



City of Palo Alto

City Council Staff Report

(ID # 9024)

Report Type: Consent Calendar

Meeting Date: 4/2/2018

Summary Title: Water Leak Bill Adjustments

Title: Adoption of a Resolution Amending Utility Rule and Regulation 11 (Billing, Adjustments and Payment of Bills) to Update the City's Bill Adjustment Process for Water Leaks and Metering Errors

From: City Manager

Lead Department: Utilities

RECOMMENDATION

Staff, the Utilities Advisory Commission (UAC), and the Finance Committee recommend that the City Council adopt a resolution amending Utility Rule and Regulation 11 “Billing, Adjustments, and Payment of Bills” to update the City’s bill adjustment processes for higher than average bills caused by water leaks and metering or billing errors.

EXECUTIVE SUMMARY

Since 2006 the Water Utility has specified that all consumption of metered water is the financial responsibility of the account-holder, a policy created to encourage users to maintain their domestic and irrigation water lines and to minimize water waste.

Re-activation of irrigation systems after the drought triggered an increase in the number of non-visible water leaks, and impacted some account-holders’ water bills, from modest to very large amounts. These water leak bill increases can be unknown to account-holders for days or weeks because water meters are read and billed at 27-33 calendar-day intervals. At the UAC public meetings in July and November 2017, water account-holders, the UAC, and staff discussed alternative policy designs that could: a) still make account-holders responsible for repairing their leaks, b) consider incorporating alternative water leak policies of other water agencies, and c) maintain the fiscal health of the Water Utility. Staff presented a draft revision of Rule 11 to the UAC on December 6, 2017, which discussed and voted 5-0 (with 2 absent) ([UAC Final Minutes of 12-6-17 Meeting](#)) to recommend that proposal for Council approval). On February 20, 2018, the Finance Committee ([Staff Report ID#8873](#)) discussed the staff proposal, suggested clarifications, and voted 4-0 to recommend the proposal for Council approval ([Excerpted draft minutes of 2-20-18 Finance Committee meeting](#)).

BACKGROUND

When water leaks occur on the account-holder's side of the meter, the Utilities Department encourages users to investigate whether their homeowner insurance policy covers the costs associated with leaks, related to both water damage and the cost of water consumption. Utilities staff then works with account-holders to address financial hardship from higher-than-normal water bills by creating mutually agreeable payment arrangements to spread payments over extended periods.

The current Utilities Rule and Regulation 11, "Billing, Adjustments and Payments of Bills" was adopted by Council on May 9, 2006 ([CMR: 219:06](#)). The proposed changes cover the following two sections of Rule 11:

Section L. WATER OR GAS LEAK CREDITS (*from 5-9-2006 to present*)

It is the Customer's responsibility to maintain their lines and equipment in a reasonable condition such that leaks do not occur. CPAU shall not make billing adjustments for Water, Gas or Wastewater Charges resulting from leakage in a line on the Customer Premises beyond the CPAU Meter, unless CPAU determines that City staff was solely responsible for such leakage.

Section I: METERED SERVICE BILLING ERRORS AND ADJUSTMENTS

Where a Customer has been undercharged or overcharged for metered Service, the date and cause of which can be reliably established where a customer has been undercharged or overcharged, the retroactive billing adjustment (back bill or refund) shall not exceed three years.

Discussion

See Attachment B for the complete proposed revision Utilities Rule and Regulation 11, "Billing, Adjustments, and Payment of Bills"

Summary of Proposed Changes to Utilities Rule and Regulation 11, "Billing, Adjustments, and Payment of Bills":

- a) Deletion of Natural Gas references from Rule and Regulation 11, Section L, "Water or Gas Leak Credits"
- b) Add new language to the renamed Section L, "Water Leak Bill Adjustments":

The General Manager of Utilities, or delegate, may approve Water leak adjustments for Customer's Water and Wastewater Accounts (when Wastewater charges are based on Water consumption) under the following conditions:

1. Customers having higher-than-average Water consumption for a particular billing period due to leaks may request a Water and/or Wastewater Leak bill adjustment, as applicable.

2. Applications for Water and Wastewater leak bill adjustments must be submitted to the Utilities Department within 60 days from the bill's due date, for the bill covering the period in which the higher-than-average Water consumption occurred.
3. Customers are restricted to one Water and/or Wastewater leak billing adjustment in each 36-month period.
4. Higher-than-average Water consumption is defined as the volume of water greater than 100% of the Customer's normal consumption compared to the Customer's historical consumption over the prior three years, calculated by CPAU using prior averages for the relevant billing period(s).
5. Leaking systems must be repaired before the Customer receives a Water or Wastewater leak bill adjustment, to ensure future bills are not impacted by the same leak. Shutting off the source of the leak is not considered a repair. Undetermined or general high water consumption is not eligible for adjustment.
6. Water leak bill adjustments will be applied to Customer bills based on the higher-than-average water volumes calculated by CPAU. Water leak bill adjustments will be applied to 50% of the calculated higher than average water volume, to a limit of \$2,500, using the Tier 1 Commodity Rate cost of the appropriate residential or commercial Water Rate Schedule.
7. Wastewater bill adjustments related to Water leaks will be made based upon the adjusted Water volume, and are not included in the \$2,500 Water leak bill adjustment limit.
8. Utility User Tax (UUT) billing adjustments related to Water leaks will be made based upon the adjusted Water volume and are not included in the \$2,500 Water leak bill adjustment limit.
9. Administrative decisions regarding Water and Wastewater leak bill adjustments, including eligibility, volume calculations, and adjustment costs will be made by the General Manager of Utilities, or delegate, and are final.

c) Revise section 1 of Rule 11, Section I, "Metered Service Billing Errors and Adjustments" as shown, for clarity:

1. Where a Customer has been undercharged or overcharged for metered Service, the date and cause of which can be reliably established by CPAU, the retroactive billing adjustment (back bill or refund) shall not exceed three years. The maximum bill adjustment for undercharges shall be \$500 per Account, per incident.

d) Combine sections 2 and 3 of Rule 11, Section I, into a new section 2:

When, as a result of either a CPAU or a Customer-initiated accuracy test, an Electric or Gas Meter is found to register more than two percent (2%) fast, or a Water Meter is found to register more than one and a half percent (1.5%) fast, CPAU will refund the Customer the overcharge based upon the corrected Meter readings for the period the Meter was in use, or three years, whichever is less. Any applicable late payment will be waived.

When, as a result of an accuracy test, a Customer's Electric or Gas Meter is found not to register, or to register more than two percent (2%) slow, or if a Water Meter is found not to register, or to register more than one and half percent (1.5%) slow, CPAU may bill the Customer for the undercharge based on an average bill. The average bill will be computed based on an estimate of the Customer's consumption during a prior month in the same season or on the consumption in the same period of the prior three years.

- e) Add a new section 4 to Rule 11, Section I:
 - 4. When CPAU is the cause of an error that results in an overcharge, CPAU will refund the full amount of the overcharge, subject to the three year retroactive billing adjustment period described above. Back bills for undercharges will be calculated and approved by the General Manager of Utilities, or delegate, and may be waived over \$500 per Customer Account, per incident, subject to the three year retroactive billing adjustment period described above.

RESOURCE IMPACT

Adoption of the staff recommendation will not impact the Gas Enterprise Fund since there has never been a gas leak bill adjustment made under this policy, and the gas leak adjustment language is recommended to be removed from Rule and Regulation 11.

Water leaks that have been identified, repaired, and submitted to the Utilities Department for adjustment in Fiscal Year (FY) 2017-2018, prior to adoption of this amendment of Rule 11, will be eligible for water leak adjustments when meeting the approved conditions.

The staff recommendation to amend the water leak bill adjustment policy could result in financial losses to the Water and Wastewater Funds, depending on eligible leak frequency and the number of customers seeking bill adjustments. The cost to the Water Utility during the last full fiscal year under the prior policy, when water leak adjustments were offered to account-holders (FY 2004-2005), was \$50,000.

Adoption of the staff recommendation is projected to result in negligible financial losses to the General Fund's Utility User Tax (UUT) revenue.

Adoption of the staff recommendation for new language in Section I (4) of Rule 11, "Metered Service and Billing Errors", fully refunding overcharges and capping back bills for undercharges at \$500, subject to the three year retroactive billing period, is not projected to result in significant revenue losses for metered services.

POLICY IMPLICATIONS

The current Utilities Department policy for the water and gas adjustments for leaks was approved by Council in 2006. Council adoption of the recommended changes would become effective immediately upon adoption and retroactive to July 1, 2017.

ENVIRONMENTAL REVIEW

Council adoption of changes to the Utilities Rules and Regulation 11 (Billing Adjustments and Payment of Bills) is not a project requiring California Environmental Quality Act (CEQA) review, under Public Resources Code Section 21065 and CEQA Guidelines Section 15378(b)(5), because it is an administrative governmental activity which will not cause a direct or indirect physical change in the environment.

Attachments:

- Attachment A: RESO Rule 11 Billing Adjustments Payments 6054031 1-23-18
- Attachment B: Proposed Utility Rule and Regulation 11 Billing Adjustments and Payment of Bills

Resolution No. _____
Resolution of the Council of the City of Palo Alto Amending Utilities
Rule and Regulation 11 (Billing, Adjustments and Payment of Bills)

R E C I T A L S

A. Pursuant to Chapter 12.20.010 of the Palo Alto Municipal Code, the Council of the City of Palo Alto may by resolution adopt rules and regulations governing utility services, fees and charges.

B. On July 12, 2017 and November 1, 2017 the Utility Advisory Commission received public comments regarding billing policies related to water leaks, and on December 6, 2017 the Utilities Advisory Commission recommended that the Council of the City of Palo Alto adopt a resolution amending Utilities Rule and Regulation 11 (Attachment B).

C. On February 20, 2018 the Finance Committee recommended that the Council of the City of Palo Alto adopt a resolution amending Utilities Rule and Regulation 11 (Attachment B).

D. The amended Rule 11 includes a new procedure for requesting water and wastewater bill adjustment due to water leaks, deletes references to natural gas leaks as inapplicable in this context, and updates the City’s billing adjustment policies for accounts impacted by incorrect meter or billing system data.

The Council of the City of Palo Alto does hereby RESOLVE as follows:

SECTION 1. Pursuant to Section 12.20.010 of the Palo Alto Municipal Code, Utility Rule and Regulation 11 (Billing, Adjustments and Payment of Bills) is hereby amended as attached and incorporated. Utility Rule and Regulation 11, as amended, shall become effective _____.

SECTION 2: The adoption of this resolution amending Utility Rules and Regulation 11 (Billing, Adjustments and Payment of Bills) is not a project requiring California Environmental Quality Act (CEQA) review, under California Public Resources Code Section 21065 and CEQA

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Not Yet Approved

Guidelines Section 15378(b)(5), because it is an administrative governmental activity which will not cause a direct or indirect physical change in the environment.

INTRODUCED AND PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

Assistant City Attorney

City Manager

Utilities General Manager

Director of Administrative Services

BILLING, ADJUSTMENTS AND PAYMENT OF BILLS**DRAFT RULE AND REGULATION 11****A. BILLING UNITS**

All metered billing units used for billing purposes shall be determined to the nearest whole unit. Such units may include, kW, kWh, kVA, kVar, hp, Therms, and/or ccf.

B. PAYMENT OF BILLS

CPAU issues bills to its Customers on a regular interval. Bills shall be deemed received upon physical or electronic delivery to Customer, or three calendar days following the deposit of the bill in the United States Mail to the Customer's billing address. Bills for CPAU Services are due and payable 20 calendar days following issuance of the bill statement. Bills unpaid after the 20 day period are considered delinquent ("past due"). If a Customer's payment is not received by CPAU after 25 days of bill issuance, the outstanding balance will be assessed a late payment Charge.

For the convenience of Customers there are a number of ways to pay CPAU bills:

1. By enclosing the bill stub and check and mailing to: CPAU, P.O. Box 10097, Palo Alto, CA 94303-0897.
2. By enrolling in the Utilities Bank Draft Program. Payments will be drafted from a Customer's designated checking or saving account and automatically applied to the Customer's Utility Account for each current Billing Period.
3. By paying in Person at the Civic Center, Revenue Collections, 1st Floor, 250 Hamilton Avenue, Palo Alto between the hours of 8:00 a.m. and 4:30 p.m. The City offices are closed on alternate Fridays. Customers should call 650-329-2317 to ensure the office is open. Credit card payments are accepted at Revenue Collections. Customers should call to see which credit cards are accepted. Customers can pay delinquent bills with a credit card by phone by calling the Utility Customer Service Center during business hours.
4. By depositing the payment in the walk-up Night Depository Box in the front of the City Hall building on the Civic Center Plaza, or at the drive-up Night Depository Box in the Civic Center Garage, on "A" Level.
5. By paying online through the "My Utilities Account" application, accessible from the



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Utilities' website. Payment through the "My Utilities Account" may be made by credit card or by bank draft.

6. By enrolling at a financial institution or service company that can provide electronic payments to CPAU on behalf of the Customer.
7. By Property Managers completing a "Revert to Owner (RTO) Agreement" in order to maintain utility service to units during the interim period between tenants.

C. BUDGET BILLING PAYMENT PROGRAM

The Budget Billing Payment Program establishes equalized monthly payments and is available to all Residential Customers who qualify as set forth below:

1. Customers may join the Budget Billing Payment Program at any time providing the Customer Account balance is zero and the Customer has not been previously removed from the Budget Billing Program for non-payment.
2. A Customer electing to utilize the program shall agree to make monthly payments based on CPAU's forward estimate of the Customers' Charges for the subsequent twelve-month period.
3. CPAU does not guarantee that the total actual Charges will not exceed, or be less than, its original estimate. Customers should review their Account on an ongoing basis and request changes to the budget billing amount in response to changes in their household usage. CPAU may require that Customers pay a revised monthly amount as a condition to continuing participation in the plan, if CPAU determines that substantial changes in Customer usage patterns or consumption has occurred.
4. CPAU will perform an annual true-up on Customer Budget Billing Accounts every twelve months. This will result in either a Customer credit for CPAU over-collection or an outstanding balance due from the Customer for under-collection by CPAU during the prior twelve months.

D. DISCONTINUANCE OF BUDGET BILLING



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The Customer's Budget Billing Payment Program shall remain in effect, subject to review of the monthly payment amount, and shall terminate when:

1. The Customer notifies CPAU to terminate participation in the Budget Billing Program;
2. CPAU notifies the Customer of the termination of its Budget Billing Payment Program;
3. The Customer no longer takes Service at the Premises; or
4. The Customer owes an amount of two or more monthly payments. However, if the Customer eliminates the delinquency, removal from the program will not occur.

Upon termination of either Utility Service or participation in the Budget Billing Payment Program, any amount owed by the Customer for actual Charges shall immediately become due and payable or any amount due to the Customer shall be refunded or credited.

E. INSUFFICIENT FUNDS FOR PAYMENT

1. A Service Charge will be made and collected by the City of Palo Alto for each check returned by a bank to CPAU for the reason of insufficient funds in accordance with Rate Schedule C-1.
2. Unsuccessful Bank Drafts due to insufficient funds will be subject to late payment fees in accordance with Rate Schedule C-1.

F. PRORATION OF BILLS

1. Bills for Utility Services will be prepared for each Billing Period in accordance with the applicable Rate Schedules or CPAU contract applicable to the Premises served.
2. Proration is intended to produce a uniform average unit cost for the commodity regardless of the number of days in the Service period. Services will be prorated if the number of actual Service days differs from the number of days in the applicable Billing Period. Electric Demand (kW) and Electric Power Factor Charges will not be prorated. Proration will not occur for those Rate Schedules that contain Meter fees, connection fees, deposits, and other miscellaneous fees.



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3. If Rate Schedules change during the Billing Period, Charges will be prorated on the basis of the number of days covered by the previous Rate Schedule and the number of days covered by the new Rate Schedule.

G. DELINQUENT BILLS AND LATE PAYMENT CHARGES

1. Utilities Charges incurred in the applicable Billing Period are due and payable by the “Due Date” indicated on the front of the bill statement. Bills unpaid by the due date are delinquent and a late payment Charge will be added to the outstanding balance as specified in Rate Schedule C-1.
2. Residential and commercial Accounts having unpaid balances older than 180 days shall be subject to collection action by the City. Collection action may result in notifications to credit reporting agencies.
3. Late payment Charges may be suspended by CPAU if the Customer is withholding full or partial payment pending final resolution of disputed bill. The late payment Charge may be waived by CPAU based upon the ultimate resolution of a disputed Charge.
4. Full or partial payments towards outstanding balances will be applied to the oldest outstanding Charges. Failure to pay outstanding balances will result in late fees and termination of Service for non-payment.
5. In the event that a Customer donating to the ProjectPLEDGE Program has a delinquent bill, the late Charge percentage will not be applied to the amount of the Customer’s pledge. However, the Customer’s participation in ProjectPLEDGE will be discontinued after three consecutive Billing Periods in which the Customer has not included their pledge amount in the bill.
6. Customers whose Utility bills include payments of principal and/or interest on loans from CPAU which are secured by deeds of trust on real property shall be charged a late payment Charge when any current Utility bill includes an unpaid installment on such loan from a prior bill. Nothing in this Rule and Regulation shall be construed to alter in any way the duty of the Customer to pay any installment on a loan from CPAU when due, or to alter the rights of CPAU to enforce the payment of such installments.



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H. DISPUTED BILLS

If bill accuracy is questioned or disputed by the Customer, Customers shall request an explanation from CPAU within the current Billing Period or as soon as reasonably possible. After reviewing the disputed bill, CPAU will:

1. Issue a corrected bill to the Customer or reflect the correction on the bill in a subsequent Billing Period.
2. Determine if an amortization period (“payment arrangement”) for the Charge-in-question shall be provided by CPAU. If a payment arrangement is offered by CPAU and agreed to by the Customer, Utility Services will not be discontinued for nonpayment while the Customer complies with the payment arrangement for the “past due” balance, and subsequent Utilities bills are paid on time during the payment arrangement period.
3. Advise the Customer that the bill is correct as presented. The Customer may choose, at the Customer’s option, to have the Meter removed for testing under the Provisions of Rule 15 “Metering” and payment of the applicable fee found in Rate Schedule C-1 “Exchange Meter for Accuracy Test”.

I. METERED SERVICE BILLING ERRORS AND ADJUSTMENTS

~~Where a Customer has been undercharged or overcharged for metered Service, the date and cause of which can be reliably established where a customer has been undercharged or overcharged, the retroactive billing adjustment (back bill or refund) shall not exceed three years.~~

~~1. Where a Customer has been undercharged or overcharged for metered Service, the date and cause of which can be reliably established by CPAU, the retroactive billing adjustment (back bill or refund) shall not exceed three years. The maximum bill adjustment for undercharges shall be \$500 per Account, per incident.~~

1. When, as a result of either a CPAU or a Customer-initiated accuracy test, an Electric or Gas Meter is found to register more than two percent (2%) fast or a Water Meter is found to register more than one and a half percent (1.5%) fast, CPAU will refund the Customer the overcharge based upon the corrected Meter readings for the period the Meter was in use, or three years, whichever is less. Any applicable late payment will be waived.



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2. When, as a result of a test, a Customer's Electric or Gas Meter is found not to register or to register more than two percent (2%) slow, or a Water Meter is found not to register or to register more than one and half percent (1.5%) slow, CPAU may bill the Customer for the undercharge base on an average bill. The bill will be computed based on an estimate of the Customer's consumption during a prior month in the same season or on the consumption in the same period of the prior three years.
3. When, a billing or consumption problem has been investigated and verified, Utilities will attempt to notify the Customer within 30 working days or a reasonable amount of time depending on the complexity of the error.
4. When CPAU is the cause of an error that results in an overcharge, CPAU will refund the full amount of the overcharge, subject to the three year retroactive billing adjustment period described above. Back bills for undercharges will be ~~determined~~ calculated and approved by the General Manager of Utilities, or delegate, and may be waived in an amount up to \$2,500 over \$500 per Customer Account, per incident, subject to the three year retroactive billing adjustment period described above.

J. UNMETERED SERVICE BILLING ERRORS AND ADJUSTMENTS

Where a Customer has been undercharged or overcharged for unmetered Service, the date and cause of which can be reliably established where a customer has been undercharged or overcharged, the retroactive billing adjustment (back bill or refund) shall not exceed three years.

K. THEFT OF SERVICE

Where there is evidence that meter tampering or theft of Utility Service has occurred, CPAU will retroactively bill, and collect any underpayment or nonpayment of Charges as well as any labor or material costs related to investigating the theft and making any required corrections. The applicable period to assess Charges shall commence from the date it can be reasonably established the theft began to the date in which the underpayment was discovered and initially established. The labor and material costs related to investigating the theft will be calculated in accordance with Utility Rate Schedule C-1 and/or any other applicable Utility Rate schedules. All underpayments or non-payments shall become immediately due and payable. Customers committing theft of Utility Service may also be subject to legal action pursuant to Rule 1, California Penal Code sections 487,496, 498,



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591, 592, 593 and California Civil Code sections 1882 through 1882.6.

Customers billed for theft of service can dispute the charges by following the process described in Rule and Regulation 11.H. If that process does not resolve the matter, customers billed for theft of service may, within thirty (30) calendar days, request (by telephone, in writing, or in person) an administrative hearing. If a hearing is requested, the city manager or his designee shall schedule a date and time for said hearing as soon as possible after the request is filed, but no later than ten (10) business days after the filing of such request for hearing.

At the hearing, the customer billed for theft of service may offer evidence in person or in the form of a written statement, setting forth the reasons why the customer believes the determination of theft is incorrect. Utilities personnel shall also be allowed to offer whatever evidence they may have as to why they have established the customer engaged in utilities theft. The city manager or his designee shall make a determination as to whether the customer is liable for the charges for theft of service.

L. ~~WATER OR GAS~~ LEAK CREDITS

~~It is the Customer's responsibility to maintain their lines and equipment in a reasonable condition such that leaks do not occur. CPAU shall not make billing adjustments for Water, Gas or Wastewater Charges resulting from leakage in a line on the Customer Premises beyond the CPAU Meter, unless CPAU determines that City staff were solely responsible for such leakage.~~

The General Manager of Utilities, or delegate, may approve Water leak adjustments for Customer's Water and Wastewater Accounts (when Wastewater charges are based on Water consumption) under the following conditions:

1. Customers having higher-than-average Water consumption for a particular billing period due to leaks may request a Water and/or Wastewater Leak bill adjustment, as applicable.
2. Applications for Water and Wastewater leak bill adjustments must be submitted to the Utilities Department within 60 days from the bill's due date, for the bill covering the period in which the higher-than-average Water consumption occurred.
3. Customers are restricted to one Water and/or Wastewater leak billing adjustment in each 36-month period.
4. Higher-than-average Water consumption is defined as the volume of water greater than 100% of the Customer's normal consumption compared to the Customer's historical



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- consumption over the prior three years, calculated by CPAU using prior averages for the relevant billing period(s).
5. Leaking systems must be repaired before the Customer receives a Water or Wastewater leak bill adjustment, to ensure future bills are not impacted by the same leak. Shutting off the source of the leak is not considered a repair. Undetermined or general high water consumption is not eligible for adjustment.
 6. Water leak bill adjustments will be applied to Customer bills based on the higher-than-average water volumes -calculated by CPAU. Water leak bill adjustments will be applied to 50% of the calculated higher -than -average water volume, to a limit of \$2,500, using the Tier 1 Commodity Rate cost of the appropriate residential or commercial Water Rate Schedule.
 7. Wastewater bill adjustments related to Water leaks will be made based upon the adjusted Water volume, and are not included in the \$2,500 Water leak bill adjustment limit.
 8. Utility User Tax (UUT) billing adjustments related to Water leaks will be made based upon the adjusted Water volume and are not included in the \$2,500 Water leak bill adjustment limit.
 9. Administrative decisions regarding Water and Wastewater leak bill adjustments, including eligibility, volume calculations, and adjustment costs will be made by the General Manager of Utilities, or delegate, and are final.

M. REFUSE BILLING ERRORS, DISPUTES AND ADJUSTMENTS

1. Adjustments to the Refuse bill shall be requested to the City's Collector. Customers with adjustments unresolved by the City's Collector, may dispute their claim with the City's Public Works Department, Refuse. Billing adjustments will be resolved by following the City's Rules and Regulations, Chapter 5.20 of the Palo Alto Municipal Code and specific regulations promulgated by the City Manager pursuant to the authority established in Chapter 5.20.
2. When an error in billing has occurred, the date and cause of which can be reliably established where a Customer has been undercharged or overcharged, the retroactive billing adjustment shall not exceed three years.

(END)

