

Decision, ordering Petitioner to pay Ridgewood \$975.52, amortized without interest over four years.

On April 1, 2016, the Board received Petitioner's exceptions, which were dated March 30, 2016. Thereafter, the Board received Ridgewood's reply, dated April 11, 2016.

BACKGROUND

Petitioner receives water to his Wyckoff home from Ridgewood. Before Petitioner's meter was replaced on February 3, 2015, Ridgewood used a computer server connected to a Verizon land line system to attain quarterly, actual meter readings. Beginning in September 2011, and continuing until his water meter was replaced, Ridgewood's automatic meter reading system was unsuccessful in its attempt to read Petitioner's meter. During this period, Petitioner received quarterly bills that were labeled as estimates. For example, Petitioner's January 9, 2012 bill states that it is an "ESTIMATED BILL," directly under the "TOTAL AMOUNT DUE." (Ex. P1). A portion of the front of the bill is labeled "Important Messages," and states, in pertinent part: "YOUR CURRENT BILL IS ESTIMATED. IF YOUR HOME TELEPHONE SERVICE IS NOT PROVIDED BY VERIZON, WE MAY NOT BE ABLE TO READ YOUR METER, PLEASE CALL OUR CUSTOMER SERVICE CENTER . . . TO ARRANGE FOR US TO INSTALL THE APPROPRIATE EQUIPMENT." Ibid.

Petitioner testified that by March 2012, there was a message on the back of his bill which stated, in pertinent part: "If your land line telephone service is not conventional copper wire service from Verizon, your location will require a radio wave device instead." (T10:22 to 11:8). The message further advised the customer to call the Ridgewood customer service center to arrange for installation of the appropriate equipment. (Initial Decision 2). It is undisputed that Petitioner was a Verizon copper-wire customer during the time period that he received estimated bills. Petitioner testified that he never called Ridgewood's customer service to question why he was receiving estimated bills because he was a Verizon copper-wire customer. Petitioner indicated that the "Important Message" was confusing because it stated that a meter could not be read if the customer did not have Verizon, which he did.

Throughout the hearing, Petitioner challenged several of Ridgewood's business practices, including: 1) failing to reach out to him during the lengthy period in which he received estimated bills other than by the standard monthly bill; 2) providing bar graphs on monthly bills, which, because they were based on estimated rather than actual consumption, failed to inform him of increased usage and thus prevented him from taking corrective action; 3) confusing him about whether his bills were estimates because at all times he used the telephone service identified by Ridgewood as necessary to actually read his water meter; 4) taking so long to upgrade and replace his water meter, as well as the meters of other customers; and 5) failing to inform him that replacing his water meter with the newer technology could result in back charges for under-billed consumption spanning several years. Petitioner argued that he should be responsible for no more than twelve (12) months of back billing, because "if there was a valid, accurate, and timely billing process in place, any aberrant or excessive consumption . . . would have reasonably alerted the customer By the fourth billing cycle, that aberrant condition could and would have been identified and remedied." (T140:4-11).

At the hearing, Ridgewood's Business Manager, David Scheibner, explained that Ridgewood began losing connectivity with customers using telephonic reading, stating: "The vast majority of cases where we had lost connectivity to meters in individual settings was due to the fact that many people were changing their telephone service to . . . alternatives that were not functional with our telephonic reading system." (T67:1-7). The solution was to replace the customer's meter, a process that began in approximately 2002. Scheibner acknowledged that while not having Verizon was one reason that an actual reading may not have been possible, it was not the exclusive reason. He testified that when actual readings could not be attained, estimated bills were issued based on a customer's history.

Scheibner further testified that the water meter that was removed from Petitioner's home on February 3, 2015, was tested and found to be accurate. Petitioner's actual water consumption was reconciled with the estimated consumption for which he had been billed, and it was determined that Petitioner had been under-billed \$975.52. Petitioner was initially charged interest when he failed to pay the reconciled amount, but the interest charges were removed following Petitioner's call to Ridgewood.

The primary regulation applicable to this case is N.J.A.C. 14:3-7.2(e), the rules concerning estimated bills, which was cited by ALJ Candido in the Initial Decision, dated March 4, 2015. N.J.A.C. 14:3-7.2(e) provides:

1. Utility companies shall maintain a regular meter reading schedule and make a reasonable effort to read all meters;
2. Utility companies, upon request, shall make available to all customers a postage paid business reply card on which the customer may mark the meter reading as follows:
 - i. The business reply card shall have appropriate explanation. The utility shall permit the customer to telephone the meter reading to the utility. The customer reading is to be used in lieu of an estimated reading, provided the reading is received in time for billing;
3. When a utility estimates an account for four consecutive billing periods (monthly accounts), or two consecutive billing periods (bimonthly and quarterly accounts), the utility shall mail a notice marked "Important Notice" to the customer on the fifth and seventh months, respectively, explaining that a meter reading must be obtained and said notice shall explain the penalty for failure to complete an actual meter reading. After all reasonable means to obtain a meter reading have been exhausted, including, but not limited to, offering to schedule meter readings for evenings and on weekends, the utility may discontinue service provided at least eight months have passed since the last meter reading was obtained, the Board has been so notified and the customer has been properly notified by prior mailing. If service is discontinued and subsequently restored, the utility may charge a reconnection charge equal to the reconnection charge for restoring service after discontinuance for nonpayment;

4. Utility companies shall submit to the Board of Public Utilities a statement detailing their estimating procedures;

5. If low estimates result in a customer receiving an actual bill that is at least 25 percent greater than the prior estimated bill, the utility shall allow the customer to amortize the excess amount. The amortization will be in equal installments over a period of time equal to the period when no actual reading was taken by the customer or the utility; and

6. Annually, the utility shall notify all customers of their rights to amortize as set forth in (e)5 above.

[N.J.A.C. 14:3-7.2(e).]

ALJ Candido found that the water meter that was removed from Petitioner's home in February 2015 was functioning and accurate. She found that although actual readings had not taken place for "long periods," the bills were marked as estimates, and that the actual meter reading showed that Petitioner owed Ridgewood \$975.52. ALJ Candido noted that throughout the elapsed time in which Petitioner received estimated bills, Petitioner never contacted Ridgewood. Finally, ALJ Candido noted that Respondent offered to allow Petitioner to amortize the \$975.52 over four years without interest.

ALJ Candido concluded that Petitioner owed Ridgewood \$975.52 for water that had been consumed, but not previously billed.

On March 18, 2016, the Board obtained a forty-five (45) day extension of time in which to issue a Final Decision. As discussed below, Petitioner submitted exceptions to the Initial Decision, which were dated March 30, 2016. On April 11, 2016, Respondent replied to Petitioner's exceptions, stating that ALJ Candido's decision was logical and reasonable.

DISCUSSION

As the reviewing agency, the Board "may not reject or modify any finding of fact as to issues of credibility of lay witness testimony unless it first determines from a review of a record that the findings are arbitrary, capricious or unreasonable, or are not supported by sufficient, competent, and credible evidence in the record." N.J.A.C. 1:1-18.6(c). Additionally, the parties are bound by the rules and regulations adopted by the BPU since they have the force and effect of law. State by Van Riper v. Atl. City Elec. Co., 23 N.J. 259, 270 (1957). Petitioner is the undisputed customer of record for the water bills at issue here. See N.J.A.C. 14:3-1.1 ("Customer of record' means the person that applies for utility service and is identified in the account records of a public utility as the person responsible for payment of the public utility bill."). Pursuant to N.J.A.C. 14:3-7.1(a), Petitioner as the customer of record is responsible for the payment of all utility services rendered. Pursuant to N.J.A.C. 14:3-7.2(c), a utility is permitted to provide a customer with an estimated bill "[i]f for any reason a utility cannot read a customer's meter" (Emphasis added).

Here, the record supports ALJ Candido's findings that Ridgewood was unable to read Petitioner's meter, that bills sent to Petitioner were labeled estimate, that the meter test showed the meter was operable and accurate, and that Ridgewood's calculations for the consumption not billed during the times that Petitioner's bill were estimate is accurate. Therefore, ALJ Candido's conclusion that Petitioner owes \$975.52 is supported by the evidence.

On April 1, 2016, the Board received Petitioner's exceptions, the first page of which was amended on April 6, 2016.

Pursuant to N.J.A.C. 1:1-18.4, any party may file written exceptions with the Board within thirteen (13) days from the date that the Initial Decision was mailed. A copy of the filed exceptions shall also be served on all other parties and the judge. N.J.A.C. 1:1-18.4(a). N.J.A.C. 1:1-18.4(b) in pertinent part provides that exceptions must:

- (1) Specify the findings of fact, conclusions of law or dispositions to which exception is taken;
- (2) Set out specific findings of fact, conclusions of law or dispositions proposed in lieu of or in addition to those reached by the judge; and
- (3) Set forth supporting reasons. Exceptions to factual findings shall describe the witnesses' testimony or documentary or other evidence relied upon. Exceptions to conclusions of law shall set forth the authorities relied upon.

Further, exceptions may not include evidence not presented at hearing, nor may such evidence be incorporated or referred to within exceptions. N.J.A.C. 1:1-18.4(c).

The Board notes that Petitioner's exceptions were received after the allowable thirteen (13) days from the date the decision was mailed. The Board also notes that most of Petitioner's exceptions do not comport with N.J.A.C. 1:1-18.4(b), which provides, in part, that exceptions must "[s]pecify the findings of fact, conclusions of law or dispositions to which exception is taken." The Board will address the exceptions, nonetheless.

Petitioner takes issue with Ridgewood's "poor business practices." (Petitioner's exceptions 1). However, the Initial Decision makes no express findings concerning Ridgewood's business practices, other than noting that all of Petitioner's bills were labeled "estimate" and contained an "Important Message."

Section VI of Petitioner's exceptions is entitled, "The OAL Decision." Id. at 6. Petitioner notes that while the Initial Decision cited to N.J.A.C. 14:3-7.2(e), ALJ Candido "did not conclude from the evidence that Ridgewood did not abide by the letter and the common sense spirit and intent of the . . . Regulations." Id. at 6. (Emphasis omitted). For example, Petitioner refers to the provision contained in N.J.A.C. 14:3-7.2(e)(2), stating: "The Utility could have mailed a '[p]ostage paid Business Reply Card on which the customer may mark the meter reading . . .'" (Petitioner's exceptions 7). However, N.J.A.C. 14:3-7.2(e)(2) states that a utility shall provide business reply cards to customers "upon request[.]" There is no evidence in the record that Petitioner made this request.

Petitioner also states that there are two factual errors in the Initial Decision. First, he points to ALJ Candido's statement in the Statement of the Case and Procedural History section of the decision: "A telephone pre-hearing conference was held on January 7, 2016." (Initial Decision 2). Petitioner contends that there was no pre-hearing conference on that date in which he was a participant. Second, in the Factual Discussion and Findings section, ALJ Candido stated that Petitioner "disputes the difference in the consumption Ridgewood alleges during the time of the estimated bills" Ibid. Petitioner states: "That statement is false. Petitioner conceded the consumption" (Petitioner's exceptions, Ex. 4). Petitioner further states: "Acknowledging that there was unsuspecting though valid usage of the water, though far in excess of residence customary volume rates, Petitioner submits that if there was a valid, accurate and timely billing process in place, aberrant and excessive consumption . . . could and would have been identified and remedied." Id. at 9. (Emphasis in original). Therefore, Petitioner again proposes that he be held liable for no more than twelve months of back billing, calculated at billing rates effective in 2012. Id. at 9.

Petitioner's exceptions do not change the salient facts here. A customer of record, such as Petitioner, is responsible for the payment of all utility service provided. N.J.A.C. 14:3-7.1(a). Although utility companies are required to maintain regular meter reading schedules and make reasonable efforts to perform actual readings on all meters, a utility may estimate a customer's bill if unable to read a meter for any reason. See N.J.A.C. 14:3-7.2(c); N.J.A.C. 14:3-7.2(e)(1). While it is not clear if Ridgewood exhausted all form of notice to Petitioner as set forth N.J.A.C. 14:3-7.2(e), there is ample evidence to determine that the billing adjustment is accurate.

There is also ample evidence to support the conclusion that Respondent provided an amortization period equal to or greater than the period required by the Board's regulations. N.J.A.C. 14:3-7.2(e)(5) provides that if a customer receives a bill based on an actual meter reading that is twenty-five (25) percent higher than the estimated bill, the customer is given an opportunity to amortize the excess amount. In this matter, Respondent issued estimated bills for approximately thirty-nine (39) months, and the ALJ ordered that Petitioner pay Ridgewood the sum of \$972.52 without interest, amortized over four (4) years or forty-eight (48) months.¹

Having reviewed the record, the Board **FINDS** that an amortization period of forty-eight (48) months is reasonable. The Board further finds that the Initial Decision was properly based upon findings of fact and conclusions of law that are supported by the evidence, and is not arbitrary and capricious. See N.J.A.C. 1:1-18.6. Neither Petitioner's arguments at the hearing nor the exceptions overcome this burden.

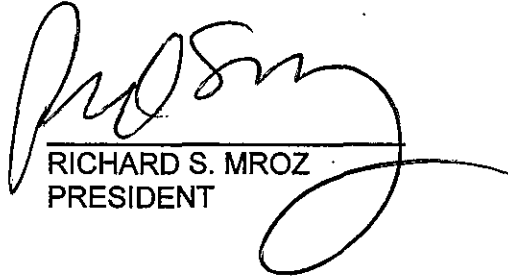
Accordingly, the Board **HEREBY ADOPTS** the Initial Decision in its entirety and **ORDERS** that the petition of Paul F. Coppola be **HEREBY DISMISSED**.

¹ The Board notes that the Initial Decision contains a statement that the amortized amount was "to be determined and scheduled by the parties within thirty days of the final decision by respondent." The Board directs Ridgewood to issue Petitioner an amortization schedule that reflects equal installments over forty-eight (48) months, pursuant to N.J.A.C. 14:3-7.2(e)(5).

The effective date of this Order is June 4, 2016.

DATED: *May 25, 2016*

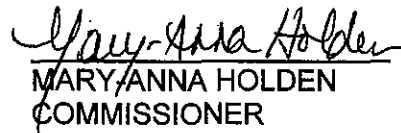
BOARD OF PUBLIC UTILITIES
BY:



RICHARD S. MROZ
PRESIDENT



JOSEPH L. FIORDALISO
COMMISSIONER



MARY/ANNA HOLDEN
COMMISSIONER

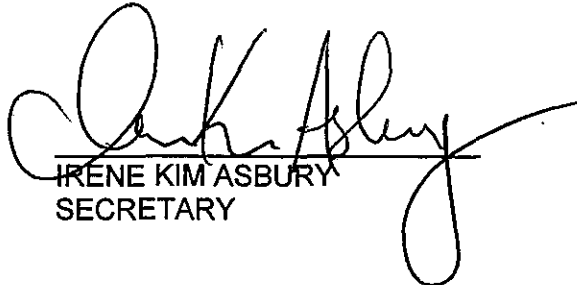


DIANNE SOLOMON
COMMISSIONER



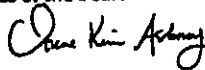
UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST:



IRENE KIM ASBURY
SECRETARY

I HEREBY CERTIFY that the within
document is a true copy of the original
in the files of the Board of Public Utilities



**In the Matter of Paul F. Coppola, Petitioner v. Ridgewood Water Company, Respondent
Docket Nos. BPU WC15091087U and OAL PUC 18213-15 – Billing Dispute.**

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OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. PUC 18213-15

AGENCY DKT. NO. WC15091087U

PAUL F. COPPOLA,

Petitioner,

v.

RIDGEWOOD WATER COMPANY,

Respondent.

Paul F. Coppola, pro se

Matthew Rogers, Esq., appearing on behalf of respondent

Record Closed: February 29, 2016

Decided: March 4, 2016

BEFORE: **JOANN LASALA CANDIDO, ALAJ:**

CMS
V. Haynes
D. Lee Thom
E. Hartsfield
J. Ford
R. Lambert
C. Jordan
B. Agee
J. Gertsman
C. Vachier
R. Matos

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner, Paul Coppola (Coppola or petitioner), filed a complaint before the Board of Public Utilities (BPU) on September 17, 2015, disputing the estimated billing charges from September 2011(billed January 2012) to February 3, 2015, requiring him to pay \$975.52 for under-billed water consumption from Ridgewood Water Company (Ridgewood).

On November 12, 2015, this matter was transmitted to the Office of Administrative Law (OAL) for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14f 1 to-13. A telephone pre-hearing conference was held on January 7, 2016. The hearing was held on February 29, 2016, on which date the record closed.

FACTUAL DISCUSSION AND FINDINGS

Having had an opportunity to hear the testimony, observed the witnesses, and reviewed the exhibits, I **FIND** the following **FACTS**:

Petitioner, a resident of Wyckoff for many years, receives his water supply from Ridgewood Water Company. Ridgewood read its water meters on a quarterly basis using a Verizon land line telephone system connected to a computer server. Petitioner at all times relevant to this matter maintained a Verizon land line telephone. The last accurate meter reading using this system was in June 2011. The reading on September 23, 2011 failed to read the meter and petitioner was provided an estimated bill based upon past consumption. These failed attempts continued for each quarter until the meter was replaced on February 3, 2015. Each estimated bill provided an "important message" which read:

"YOUR CURRENT BILL IS ESTIMATED. IF YOUR HOME TELEPHONE SERVICE IS NOT PROVIDED BY VERIZON, WE MAY NOT BE ABLE TO READ YOUR METER. PLEASE CALL OUR CUSTOMER SERVICE CENTER AT 201-670-5520 TO ARRANGE FOR US TO INSTALL THE APPROPRIATE EQUIPMENT."

Petitioner candidly testified that he did not question an estimated bill during the thirty-nine months he continued to receive water from Ridgewood because he continued to have the Verizon land line that he had maintained for about thirty years and did not think this message applied to him. He disputes the difference in the consumption Ridgewood alleges during the time of the estimated bills as well as the reliability of the Blue Usage Graphs on each quarterly bill.

On February 3, 2015, a representative replaced petitioner's meter in his home and the meter was tested at the Ridgewood water testing facility on February 4, 2015 and was deemed operable. Based upon this test, it was determined that petitioner owed a balance of \$975.52 for the water consumption not previously billed for.

Ridgewood seeks this surcharge of \$975.52 to be paid over a forty-eight month period without interest.

LEGAL ANALYSIS AND CONCLUSION

N.J.A.C. 14:3-7.2(e) states:

Rules concerning estimated bills for all customers are as follows:

1. Utility companies shall maintain a regular meter reading schedule and make a reasonable effort to read all meters;

2. Utility companies, upon request, shall make available to all customers a postage paid business reply card on which the customer may mark the meter reading as follows:

i. The business reply card shall have appropriate explanation. The utility shall permit the customer to telephone the meter reading to the utility. The customer reading is to be used in lieu of an estimated reading, provided the reading is received in time for billing;

3. When a utility estimates an account for four consecutive billing periods (monthly accounts), or two consecutive billing periods (bimonthly and quarterly accounts), the utility shall mail a notice marked "Important Notice" to the customer on the fifth and seventh months, respectively, explaining that a meter reading must be obtained and said notice shall explain the penalty for failure to complete an actual meter reading. After all reasonable means to obtain a meter reading have been exhausted, including, but not limited to, offering to schedule meter readings for evenings and on weekends, the utility may discontinue service provided at least eight months have passed since the last meter reading was obtained, the Board has been so notified and the customer has been properly notified by prior mailing. If service is discontinued

and subsequently restored, the utility may charge a reconnection charge equal to the reconnection charge for restoring service after discontinuance for nonpayment;

4. Utility companies shall submit to the Board of Public Utilities a statement detailing their estimating procedures;

5. If low estimates result in a customer receiving an actual bill that is at least 25 percent greater than the prior estimated bill, the utility shall allow the customer to amortize the excess amount. The amortization will be in equal installments over a period of time equal to the period when no actual reading was taken by the customer or the utility; and

6. Annually, the utility shall notify all customers of their rights to amortize as set forth in (e)(5) above.

In this case, there were long periods of time where there were not any actual meter readings by Ridgewood. There was no evidence presented by petitioner that the meter was inaccurate. To the contrary, the meter was tested after its removal and was found to be operable and accurate. The February 3, 2015 actual meter reading shows that the balance owed by petitioner is \$975.52. Each quarterly bill was clearly marked ESTIMATE. Each quarterly bill contained an important message. Petitioner did not contact the water company to inquire about this ongoing estimation for approximately thirty-nine months. Respondent offered the petitioner to amortize this excess amount over a period of four years without interest. I **CONCLUDE** that petitioner has an outstanding of balance of \$975.52 for consumption not billed.

ORDER

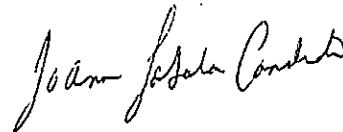
Based on the foregoing, it is **ORDERED** that petitioner pay to Ridgewood Water the sum of \$972.52 without interest amortized over a period of four years as confirmed by respondent, an amount to be determined and scheduled by the parties within thirty days of the final decision by respondent.

I hereby **FILE** my Initial Decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **SECRETARY OF THE BOARD OF PUBLIC UTILITIES, 44 South Clinton Avenue, P.O. Box 350, Trenton, NJ 08625-0350**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

March 4, 2016



DATE

JOANN LASALA CANDIDO, ALAJ

Date Received at Agency:

March 4, 2016

Date Mailed to Parties:

ljb

WITNESSES

For Petitioner:

None

For Respondent:

David Scheibner

EXHIBITS

For Petitioner:

- P-1 Ridgewood Water estimated bill dated 01/09/12
- P-2 Ridgewood Water estimated bill dated 03/28/12
- P-3 Verizon account summaries
- P-4 Ridgewood Water billing history September 2011 to July 2015
- P-5 Photo of replaced meter
- P-6 Ridgewood Water meter test results
- P-7 Letter from petitioner dated May 5, 2015
- P-8 Past due reminder bill dated 01/03/2016
- P-9 Past due reminder bill dated 04/02/2015
- P-10 Letter from petitioner dated June 8, 2015
- P-11 Ridgewood water bill dated July 6, 2015
- P-12 Notice of Meter Replacement Program

For Respondent:

None