 60 days.

**Cross References.** Chapter 13 is referred to in sections 528, 2203, 2804, 3019 of this title.

**§ 1301. Rates to be just and reasonable.**

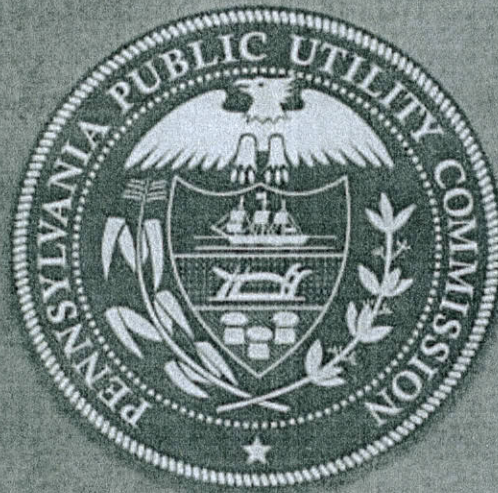
Every rate made, demanded, or received by any public utility, or by any two or more public utilities jointly, shall be just and reasonable, and in conformity with regulations or orders of the commission. Only public utility service being furnished or rendered by a municipal corporation, or by the operating agencies of any municipal corporation, beyond its corporate limits, shall be subject to regulation and control by the commission as to rates, with the same force, and in like manner, as if such service were rendered by a public utility.

**Cross References.** Section 1301 is referred to in sections 3015, 3016, 3019 of this title.

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*BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION*

# **A GUIDE TO UTILITY RATEMAKING**



*BY JAMES H. CAWLEY  
AND NORMAN J. KENNARD  
(2018 EDITION)*

C-2020-3020883  
10/6/20

**Hersca-8**

a wide diversity of customer demand—from residences to small businesses to large factories.

There are other, less theoretic reasons, as well, that plausibly explain the anomaly of monopoly in an otherwise free market system:

- **Market protectionism** - The more conspiratorial theory is that the industries themselves sought regulation to preclude competition.
- **Long-term contracting** - The theory of mutual captivity posits that, in exchange for permanent occupancy of public rights of way, the government sought assurance that rates would be reasonable to constituents and services would be widely provided. Utilities seeking right of way occupancy desired regulation that was fair.

For these reasons, and probably others, state legislatures granted providers of electricity, gas, water and telephone services monopoly status the exclusive right to serve a defined geographic area (franchise).

Along with the conferral of an exemption from competition, utilities must concede several items. Traditional economic theory holds that, unrestrained, a monopolist will do two basic things: raise the price well beyond the actual cost of production; and restrict output in the self-interest of profit maximization. Therefore, legislators placed two basic limitations on such monopolistic behavior:

- **Price Regulation** - To counter the natural tendency of the monopolist to charge the monopoly price, the rate a utility may charge is regulated. No change may be made in the rates charged for service without the express approval of the regulatory commission. Rates are to be set by regulation to recover the cost of providing service, which includes reasonable and necessary operating expenses and taxes, a return of investment in the form of depreciation, and a fair return, or profit, on the investment made to provide the service. As a matter of constitutional law (the Fifth Amendment's last clause), regulators may not set rates so low that they are tantamount to confiscation of property.
- **Service Regulation** - Utilities are under a statutory obligation to serve all applicants located within their franchise area. In general, the regulated monopolist may not cut back output to maximize profit. Utility service must be provided upon demand in the quantities demanded.

## 2. Operating Characteristics

Before understanding the process of regulating the rates and services of a public utility, one must first understand the industries themselves.

Try to file the complaint no later than 60 days after the utility's filing of the new tariff.<sup>113</sup> If filed by overnight delivery, certified, or priority mail, the date of deposit is the date of filing, not the date it is physically received by the Commission. However, the formal complaint should reach the Commission's Secretary before the effective date of the new rates as stated in the utility's rate filing notice.

A complainant needs "standing" to complain.<sup>114</sup> The party's interest in the case must be "direct, substantial, immediate and not remote."<sup>115</sup> A customer (or a group of customers) of the utility should have no problem establishing an interest.

Formal "rate" complaint forms are available on the Commission's website.<sup>116</sup> Once completely filled out and signed with an original dated signature, the form can be mailed or delivered to the Secretary who will process, docket, and serve the complaint on the company and the administrative law judge presiding over the rate case. It is also the complainant's responsibility to provide the Commission and the ALJ with any changes to in address or to where the documents should be mailed.

**A formal complaint should set forth the following:**

1. The name; mailing address; telephone number; and electronic mailing address, if applicable, of the complainant. If several people are filing a joint complaint, there is no need to have every complainant sign it. One of the group can sign for all. If the group is an organized association, an authorized officer of the association should sign.
2. The name of the utility complained against.
3. The PA PUC case number.
4. The type of utility service provided.
5. **A statement of opposition to the company's proposed rate increase. In the case of proposed increased rates, the allegation that the proposed rates are not just and reasonable and violate Chapter 13 of the Code is sufficient.**

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<sup>113</sup> See Regs. § 5.32. If filed after the matter is suspended, the complainant takes the record of the case as it is at the time of filing the complaint. If the rate case is not suspended and the complainant files after the rates go into effect, the complainant will have the burden of proof.

<sup>114</sup> In law, standing is the ability of a party to demonstrate sufficient connection to and harm from the action challenged to support that party's participation in the case.

<sup>115</sup> *William Penn Parking Garage, Inc. v. City of Pittsburgh*, 464 Pa. 168, 346 A.2d 269 (1975).

<sup>116</sup> The form of a formal complaint in a rate case can be found here:  
[http://www.puc.state.pa.us/General/onlineforms/doc/Formal\\_Complaint\\_Proposed\\_Rate\\_Increase.docx](http://www.puc.state.pa.us/General/onlineforms/doc/Formal_Complaint_Proposed_Rate_Increase.docx).

**Market St. R. Co. v. Railroad Comm'n of California**

Supreme Court of the United States

February 26, 1945, Argued ; March 26, 1945, Decided

Nos. 510, 511

**Reporter**

324 U.S. 548 \*; 65 S. Ct. 770 \*\*; 89 L. Ed. 1171 \*\*\*; 1945 U.S. LEXIS 2625 \*\*\*\*  
itself.

MARKET STREET RAILWAY CO. v. RAILROAD  
COMMISSION OF CALIFORNIA ET AL.

**Prior History:** [\*\*\*\*1] APPEALS FROM THE  
SUPREME COURT OF CALIFORNIA.

APPEALS from a judgment affirming an order of the state commission which directed the railway to reduce its fares from seven to six cents. Because of uncertainty as to whether the first appeal was premature, a second appeal was taken; the second appeal is here dismissed and the first heard on the merits.

**Disposition:** 24 Cal. 2d 378, 150 P. 2d 196, affirmed.

**Core Terms**

---

fare, traffic, seven-cent, street, predictions, municipal, reduction, valuation, stock, transportation, confiscatory, reproduction, five-cent, Railway, attract, invalid, salvage, notice

**Case Summary**

---

**Procedural Posture**

Appellant railway company challenged the judgment of the Supreme Court of California, which affirmed an order of appellee railroad commission that directed appellant to reduce its fares from seven to six cents. Appellant claimed that it was denied due process in appellee's rate review process and in the rate reduction

**Overview**

Appellant railway company sought review of the state supreme court's judgment that upheld the fare reduction ordered by appellee railroad commission. The court affirmed the judgment of the state court. The court dismissed the second of two appeals filed by appellant. The court held that the first appeal was taken from a final order and that it had jurisdiction to decide the case on the merits. The court found that appellant had reasonable notice that its rates were under attack and was not denied opportunity to be heard thereon. The court ruled that the basis for appellee's judgment was in the record and that it was not a denial of due process for a commission so experienced as appellee was with the affairs of appellant to draw inferences as to the probable effect on traffic of a given rate decrease. The court ruled that appellee's action of considering matters outside the record to justify the decision it had made was not violative of due process requirements. The court found that nothing had been taken from appellant to find a due process violation.

**Outcome**

The court found no constitutional infirmity in the result or in the procedure by which it was reached when appellee railroad commission reduced the fare to be charged by appellant railway company. The court affirmed the judgment of the state supreme court.

## LexisNexis® Headnotes

Civil Procedure > Appeals > Rehearings in Appellate Courts

Civil Procedure > ... > Relief From Judgments > Additur & Remittitur > General Overview

Civil Procedure > ... > Relief From Judgments > Additur & Remittitur > Remittiturs

Civil Procedure > Appeals > Remands

### **HN1** Appeals, Rehearings in Appellate Courts

The California Rules on Appeal expressly provide that a decision of the California Supreme Court becomes final 30 days after filing unless otherwise ordered prior to the expiration of said 30-day period. Remittitur does not issue until the end of the 30-day period.

Civil Procedure > Appeals > Appellate Jurisdiction > Final Judgment Rule

Criminal Law & Procedure > Appeals > Rehearings

Governments > Courts > Clerks of Court

### **HN2** Appellate Jurisdiction, Final Judgment Rule

Cal. R. App. 24(a) provides: All decisions of the reviewing courts shall be filed with the clerk. A decision of the California Supreme Court becomes final 30 days after filing unless otherwise ordered prior to the expiration of said 30-day period. Pursuant to *Cal. Const. art. VI, § 4c*, a decision of a District Court of Appeal becomes final as to that court, 30 days in civil cases and 15 days in criminal cases after filing, and thereafter is not subject to modification or rehearing by said court. Where an opinion is modified without change in the judgment, during the time allowed for rehearing, such modification shall not postpone the time that the decision becomes final as above provided; but if the judgment is modified during that time, the period specified herein begins to run anew, as of the date of modification.

Civil Procedure > Appeals > Remands

Governments > Courts > Clerks of Court

Civil Procedure > ... > Relief From Judgments > Additur & Remittitur > General Overview

Civil Procedure > ... > Relief From Judgments > Additur & Remittitur > Remittiturs

### **HN3** Appeals, Remands

Cal. R. App. 25 provides: A remittitur shall issue after the final determination of any appeal, or of any original proceeding in review in which an alternative writ or order to show cause has been issued. Unless otherwise ordered, the clerk of the California Supreme Court shall issue the remittitur when a judgment of that court becomes final. For good cause shown, or on stipulation of the parties, the Supreme Court may direct the immediate issuance of a remittitur.

Civil Procedure > Appeals > Appellate Jurisdiction > Final Judgment Rule

Civil Procedure > US Supreme Court Review > General Overview

Civil Procedure > ... > Jurisdiction on Certiorari > Considerations Governing Review > State Court Decisions

### **HN4** Appellate Jurisdiction, Final Judgment Rule

The United States Supreme Court's jurisdiction to review a state court judgment is confined by long-standing statute to one which is final. 28 U.S.C.S. § 344. Final it must be in two senses: it must be subject to no further review or correction in any other state tribunal; it must also be final as an effective determination of the litigation and not of merely interlocutory or intermediate steps therein. It must be the final word of a final court.

Civil Procedure > Appeals > Appellate Jurisdiction > Final Judgment Rule

Civil Procedure > ... > Jurisdiction on

Certiorari > Considerations Governing  
Review > State Court Decisions

### [HN5](#) **Appellate Jurisdiction, Final Judgment Rule**

Finality of a judgment of a state court for determining the time within which the U.S. Supreme Court's jurisdiction to review may be invoked is not controlled by a designation applied in state practice. The judgment for the court's purposes is final when the issues are adjudged. Such finality is not deferred by the existence of a latent power in the rendering court to reopen or revise its judgment. The rule is a limitation on the time during which the court may reconsider, which in absence of such rule might expire only with the end of the term or some other event determinative under local law. Such latent powers of state courts over their judgments are too variable and indeterminate to serve as tests of the court's jurisdiction. When the case is decided, the time to seek the court's review begins to run.

Civil Procedure > Appeals > Appellate  
Jurisdiction > Final Judgment Rule

Civil Procedure > Appeals > Rehearings in  
Appellate Courts

Civil Procedure > ... > Jurisdiction on  
Certiorari > Considerations Governing  
Review > State Court Decisions

### [HN6](#) **Appellate Jurisdiction, Final Judgment Rule**

A timely petition for rehearing defers finality for the purposes of the U.S. Supreme Court until it is acted upon or until power to act upon it has expired. If rehearing is granted, the judgment is opened, and does not become final as a prerequisite to application for review by us until decision is rendered upon rehearing.

Civil Procedure > Appeals > Rehearings in  
Appellate Courts

### [HN7](#) **Appeals, Rehearings in Appellate Courts**

Cal. R. App. 27(a) provides that the state supreme court or a district court of appeal may grant a rehearing in any cause after its own decision; and any cause pending in a department of the state supreme court may be

ordered heard by the state supreme court in bank. A rehearing or hearing in bank may be granted on petition, as provided in Cal. R. App. 27(b) of this rule, or on the court's own motion, prior to the time the decision becomes final therein.

Civil Procedure > Appeals > Rehearings in  
Appellate Courts

### [HN8](#) **Appeals, Rehearings in Appellate Courts**

Cal. R. App. 27(e) provides that an order of the state supreme court granting a rehearing shall be signed by at least 4 justices assenting thereto, and filed with the clerk; and a hearing in bank after decision in department may be ordered as provided in *Cal. Const. art. VI, § 2*. If no order is made before the decision becomes final, the petition shall be deemed denied, and the clerk shall enter a notation in the register to that effect.

Constitutional Law > ... > Fundamental  
Rights > Procedural Due Process > Scope of  
Protection

### [HN9](#) **Procedural Due Process, Scope of Protection**

A misapprehension by a litigant of the steps which its best interests require during a trial may be appealing grounds for a plea to the discretion of the hearing tribunal for another chance, but it is not grounds for the U.S. Supreme Court's interference as a denial of constitutional rights.

Constitutional Law > ... > Fundamental  
Rights > Procedural Due Process > Scope of  
Protection

### [HN10](#) **Procedural Due Process, Scope of Protection**

Due process requires that commissions proceed upon matters in evidence and that parties have opportunity to subject evidence to the test of cross-examination and rebuttal. But due process deals with matters of substance and is not to be trivialized by formal objections that have no substantial bearing on the ultimate rights of parties.

Business & Corporate  
 Compliance > ... > Transportation Law > Rail  
 Transportation > Rates & Tariffs

### [HN11](#) Railroads & Rail Transportation, Rates & Tariffs

The question whether a confiscatory rate can be justified because service is bad can only be reached when the court finds a prescribed rate to be confiscatory.

Business & Corporate  
 Compliance > ... > Transportation Law > Rail  
 Transportation > Rates & Tariffs

Constitutional Law > ... > Fundamental  
 Rights > Procedural Due Process > Scope of  
 Protection

Constitutional Law > ... > Fundamental  
 Rights > Procedural Due Process > General  
 Overview

### [HN12](#) Railroads & Rail Transportation, Rates & Tariffs

The due process clause of the U.S. Constitution is not violated when a commission takes into consideration practical results to the public of advances which it has allowed in rates.

Constitutional Law > Substantive Due  
 Process > Scope

### [HN13](#) Constitutional Law, Substantive Due Process

The due process clause may be applied to prevent governmental destruction of existing economic values. It has not and cannot be applied to insure values or to restore values that have been lost by the operation of economic forces.

Business & Corporate  
 Compliance > ... > Transportation Law > Rail  
 Transportation > Rates & Tariffs

Constitutional Law > Substantive Due  
 Process > Scope

Energy & Utilities Law > Utility  
 Companies > Rates > General Overview

### [HN14](#) Railroads & Rail Transportation, Rates & Tariffs

The owners of a property dedicated to the public service cannot be said to suffer injury if a rate is fixed for an experimental period, which probably will produce a fair return on the present fair value of their property. If it has lost all value except salvage, they suffer no loss if they earn a return on salvage value. If the property has no prospect of salvage except through dismantling and sale for scrap, the scrap value for such of it as is to be scrapped may represent its present worth.

## Lawyers' Edition Display

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## Headnotes

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APPEAL, §23 > finality of judgment -- effect of waiting period until judgment becomes "final." -- > Headnote:

[LEdHN\[1\]](#) [1]

A decision of a supreme court of a state becomes final, for purposes of an appeal to the Supreme Court of the United States, at the time the issues are adjudged and the decision rendered, although the rules of the state court provide that a decision by it does not become "final" until 30 days after filing and that remittitur shall not issue until the end of that period, where the waiting period so prescribed is in substance merely a limitation on the time during which the state court may reconsider its decision.

APPEAL, §23 > finality -- essential elements. --  
 > Headnote:

[LEdHN\[2\]](#) [2]

A state court judgment, in order to be final for purposes

324 U.S. 548, \*548; 65 S. Ct. 770, \*\*770; 89 L. Ed. 1171, \*\*\*1171; 1945 U.S. LEXIS 2625, \*\*\*\*1

of review by the Supreme Court of the United States, must be the final word of a final court, in the senses that: (1) it must be subject to no further review or correction in any other state tribunal, and (2) it must be an effective determination of the litigation and not of merely interlocutory or intermediate steps therein.

APPEAL, §22 > finality -- effect of state designation. --

> Headnote:

[LEdHN\[3\]\[↓\]](#) [3]

The finality of a state court judgment, for purposes of appeal to the Supreme Court of the United States, is not controlled by the designation applied in state practice.

APPEAL, §23 > test of finality. -- > Headnote:

[LEdHN\[4\]\[↓\]](#) [4]

A state court judgment is final, for purposes of appeal to the Supreme Court of the United States, when the issues are adjudged.

APPEAL, §23 > finality -- power to reopen judgment. --

> Headnote:

[LEdHN\[5\]\[↓\]](#) [5]

The finality of a state court judgment, for purposes of appeal to the Supreme Court of the United States, is not deferred by the existence of a latent power in the rendering court to reopen or revise its judgment.

APPEAL, §46 > finality of judgment -- effect of rehearing. --

> Headnote:

[LEdHN\[6\]\[↓\]](#) [6]

A timely petition for rehearing defers finality of the judgment, for purposes of an appeal to the Supreme Court of the United States, until the petition is acted upon or until the power to act upon it has expired; if a rehearing is granted, the judgment does not become final until decision is rendered thereon.

CONSTITUTIONAL LAW, §823 > due process -- notice and hearing -- proceedings before state railroad commission -- inquiry into street railway rates. -- > Headnote:

[LEdHN\[7\]\[↓\]](#) [7]

A street railway company cannot complain of lack of notice and fair hearing in a proceeding before a street railroad commission in which its rates are reduced, upon the ground that it was not prepared for an attack on its rate structure, its attention having been diverted to other more sharply contested issues before the commission, where the order instituting the proceedings recited as one of its objects an inquiry into the "reasonableness of the rates," due notice of the proceeding was given, and there is evidence in the record, including testimony introduced by the company itself, which would have no bearing on the other questions involved except as they might involve rates.

CONSTITUTIONAL LAW, §786 > due process -- surprise. --

> Headnote:

[LEdHN\[8\]\[↓\]](#) [8]

Surprise is not necessarily want of due process.

CONSTITUTIONAL LAW, §746 > due process -- mistakes of litigant during trial. -- > Headnote:

[LEdHN\[9\]\[↓\]](#) [9]

A misapprehension by a litigant of the steps which its best interests require during the trial is not ground for interference with the result as a denial of due process of law.

CONSTITUTIONAL LAW, §823 > due process --

proceeding before state railroad commission -- reduction of rates -- lack of expert opinion. -- > Headnote:

[LEdHN\[10\]\[↓\]](#) [10]

The fact that a state railroad commission's decision that traffic on a street railway would be stimulated by

reducing the rates is reached by it without the aid of expert testimony does not amount to a denial of due process of law, where the commission was well acquainted with the affairs of the street railway, any expert opinion which might have been advanced would not have been binding on it, and the reduction of rates was expressly declared by it to be experimental only, the proceeding being kept open for any further orders that experience might show to be desirable.

PUBLIC SERVICE COMMISSION, §6 > binding effect of expert opinion. -- > Headnote:  
[LEdHN\[11\]](#) [11]

The opinion of experts is not binding on a state railroad commission in a rate proceeding before it; the weight to be given to such opinion depends on the commission's estimate of the reasonableness of the conclusions reached and the force of the reasoning behind them.

CONSTITUTIONAL LAW, §823 > due process -- state railroad commission -- reference to evidence outside record. -- > Headnote:  
[LEdHN\[12\]](#) [12]

Reference by a state railroad commission to evidence outside the record, on an inquiry by it into the rates and services of a street railway company, does not, although improper, amount to a denial of due process of law, where the evidence consists of monthly reports filed by the company itself with the commission covering a period subsequent to the hearing, and it is not shown that the reports were erroneous or could have been rebutted or impeached by the company.

CONSTITUTIONAL LAW, §823 > due process -- proceeding before state railroad commission. -- > Headnote:  
[LEdHN\[13\]](#) [13]

Due process of law, in a proceeding before a state railroad commission, requires that the commission proceed upon matters in evidence, and that the parties have an opportunity to subject the evidence to the test of cross-examination and rebuttal.

CONSTITUTIONAL LAW, §746 > due process -- trivial matters. -- > Headnote:  
[LEdHN\[14\]](#) [14]

Due process of law deals with matters of substance and is not to be trivialized by formal objections that have no substantial bearing on the ultimate rights of the parties.

CONSTITUTIONAL LAW, §743 > due process -- state railroad commission -- street railway rates -- considering value of service. -- > Headnote:  
[LEdHN\[15\]](#) [15]

The fact that a state railroad commission, in ordering a reduction of street railway rates, takes into consideration the value of the service rendered does not amount to a denial of due process of law, on the theory that a confiscatory rate is not justified merely because it is all the service is worth, where it is not shown that the rate actually fixed is confiscatory, and, in considering the value of the service, the commission was concerned only with a comparison of the service previously rendered under different rates, with a view to determining whether the higher rate was justified, from the point of view both of better service and of increased earnings to the company.

CONSTITUTIONAL LAW, §743 > due process -- rate base - street railway -- salvage value. -- > Headnote:  
[LEdHN\[16\]](#) [16]

The use of a rate base of \$ 7,950,000, in fixing the rates of a street railway company is not a denial of due process of law, although the reproduction cost, the actual investment, and the amount of the company's outstanding securities are all much higher, where the company is in a bad financial position, it cannot possibly expect to earn a return based on any of the higher amounts, and the \$ 7,950,000 is the sum offered by the municipality for its properties, which offer, being substantially the amount for which the properties are afterwards sold to the municipality and which the company itself then recognizes as being the best price obtainable therefor, probably represents the true

324 U.S. 548, \*548; 65 S. Ct. 770, \*\*770; 89 L. Ed. 1171, \*\*\*1171; 1945 U.S. LEXIS 2625, \*\*\*\*1

salvage value of the company's properties.

CONSTITUTIONAL LAW, §743 > due process -- rates -- street railways -- reproduction cost. -- > Headnote:  
[LEdHN\[17\]](#) [17]

Disregarding theoretical reproduction costs in fixing street railway rates is not a denial of due process of law, where, considering the company's obsolete equipment and the bad conditions in the street railway industry generally, no responsible person would think of reproducing such a street railway system.

CARRIERS, §230 > street railway -- fair return -- attracting additional capital. -- > Headnote:  
[LEdHN\[18\]](#) [18]

A street railway company, in such a bad financial condition as to make it economically impracticable to fix a rate which would give it a return on its investment, cannot claim to be entitled to a return sufficient to assure confidence in its financial integrity and to attract additional capital, where the company's financial integrity already is hopelessly undermined, it could not attract capital at any possible rate, and the investors recognize as lost a part of what they have put into the company.

CONSTITUTIONAL LAW, §529 > due process -- maintenance of present values. -- > Headnote:  
[LEdHN\[19\]](#) [19]

The due process clause, applicable to prevent governmental destruction of existing economic values, cannot be applied to insure such values or to restore values that have been lost by the operation of economic forces.

PUBLIC UTILITIES, §9 > rates -- right to fair return. -- > Headnote:  
[LEdHN\[20\]](#) [20]

The owners of a property dedicated to the public service cannot be said to suffer injury if a rate is fixed for an experimental period which probably will produce a fair return on the present fair value of the property.

PUBLIC UTILITIES, §14 > fair return -- valuation -- salvage value. -- > Headnote:  
[LEdHN\[21\]](#) [21]

A return based upon the salvage value of a utility is proper where the utility, due to the forces of competition and adverse economic conditions, has lost all value except salvage, even though such salvage may be only the value of its properties when sold for scrap.

CARRIERS, §230 > fair return -- street railway -- capitalization of earnings. -- > Headnote:  
[LEdHN\[22\]](#) [22]

The fact that an offer made by a municipality for the properties of a street railway company is calculated by a capitalization of earning power does not make it improper to take the amount of such offer as the basis of valuation in fixing the company's rates, although capitalization of earning power may not generally be a sound basis of valuation, where the company has little choice in the matter of rates, due to competition from the municipality, and it is in such a bad financial position that the return which it would earn on the salvage value of its properties, represented by the amount of the offer, is probably as large as any higher rate would produce.

CONSTITUTIONAL LAW, §743 > due process -- street railway -- experimental rates. -- > Headnote:  
[LEdHN\[23\]](#) [23]

The fact that a rate fixed for a street railway company, which was intended to be experimental only, was never actually tried out, does not make it a denial of due process of law, where the experiment is defeated by the company itself, as a result of a stay obtained by it and a subsequent sale of its properties.

CONSTITUTIONAL LAW, §743 > due process -- street railway -- experimental rates. -- > Headnote:

[LEdHN\[24\]](#) [24]

The fixing of experimental rates for a street railway company, to be tested by experience and changed as necessary, is not forbidden by the Federal Constitution, where even the most expert could not know in advance the effect of the prescribed rates.

## Syllabus

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1. For the purpose of appeal to this Court, the judgment of the Supreme Court of California here involved became final upon that court's denial of a petition for rehearing; and an appeal was not premature though taken before expiration of the 30-day period in which, under the state law and practice, the state court could have modified the judgment. P. 551.

2. An order of the state commission requiring the appellant street railway company to reduce its base cash fare from seven to six cents, *held*, under the *Fourteenth Amendment of the Federal Constitution*, not a deprivation of property without due process of law. Pp. 553, 569.

(a) There is no foundation in the record for the company's contention that in the proceedings before the Commission it was given no adequate [\*\*\*\*2] notice that its rates were under attack and therefore no opportunity for a hearing on the reasonableness of its rates. P. 558.

(b) The order was not unsupported by evidence and was not rendered invalid by the fact that the Commission evaluated the company's experience for itself without the aid of expert testimony. P. 559.

(c) The order was not invalid as based on matters outside the record. The Commission's incidental reference to the company's own reports, although they were not formally in evidence in the proceeding, did not deny due process, in the absence of any showing of error or prejudice. P. 561.

(d) As the rate prescribed by the Commission is not

here found to be confiscatory, it is unnecessary to determine whether "value of service" would justify a rate which does not yield a fair return. To the extent that the Commission was influenced by considerations of the value of the service in this case, there was no denial to the company of any constitutional right. P. 562.

(e) In view of the company's economic plight, the order was not invalid even though under the prescribed rate the company would operate at a loss. That the Commission used as a rate base the price at [\*\*\*\*3] which the company had offered to sell its properties to the municipality, and disregarded theoretical reproduction costs, did not vitiate the order. P. 564.

The due process clause does not insure values nor require restoration of values that have been lost by the operation of economic forces.

(f) That the test of experience which the order contemplated was unavailable can not affect its constitutional validity, where the company itself, by litigation and subsequent sale of the property, had frustrated such test. P. 568.

**Counsel:** Mr. Francis R. Kirkham, with whom Messrs. Cyril Appel and Felix T. Smith were on the brief, for appellant.

Mr. Everett C. McKeage, with whom Mr. Wyman C. Knapp was on the brief, for appellees.

**Judges:** Stone, Roberts, Black, Reed, Frankfurter, Douglas, Murphy, Jackson, Rutledge

**Opinion by:** JACKSON

## Opinion

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[\*549] [\*\*772] [\*\*\*1175] MR. JUSTICE JACKSON delivered the opinion of the Court.

[\*\*\*1176] [LEdHN\[1\]](#) [1]Two appeals have been taken from a single judgment of the Supreme Court of California because counsel was [\*550] uncertain when

the judgment became final for our jurisdictional purposes. The decision was rendered July 1, 1944; it concluded, "The order is affirmed"; a petition for rehearing [\*\*\*\*4] was denied July 27, 1944. The first appeal was applied for and allowed on July 31, 1944. If the judgment became final on denial of rehearing, this appeal was timely. However, HN1 the California Rules on Appeal expressly provide that a decision of the Supreme Court "becomes final thirty days after filing unless otherwise ordered prior to the expiration of said 30-day period." <sup>1</sup> [\*\*\*\*5] Remittitur does not issue until the end of the 30-day period. <sup>2</sup> It issued on August 1 and certified, according to practice, that "the foregoing is a true copy of an original judgment entered in the above entitled cause on the 1st day of July, 1944; and now remaining of record in my [\*551] office." If the date of its issue, being also the date of finality fixed by the rule, governs finality for purposes of our jurisdiction, the judgment was not a final one at the time the first appeal was granted. On the chance that it might be dismissed as premature, a second appeal was presented and allowed on September 21.

LEdHN[2] [2]HN4 Our jurisdiction to review a

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<sup>1</sup> HN2 Rule 24 (a) provides: "[When decisions become final] All decisions of the reviewing courts shall be filed with the clerk. A decision of the Supreme Court becomes final 30 days after filing unless otherwise ordered prior to the expiration of said 30-day period. Pursuant to article VI, section 4c, of the Constitution, a decision of a District Court of Appeal becomes final as to that court, 30 days in civil cases and 15 days in criminal cases after filing, and thereafter is not subject to modification or rehearing by said court. Where an opinion is modified without change in the judgment, during the time allowed for rehearing, such modification shall not postpone the time that the decision becomes final as above provided; but if the judgment is modified during that time, the period specified herein begins to run anew, as of the date of modification." Rules on Appeal for the Supreme Court and District Courts of Appeal of the State of California, effective July 1, 1943. See 22 Cal. 2d 1.

<sup>2</sup> HN3 Rule 25 so provides. "A remittitur shall issue after the final determination of any appeal, or of any original proceeding in review in which an alternative writ or order to show cause has been issued. Unless otherwise ordered, the clerk of the Supreme Court shall issue the remittitur when a judgment of that court becomes final . . ." Rule 25 (a). "For good cause shown, or on stipulation of the parties, the Supreme Court may direct the immediate issuance of a remittitur." Rule 25 (b). For discussion of this rule see Witkin, *New California Rules on Appeal* (1944) 17 So. Calif. L. Rev. 248 et seq.

state [\*\*773] court judgment is confined by long-standing statute to one which is final. Judicial Code, § 237, 28 U. S. C. § 344. Final it must be in two senses: it must be subject to no further review or correction in any other state tribunal; it must also be final as an effective determination of the litigation and not of merely interlocutory or intermediate steps therein. It must be the final word of a final court.

LEdHN[3] [3]LEdHN[4] [4]LEdHN[5] [5]LEdHN[6] [6]We have held that HN5 finality [\*\*\*\*6] of a judgment of a state court for determining the time within which our jurisdiction to review may be invoked is not controlled by the designation applied in state practice. *Department of Banking v. Pink*, 317 U.S. 264; *Cole v. Violette*, 319 U.S. 581. The judgment for our purposes is final when the issues are adjudged. Such finality is not deferred by the existence of a latent power in the rendering court to reopen or revise its judgment. The waiting period prescribed by the statute here seems to reserve a power of that character. The decision [\*\*\*1177] during this period does not lack the attributes of an adjudication, it is not awaiting lapse of time to become a judgment, it merely is subject to modification. When this period runs, unless the court has moved meanwhile, it becomes powerless to change or modify the judgment. *Oakland v. Pacific Coast Lumber Co.*, 172 Cal. 332, 337, 156 P. 468; *Estate of Ross*, 189 Cal. 317, 318, 207 P. 1014. The rule is thus a limitation on the time during which the court may reconsider, which in absence of such rule might expire [\*\*\*\*7] only with the end of the term or some other event determinative under local law. Such latent powers of state courts over their judgments [\*552] are too variable and indeterminate to serve as tests of our jurisdiction. Our test is a practical one. When the case is decided, the time to seek our review begins to run. HN6 A timely petition for rehearing defers finality for our purposes until it is acted upon or until power to act upon it has expired as here it would appear to do at the end of the 30-day period. <sup>3</sup> If

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<sup>3</sup> HN7 "The Supreme Court or a District Court of Appeal may grant a rehearing in any cause after its own decision; and any cause pending in a department of the Supreme Court may be ordered heard by the Supreme Court in bank. A rehearing or hearing in bank may be granted on petition, as provided in subdivision (b) of this rule, or on the court's own motion, prior to the time the decision becomes final therein." Rule 27 (a).

HN8 An order of the Supreme Court granting a rehearing shall be signed by at least 4 justices assenting thereto, and

rehearing is granted, the judgment is opened, and does not become final as a prerequisite to application for review by us until decision is rendered upon rehearing.

[\*\*\*\*8] We postponed consideration of jurisdiction until hearing on the merits.<sup>4</sup> We hold that this judgment became final on denial of rehearing, that the first appeal was timely and that the precautionary second appeal is duplication. Accordingly the appeal in No. 511 is dismissed and that in No. 510 is entertained upon its merits.

The Market Street Railway Company at the commencement of these proceedings operated a system of passenger transportation by street car and by bus in San Francisco and its environs. The Railroad Commission of California instituted on its own motion an inquiry into the Company's rates and service. After hearings, an order [\*553] was promulgated reducing the fare from seven to six cents.<sup>5</sup> The Company, after rehearing was denied,<sup>6</sup> obtained review by the Supreme Court of California. It also obtained a stay of the Commission's order, conditioned upon impounding the disputed one cent per passenger to abide settlement of the issues upon which its ownership would depend.

[\*\*\*\*9] The Supreme Court of California affirmed the order<sup>7</sup> and appeal is taken to this Court. Meanwhile the Company sold its operative properties to the City of San Francisco. [\*\*774] The case is saved from being moot only because its decision is necessary to determine whether the Company is entitled to the impounded portion of the fares or whether the money shall be refunded to passengers making claims and unclaimed amounts thereof be paid over to the state, as required by conditions of the stay order.

The appeal raises constitutional issues only. The contention is that the order deprives the appellant of [\*\*\*1178] its property without due process of law,

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filed with the clerk; and a hearing in bank after decision in department may be ordered as provided in *article VI, section 2, of the Constitution*. If no order is made before the decision becomes final, the petition shall be deemed denied, and the clerk shall enter a notation in the register to that effect." Rule 27 (e).

<sup>4</sup> November 13, 1944.

<sup>5</sup> The opinions are reported in 45 Cal. R. C. Dec. 53.

<sup>6</sup> The opinion on rehearing is reported in 45 Cal. R. C. Dec. 162.

<sup>7</sup> The Court's opinion is reported in *24 Cal. 2d 378, 150 P. 2d 196*.

contrary to the *Fourteenth Amendment*. Appellant claims denials of due process in matters of procedure in [\*\*\*\*10] that it had no adequate notice that its rates were under attack or adequate opportunity for a hearing thereon, that the order in several vital particulars is not supported by substantial evidence or by any evidence, and that it was improperly based on matters outside of the record on which there was no opportunity to cross-examine or to be heard. It claims a taking of its property as a result of the order on the ground that it would force the Company to operate at a loss because the Commission used a rate base of \$ 7,950,000, the price at which appellant had offered to sell its operative properties to the City, and did not consider reproduction cost, [\*554] historical cost, prudent investment, or capitalization bases, on any of which under conventional accounting the six-cent fare would produce no return on its property and would force a substantial operating deficit upon the Company.

The appellant in support of its contentions that it has been denied due process in procedure and has been subjected to an unconstitutional taking of its property invokes many decisions of this Court in which statements have been made that seem to support its contentions. But it should be noted [\*\*\*\*11] at the outset that most of our cases deal with utilities which had earning opportunities, and public regulation curtailed earnings otherwise possible. But if there were no public regulation at all, this appellant would be a particularly ailing unit of a generally sick industry. The problem of reconciling the patrons' needs and the investors' rights in an enterprise that has passed its zenith of opportunity and usefulness, whose investment already is impaired by economic forces, and whose earning possibilities are already invaded by competition from other forms of transportation, is quite a different problem. The Company's practical situation throws important light both on the question whether the rate reduction has taken its property and also upon the criticisms it makes of the conduct of the hearings.

Transportation history of San Francisco follows a pattern not unfamiliar. This property has passed through cycles of competition, consolidation and monopoly, and new forms of competition; it has seen days of prosperity, decline, and salvage. In the 1850's an omnibus service began to operate in San Francisco. In the 1860's came the horse car. The 1870's saw the beginning of the [\*\*\*\*12] cable car, for which the contour of the city was peculiarly adapted. The Market Street Railway Company was incorporated in 1893 and took over 11 of the 17 street car lines then

independently operated in the city. In 1902, United [\*555] Railroads of San Francisco was organized. This consolidated under one operating control properties of the Market Street Company and five other lines, comprising 229 miles of track, much of which was cable-operated. It suffered greatly from the earthquake and fire of 1906, but carried out a considerable program of reconstruction between 1906 and 1910. In 1921 it failed to pay interest on outstanding bonds. Bondholders acquired the properties and revived the Market Street Railway Company, which had been a dormant subsidiary of United, to operate them.

In 1912 the City and County of San Francisco began operation of a municipal street railway line. This line is not and never has been under the Railroad Commission's jurisdiction. It expanded rapidly, its routes in some instances parallel those of appellant, and its competition has been serious. Throughout the period of competition the municipal lines have operated on a five-cent fare. The Market [\*\*\*\*13] Street Line also operated on a five-cent fare until July 6, 1937. In that year it applied to the Commission for an increase to a seven-cent fare. This was denied, but a two-cent [\*\*\*1179] transfer charge and other adjustments were authorized. In March 1938 the Company again petitioned for a seven-cent fare, with reduction for school children. The Commission authorized a seven-cent fare, but required some concession to token buyers. A few months later the Company again asked a straight seven-cent [\*\*775] fare and relief from the token rate. The Commission directed the Company to apply to the City for permission to abandon certain lines and to protect it against "jitney competition," stipulating that the seven-cent fare could be made effective if the City failed to respond. The City did not act, and the seven-cent fare became effective January 1, 1939.

But the increase of fare brought no increase of revenue. Both traffic and revenue continued to decline, and in 1941 reached the lowest point in twenty years. Then came [\*556] war, bringing accelerated activity, increase of population of the city, rubber and gas shortage, restrictions on purchase of new and retirement of [\*\*\*\*14] many old automobiles. Traffic and revenues showed a sudden increase. The Commission found, however, that the service had constantly deteriorated and was worse under the seven-cent fare than under the former five-cent rate. It recognized that some of the causes were beyond the Company's control. But after allowance for those causes, it also found evidence of long-time neglect, mismanagement, and indifference to urgent public need.

It found the Company's service inferior to the service of the municipal lines, although appellant charged a 40 per cent higher fare. Defects in service consisted of failure to operate on schedule, long intervals between cars, followed by several cars operating with little headway, overloading, inadequate inspection, and inadequately maintained rolling stock. The Company had some 70 cars out of operation and in storage because of shortage of manpower. Its street car rolling stock was obsolete, 73 electric cars and 12 cable cars being out of service. None of the cars was modern. The municipal lines had tried to lease the unused cars for operation on its lines, but the Company refused. The City was denied priorities for purchase of new busses by [\*\*\*\*15] federal authorities because of idle rolling stock in the city. The Commission concluded that the reason for the Company's declining to lease for a fair rental rolling stock it could not use was fear of competition. The Company was handicapped in manpower, the municipal lines offering somewhat better wages and working conditions that seemed more attractive. The entire system was suffering from deferred maintenance, the amount expended for way and structures maintenance having been steadily reduced, both in dollars and in proportion of total operating costs.

The Commission disagreed with the Company as to the use to be made of war-time increase in revenues. The [\*557] Company said it had no definite plan for setting aside anything for maintenance. The management thought its first obligation was to discharge its debts. The Commission took the view that allowances for depreciation as part of the costs of operation should be spent in replacement of depreciated property, and not for payment of debts.

Reviewing the financial results of fare increases, the Commission concluded that the Company would reap no lasting benefit from rates in excess of five cents, due to the tendency of [\*\*\*\*16] a higher rate to discourage patronage. The war traffic the Commission thought temporary. But it concluded that a six-cent fare would sufficiently stimulate traffic to leave after operating expenses approximately a six per cent return on a rate base of \$ 7,950,000. This was the figure at which the Company had offered to sell its operative properties to the City. Accordingly the Commission found the six cents to be a reasonable rate to the Company and to be all or more than the reasonable value of the services being rendered [\*\*\*1180] to patrons. It considered this rate to be experimental and kept the proceeding open for such further orders as might be just and reasonable. The Company applied for rehearing on substantially the

grounds it urges here. Its arguments were considered at length in an opinion which denied rehearing. The Supreme Court of California overruled all of the Company's objections and affirmed the Commission's order.

The reduced rate never took effect. The Company obtained delay from the Commission and a stay order from the Court. It then sold its properties to the City, which took over and continued the seven-cent fare. So the anticipations of the Commission [\*\*\*\*17] as to increased patronage from the rate reduction never have been put to the test of experience. Our review considers only whether the order was valid when and as made.

[\*558] LEdHN[7][↑] [7]1. Appellant says that the order is invalid because it was denied a fair hearing, [\*\*776] given no adequate notice that its rates were under attack, and hence was afforded no opportunity for a hearing on the reasonableness of its rates. We find this contention to have no foundation in the record. The order of the Commission instituting the proceeding recited its belief "that public interest demands an inquiry into the reasonableness of the rates, as well as the sufficiency and adequacy of the service rendered" by appellant, and investigation was ordered of both. Due notice of the proceeding was given and it was entitled an investigation "into the reasonableness of the rates and charges, and into the sufficiency and adequacy of the" service. The hearing was opened with a similar statement by the Commission. The record is replete with evidence that would have no bearing on the questions of service except as fares were involved. Experts of the Commission testified at length as to financial history and [\*\*\*\*18] rate experience of the Company. The Company's president testified concerning the rate situation and the Company's experience with the seven-cent fare. Its counsel put in evidence the Commission's former decisions authorizing increases in fares.

LEdHN[8][↑] [8]The Company particularly complains that it had no notice that the Commission was receiving evidence of its offer to sell its properties for \$ 7,950,000 for use as a rate base. The offer was received in evidence without limitation or statement of its purpose. Nothing appears to mislead or entrap the Company or to lull it into a sense of security. It seems simply to have assumed that no explanation of the offer was necessary. Doubtless the decision and the grounds of decision were unexpected. But surprise is not necessarily want of due process.

LEdHN[9][↑] [9]We find that the Company had reasonable notice that its rates were under attack and was not denied opportunity to be heard thereon. We can well understand how [\*559] counsel's attention became diverted to more sharply contested aspects of the case. But even if a more convincing showing were made that the Company had relevant evidence to be heard, we find no adequate excuse for the failure [\*\*\*\*19] to offer it in the proceeding. No offer was rejected, no request for time to obtain such evidence was denied. HNS[↑] A misapprehension by a litigant of the steps which its best interests require during a trial may be appealing grounds for a plea to the discretion of the hearing tribunal for another chance, but it is not grounds for our interference as a denial of constitutional rights.

LEdHN[10][↑] [10]2. It is next contended that the order is invalid under the due process clause because it is unsupported by evidence and is based on the Commission's speculation and conjecture. This charge relates particularly to those findings which predict the effect of a rate reduction in stimulating [\*\*\*1181] traffic. The Commission's estimates and predictions do not follow any particular testimony. Appellant urges that such predictive findings may be made only on expert testimony, subject to cross-examination, explanation, and rebuttal, and may not be based on the Commission's own expert knowledge. Various considerations are advanced to show that the Commission's predictions were based on innocent analysis and were improbable.

LEdHN[11][↑] [11]Appellant relies upon our holding in *Ohio Bell Telephone Co. v. Public Utilities Commission*, 301 U.S. 292. [\*\*\*\*20] In that case the Commission ordered refunds "upon the strength of evidential facts not spread upon the record." This consisted "of information secretly collected and never yet disclosed. The company protested. It asked disclosure of the documents indicative of price trends, and an opportunity to examine them, to analyze them, to explain and to rebut them. The response was a court refusal. Upon the strength of these unknown documents refunds have been ordered for sums mounting into millions, the Commission reporting its conclusion, but not the underlying [\*560] proofs. The putative debtor does not know the proofs today. This is not the fair hearing essential to due process. It is condemnation without trial." *Id. at 300*. Nothing of that kind occurred in this case. The basis for a judgment is here in the record. The Company itself put in evidence decisions by the

Commission in which by cautious steps it permitted advance of the rates from five to seven cents. Traffic records before and after each advance are in evidence. Also in the record is the traffic experience of the competing municipal line, which did not increase its fares and [\*\*777] which [\*\*\*\*21] did not suffer declines in traffic and revenues comparable to those which followed this Company's increase of fares. This is not a case where the data basic to a judgment have been withheld from the record. The complaint is that the Commission formed its own conclusions without the aid of expert opinions. It is contended that the Commission should draw conclusions from these facts only upon hearing testimony of experts as to the conclusions they would draw from the facts of record. Experts' judgments, however, would not bind the Commission. Their testimony would be in the nature of argument or opinion, and the weight to be given it would depend upon the Commission's estimate of the reasonableness of their conclusions and the force of their reasoning. There is nothing to indicate that any consideration which could be advanced by an expert has not been advanced by the Company in argument and fully weighed.

We cannot say that it is a denial of due process for a commission so experienced as the record shows this Commission to have been with the affairs of this particular appellant to draw inferences as to the probable effect on traffic of a given rate decrease on such a record as [\*\*\*\*22] we have here. Particularly would a conclusion of denial of due process be unwarranted where, as here, the Commission [\*561] recognized the infirmity of any predictions, regarded its rate order as a temporary experiment for which no fixed period was set, and held open the proceeding to receive whatever lessons experience might teach. Its step here is after all only receding, on experience, from steps it earlier had taken to advance the rate, which also had been regarded as experimental and as to which experience had disappointed expectations. We find no denial of due process in these circumstances from the fact that the Commission evaluated the Company's experience for itself without the aid of expert testimony.

LEdHN[12][↑] [12]LEdHN[13][↑] [13]LEdHN[14][↑] [14]3. It also is urged that the order is invalid under the due process clause because it is based on matters outside the record. The decision of the Commission stated [\*\*\*1182] that "In the eight months' period, January to August, inclusive, of 1943 the operating revenues of the company amounted to \$ 5,689,775," and compared this with the operating revenues for the same period of 1942 and found an increase of 20 per

cent. On this basis it estimated the total for the [\*\*\*\*23] full year of 1943 under the prevailing seven-cent fare. Challenged upon the ground that the operating revenues from January to August of 1943 were not in the record, the Commission admitted that these figures were taken from the appellant's monthly reports filed with the Commission. It contended that even if it was in error to refer to such reports, the error was harmless, since the record without the figures supported the reasonableness of the six-cent fare and it was therefore immaterial that the Commission used some additional figures. No contention is made here that the information was erroneous or was misunderstood by the Commission, and no contention is made that the Company could have disproved it or explained away its effect for the purpose for which the Commission used it. The most that can be said is that the Commission in making its predictive findings went outside [\*562] of the record to verify its judgment by reference to actual traffic figures that became available only after the hearings closed. It does not appear that the Company was in any way prejudiced thereby, and it makes no showing that, if a rehearing were held to introduce its own reports, it would [\*\*\*\*24] gain much by cross-examination, rebuttal, or impeachment of its own auditors or the reports they had filed. HN10[↑] Due process, of course, requires that commissions proceed upon matters in evidence and that parties have opportunity to subject evidence to the test of cross-examination and rebuttal. But due process deals with matters of substance and is not to be trivialized by formal objections that have no substantial bearing on the ultimate rights of parties. The process of keeping informed as to regulated utilities is a continuous matter with commissions. We are unwilling to say that such an incidental reference as we have here to a party's own reports, although not formally marked in evidence in the proceeding, in the absence of any showing of error or prejudice constitutes a want of due process.

LEdHN[15][↑] [15]4. The order is said to be invalid under the due process clause because it is based in part on the so-called "value of service" theory. It is urged that "a confiscatory rate cannot be sustained on the theory that it is [\*\*778] an adequate price for the service independently valued" and there is no evidence justifying a rate reduction on the theory of the value of the service.

HN11[↑] The question [\*\*\*\*25] whether a confiscatory rate can be justified because service is bad can only be reached when we find a prescribed rate to be confiscatory. As we do not find this rate to be such, we

do not need to pronounce upon the abstract doctrine as to the validity of the "value of service" theory as justifying rates that do not yield a fair return. The Commission in this case did not make an independent valuation of the service to patrons and fix rates accordingly.

[\*563] The consideration of service as a justification for rates arises in this case upon a comparison of the service of the Company under the five-cent rate and under the seven-cent rate. The Commission found that the 40 per cent increase of rate had been accompanied by a deterioration of service. Some factors in the bad service were beyond the Company's control; others were found not to be without remedy by good management. Certainly if the increased fare had been accompanied by an improved service, it would be used as an argument by the Company, and a powerful one it would be, for the continuance of the higher rate. That higher rates failed to improve, failed [\*\*\*1183] even to maintain, service certainly removed one of [\*\*\*\*26] the justifications for the increase which the Company was enjoying. It must not be forgotten that the increases that the Commission had allowed were also experimental. So far as the public was concerned the experiment with the seven-cent rate yielded them no better immediate service and, because of the Company's policies, gave them no prospect of more permanent service. In fact, by discouragement of patronage it threatened the continuance of the service.

Under these circumstances the Commission did not put a monetary value on a street car ride as the basis of the fare. Using the Company's service under the five-cent fare as a standard, it found that the public -- aside from the service to war plants, which was admittedly good -- was receiving no more transportation service for seven cents than it had received at five, and at the same time the Company was not receiving increased revenues because the price of the service had exceeded the value that the public put upon it and it had thereby withdrawn its patronage.

Certainly the [HN12](#) due process clause of the Constitution is not violated when a commission takes into consideration practical results to the public of advances which it has [\*\*\*\*27] allowed in rates. To the extent that the Commission was [\*564] influenced by considerations of the value of the service in this case, we find nothing that denies the Company any rights possessed under the Federal Constitution.

[LEdHN16](#) [16] [LEdHN17](#) [17]5. The order is

asserted to be invalid because it is said to be confiscatory and to compel appellant to operate at a loss. The Commission used a rate base of \$ 7,950,000, the price at which the property had been offered to the City, and the six-cent rate is not calculated to permit any return on a greater valuation. Before we consider the validity of this rate base, we may well consider what alternatives the case presents. No study of the present cost of reproduction is shown, no present fair value is suggested. Nor do we think it important. Apart from familiar objections to the reproduction-cost method, no responsible person would think of reproducing the present plant, consisting in substantial part of cable cars and obsolete equipment. There is no basis for assuming that anyone, in the light of conditions which prevail in the street-surface railroad industry generally, would consider reproducing any street railway system. It was no constitutional [\*\*\*\*28] error to proceed to fix a rate in disregard of theoretical reproduction costs.

The Commission in 1920 made a valuation study of appellant's properties and found an historical reproduction cost of road and equipment to be \$ 29,715,147. This valuation, brought forward by adding additions and betterments and deducting retirements, shows a total amount for road and equipment as of December 31, 1942 of \$ 25,343,543.

Actual investment is not disclosed by the record. It does disclose that the book value of appellant's properties as of December 31, 1942 was \$ 41,768,505.20.

The Company's outstanding securities at the end of 1942, issued with the approval of the Commission, totaled \$ 37,921,323.96 at face value. They consisted of common [\*\*779] stock of over \$ 10,000,000; 3 different classes of preferred [\*565] stock of \$ 21,000,000; first mortgage bonds of \$ 4,217,500; equipment notes of \$ 735,748.28; and additional long-term debt of \$ 1,041,625.68.

Not one of these nor any combination of them affords a practical or possible rate base, nor does the Company suggest that allowance of any rate will earn it a return upon any of these. It has not itself ventured to ask a rate higher [\*\*\*\*29] than seven cents, although the inadequacy of its [\*\*\*1184] yield to take care of the financial requirements of the Company has for some time been apparent. This company obviously is up against a sort of law of diminishing returns; the greater amount it collects per ride, the less amount it collects per car mile. It has long been recognized that this form of transportation could be preserved only by the most

complete cooperation between management and public and the most enlightened efforts to make the service attractive to patrons.<sup>8</sup> It is obvious that, for whatever [\*566] cause, the appellant has not succeeded in maintaining its service on a paying basis.

[\*\*\*\*30] LEdHN[18][↑] [18]LEdHN[19][↑] [19]It is idle to discuss holdings of cases or to distinguish quotations in decisions of this or other courts which have dealt with utilities whose economic situation would yield a permanent profit, denied or limited only by public regulation. While the Company does not assert that it would be economically practicable to obtain a return on its investment, it strongly contends that the order is confiscatory by the tests of Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591, 603, 605, from which it claims to be entitled to a return "sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital" and to "enable the company to operate successfully, to maintain its financial integrity, to attract capital, and to compensate its investors for the risks assumed." Those considerations, advanced in that case (which was reviewed pursuant to statute rather than under the Fourteenth Amendment), concerned a company which had advantage of an economic position

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<sup>8</sup>In May of 1919 the Secretary of Commerce and the Secretary of Labor joined in a letter to President Wilson, advising him that 50 or more urban street railway systems representing a considerable percentage of the electric railway mileage was in the hands of receivers, affecting some of the largest cities of the country, and that other systems were on the verge of insolvency and the industry as a whole was virtually bankrupt. They urged the appointment of a commission to study and report upon the problem. President Wilson on June 1, 1919 named a commission which held extensive public hearings. The first witness was ex-President William Howard Taft, speaking for the National War Labor Board, and others, including leading municipal and railway officials and such experienced persons in the problem of regulation as Newton D. Baker, Milo R. Maltbie, Morris L. Cook, Joseph B. Eastman, and many others. Proceedings of the Federal Electric Railways Commission, v. 1. An exhaustive report with many recommendations was made. See Analysis of the Electric Railway Problem prepared for the Federal Electric Railways Commission by De Los F. Wilcox, New York City, 1921. Its recommendations were extensive, including certain changes both by the municipalities and by the companies affected. The recommendations were not generally heeded by either.

which promised to yield what was held to be an excessive return on its investment and on its securities. They obviously are inapplicable to [\*\*\*\*31] a company whose financial integrity already is hopelessly undermined, which could not attract capital on any possible rate, and where investors recognize as lost a part of what they have put in. It was noted in the Hope Natural Gas case that regulation does not assure that the regulated business make a profit. 320 U.S. at 603; see Federal Power Commission v. Natural Gas Pipeline Co., 315 U.S. 575, 590. All that was held was that a company could not complain if the return which was allowed made it possible for the company to operate successfully. There was no suggestion that less might not be allowed when the amount allowed was all that the company could earn. [\*567] Without analyzing rate cases in detail, it may be safely generalized that the due process clause never has been held by this Court to require a commission to fix rates on the present reproduction value of [\*\*\*1185] something no one would presently want to reproduce, or on the historical [\*\*780] valuation of a property whose history and current financial statements showed the value no longer to exist, or on an investment after it has vanished, even if once prudently [\*\*\*\*32] made, or to maintain the credit of a concern whose securities already are impaired. HN13[↑] The due process clause has been applied to prevent governmental destruction of existing economic values. It has not and cannot be applied to insure values or to restore values that have been lost by the operation of economic forces.

LEdHN[20][↑] [20]LEdHN[21][↑] [21]HN14[↑] The owners of a property dedicated to the public service cannot be said to suffer injury if a rate is fixed for an experimental period, which probably will produce a fair return on the present fair value of their property. If it has lost all value except salvage, they suffer no loss if they earn a return on salvage value. If the property has no prospect of salvage except through dismantling and sale for scrap, the scrap value for such of it as is to be scrapped may represent its present worth. In this case the owners were fortunate in having a potential buyer. Negotiations had long been under way. The operative properties were twice offered to the City of San Francisco for \$ 7,950,000 and twice the voters rejected the proposition. Ultimately the properties were sold for \$ 7,500,000. The evidence shows that the president of the Company reported to the directors [\*\*\*\*33] "that the price mentioned is the amount that has been agreed upon for the purchase by the City and County of San Francisco of the operative properties of the Company after negotiations in respect thereto which covered a

considerable period of time and, as previously mentioned, is the best price obtainable therefor."

[\*568] Upon this understanding the Board of Directors ratified the offer and directed the officers to consummate it.

LEdHN[22] [22] It is now contended that this offer was calculated by a capitalization of earning power and that this Court condemned such a basis of valuation in Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591, 601, when it said, "The heart of the matter is that rates cannot be made to depend upon 'fair value' when the value of the going enterprise depends on earnings under whatever rates may be anticipated." The pronouncement in the *Hope* case was directed to a situation where the demand for the service permitted such a range of choice in rates as would greatly affect the value of the property. No such choice appears open to the appellant. Apart from a little brief war-time prosperity, it seems doubtful whether any rate would [\*\*\*\*34] yield appellant's operating expenses.

Under these circumstances we do not find that anything has been taken from the appellant by the impact of public regulation. If the expectations of the Commission as to traffic increase were well founded, it would earn under this rate on the salvage value of its property, which is the only value it is shown to have. If expectations of increased traffic were unfounded, it could probably not earn a return from any rate that could be devised. We are unable to find that the order in this case is in violation of constitutional prohibitions, however unfortunate the plight of the appellant.

LEdHN[23] [23] 6. The Company also contends that it is entitled to reversal because the order contemplated a test of experience, and the experiment has not taken place, and the Commission's predictions cannot be verified. However, it was the Company which defeated the experiment. A very short trial -- a period much shorter than is required to conduct a litigation -- [\*\*\*1186] would have indicated the effect [\*569] of the rate reduction in stimulating traffic. But at the Company's request the experiment was stayed and then totally frustrated by the sale of the property. [\*\*\*\*35] Under these circumstances the unavailability of experience to test the order cannot affect its validity. It might be grounds for an appeal to the discretion of the tribunal which rendered the order. It certainly is not a constitutional objection to be enforced by us.

LEdHN[24] [24] The fixing of future rates always

involves an element of prediction. Even monopolies must sell their services in a market where there is competition for the consumer's dollar and the price of a commodity affects its demand and use. This effect may be predicted or projected, but it can be known only from experience. The many detailed objections which the Company makes to the Commission's computations of probable yield would be answered by experience. There is nothing in the order which requires that the test period should be a year or any definite time, [\*\*781] and there is no ground for assuming that the Commission would have rejected an application to make such changes in the schedule as experience might show to be necessary, in order to produce, if possible, the revenue which it found to be needed. The Commission had not in the past been indifferent to appellant's fiscal problems. Under such circumstances [\*\*\*\*36] we think it is not forbidden by the Constitution that there be a pragmatic test of matters which even the most expert could not know in advance. Cf. *Clark's Ferry Bridge Co. v. Public Service Commission*, 291 U.S. 227.

We have considered appellant's complaints in considerable detail because the case in so many ways departs from the usual rate case. We find no constitutional infirmity in the result or in the procedure by which it is reached. The judgment of the Supreme Court of California is therefore

*Affirmed.*

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# **FPC v. Hope Nat. Gas Co., 320 U.S. 591 (1944)**

**Justia Opinion Summary and Annotations**

Syllabus    **Case**

## **U.S. Supreme Court**

**FPC v. Hope Nat. Gas Co., 320 U.S. 591 (1944)**

**Federal Power Commission v. Hope Natural Gas Co.**

**No. 34**

**Argued October 20, 21, 1943**

**Decided January 3, 1944** [320 U.S. 591ast|>\\*](#)

**320 U.S. 591**

*CERTIORARI TO THE CIRCUIT COURT OF APPEALS*

*FOR THE FOURTH CIRCUIT**Syllabus*

1. The validity of an order of the Federal Power Commission fixing rates under the Natural Gas Act is to be determined on judicial review by whether the impact or total effect of the order is just and reasonable, rather than by the method of computing the rate base. P. 320 U. S. 602.

2. One who seeks to have set aside an order of the Federal Power Commission fixing rates under the Natural Gas Act has the burden of showing convincingly that it is unjust and unreasonable in its consequences. P. 320 U. S. 602.

3. An order of the Federal Power Commission reducing respondent's rates for sales of natural gas in interstate commerce *held* valid under the Natural Gas Act. P. 320 U. S. 603.

The rate base determined by the Commission was found by it to be the "actual legitimate cost" of the company's interstate property, less depletion and depreciation, plus allowances for unoperated acreage, working capital, and future net capital additions. "Reproduction cost new" and "trended original cost" were given no weight. Accrued depletion and depreciation and the annual allowance for depletion and depreciation were determined by application of the "economic service life" method to "actual legitimate cost."

4. Considering the amount of the annual return which the company would be permitted to earn on its property in interstate service, and the various factors which that return reflects, this Court is unable to say that the rates fixed by the Commission are not "just and reasonable" under the Act. P. 320 U. S. 604.

5. Rates which enable a natural gas company to operate successfully, to maintain its financial integrity, to attract capital, and to compensate its investors for the risks assumed cannot be condemned as unjust and unreasonable under the Natural Gas Act, even though

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they might produce only a meager return on a rate base computed on the "present fair value" method. P. 320 U. S. 605.

6. The rationale of the decision renders it unnecessary to determine whether the Commission's exclusion from the rate base of well drilling and other costs, previously charged to operating expenses, was consistent with the "prudent investment" theory as developed and applied in particular cases. P. 320 U. S. 605.

7. *United Railway Co. v. West*, 280 U. S. 234, so far as it rejects cost as the basis of depreciation allowances, is disapproved. P. 320 U. S. 606.

8. The requirements of the Constitution in respect of rates are not more exacting than the standards of the Act, and a rate order valid under the latter is consistent with the former. P. 320 U. S. 607.

9. In fixing "just and reasonable" rates under §§ 4 and 5 of the Natural Gas Act, for natural gas sold in interstate commerce by a private operator through an established distribution system, the Commission was not required to take into consideration the indirect benefits -- affecting the economy, conservation policies, and tax revenues -- which the producing State might derive from higher valuations and rates. P. 320 U. S. 609.

10. The suggestion that the Commission did not allow for gas production a return sufficient to induce private enterprise to perform completely and efficiently its functions for the public is unsupported. P. 320 U. S. 615

11. The Commission is not empowered by the provisions of §§ 4 and 5, which authorize it to fix "just and reasonable" rates, to fix rates calculated to discourage intrastate resales for industrial use. P. 320 U. S. 616.

12. The question whether the rates charged by the company discriminate against domestic users and in favor of industrial users is not presented. P. 320 U. S. 617.

13. Findings of the Commission as to the lawfulness of past rates *held* not reviewable under §19(b) of the Act. P. 320 U. S. 618.

134 F.2d 287 reversed.

Certiorari, 319 U.S. 735, to review a decree setting aside an order of the Federal Power Commission, 44 P.U.R.(N.S.) 1, under the Natural Gas Act.

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MR. JUSTICE DOUGLAS delivered the opinion of the Court.

The primary issue in these cases concerns the validity under the Natural Gas Act of 1938, 52 Stat. 821, 15 U.S.C. § 717 *et seq.*, of a rate order issued by the Federal Power Commission reducing the rates chargeable by Hope Natural Gas Co., 44 P.U.R.,N.S., 1. On a petition for review of the order made pursuant to § 19(b) of the Act, the

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Circuit Court of Appeals set it aside, one judge dissenting. 134 F.2d 287. The cases are here on petitions for writs of certiorari which we granted because of the public importance of the questions presented. *City of Cleveland v. Hope Natural Gas Co.*, 319 U.S. 735.

Hope is a West Virginia corporation organized in 1898. It is a wholly owned subsidiary of Standard Oil Co. (N.J.). Since the date of its organization, it has been in the business of producing, purchasing and marketing natural gas in that state. [Footnote 1] It sells some of that gas to local consumers in West Virginia. But the great bulk of it goes to five customer companies which receive it at the West Virginia line and distribute it in Ohio and in Pennsylvania. [Footnote 2] In July, 1938, the cities of Cleveland and Akron filed complaints with the Commission charging that the rates collected by Hope from East Ohio Gas Co. (an affiliate of Hope which distributes gas in Ohio) were excessive and unreasonable. Later in 1938, the Commission, on its own motion, instituted an investigation to determine the reasonableness of all of Hope's interstate rates. In March,

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1939, the Public Utility Commission of Pennsylvania filed a complaint with the Commission charging that the rates collected by Hope from Peoples Natural Gas Co. (an affiliate of Hope distributing gas in Pennsylvania) and two non-affiliated companies were unreasonable. The City of Cleveland asked that the challenged rates be declared unlawful, and that just and reasonable rates be determined from June 30, 1939 to the date of the Commission's order. The latter finding was requested in aid of state regulation and to afford the Public Utilities Commission of Ohio a proper basis for disposition of a fund collected by East Ohio under bond from Ohio consumers since June 30, 1939. The cases were consolidated, and hearings were held.

On May 26, 1942, the Commission entered its order and made its findings. Its order required Hope to decrease its future interstate rates so as to reflect a reduction, on an annual basis of not less than \$3,609,857 in operating revenues. And it established "just and reasonable" average rates per m.c.f. for each of the five customer companies. [Footnote 3] In response to the prayer of the City of Cleveland, the Commission also made findings as to the lawfulness of past rates, although concededly it had no authority under the Act to fix past rates or to award reparations. 44 P.U.R.(N.S.) p. 34. It found that the rates collected by Hope from East Ohio were unjust, unreasonable, excessive, and therefore unlawful, by \$830,892 during 1939, \$3,219,551 during 1940, and \$2,815,789 on an annual basis since 1940. It further found that just, reasonable, and lawful rates for gas sold by Hope to East Ohio for resale for ultimate public consumption were those required

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to produce \$11,528,608 for 1939, \$11,507,185 for 1940, and \$11,910,947 annually since 1940.

The Commission established an interstate rate base of \$33,712,526 which, it found, represented the "actual legitimate cost" of the company's interstate property less depletion and depreciation and plus unoperated acreage, working capital and future net capital additions. The Commission, beginning with book cost, made certain adjustments not necessary to relate here, and found the "actual legitimate cost" of the plant in interstate service to be \$51,957,416, as of December 31, 1940. It deducted accrued depletion and depreciation, which it found to be \$22,328,016 on an "economic service life" basis. And it added \$1,392,021 for future net capital additions, \$566,105 for useful unoperated acreage, and \$2,125,000 for working capital. It used 1940 as a test year to estimate future revenues and expenses. It allowed over \$16,000,000 as annual operating expenses -- about \$1,300,000 for taxes, \$1,460,000 for depletion and depreciation, \$600,000 for exploration and development costs, \$8,500,000 for gas purchased. The Commission allowed a net increase of \$421,160 over 1940 operating expenses, which amount was to take care of future increase in wages, in West Virginia property taxes, and in exploration and development costs. The total amount of deductions allowed from interstate revenues was \$13,495,584.

Hope introduced evidence from which it estimated reproduction cost of the property at \$97,000,000. It also presented a so-called trended "original cost" estimate which exceeded \$105,000,000. The latter was designed

"to indicate what the original cost of the property would have been if 1938 material and labor prices had prevailed throughout the whole period of the piecemeal construction of the company's property since 1898."

44 P.U.R.(N.S.), pp. 8, 9. Hope estimated by the "percent condition" method accrued depreciation at about 35% of

Page 320 U. S. 597

reproduction cost new. On that basis, Hope contended for a rate base of \$66,000,000. The Commission refused to place any reliance on reproduction cost new, saying that it was "not predicated upon facts," and was "too conjectural and illusory to be given any weight in these proceedings." *Id.*, 44 P.U.R.(N.S.), p. 8. It likewise refused to give any "probative value" to trended "original cost," since it was "not founded in fact," but was "basically erroneous" and produced "irrational results." *Id.*, 44 P.U.R.(N.S.), p. 9. In determining the amount of

accrued depletion and depreciation, the Commission, following *Lindheimer v. Illinois Bell Telephone Co.*, 292 U. S. 151, 292 U. S. 167-169; *Federal Power Commission v. Natural Gas Pipeline Co.*, 315 U. S. 575, 315 U. S. 592-593, based its computation on "actual legitimate cost." It found that Hope, during the years when its business was not under regulation, did not observe "sound depreciation and depletion practices," but "actually accumulated an excessive reserve" [Footnote 4] of about \$46,000,000. *Id.*, 44 P.U.R.(N.S.), p. 18. One member of the Commission thought that the entire amount of the reserve should be deducted from "actual legitimate cost" in determining the rate base. [Footnote 5] The majority of the

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Commission concluded, however, that where, as here, a business is brought under regulation for the first time, and where incorrect depreciation and depletion practices have prevailed, the deduction of the reserve requirement (actual existing depreciation and depletion), rather than the excessive reserve, should be made so as to lay "a sound basis for future regulation and control of rates." *Id.*, 44 P.U.R.(N.S.), p. 18. As we have pointed out, it determined accrued depletion and depreciation to be \$22,328,016; and it allowed approximately \$1,460,000 as the annual operating expense for depletion and depreciation. [Footnote 6]

Hope's estimate of original cost was about \$69,735,000 -- approximately \$17,000,000 more than the amount found by the Commission. The item of \$17,000,000 was made up largely of expenditures which, prior to December 31, 1938, were charged to operating expenses. Chief among those expenditures was some \$12,600,000 expended

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in well drilling prior to 1923. Most of that sum was expended by Hope for labor, use of drilling rigs, hauling, and similar costs of well drilling. Prior to 1923, Hope followed the general practice of the natural gas industry and charged the cost of drilling wells to operating expenses. Hope continued that practice until the Public Service Commission of West Virginia, in 1923, required it to capitalize such expenditures, as does the Commission under its present Uniform System of Accounts. [Footnote 7] The Commission refused to add such items to the rate base, stating that

"No greater injustice to consumers could be done than to allow items as operating expenses and at a later date include them in the rate base, thereby placing multiple charges upon the consumers."

*Id.*, 44 P.U.R.(N.S.), p. 12. For the same reason, the Commission excluded from the rate base about \$1,600,000 of expenditures on properties which Hope acquired from other utilities, the latter having charged those payments to operating expenses. The Commission disallowed certain other overhead items amounting to over \$3,000,000 which also had been previously charged to operating expenses. And it refused to add some \$632,000 as interest during construction, since no interest was in fact paid.

Hope contended that it should be allowed a return of not less than 8%. The Commission found that an 8% return would be unreasonable, but that 6 1/2% was a fair rate of return. That rate of return, applied to the rate base of \$33,712,526, would produce \$2,191,314 annually, as compared with the present income of not less than \$5,801,171.

The Circuit Court of Appeals set aside the order of the Commission for the following reasons. (1) It held that the rate base should reflect the "present fair value" of the

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property, that the Commission, in determining the "value," should have considered reproduction cost and trended original cost, and that "actual legitimate cost" (prudent investment) was not the proper measure of "fair value" where price levels had changed since the investment. (2) It concluded that the well drilling costs and overhead items in the amount of some \$17,000,000 should have been included in the rate base. (3) It held that accrued depletion and depreciation and the annual allowance for that expense should be computed on the basis of "present fair value" of the property, not on the basis of "actual legitimate cost."

The Circuit Court of Appeals also held that the Commission had no power to make findings as to past rates in aid of state regulation. But it concluded that those findings were proper as a step in the process of fixing future rates. Viewed in that light, however, the findings were deemed to be invalidated by the same errors which vitiated the findings on which the rate order was based.

*Order Reducing Rates.* Congress has provided in § 4(a) of the Natural Gas Act that all natural gas rates subject to the jurisdiction of the Commission "shall be just and reasonable, and any such rate or charge that is not just and reasonable is hereby declared to be unlawful." Sec. 5(a) gives the Commission the power, after hearing, to determine the "just and reasonable rate" to be thereafter observed and to fix the rate by order. Sec. 5(a) also empowers the Commission to order a "decrease where existing rates are unjust . . . unlawful, or are not the lowest reasonable rates." And Congress has provided in § 19(b) that, on review of these rate orders, the "finding of the Commission as to the facts, if supported by

substantial evidence, shall be conclusive." Congress, however, has provided no formula by which the "just and reasonable" rate is to be determined. It has not filled in the

Page 320 U. S. 601

details of the general prescription [Footnote 8] of § 4(a) and § 5(a). It has not expressed in a specific rule the fixed principle of "just and reasonable."

When we sustained the constitutionality of the Natural Gas Act in the *Natural Gas Pipeline Co.* case, we stated that the

"authority of Congress to regulate the prices of commodities in interstate commerce is at least as great under the Fifth Amendment as is that of the states under the Fourteenth to regulate the prices of commodities in intrastate commerce."

315 U.S. p. 315 U. S. 582. Ratemaking is indeed but one species of price-fixing. *Munn v. Illinois*, 94 U. S. 113, 94 U. S. 134. The fixing of prices, like other applications of the police power, may reduce the value of the property which is being regulated. But the fact that the value is reduced does not mean that the regulation is invalid. *Block v. Hirsh*, 256 U. S. 135, 256 U. S. 155-157; *Nebbia v. New York*, 291 U. S. 502, 291 U. S. 523-539, and cases cited. It does, however, indicate that "fair value" is the end product of the process of ratemaking, not the starting point, as the Circuit Court of Appeals held. The heart of the matter is that rates cannot be made to depend upon "fair value" when the value of the going enterprise depends on earnings under whatever rates may be anticipated. [Footnote 9]

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We held in *Federal Power Commission v. Natural Gas Pipeline Co.*, *supra*, that the Commission was not bound to the use of any single formula or combination of formulae in determining rates. Its ratemaking function, moreover, involves the making of "pragmatic adjustments." *Id.*, p. 315 U. S. 586. And when the Commission's order is challenged in the courts, the question is whether that order, "viewed in its entirety," meets the requirements of the Act. *Id.*, p. 315 U. S. 586. Under the statutory standard of "just and reasonable," it is the result reached, not the method employed, which is controlling. *Cf. Los Angeles Gas & Electric Corp. v. Railroad Commission*, 289 U. S. 287, 289 U. S. 304-305, 289 U. S. 314; *West Ohio Gas Co. v. Public Utilities Commission (No. 1)*, 294 U. S. 63, 294 U. S. 70; *West v. Chesapeake & Potomac Tel. Co.*, 295 U. S. 662, 295 U. S. 692-693 (dissenting opinion). It is not theory, but the impact of the rate order, which counts. If the total effect of the rate order cannot be said to be unjust and unreasonable, judicial inquiry under the Act is at an end. The fact that the method employed to reach that result may contain infirmities is not then

important. Moreover, the Commission's order does not become suspect by reason of the fact that it is challenged. It is the product of expert judgment which carries a presumption of validity. And he who would upset the rate order under the Act carries the heavy burden of making a convincing showing that it is invalid because it is unjust and unreasonable in its consequences. *Cf. Railroad Commission v. Cumberland Tel. & T. Co.*, 212 U. S. 414; *Lindheimer v. Illinois Bell Tel. Co.*, *supra*, pp. 292 U. S. 164, 292 U. S. 169; *Railroad Commission v. Pacific Gas & Elec. Co.*, 302 U. S. 388, 302 U. S. 401.

Page 320 U. S. 603

The ratemaking process under the Act, *i.e.*, the fixing of "just and reasonable" rates, involves a balancing of the investor and the consumer interests. Thus, we stated in the *Natural Gas Pipeline Co.* case that "regulation does not insure that the business shall produce net revenues." 315 U.S. p. 315 U. S. 590. But, such considerations aside, the investor interest has a legitimate concern with the financial integrity of the company whose rates are being regulated. From the investor or company point of view, it is important that there be enough revenue not only for operating expenses, but also for the capital costs of the business. These include service on the debt and dividends on the stock. *Cf. Chicago & Grand Trunk R. Co. v. Wellman*, 143 U. S. 339, 143 U. S. 345-346. By that standard, the return to the equity owner should be commensurate with returns on investments in other enterprises having corresponding risks. That return, moreover, should be sufficient to assure confidence in the financial integrity of the enterprise, so as to maintain its credit and to attract capital. *See Missouri ex rel. Southwestern Bell Tel. Co. v. Public Service Commission*, 262 U. S. 276, 262 U. S. 291 (Mr. Justice Brandeis concurring). The conditions under which more or less might be allowed are not important here. Nor is it important to this case to determine the various permissible ways in which any rate base on which the return is computed might be arrived at. For we are of the view that the end result in this case cannot be condemned under the Act as unjust and unreasonable from the investor or company viewpoint.

We have already noted that Hope is a wholly owned subsidiary of the Standard Oil Co. (N.J.). It has no securities outstanding except stock. All of that stock has been owned by Standard since 1908. The par amount presently outstanding is approximately \$28,000,000, as compared with the rate base of \$33,712,526 established by

Page 320 U. S. 604

the Commission. Of the total outstanding stock, \$11,000,000 was issued in stock dividends. The balance, or about \$17,000,000, was issued for cash or other assets. During the four decades of its operations, Hope has paid over \$97,000,000 in cash dividends. It had,



## Important information about Lead in Your Drinking Water

Twin Lakes Utilities found elevated levels of lead in drinking water tap samples. Lead can cause serious health problems, especially for pregnant women and young children.

**Please read this information closely  
to see what you can do to reduce lead in your drinking water.**

**ESTE INFORME CONTIENE INFORMACIÓN IMPORTANTE ACERCA DE SU AGUA POTABLE. HAGA QUE ALGUIEN LO TRADUZCA PARA USTED, O HABLE CON ALGUIEN QUE LO ENTIENDA.**

### Health Effects of Lead

Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of your body. The greatest risk of lead exposure is to infants, young children, and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development.

### Sources of Lead

Lead is a common metal found in the environment. The main sources of lead exposure are lead-based paint and lead-contaminated dust or soil. Drinking water is also a possible source of lead exposure. Most sources of drinking water have no lead or very low levels of lead. Most lead gets into drinking water after the water leaves the local well or treatment plants and comes into contact with plumbing materials containing lead. These include lead pipes, lead solder (commonly used until 1986), as well as faucets, valves, and other components made of brass.

### Steps You Can Take to Reduce Exposure to Lead in Water

1. **Run your water to flush out lead.** Run water for 15-30 seconds or until it becomes cold or reaches a steady temperature before using it for drinking or cooling, if it hasn't been used for several hours. This flushes lead-containing water from the pipes.
2. **Use cold water for cooking and preparing baby formula.** Lead dissolves more easily into hot water.
3. **Do not boil water to remove lead.** Boiling water will not reduce lead.
4. **Look for alternative sources or treatment of water.** You may want to consider purchasing bottled water or a water filter.
5. **Test your water for lead.** If you think you may have elevated lead levels in your home drinking water, have it tested. Call the Safe Drinking Water Hotline (800-426-4791) for more information.

### What Happened? What is being done?

Samples collected on 08/18/2019 at 115 Beach Rd – Kitchen and on 09/15/2019 at 133 Twin Lake have greater than the lead action level and the 90<sup>th</sup> percentile value for our water system is also greater than the lead action level of 15 parts per billion. Twin Lakes Utilities, Inc. will be taking lead and copper samples every six months for the duration required by the PADEP.

### For More Information

For more information on reducing lead exposure around your home/building and the health effects of lead, visit EPA's website at [www.epa.gov/lead](http://www.epa.gov/lead), or contact your health care provider.

PWS ID#: 2520051

Date November 13, 2019

C-2020-3020883  
10/6/20

**Hersca-10**

Purdon's Pennsylvania Statutes and  
Consolidated Statutes  
Title 66 Pa.C.S.A. Public Utilities

Purdon's Pennsylvania Statutes and  
Consolidated Statutes  
Title 66 Pa.C.S.A. Public Utilities (Refs  
& Annos)  
Part I. Public Utility Code (Refs &  
Annos)  
Subpart B. Commission Powers,  
Duties, Practice and Procedures  
Chapter 5. Powers and Duties  
(Refs & Annos)

66 Pa.C.S.A. § 526

§ 526. Rejection of rate increase  
requests due to inadequate  
quality or quantity of service


Currentness

**(a) General rule.**--The commission may reject, in whole or in part, a public utility's request to increase its rates where the commission concludes, after hearing, that the service rendered by the public utility is inadequate in that it fails to meet quantity or quality for the type of service provided.

**(b) Other powers and duties preserved.**--

registration plates required under Title 75.

**(b) Purity of water supply.**--The commission may certify to the Department of Environmental Resources any question of fact regarding the purity of water supplied to the public by any public utility over which it has jurisdiction, when any such question arises in any controversy or other proceeding before it, and upon the determination of such question by the department incorporate the department's findings in its decision.

**(c) Powers of certain governmental agencies unaffected.**--Nothing in this part shall be  
Departm  Download he  
Department of Environmental

**EXHIBIT TLU-1**

**JOHN AND DONNA HERSCA – ACCOUNT #0737594252  
JUNE 2020 BILL**

C-2020-3020883  
10/6/20

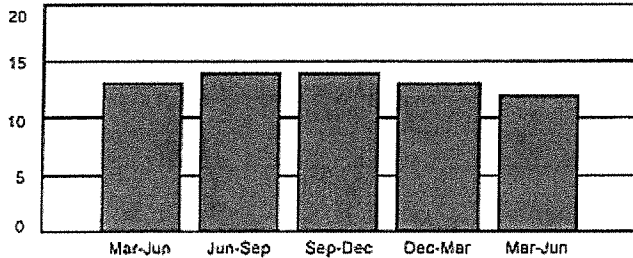
**TLU-1**



**Twin Lakes Utilities, Inc.**  
**Customer Service Center**  
 485C Route 1 South, Suite 400 Iselin, New Jersey 08830  
 Telephone: 1-800-523-7224

**USAGE HISTORY**

Quarterly usage in hundred cubic feet



Next meter reading date: on or about 07/25/20

|   |                 |
|---|-----------------|
| <b>Billing Date:</b>                        | 06/29/20        |
| <b>Account Number:</b>                      | 0737594252      |
| Previous Balance                            | \$323.20        |
| Payment/Credit by 06/29/20 <i>THANK YOU</i> | \$323.20        |
| Balance Forward                             | \$0.00          |
| Current Charges                             | \$528.68        |
| <b>DUE 07/21/2020</b>                       | <b>\$528.68</b> |

Service To: JOHN & DONNA HERSCA

Service Address: 110 SAGAMORE RD SHOHOLA PA

| Meter Number | Service  |          | Days of Service | Meter Reading |         | Usage               | Unit of Measure      | Reading Type | Rate |
|--------------|----------|----------|-----------------|---------------|---------|---------------------|----------------------|--------------|------|
|              | From     | To       |                 | Previous      | Present |                     |                      |              |      |
| 82289999     | 03/28/20 | 06/27/20 | 91              | 156           | 168     | 12<br>EQUIVALENT TO | CCF<br>8,976 GALLONS | REGULAR      | TLQ  |

|                                 |                 |               |             |
|---------------------------------|-----------------|---------------|-------------|
| FACILITIES CHARGE \$181.23 (PRO | \$41.82         | PAYMENT       | \$323.20 CR |
| WTR CHR ( \$14.60 PER 1,000 GAL | \$30.24         | TOTAL CREDITS | \$323.20 CR |
| FACILITIES CHARGE \$344.52 (PRO | \$265.02        |               |             |
| WTR CHR ( \$27.75 PER 1,000 GAL | \$191.60        |               |             |
| <b>TOTAL CURRENT CHARGES</b>    | <b>\$528.68</b> |               |             |

SEE REVERSE SIDE FOR IMPORTANT ACCOUNT INFORMATION

**IMPORTANT MESSAGES**

The Pennsylvania PUC has approved a rate increase in base rates for services rendered on and after April 19, 2020  
 STARTING 7/1/2020 YOU CAN VIEW THE TWIN LAKES WATER COMPANY WATER QUALITY REPORT ONLINE AT:  
[HTTP://MIDDLESEXWATER.COM/WATERQUALITY/TL](http://MIDDLESEXWATER.COM/WATERQUALITY/TL)  
 THE REPORT CONTAINS INFORMATION ABOUT THE QUALITY OF YOUR DRINKING WATER. IF YOU PREFER A PAPER REPORT SENT TO YOUR HOME, PLEASE CALL (800) 523-7224.  
 If you use an online bill paying service to make your payments, please ensure that they have on file your correct account number as shown on this bill and that they mail the payment on your behalf to: P.O. Box 826538, Philadelphia, PA 19182-6538.

PLEASE DETACH HERE AND RETURN THE BOTTOM PORTION WITH YOUR PAYMENT IN THE RETURN ENVELOPE PROVIDED.

Twin Lakes Utilities, Inc.  
 Customer Service Center  
 485C Route 1 South, Suite 400  
 Iselin, New Jersey 08830

Forwarding Service Requested

Service Address: 110 SAGAMORE RD  
 SHOHOLA PA

|   |                 |
|---|-----------------|
| <b>Account Number:</b>                                    | 0737594252      |
| Balance Forward   | \$0.00          |
| Current Charges   | \$528.68        |
| <b>DUE 07/21/2020</b>                                     | <b>\$528.68</b> |
| <i>Please make payable to: Twin Lakes Utilities, Inc.</i> |                 |
| <b>Payment Amount Enclosed</b>                            | \$ _____        |

Please check this box if you have made any information changes on the reverse side.

000144



\*\*\*\*\*SINGLE-PIECE 144 T1:3 144 1 SP 0.500  
 JOHN & DONNA HERSCA  
 110 SAGAMORE RD  
 SHOHOLA PA 18458-4416



TWIN LAKES UTILITIES, INC.  
 PO BOX 826538  
 PHILADELPHIA PA 19182-6538

3000737594252100000000005286802

FOR INQUIRIES OR EMERGENCY SERVICE - CALL (800) 523-7224

DIRECT ALL INQUIRIES TO MAIN OFFICE AT  
485C ROUTE 1 SOUTH SUITE 400  
P.O. BOX 1500  
ISELIN, NJ 08830

Office Hours - Monday to Friday

9:00 AM - 5:00 PM

Meter Reading Hours

Monday to Friday  
7:00 AM - 3:30 PM

\* DESCRIPTION CODES

- REGULAR = ACTUAL READING BY METER READER  
OR (MAYBE ELECTRONIC READ)
- ESTIMATE = ESTIMATED READING
- CUST READ = METER READ BY CUSTOMER
- PRO EST = A PRORATED BILL + BASED ON AN ESTIMATE
- PRO CUST = A PRORATED BILL + BASED ON A METER READ  
BY A CUSTOMER
- MTR CHG = METER CHANGE DURING BILLING
- PRO ACT = A PRORATED BILL + BASED ON ACTUAL READ

+ A PRORATED BILL IS ONE WHICH  
HAS FEWER THAN 80 OR MORE THAN  
100 DAYS IN THE CURRENT BILLING PERIOD.

RATE SCHEDULES FURNISHED UPON REQUEST

COMPLAINT PROCEDURE

If you have a complaint about your bill for water service, please contact our Customer Service Dept., 485C Route 1 South Suite 400, P.O. Box 1500, Iselin, NJ 08830, or by phone at (800) 523-7224 during office hours. Our customer service representatives will investigate your problem and do their best to resolve it.

If you are unable to pay your bill in full by the due date, contact our Collection Department at (800) 523-7224, extension 1412, to discuss the possibility of arranging a reasonable deferred payment agreement.

Telephone Number Change

( \_\_\_\_\_ ) \_\_\_\_\_

Name or Address Change

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



PAYMENT RETURN ADDRESS ON OTHER SIDE OF THE DOCUMENT MUST APPEAR IN ENVELOPE WINDOW

**EXHIBIT TLU-2**

**JOHN AND DONNA HERSCA – ACCOUNT #0737594252  
CALCULATION OF  
JUNE 2020 BILL**

C-2020-3020883  
10/6/20

**TLU-2**

**MWPRDCB** Oracle Utilities Customer Care and Billing

About Margaret Snead


Home Menu Admin History Control Central Account Information

Account Financial History

Main

Account Info HERSCA,JOHN & DONNA, Residential, \$0.00

| Arrears Date | Financial Transaction Type | Current Amount | Current Balance | Payoff Amount | Pa |
|--------------|----------------------------|----------------|-----------------|---------------|----|
| 07-16-2020   | Pay Segment                | \$-528.68      | \$0.00          | \$-528.68     |    |
| 06-29-2020   | Bill Segment               | \$528.68       | \$528.68        | \$528.68      |    |
| 04-15-2020   | Pay Segment                | \$-323.20      | \$0.00          | \$-323.20     |    |
| 03-30-2020   | Bill Segment               | \$323.20       | \$323.20        | \$323.20      |    |
| 01-15-2020   | Pay Segment                | \$-334.12      | \$0.00          | \$-334.12     |    |
| 12-30-2019   | Bill Segment               | \$334.12       | \$334.12        | \$334.12      |    |
| 10-17-2019   | Pay Segment                | \$-354.04      | \$0.00          | \$-354.04     |    |
| 09-30-2019   | Bill Segment               | \$354.04       | \$354.04        | \$354.04      |    |
| 07-15-2019   | Pay Segment                | \$-323.20      | \$0.00          | \$-323.20     |    |
| 06-25-2019   | Bill Segment               | \$323.20       | \$323.20        | \$323.20      |    |
| 04-16-2019   | Pay Segment                | \$-323.20      | \$0.00          | \$-323.20     |    |
| 03-26-2019   | Bill Segment               | \$323.20       | \$323.20        | \$323.20      |    |
| 01-15-2019   | Pay Segment                | \$-312.28      | \$0.00          | \$-312.28     |    |
| 12-27-2018   | Bill Segment               | \$312.28       | \$312.28        | \$312.28      |    |
| 12-26-2018   | Bill Segment Cancellation  | \$-312.28      | \$0.00          | \$-312.28     |    |
| 12-26-2018   | Bill Segment               | \$312.28       | \$312.28        | \$312.28      |    |
| 10-15-2018   | Pay Segment                | \$-301.36      | \$0.00          | \$-301.36     |    |
| 09-24-2018   | Bill Segment               | \$301.36       | \$301.36        | \$301.36      |    |
| 07-16-2018   | Pay Segment                | \$-334.12      | \$0.00          | \$-334.12     |    |
| 06-26-2018   | Bill Segment               | \$334.12       | \$334.12        | \$334.12      |    |
| 04-16-2018   | Pay Segment                | \$-312.28      | \$0.00          | \$-312.28     |    |
| 03-26-2018   | Bill Segment               | \$312.28       | \$312.28        | \$312.28      |    |
| 01-12-2018   | Pay Segment                | \$-323.20      | \$0.00          | \$-323.20     |    |
| 12-27-2017   | Bill Segment               | \$323.20       | \$323.20        | \$323.20      |    |
| 10-12-2017   | Pay Segment                | \$-312.28      | \$0.00          | \$-312.28     |    |

**HOT ALERT(S)**  ^

**Alerts**

Last Contact: 26 days ago - Rivas,Randy

**Current Context**

HERSCA,JOHN & DONNA -

Bill Segment

MWPRDCB Oracle Utilities Customer Care and Billing

About Margaret Snead

Home Menu Admin History Control Central Account Information Help

Bill Segment

Main Read Details Items SQ Details Calc Lines Financial Details Bill Segment Messages Sub Bill Segment Bill Seg

Bill Seg Info Twin Lakes Utilities, Inc. / 300 WATER ONLY RESIDENTIAL, Frozen, Period: 03-28-2020 - 06-27-2020, \$528.68, 0737594337

Bill Seg Hdr 1 of 2 OLD Rates - 21 days

Sequence 1 Start Date 03-29-2020 End Date 04-18-2020 Amount \$72.06

Desc on Bill WATER ONLY QUARTERLY RESIDENTIAL Rate Version 300 WATER ONLY RESIDENTIAL 01-01-2015

| Calc Line Char | Sequence | Description on Bill                                | Calculated Amount | Print                               |
|----------------|----------|--|-------------------|-------------------------------------|
|                | 1        | FCPO-# OF DAYS IN BILLING PERIOD 21                | \$0.00            | <input type="checkbox"/>            |
|                | 2        | FACILITIES CHARGE \$181.23 (prorated by 0.2307692) | \$41.82           | <input checked="" type="checkbox"/> |
|                | 3        | WTR CHRQ (\$14.60 PER 1,000 GAL)                   | \$30.24           | <input checked="" type="checkbox"/> |
|                | 4        | TOTAL CURRENT CHARGES                              | \$72.06           | <input type="checkbox"/>            |

OLD RATES - 3/8 "

Fac Chg 181.23 / qtr

Consumption 14.60 / 1,000 gal

Billed

\$181.23 / 91 \* 21 days = 41.82

8,976 gal / 1,000

= 8,976 / 91 days

x 21 \* 14.60 = 30.24

---

72.06

<

HOT ALERT(S)

Alerts

Last Contact: 27 days ago - Rivas, Randy

Current Context

HERSCA, JOHN & DONNA -  
Home: (570) 296-2089

0737594252 6 HERSCA, JOHN

Bill Segment

MWPRDCB Oracle Utilities Customer Care and Billing

About Margaret Snead

Home Menu Admin History Control Central Account Information Help

Bill Segment

Main Read Details Items SQ Details Calc Lines Financial Details Bill Segment Messages Sub Bill Segment Bill Seg

Bill Seg Info Twin Lakes Utilities, Inc. / 300 WATER ONLY RESIDENTIAL, Frozen, Period: 03-28-2020 - 06-27-2020, \$528.68, 0737594337

Bill Seg Hdr 2 of 2 New Rates = 70 days

Sequence 2 Start Date 04-19-2020 End Date 06-27-2020 Amount \$456.62

Desc on Bill WATER ONLY QUARTERLY RESIDENTIAL Rate Version 300 WATER ONLY RESIDENTIAL 04-19-2020

| Calc Line Char | Sequence | Description on Bill                                | Calculated Amount | Print                               |
|----------------|----------|--|-------------------|-------------------------------------|
|                | 1        | FCPO-# OF DAYS IN BILLING PERIOD 70                | \$0.00            | <input type="checkbox"/>            |
|                | 2        | FACILITIES CHARGE \$344.52 (prorated by 0.7692307) | \$265.02          | <input checked="" type="checkbox"/> |
|                | 3        | WTR CHRGR (\$27.75 PER 1,000 GAL)                  | \$191.60          | <input checked="" type="checkbox"/> |
|                | 4        | TOTAL CURRENT CHARGES                              | \$456.62          | <input type="checkbox"/>            |

NEW RATES - 3/2"

Billed

Fac Chg 344.52 / qtr

$344.52 / 91 \times 70 = 265.02$

Consumption 27.75 / 1,000 gal

$8,976 \text{ gal} / 1,000 = 8.976 / 91 \text{ days} \times 70 \text{ days} \times \$27.75 = 191.60$

456.62

<

**HOT ALERT(S)**

**Alerts**

Last Contact: 27 days ago - Rivas,Randy

**Current Context**

HERSCA,JOHN & DONNA -  
Home: (570) 298-2089  
 0737594252 6 HERSCA,JOHN

Summary Page 1 of 2

1 = 72.06

2 = 456.62

528.68

Bill Segment

MWPRDCB Oracle Utilities Customer Care and Billing

About Margaret Snead

Home Menu Admin History Control Central Account Information Help

Bill Segment

Main Read Details Items **SQ Details** Calc Lines Financial Details Bill Segment Messages Sub Bill Segment Bill Segment Portal

Bill Seg Info Twin Lakes Utilities, Inc. / 300 WATER ONLY RESIDENTIAL, Frozen, Period: 03-28-2020 - 06-27-2020, \$528.68, 0737594337 Bill Segm

Service Quantity

|   | Unit of Measure | Time of Use             | SQI  | Initial Service Quantity | E           |
|---|-----------------|-------------------------|------|--------------------------|-------------|
| + |                 |                         | DAYS | NUMBER OF DAYS           | 91.000000   |
| + | CCF             | 100 CUBIC FEET OF WATER |      |                          | 12.000000   |
| + | CGL             | 100 GALLONS OF WATER    |      |                          | 89.760000   |
| + | GL              | 1 GALLON OF WATER       |      |                          | 8976.000000 |
| + | MGL             | 1,000 GALLONS OF WATER  |      |                          | 8.976000    |

**HOT ALERT(S)**

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**Alerts**

Last Contact: 27 days ago - Rivas,Randy

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**Current Context**

- HERSCA,JOHN & DONNA -  
Home: (570) 296-2089
- 0737594252 6 HERSCA,JOHN  
& DONNA, Residential, \$0.00  
110 SAGAMORE RD,  
SHOHOLA, PA, 18458, 300.
- RESIDENTIAL (LCA: TWIN  
LAKES)

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**Financial Information**

**EXHIBIT TLU-3**

**TWIN LAKES UTILITIES, INC.  
LEAD AND COPPER RULE TESTING RESULTS FOR  
2010, 2013, 2016, 2019 AND YEAR-TO-DATE 2020**

C-2020-3020883  
10/6/20

**TLU-3**

\*\*\* PWSID = 2520051 | SYSTEM NAME = TWIN LAKES UTILITIES INC\*\*\*

## Detail Sample Information: 01JAN2007 - 31DEC2007

| Sample Location | Contaminant ID | Analysis Result | MCL In Effect | Sample Date | Sample Type  | Laboratory ID        | Analysis Method            | Analysis Date | Sample Received Date |
|-----------------|----------------|-----------------|---------------|-------------|--------------|----------------------|----------------------------|---------------|----------------------|
| 001             | COPPER         | 0.742           | 1.3           | 08/17/2007  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 10/01/2007    | 10/10/2007           |
| 001             | LEAD           | 0               | 0.015         | 08/17/2007  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 09/28/2007    | 10/10/2007           |
| 004             | COPPER         | 0.125           | 1.3           | 08/17/2007  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 10/01/2007    | 10/10/2007           |
| 004             | LEAD           | 0               | 0.015         | 08/17/2007  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 09/28/2007    | 10/10/2007           |
| 002             | COPPER         | 0.521           | 1.3           | 08/20/2007  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 10/01/2007    | 10/10/2007           |
| 002             | LEAD           | 0               | 0.015         | 08/20/2007  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 09/28/2007    | 10/10/2007           |
| 003             | COPPER         | 0.014           | 1.3           | 08/20/2007  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 10/01/2007    | 10/10/2007           |
| 003             | LEAD           | 0               | 0.015         | 08/20/2007  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 09/28/2007    | 10/10/2007           |
| 005             | COPPER         | 1.72            | 1.3           | 08/21/2007  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 10/01/2007    | 10/10/2007           |
| 005             | LEAD           | 0               | 0.015         | 08/21/2007  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 09/28/2007    | 10/10/2007           |

\*\*\* PWSID = 2520051 | SYSTEM NAME = TWIN LAKES UTILITIES INC\*\*\*

## Detail Sample Information: 01JAN2010 - 31DEC2010

| Sample Location | Contaminant ID | Analysis Result | MCL In Effect | Sample Date | Sample Type  | Laboratory ID        | Analysis Method            | Analysis Date | Sample Received Date |
|-----------------|----------------|-----------------|---------------|-------------|--------------|----------------------|----------------------------|---------------|----------------------|
| 001             | COPPER         | 0.521           | 1.3           | 09/26/2010  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 12/18/2010    | 01/09/2011           |
| 001             | LEAD           | 0               | 0.015         | 09/26/2010  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 12/23/2010    | 01/09/2011           |
| 002             | COPPER         | 0.544           | 1.3           | 09/26/2010  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 12/18/2010    | 01/09/2011           |
| 002             | LEAD           | 0               | 0.015         | 09/26/2010  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 12/23/2010    | 01/09/2011           |
| 003             | COPPER         | 1.51            | 1.3           | 09/26/2010  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 12/18/2010    | 01/09/2011           |
| 003             | LEAD           | 0               | 0.015         | 09/26/2010  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 12/21/2010    | 01/09/2011           |
| 004             | COPPER         | 0.049           | 1.3           | 09/26/2010  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 12/18/2010    | 01/09/2011           |
| 004             | LEAD           | 0               | 0.015         | 09/26/2010  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 12/21/2010    | 01/09/2011           |
| 005             | COPPER         | 0.384           | 1.3           | 09/29/2010  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 12/18/2010    | 01/09/2011           |
| 005             | LEAD           | 0               | 0.015         | 09/29/2010  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 12/23/2010    | 01/09/2011           |

Detail Sample Information: 01JAN2013 - 31DEC2013

| Sample Location | Contaminant ID | Analysis Result | MCL In Effect | Sample Date | Sample Type  | Laboratory ID        | Analysis Method            | Analysis Date | Sample Received Date |
|-----------------|----------------|-----------------|---------------|-------------|--------------|----------------------|----------------------------|---------------|----------------------|
| 001             | COPPER         | 0.33            | 1.3           | 08/06/2013  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/22/2013    | 09/09/2013           |
| 001             | LEAD           | 0               | 0.015         | 08/06/2013  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/22/2013    | 09/09/2013           |
| 002             | COPPER         | 0.745           | 1.3           | 08/06/2013  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/22/2013    | 09/09/2013           |
| 002             | LEAD           | 0               | 0.015         | 08/06/2013  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/22/2013    | 09/09/2013           |
| 003             | COPPER         | 0.689           | 1.3           | 08/06/2013  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/22/2013    | 09/09/2013           |
| 003             | LEAD           | 0.007           | 0.015         | 08/06/2013  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/22/2013    | 09/09/2013           |
| 004             | COPPER         | 0.283           | 1.3           | 08/06/2013  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/22/2013    | 09/09/2013           |
| 004             | LEAD           | 0               | 0.015         | 08/06/2013  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/22/2013    | 09/09/2013           |
| 005             | COPPER         | 0.848           | 1.3           | 08/06/2013  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/22/2013    | 09/09/2013           |
| 005             | LEAD           | 0               | 0.015         | 08/06/2013  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/22/2013    | 09/09/2013           |

\*\*\* PWSID = 2520051 | SYSTEM NAME = TWIN LAKES UTILITIES INC\*\*\*

Detail Sample Information: 01JAN2016 - 31DEC2016

| Sample Location | Contaminant ID | Analysis Result | MCL In Effect | Sample Date | Sample Type  | Laboratory ID        | Analysis Method            | Analysis Date | Sample Received Date |
|-----------------|----------------|-----------------|---------------|-------------|--------------|----------------------|----------------------------|---------------|----------------------|
| 002             | COPPER         | 0.514           | 1.3           | 07/24/2016  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 09/24/2016    | 10/06/2016           |
| 002             | LEAD           | 0               | 0.015         | 07/24/2016  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 09/19/2016    | 10/06/2016           |
| 003             | COPPER         | 1.61            | 1.3           | 07/24/2016  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 09/24/2016    | 10/06/2016           |
| 003             | LEAD           | 0               | 0.015         | 07/24/2016  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 09/19/2016    | 10/06/2016           |
| 004             | COPPER         | 0.746           | 1.3           | 07/24/2016  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 09/24/2016    | 10/06/2016           |
| 004             | LEAD           | 0               | 0.015         | 07/24/2016  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 09/19/2016    | 10/06/2016           |
| 005             | COPPER         | 0.756           | 1.3           | 07/24/2016  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 09/24/2016    | 10/06/2016           |
| 005             | LEAD           | 0.0057          | 0.015         | 07/24/2016  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 09/19/2016    | 10/06/2016           |
| 001             | COPPER         | 0.4             | 1.3           | 07/25/2016  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 09/24/2016    | 10/06/2016           |
| 001             | LEAD           | 0               | 0.015         | 07/25/2016  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 09/19/2016    | 10/06/2016           |

\*\*\* PWSID = 2520051 | SYSTEM NAME = TWIN LAKES UTILITIES INC\*\*\*

## Detail Sample Information: 01JAN2019 - 31DEC2019

| Sample Location | Contaminant ID | Analysis Result | MCL In Effect | Sample Date | Sample Type  | Laboratory ID        | Analysis Method            | Analysis Date | Sample Received Date |
|-----------------|----------------|-----------------|---------------|-------------|--------------|----------------------|----------------------------|---------------|----------------------|
| 003             | COPPER         | 0.642           | 1.3           | 07/17/2019  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 09/30/2019    | 10/09/2019           |
| 001             | COPPER         | 0.832           | 1.3           | 08/18/2019  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/30/2019    | 09/09/2019           |
| 001             | LEAD           | 0.0331          | 0.015         | 08/18/2019  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/28/2019    | 09/09/2019           |
| 002             | COPPER         | 0.608           | 1.3           | 08/18/2019  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/30/2019    | 09/09/2019           |
| 002             | LEAD           | 0               | 0.015         | 08/18/2019  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/28/2019    | 09/09/2019           |
| 003             | COPPER         | 0.914           | 1.3           | 08/18/2019  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/30/2019    | 09/09/2019           |
| 003             | LEAD           | 0               | 0.015         | 08/18/2019  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/28/2019    | 09/09/2019           |
| 004             | COPPER         | 0.0641          | 1.3           | 09/15/2019  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 09/30/2019    | 10/09/2019           |
| 004             | LEAD           | 0               | 0.015         | 09/15/2019  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 10/01/2019    | 10/09/2019           |
| 005             | COPPER         | 0.727           | 1.3           | 09/15/2019  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 09/30/2019    | 10/09/2019           |
| 005             | LEAD           | 0.0499          | 0.015         | 09/15/2019  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 10/01/2019    | 10/09/2019           |
| 006             | COPPER         | 0.473           | 1.3           | 09/15/2019  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 09/30/2019    | 10/09/2019           |
| 006             | LEAD           | 0.0055          | 0.015         | 09/15/2019  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 10/01/2019    | 10/09/2019           |
| 007             | COPPER         | 0.654           | 1.3           | 09/16/2019  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 09/30/2019    | 10/09/2019           |
| 007             | LEAD           | 0               | 0.015         | 09/16/2019  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 10/01/2019    | 10/09/2019           |

\*\*\* PWSID = 2520051 | SYSTEM NAME = TWIN LAKES UTILITIES INC\*\*\*

Detail Sample Information: 01JAN2019 - 31DEC2019

| Sample Location | Contaminant ID | Analysis Result | MCL In Effect | Sample Date | Sample Type  | Laboratory ID        | Analysis Method            | Analysis Date | Sample Received Date |
|-----------------|----------------|-----------------|---------------|-------------|--------------|----------------------|----------------------------|---------------|----------------------|
| 003             | LEAD           | 0               | 0.015         | 09/17/2019  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 10/01/2019    | 10/09/2019           |
| 009             | COPPER         | 0.071           | 1.3           | 09/25/2019  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 10/01/2019    | 10/09/2019           |
| 009             | LEAD           | 0               | 0.015         | 09/25/2019  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 10/03/2019    | 10/09/2019           |
| 010             | COPPER         | 0.278           | 1.3           | 09/25/2019  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 10/01/2019    | 10/09/2019           |
| 010             | LEAD           | 0               | 0.015         | 09/25/2019  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 10/03/2019    | 10/09/2019           |

\*\*\* PWSID = 2520051 | SYSTEM NAME = TWIN LAKES UTILITIES INC\*\*\*

## Detail Sample Information: 01JAN2020 - 14SEP2020

| Sample Location | Contaminant ID | Analysis Result | MCL In Effect | Sample Date | Sample Type  | Laboratory ID        | Analysis Method            | Analysis Date | Sample Received Date |
|-----------------|----------------|-----------------|---------------|-------------|--------------|----------------------|----------------------------|---------------|----------------------|
| 004             | COPPER         | 0.261           | 1.3           | 06/20/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 07/07/2020    | 08/10/2020           |
| 004             | LEAD           | 0               | 0.015         | 06/20/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 07/07/2020    | 08/10/2020           |
| 005             | COPPER         | 0.532           | 1.3           | 06/20/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 07/07/2020    | 08/10/2020           |
| 005             | LEAD           | 0               | 0.015         | 06/20/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 07/07/2020    | 08/10/2020           |
| 003             | COPPER         | 0.349           | 1.3           | 06/21/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 07/07/2020    | 08/10/2020           |
| 003             | LEAD           | 0               | 0.015         | 06/21/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 07/07/2020    | 08/10/2020           |
| 001             | COPPER         | 0.867           | 1.3           | 06/27/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 07/07/2020    | 08/10/2020           |
| 001             | LEAD           | 0.0199          | 0.015         | 06/27/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 07/07/2020    | 08/10/2020           |
| 002             | COPPER         | 0.122           | 1.3           | 06/27/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 07/07/2020    | 08/10/2020           |
| 002             | LEAD           | 0               | 0.015         | 06/27/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 07/07/2020    | 08/10/2020           |
| 006             | COPPER         | 0.13            | 1.3           | 08/08/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/19/2020    | 09/10/2020           |
| 006             | LEAD           | 0               | 0.015         | 08/08/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/26/2020    | 09/10/2020           |
| 001             | COPPER         | 0.346           | 1.3           | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/19/2020    | 09/10/2020           |
| 001             | LEAD           | 0               | 0.015         | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/26/2020    | 09/10/2020           |
| 002             | COPPER         | 1.04            | 1.3           | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/19/2020    | 09/10/2020           |

Detail Sample Information: 01JAN2020 - 14SEP2020

| Sample Location | Contaminant ID | Analysis Result | MCL In Effect | Sample Date | Sample Type  | Laboratory ID        | Analysis Method            | Analysis Date | Sample Received Date |
|-----------------|----------------|-----------------|---------------|-------------|--------------|----------------------|----------------------------|---------------|----------------------|
| 002             | LEAD           | 0               | 0.015         | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/26/2020    | 09/10/2020           |
| 003             | COPPER         | 0.423           | 1.3           | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/19/2020    | 09/10/2020           |
| 003             | LEAD           | 0               | 0.015         | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/26/2020    | 09/10/2020           |
| 004             | COPPER         | 0.726           | 1.3           | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/19/2020    | 09/10/2020           |
| 004             | LEAD           | 0               | 0.015         | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/26/2020    | 09/10/2020           |
| 005             | COPPER         | 0.842           | 1.3           | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/19/2020    | 09/10/2020           |
| 005             | LEAD           | 0               | 0.015         | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/26/2020    | 09/10/2020           |
| 007             | COPPER         | 0.817           | 1.3           | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/19/2020    | 09/10/2020           |
| 007             | LEAD           | 0               | 0.015         | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/26/2020    | 09/10/2020           |
| 008             | COPPER         | 0.623           | 1.3           | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/19/2020    | 09/10/2020           |
| 008             | LEAD           | 0               | 0.015         | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/26/2020    | 09/10/2020           |
| 009             | COPPER         | 0.674           | 1.3           | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/19/2020    | 09/10/2020           |
| 009             | LEAD           | 0               | 0.015         | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/26/2020    | 09/10/2020           |
| 010             | COPPER         | 0.969           | 1.3           | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/19/2020    | 09/10/2020           |
| 010             | LEAD           | 0               | 0.015         | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/26/2020    | 09/10/2020           |

Detail Sample Information: 01JAN2020 - 14SEP2020

| Sample Location | Contaminant ID | Analysis Result | MCL In Effect | Sample Date | Sample Type  | Laboratory ID        | Analysis Method            | Analysis Date | Sample Received Date |
|-----------------|----------------|-----------------|---------------|-------------|--------------|----------------------|----------------------------|---------------|----------------------|
| 011             | COPPER         | 0.462           | 1.3           | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/19/2020    | 09/10/2020           |
| 011             | LEAD           | 0               | 0.015         | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/26/2020    | 09/10/2020           |
| 012             | COPPER         | 0.615           | 1.3           | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/19/2020    | 09/10/2020           |
| 012             | LEAD           | 0               | 0.015         | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/26/2020    | 09/10/2020           |
| 013             | COPPER         | 1.35            | 1.3           | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 08/19/2020    | 09/10/2020           |
| 013             | LEAD           | 0               | 0.015         | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 08/26/2020    | 09/10/2020           |
| 015             | COPPER         | 0.025           | 1.3           | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 09/04/2020    | 09/10/2020           |
| 015             | LEAD           | 0               | 0.015         | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 09/04/2020    | 09/10/2020           |
| 016             | COPPER         | 0.66            | 1.3           | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 09/04/2020    | 09/10/2020           |
| 016             | LEAD           | 0               | 0.015         | 08/09/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 09/04/2020    | 09/10/2020           |
| 014             | COPPER         | 0.689           | 1.3           | 08/19/2020  | DISTRIBUTION | PROSSER LABORATORIES | INDUCTIVELY COUPLED PLASMA | 09/04/2020    | 09/10/2020           |
| 014             | LEAD           | 0               | 0.015         | 08/19/2020  | DISTRIBUTION | PROSSER LABORATORIES | GRAPHITE FURNACE           | 09/04/2020    | 09/10/2020           |



# PROSSER LABORATORIES, INC.

P.O. BOX 118  
 EFFORT, PA 18330-0118  
 PHONE: (570) 629-2981  
 FAX: (570) 620-0695

PA DEP Lab No. 45-289  
 PA Radon Lab No. 867  
 EPA and PA Dept.  
 of Agriculture Approved

DAVID C. SCHOLTZ

Located at State Rd. and Rt. 115

Sample # 2008-01446-011 Date Received: 08/11/2020  
 Date Sampled: 08/09/2020 Time Received: 14:55  
 Time Sampled: 9:15 Sample Type: DISTRIBUTION  
 Sampled By: Client-BZ Location Code:  
 Matrix: Drinking Water Location: First Draw -Kitchen Sink- Bryan Zellmer 104 Cherokee Rd,  
 Shohola, PA. 18458

| Test Name                | Results/Units | RL     | MCL    | On-Test Date | On-Test Time | Tech Initials | End Date | End Time | Method    |
|--------------------------|---------------|--------|--------|--------------|--------------|---------------|----------|----------|-----------|
| Lead and Copper Analysis |               |        |        |              |              |               |          |          |           |
| Lead - First Draw        | <0.0050 mg/l  | 0.0050 | 0.0150 | 8/26/20      | 20:42        | WLD           |          | 0:00     | SM 3113B  |
| Copper - First Draw      | 0.969 mg/l    | 0.010  | 1.30   | 8/19/20      | 16:46        | WLD           |          | 0:00     | EPA 200.7 |

Sample # 2008-01446-012 Date Received: 08/11/2020  
 Date Sampled: 08/09/2020 Time Received: 14:55  
 Time Sampled: 6:15 Sample Type: DISTRIBUTION  
 Sampled By: Client-DH Location Code:  
 Matrix: Drinking Water Location: First Draw -Upstairs Kitchen Sink- John & Donna Hersca 110  
 Sagamore Road, Shohola, PA. 18458

| Test Name                | Results/Units | RL     | MCL    | On-Test Date | On-Test Time | Tech Initials | End Date | End Time | Method    |
|--------------------------|---------------|--------|--------|--------------|--------------|---------------|----------|----------|-----------|
| Lead and Copper Analysis |               |        |        |              |              |               |          |          |           |
| Lead - First Draw        | <0.0050 mg/l  | 0.0050 | 0.0150 | 8/26/20      | 20:42        | WLD           |          | 0:00     | SM 3113B  |
| Copper - First Draw      | 0.462 mg/l    | 0.010  | 1.30   | 8/19/20      | 16:46        | WLD           |          | 0:00     | EPA 200.7 |

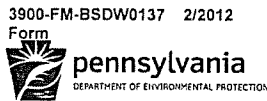
Sample # 2008-01446-013 Date Received: 08/11/2020  
 Date Sampled: 08/09/2020 Time Received: 14:55  
 Time Sampled: 7:30 Sample Type: DISTRIBUTION  
 Sampled By: Client-KM Location Code:  
 Matrix: Drinking Water Location: First Draw -Kitchen Sink- KellyAnn Musco 124 Twin Lakes  
 Drive, Shohola, PA. 18458

| Test Name                | Results/Units | RL     | MCL    | On-Test Date | On-Test Time | Tech Initials | End Date | End Time | Method    |
|--------------------------|---------------|--------|--------|--------------|--------------|---------------|----------|----------|-----------|
| Lead and Copper Analysis |               |        |        |              |              |               |          |          |           |
| Lead - First Draw        | <0.0050 mg/l  | 0.0050 | 0.0150 | 8/26/20      | 20:42        | WLD           |          | 0:00     | SM 3113B  |
| Copper - First Draw      | 0.615 mg/l    | 0.010  | 1.30   | 8/19/20      | 16:46        | WLD           |          | 0:00     | EPA 200.7 |

EXHIBIT TLU-4

TWIN LAKES UTILITIES, INC.  
CUSTOMER NOTICE DATED NOVEMBER 13, 2019

C-2020-3020883  
10/6/20  
**TLU-4**



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF ENVIRONMENTAL PROTECTION  
BUREAU OF SAFE DRINKING WATER

## Important information about Lead in Your Drinking Water

Twin Lakes Utilities found elevated levels of lead in drinking water tap samples. Lead can cause serious health problems, especially for pregnant women and young children.

**Please read this information closely  
to see what you can do to reduce lead in your drinking water.**

**ESTE INFORME CONTIENE INFORMACIÓN IMPORTANTE ACERCA DE SU AGUA  
POTABLE. HAGA QUE ALGUIEN LO TRADUZCA PARA USTED, O HABLE CON ALGUIEN  
QUE LO ENTIENDA.**

### Health Effects of Lead

Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of your body. The greatest risk of lead exposure is to infants, young children, and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development.

### Sources of Lead

Lead is a common metal found in the environment. The main sources of lead exposure are lead-based paint and lead-contaminated dust or soil. Drinking water is also a possible source of lead exposure. Most sources of drinking water have no lead or very low levels of lead. Most lead gets into drinking water after the water leaves the local well or treatment plants and comes into contact with plumbing materials containing lead. These include lead pipes, lead solder (commonly used until 1986), as well as faucets, valves, and other components made of brass.

### Steps You Can Take to Reduce Exposure to Lead in Water

1. **Run your water to flush out lead.** Run water for 15-30 seconds or until it becomes cold or reaches a steady temperature before using it for drinking or cooking, if it hasn't been used for several hours. This flushes lead-containing water from the pipes.
2. **Use cold water for cooking and preparing baby formula.** Lead dissolves more easily into hot water.
3. **Do not boil water to remove lead.** Boiling water will not reduce lead.
4. **Look for alternative sources or treatment of water.** You may want to consider purchasing bottled water or a water filter.
5. **Test your water for lead.** If you think you may have elevated lead levels in your home drinking water, have it tested. Call the Safe Drinking Water Hotline (800-426-4791) for more information.

### What Happened? What is being done?

Samples collected on 08/18/2019 at 115 Beach Rd – Kitchen and on 09/15/2019 at 133 Twin Lake have greater than the lead action level and the 90<sup>th</sup> percentile value for our water system is also greater than the lead action level of 15 parts per billion. Twin Lakes Utilities, Inc. will be taking lead and copper samples every six months for the duration required by the PADEP.

### For More Information

For more information on reducing lead exposure around your home/building and the health effects of lead, visit EPA's website at [www.epa.gov/lead](http://www.epa.gov/lead), or contact your health care provider.

PWS ID#: 2520051

Date November 13, 2019

**EXHIBIT TLU-5**

**COVER LETTER AND LEAD TEST RESULTS FOR  
RESIDENCE OF JOHN AND DONNA HERSCA  
110 SAGAMORE ROAD, SHOHOLA, PA 18458**

C-2020-3020883  
10/6/20

**TLU-5**

# *PROSSER LABORATORIES, INC.*

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PA DEP Lab No. 45-289  
PA Radon Lab No. 867  
EPA and PA Dept.  
of Agriculture Approved

DAVID C. SCHOLTZ

Located at State Rd. and Rt. 115

September 15, 2020

Dear John & Donna Hersca,

Twin Lakes Utilities appreciates your participation in the lead tap monitoring program. A lead level of <5 ppb was reported for the sample collected on 08/09/2020 at your location, 110 Sagamore Road, Shohola, PA 18458 – Upstairs Kitchen Sink.

We are happy to report that your result as well, as the 90th percentile value for our water system is below the lead action level of 15 parts per billion.

## **What Does This Mean?**

Under the authority of the Safe Drinking Water Act, EPA set the action level for lead in drinking water at 15 ppb. This means utilities must ensure that water from the customer's tap does not exceed this level in at least 90 percent of the homes sampled (<5 ppb). The action level is *the concentration of a contaminant which, if exceeded, triggers treatment or other requirements which a water system must follow*. If water from the tap does exceed this limit, then the utility must take certain steps to correct the problem. Because lead may pose serious health risks, the EPA set a Maximum Contaminant Level Goal (MCLG) of zero for lead. The MCLG is *the level of a contaminant in drinking water below which there is no known or expected risk to health. MCLGs allow for a margin of safety*.

## **What Are The Health Effects of Lead?**

*Lead can cause serious health problems if too much enters your body from drinking water or other sources. It can cause damage to the brain and kidneys, and can interfere with the production of red blood cells that carry oxygen to all parts of your body. The greatest risk of lead exposure is to infants, young children, and pregnant women. Scientists have linked the effects of lead on the brain with lowered IQ in children. Adults with kidney problems and high blood pressure can be affected by low levels of lead more than healthy adults. Lead is stored in the bones, and it can be released later in life. During pregnancy, the child receives lead from the mother's bones, which may affect brain development.*

## **What Are The Sources of Lead?**

The primary sources of lead exposure for most children are deteriorating lead-based paint, lead-contaminated dust, and lead-contaminated residential soil. Exposure to lead is a significant health concern, especially for young children and infants whose growing bodies tend to absorb more lead than the average adult. Although your home's drinking water lead levels were below the action level, if you are concerned about lead exposure, parents should ask their health care providers about testing children for high levels of lead in the blood.

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EPA and PA Dept.  
of Agriculture Approved

DAVID C. SCHOLTZ

Located at State Rd. and Rt. 115

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## **What Can I Do To Reduce Exposure to Lead in Drinking Water?**

***Run your water to flush out lead.*** If water hasn't been used for several hours, run water for 15-30 seconds or until it becomes cold or reaches a steady temperature before using it for drinking or cooking. This flushes lead-containing water from the pipes.

***Use cold water for cooking and preparing baby formula.***

***Do not boil water to remove lead.***

***Look for alternative sources or treatment of water.***

***Test your water for lead.***

***Identify if your plumbing fixtures contain lead.***

## **For More Information**

For more information on reducing lead exposure around your home and the health effects of lead, visit EPA's Web site at [www.epa.gov/lead](http://www.epa.gov/lead), call the National Lead Information Center at 800-424-LEAD, or contact your health care provider.



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 of Agriculture Approved

DAVID C. SCHOLTZ

Located at State Rd. and Rt. 115

|               |                |                |   |
|---------------|----------------|----------------|---|
| Sample #      | 2008-01446-012 | Date Received: | 08/11/2020  |
| Date Sampled: | 08/09/2020     | Time Received: | 14:55   |
| Time Sampled: | 6:15           | Sample Type:   | DISTRIBUTION  |
| Sampled By:   | Client-DH      | Location Code: |   |
| Matrix:       | Drinking Water | Location:      | First Draw -Upstairs Kitchen Sink- John & Donna Hersca 110<br>Sagamore Road, Shohola, PA. 18458 |

| <u>Test Name</u>         | <u>Results/Units</u> | <u>RL</u> | <u>MCL</u> | <u>On-Test Date</u> | <u>On-Test Time</u> | <u>Tech Initials</u> | <u>End Date</u> | <u>End Time</u> | <u>Method</u> |
|--------------------------|----------------------|-----------|------------|---------------------|---------------------|----------------------|-----------------|-----------------|---------------|
| Lead and Copper Analysis |                      |           |            |                     |                     |                      |                 |                 |               |
| Lead - First Draw        | <0.0050 mg/l         | 0.0050    | 0.0150     | 8/26/20             | 20:42               | WLD                  |                 | 0:00            | SM 3113B      |
| Copper - First Draw      | 0.462 mg/l           | 0.010     | 1.30       | 8/19/20             | 16:46               | WLD                  |                 | 0:00            | EPA 200.7     |