

Collection of Delinquent Sewer Bills

The following questions was sent to members of the NACWA Legal Affairs Committee on June 29, 2011:

A NACWA member utility has requested information on the following issue:

The utility is researching ways to collect delinquent sewer bills and would like to know what tools other utilities – that are sewer service providers only – have available to them to collect on delinquent accounts.

The following responses were received from members of the Committee:

Response 1 – City of Raleigh, NC: State law allows us to disconnect service. The property is then able to be declared uninhabitable.

Response 2 – Hampton Roads Sanitation District, VA: HRSD has the power to shut off water even though we only do wastewater. We use that tool effectively have very little write off. We have even shut the water off to City Councilmen from our member jurisdictions. No better tool.

Response 3 – Orange County Sanitation District, CA: A proper answer really depends on which type of bills you're talking about. For instance, we have Industrial dischargers whose permits are renewed every 2-3 years. They can't get a renewal if their accounts are overdue, and they can't discharge without a permit.

Our annual residential user fees are collected via the property tax system. We actually have an agreement whereby the local county forwards the correct amount (assuming payment by all residents), but then they get to keep any fees from delinquent accounts. There actually was an article about the system in our local paper recently.

<http://taxdollars.ocregister.com/2011/06/28/agencies-forfeit-millions-to-county/86553/>

Response 4 – Narragansett Bay Commission, RI: NBC utilizes water shutoff procedures (in collaboration with the local water supply boards) and lien sale powers (we are treated as tax collectors for that purpose) – as a result we have very few write-offs. Both procedures were included in our original enabling legislation.

Response 5 – Central Davis Sewer System, UT: Our District bills through the cities. The City individually bills the resident and/or business user and makes the collections. I believe they have a collection agency and some form of penalty for those who do not pay their bill. I know they turn off the culinary water, but cannot do that for the sewer, so I assume, they have a different penalty. For businesses (we have only one industrial user), we are very strict and send letters and levy fines.

Response 6 – Detroit, MI: In Michigan there is a statute, MCL 123.161, that provides that bills for water and/or sewage service are a lien on the property served. The lien can be foreclosed in the same manner as a property tax lien. Most cities in Michigan routinely add unpaid bills to the property tax bill.

Response 7: In California the penalty for not paying a rate is 10% per month, and attorney fees can be recovered in a court action. While this 120% per annum interest is only available if there are outstanding revenue bonds (Health and Safety Code Section 5052), but at first glance this seems like the usual penalty, and the threat of collecting several times the delinquent fee has been successful in many negotiations.

Like I'm sure most states provide, in California a sewer agency can pass an ordinance to discontinue service for non payment - that is, put a plug in the private sewer to prevent flows to the collection system. In my nearly 40 years in this business I do not know of any instance where the plug had to be installed. The threat is enough to get some payment schedule established.

California has little problem collecting sewer service charges for residences since they can be collected on the real property tax roll. Pay or lose your property.

Response 8 – North Shore Sanitary District, IL: The North Shore Sanitary District has a service termination process related to delinquent user accounts. Details of the process can be found on our website (www.northshoresanitary.org) in the User Charge Ordinance (Section 5.12 Termination of Service).

Response 9 – Los Angeles County Sanitation District, CA: In the LA County Sanitation Districts, we place the sewer charges on the property tax bill as a separate line item. Under California law this is allowable, even though the service charges are not a property tax nor related to property values (our charges are based on flow and strength, utilizing standard user categories). The County Tax Collector mails the bills and does all the collection, forwarding our portion after payment is made. The Tax Collector treats the entire tax bill as a single entity, meaning that tax payers cannot segregate our charge, refusing to pay them, without the entire tax bill being considered delinquent. because of the potential forfeiture of the property for delinquent payments, we have a very low level of delinquencies.

Response 10 – Nashville, TN: Since our agency has sewer only areas, we have contracted with the water provider to provide Metro the meter readings. It was also agreed that the water provider would discontinue water service if the sewerage service bill was not being paid. The collection of the unpaid bills is contracted to a collection agency that receives a list of unpaid bills once the collection criterion is reached.

Response 11 – Orange County, FL: Orange County Florida (Orlando area) contracts with municipally owned utilities in those instances where the city utility provides water service and the County provides wastewater service. This is unusual. Sometimes the municipal utility provides water service in some parts of the unincorporated area of the County and in those instances the County is the only providing sewer service (in most areas of the County our County utility provides water, wastewater and re-claimed water service).

We enter into Interlocal Agreements with the municipal service provider(s) and they bill for city water and County wastewater services. If the whole bill is not paid the monies are pro-rated to each service provider.

One city has threatened to and has cut off utility service to the customer if the entire bill is not (eventually) paid, even when the amount not paid is the County wastewater charge. It has worked out well.

In addition, the County has the benefit of an old special act of the legislature that allows the County to file a lien against the real property of a customer that does not pay his/her utility bills. This works well with owner occupied residential and most commercial properties.

Response 12 – Honolulu, HI: For most of our accounts City Ordinance allows us to turn off water service provided through the semi-autonomous City Board of Water Supply. For those on other water service, we have a problem because even though we have authority to physically disconnect service there is some concern that the State would suggest we intentionally caused a spill. That aside, we try all normal collection processes.