



Agenda Date: 12/12/16
Agenda Item: 7A

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CUSTOMER ASSISTANCE

LOUIS SERBIO,)	ORDER ADOPTING
Petitioner,)	INITIAL DECISION
)	
v.)	
)	
JERSEY CENTRAL POWER & LIGHT COMPANY,)	BPU Docket No. EC15070806U
Respondent.)	OAL Docket No. PUC 02087-16

Parties of Record:¹

Louis Serbio, Petitioner, pro se
Jeremy G. Weiss, Esq., Windels, Marx, Lane & Mittendorf, LLP on behalf of Respondent,
Jersey Central Power & Light

BY THE BOARD:

PROCEDURAL HISTORY

By petition filed with the Board of Public Utilities ("Board") on July 15, 2015 ("Petition"), Louis Serbio ("Petitioner") disputed charges associated with electric service provided to his residence in Browns Mills, New Jersey by Jersey Central Power & Light Company ("JCP&L" or "Respondent") specifically for the months of September 2014 to March 2015. On November 4, 2015, JCP&L filed a verified answer to the Petition with affirmative defenses ("Answer"). On February 5, 2016, the Board transferred the matter to the Office of Administrative Law for a hearing as a contested case pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq.

¹ Although the Initial Decision indicates that Deputy Attorney General Christopher Psihoules appeared on behalf of the Board of Public Utilities, the transcript does not indicate that Deputy Psihoules appeared at the hearing and the record does not indicate that he had any involvement in the case.

The case was assigned to Administrative Law Judge ("ALJ") Sarah G. Crowley. An evidentiary hearing was held before ALJ Crowley on September 19, 2016. Respondent submitted a brief dated September 22, 2016 in support of its position. The record was closed on September 23, 2016. On September 26, 2016, ALJ Crowley issued an Initial Decision in favor of Respondent, denying the relief sought by Petitioner and dismissing the Petition. No exceptions were filed.

BACKGROUND

The first witness to testify at the hearing was Theresa Kehr for Respondent. Ms. Kehr testified that she has been employed by JCP&L for approximately thirty-five years and is currently a business analyst in the customer service department. She testified that her job duties include investigating and processing customer complaints.

Ms. Kehr testified that she is familiar with Petitioner and the complaint that he filed. She testified that she spoke to Petitioner on the phone and he was adamant that he wanted the amount of his bill reduced. Ms. Kehr also testified that during their conversation Petitioner mentioned that he had used a space heater when a pipe in his home had frozen during the time in question. According to Ms. Kehr, Petitioner advised her that he used a space heater for one day only. Ms. Kehr also testified that Petitioner requested a meter test, which was performed on March 17, 2015. She testified that Mr. Serbio's unpaid balance was \$809.43 at the time of the hearing.

On cross examination, Ms. Kehr explained charges, credits, and notations on Petitioner's account with reference to Exhibit R-4, the Detailed Statement of Account. She also clarified that she spoke to Petitioner in July 2015, after a meter test had been performed at the residence. She explained that to conduct a meter test, the Respondent removes the old meter from the residence and installs a new one. Ms. Kehr testified that the meter test indicated that Petitioner's meter was functioning accurately, as shown in Exhibit R-5.

Anthony Menio then testified for Respondent. Mr. Menio was qualified as an expert in the area of meter testing and operation. He explained that he has been employed by JCP&L for over twenty-six years and is currently employed as the regional supervisor of meter services. Mr. Menio testified that he has been trained on the inner workings, installation, and maintenance of meters. He testified that his job responsibilities include ensuring that meters in the field are maintained in good and proper working condition and that he sometimes assists with customer complaints.

Mr. Menio testified that Petitioner's meter was removed on March 10, 2015, and a new meter was installed the following day. He explained the process used to test Petitioner's old meter, and testified that this meter was found to be operating at 99.752% accuracy, as indicated in Exhibit R-5.

On cross examination, Mr. Menio testified that if a space heater was used twenty-four hours a day for seven days a week to defrost pipes, it could cause the electricity usage to spike in the way Petitioner's had.

Petitioner then testified on his own behalf. He testified that he has lived at his current residence since approximately 2013. He testified that he has oil heat in his apartment, and he produced a letter from his landlord stating that. The letter was moved into evidence as P-1. Petitioner also acknowledged that he used a space heater provided by his landlord for one night when his heat was not working. He testified that he has not used a space heater since then. He also testified that the pipes in his apartment do not freeze often.

On cross examination, Petitioner testified that the space heater he used looked old and again stated that he had only used it for one night. He testified that he did not hire an electrician to investigate what might have caused his high electricity usage. He testified that he is always conscious of his electricity usage and unplugs all appliances when he leaves his house. He also testified that he is away from home often and has no knowledge of anyone using electricity from his apartment while he is away.

In her initial decision, ALJ Crowley made findings of fact and credibility determinations based upon her review of the evidence presented. Specifically, she found that Petitioner's electric meter, which was removed from Petitioner's home on March 11, 2015 and tested by JCP&L, was functioning accurately. Overall, the ALJ found that the meter and bills in question were accurate, denied Petitioner's requested relief, and dismissed the Petition.

DISCUSSION AND FINDINGS

In customer billing disputes before the Board, Petitioners bear the burden of proof by a preponderance of the competent, credible evidence. See Atkinson v. Parsekian, 37 N.J. 143, 149 (1962).

Here, Petitioner failed to present any compelling evidence to prove that the meter readings from the time in question were inaccurate. He thus failed to prove that he had been overcharged for electricity consumption during the months in question. Pursuant to N.J.A.C. 14:5-4.3, "[n]o meter that has an error in registration of more than plus or minus two percent shall be placed in service or allowed to remain in service without adjustment." Here, as evidenced by Exhibit R-5, and supported by the expert testimony of Mr. Menio, Petitioner's meter was functioning at 99.752% accuracy, which is within the legally acceptable range of accuracy. There was no competent, credible evidence presented that proved the meter was measuring more consumption than Petitioner actually used at any time.

After review and consideration of the entire record, the Board **HEREBY FINDS** the findings and conclusions of ALJ Crowley to be reasonable and, accordingly, **HEREBY ACCEPTS** them.

Accordingly, the Board **HEREBY ADOPTS** the Initial Decision in its entirety and **ORDERS** that the Petition be **DISMISSED**.

This order shall be effective December 22, 2016.

DATED: 12/12/16

BOARD OF PUBLIC UTILITIES
BY:



JOSEPH L. FIORDALISO
COMMISSIONER



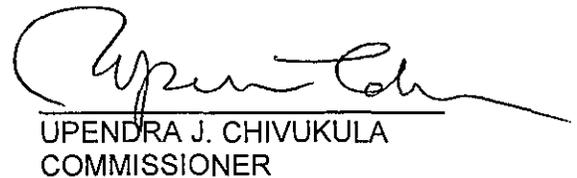
RICHARD S. MROZ
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER

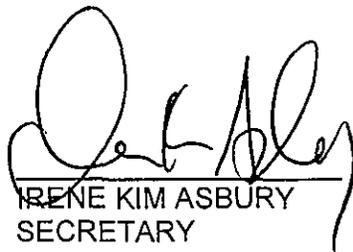


DIANNE SOLOMON
COMMISSIONER



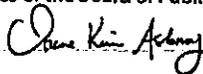
UPENDRA J. CHIVUKULA
COMMISSIONER

ATTEST:



RENE 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 LOUIS J. SERBIO, PETITIONER V. JERSEY CENTRAL POWER
AND LIGHT COMPANY, RESPONDENT – BILLING DISPUTE**

DOCKET NOS. BPU EC15070806U AND OAL PUC 02087-2016

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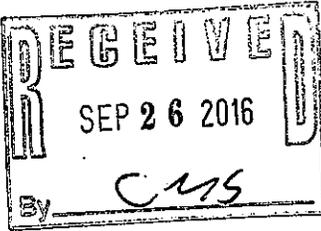
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SEP 26 2016

BOARD OF PUBLIC UTILITIES
MAIL ROOM



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. PUC 02087-16

AGENCY DKT. NO. EC15070806U

LOUIS SERBIO,

Petitioner,

v.

JERSEY CENTRAL POWER AND LIGHT,

Respondent.

Louis Serbio, petitioner, pro se

Jeremy G. Weiss, Esq., for respondent Jersey Central Power and Light Company (Windels, Marx, Lane & Mittendorf, LLP attorneys)

Christopher Psihoules, Deputy Attorney General, for respondent Board of Public Utilities (Christopher S. Porrino, Attorney General of New Jersey, attorney)

Record Closed: September 23, 2016

Decided: September 26, 2016

BEFORE SARAH G. CROWLEY, ALJ:

CMS
V. HAYNES
D. LEE-THOMAS
E. HARTSFIELD
J. FORD
C. JORDAN
R. LAMBERT
J. GERTSMAN
B. AGEES
C. VACHER

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner, Louis Serbio, filed a complaint before the Board of Public Utilities (BPU) disputing the billing charges of Jersey Central Power and Light (JCP&L) for electrical service provided to his apartment at 304 Trenton Road, Apartment 7, Browns Mills, New Jersey.

On February 5, 2016, this matter was transmitted to the Office of Administrative Law (OAL) for a hearing as a contested case. N.J.S.A. 52:14B-1 to -15, N.J.S.A. 52:14F -1 to -13. The hearing was held on September 19, 2016, and the record closed after written submission was filed by the respondent on September 23, 2016.

FACTUAL DISCUSSION

The following is undisputed and is found as **FACT**:

The petitioner rents an apartment at 300 Trenton Road, Apartment 7, Browns Mills, New Jersey and is a JCP&L customer. He has filed an appeal disputing his electric bill for the months of December 2014, January 2015, February 2015, and March 2015. The bills were \$101.66, \$194.17, \$221.76¹ and \$262.90. These amounts significantly exceeded averages for the proceeding months and for subsequent months. The respondent conducted a test on the meter in question on March 17, 2015, and installed a new meter. The meter was determined to be functioning properly. However, the petitioner believes that there was something wrong with their meter and filed a complaint with the BPU.

¹ The original bill in the amount of \$369.44, was modified to \$221.76, due to an improper meter reading

TESTIMONY

Theresa Kelly Kehr

Theresa Kehr is a Senior Analyst, in the Customer Relations Department for JCP&L. She has worked there in various capacities for thirty-five years. Ms. Kehr is responsible for investigating matters relating to challenges to bills and was assigned the matter involving Lewis Serbio. She testified that she discussed this matter with Mr. Serbio and analyzed the account by reviewing the monthly meter readings, the actual meter readings and had the meter tested. Ms. Kehr identified the usage statement for the months in question. She acknowledged that the bills were high, but indicated that it could have been a number of things and it was during the winter months. She testified that the client had indicated that he used a space heater due to frozen pipes and these escalating bills could be a result of the use of a space heater.

Ms. Kehr identified the billing statements which covered the period of November 2014 through March 2015. She testified that she was unsure about the \$25 "collection fee" as this should not have been charged on September 2015, if the complaint challenging the bill had been filed in July 2015. She was unclear about the process and what the reason for the charge was. She testified that they sent someone out to check the meter and installed a new meter on March 11, 2015. She advised that when they remove the meter to have it checked, they immediately install a new one, and send the old one to Pennsylvania for testing. The test completed on the meter in question indicated that it was working within a 99.75 percent of accuracy. She clarified the bill reversal for the month on February was a result of an inaccurate reading of the meter, not a problem with the meter. When it was caught the next month, an adjustment was made.

Anthony Menio

Anthony Menio is a meter reader for JCP&L. He is currently a supervisor and supervises approximately forty meter readers. Before he was a supervisor, he was a meter reader for fifteen years. He has been to many classes about reading meters and testing meters. He was qualified as an expert in meter reading by JCP&L. He testified that the petitioner's meter was removed on March 11, 2015, and was sent to their Pennsylvania facility to be tested. It was tested on March 17, 2015. He identified the inspection test result which indicated that the meter in question was ninety-nine percent accurate. He explained that the state permits a two percent margin of error. His company does not even permit that much. However, regardless of which standards that you apply, the devise in question as functioning properly. The meter, #S59142238, was tested on both a light load and a full load. The average accuracy for both loads was 99.75 percent accurate. As a result, it was his opinion that the meter in question was functioning properly.

Louis Serbio

The petitioner testified that his bill has never been that high. He testified that he lives in a small apartment which is no more than 300 square feet. He testified that he has oil heat and only used the electricity for lights, refrigerator, microwave, toaster and hot water heater. He testified that around this time, his pipes had frozen and the landlord lent him a space heater to unfreeze the pipes. He testified that he only used it for one or maybe two nights. He testified that he unplugs everything when he leaves the apartment as he is aware of the use of phantom electricity if you do not unplug your appliances. He testified that his bills have never been this high and there must have been something wrong with the meter. His bills returned to the normal rate after the old meter was removed. He denied that he used the space heater for more than a day or two and said he controls his heat by a battery operated thermostat that he can turn up, on or off.

Based upon consideration of the testimonial and documentary evidence presented at the hearing, and having had the opportunity to observe the demeanor of the witnesses and assess their credibility, I **FIND** as **FACT** that meter removed from petitioner's home on March 11, 2015, was working properly. I also **FIND** as **FACT** that the meter was tested on both a full and light load and was determined to be ninety-nine percent accurate and as a result, is found to be accurate.

LEGAL DISCUSSION

In this administrative proceeding, the petitioner bears the burden of proof by a preponderance of the competent, credible evidence as to those matters that are before the OAL. Atkinson v. Parsekian, 37 N.J. 143 (1962). Evidence is found to preponderate if it establishes the reasonable probability of the facts alleged and generates reliable belief that the tendered hypothesis, in all likelihood, is true. See Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div.), certif. denied. 31 N.J. 75 (1959).

N.J.A.C. 14:5-4.3(a) states:

No meter that has an error in registration of more than plus or minus two percent shall be placed in service or allowed to remain in service without adjustment.

N.J.A.C. 14:3-4.6(a) states:

Whenever a meter is found to be registering fast by more than two percent or in the case of water meters, more than one and one half percent, an adjustment of charges shall be made in accordance with this section. No adjustment shall be made if a meter is found to be registering less than 100 percent of the service provided.

In this case, the meter which was removed from the petitioner's apartment, was tested and registered at ninety-nine percent accuracy for both light and full load. The amount is within two percent margin permitted in accordance with the regulation.

Petitioner could not provide any legally competent evidence to support the claim that the meter was inaccurate. I therefore **CONCLUDE** that the meter that was removed from petitioner's home on March 11, 2015, was accurate, as were the bills in question.

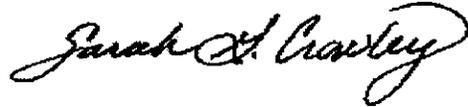
ORDER

All relief sought by petitioners is **DENIED** and the appeal filed by petitioners is **DISMISSED**.

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.



September 26, 2016
DATE

SARAH G. CROWLEY, ALJ

Date Received at Agency:

September 26, 2016 (emailed)

Date Mailed to Parties:

/mel

LIST OF WITNESSES

For Petitioner:

Louis Serbio

For Respondent:

Theresa Kehr

Anthony Menio

LIST OF EXHIBITS

For Petitioner:

P-1 Petitioner's statement of oil heat from landlord

For Respondent:

R-1 Appeal Letter dated July 15, 2015

R-2 Verified Answer from JCP&L

R-3 Detailed Statement of Account

R-4 Detailed Statement of Account

R-5 Results from Meter Inspection original meter (S59142238)

R-6 Results from Meter Inspection