

**BEFORE THE PUBLIC SERVICE COMMISSION  
OF THE STATE OF MISSISSIPPI**

**CANTON MUNICIPAL UTILITIES  
WM-100-0039-01**

**DOCKET NO. 2016-UN-255**

**RE: NOTICE OF INTENT OF CANTON MUNICIPAL UTILITIES TO SEEK  
AUTHORIZATION OF MISSISSIPPI PUBLIC SERVICE COMMISSION FOR  
RATES PREVIOUSLY LEVIED FOR GAS SERVICES WITHIN ITS  
CERTIFICATED AREA IN MADISON COUNTY, MISSISSIPPI**

**RECOMMENDED ORDER**

THIS DAY, there came on for consideration before the Mississippi Public Service Commission (“Commission”) the filing by Canton Municipal Utilities (“CMU”) seeking authorization for rates previously levied for the provision of gas service to its customers<sup>1</sup> in its certificated service area in Madison County, Mississippi. Relative thereto, the Commission hereby orders as follows, to wit:

1.

CMU is a public utility, as defined in Miss. Code Ann. § 77-3-3(d)(ii), and is engaged in the business of providing gas service to the public for compensation, including to customers located greater than one (1) mile outside corporate boundaries, pursuant to its Certificate of Public Convenience and Necessity authorizing its operation in a specified area in Madison County, Mississippi. The Commission has jurisdiction over the parties and the subject matter in this cause pursuant to Miss. Code Ann. § 77-3-1.

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<sup>1</sup> In this order, “customers” means CMU gas ratepayers who fall under the jurisdiction of the Commission.

2.

A Commission investigation into municipalities serving customers more than one (1) mile outside city limits revealed that CMU was charging rates to customers not in accordance with its Commission-approved tariff, in violation of Miss. Code Ann. § 77-3-37.<sup>2</sup> CMU routinely transferred resultant surplus revenues in its utility fund to the City of Canton's general municipal fund for non-utility services as well as the Canton Redevelopment Authority. The Commission has made CMU aware of statutory limits placed on the transfer of surplus municipal utility revenues to a municipal general fund. A municipality may not transfer surplus funds from a utility operation and maintenance fund to its general fund at first instance, but is only allowed to do so after the purposes of all utility funds have been fully carried out in the priority set forth by Miss. Code Ann. § 21-27-61. The investigation also revealed that CMU has failed to pay interest on deposits ("IOD") owed to customers in violation of Commission rules and regulations.<sup>3</sup>

3.

The Commission last approved a CMU tariff for gas service on February 7, 1994. However, CMU raised rates for its gas service customers without Commission approval effective August 4, 2009, in violation of Miss. Code Ann. § 77-3-37. The Commission granted temporary approval to CMU's increased rates for gas service customers on January 30, 2107.

4.

In response to the Commission investigation's findings, CMU filed its notice of intent to seek authorization for the non-Commission-approved rates it previously levied for the provision of gas service to its customers in its certificated service area on November 29, 2016. Proper notice of the matter was given to all interested persons and to customers as is required by Mississippi law and

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<sup>2</sup> Miss. Code Ann. §77-3-37 reads, in part, "No public utility shall make any change in any rate which has been duly established under this chapter, except as provided in this chapter."

<sup>3</sup> Rules and Regulations Governing Public Utility Service, Rule 9.

the rules and regulations of the Commission. On December 15, 2016, the Commission suspended the proceeding pending a Public Utilities Staff ("Staff") investigation, and ordered continuances on several occasions during which CMU filed an amended rate notice filing.

4.

On January 24, 2017, the Commission referred this matter to Central District Public Service Commissioner Cecil Brown for hearing, report and recommendation, pursuant to Miss. Code Ann. §77-3-40. Commissioner Brown convened a hearing on September 27, 2018 to receive testimony and evidence, which has been fully considered.

5.

Being fully advised in the premises, and upon the recommendation of Staff, the Commission finds that in this case the public interest requires distinctive treatment aimed at ensuring the availability of adequate and reliable service to CMU's customers outside one (1) mile of the City of Canton's corporate boundaries. The Commission further finds that additional filings are necessary in order to fully resolve this matter.

**IT IS, THEREFORE, ORDERED** that:

(1) CMU shall file with the Commission testimony and supporting exhibits documenting the following matters on or before **March 1, 2019**:

- (a) The decision to increase rates for gas service for CMU's customers that went into effect on August 4, 2009, including, but not limited to, the calculations that led CMU to the conclusion that an increase in gas rates was necessary;
- (b) The sum of gas rates collected from CMU customers from August 4, 2009 through January 30, 2017 that are in excess of the rates the Commission approved on February 7, 1994;

- (c) The IOD accrued on the deposits paid by customers for gas service and held by CMU for the 2016, 2017, and 2018 calendar years;
- (d) The average amount of IOD owed to customers per rate class;
- (e) The number of customers in all rate classes that will receive an IOD credit on their gas bills;
- (f) The schedules showing how CMU's monthly purchased gas adjustment was calculated for each month for years 2009 through 2017.<sup>4</sup>
- (e) Additional documents and/or testimony supporting the responses CMU provided to Staff in response to Staff data requests: MPUS 4-1, MPUS 4-2, MPUS 4-3, and MPUS 4-4, attached hereto as Exhibit "A;"<sup>5</sup>

(2) The parties may within fifteen (15) days from the date of entry of this Recommended Order file exceptions to the Recommended Order for the review of the full Commission in accordance with Miss. Code Ann. §77-3-40. If no exceptions are filed, the Recommended Order shall become the Order of the Commission.

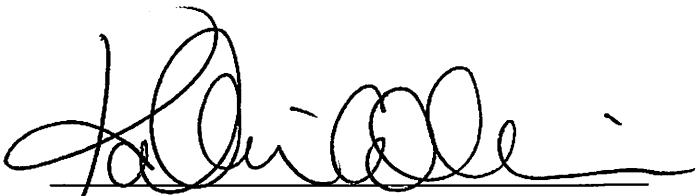
DATED this the 25<sup>th</sup> day of January, 2019.

MISSISSIPPI PUBLIC SERVICE COMMISSION

  
\_\_\_\_\_  
CECIL BROWN, COMMISSIONER

<sup>4</sup> CMU's answer should be in an electronic format similar to CMU's response to the Staff's data request: MPUS 1-11 in this docket.

<sup>5</sup> The Commission finds that the responses CMU provided to these data requests are inadequate, and orders CMU to work with the Staff in order to resubmit its responses to the same.



KATHERINE COLLIER, Executive Secretary  
Effective this the 26<sup>th</sup> day of January, 2019.



MISSISSIPPI PUBLIC UTILITIES STAFF  
RECEIVED  
DEC 28 2018  
EG&C DIVISION

MISSISSIPPI PUBLIC UTILITIES STAFF ("THE STAFF")  
FOURTH SET OF DATA REQUESTS TO  
CANTON MUNICIPAL UTILITIES ("CMU")  
DOCKET NO. 2016-UN-253;  
DOCKET NO. 2016-UN-254; AND  
DOCKET NO. 2016-UN-255  
DECEMBER 13, 2018

- MPUS 4-1** On October 16, 2018, the Clarion Ledger reported that the State Auditor issued civil demands to current and former CMU's employees. Please identify each improper charge for which a demand was issued by the State Auditor. Please provide the following information for each charge identified:
- (1) the date of each transaction;
  - (2) the general ledger account where each transaction was recorded;
  - (3) the utility fund where the charge was recorded, if applicable; and
  - (4) the total amount of the transaction.
- MPUS 4-2** In reference to MPUS 4-1, please indicate if any of the charges for which demands were issued by the State Auditor were included in jurisdiction rates for water, sewer or gas customers.
- MPUS 4-3** Please provide the audited financial statements for CMU for the year ended September 30, 2017.
- MPUS 4-4** In the prehearing conference held on September 27, 2018, Staff requested that CMU attempt to implement a true purchased gas adjustment clause ("PGA") and propose rates for its jurisdictional gas customers reflecting a base rate component and a PGA component. Please provide draft tariff schedules for CMU's jurisdictional gas customers that show CMU's base rate for gas and its purchased gas cost separately.

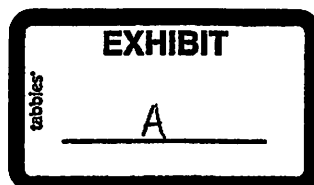
MISSISSIPPI PUBLIC UTILITIES STAFF  
RECEIVED  
DEC 27 2018  
LEGAL DIVISION

The response to this request was prepared by: Seah Thoy

The response to the above information request provided to the Staff is accurate and complete, and contains no material misrepresentations or omissions based upon present facts known to the undersigned. The undersigned agrees to immediately inform the Staff if any matters are discovered which would materially affect the accuracy or completeness of the information provided in response to the information request.

Seah Thoy  
Signature of Company Representative

12-27-18  
Date Provided





## **MPUS 4-1**

### **Request**

On October 16, 2018, the Clarion Ledger reported that the State Auditor issued civil demands to current and former CMU's employees. Please identify each improper charge for which a demand was issued by the State Auditor. Please provide the following information for each charge identified:

- (1) the date of each transaction;
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- (3) the utility fund where the charge was recorded, if applicable; and
- (4) the total amount of the transaction.

### **Response**

We respectfully disagree with the findings from the State Auditor. Our General Counsel sent a letter to the State Auditor outlining our position. We feel that the charges were in fact authorized. A copy of the response to the State Auditor is attached.



Edward Blackmon, Jr.  
edblackmon@blackmonlawfirm.com  
MS & D.C. Bars

Barbara Martin Blackmon  
bbblackmon@blackmonlawfirm.com  
MS & NY Bars

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Bradford J. Blackmon  
bjblackmon@blackmonlawfirm.com

Marcus A. Williams  
mwilliams@blackmonlawfirm.com

November 9, 2018

**VIA HAND DELIVERY**

Mr. Shad White  
Office of the State Auditor  
Woolfolk Building  
501 North West Street, Suite 801  
Jackson, MS 39201

**Re: Case Number 45-17-8931**

Dear Mr. White:

In previous letters to you of October 18, 2018 and November 1, 2018, I requested an itemized statement for each demand made by the State Auditor's Office to past and present members of the Canton Municipal Utilities Board of Commissioners for payments of Trustmark Visa procurement credit cards by CMU employees. To date, I have not received a response to my request. The information requested would assist my clients, L.C. Slaughter, Cleotha Williams, Cleveland Anderson and Robert Chinn in responding to the Auditor's response.

Notwithstanding the absence of this information, I am providing the following response on behalf of my clients:

In your letter of October 10, 2018, it is alleged that the purchases were made during "normal working hours", October 4, 2016 through November 7, 2017 (Cleotha Williams), May 17, 2016 through November 7, 2017 (L.C. Slaughter) July 19, 2016 through June 6, 2017 (Cleveland Anderson) and August 15, 2017 through November 7, 2017 (Robert Chinn). In addition, the Auditor's letters, among other things, allege that the purchases were "of a personal nature". The purchases referenced in the Auditor's letter were in fact not made during "normal working hours", and were not "of a personal nature".

My investigation of the payments for which I believe the Auditor is demanding payment, were made during periods where employees were 1) working through their lunch hour to repair electrical lines after storm damage, or at times when utility poles or lines were damaged from bad weather or other sources, 2) breakage in water lines, resulting in the need to make repairs regardless of what time of day it was, and 3) during "delinquent customer cutoff days", 4) purchase of food for companywide monthly meetings.

"INJUSTICE ANYWHERE IS A THREAT TO JUSTICE EVERYWHERE".

-Martin Luther King, Jr.



November 9, 2018

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Page Two

1. Storm Damage to Utility Lines:

Downed utility electrical lines represent an immediate hazard to the public and loss of services to customers. CMU employees were instructed by the general manager to work without taking a break to repair downed utility electrical lines. On such occasions, the credit cards were used to purchase lunch for employees to enable them to continue to work through lunch to make the urgent repairs. If lunch breaks were taken, employees would have to remove or take down bucket trucks, secure the hazardous area, and after lunch, reposition the equipment before resuming work. *See Affidavit of John Garrett.*

2. "Cutoff Day":

"Cutoff days" were those days on which customers who had not paid their utility bills on time had their utilities cut off. This resulted in a larger than normal customer flow into the CMU office. Customers were generally there to pay their delinquent utility bills in order to have their utilities restored. On "cutoff days", customer service employees were required to work through lunch, and on most occasions until 8:00 p.m. at night to assist customers with getting their utilities restored. Customer Service Employees would stay at their stations and eat between assisting customers.

Generally, customers considered the shut off of their utilities and restoration of the same, to be urgent, and sometimes an emergency for those who were dependent on the same for health reasons. *See Affidavit of Jewelry Johnson.*

3. Sewer Line Repairs:

In certain areas, such as the Lake Caroline subdivision, a break in the sewer line could result in sewage being dumped into the lake causing the same to be a hazard to the subdivision residents who used the lake for recreational purposes. On occasions when sewer lines were broken or damaged in the Lake Caroline area, CMU employees worked through their lunch hour until the repairs had been made. Employees who worked during their lunch hour, resulting in their work hours exceeding forty hours per week, were paid overtime. This practice was stopped in November 2017 at the request of the General Manager, Kenneth Wayne Jones. *See Affidavit of Lionel Bacon.*

4. Business Meetings:

Canton Municipal Utilities held a monthly meeting for all employees, sixty-five to seventy-five employees. The Trustmark credit card was used to purchase food for those meetings. The meetings covered a variety of areas relating to CMU operations. *See Affidavit of Jewelry Johnson.*

November 9, 2018  
Re: Case Number 45-17-8931  
Page Three

In view of the foregoing, I am requesting that the State Auditor's Office reconsider its demand to my clients Cleotha Williams, L.C. Slaughter, Cleveland Anderson and Robert Chinn. A more specific item response could be provided due to the failure by the Auditor's Office to respond to my requests for an itemized report of its demand.

Please let me know if you have any questions.

Sincerely,

BLACKMON & BLACKMON, PLLC



Edward Blackmon, Jr.

EBJr./sl

**AFFIDAVIT OF JOHN GARRETT**

**STATE OF MISSISSIPPI**

**COUNTY OF MISSISSIPPI**

**PERSONALLY CAME AND APPEARED BEFORE ME**, the undersigned authority in and for the jurisdiction aforesaid, the within named John Garrett, who, having first been duly sworn by me, stated on oath the following:

I am Vice President of Operations at Canton Municipal Utilities.

In November or December of 2015, Brian Finnegan, the CMU General Manager, gave me a Trustmark credit card with instructions that it was to be used to purchase lunch for workers who worked through their lunch hour to repair water lines, gas lines, electric utility lines and sewer leaks, all of which he said were considered to be emergencies. Employees who worked during their lunch hour, resulting in their work hours exceeding forty hours per week, were paid overtime. This practice was stopped in November 2017 at the request of the General Manager, Kenneth Wayne Jones.

John Garrett  
JOHN GARRETT

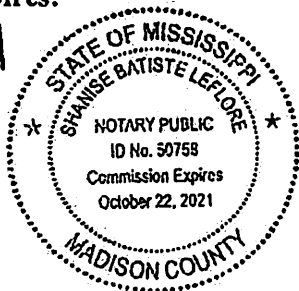
SWORN TO AND SUBSCRIBED BEFORE ME, this the 9<sup>th</sup> day of November, 2018.

Shane Batiste Leflore  
NOTARY PUBLIC

My Commission Expires:

10-22-2021

(SEAL)



**AFFIDAVIT OF JEWELRY JOHNSON**

**STATE OF MISSISSIPPI**

**COUNTY OF MISSISSIPPI**

**PERSONALLY CAME AND APPEARED BEFORE ME**, the undersigned authority in and for the jurisdiction aforesaid, the within named Jewelry Johnson, who, having first been duly sworn by me, stated on oath the following:

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Generally, customers considered the shut off of their utilities and restoration of the same, to be urgent, and sometimes an emergency for those who were dependent on the same for health reasons.

I was also instructed by Mark Johnson, the Chief Financial Officer of Canton Municipal Utilities to purchase food items and supplies with the credit card for business meetings. This

practice was stopped in November 2017 at the request of the General Manager, Kenneth Wayne Jones.

*Jewelry Johnson*  
JEWELRY JOHNSON

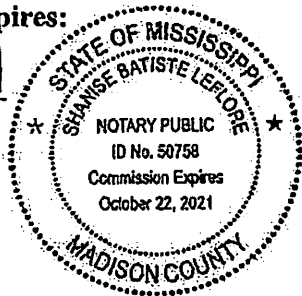
SWORN TO AND SUBSCRIBED BEFORE ME, this the 1<sup>st</sup> day of November, 2018.

*Shirley Batiste Leflore*  
NOTARY PUBLIC

My Commission Expires:

10-22-2021

(SEAL)



**AFFIDAVIT OF LONELL BACON**

**STATE OF MISSISSIPPI**

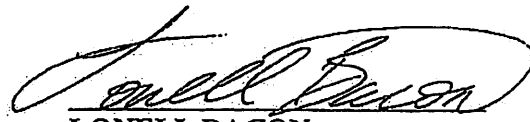
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I am the Supervisor over Wastewater at Canton Municipal Utilities.

In November or December of 2015, Brian Finnegan, the CMU General Manager, gave me a Trustmark credit card with instructions that it was to be used to purchase lunch for workers who worked through their lunch hour to repair breakage and/or leaks in the sewer lines. In certain areas, such as the Lake Caroline subdivision, a break in the sewer line could result in sewage being dumped into the lake causing the same to be a hazard to the subdivision residents who use the lake for recreational purposes. On occasions when sewer lines were broken or damaged in that area, CMU employees worked through their lunch hour until the repairs had been made. Employees who worked during their lunch hour, resulting in their work hours exceeding forty hours per week, were paid overtime.

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LONELL BACON

SWORN TO AND SUBSCRIBED BEFORE ME, this the <sup>9th</sup> 1 day of November, 2018.

  
NOTARY PUBLIC

My Commission Expires:

10-22-2021

(SEAL)





## **MPUS 4-2**

### **Request**

In reference to MPUS 4-1, please indicate if any of the charges for which demands were issued by the State Auditor were included in jurisdiction rates for water, sewer or gas customers.

### **Response**

We respectfully disagree with the findings from the State Auditor. Our General Counsel sent a letter to the State Auditor outlining our position. We feel that the charges were in fact authorized. A copy of the response to the State Auditor is attached.





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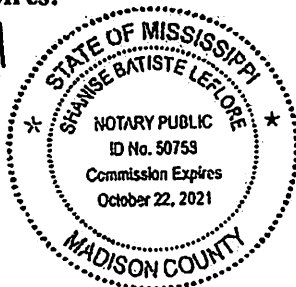
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NOTARY PUBLIC

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Jewelry Johnson  
JEWELRY JOHNSON

SWORN TO AND SUBSCRIBED BEFORE ME, this the 9th day of November, 2018.

Shane Batiste Leflore  
NOTARY PUBLIC

My Commission Expires:

10-22-2021

(SEAL)



**AFFIDAVIT OF LONELL BACON**

**STATE OF MISSISSIPPI**

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LONELL BACON

SWORN TO AND SUBSCRIBED BEFORE ME, this the <sup>9<sup>th</sup></sup> day of November, 2018.

  
NOTARY PUBLIC

**My Commission Expires:**

10-22-2021

(SEAL)







**MPUS 4-3**

**Request**

Please provide the audited financial statements for CMU for the year ended September 30, 2017.

**Response**

A draft copy of the audited financial statements was submitted to the PSC in May 2018. The auditor has been waiting to issue the final version upon the resolution of the Warnock lawsuit and the Madison County Wastewater Authority lawsuit. They want to determine if a liability needs to be reserved as a contingency for those lawsuits.



#### **MPUS 4-4**

##### **Request**

In the prehearing conference held on September 27, 2018, Staff requested that CMU attempt to implement a true purchased gas adjustment clause ("PGA") and propose rates for its jurisdictional gas customers reflecting a base rate component and a PGA component. Please provide draft tariff schedules for CMU's jurisdictional gas customers that show CMU's base rate for gas and its purchased gas cost separately.

##### **Response**

CMU has reached out to the PSC staff to implement the requested Gas Adjustment change. After discussions with the PSC staff it was determined that CMU might not be recovering enough from our customers to offset the actual cost of gas and that our calculations are simply confusing. We will begin making changes in January 2019 after further guidance from PSC staff.

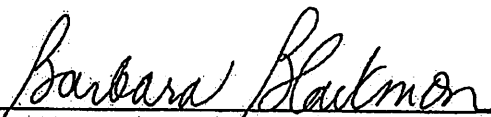
**CERTIFICATE OF SERVICE**

I, Barbara Blackmon, counsel for Canton Municipal Utilities do hereby certify that I have this day served a true and correct copy of the above and foregoing *Responses to Mississippi Public Utilities Staff's Fourth Set of Data Requests* via hand delivery, to the following person:

Director Michael McCool (Water and Sewer Division)  
Public Utilities Staff  
Woolfolk Building  
501 North West Street, Suite 301-B  
Jackson, MS 39201  
P.O. Box 1174  
Jackson, Mississippi 39215

Director Brandi Myrick (Electric and Gas Division)  
Director of Electric and Gas Division  
501 North West Street, Suite 301-B  
Jackson, MS 39201  
P.O. Box 1174  
Jackson, Mississippi 39215

This the 27<sup>th</sup> day of December, 2018.

  
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BARBARA BLACKMON, MSB#3346