

Village of Castile

Water Billing for Letchworth State Park

MAY 2021



OFFICE OF THE NEW YORK STATE COMPTROLLER
Thomas P. DiNapoli, State Comptroller

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Report Highlights

Village of Castile

Audit Objective

Determine whether Village of Castile (Village) officials accurately billed New York State Parks, Recreation, and Historic Preservation (State Parks) for water usage for Letchworth State Park (the Park).

Key Findings

Village officials did not accurately bill State Parks for water usage. Village officials:

- Were using incorrect water usage overage rates since June 2017. As a result, they overbilled State Parks by \$7,577.
- Charged \$12,000 in late fees that were not authorized by the contract or contract amendment.

Key Recommendations

- Ensure the water usage overage rates charged to State Parks follow the contract and contract amendment.
- Stop charging late fees that are not authorized by the contract or contract amendment.

Village officials generally disagreed with our findings and recommendations. Appendix B includes our comments on issues raised in the Village's response letter.

Background

The Village is located in the Town of Castile in Wyoming County. The Village is governed by an elected Board of Trustees (Board) composed of a Village Mayor and four trustees.

The Board is responsible for general oversight of operations and finances. The Board-appointed Village Clerk-Treasurer (Clerk-Treasurer) is responsible for billing and collecting water charges and the Board-appointed Superintendent of the Department of Public Works (Superintendent) is responsible for providing accurate meter readings to the Clerk-Treasurer, among his other duties.

The Village entered into a contract with State Parks to supply potable water to the Park in March 2011. This contract was amended in October 2011. Water service to the Park began in March 2014 and billing in April 2014.

Quick Facts

Village Population	1,100
Fiscal Year 2019-20 Water Revenue	\$421,000
Amount Billed to State Parks During Audit Period	\$1 million

Audit Period

March 1, 2014 – October 5, 2020

Water Billing for Letchworth State Park

The Village and State Parks entered a contract to supply and pay for the Park’s water usage. The contract and contract amendment define the rates the Village must apply to the Park’s monthly water usage. The contract provides for a base rate and a fixed overage rate for monthly usage that is above the allotted 560,000¹ gallons included in the base rate. Pursuant to the contract, the base rate is equal to the rate charged to a user within the Village (Village rate) multiplied by an out-of-Village factor (1.68) and by the 280 equivalent dwelling units² assessed against the Park. According to the contract amendment, the Village rate is subject to change and therefore will affect the base rate if increased or decreased. In addition, the amendment updated the overage rates for usage above 560,000 gallons and are defined as a fixed rate per 1,000 gallons as shown in Figure 1.

Figure 1: Park Water Rates per Contract and Amendment

Usage in Gallons		Base Rate per Contract
Up to 560,000 gallons		Village Rate x 1.68 x 280
From	To	Overage Rates per Amendment
560,000	1,120,000	\$3.36 per 1,000 gallons
1,120,000	1,680,000	\$6.72 per 1,000 gallons
1,680,000	2,240,000	\$10.08 per 1,000 gallons

The contract indicates that State Parks will pay each invoice within thirty days of receipt; however, neither the contract nor the amendment include a charge for late payments.

How Should the Village Accurately Bill State Parks for Water Usage?

The Board is responsible for setting water rates and ensuring that they are properly billed and collected. The Clerk-Treasurer and Superintendent should ensure that the water billing is for the actual gallons used by the Park. To ensure that the correct number of gallons is billed, water meter records should be reconciled to the billing system periodically. Then the correct water usage should be used along with the contractual rates to calculate the amount billed to State Parks.

The Village Did Not Bill State Parks Accurately

The Village has two meters measuring water usage in the Park. Each water meter has five readings: the total consumption, current and previous day’s consumption

¹ 2,000 gallons per equivalent dwelling unit (EDU), the Park’s usage was determined to be 280 EDUs

² One single family household

and current and previous month's consumption. From July 2015³ until December 2019, the daily consumption was transmitted to a water usage recording system (recording system). Using the recording system, the Superintendent generated a monthly water usage report listing the daily consumption and the month's total consumption for both water meters. In December 2019, the system to transmit the water usage stopped working and since then the Superintendent determines water usage by reading and recording water usage information from the water meters each month.

The Superintendent provides the monthly water usage report to the Clerk-Treasurer, who manually inputs the consumption into the billing system. The billing system automatically calculates the invoice to State Parks using a preset water rate table. We compared the total number of gallons in the recording system to the total of number of gallons included on each invoice from July 2015 through December 2019 and compared to the billing report generated from the billing system to determine whether they agreed. We only found minor discrepancies, which we discussed with Village officials.

We also recalculated all 79 invoices to State Parks during our audit period, using the monthly water usage in the recording system,⁴ base rates defined in the contract and overage rates defined in the amendment and compared to the invoices sent to State Parks. Although the Village was unable to provide the rate schedules used in the billing system prior to the current rate schedule, we were able to recalculate the rates. We found that the Village was using variable overage rates from June 2017 until the end of our audit period. Village officials told us they believed when the Board increased the water rates, an overage rate increase would be applicable to State Parks. However, the overage rates are fixed in the contract and amendment.

As a result of using these incorrect variable rates, the Village overbilled State Parks for 24 months totaling \$8,290 and underbilled for two months totaling \$713, for a net overbilling of \$7,577.

In addition, during the audit period the Village charged State Parks \$12,000 in late fees that were not authorized in the contract or contract amendment.⁵ Village officials told us they believed that the same late fee percentage which was charged to Village customers would be charged to State Parks.

... [T]he Village was using variable overage rates from June 2017 until the end of our audit period.

3 In the months prior to July 2015, the water meters were not compatible with the recording system, during this time the Superintendent read the monthly water usage totals from the screen on the two water meters.

4 For periods when reading system data was not available, we used the number of gallons indicated in invoices.

5 Appendix A to the contract notes that the timeliness of payment and any interest to be paid to the Contractor for late payment will be governed by Article 11-A of the State Finance Law to the extent required by law. However, provisions of Article 11-A do not apply to payments due and owing by the State "to any duly constituted unit of local government including, but not limited to, counties, cities, towns, villages, school districts, special districts, or any of their related instrumentalities", see State Finance Law section 179-p(3).

When reviewing the contract, contract amendment and water rate schedules approved by the Board, they were unclear on the base rate to be charged to State Parks. The base rate approved by the Board appears to include a charge for debt service; however, the language in the contract and contract amendment do not clearly state whether this debt charge should be included in the base rate charged to State Parks. The Board should work with the Village Attorney and State Parks to clarify the base rate.

What Do We Recommend?

The Clerk-Treasurer should:

1. Ensure the water usage overage rates charged to State Parks follow the contract and contract amendment.
2. Stop charging late fees that are not authorized by the contract or contract amendment.

The Board should:

3. Work with the Village Attorney and State Parks to clarify and correct any billing discrepancies.

Appendix A: Response From Village Officials^{6, 7}

VILLAGE OF CASTILE
53 NORTH MAIN STREET
P.O. BOX 515
CASTILE, NY 14427-0515

Mayor Keith Washburn
(585) 689-0446

Office (585) 493-5340
Fax (585) 493-2063

April 6, 2021

Jeffrey D. Mazula
Chief Examiner of Local Government and School Accountability
[REDACTED]
110 State Street
Albany, NY 12236

Re: Audit Report Title: Village of Castile Water Billing for Letchworth State Park
Audit Report Number: 2021M-1

Dear Mr. Mazula:

The Village of Castile Board of Trustees would like to thank the Office of the State Comptroller (“OSC”) for the information disclosed to the Village Office regarding the audit conducted. This letter will serve as our response to the findings and will include supporting documentation refuting the findings.

The Permissive Service Connection Agreement between the Village of Castile (“Village”) and New York State Office of Parks, Recreation, and Historic Preservation (“State Parks”) was intended to be mutually beneficial for both parties involved. The State Parks initiated and constructed this arrangement with the Village through the attorneys of the State Parks and affiliates of the State. This agreement and usage of water would supply the State Parks with potable water and permit the Village to sustain the Water Improvement Project. The State Parks is the largest user and highest bill issued by the Village regarding the consumption of water produced by the Village of Castile.

The original Permissive Service Connection Agreement was executed on March 8, 2011. The agreement was later amended by letter of the State Parks to the Village of Castile dated September 27, 2011 and signed by the late Mayor Keith Granger on October 19, 2011. The amended agreement specifically denotes a monthly payment of \$11,760.00 based on the rate of \$25.00 x 1.68 x 280 EDU. This was an agreed-upon expense noting that the Village of Castile had financed the expansion of the water facility at the urging and bequest of State Parks. The facilities were increased as to capacity to accommodate the State Park as an out-of-district user.

There are three points of concern in the report conducted by the OSC and delivered to the Village of Castile. We will address these concerns and present other statements and findings that have arisen from this audit.

1. The Village has been using incorrect water usage overage rates since June 2017, resulting in the overbilled amount of \$7,577.

The amended agreement was signed in 2011 and had an agreed-upon base rate of \$25.00 x 1.68 x 280 EDUs (equivalent dwelling units) = \$11,760.00. This was the agreed amount for State Parks to pay their share of the expense for usage. They were charged \$11,533.20 as a base rate. This account has been incorrect from the start. It

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⁶ The Village’s response letter refers to attachments that support the response letter. Because the Village’s response letter provides sufficient detail of its actions, we did not include the attachments in Appendix A.

⁷ The Village’s response letter refers to a page number that appeared in the draft report. The page numbers have changed during the formatting of this final report.

is the opinion of the Board of Trustees that State Parks had no intention of honoring this price and was attempting to defraud the Village from the beginning of the arrangement, as payments and fees for debt charges were not made.

When the bills were recalculated by the Village, they were shown to have a net difference of an underbilling in the amount of \$899.40. This total does not take into account the bills that were issued with a base charge of \$11,533.20 instead of \$11,760.00. If these were to be included, it would add an additional \$6,123.60 that was underbilled to State Parks.

See
Note 1
Page 8

2. The Village charged \$12,000 in late fees that were not authorized by the contract amendment.

From the inception, the Village of Castile started billing the State Parks at less than the agreed-upon rate. The State Parks had no regard for the due dates and simply did not pay. Again, the Village had a debt payment (the expansion of the water facility) that was sought out at the bequest and the urging of State Parks, and the Village was without sufficient monies to make the payments and began accruing late payments of their own. The late payments placed further burden on the office of the Village of Castile to not only continue regular monthly billings, but to also account for the late fees through the billing system. Late fees are added automatically by the software.

Upon further review, it was determined that State Parks was not billed appropriately by the Village Office. For an unknown reason, the Village Clerk was billing \$11,570.00 monthly minimum, rather than the explicitly agreed-upon term of \$11,760.00, resulting in a deficiency from the State Parks to the Village in the amount of \$6,123.60. We firmly believe the willful failure of the State Parks to pay regularly on time and to pay the late fees accumulated lead to this discrepancy. The nonpayment and inadequate payment caused the automated billing software to read a penalty, leading to a cloud over all bills.

See
Note 1
Page 8

State Parks was consistently negligent in making payments in a timely fashion, as proven by their payment history (see A2600 Park Payment History Attachment). This resulted in significant employee time and labor to follow up with State Parks. There have also been numerous changes sent to the Village office by the State Parks altering the location and method through which the invoice was to be sent so a payment could be issued. These changes occurred in the previous Village Clerk's time; however, the current Village Clerk has also experienced a changeover in staffing at State Parks which has caused delays in payment. The Village office staff has been diligent in making multiple attempts to reach the "person of contact" that is listed at any given time when payments are not made. We wish to convey that the Village, a Not-for-Profit entity, is subject to late fees and has suffered grossly from the State Parks' not paying in a timely manner. We, as a vendor and consumer, experience both sides of the process and have a clear understanding of how vital it is for municipalities to be paid in a consistent manner. If the Village is not paid for the services rendered, which are billed post-consumption, the Village cannot feasibly remain solvent.

The billing system did place penalty fees on the account as a result of the State Parks' failure to make timely payments a total of 22 times from June 2013 to October 2020. Late penalty application is the standard practice for all residents and consumers that receive utilities from the Village if payment is not made by the second-to-last business day of the month. The Village has attempted to make accommodations for the State Parks to be able to pay in a timely manner, such as the State Parks' being billed monthly but separately from the Village residents. This permits the Village to deliver the bill to State Parks more expediently than could be done prior. This method has proven to be beneficial as, under current practice, State Parks has begun to pay the bill within two weeks of their receiving it (see A2600 Park Payment History Attachment).

See
Note 2
Page 8

3. The Village was not aware that the January 2015 invoice of \$11,533 had not been paid.

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The statement that the Village office was unaware that the January 2015 invoice of \$11,533.20 was not paid is untrue. According to the OSC, this invoice was not paid and there were no notes made to rectify this error nor any account of State Parks' paying back the amount due. The Village office can verify that the payment was made; however, due to oversight by the State, it was sent through ACH to an account with the Town of Castile instead of the Village of Castile. The amount was able to be transferred into the correct account and has been verified.

See
Note 3
Page 8

Additional statements and findings by the Village of Castile to be regarded, as well:

1. The Village strives for the utmost accuracy in the billing and the future auditing of the State Parks account. This was and continues to be an arduous job as State Parks frequently leaves the valves open and does not report leaks; however, Superintendent T. Wright receives notifications when these events occur due to resulting disturbances in the system. Pictures can be provided that attest to this statement from Superintendent T. Wright. Most recently, the Village has paid just under \$19,000 in materials for the two meters in question in an endeavor to accurately assess all water being used by the Park.
2. On page 3 of the Report of Examination, there is a chart- "quick facts"-which contains misinformation. What is contained in the report is "2020 Water Revenue: \$390,000." The correct information should be "2020 Water Revenue: \$421,252."
3. It cannot be stressed enough that, in every scenario, the Village of Castile was cordially working with State Parks as the Permissive Service Connection Agreement was summarily modified by other entities within the state bureaucracy. Though an agreement had been penned in 2010 as proposed and altered by numerous revisions, the agreement was summarily revised and remitted, even after it was the Village's belief that State Parks had agreed to the first instrument dated March of 2011. The September 2011 amendment to the agreement was at the urging of State Parks. The amended agreement was resolved by both parties' acknowledging that there was no way the Village could take on the debt of this project without a regular payment of \$11,760.00. Additionally, it was noted in the agreement that this payment was a not a maximum payment, but was a minimum payment that would be subject to change in accordance with changes made to the Village rates.

See
Note 4
Page 8

The Village of Castile has conducted thorough research through extensive labor and employee hours, added onto the general day-to-day operations, to provide a clear picture of the daily proceedings and accounting that is done at the Village office in response to this audit.

The Board of Trustees welcomes any discussion over the points contained herein regarding the audit conducted by the Office of the State Comptroller. Please submit to the Board any additional questions needed to provide clarity, if this letter has not proven a sufficient explanation.

Respectfully,

Keith Washburn
Mayor
Village of Castile
Chief Executive Officer

Attachments: A2600 Park Payment History
V-Castile to officials response

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Appendix B: OSC Comments on the Village's Response

Note 1

As indicated in our report, according to the contract amendment, the Village rate is subject to change and therefore will affect the base rate if increased or decreased. The Village's base rate, during the period June 1, 2013 through May 31, 2015, was \$24.52.

Also as indicated in our report, the language in the contract and contract amendment do not clearly state whether the debt charge (included in the Village's base rate) should be included in the base rate charged to State Parks.

Note 2

As indicated in our report, late fees to State Parks are not authorized by the contract or contract amendment. In addition, refer to footnote five for further discussion of the application of late fees.

Note 3

We discussed this payment with Village officials during our audit fieldwork and at our exit discussion on March 11, 2021. The Clerk-Treasurer told us she could not find evidence this payment was made.

On April 14, 2021 we contacted Village officials and they provided evidence that the payment was transferred from a Town of Castile bank account to a Village bank account in February 2015. Therefore, since the Village corrected this missed payment prior to our audit we removed this finding from the audit report.

Note 4

We updated the report to reflect this figure.

Appendix C: Audit Methodology and Standards

We conducted this audit pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law. To achieve the audit objective and obtain valid audit evidence, our audit procedures included the following:

- We interviewed Village officials and reviewed Board minutes, the State Parks contract and contract amendment to determine the rates and to understand the terms and the billing process.
- We compared consumption recorded in the recording system to each invoice and to the billing system to identify any differences.
- We recalculated historical water rates schedules used in the billing system by comparing the invoices to the rates in the contract and contract amendment.
- We recalculated charges using water consumption and water rates defined in the contract and contract amendment and compared it to what was billed to State Parks and payments made to identify any differences.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and provided to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make the CAP available for public review in the Village Clerk-Treasurer's office.

Appendix D: Resources and Services

Regional Office Directory

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2018-12/regional_directory.pdf

Cost-Saving Ideas – Resources, advice and assistance on cost-saving ideas

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263196&issued=All

Fiscal Stress Monitoring – Resources for local government officials experiencing fiscal problems

www.osc.state.ny.us/local-government/fiscal-monitoring

Local Government Management Guides – Series of publications that include technical information and suggested practices for local government management

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263206&issued=All

Planning and Budgeting Guides – Resources for developing multiyear financial, capital, strategic and other plans

www.osc.state.ny.us/local-government/resources/planning-resources

Protecting Sensitive Data and Other Local Government Assets – A non-technical cybersecurity guide for local government leaders

www.osc.state.ny.us/sites/default/files/local-government/documents/pdf/2020-05/cyber-security-guide.pdf

Required Reporting – Information and resources for reports and forms that are filed with the Office of the State Comptroller

www.osc.state.ny.us/local-government/required-reporting

Research Reports/Publications – Reports on major policy issues facing local governments and State policy-makers

www.osc.state.ny.us/local-government/publications?title=&body_value=&field_topics_target_id=263211&issued=All

Training – Resources for local government officials on in-person and online training opportunities on a wide range of topics

www.osc.state.ny.us/local-government/academy

Contact

Office of the New York State Comptroller
Division of Local Government and School Accountability
110 State Street, 12th Floor, Albany, New York 12236

Tel: (518) 474-4037 • Fax: (518) 486-6479 • Email: localgov@osc.ny.gov

www.osc.state.ny.us/local-government

Local Government and School Accountability Help Line: (866) 321-8503

BUFFALO REGIONAL OFFICE – Jeffrey D. Mazula, Chief Examiner

295 Main Street, Suite 1032 • Buffalo, New York 14203-2510

Tel (716) 847-3647 • Fax (716) 847-3643 • Email: Muni-Bufferalo@osc.ny.gov

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