

the City of Cookeville adopted the following policy regarding delinquent utility accounts. This policy provides that utility customers of the City of Cookeville receive notice on their initial billing; notice on their past-due notice; and notice on the hang-tag. Customers may request a hearing regarding any dispute with their bill three (3) days before the final due date. The hearing will be held before the City Manager and if the customer is dissatisfied with the results of that decision, the customer may appeal this decision to the Cookeville City Judge. The notice provision of the policy is specifically as follows:

IF PAYMENT IN FULL OR SATISFACTORY ARRANGEMENTS ARE NOT MADE BY THE FINAL DUE DATE FOR PAYMENT, YOUR UTILITY SERVICE WILL BE DISCONNECTED. If you wish to dispute the accuracy of any portion of the bill, you must request a hearing as provided below no later than three (3) business days before the FINAL DUE DATE. If our collector has come to the premises and/or service is discontinued, additional charges will be made.

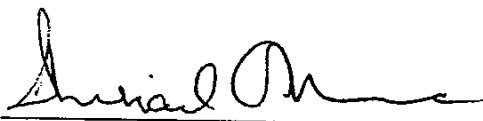
Accuracy of this billing may be contested in an administrative hearing. Evidence and witnesses may be presented to support your contest. You may be represented by an attorney. Request for a hearing must be filed in writing at the City of Cookeville Municipal Building, at the Customer Service Department between 8:00 AM and 4:30 PM Monday through Friday except on Holidays, but no later than three (3) business days prior to the FINAL DUE DATE. Prior to the hearing, you may confer with the Manager of the Customer Service Department and/or the City Clerk/Finance Director or their designee. If the dispute is unresolved, a hearing will be conducted by the City Manager or the City Manager's designee [a City Utility Department Director]. This person will have the authority to resolve any dispute about the bill. If you are dissatisfied with the result of the decision, you may appeal the decision to Cookeville City Judge by paying the bill in full, under protest. If your appeal to City Judge is upheld, your payment, or the appropriate portion thereof, will be reimbursed with interest, or said amount will be credited to your next utility bill.

A complete copy of the policy is attached as Exhibit A.

Accordingly, having adopted this policy, the City now moves the Court to dismiss the portion of the complaint seeking a temporary restraining order or a temporary injunction as said issues are moot. The defendant, the City of Cookeville, further moves the Court to cancel the hearing scheduled for Monday, April 16, 2001, to save the expense of said hearing.

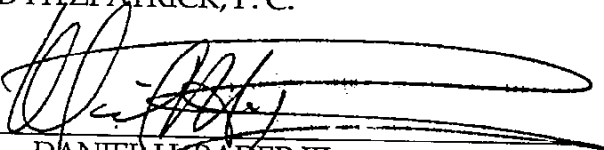
Respectfully submitted,

O'MARA & JOHNSON, P.L.L.C.

By 

T. MICHAEL O'MARA
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B.P.R.No. 003338

MOORE, RADER, CLIFT
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By 


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CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that a true and exact copy of the foregoing pleading has been served upon counsel for the plaintiffs in this cause by placing same in the United States Mail addressed to Mr. Samuel J. Harris, Attorney at Law, 9 South Jefferson Avenue, Suite 206, Cookeville, TN 38501; Mr. Jerry Lee Burgess, Attorney at Law, One South Jefferson Avenue, Suite One, Cookeville, TN 38501; and to Mr. John Wayne Allen, Attorney at Law, One South Jefferson Avenue, Suite One, Cookeville, TN 38501, with sufficient postage thereupon to carry same to its destinations, or by hand-delivering same to the offices of said counsel.

This the 11 day of April, 2001.

O'MARA & JOHNSON, P.L.L.C.

By 

T. MICHAEL O'MARA
Attorney for Defendant,
City of Cookeville, Tennessee
317 West Spring Street
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(931-5372-0450
B.P.R.No. 003338

CITY OF COOKEVILLE

POLICY FOR DELINQUENT UTILITY ACCOUNTS

The City of Cookeville will mail all utility bills approximately 15 days before the net due date. The statement will contain a due date to pay the net amount; a due date to pay the gross amount; and a FINAL DUE DATE. A past due notice will be mailed to the customer for all utility bills that remain unpaid after the date due to pay the gross amount. This notice will give the customer five business days [excluding weekends and legal holidays] to pay the utility bill or make satisfactory arrangements to pay the past-due amount.

On the sixth business day after the utility bill is past due the City of Cookeville will send a service man to the address and hang a notice on the premises. The notice will provide the account number and the amount of the unpaid balance and will give the customer an additional five business days [up to the FINAL DUE DATE] to pay the account before service is terminated. An additional \$10.00 collection fee will be assessed for this action.

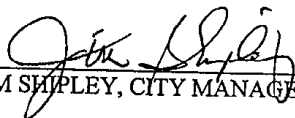
At any stage of this process, the customer may come to the City of Cookeville and question the accuracy of the computation of the bill and dispute whether or not the bill is owed. **HOWEVER, ANY CONTEST MUST BE FILED AT LEAST THREE BUSINESS DAYS PRIOR TO THE FINAL DUE DATE. IF NO CONTEST IS SO FILED AND/OR THE AMOUNT IS NOT PAID IN FULL, SERVICE IS THEN TERMINATED.** The procedure for disputing a bill is provided below.

The original statement, the past due notice and the hang tag will contain the following language to clearly notify the customer of their right to contest the utility bill:

IF PAYMENT IN FULL OR SATISFACTORY ARRANGEMENTS ARE NOT MADE BY THE FINAL DUE DATE FOR PAYMENT, YOUR UTILITY SERVICE WILL BE DISCONNECTED. If you wish to dispute the accuracy of any portion of the bill, you must request a hearing as provided below no later than three (3) business days before the FINAL DUE DATE. If our collector has come to the premises and/or service is discontinued, additional charges will be made.

Accuracy of this billing may be contested in an administrative hearing. Evidence and witnesses may be presented to support your contest. You may be represented by an attorney. Request for a hearing must be filed in writing at the City of Cookeville Municipal Building, at the Customer Service Department between 8:00 AM and 4:30 PM Monday through Friday except on Holidays, but no later than three (3) business days prior to the FINAL DUE DATE. Prior to the hearing, you may confer with the Manager of the Customer Service Department and/or the City Clerk/Finance Director or their designee. If the dispute is unresolved, a hearing will be conducted by the City Manager or the City Manager's designee [a City Utility Department Director]. This person will have the authority to resolve any dispute about the bill. If you are dissatisfied with the result of the decision, you may appeal the decision to Cookeville City Judge by paying the bill in full, under protest. If your appeal to City Judge is upheld, your payment, or the appropriate portion thereof, will be reimbursed with interest, or said amount will be credited to your next utility bill.

This Policy and Procedure is effective this 11th day of April, 2001.


JIM SHIPLEY, CITY MANAGER