



Lynn Fitch
ATTORNEY GENERAL
OPINIONS AND POLICY

May 24, 2024

Daniel K. Tucker, Esq.
Attorney, City of Booneville
Post Office Box 430
Booneville, Mississippi 38829

Re: Municipality's Ability to Correct Natural Gas Billing Error

Dear Mr. Tucker:

The Office of the Attorney General has received your request for an official opinion.

Background

According to your request, sometime during the year 2019, a mistake was made within the municipal gas department resulting in the underbilling of some customers and overbilling of others. This error specifically affected seasonal customers referenced as "code 15 customers" between May 2019 and September 2022. The city of Booneville ("City") requests an opinion on whether it must collect the subject underbilled amounts from code 15 customers.

Questions Presented

1. Is the City required to collect underbilled amounts from code 15 customers who did receive a bill and did pay the amount that was billed to them?
2. If the answer to question one is yes, how far back can the City go in collecting the underbilled amounts?

Brief Response

1. Yes. "[A] utility debt may not be adjusted or forgiven when a customer has received the benefits of the utility service, regardless of a municipality's error in billing." MS AG Op., *Frieson* at *1 (Sept. 7, 2018) (citing MS AG Op., *Williams* at *1 (Sept. 12, 2008)).
2. The City shall go as far back as necessary in collecting the underbilled amounts.

Daniel K. Tucker, Esq.

May 24, 2024

Page 2

Applicable Law and Discussion

You first ask if the City must collect underbilled amounts from code 15 customers who received gas services, were billed, and paid the billed amount. Article IV, Section 100 of the Mississippi Constitution states:

No obligation or liability of any person, association, or corporation held or owned by this state, or levee board, or any county, city, or town thereof, shall ever be remitted, released or postponed, or in any way diminished by the Legislature, *nor shall such liability or obligation be extinguished except by payment thereof into the proper treasury*; nor shall such liability or obligation be exchanged or transferred except upon payment of its face value.

(emphasis added). Accordingly, this office has consistently concluded that “a utility debt may not be adjusted or forgiven when a customer has received the benefits of the utility service, regardless of a municipality’s error in billing.” MS AG Op., *Frieson* at *1 (citing MS AG Op., *Williams* at *1). Accordingly, it is the opinion of this office that the City must collect underbilled amounts from code 15 customers, including those who received a bill and paid the amount that was billed to them.

You next ask how far back the City can go in collecting underbilled amounts from code 15 customers. It is the opinion of this office that the City shall go as far back as necessary, beginning with the first date that underbilling occurred.

If this office may be of any further assistance to you, please do not hesitate to contact us.

Sincerely,

LYNN FITCH, ATTORNEY GENERAL

By: */s/ Maggie Kate Bobo*

Maggie Kate Bobo
Special Assistant Attorney General