



October 30, 2015

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

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

Dear Mayor Garcetti and City Attorney Feuer,

We write to ask you to immediately fix or have withdrawn a breathtakingly anti-consumer settlement agreement negotiated between the Los Angeles Department of Water and Power (LADWP) and one Cleveland lawyer for class action plaintiffs owed tens of millions of dollars in customer overbillings. The settlement is to be heard in Superior Court on November 3.

The proposed settlement broadly relieves the City of legal liability. But the settlement does not provide tens of thousands of customers that the City knows it overcharged a neutral forum to have their claims resolved. The settlement is so flawed that it is impossible for either the court or class members to know whether what over-billed customers are paid is fair, reasonable, or adequate, or whether customers' claims will be fairly resolved.

The faith of the citizens of Los Angeles has been shaken time and again by scandal after scandal at LADWP. This one-sided and corrupted settlement will represent another sad and disturbing chapter in LADWP's history if you do not intervene immediately. It's once again obvious that LADWP managers cannot be trusted to reform themselves. Ultimately, it's your responsibility to protect the ratepayers of this City.

We urge you to examine the concerns enumerated below about the settlement agreement, pull back the settlement, and fix these significant anti-consumer deficiencies before finalizing any agreement.

1. Defendants almost never get to unilaterally decide how much they owe defrauded customers in class action settlements, but in this case the LADWP decides the amount it owes overcharged customers. With no relief formulas and criteria in the settlement agreement, class members will have no way to know if they are getting the proper amounts in exchange for a release of their claims and waiver of their rights to sue. Though the agency touts the promise that 100 percent of all damages will be paid, in fact customers will only get back 100 percent of the overcharge that the LADWP determines the LADWP caused.

2. Consumers are being asked to release their right to litigate over the claims before LADWP tells them how much they are receiving. How can the consumer make that decision without knowing ahead of time how much will be paid back?
3. The third party assigned to deal with disputes between consumers and LADWP is Paul Bender, a utility consultant, who is much more likely to side with the nation's largest public utility than any ratepayer. A nonprofit ratepayer advocacy group with no pecuniary interest in the utility industry should have this role of arbiter, or another nonprofit group with a duty to carry out a charitable purpose and accountability under IRS laws.
4. The special master in the case is Barkovich & Yapp, a law firm that represents large commercial customers against utilities. Again, the conflict between the special master's financial relationship with an entity he will negotiate with time and time again, as opposed to a single ratepayer, is profound and will not lead to pro-consumer oversight.
5. The settlement is silent on the subject of how much customers who were under-billed will end up paying through back billing. But ratepayers are being asked to waive their rights to sue or dispute the back bills as a condition of joining the settlement. Customers have received astronomical back bills and some are receiving new back bills for underpayment now. How can ratepayers be sure that these back bills won't remain higher than any refunds? The settlement should release customers from their back bills. The city should instead seek the costs of those back bills from the company who built the faulty billing system.
6. There is no transparency in the claims process for ratepayers so that they know how the determination of a refund was calculated. The city should be required to turn over to the ratepayer and an independent ratepayer advocate all information in the file about the ratepayers' billings so that they can assess the validity of their claim. LADWP is asking that ratepayers trust it with exactly the task that led to this scandal – billing – and yet LADWP is offering consumers no access to their ratepayer files to assess whether LADWP is getting it right this time.
7. Customers with billing complaints must submit those complaints to LADWP for review, a right they already have. Yet for months, the LADWP has been wrongfully denying these claims, even when it knew the claims were valid. Yet under the settlement, customers are forced into a rigged claim review process we already know does not work and will lose all of their legal rights. Customers will lose any ability to have their claims heard by a fair and neutral party. They also must file claims within 120 days, rather than a year.
8. Jack Landskroner, the Cleveland attorney who is settling the case on behalf of ratepayers, over the objections of the California counsels who were first to file class actions lawsuits, will receive \$13 million for about 90 days work under the agreement and distribute it or not as he sees fit. His expert on the case, Paul Bender, acknowledges in his declaration that he "has only just begun its work,"

so it's hard to see how that fee was earned, particularly as this settlement is so lacking for consumers.

Fortune 500 companies facing multiple class action lawsuits on a high profile issue typically look for a beholden plaintiffs attorney they can settle with on the weakest terms for a large attorney's fee and see if an overburdened judge will sign off. That is clearly the tactic the LADWP is taking here. But LADWP is not a Wall Street corporation with a fiduciary duty to maximize profits for shareholders. It is a public utility with a duty to be transparent and accountable to the community, and to you Mayor, the public's representative. The LADWP should not be allowed to ignore the interests of ratepayers and it's your responsibility to stop the LADWP.

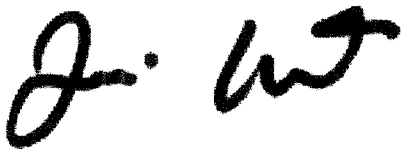
When confronted with these concerns previously, the LADWP has characterized the problems as a dispute among lawyers over fees. However, immediate past president of Consumer Attorneys of California, Brian Kabatek, who has no stake in this case, said on KCBS-TV, "This is possibly the worst settlement I've ever seen."

The attorneys opposing this settlement on behalf of their plaintiffs do make the case that an out-of-state attorney is receiving "outrageous fees in exchange for control over every aspect of the settlement." This control helps explain how, as the opponents to the agreement state, "Under this settlement, the LADWP alone will decide how much it pays out and neither the Court nor Class Members will know how they did it."

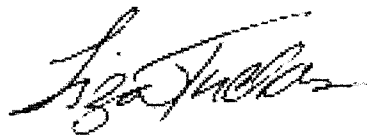
Make no mistake, this settlement is not fair to ratepayers. It is an inside job between the LADWP and an attorney who doesn't truly represent the interest of the community. Given all of LADWP's problems, and its desire to raise rates in the near future, this settlement will reach none of its stated legal or political goals. It will shortchange, confuse, and anger ratepayers.

Consumer Watchdog is deeply troubled by the continuing disregard of the Los Angeles Department of Water and Power for the wellbeing of ratepayers. City Attorney Feuer and Mayor Garcetti, both of your credentials as pro-consumer public servants are on the line now based on how you handle this settlement. We ask that you personally review the matter and intervene immediately.

Sincerely,



Jamie Court
President



Liza Tucker
Consumer Advocate