



Agenda Date: 4/27/09  
Agenda Item: 7B

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center**  
**Newark, NJ 07102**  
**www.nj.gov/bpu/**

CUSTOMER ASSISTANCE

ROBERT B. STEIN,	)	ORDER ADOPTING INITIAL
Petitioner,	)	DECISION IN PART AND
	)	MODIFYING IN PART
v.	)	
	)	
ATLANTIC CITY ELECTRIC COMPANY,	)	BPU DOCKET NO. EC08050311U
Respondent	)	OAL DOCKET NO. PUC 6348-08

(SERVICE LIST ATTACHED)

**BY THE BOARD<sup>1</sup>:**

By petition filed with the Board of Public Utilities (Board) on May 15, 2008, Robert B. Stein (Petitioner) requested a formal hearing regarding the charges of a recalculated bill issued by Atlantic City Electric Company (Respondent) for electric service that was not billed from December 2003 to September 2007 due to a malfunctioning meter. After receipt of Respondent's answer, this matter was transmitted by the Board to the Office of Administrative Law (OAL) for hearing as a contested matter on July 22, 2008 for determination and initial disposition 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. The matter was assigned to Administrative Law Judge (ALJ) Bruce Gorman.

On March 24, 2009, a hearing was conducted, during which Respondent witness Charlotte DeVault testified as to the calculation of Petitioner's bill. On March 27, 2009, ALJ Gorman submitted his Initial Decision in this matter to the Board. A copy of the Initial Decision is attached, and no Exceptions to the Initial Decision have been filed with the Board.

Upon hearing testimony from Respondent's witness, including testimony elicited on cross examination, and the summations from both parties, ALJ Gorman issued an Initial Decision finding that the Petitioner was properly billed \$1551.57 for electrical services rendered by Respondent from December 2003 to September 2007. The ALJ also relied on N.J.A.C. 14:3-4.6(d)(2), which provides that if a meter is registering less than 100%, the utility may adjust the charges retrospectively if the meter failed to register utility service.

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Commissioner Frederick Butler did not participate in this matter.

After review and consideration of the entire record, the Board HEREBY FINDS the findings and conclusions of the ALJ to be reasonable and, accordingly, HEREBY ACCEPTS them. The Board would modify the Initial Decision only to the extent to require that the payment by Petitioner of the amount found due and owing to Respondent, namely \$1,551.57, be made in accordance with the provisions of N.J.A.C. 14:3-4.6(f), which provides that in the case of a non-registering meter, the customer will be allowed to amortize the payment for a period of time equal to that period of time during which the customer was undercharged. Accordingly, beginning with the first bill rendered by Respondent subsequent to the date of this Order, Petitioner shall pay the amount due in 46 equal monthly payments of \$33.73, in addition to the amount on the bills for current charges. In all other regards, the provisions of the Initial Decision remain unchanged.

Therefore, based on the foregoing, the Board HEREBY ADOPTS the Initial Decision, as modified above, and ORDERS that the petition of Robert B. Stein be HEREBY DISMISSED.

DATED: 4/27/09

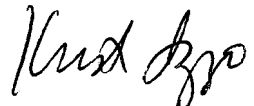
BOARD OF PUBLIC UTILITIES  
BY:

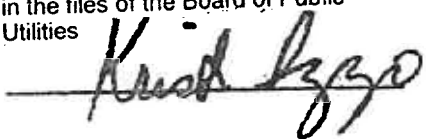
  
JEANNE M. FOX  
PRESIDENT

7  
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
NICHOLAS ASSELTA  
COMMISSIONER

  
ELIZABETH RANDALL  
COMMISSIONER

ATTEST:  
  
KRISTI IZZO  
SECRETARY

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


**ROBERT B. STEIN**

**v.**

**ATLANTIC CITY ELECTRIC COMPAN**

**BPU DOCKET NO. EC08050311U**

**OAL DOCKET NO. PUC6348-08**

**SERVICE LIST**

Robert B. Stein  
222 Seaside Avenue  
Atlantic City, New Jersey 08401

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Julie Ford-Williams  
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Newark, New Jersey 07102

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BOARD OF PUBLIC UTILITIES  
NEWARK, N.J.

**State of New Jersey**

OFFICE OF ADMINISTRATIVE LAW

RPTD

CAMPBELL, J

FORD, WILLIAMS  
(2)

**INITIAL DECISION**

OAL DKT. NO. PUC 6348-08

AGENCY DKT. NO. EC08050311U

**ROBERT B. STEIN,**

Petitioner,

v.

**ATLANTIC CITY ELECTRIC COMPANY,**

Respondent.

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**Robert B. Stein**, petitioner, pro se

**Renee Suglia, Esq.**, for respondent

Record Closed: March 24, 2009

Decided: March 27, 2009

BEFORE **BRUCE M. GORMAN**, ALJ:

**STATEMENT OF THE CASE**

Petitioner appealed respondent's action assessing him a retroactive electric bill for \$1551.57.

## PROCEDURAL HISTORY

The petitioner requested a fair hearing and the matter was transmitted to the OAL on August 6, 2008, to be heard as a contested case pursuant to N.J.S.A. 52:14B-1 to 15 and 14F-1 to 13. The matter was heard on March 24, 2009, and the record closed.

## FACTUAL DISCUSSION

Petitioner resides at 222 S. Seaside Avenue in Atlantic City, New Jersey. He receives his electric power from respondent.

In September 2007, respondent determined that petitioner's electric meter was malfunctioning. Charlotte De Vault, Senior Analyst in the Customer Relations Department testified that the meter had a bad coil.

Respondent reviewed petitioner's history and determined that the meter had failed to register electric power usage beginning in December 2003. Petitioner's monthly statements reflected a charge of under three dollars for each of those months. De Vault stated that amount was the normal minimum charge for maintaining service to the premises.

De Vault explained how the arrearage was calculated. Respondent divided the year into two parts: the summer months when usage was high (July, August, September), and the balance of the year when usage was lower (non-summer). To calculate the charge for the non-summer months, respondent took the number of kilowatt hours petitioner utilized from October 2002 through June 2003, divided by the number of days, which De Vault fixed at three hundred, and achieved a per diem usage of electrical power. Respondent then multiplied the per diem times the per kilowatt rate approved by the Board of Public Utilities for each year in question. For the summer months, respondent utilized the same procedure, but averaged the kilowatt usage for July, August and September.

Based upon that formula, De Vault stated petitioner owed \$1551.57 for the forty six months during which his meter malfunctioned. She produced a table reflecting the calculation process (R-2). I **FIND** that respondent has accurately calculated the amount due.

Petitioner declined to testify and therefore was not sworn. In summation, he argued that respondent had an obligation to provide proper billing. He noted that neither the billing department nor respondent's computer software nor the meter reader discovered that his meter was malfunctioning. He stated he thought his bill went down because of windmills that had been built outside Atlantic City. However, he offered no proof that those windmills were used to provide his premises with electrical power. Since petitioner did not testify, nothing in the record indicates that he was not using electrical power at that address during the months in question.

Petitioner stated he is now unemployed, and lacks the funds to pay this bill. Imposition of the bill will present a great hardship to him.

### **CONCLUSIONS OF LAW**

Respondent relied upon N.J.A.C. 14:3-4.6 in support of its action. That regulation states in pertinent part:

(a) ...No adjustment shall be made if a meter is found to be registering less than 100 percent of the service provided, except under (d) below.

\* \* \*

(d) If a meter is found to be registering less than 100 percent of the service provided, the utility shall not adjust the charges retrospectively or require the customer to repay the amount undercharged, except if:

\*

2. The meter failed to register at all; or

3. The circumstances are such that the customer should reasonably have known that the bill did not reflect the actual usage.

In this case, the uncontroverted proofs show that the meter failed to register at all. Further, I **FIND** and **CONCLUDE** that the miniscule amount of petitioner's monthly bill over the forty six month period in question should reasonably have caused petitioner to know that the bill did not reflect actual usage.

The action of respondent must be **AFFIRMED**.

### ORDER

I **ORDER** that respondent's action assessing petitioner \$1551.57 for electrical service utilizes between December 2003 and September 2007 be **AFFIRMED**.

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, 2 Gateway Center, Newark, NJ 07102**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

*Bruce M Gorman*

March 27, 2009  
\_\_\_\_\_  
DATE

\_\_\_\_\_  
BRUCE M. GORMAN, ALJ

Date Received at Agency: *3/27/09*

*Floyd Long...*  
\_\_\_\_\_  
Mailed to Parties:



\_\_\_\_\_  
DATE

\_\_\_\_\_  
OFFICE OF ADMINISTRATIVE LAW

/sd



WITNESSES AND DOCUMENTS IN EVIDENCE

WITNESSES

For Petitioner:

None

For Respondent:

Charlotte DeVault, Senior Analyst

EXHIBITS

For Petitioner:

None

For Respondent:

R Stein Account Statement  
R-2 Billing Worksheet