



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

KAREN ROBINSON,)	ORDER ADOPTING INITIAL
Petitioner,)	DECISION
)	
v.)	
)	
PUBLIC SERVICE ELECTRIC AND GAS)	
COMPANY,)	BPU DOCKET NO. EC13080722U
Respondent.)	OAL DOCKET NO. PUC 13473-13

Parties of Record:

Karen Robinson, pro se
Alexander C. Stern, Esq., on behalf of Respondent, Public Service Electric and Gas Company.

BY THE BOARD:¹

The within matter is a billing dispute concerning electric consumption between Karen Robinson (“Petitioner”) and Public Service Electric and Gas Company (“Respondent” or “Company”). 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 June 18, 2015.

BACKGROUND/PROCEDURAL HISTORY

On August 12, 2013, Petitioner filed a petition with the Board disputing bills for her account ending in 719 05 at her residence in Deptford, New Jersey. On September 6, 2013, Respondent filed an answer denying Petitioner’s allegations. On September 17, 2013, the Board transmitted the matter to the Office of Administrative Law (“OAL”) as a contested case. On July 9, 2014, a hearing was held before Administrative Law Judge (“ALJ”) Elia A. Pelios.

At the hearing, ALJ Pelios heard the testimony of James Walsh, the Company’s senior customer relations consultant, Petitioner, and her husband, Frederick Robinson. At the commencement of

¹ Commissioner Upendra J. Chivukula recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

the hearing, Mr. Robinson advised the OAL that he was Petitioner's husband and would be "acting as her representative" for purposes of the hearing. Counsel for the Company voiced no objection, and Mr. Robinson proceeded to cross examine Mr. Walsh, question Petitioner, provide testimony, and argue on Petitioner's behalf.

At the suggestion of the ALJ, with the parties' consent, Respondent first presented its case-in-chief, consisting of the testimony of James Walsh. Mr. Walsh testified that he has been employed by the Company for thirty-six years and was currently employed as senior customer relations consultant. He testified to his familiarity with the complaint and indicated that he investigated Petitioner's claim of high electric bills.

Mr. Walsh explained that, in his investigation of the complaint, he analyzed the account activity beginning July 6, 2006. He testified that Petitioner's meter was removed and tested for accuracy on November 27, 2013 and a report was issued on December 4, 2013. The report was marked for identification as R-1. Mr. Walsh testified that the results of the test indicated that the meter was 96.81% accurate, testing slow, meaning it was capturing less usage than what Petitioner was in fact using. Subsequently the meter was replaced. Mr. Walsh testified that Petitioners were not billed for any usage the meter failed to capture.

Mr. Walsh also reviewed the statement of Petitioner's account from July 6, 2006 through June 2, 2014. This statement of account, a spreadsheet Mr. Walsh had prepared, was marked for identification as R-2. In his testimony, Mr. Walsh explained the spreadsheet in detail. He testified that as of June 2, 2014, the balance due and owing on the account was \$14,277.06. He explained that Petitioner was receiving customer assistance payments through USF and LIHEAP, but was not making regular payments to cover the monthly utility charges in full, thus carrying a growing balance from month to month. Mr. Walsh explained that Petitioner's last payment was made in July 2013 in the amount of \$100. No other payments had been made afterwards. Mr. Walsh testified, as noted in R-2, that a new gas meter was installed in November 2011 and a new electric meter was installed in November 2013, each of which could then be read from outside the Petitioner's home, through an electronic radio transmission reading.

On cross-examination, Mr. Robinson questioned Mr. Walsh whether a bankruptcy was ever reflected on the Petitioner's account statement. Mr. Walsh indicated that it was not, but acknowledged that when a final bankruptcy judgment is issued, a new account, with a zero balance, is started.

Petitioner then testified to the efforts she and her family make to minimize their electricity consumption. She stated that she believes this practice is bad for her health and that she has had two heart attacks which she attributes to the heat. She further testified that while she would love to resolve the matter with Respondent, until a settlement in a different lawsuit goes through she will not be able to provide payment.

Frederick Robinson then testified that he and his wife know that they have not been good paying customers. He promised that they would do their best to seek assistance to make payment and to keep usage down. He testified that his family's limited income only goes so far with their household of seven people. He acknowledged being in the wrong but testified that he believes the Company is in the wrong as well.

After his testimony and just prior to closing arguments, Mr. Robinson requested permission to submit proof of a bankruptcy, which he claimed had been processed in July 2007, but was not reflected on Petitioner's account. With the Respondent's consent, ALJ Pelios agreed to hold the

record open for Petitioner's submission of a bankruptcy judgment, which was given a due date of July 21, 2014. Respondent was given a deadline of July 28, 2014 by which to respond to Petitioner's submission. ALJ Pelios indicated that once he received those documents, the record would close and he would issue an initial decision.

On July 18, 2014, Mr. Robinson filed with the OAL a two page letter with seven attachments. In the cover letter, Mr. Robinson asserted that bankruptcy was filed on July 7, 2006 and "finalized on" July 7, 2007. He also explained the other attachments, which included a handwritten chart entitled "Dates of Shut Off", what appears to be an application form to establish an account with a third party energy supplier, a New Jersey Comfort Partners Program Landlord/Management Permission Agreement, a letter from a religious organization that Mr. and Mrs. Robinson apparently contacted for assistance, and a Universal Service Fund account statement. Only the last two pages of Mr. Robinson's submission provided information relevant to the bankruptcy for which ALJ Pelios had held the record open. First was "page one of two" of the United States Bankruptcy Court discharge order under case number 06-16121, dated October 13, 2006, which listed both Mr. and Mrs. Robinson as debtors, and second was "page three of three" of the Schedule of Creditors Holding Unsecured Nonpriority Claims, which listed Respondent as a creditor with a claim in the amount of \$2,275.00.

On July 23, 2014, Respondent filed a reply to Mr. Robinson's submission. Respondent attached Mr. Robinson's July 18, 2014 submission as Exhibit A, for ease of reference, and also attached, as Exhibit B, a Proof of Claim form filed by Respondent on July 11, 2006 in the United States Bankruptcy Court, case number 06-16121. The Proof of Claim listed Petitioner as debtor, and indicated the total amount of claim at the time the case was filed was \$7,529.92. The second and final page of Exhibit B appears to be a PSE&G computer screen print out entitled "General Inquiry", which shows Petitioner's name, address, account number, and indicates a balance due in the amount of \$7,529.92 as of July 11, 2006.

In its cover letter, Respondent explained that it had "zeroed out" the full balance due on Petitioner's account in the amount of \$7,529.92 on or about July 11, 2006, resulting in a zero balance on July 6, 2006, as reflected on R-2. Respondent indicated that it would "rely upon its presentment at the hearing".

Mr. Robinson then filed a two page handwritten letter with the OAL on August 4, 2014. There were no attachments to the letter. He again asserted that bankruptcy was filed in July 2006 and claimed it was "finalized" in July 2007. Mr. Robinson claimed that due to the "finalization" in July 2007, Petitioner's account should have been zeroed out in July 2007, not the year prior.

The final written submission, from Respondent, was received by the OAL on August 11, 2014. The letter attached the previous submissions for ease of reference, and additionally provided, as Exhibit C, "page two of two" of the discharge order under bankruptcy case number 06-16121, entitled "Explanation of Bankruptcy Discharge in a Chapter 7 Case", as well as the Final Decree in the case, which indicated that the estate of the named debtors, Mr. and Mrs. Robinson, had been fully administered as of October 17, 2006.

In its cover letter, Respondent again asserted that Mr. Robinson's submissions did not support any further credit because the bankruptcy occurred in July 2006. Respondent again pointed to the zero balance on July 6, 2006 as reflected on R-2, and again indicated that it would "rely upon its presentment at the hearing".

ALJ Pelios closed the record on August 12, 2014, the day following receipt of Respondent's second submission. Orders were entered to extend the time in which to file an initial decision, which ALJ Pelios then issued on June 18, 2015.

In his initial decision, ALJ Pelios noted that Petitioner did not dispute that payment had not been made up to date, and offered no proof that the old or new meters were over charging her, beyond her and her husband's own disbelief of the readings made. ALJ Pelios stated that the Respondent had demonstrated that the meters in question either were accurate or inaccurate in favor of the Petitioner, and that Petitioner's account was zeroed at the time of her bankruptcy and charges to the account have only accrued going forward from that point.

Specifically regarding the bankruptcy issue, ALJ Pelios found that Petitioner had filed in July 2006 and the bankruptcy was then discharged on October 13, 2006. ALJ Pelios specifically found that Respondent zeroed out Petitioner's account on July 6, 2006 and the account balance only reflected amounts accrued after the bankruptcy.

ALJ Pelios found that Petitioner had not met her burden of proof in demonstrating that the Company had been erroneous in its billing to her account because she had failed to offer any competent evidence challenging the accuracy of the meters or disputing the tests or methods employed by the Respondent.. ALJ Pelios therefore dismissed the petition.

No exceptions were filed.

DISCUSSION AND FINDINGS

Initially, the Board notes that, pursuant to N.J.A.C. 1:1-5.4(a), non-attorneys may not represent individuals before the OAL except in limited circumstances. In this case, Frederick Robinson, Petitioner's husband, acted in a representative capacity by cross examining the Respondent's witness, questioning Petitioner, offering closing argument, and submitting documents to the OAL after the hearing.² Furthermore, the record does not contain any evidence that Frederick Robinson has standing to represent Petitioner or that Frederick Robinson is a customer of record under N.J.A.C. 14:3-1.1. His wife, Karen Robinson, the sole petitioner, is the customer of record as per N.J.A.C. 14:3-1.1. Notwithstanding, Respondent did not object to Mr. Robinson acting in a representative capacity at the hearing or apparently preparing and signing the post-hearing submissions on Petitioner's behalf. Instead, the matter was fully-litigated and decided on the merits by ALJ Pelios. Moreover, the Board is satisfied that there is sufficient, credible evidence in the record to support the ultimate disposition and does not discern any prejudice with the potential to affect the Board's final decision.

The Board also notes that page 6 of the initial decision contains a list of witnesses and exhibits purportedly admitted into evidence as required by N.J.A.C. 1:1-18.3(c)(11). Under the heading "Exhibits", the initial decision indicates that none were offered and entered into evidence by Petitioner, while "R-1[:] Results of Meter Test" and "R-2[:] Statement of Account" are the sole exhibits listed for Respondent. While both R-1 and R-2 were marked for identification, the transcript does not indicate that R-1 and R-2 were entered into evidence at the hearing. However, extensive testimony was elicited regarding both documents. And at the close of the hearing, ALJ Pelios advised both parties that he would "take everything [he has] heard and been provided with under consideration . . ." just prior to advising the parties that the initial decision would include instructions

² While only Karen Robinson's signature appears on the petition, only Frederick Robinson's signature appears on the post-hearing letters.

as to the filing of exceptions if either party was dissatisfied with the initial decision. (1T72:1-17).³ As indicated above, neither party filed exceptions in this matter. Thus, the Board **HEREBY FINDS** that Exhibits R-1 and R-2 are part of the record below.

Additionally, the initial decision is clear that ALJ Pelios considered the documentation regarding the bankruptcy that was submitted by both Petitioner and Respondent after the hearing, prior to the close of the record. The relevant portion of the initial decision reads:

The parties also disputed whether petitioner filed for bankruptcy effective July of 2006 or July of 2007. After the hearing both parties submitted documentation which reflects, and I **FIND** that petitioner filed for bankruptcy in July of 2006 and the bankruptcy was discharged on or about October 13, 2006. It is further apparent from the documentation and I further **FIND** that PSE&G zeroed out petitioner's account on July 6, 2006 and the balance only reflects amounts accrued after the bankruptcy.

Initial Decision at 3 (emphasis in original).

It is apparent that, in making these findings, ALJ Pelios considered Mr. Robinson's assertions that he and Petitioner filed for bankruptcy in July 2006, as well as the Discharge of Debtor order from the United States Bankruptcy Court dated October 13, 2006, which was presented to the OAL in Mr. Robinson's first submission on July 18, 2014. It is also apparent that ALJ Pelios considered Respondent's assertion that it zeroed out Petitioner's account, reflecting the bankruptcy discharge as of July 6, 2006, as supported by the Proof of Claim it attached to its July 23, 2014 submission to the OAL and R-2, which reflected a zero balance on Petitioner's account as of July 6, 2006. In considering the post-hearing submissions of the parties, ALJ Pelios apparently appropriately relied upon information pertaining to the bankruptcy only - the only information Petitioner had requested permission to submit post-hearing, and the only information for which ALJ Pelios left the record open. Although the Discharge of Debtor Order and Schedule of Creditors Holding Unsecured Nonpriority Claims attached to Petitioner's July 18, 2014 submission, the Proof of Claim form and "General Inquiry" printout attached to Respondent's July 23, 2014 submission, and the Explanation of Bankruptcy Discharge and Final Decree attached to Respondent's August 11, 2014 submission were not identified on page 6 of the initial decision, the Board **HEREBY FINDS** that these six documents are part of the record below. The Board also **HEREBY FINDS** that the post-hearing letters submitted on Petitioner's behalf on July 18, 2014 and August 4, 2014 and on Respondent's behalf on July 23, 2014 and August 11, 2014, as they pertain to the bankruptcy issue, were considered as argument on behalf of the respective parties.

The Board also notes, pursuant to 11 U.S.C. § 727(b) (2015), the proper date of discharge of Petitioner's debt to Respondent is the date of bankruptcy filing. In re Flack, 19 B.R. 251, 253 (Bankr. N.D. Iowa 1982). Mr. Robinson acknowledged that bankruptcy was filed in July 2006, and Respondent zeroed out Petitioner's account as of July 6, 2006.

In customer billing disputes before the Board, Petitioner bears the burden of proof by a preponderance of the competent, credible evidence. See Atkinson v. Parsekian, 37 N.J. 143, 149 (1962). Evidence is found to preponderate if it establishes the reasonable probability of the facts alleged and generates reliable belief that the tended hypothesis, in all human likelihood, is true. See Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div.) cert. denied, 31 N.J. 75 (1959).

³ 1T refers to the transcript of the July 9, 2014 hearing.

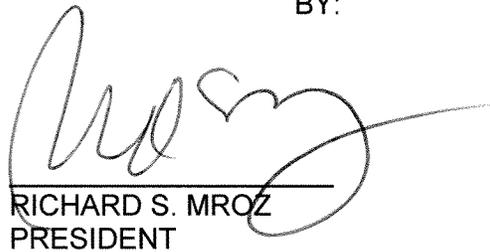
As stated by ALJ Pelios in his decision, Petitioner failed to offer any proof that she had been overcharged for service provided by Respondent. She also did not dispute she had failed to make regular payments and owed a substantial amount to Respondent.

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 electric consumption at the subject property were inaccurate or improper.

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

DATED: 8/19/15

BOARD OF PUBLIC UTILITIES
BY:



RICHARD S. MROZ
PRESIDENT



JOSEPH L. FIORDALISO
COMMISSIONER

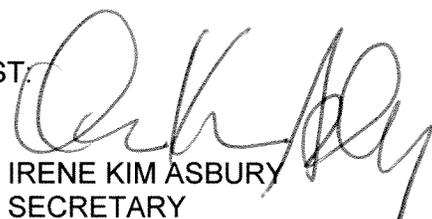


MARY-ANNA HOLDEN
COMMISSIONER



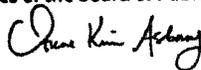
DIANNE SOLOMON
COMMISSIONER

ATTEST:



IRENE KIM ASBURY
SECRETARY

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



KAREN ROBINSON

v.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

BPU DOCKET NO. EC13080722U

OAL DOCKET NO. PUC 13473-13

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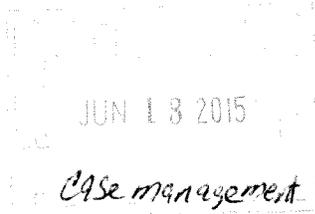
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JUN 18 2015

BOARD OF PUBLIC UTILITIES
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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW



INITIAL DECISION

OAL DKT. NO. PUC 13473-13

AGENCY DKT. NO. EC13080722U

KAREN ROBINSON,

Petitioner,

v.

**PUBLIC SERVICE ELECTRIC AND
GAS COMPANY BILLING DISPUTE,**

Respondent.

Karen Robinson, petitioner, appearing pro se

Alexander C. Stern, Esq., appearing on behalf of respondent Public Service
Electric and Gas Services Corporation

Record Closed: August 12, 2014

Decided: June 18, 2015

BEFORE **ELIA A. PELIOS**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Karen Robinson (petitioner) challenges the amount owed to Public Service Electric and Gas (PSE&G or respondent) for electric and gas service, claiming it is too

high. Petitioner filed her petition with the Board of Public Utilities on August 12, 2013. Respondent filed an answer on September 4, 2013. The matter was transferred to the Office of Administrative Law (OAL) for hearing as a contested case on September 20, 2013. The matter was scheduled and a hearing was held on July 9, 2014. The record was held open so the parties could submit supplemental documentation and argument regarding the issue of petitioner's bankruptcy. The record closed on August 12, 2014 and orders were entered in this matter to allow for the extension of time in which to file the initial decision.

FACTUAL DISCUSSION AND FINDINGS

James Walsh testified on behalf of the respondent. He has been employed by PSE&G for thirty-six years. He is currently employed as senior customer relations consultant. He is familiar with the complaint filed in this matter. The complaint was due to high electric bills. Mr. Walsh performed the investigation.

Mr. Walsh went through the account dating all the way back to 2006. He prepared a spreadsheet documenting consumption, payment and running balance on the account. He noted that petitioner's meter was removed and tested for accuracy on November 27, 2013 and a report was issued on December 4, 2013. The test reflected that the meter was 96.81% accurate. This means that the meter tested slow. The Board of Public Utilities (BPU) window mandates 98% to 102% accuracy and therefore the customer's meter was deemed inaccurate. Since the meter was slow it should have captured more usage which was not being billed to the customer. Subsequently the meter was replaced.

Mr. Walsh also reviewed statement of petitioner's account covering the period July 6, 2006 through June 2, 2014. As of June 2, 2014 a balance due and owing on the account was \$14,277.06. As the customer assistance payments coupled with the customer payments were not covering the balance it was therefore incumbent upon the customer to make-up the payment. Petitioner's last payment was made in July of 2013 in the amount of \$100. No other payments have been received since. A new gas meter was installed in November of 2011 and a new electric meter was installed in November

of 2013 each of which performed an electronic radio transmission reading. When a meter is pulled it is brought to testing facility where tests are performed on-site.

On cross-examination Mr. Walsh acknowledged that bills are still sent during bankruptcy. When final bankruptcy judgment is issued a new account is started. No bankruptcy was reflected pursuant to the current account. It was noted that if the bankruptcy was documented the account would be zeroed out as of the date of the judgment. In other words \$2318.68 would be written off if there was a bankruptcy judgment issued for July of 2007.

Petitioner Karen Robinson testified on her behalf. She described her home as being dark indicating that the television is only on when they are in the room watching. Nothing is ever on. No lights are on if someone is not in the room. She believes this condition is bad for her health and she has had two heart attacks which she attributes to the heat. While she would love to resolve the matter with PSE&G, until a settlement in a different lawsuit goes through she will not be able to provide payment. She is hopeful though that the settlement in that lawsuit will provide funds with which she can settle her account with public service.

Petitioner's husband Frederick Robinson also testified. He stated that he and his wife know that they have not been good paying customers. He promised that they would do their best to seek assistance to make payment and to keep usage down. He noted that they have caught-up on other bills. Their limited income only goes so far with their household of seven people. He acknowledges being in the wrong in this matter but also believes that the company is in the wrong.

The parties also disputed whether petitioner filed for bankruptcy effective July of 2006 or July of 2007. After the hearing both parties submitted documentation which reflects, and I **FIND** that petitioner filed for bankruptcy in July of 2006 and the bankruptcy was discharged on or about October 13, 2006. It is further apparent from the documentation and I further **FIND** that PSE&G zeroed out petitioner's account on July 6, 2006 and the balance only reflects amounts accrued after the bankruptcy.

LEGAL ANALYSIS AND CONCLUSIONS

In an administrative proceeding, the petitioner bears the burden of proof by a preponderance of the competent, credible evidence as to those matters which are justiciable 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 tended hypothesis, in all human likelihood, is true. See, Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div.) cert. denied, 31 N.J. 75 (1959).

In the present matter, petitioner does not dispute that payment has not been make up to date, and offers no proof that the that the old or new meters were over charging her, beyond her and her husband's own disbelief of the readings made.

Respondent has demonstrated that the meters in question either were accurate or, in the case of the earlier meter, was inaccurate in favor of the petitioner, and that petitioner's account was zeroed at the time of her bankruptcy and has only accrued forward from that point.

Absent any competent evidence challenging the accuracy of the meters or disputing the tests or methods employed by the respondent, I am constrained to **CONCLUDE** that petitioner has not met her burden of proof in demonstrating that PSE&G has been erroneous in its billing to her account.

ORDER

Based on the foregoing, petitioner has not met the burden of proof as to her billing dispute and her appeal is **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, NJ 08625-0350**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

June 18, 2015

DATE



ELIA A. PELIOS, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

/mel

WITNESSES

For Petitioner:

Karen Robinson
Fredrick Robinson

For Respondent:

James Walsh

EXHIBITS

For Petitioner:

None

For Respondent:

R-1 Results of Meter Test
R-2 Statement of Account