

ITEM NO: 6-K

DATE: May 21, 2020

TITLE: ADOPT RESOLUTION NO. 2020-002 ESTABLISHING A MUNICIPAL UTILITY BILLING & COLLECTION POLICY INCORPORATING REQUIREMENTS SET FORTH IN SENATE BILL 998, DISCONTINUATION OF RESIDENTIAL WATER SERVICE, INCLUDING AUTHORIZING STAFF TO MAKE NON-SUBSTANTIVE REVISIONS DURING THE IMPLEMENTATION PERIOD

RECOMMENDATION

It is recommended that the Board of Directors adopt Resolution 2020-002 to establish a Municipal Utility Billing & Collection Policy, incorporating current practices and revisions necessary to be compliant with requirements set forth in Senate Bill (SB) 998 that are effective February 1, 2020. Adoption of Resolution 2020-002 will also allow staff to make non-substantive revisions to the policy during the implementation period.

EXECUTIVE SUMMARY

California Senate Bill (SB) 998, Discontinuation of Residential Water Service, known as the Water Shutoff Protection Act was signed into law September 28, 2018, and requires all public water systems with more than 200 service connections to provide certain notices and options to customers before residential water service may be terminated for nonpayment of a delinquent account. The implementation of new requirements in SB 998, effective February 1, 2020, require significant changes to existing District utility billing and water shutoff practices. Staff has consolidated all existing and newly required utility billing and collection practices into a publicly available policy, which is attached.

BACKGROUND

The District is required to comply with SB 998 by February 1, 2020. With multiple changes required to policies, ordinances, billing and operation practices, staff has been working on the planning and implementation. The changes required to bring the District into compliance are as follows:

- Make significant changes to the utility billing software (pending)
- Update the physical format and content of the District utility bill and late notices (pending)
- Translate payment portal and all notices into required languages (pending)
- Create new Deferred Payment Plan Agreement for Delinquent Balances (pending)
- Create and adopt a comprehensive Municipal Utility Billing & Collection Policy (pending)
- Translate and post the new policy to the District's website (pending)
- Annually report the number of utility shut-offs on the District's website (pending)

The following discussion highlights the portions of the attached Utility Billing & Collection Policy that are requirements of the new law.

Changes to District Utility Bill

SB 998 requires a written policy on discontinuation of water service to residences for nonpayment be available in prescribed languages. All written notices shall be provided in English, Spanish, Chinese, Tagalong, Vietnamese, and Korean, any other language spoken by at least 10% of the people residing in the service area. The shutoff policy must be available to customers in the office and posted on the District's website, and must include all of the following:

- A plan for deferred payments
- Alternative payment schedules
- A formal mechanism for a customer to contest or appeal a bill
- A telephone number for a customer to contact to discuss options for averting discontinuation
- Procedures for requesting amortization of the unpaid balance
- Procedures for petitioning a review of the bill and appeal of the amount
- Procedures on how to reinstate and restore residential service

SB 998 also created a requirement for the District to publish an annual report on the number of discontinuations of residential service for inability to pay and post on the District's website.

Discontinuation of Service

Under requirements set forth under SB 998, residential accounts must be at least 60-days delinquent before service is discontinued. Per SB 998, residential service may be discontinued no sooner than five (5) business days for single family homes, and ten (10) calendar days for multi-family properties after posting final notice of intent to disconnect service.

The District must maintain complete and accurate records of those account services that are discontinued to report to State authorities and publish on the BCSD website.

Notification of Tenant/Occupant

SB 998 requires that if the mailing address listed on the customer's account is not the same as the residential service address, an additional notice (with the same information requirements) must be addressed to "Occupant" and be sent to the service address. For example, if a landlord is delinquent in paying the utility bill for their rental property, the District will now be required to notify the tenant/occupant(s) of the delinquency, providing the amount owed and payment options for continuing service. In addition, all occupants of multi-family residential units serviced by a single meter (i.e. apartments, mobile home parks) must receive a good-faith written notice at least ten (10) calendar days prior to shut off, when the account is in arrears, informing them that service will be terminated for non-payment. The written notice shall inform the residential occupants that they have the right to become customers, to whom the service will then be billed, without being required to pay any amount which may be due on the delinquent account.

This is a significant departure from current door hanger notifications. For example, if an apartment complex is delinquent, staff will now be required to place a door hanger on every single door as opposed to only the complex property manager.

Mandatory Deferred, Reduced and/or Alternative Payment Schedule

Certain conditions will now preclude discontinuation of service, and a viable payment option

must be offered by the District. Specifically an alternative payment schedule is required to be offered if staff is provided a certification from a medical provider that discontinuation of service will be life threatening to, or pose a serious threat to the health and safety of, a resident of the premises; the customer demonstrates they are financially unable to pay if any member of the customer's household is a current recipient of certain types of public assistance; or the customer may simply declare that the household's annual income is less than 200 percent of the federal poverty level to qualify. The customer must be willing to enter into one of the below payment plans consistent with the District's policies.

Under the requirements set forth in SB 998, at least one of the following payment options must be offered:

- Amortization of the unpaid balance

- Participation in an alternative payment schedule

- A partial or full reduction of the unpaid balance financed without additional charges to other ratepayers

- Temporary deferral of payment

Due to the staff time involved with gathering the necessary financial information from utility customers, and the potential privacy issues that go along with this activity, the District will offer a Payment Plan for the delinquent balance for any customer who requests it. Payment Plans not exceeding 12 months will be offered at 0% interest. If a customer requests a longer payment schedule, it will be considered on a case by case basis, and a low interest rate may be applied. Therefore, any water customer who is unable to pay their bill by the due date may request an alternative payment arrangement, and no specific reason is required in order to qualify. If a customer is under a repayment arrangement, they will still be required to pay in full by the due date their current service charges, and only one active repayment agreement for delinquent balance at any given time for a customer will be allowed. Noncompliance with a repayment plan or failure to pay current charges for more than 60 days could result in service shut-off.

Currently the District considers repayment arrangements on a case by case basis, utilizing payment history of the account and specific circumstances. As a result, repayment arrangements are relatively rare with perhaps less than 10 occurrences annually. Should the District experience a large number of customers requesting repayment arrangements, there will be an inevitable impact to cash flow in the utility enterprise funds as a higher percentage of revenue collection would be delayed. This would impact fund balances that are needed to cover regular payments to vendors, employee payroll, and other service providers to maintain and operate the systems. Long term, should the adverse impact be sustained, the District may need to look at increasing its water rates to meet current expenses and hold more funds in reserve to cover obligations while revenue collection is delayed.

FISCAL IMPACT

The eventual fiscal impact of implementation of SB 998 is unknown at this time. Staff anticipates an increase in requests for repayment arrangements, which will inevitably impact cash flow to the utility enterprise funds.

ATTACHMENTS

Resolution 2020-002, Approving Biola Community Services District Billing & Collection Policy

RESOLUTION NO. 2020-002

**A RESOLUTION OF THE BOARD OF THE BIOLA COMMUNITY SERVICES
DISTRICT APPROVING MUNICIPAL BILLING & COLLECTION POLICY**

WHEREAS, California Senate Bill (SB) 998, Discontinuation of Residential Water Service, known as the Water Shutoff Protection Act, was signed into law September 28, 2018, and requires all public water systems with more than 200 service connections to provide certain notices and options to customers before residential water service may be terminated for nonpayment of a delinquent account; and

WHEREAS, the implementation of new requirements as set forth in SB 998, effective February 1, 2020, require significant changes to existing District utility billing and water shutoff practices; and

WHEREAS, staff has consolidated all existing and newly required utility billing and collection practices into a publicly available policy, attached hereto as Exhibit "A".

NOW, THEREFORE, BE IT RESOLVED THAT the Municipal Utility Billing & Collection Policy attached hereto as Exhibit "A" is adopted, allowing staff to make non-substantive revisions to the policy during the implementation period, and shall remain in effect until modified or rescinded by subsequent resolution of the District Council.

This foregoing resolution is hereby adopted this 21st day of May, 2020, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Rudy Hernandez, President

ATTEST:

Eduardo Antunez, Clerk

Exhibit "A"

MUNICIPAL UTILITY BILLING AND COLLECTION POLICY

This written policy consolidates and summarizes various State Law and practices into a single document designed to advise municipal utility customers about current regulations. It is intended to provide as much information as possible on existing practice, but should not be considered as inclusive of all municipal service regulations as governed by the State of California. Municipal utility services include water, wastewater (sewer) and solid waste (trash, recycle and green waste). The District's Office is responsible for customer accounts and is located at 4925 N Seventh Street, Biola CA 93606. Normal business hours for this office are Tuesday through Friday, 8:00 am through 5:00 pm. Offices are closed on Saturday, Sunday, Monday and designated holidays. Customers may call (559) 843-2657 during normal hours for assistance. Voicemail messages left during non-operating hours will be addressed by a customer service representative on the first available normal business day.

Section 1: Utility Service

Water and Sewer service shall be dependent upon connectivity status to municipal services (private water well and / or septic tank vs District connections). Solid Waste disposal service provided by the District or the District's authorized contractor is mandatory for each resident and business except for those industrial businesses who receive an exemption from the District and for governmental agencies who choose to exercise their exempt status from local government regulation.

Section 2: Establishing New Service

Before utility service shall begin, a signed application along with supporting documents as identified on the utility application, must be presented by the person(s) who will be financially responsible with any associated fees and account deposit, if applicable, must be paid. Customers requesting utility service may be required to pay a deposit if the District deems their creditworthiness to be a financial risk, which may include prior bankruptcy activity. The District reserves the right to request and require proof of property ownership or residency documentation, such as a Deed of Trust/Escrow Closing Statement for owners, and a rental agreement/lease for tenants.

Any deposit paid shall be retained by the District until the applicant has terminated the utility account. All outstanding fees and charges will be deducted from the deposit and the remaining deposit balance, if any, will be refunded to the customer. A good faith effort will be made to collect any outstanding charges from the applicant, up to and including transferring of unpaid balance(s) from closed accounts to active utility accounts, credit collection firms and legal action.

Any person may apply to establish new service at any location in the District, provided they meet all other requirements established by this policy.

Section 3: Utility Billing Cycle, Due Dates & Rates

Rates and fees for water, sewer and solid waste services are established by the District

Council and are referenced in the District's Master Fee Schedule which is posted on the District's website at <https://www.biolacsd.org/>. Customers utilizing District water service will have a water meter at their residence or place of business. Utilities are billed on a monthly basis at the first of each month with current base rate flat charges being assessed for the billing period, and consumption charges reflecting the actual cost for a prior timeframe. Utility accounts are expected to be paid in full no later than six (6) days from the billing date to be considered in good standing. Late fees will not apply until an account is more than 60 days past due from the billing date.

Section 4: Limits of Responsibility

The District makes every effort to mail, deliver, and post all monthly billings, reminder notices, delinquent notices, and shut-off notices to the account holder and occupant in accordance with California legislation. The District is not responsible for lost, undeliverable or stolen bills and notices resulting from the United States Postal Service or interference from the general public. Prompt postal address updates are the responsibility of the account holder. The account holder is also responsible for insuring that payment is received and posted to the account by the due date and time deadline regardless of whether a bill or notice has been received or not. Time sensitive payments should be made in person or over the phone prior to any cutoff date and time, or by using the District's online payment portal.

Section 5: Base Rate Fees, Volumetric Charges, Proration, and Closing, Bills

Base rate (flat rate) charges for water, sewer and solid waste are billed on the 1st of the month for services that will be rendered during that month. As an example, the billing dated July 1st is for the period of July 1 through July 31st and will reflect current base rate charges for water, sewer and solid waste that are for the month of July. Consumption, or volumetric use charges, that are also included on the July 1st bill would be in arrears and would be based upon the amount of water used during the consumption cycle of approximately May 12th through June 12th. New accounts will be prorated on a 30-day standard calculation, and will be charged accordingly from the effective date referenced on the application for service. Terminated accounts will receive a closing bill that will include all consumption charges up to the date of scheduled termination, prorated base rate charges using the standard 30-day calculation, and a credit for any deposit that is being held. Closing bills that reflect a final status of money owed to the account holder will result in a refund check being issued, typically within 2-3 weeks, and mailed to the last known forwarding address associated with the utility account.

Section 6: Payment Methods

Payment of utility bills may be made in a variety of ways, outlined below:

Mailed in the return envelope provided with the monthly bill. The mailing address is Biola Community Services District, 4925 N Seventh Street, Biola CA 93606. Payment type should be a personal check made payable to "Biola Community Services District" or money order if using this method.

In Person at Biola Community Services District, 4925 N Seventh Street, Biola CA 93606. Payment type may be cash, personal check made payable to "Biola Community Services District", debit card, Visa, Mastercard, Discover card or American Express.

Office hours are Tuesday through Friday, 8:00 am through 5:00 pm, closed Saturday, Sunday, Monday and designated Holidays.

Drop Box located on the outside of the building at Biola Community Services District, 4925 N Seventh Street, Biola CA 93606. Payment type should be a personal check made payable to "Biola Community Services District" or money order if using this method. The drop box is accessible to customers 24-hours every day. The District is not responsible for cash payments left in the drop box.

Online Payment from the District's website at <https://www.biolacsd.org/>. Payment type may be debit or credit card and customers will be charged a fee of \$2.50.

Bill Pay functions from the Customer's Online Banking Institution. Most major banking institutions offer a form of online bill pay. If this method is being used, please make sure that you set the payee information to be Biola Community Services District, 4925 N Seventh Street, Biola CA 93606. **The utility account number must be referenced for proper and timely processing** which typically consists of three alphabetical characters followed by four numerical characters. Payment made with this method does not post immediately and customers should be aware that it could take up to five (5) business days before payment is received. Using this payment method is discouraged for accounts that are in a past-due status and may be subject to late fees and / or interruption of service for non-payment.

Phone Payment. Customers may call (559) 843-2657 and pay by credit card.

Section 7: Returned Payments

The District reserves the right to add an additional fee that will be added to the utility bill account due if any method of payment is not honored (i.e. insufficient funds, customer initiated online banking return, closed account, or denied transaction). The District also reserves the right to demand cash or money order only as the method of ongoing payment if the account holder demonstrates a history of financial risk. Returned payments that were originally accepted by the District in good faith to forestall late fees and / or termination from non-payment shall be subject to the returned payment fee. The account will also be subject to immediate posting of late fees and all other actions that would have otherwise been applied to the account as if the returned payment had never been received and posted.

Section 8: Disconnection, Late, and Reconnection Fees

There is no late fee or penalty assessed for accounts that are current or in a 30-day aged status. Accounts with any balance in a 60-day aged status will be assessed a \$25.00 late fee and be subject to the disconnection process. Accounts that are being processed for disconnection will be subject to a \$100.00 fee on the noticed date of termination if there remains any unpaid balance due. A \$50.00 reconnection of service fee will be assessed for reconnection during normal operating hours or a \$150.00 fee will be assessed for reconnection during nonoperational hours, subject to Consumer Price Index adjustments beginning January 1, 2021. Requests for payment extensions, payment plans, or bill review can be made in person or by phone to (559) 843-2657.

Section 9: Payment Plan Agreement for Delinquent Balances on Residential/Multi-Family Accounts

The District offers a Payment Plan Agreement for residential accounts only that have a past due balance and may be subject to discontinuation of services. If a customer finds themselves in a situation where they are unable to pay their utility bill which has a balance owed that is in a past due aging state, the account holder only may enter into a Payment Plan Agreement as long as the agreement is requested and a Payment Plan Agreement is signed, in person. Only one outstanding Payment Plan will be allowed for a utility account at any given time.

A copy of the signed Payment Plan Agreement will be provided to the account holder at the time of execution, and will clearly state all terms associated with the payment arrangements. Subsequent copies of the Payment Plan Agreement will be provided to the account holder upon verbal or written request.

Section 10: Procedure for Petitioning a Review of the Bill or Contesting or Appealing the Amount of the Bill

District staff are available to explain the balance of a bill, how fees were assessed, and provide the account holder with a history of charges and payments. If a customer disagrees with the consumption calculation on their current bill they should contact the District and request that a service order be sent to staff to verify the most recent water meter reading and working condition of the water meter. After this step, if a customer is still in disagreement over the amount(s) billed, they may request a formal meeting, either in person or by telephone, with appropriate District staff to contest and appeal the amount of the bill. The outcome and decision by the General Manager shall be the final conclusion on the appeal. During the investigation and appeal process, water will not be shut-off for nonpayment until all findings have been issued. However, if a customer gives first notice to contest any amount of the bill after an account has reached the 60 day aged status, and has been slated for termination for nonpayment, the appeals process will not be available to the customer until all past due charges have been paid. If the appeal process results in favor of the customer, the District shall immediately issue a credit to the account.

Section 11: Discontinuation of Water, Sewer and Solid Waste Services for Non Payment

This is a summarized cycle of the District's practice for accounts entering into a "Shut Off" status. The District reserves the right when a deadline date falls on a Saturday, Sunday or designated District Holiday to instead use the next available business day:

- Billing for current services are dated the first day of the month and distributed to the account holder.
- Payment for current services are due by midnight PST on the date as indicated on the bill.
- Reminder billings for accounts with a 60+ day aged balance are distributed to the account holder and the occupant of the physical location on or about the 3rd day of the month.

- Alternative or Deferred Plan requests as required by State law are made available.
- Accounts that have a 60+ day aged balance will receive a \$25.00 late fee and will be subject to the disconnection process and notice if no alternative plan is entered into with the District.
- For accounts that have a 60+ day aged balance, a disconnection notice will be posted at the physical location that will disclose the amount owed, pending termination date, additional service charges and reinstatement process and the policies for extension of time and petition for bill review and appeal.
- A five (5) business day grace period after disconnection notice posting will be given before the Shut-Off action will commence; Multi-Residential accounts will be provided with a ten (10) calendar day period which will include weekends and holidays. Accounts that remain unpaid as of 8:00am on the next business day following the grace period will be assessed a \$100.00 disconnection fee and will be shut off and terminated. A \$50.00 reconnection of service fee will be assessed for reconnection during normal operating hours or a \$150.00 fee will be assessed for reconnection during nonoperational hours, subject to Consumer Price Index adjustments beginning January 1, 2021.
- Terminated accounts will receive a final billing for consumption used up through the date of termination. Any deposit on file will be applied to outstanding charges. Once a final billing has been processed, reinstatement of services may only be initiated through a new application process. All outstanding balances owed by the customer must be paid in full before new utility services will be provided.
- An annual report on the number of discontinuations of residential service for inability to pay will be posted on the District's website.

Section 12: Reinstatement of Services Following Shut-Off for Non Payment

Reinstatement of services may only be initiated through a new application process and a new account number will be assigned. Once a final closing bill has been issued it is not possible to re-open or reinstate that account. There will be no fee for reinstatement of services; however all outstanding balances owed by the customer must be paid in full.

Section 13: Voluntary Termination of Service

The established account holder or legally authorized person(s) must contact the District to initiate voluntary termination of service. The preferred method is either in person at Biola Community Services District, 4925 N Seventh Street, Biola CA 93606 or by telephone (559) 843-2657, however requests received by fax or email may be accepted if appropriate supporting documentation is submitted that will allow verification of the account holder. A forwarding postal address must be provided at the time of termination.

The District will take a final reading of the water meter at the physical location and the District's water valve will be turned off on the requested date. The District reserves the right to restrict available dates and times due to scheduling and staffing constraints. The customer will receive a final closing bill for the consumption used up through the day of termination, and all base rate charges will be prorated as of the termination date. Any deposit on file will be applied to the final closing bill. If there has been an overpayment of fees reflected on the final closing bill, the District will issue a refund to the account holder that is typically processed within 2-3 weeks.

Section 14: Transfer of Service Deposit

For customers that are closing service at one location and opening at a new location, for which there is a deposit on file and a deposit required, the District will consider the transfer of deposit from the old account to the new account if such Deposit was collected and is required. Additional funds may be required from the customer to satisfy the current deposit requirement. Consideration will only take place if all of the following conditions are met: 1) the account holder's name is the same for both accounts, 2) the old utility account balance will be paid in full, and 3) the final closing bill will result in a credit balance with an overpayment refund owed to the customer.

Section 15: Unpaid Balances

Outstanding balances owed from a terminated account will be assigned and charged to an active utility account if the same customer has an account at a different location with the District. If there is no active account, the District will pursue all legal collection methods available to ensure timely payment. The District reserves the right to refuse to initiate new services in the customer's name if the customer has unpaid balances from prior accounts.

Section 16: Account Holder and Occupant Privacy

California Senate Bill 998 "Discontinuation of Residential Water Service known as the Water Shutoff Protection Act" requires that the occupant of a physical address be provided with the account balance and history of charges and payments by the account holder should the account become delinquent and potentially be subject to disconnection from non-payment. Such information will be provided by written request submitted in person to the District.