



Agenda Date: 8/1/07
Agenda Item: 7A

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.bpu.state.nj.us

CUSTOMER ASSISTANCE

SHALMON NEUMAN,
Petitioner

v.

NEW JERSEY AMERICAN WATER COMPANY,
Respondent

) ORDER ADOPTING INITIAL
) DECISION
)
)
)

) BPU DOCKET NO. WC07010049U
) OAL DOCKET NO. PUC 2057-07

(SERVICE LIST ATTACHED)

BY THE BOARD:

By petition filed on January 26, 2007, Shalmon Neuman (Petitioner) alleged that he was overcharged by New Jersey American Water Company (Respondent) for the period running from the Spring of 2002 through September, 2003. On February 27, 2007, Respondent filed an answer.

After the filing of Respondent's answer, the Board transmitted this matter to the Office of Administrative Law (OAL) for hearing and initial disposition as a contested case pursuant to N.J.S.A. 52:14-B-1 et seq. and N.J.S.A. 52:14F-1 et seq. The matter was assigned to Administrative Law Judge (ALJ) Douglas H. Hurd.

On May 25, 2007, ALJ Hurd submitted his Initial Decision to the Board ordering Petitioner's petition be dismissed. A copy of the Initial Decision is attached hereto and made a part hereof. No exceptions to the Initial Decision have been filed with the Board.

The procedural history of this matter and ALJ Hurd's legal analysis are set forth in the Initial Decision and need not be restated herein. After review and consideration of the record, the Board HEREBY FINDS the findings and conclusions of the ALJ to be reasonable and, accordingly, HEREBY ACCEPTS them.

Therefore, the Board HEREBY ADOPTS the Initial Decision in its entirety and ORDERS that the petition of Shalmon Neuman be HEREBY DISMISSED.

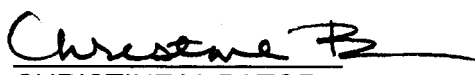
DATED: 8/1/07

BOARD OF PUBLIC UTILITIES
BY:

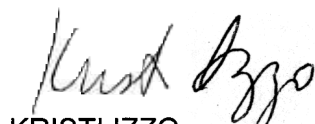

JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER

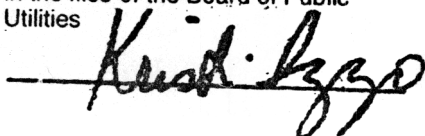

JOSEPH L. FIORDALISO
COMMISSIONER


CHRISTINE V. BATOR
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



Shalmon Neuman

v.

New Jersey American Water Company

BPU Docket No. WC07010049U

OAL Docket No. PUC 2057-07

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BOARD OF PUBLIC UTILITIES
NEWARK, N.J.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

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01st. 4/25/07 (2)

INITIAL DECISION

OAL DKT. NO. PUC 2057-07

AGENCY DKT. NO. WC07010049U

SHALMON NEUMAN,

Petitioner,

v.

NEW JERSEY AMERICAN

WATER COMPANY,

Respondent.

Shalmon Neuman, petitioner, pro se

Stacey A. Mitchell, Esq., for respondent (Cozen O'Connor, attorneys)

Record Closed: May 21, 2007

Decided: May 25, 2007

BEFORE **DOUGLAS H. HURD**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner, Shalom Neuman, is the owner of a multi-unit (4 units) apartment building located at 13 Broadway, Ocean Grove (the "premises"). Respondent, the New Jersey American Water Company, provides water service to the premises. Sewer service is provided by the Ocean Grove Sewer Authority and is based on the amount of water usage at the premises.

Petitioner alleges that he was overcharged by respondent from the Spring 2002 until September 2003, which resulted in inflated water and sewer bills. Petitioner requested a formal hearing on January 20, 2007. By Answer, dated February 23, 2007, respondent denied the allegations and claims that petitioner is solely responsible for any increased water usage at the premises. The dispute was transmitted to the Office of Administrative Law, where it was filed on March 14, 2007. A hearing was held on May 21, 2007 and the record closed

ANALYSIS

Petitioner and the property manager of the premises, Eric Pearl, testified about the alleged overcharges. They contend that starting in the Spring of 2002 that their water bill was much higher than past bills. They testified that they contacted respondent regarding the higher bills and that respondent came out on several occasions and identified leaks on the premises. Petitioner and Pearl testified that they had those leaks fixed, but that the high bills continued.

Petitioner contacted respondent once again on April 29, 2003, regarding the bills. Respondent sent a field representative again to inspect the premises. The representative advised petitioner that there was a leak in the basement pipes. It appeared that there was an underground water leak from the pipe that came in from the adjoining property owner's land. Because the pipes were in very poor condition, the representative told petitioner that an alternative service line connection might be needed. On May 23, 2003, petitioner had a new service line put in that connected to the system from the street, in front of the premises. On May 27, 2003, the service was tied in and the work was completed. Pearl testified that the plumber also installed new piping/plumbing in the basement as well

Thereafter, the higher than normal water bills continued. Petitioner called respondent again on August 7, 2003, about the continued high bills. Respondent sent a field representative on August 14, 2003, to inspect the premises. The representative found a leak on the 1st floor apartment toilet. Petitioner at that time requested that the

meter be replaced. Respondent complied with this request and replaced the meter on August 18, 2003. On January 13, 2004, the removed meter was tested and found to be within the degree of accuracy set forth in the tariff and BPU regulations.

Petitioner's water bill went back to its "normal" amount starting in September 2003. Petitioner contends that the replacement of the meter corresponds to when the bill went back to the pre-Spring 2002 "normal" level. Petitioner contends that the water bills from the Spring 2002 through the end of August 2003 were significantly higher than bills before and after that time period. Petitioner claims that he should not be responsible for these higher bills because, as he contends, it was a faulty meter. Petitioner admits that there were leaks on the property during the time of the higher than average bills, but he notes that they were all fixed by him.

Respondent's position is that petitioner is solely responsible for the bills and that there were no overcharges. Respondent points to the evidence that the meter tested within the degree of accuracy required by the tariff and BPU regulations. Respondent also points out that there were many leaks on the property, and points to the leak that was fixed on August 14, 2003, just prior to the bills going back to the normal level. Respondent claims that it was the fixing of this leak, not the changing of the meter around that time that resulted in the bills going back to normal.

I agree with Respondent that it should not be held responsible for the billings during the time period. The evidence shows that the premises had numerous leaks, which continued right through August 2003. Also important is the fact that the meter tested within the necessary degree of accuracy. The meter readings during this time period were based on actual readings. Given these facts, I cannot conclude that it was a faulty meter that resulted in the higher water bills incurred by petitioner. Rather, the cause of the higher bills was most likely the leaks, the last of which was fixed just prior to the bills going back to the normal pre-Spring 2002 level.

ORDER

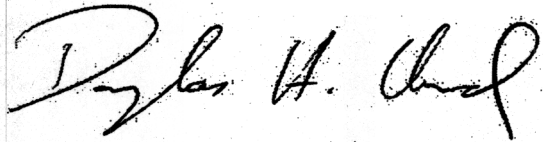
Based on the foregoing, hereby **ORDER** petitioner's formal petition be **DISMISSED**.

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, 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.

May 25, 2007



DATE

DOUGLAS H. HURD, ALJ

Date Received at Agency:

5-25-07

Mailed to Parties:

DATE

OFFICE OF ADMINISTRATIVE LAW

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EXHIBITS

For Petitioner:

Utility Bill, dated November 3, 2003

Bill from Gannon Plumbing

P-3 Billing History of Sewerage Account

Billing History of Water Account

P-5 Bill from Sewerage Authority

P-6 Billing History of Sewerage Account

Operating Statement compiled by Pearl

P-8 Operating Statement compiled by Pearl

P-9 Letter from Neuman, dated September 16, 2003

For Respondent:

Letter from Toscano to Stark

R-2 Comment from Utility Technician regarding August 13, 2003, visit

R-3 Meter Test Report

Letter from Price to Pearl

WITNESSES

For Petitioner:

Shalmon Neuman, petitioner

Eric Pearl, Property Manager

For Respondent:

Donald Toscano, Service Delivery Specialist