



Agenda Date: 12/14/11
Agenda Item: VIIB

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue
Post Office Box 350
Trenton, New Jersey 0865-0350
www.nj.gov/bpu/

CUSTOMER ASSISTANCE

NGOZI O. ANIGBOGU,
Petitioner

v.

PIVOTAL UTILITY HOLDINGS, INC., D/B/A
ELIZABETHTOWN GAS,
Respondent

ORDER OF EXTENSION

BPU DOCKET NO. GC10120917U
OAL DOCKET NO. PUC08391-11

(SERVICE LIST ATTACHED)

The Initial Decision of the Administrative Law Judge was received by the Board of Public Utilities (Board) on November 23, 2011; therefore the 45-day statutory period for review and the issuing of a Final Decision will expire on January 9, 2012. Prior to that date, the Board requests an additional 45-day extension of time for issuing the Final Decision as there are no scheduled agenda meetings prior to the expiration date.

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 February 23, 2012.

DATED: 12/15/11

BOARD OF PUBLIC UTILITIES
BY:

Jeanne M. Fox

JEANNE M. FOX
COMMISSIONER

Lee A. Solomon
LEE A. SOLOMON
PRESIDENT

Joseph L. Fiordaliso

JOSEPH L. FIORDALISO
COMMISSIONER

Nicholas Asselta

NICHOLAS ASSELTA
COMMISSIONER

ATTEST:

Kristi Izzo
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

Kristi Izzo

Date Board mailed Order to OAL 12/16/11

cc: Service List Attached

DATED 12/20/11

Laura Sanders
LAURA SANDERS, ACTING
DIRECTOR & CHIEF
ADMINISTRATIVE LAW JUDGE

Executed
Date OAL mailed executed Order to Board 12/20/11

Date Board mailed executed Order to Parties 12/20/11

NGOZI O. ANIGBOGU

V.

PIVOTAL UTILITY HOLDINGS, INC. D/B/A ELIZABETHTOWN GAS

BPU DOCKET NO. GC10120917U
OAL DOCKET NO. PUC08391-11

SERVICE LIST

Ngozi O. Anigbogu
2794 Audrey Terrace
Union, New Jersey 07083

Deborah M. Franco, Esq.
Cullen and Dykman
100 Quentin Reynolds Boulevard
Garden City, New York 11530

Eric Hartsfield, Director
Julie Ford-Williams
Division of Customer Assistance
Board of Public Utilities
44 South Clinton Avenue
P.O. Box 350
Trenton, New Jersey 08625-0350

Carolyn McIntosh, DAG
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07102

FWD 12/1/11

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MANAG

2011 NOV 30 AM 11:33

BOARD OF PUBLIC UTILITIES
NEWARK, N.J.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

BPU MAILROOM

NOV 29 2011

RECEIVED

INITIAL DECISION

OAL DKT. NO. PUC 08391-11

AGENCY DKT NO. GC10120917U

NGOZI O. ANIGBOGU,
Petitioner,

**PIVOTAL UTILITY HOLDINGS, INC., D/B/A/
ELIZABETHTOWN GAS,**
Respondent.

*CMG
E. Beslow
C. Vachier
DAG
RPA
V. Hagnus
D. Lee-Thomas
J. Foul-Williams
R. Lombard*

John Anigbogu, pro se

Donna Franco, Esq., appearing on behalf of respondent (Cullen & Dykman attorneys)

Record Closed November 3, 2011

Decided: November 23, 2011

BEFORE KIMBERLY A. MOSS, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner John Anigbogu (Anigbogu or petitioner), incorrectly listed in the petition as Ngozi O. Anigbogu, filed a complaint before the Board of Public Utilities (BPU) disputing the billing charges of Pivotal Utility Holdings Inc., D/B/A/ Elizabethtown

Gas (Elizabethtown) for gas service provided to 2794 Audrey Terrace, Union, New Jersey.

On July 14, 2011, 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 prehearing was scheduled for August 17, 2011. Petitioner could not be reached for the prehearing. A hearing was scheduled for August 30, 2011. Petitioner requested an adjournment of that hearing, which was granted. The hearing was held on November 3, 2011, after which I closed the record.

FACTUAL DISCUSSION AND FINDINGS

As the following is undisputed, I **FIND** it to be the **FACTS** of this case:

Anigbogu was a customer of Elizabethtown. The subject premises of this case is located at 2794 Audrey Terrace, Union, New Jersey. Gas service was discontinued to Anigbogu in April 2009 because of non-payment of the bill. He had an outstanding balance of \$1332.57. On June 1, 2010, Elizabethtown filed a police report in Union alleging theft and fraud because after it discontinued gas service at 2794 Audrey Terrace, their representative found the valve was cut, safety valves were missing and gas was being used. A representative of Elizabethtown found two additional instances of tampering. Anigbogu was arrested as a result of the tampering allegations. Anigbogu is in the pre-trial intervention program as a result of the tampering allegations. On September 21, 2010, Anigbogu paid Elizabethtown \$1332.57.

Testimony

John Anigbogu

Anigbogu stated that the meter was removed on August 4, 2010. He paid the outstanding balance of \$1332.57 in September 2009. Two months later he received a bill for \$1973.04. He believes that he was being billed for a period of time when there was no meter on the premises.

Aurora Balbuena

Aurora Balbuena (Balbuena) works as a customer relations representative for Elizabethtown. She has worked on Angibogu's account. After Angibogu's service was discontinued in April 2009, the meter showed continued gas consumption even though it was locked. The charge for the consumption after the discontinuance was \$2124.38. This charge only includes gas consumption that was measured by the meter. All consumption after the discontinuance was unauthorized gas usage.

Janet Papciak

Janet Papciak (Papciak) is a field supervisor for Elizabethtown. It was discovered that after the meter was shut off at 2794 Audrey Terrace the meter was advancing. The meter advances only if gas is being consumed. There was consumption registered after the discontinuance. This is evidence of tampering. Upon investigation, it was revealed that the lock was removed, the valve was cut and the gas was turned back on. Elizabethtown did not turn the gas back on. On May 17, 2010, the meter was removed. Subsequent to the meter removal someone installed a flexible connector on two occasions that allowed gas to flow into the residence without being measured. Elizabethtown did not install the flexible connector.

A distribution operating excavation crew was sent to sever the service pipe from the gas main in August 2010. The gas main runs down the street. The service pipe runs from the gas main to the dwelling.

The billing had stopped at the time of the discontinuance. Once it was determined that there was gas consumption after the discontinuance, a bill was sent for that consumption.

Having heard the testimony and witnesses **FIND** the following additional **FACTS**:

After Anigbogu's gas service was discontinued in April 2009, his gas meter continued to register usage. After the service was discontinued, the lock was removed from the meter and the valve was cut allowing gas into the premises. Removing the lock from the meter and cutting the valve constitutes tampering. The meter was removed from the premises on May 17, 2010. Gas was being consumed at 2794 Audrey Terrace due to the tampered meter for approximately one year and one month from the discontinuance of service in April 2009, until May 17, 2010, when the meter was removed. The charge for the unauthorized gas usage from April 2009 thru May 17, 2010, is \$2124.38. Subsequent to the removal of the meter a flexible connector was installed to furnish the premises with gas on two separate occasions. Elizabethtown did not install the flexible connector. As a result of the installation of the flexible connectors, Elizabethtown sent a distribution operating excavation crew to sever the service pipe from the main line. The charge of \$2124.38 only includes consumption that was measured by the meter.

LEGAL ANALYSIS AND CONCLUSION

N.J.A.C. 14:3-3A.1(a)(3) provides a basis for discontinuation of service "for nonpayment of a valid bill due for service furnished at a present or previous location, in accordance with N.J.A.C. 14:3-3A.2." In April 2009, Anigbogu's service was discontinued. At that time had an outstanding balance with Elizabethtown of \$1332.57. I **CONCLUDE** Anigbogu's service was discontinued in April 2009 for nonpayment of a valid bill.

N.J.A.C. 14:3-7.1(a), billing general provisions, provides:

The customer of record, as defined at N.J.A.C. 14:3-1.1, shall be responsible for payment for all utility service rendered.

I **CONCLUDE** there was gas consumption after the service was discontinued. This was due to tampering. On three occasions a representative from Elizabethtown came to the premises and saw that there was tampering. Although the service was

discontinued in April 2009, petitioner continued to receive gas due to tampering until the service pipe was severed from the main line.

ORDER

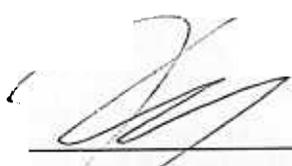
It is therefore **ORDERED** that the petition in this matter is **DISMISSED**.

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, Suite 801, Newark, NJ 07102**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

11-23-11
DATE


KIMBERLY A. MOSS, ALJ

Date Received at Agency: NOV. 23, 2011

Date Mailed to Parties: NOV 25, 2011
ljb

DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE

WITNESSES

For Petitioner:

None

For Respondent:

Aurora Balbuena

Janet Papciak

EXHIBITS

For Petitioner:

None

For Respondent:

- R-1 Gas Consumption and Billing for Anigbogu from February 2008 thru December 2010
- R-2 Photos of the Exterior of 2794 Audrey Terrace, Union, N.J.
- R-3 Police Report of the Township of Union dated June 1, 2010