



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CUSTOMER ASSISTANCE

MARTHA Z. BELL,
Petitioner,

V.

UNITED WATER OF NEW JERSEY, INC.
Respondent

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ORDER ADOPTING INITIAL
DECISION

BPU DOCKET NO. WC13050422U
OAL DOCKET NO. PUC 14817-13

Parties of Record:

Martha Z. Bell, Pro Se
John P. Wallace, Esq., on behalf of Respondent, United Water New Jersey, Inc.

BY THE BOARD:

The within matter is a dispute in regard to billings over water consumption between Martha Z. Bell (“Petitioner”) and United Water New Jersey, Inc. (“Respondent” or “United Water”). This Order sets forth the background and procedural history of the Petitioner’s claims and represents the Final Order in the matter pursuant to N.J.S.A. 52:14B-10.

Having reviewed the record, the Board of Public Utilities (“Board” or “BPU”) now **ADOPTS** the Initial Decision rendered on April 23, 2014.

BACKGROUND/PROCEDURAL HISTORY

On May 24, 2013, Petitioner filed a handwritten petition with the Board disputing bills from meters installed on her properties by Respondent. On July 29, 2013, Respondent filed an answer generally denying Petitioner’s allegations and demanding that Petitioner pay the disputed bills in full. On October 16, 2013, the matter was transmitted to Office of Administrative Law (“OAL”).

April 10, 2014 Hearing

On April 10, 2014, Administrative Law Judge (“ALJ”) Kimberly A. Moss held a hearing. ALJ Moss heard the testimony of Petitioner and Simone Reeves.

Petitioner testified to buying separate multiple-unit buildings in 1962. (T 4-13 to 5-11). One of the locations is 214-216 Central Avenue in Hackensack, New Jersey. (T 5-12 to 6-8). The other address is 232 First Street in Hackensack, New Jersey. (T 6-11 to -20). All of the water meters for those locations were located in 214 Central Avenue. (T 17-15 to 18-11). Petitioner testified that the building at 214 Central Avenue used to have four water meters, but they were removed without her consent in approximately 2004, and now the building only has one. (T 7-18 to 8-7; 11-17 to 12-7; 19-17 to -25). Petitioner stated that before the meters were removed, the meters were in the tenants' names, but alleged that when the tenants went to pay the water bills, they were instructed not to by Respondent, and Petitioner was billed instead. (T 12-19 to 13-2; 13-24 to 14-11). Petitioner attested that her tenants were generally low income and that she paid the water bill for them, although the bills should have been in the tenants' names because they were responsible for the payments. (T 40-3 to 41-14). Petitioner did not bring any of the bills she paid to Respondent, nor did she know the amount she paid. (T 18-25 to -5). Petitioner demands all of the money that she has paid to Respondent for water consumption usage bills from her properties and the meters re-installed in working condition. (T 10-10 to 11-9; 14-21 to 15-12; 18-19 to -23).

Petitioner testified that after the water meters were removed and replaced, she was paying the bills for all of her properties on a \$125 a month payment plan. (T 20-5 to 21-8). However, Petitioner had problems recouping the money she paid for the tenants' bills to Respondent, as she eventually had to take one of the tenants, a pizzeria, to court to force them to pay their water bill, although Petitioner does not recall when that happened. Ibid. Petitioner also attested that they closed the account for her tenants in approximately 1996 for the entire building. (T 22-19 to 23-6; 24-24 to 25-4).

On cross-examination, Petitioner denied paying \$125 a month on a past due amount over \$6,000 or paying current charges, but admitted that Respondent meter readers could not gain access to the building at 214 Central Avenue because it has been declared unsafe by the City. (T 44-19 to 47-15). Petitioner also stated that the pizzeria had its own meter installed in 2007, and testified to not having proof that subsequent bills were inaccurate. (T 50-23 to 51-22; R-1). Furthermore, Petitioner swore that, although tenants were supposed to pay for water according to the lease agreement between landlord and tenant, Petitioner would pay and did nothing to recoup her payments from the tenants. (T 53-25 to 54-11).

Thereafter, Respondent called Simone Reeves, a customer relations supervisor for Respondent since 2004. (T 70-2 to -6). She testified to having lots of experience handling customer matters, and was familiar with Petitioner's account. (T 70-10 to -15). Ms. Reeves stated that Petitioner's tenant, the pizzeria, established its own, separate water meter at the property in 2007. (T 70-16 to 71-16; R-1). Furthermore, Ms. Reeves swore that there are three water meters at Petitioner's premises now and that when the meters were removed in the 1990s, they were replaced. (T 71-17 to -22; 93-5 to 12). Ms. Reeves also testified that Petitioner is the named account holder for the bills rendered from one of the meters at the property in question. (T 76-16 to 78-25; 81-9 to -14). Moreover, Ms. Reeves stated that Respondent had recently sent field representatives to Petitioner's property to conduct actual meter readings to calculate what Petitioner owes, but those field representatives were unable to gain actual access to the property because the property was declared unsafe by the City and the radio frequency device, which enables a remote reading to be taken, was not functioning. (T 73-20 to 74-16; R-3). Ms. Reeves then attested that Petitioner's account has a balance of \$6,096 as of the day of the hearing. (T 75-4 to -24). Ms. Reeves further explained that Petitioner's \$125 a month payment plan began in 2009 when Petitioner owed \$3,400, and that the payment plan clearly stated that the \$125 was in addition to her current charges, which Petitioner has refused to pay, and that if Petitioner only paid \$125 a month towards her bill, she

would never catch up on her debt with Respondent based on her account's monthly water consumption usage. (T 75-25 to 76-13).

April 23, 2014 Initial Decision

In her Initial Decision, ALJ Moss noted her findings of fact as: Petitioner is a customer of Respondent, which provides water service to properties Petitioner owns located at 214-216 Central Avenue, Hackensack, New Jersey, including apartment units and commercial locations. (Initial Decision at 2). Respondent changed the meters at the property, although it is unclear when it occurred between 1996 and 2004, and afterwards, Petitioner claims that she was billed for water that her tenants at the property utilized. Ibid. Although Petitioner testified to paying the water bills for her tenants because they could not afford to pay them, Petitioner did not provide any documentation that she was billed for water services provided to her tenants or any bills that Petitioner received from Respondent prior to or during the hearing. Ibid. There are three water meters at 214-216 Central Avenue with Petitioner being the account holder for one of them, and the pizzeria installed a separate water meter in 2007 in the store owned by Petitioner at 216 Central Avenue. Ibid. Although, Petitioner has a payment plan with Respondent that required her to pay \$125 a month toward her arrears in addition to her current balance, she has only paid \$125 a month without addressing the underlying balance, which has only increased as a result. Ibid. On April 7, 2014, Respondent field representatives attempted a meter reading at 214-216 Central Avenue, Hackensack, New Jersey, but they were unable to access the premises because there was a notice posted on the property by the City of Hackensack stating that the property was unsafe and because the remote meter reader was not working. Ibid.

The ALJ concluded that Petitioner had not provided any evidence that the bills from Respondent for water usage consumption at the subject properties were inaccurate or improper. (Initial Decision at 3). The ALJ further concluded that Petitioner had not proven by a preponderance of the evidence that she was improperly billed by Respondent. Ibid. Consequently, the ALJ ordered the petition be dismissed. Ibid.

DISCUSSION AND FINDINGS

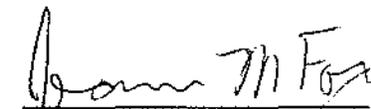
After review and consideration of the entire record, the Board **HEREBY FINDS** the findings and conclusions of the ALJ to be reasonable and, accordingly, **HEREBY ACCEPTS** them. Specifically, the Board **FINDS** that Petitioner failed to bear her burden of proof as there is nothing in the record demonstrating that the bills from Respondent for water usage consumption at the subject properties were inaccurate or improper. (T 51-20 to -22). Moreover, the record establishes that there are separate meters and that Petitioner is the named account holder for one of the meters. (T 76-16 to 78-25; 81-9 to -14).

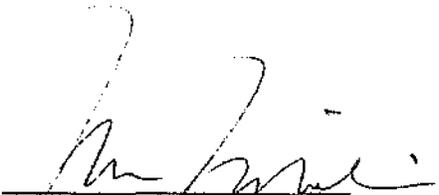
The Board **HEREBY ADOPTS** the Initial Decision in its entirety and **ORDERS** that the petition be **DISMISSED**.

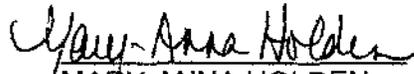
DATED: 6/18/14

BOARD OF PUBLIC UTILITIES
BY:


DIANNE SOLOMON
PRESIDENT

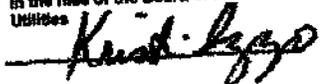

JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
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


MARTHA Z. BELL

v.

UNITED WATER OF NEW JERSEY, INC.

BPU DOCKET NO. WC13050422U

OAL DOCKET NO. PUC 14817-13

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

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CASE MANAGEMENT
INITIAL DECISION

OAL DKT. NO. PUC 14817-13
AGENCY DKT. NO. WC13050422U

MARTHA Z. BELL,
Petitioner,
v.
UNITED WATER NEW JERSEY,
Respondent.

Martha Z. Bell, petitioner, appearing pro se

John Wallace, Esq., appearing on behalf of respondent United Water New Jersey

Record Closed: April 9, 2014

Decided: April 23, 2014

BEFORE **KIMBERLY A. MOSS**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner Martha Z. Bell (Bell or petitioner) filed a complaint before the Board of Public Utilities (BPU) disputing the billing charges of United Water New Jersey (UWNJ) for water service provided to 214-216 Central Avenue, Hackensack, New Jersey. On October 16, 2013, 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 conference was conducted on December 10, 2013, at which time a hearing was scheduled. The hearing was held on April 9, 2014, after which the record closed.

FACTUAL DISCUSSION AND FINDINGS

Having heard the testimony, observed the witnesses, and reviewed the exhibits, I **FIND** the following **FACTS**:

Bell is a customer of UWNJ, which provides water service to properties owned by her located at 214-216 Central Avenue, Hackensack, New Jersey. She has tenants at the properties of 214-216 Central Avenue Hackensack that consists of two apartment units and a store (Mr. Pizza). At some point between 1996 and 2004, UWNJ changed the meters at the property. Bell alleges that after the meters were changed, she was billed for water that her tenants used. Bell stated that the lease that she has with her tenants provides that the tenant has to pay utilities. However, Bell testified that she has paid the water bill for her tenants because they could not afford to pay it. Bell did not provide any documentation that she was billed for water services provided to her tenants. Further, Bell did not produce any bills that she received from UWNJ prior to or during the hearing.

Mr. Pizza applied for and received a separate water meter in the store owned by Bell at 216 Central Avenue in 2007. Once the meter was installed, Mr. Pizza was the account holder for the water bill of 216 Central Avenue. There are three water meters at 214-216 Central Avenue and Bell is the account holder for one of those meters.

Bell had a payment plan with UWNJ which required her to pay \$125 per month toward her arrears and her current balance. Bell paid the \$125 per month but she has not paid the current balance. UWNJ attempted to read the meter for 214-216 Central Avenue, Hackensack, New Jersey on April 7, 2014. The representatives of UWNJ could not read the meter because the remote meter reader was not working and they could not enter the premises because there was a notice posted on the property by the city of Hackensack stating that the premises was unsafe.

LEGAL ANALYSIS AND CONCLUSIONS

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 justifiably 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 human likelihood, is true. See Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div.), certif. denied, 31 N.J. 75 (1959).

This petition concerns the issue of whether petitioner has been properly charged for water service. Petitioner has provided no evidence that the water bills of UWNJ are inaccurate. I **CONCLUDE** that petitioner has not proved by a preponderance of the evidence that her UWNJ water bills were inaccurate.

ORDER

It is therefore **ORDERED** that the petition in this matter be and is hereby **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, N.J. 08625-0350**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

April 23, 2014



DATE

KIMBERLY A. MOSS, ALJ

Date Received at Agency:

Date Mailed to Parties:

ljb

WITNESSES

For Petitioner:

None

For Respondent:

Simone Reeves

EXHIBITS

For Petitioner:

None

For Respondent:

- R-1 Letter from United Water New Jersey Dated July 24, 2007
- R-2 Plumbing Receipt from Blackman Plumbing/Heating/Cooling Supplies Dated November 2, 2010
- R-3 United Water Field Order Dated April 7, 2014