



Agenda Date: 5/25/16  
Agenda Item: VIIB

**STATE OF NEW JERSEY**  
Board of Public Utilities  
44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CUSTOMER ASSISTANCE

BIANCA CORTES,  
Petitioner,

v.

SUEZ WATER NEW JERSEY, INC.,<sup>1</sup>  
Respondent.

ORDER OF EXTENSION

BPU DOCKET NO. WC14030248U  
OAL DOCKET NO. PUC 11838-14

(SERVICE LIST ATTACHED)

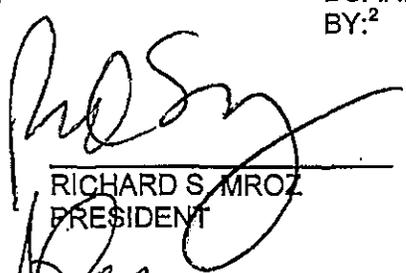
The Initial Decision of the Administrative Law Judge was received by the Board of Public Utilities (Board) on May 4, 2016; therefore, the 45-day statutory period for review and the issuing of a Final Decision will expire on June 18, 2016. Prior to that date, the Board requests an additional 45-day extension of time for issuing the Final Decision in order to adequately review the record in this matter.

Good cause having been shown, pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8, **IT IS ORDERED** that the time limit for the Board to render a Final Decision is extended until August 2, 2016.

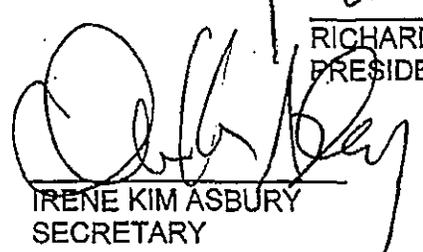
DATED:

*May 25, 2016*

BOARD OF PUBLIC UTILITIES  
BY:<sup>2</sup>

  
RICHARD S. MROZ  
PRESIDENT

ATTEST:

  
IRENE KIM ASBURY  
SECRETARY

<sup>1</sup> On January 27, 2016, United Water, Inc., advised the Board of Public Utilities that the company changed its operating name to SUEZ, the ultimate corporate parent of United Water.

<sup>2</sup> Authorized by Board to execute this Order of Extension on its behalf.

Date Board mailed Order to OAL: 5/25/16

cc: Service List Attached

DATED: 6/1/16



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LAURA SANDERS, ACTING  
DIRECTOR & CHIEF  
ADMINISTRATIVE LAW JUDGE

Date OAL mailed executed Order to Board: 6/1/16

Date Board mailed executed Order to Parties: 6/6/16

BIANCA CORTES

V.

SUEZ WATER NEW JERSEY, INC.

BPU DOCKET NO. WC14030248U  
OAL DOCKET NO. PUC 11838-14

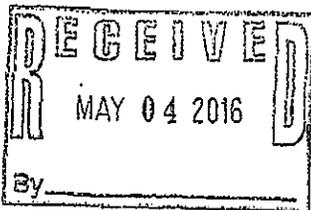
SERVICE LIST

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Montvale, New Jersey 07645

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On Behalf of Suez Water  
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**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

RECEIVED

MAY 04 2016

BOARD OF PUBLIC UTILITIES  
MAIL ROOM

INITIAL DECISION

OAL DKT. NO. PUC 11838-14  
AGENCY DKT. NO. WC14030248U

ON REMAND

OAL DKT. NO. PUC 07824-14  
AGENCY DKT. NO. WC14030248U

**BIANCA CORTES,**

Petitioner,

v.

**UNITED WATER NEW JERSEY,**

Respondent.

Jonah B. Kimmelstiel, Esq., for petitioner (Law Office of Jonah B. Kimmelstiel,  
attorneys)

John P. Wallace, Esq., for respondent

Record Closed: April 14, 2016

Decided: May 4, 2016

BEFORE LELAND S. MCGEE, ALJ:

*CMS*  
*V. Haynes*  
*D. Lee Thomas*  
*G. Hartsfield*  
*J. Ford*  
*C. Jordan*  
*R. Lambert*  
*B. Agee*  
*J. Gertsman*  
*C. Vachier*

PROCEDURAL HISTORY

On September 16, 2014, 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. This matter is a Remand of OAL Docket No. PUC 07824-14 that was previously dismissed due to a failure to appear.

A prehearing conference was held on October 30, 2014. An Evidentiary Hearing was scheduled for March 16, 2015, which was adjourned at petitioner's request. A hearing was scheduled for July 28, 2015, which was adjourned at respondent's request. An Evidentiary Hearing was held on December 17, 2015, and the record was left open for submission of post-hearing briefs. On February 2, 2016, respondent filed its post-hearing brief. On February 26, 2016, petitioner sent a letter via facsimile dated February 26, 2015, and requested an extension of time to file a post-hearing brief until "March 4." Petitioner has not filed a post-hearing brief and the record closed April 14, 2016.

### FACTS

Petitioner filed a petition alleging that respondent overcharged her in calendar year 2011 in amount that exceeded \$3,000, after her water meter had been replaced with a new one. She alleged that her usual bill was \$36.25 "more or less." The petition alleged that respondent's explanation was that for nine years she received estimated bills.

The petition alleged that in October 2012 petitioner received a bill in the amount of \$8,790. Following an inquiry about the reason for such a high bill, one of respondent's employees came to conduct a full investigation on October 12, 2012. The investigator advised petitioner that the front and rear water spigots were dripping water but that there was no evidence of any reason for such a high bill. The investigator replaced the meter and petitioner later received a report that the old meter operated properly.

The petition alleged that Petitioner was placed on a payment plan of \$100 per month to partially pay the bill up to \$1,973.24. Since the meter was changed, her water bills returned to a "reasonable monthly amount."

The petition alleged that there is no pool, sprinkler system or anything else on the property that could cause the water bills to increase to such high amounts and she

never used a volume of water that would result in such high bill amounts.

Attached to, and made a part of, the petition are two water bills dated February 10, 2014, in the amount of \$7,600.01, and February 25, 2014, in the amount of \$7,795.45, respectively.

### Summary of the Testimony

There were four witnesses in this case. Petitioner testified on her on behalf.

### Bianca Cortes

Bianca Cortes (Cortes) has resided at the subject premises for thirteen (13) years. Her husband, her mother, and step-father have lived with her at the home. In July 2014, her child was born. In 2011, her mother and step-father stayed with them primarily during the winter months; otherwise lived in their own home in Sussex County, New Jersey. Cortes's husband works for the Bergen County Sheriff's Office eight hours per day, as does she. Her step-father works six to seven hours per day. There are only two showers in the house—no swimming pool or sprinkler system. Cortes is the only owner of the house, which has only been used a residence and no business has been operated out of it. The lot size is 200 x 125, and in 2011 she watered the lawn with a hose in the summer. There were no leaks in the water heater; there was no damage as a result of Super Storm Sandy; and there are no damaged pipes in the home.

In the beginning of the year 2011, Cortes received a large bill in excess of \$2,000. At the time she had been receiving quarterly bills and they ranged from \$40 - \$60. Cortes described the series of bills that she received:

- February 24, 2011 – reflected on the ledger, Exhibit P-1; current charges \$89.66.
- May 26, 2011 – 88 days from 2/22/11 – 5/21/11; current charges \$36.25; past due balance of \$487.60; estimated bill. (P-2.)
- August 29, 2011 – 95 days from 5/21/11 – 8/24/11; current charges \$2,190.48; estimated bill. (P-3.) Cortes stated that she paid the bill in full.

- September 16, 2011 – reflected on the ledger, P-1; in the amount of \$350.95. Cortes did not receive this bill.
- February 29, 2012 – 96 days from 11/23/11 – 2/27/12; current charges \$363.59; actual meter reading. (P-4.)
- Cortes stated that it was during this time that an investigator came to inspect her meter and house. She was outside cleaning her yard when the United Water Company representative came to check her water meter. The representative indicated that they would add a device that would allow the company to read the meter from outside of the house.
- June 1, 2012 – covering 92 days from 2/27/12 – 5/29/12; current charges of \$357.65 (estimated bill); paid in full.
- October 6, 2012 – 179 days from 2/27/12 – 8/24/12; current charges of \$7,094 (prorated actual bill overlapping with prior bill).
- Cortes stated that she did not consume this amount of water and she "knows" that the new meter was installed prior to this bill because that is the only possible reason for the higher bill amount. There were no floods in the house, no unattended running water, no need for plumbing work to be done, and nothing otherwise unusual happened in the house to cause this level of usage.
- She spoke to Simone in Customer Service who advised that if the bill was not paid in full, service would be shut off. She stated that during 2012, a representative came to the house four or five times to give notice of a shut off.
- November 8, 2012 - listed on the ledger (P-1) in the amount of \$67.31; she does not recall receiving this bill.
- Cortes asserts that there is a billing gap between August 24, 2012, and October 22, 2012. Further, she was required to go on a payment plan before the company would conduct an investigation. In her opinion, the investigator was "surprised" about the outstanding bill because she did not observe any reason for high water usage. The investigator installed a new meter and issued a report dated October 22, 2012. (P-8.)
- November 28, 2012 – covering 35 days from 10/22/12 – 11/26/12; current charges of \$67.31. (P-7.)
- February 25, 2013 – quarterly bill in the amount of \$159.13; listed on the ledger (P-1).

- May 29, 2013 – covering 92 days from 2/21/13 to 5/24/13; current charges of \$171.04; actual reading of the meter from outside of the house. (P-9.)
- August 28, 2013 – quarterly bill reflected on the ledger in the amount of \$131.55; includes the summer months and she made four payments between this bill and the last bill.
- November 26, 2013 – reflected on the ledger, covering the period from 8/23/13 – 11/19/13; current charges \$155.64; actual meter reading. (P-10.)
- Cortes was making her monthly payments according to the payment plan plus the current bill amounts.
- February 25, 2014 – 97 days covering 11/19/13 – 2/24/14; current charges \$195.44; prorated actual meter reading. (P-11.)
- March 26, 2014 – reflected on the ledger (P-1) in the amount of \$49.59; she does not recall receiving this bill. Cortes states that during this time the monthly billing process changed.
- April 25, 2014 – 29 days covering 3/24/14 – 4/22/14; current charges \$45.48; actual meter reading. (P-12.)
- May 28, 2014 – reflected on the ledger in the amount of \$59.69.
- June 25, 2014 – 26 days covering 5/28/14 – 6/23/14; current charges \$41.62; actual meter reading. (P-13.)
- July 28, 2014 – reflected on the ledger in the amount of \$49.86; it was during the summer when usage was up due to watering the lawn. During the summer of 2014, she stopped making the monthly payments and filed her petition. Her child was born on July 19, 2014.
- August 26, 2014 – 29 days covering 7/24/14 – 8/22/14; current charges \$46; actual meter reading. Cortes stated that there was a balance brought forward in the amount of \$7,245.49. (P-14.) There were no construction changes to the home, no additions, and nobody moved out of the home. She was using the water as usual during that time.
- September 25, 2014 – 32 days covering 8/22/14 – 9/23/14; current charges \$46.06; actual meter reading. (P-15.)
- October 27, 2014 – covering 9/23/14 – 10/24/14; current charges \$54.30; actual meter reading. Cortes was still home on maternity leave at this time.
- November 25, 2014 – 28 days from 10/24/14 – 11/21/14; current charges 37.82;

actual meter reading. (P-17.)

Cortes testified that in reviewing the bills reflected on the ledger (P-1) from January 2, 2015, through October 27, 2015, all of the "current charges" were between \$38.29 and \$64.33. She paid all of the current charges for each bill.

The Customer Service Investigation Report of October 22, 2012, indicates that the "outside spigot for hose is leaking front & back." (P-8.) Cortes states that she had used both spigots to wash down the porch and to clean up after her dog on the morning that the investigator came. They were dripping from usage.

Cortes acknowledged that she did not pay the July 28, 2015, bill and she was late in paying the August 28, 2015, bill. The August 29, 2011, bill (P-3) was "zeroed out." Cortes believed that this was a result of her making payments under the payment plan.

#### Vanessa Garcia

Respondent presented Vanessa Garcia (Garcia) who has been an employee of Respondent for eleven (11) years. Her title was customer service representative at the time that she conducted a high bill investigation at petitioner's home in 2011. Garcia did not remember who she met with when she conducted the investigation on October 22, 2012. She was responding to a Field Order Ticket issued on October 16, 2012, which provided the location of the meter to be investigated. (R-1.) When there, Garcia read existing meter no. 885006657, changed it and took another reading, then took the old meter in to be tested.

Garcia stated that whenever there's movement on the meter she is required to investigate whether she can determine a source for water running through the meter. She determined that the water spigots in front and in back of the house were leaking. As a result of the investigation Garcia prepared a Customer Service Investigation Report. (P-8.) She concluded that there were no leaks from the two toilets, the sinks and showers, and that both washing machines were not in use. (ibid.)

Garcia stated that they are required to change the water meters every seven to eight years; however, she changed petitioner's meter because they usually remove meters for high bill inspections. The date of installation of petitioner's meter was September 12, 2011, so the meter was not removed because it was old.

Roy Hill

Respondent presented Roy Hill, Jr. (Hill), who worked for respondent for twenty-three (23) years. He is a customer service field representative who has tested meters in the shop for fifteen (15) years.

When he tested petitioner's meter he checked its serial number against the work order. He tests twenty-four meters at a time, at three levels of testing. He tested petitioner's meter, no. 88500657. The results of the test were that the meter functioned at 99% on the "medium test" (flow of 2 gal. per minute) and 99.2% on "high test" (flow of 15 gal. per minute). There was no reading for the "slow test" (flow of ¼ gal. per minute). (R-2.) His conclusion is that the meter was working properly.

Hill stated that the meter was not put back in service because it was an old "test" meter. He typically holds a removed meter for thirty days in case there was a problem at the residence and then it is discarded. The company was in the process of changing to encoder meters and the old meter type was being phased out. The meter was not reliable at low-flow levels.

Kathy Olfeldt

Respondent presented Kathy Olfeldt (Olfeldt), who is a manager in New Jersey Customer Operations. She has been with the company for 25½ years and is responsible for collections and customer billing.

Olfeldt reviewed Petitioner's billing history, Exhibit P-1, in preparation for this proceeding. She identified several bills that were disputed by petitioner. An invoice

dated August 29, 2011, (P-3) is reflected on page 5 of 5 of Exhibit P-1. She stated that the amount billed, \$2,190.48, was "canceled out." The evidence of this is that on Exhibit P-1 there is a "\$0.00" balance recorded next to the invoice amount. Further, this amount is not reflected in subsequent invoices.

Olfeldt acknowledged that there was a previous balance listed on Exhibit P-3 that is not reflected on the ledger, Exhibit P-1. Further although the billing was scheduled to issue on a quarterly basis, there was another bill issued on September 16, 2011, less than three weeks after the August 29 bill (P-3). She further acknowledged that Exhibit P-1 was not produced by the company's billing system but was created manually. Olfeldt does not know who prepared Exhibit P-1 and acknowledged that there are some inconsistencies between the ledger, Exhibit P-1, and the invoices reflected by Exhibits P-3 and P-7.

#### FINDING OF FACTS

Based upon the evidence and testimony in this case I **FIND** the following to be the **FACTS** of this case:

1. Petitioner received an unusually high water usage bill in February 2011. Prior to changing her meter, she received a series of estimated quarterly bills.
2. There were gaps in billing and a period of overlapping bills prior to October 2012.
3. After petitioner's meter was changed, there were regular monthly bills that were in the range of \$30 - \$70.
4. Respondent issued a bill dated August 29, 2011, in the amount of \$2,190.48, which petitioner paid in full. Respondent acknowledges that this payment was canceled out.

5. The electric meter measuring the amount of water consumed by petitioner's home located at XX Marion Road, Montvale, New Jersey, was removed and tested by a customer service field representative of United Water New Jersey.
6. The testing was done using the methods and standards adopted by the Board of Public Utilities.
7. This test result does not support a finding that the meter in question was reporting more consumption than what was actually being delivered to the customer.
8. Petitioner did not present any expert testimony or other evidence to support the position that the meter measurements reported for January to December 2011 or other relevant period, should be completely disregarded as inaccurate.
9. Petitioner has not made a specific claim as to an amount that she claims is due to her by respondent, or the specific time period for which her bills should be credited. There is insufficient evidence in the record to support a reduction in her water bill.
10. There is sufficient evidence in the record to question the accuracy of the bills issued based upon estimated bills, overlapping time periods, and gaps in billing.

### LEGAL DISCUSSION AND CONCLUSIONS

A consumer may dispute a utility charge before the Board of Public Utilities. N.J.A.C. 14:3-7.6. When the amount of an electric, gas, water, or wastewater bill is significantly higher than the customer's established consumption history, and there is no apparent explanation for the increase (for example, severe weather conditions; changes in the make-up or the lifestyles of the members of the household), the customer's established consumption shall be given consideration, in addition to the results of any tests on the customer's meter, in the evaluation of whether the bill is correct and appropriate. N.J.A.C. 14:3-7.6(g). The petitioner bears the burden of proof in this matter by a preponderance of the competent, credible evidence. Atkinson v. Parsekian, 37 N.J. 143 (1962).

In order to ensure a system that is fair to all customers of the utility, it is essential that the meters be accurate in measuring usage. It is for this reason that the Legislature enacted the provisions of N.J.S.A. 48:2-25 delegating to the Board of Public Utilities authority to: "c. Establish reasonable rules, regulations, specifications and standards, to secure the accuracy of all meters and appliances for measurement." Pursuant to and in furtherance of this authority, the Board has adopted regulations that require each water utility to ensure that all of the meters in use in its system are tested for accuracy. A water meter shall be considered accurate if it shows an error no greater than one and one half percent, when tested in accordance with this section. N.J.A.C. 14:9-4.1

I **CONCLUDE** that petitioner has not alleged that her meter no. 88500657 was inaccurate in measuring consumption and she has not met her burden of proof by a preponderance of the credible evidence that it did not operate properly during the billing periods in question.

I **CONCLUDE** that there is no apparent explanation for the increase in the amount of billed services (for example, severe weather conditions; changes in the make-up or the lifestyles of the members of the household), and that petitioner's billing history reflects monthly bills in the range of \$30 - \$70.

I **CONCLUDE** that, during the period in question, the majority of the bills that respondent issued were "estimates" and that there were discrepancies in the bills issued by respondent during the subject billing period that remain unresolved.

### ORDER

For the foregoing reasons it is hereby **ORDERED** that within thirty (30) days of the date of the Final Decision, respondent shall reconcile the discrepancy in the bills issued for the period beginning January 2011 through October 22, 2012, the date on which the meter was replaced.

It is further **ORDERED** that within thirty (30) days of the date of the Final Decision, petitioner shall submit to respondent a specific amount that she claims was

overbilled and the basis for that conclusion.

It is further **ORDERED** that if the parties are do not reach an agreement within forty-five (45) days of the date of the Final Decision, petitioner may file a billing dispute claim for the specific amount determined to be improperly billed.

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.



May 4, 2016

DATE

LELAND S. MCGEE, ALJ

Date Received at Agency:

May 4, 2016

Date Mailed to Parties:

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APPENDIX

Witnesses

For Petitioner:

Bianca Cortes

For Respondent:

Vanessa Garcia

Roy Hill, Jr.

Kathy Olfeldt

Jill Mortimer

Exhibits

For Petitioner:

- P-1 Bill Ledger 2011 to 2015
- P-2 Water bill dated May 26, 2011
- P-3 Water bill dated August 25, 2011
- P-4 Water bill dated February 29, 2012
- P-5 Water bill dated June 1, 2011
- P-6 Water bill dated October 6, 2012
- P-7 Water bill dated November 28, 2012
- P-8 Customer Service Investigation Report
- P-9 Water bill dated May 29, 2013
- P-10 Water bill dated November 26, 2013
- P-11 Water bill dated February 25, 2014
- P-12 Water bill dated April 25, 2014
- P-13 Water bill dated June 25, 2014
- P-14 Water bill dated August 26, 2014
- P-15 Water bill dated September 25, 2014
- P-16 Water bill dated October 27, 2014
- P-17 Water bill dated November 25, 2014

OAL DKT. NO. PUC 11838-14

For Respondent:

R-1 Field Order ticket

R-2 Meter testing report dated October 25, 2012