

UTILITY BILLING ERRORS AND CORRECTIONS

District staff recently received inquiries from property owners regarding the rates charged on some newly constructed homes. District staff investigated and determined that a number of those new accounts had been assigned the wrong density billing code and were being incorrectly charged. As a result of those initial findings, staff reviewed all 7,000 of the District's utility accounts and determined other accounts had also been billed incorrectly.

Some of the incorrect charges were less than required by the District's Code (undercharges), and others were more (overcharges). In total, 360 accounts were undercharged and 900 accounts were overcharged.

The District, and its staff in particular, deeply regrets its error and the inconvenience that it has caused our customers.

The Board directed that current account holders who have been overbilled receive a credit on their account and accounts holders who been underbilled be billed for the amount due. The credits and billings are based on charges during calendar years 2020, 2021 and 2022 or for the length of time the customer had the account, whichever is less.

We mailed letters to all customers impacted by these errors on March 7. If you did not receive a letter and want to confirm that you are not impacted by these errors, please call our Customer Service Department at 209-831-2300 or send an email to mhcsdutilities@sjgov.org.

We will be holding Community Workshops:

- Tuesday, March 21, 2023, for underbilled accounts
- Wednesday, March 22, 2023, for overcharged accounts

Undercharged accounts

The District's Board of Directors carefully considered the best approach to addressing the undercharges. It determined that the most equitable way to bill undercharges would be to bill them over time. Thus, staff will be posting charges in the amount of your account's underpayments for the calendar years 2020, 2021, and 2022 or for the time that you held the account in your name, whichever is less. At your option, you may pay the charge in full or pay the amount over three years, as described below.

Because you, and not future owners of your property are liable for the undercharges, the District needs to take steps to make sure that the unpaid amounts will be paid if you sell your property. It will place a lien on the property in the amount of the undercharge. When the undercharge is fully paid, the lien will be released. If you sell the property before it is paid off, the lien will be settled through escrow.

As noted above, the District is offering an option to pay the underbilled amount over three years. If you wish to take advantage of this plan, please complete the Amortization Plan included in your letter and return it to Customer Service, Mountain House Community Services District, 251 E.

Main Street, 95391 by June 1, 2023. You may also email the completed form to mhcsdbilling@sjgov.org. Please submit the emailed form by June 1, 2023.

NOTE: IF YOU ARE ON AUTO PAY, THE ENTIRE BALANCE OWED, INCLUDING POSTED UNDERCHARGES, WILL BE PULLED FROM YOUR CHECKING ACCOUNT OR CREDIT CARD. IF YOU WANT TO PAY THE UNDERCHARGE OVER TIME, YOU WILL NEED TO DISCONTINUE AUTO PAY.

Overcharged accounts

Although the District's legal obligation is to refund a year's worth of overcharges, the Board of Directors has authorized staff to post credits for overpayments over the calendar years 2020, 2021, and 2022 or for the time that your account was held in your name, whichever is less. In order to claim the credit you will be required to sign and return the Release form included in your letter to Customer Service, Mountain House Community Services District, 251 E. Main Street, 95391. The Release form must be received by the District by June 1, 2023. When we receive the signed Release form, we will promptly post a credit to your account.

The Release form requires that your signature be witnessed by a Notary Public. The District will provide notary service by appointment. Please contact us at 209-831-2300 during business hours to arrange an appointment. You may also have the form notarized by any Notary Public of your choosing.

BACKGROUND

How did this happen?

The District has provided utility services to the community since 2003. The District's water rates are based on the property's County zoning classification. As part of the initial establishment of each utility account, the District requested information from the San Joaquin County Planning Department and homebuilders, such as the property's zoning. Reliance on this information, as discussed below, created opportunities for human error.

Until recently, when District staff performed an inspection of a residential water meter installation prior to establishing the utility account, the builder provided an inspection form listing various information including the residence address, Assessor's Parcel Number, GPS coordinates and serial number of the water meter, and density (zoning) of the property. After District staff signed off on the water meter information, the builder sent the form to the utility plant contractor (currently Inframark) to set up the utility account.

In many communities, the size of the water meter determines the utility rates. In Mountain House, the rate for single family homes is a function of the property's density, or zoning, classification. The density designation for single family residences determines the rates to be used for calculating operating and debt service charges for water, wastewater and stormwater. Residential density designations are based on the number of units per acre that can be built within a development site.

The original process for establishing new accounts did not fully integrate this unique rate density-based structure into its review process. As noted above, the density classification determines rates to be charged for water, wastewater and stormwater base and debt service charges.

The originally established procedures limited District staff's responsibility to ensuring the proper installation of the water meter and forwarding the information for account establishment to the billing company. The homebuilder was responsible for entering the density information, which was supplied by the County. The procedure did not include a step to ensure that the builder provided accurate density information.

As a result of this procedure, some residential accounts were established with the incorrect density information.

What steps is the District taking to ensure that something like this does not happen again?

Staff is now ensuring that density classifications are correct before utility accounts are set up. Staff developed a process to track and reconcile addresses, Assessor's Parcel Numbers, and zoning classifications from the building permit information provided by the County to the building inspection forms that are used to create utility accounts. No utility accounts will be established until this information is confirmed by District staff.

UNDERCHARGED ACCOUNTS

Why doesn't the District just accept the consequences of its mistake and not bill me for the undercharges?

The District Code requires the District to charge customers for water service based on their property's density classification. The District's errors caused you to be undercharged, but you still remain responsible for paying the established rates. The California Constitution prevents the public agencies from giving "gifts of public funds," and the courts have determined that waiving lawful taxes and fees is such a gift of public funds. The District is therefore obligated to bill undercharged customers.

One important thing to note is that, in some cases, the undercharges date back many years, but the District is only billing for the undercharges over the last three years. The reason for this is that three years is the likely limit on the District's legal ability to seek a recovery. In some cases, customers may therefore have been undercharged substantially more than what they are being billed.

I can't afford to pay the total amount!

The District is offering an option to pay the underbilled amount over three years. If you wish to take advantage of this plan, please complete the Amortization Plan included in your letter and return it to Customer Service, Mountain House Community Services District, 251 E. Main Street, 95391. You may also email the completed form to mhcsdbilling@sjgov.org

NOTE: IF YOU ARE ON AUTO PAY, THE ENTIRE BALANCE OWED, INCLUDING POSTED UNDERCHARGES, WILL BE PULLED FROM YOUR ACCOUNT. IF YOU WANT

TO PAY THE UNDERCHARGE OVER TIME, YOU WILL NEED TO DISCONTINUE AUTO PAY.

Why is my property being liened? The mistake was not my fault.

Because you, and not future owners of your property are liable for the undercharges, the District needs to take steps to make sure that the unpaid amounts will be paid if you sell your property. It will place a lien on the property in the amount of the undercharge. When the undercharge is fully paid, the lien will be released. If you sell the property before it is paid off, the lien will be settled through escrow.

OVERCHARGED ACCOUNTS

Why is the District only refunding the last three years of overcharges?

The District Code requires the District to charge customers for water service based on their property's zoning classification. The District's errors caused you to be overcharged, and you are due a refund. In some cases, overcharges occurred over a period longer than three years. Although it is not obligated to do so, the District has elected to refund three years' worth of overcharges. Under state law, you are entitled to bring a refund lawsuit for a refund only if you filed a claim within one year of the date of the overcharge. The District's Board of Directors carefully considered the best approach, and it determined that it would most appropriate to refund overcharges over the previous three year period. The amount is consistent with the standard statute of limitations applicable to liabilities based on a statute, and it is the same period that the District is using to "backbill" customers that were undercharged.

Why don't you just write me a check for the amount I was overbilled?

The Board authorized staff to post a credit to your account for overpayments over the calendar years 2020, 2021, and 2022 or for the time the account was held in your name, whichever is less. In order to claim the credit you will be required to sign and return the Release form enclosed in your letter to Customer Service, Mountain House Community Services District, 251 E. Main Street, 95391. The Release form must be received by the District by June 1, 2023. When we receive the signed Release form, we will promptly post a credit to your account.

The Release form requires that your signature be witnessed by a Notary Public. The District will provide notary service by appointment. Please contact us at 209-831-2300 during business hours to arrange an appointment. You may also have the document notarized by any person offering notary services.

Why aren't you paying me interest on the amount I was overbilled?

The Board did not authorize the payment of interest.