



Agenda Date: 3/24/17  
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

HOWARD M. STEIN,  
Petitioner,

v.

NEW JERSEY AMERICAN WATER COMPANY,  
Respondent.

) ORDER OF EXTENSION  
)  
)  
)  
)  
) BPU DOCKET NO. WC16030255U  
) OAL DOCKET NO. PUC 7455-16

(SERVICE LIST ATTACHED)

The Initial Decision of the Administrative Law Judge was received by the Board of Public Utilities (Board) on March 3, 2017; therefore, the 45-day statutory period for review and the issuing of a Final Decision will expire on April 17, 2017. 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 June 1, 2017.

DATED: 3/24/17

BOARD OF PUBLIC UTILITIES  
BY:<sup>1</sup>

RICHARD S. MROZ  
PRESIDENT

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

<sup>1</sup> Authorized by Board to execute this Order of Extension on its behalf.

Date Board mailed Order to OAL: 3/27/2017

cc: Service List Attached

DATED: 3/31/17



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LAURA SANDERS, ACTING  
DIRECTOR & CHIEF  
ADMINISTRATIVE LAW JUDGE

Date OAL mailed executed Order to Board: 3/31/17

Date Board mailed executed Order to Parties: 4/6/17

HOWARD M. STEIN

V.

NEW JERSEY AMERICAN WATER COMPANY  
BPU DOCKET NO. WC16030255U  
OAL DOCKET NO. PUC 7455-16

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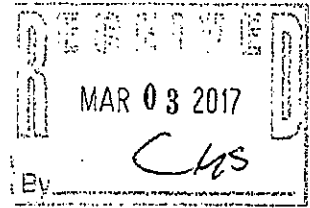
BOARD OF PUBLIC UTILITIES

MAR 03 2017

MAIL RECEIVED



State of New Jersey  
OFFICE OF ADMINISTRATIVE LAW



INITIAL DECISION

OAL DKT. NO. PUC 7455-16

AGENCY DKT. NO. WC16030255U

**HOWARD M. STEIN,**

Petitioner,

v.

**NEW JERSEY AMERICAN  
WATER COMPANY,**

Respondent.

Howard M. Stein, petitioner, pro se

Joshua K. Givner, Esq., for respondent (Hurvitz & Waldman, attorneys)

Record Closed: January 30, 2017

Decided: March 2, 2017

BEFORE SUSAN M. SCAROLA, ALJ:

*Cms*  
V. Haynes  
D. Lee Thome  
E. Harbfield  
J. Ford  
R. Lambert  
R. Matos  
H. Austerlitz  
J. Gertsman  
B. Agee  
C. Vachier

STATEMENT OF THE CASE

Petitioner, Howard M. Stein, filed a complaint before the Board of Public Utilities (BPU) disputing the billing charges of respondent, New Jersey American Water Company (NJAWC), for water service provided to his residence on Timberline Drive, Howell, New Jersey, in particular from June through October 2015.

## PROCEDURAL HISTORY

On March 23, the petitioner filed a complaint with the BPU. This matter was transmitted by the BPU to the Office of Administrative Law (OAL), where it was filed on May 17, 2016, for hearing as a contested case. N.J.S.A. 52:14B-1 to -15; N.J.S.A. 52:14F-1 to -13. A prehearing conference was held on June 16, 2016.<sup>1</sup> The hearing was held on January 30, 2017, after which the record closed.

## FACTUAL DISCUSSION AND FINDINGS

The following **FACTS** are not in dispute:

1. The petitioner receives residential water service from NJAWC. Starting in mid-2015, the petitioner's water usage, as reflected in his billing statements, soared. His bills for water service from June through October 16, 2015, totaled \$1,761.15.
2. The petitioner then made inquiry of NJAWC because of the apparently excessive amount of water used and requested an investigation. His water line was inspected by NJAWC on September 23, 2015, and it was determined that there was a leak in the line between the meter and the residence, which would be the petitioner's responsibility to maintain and repair. The petitioner then arranged for repairs to the water line, which were completed shortly thereafter.<sup>2</sup>
3. In the meantime, the petitioner did not pay his water bill. In November 2015, service to the residence was shut off; the petitioner then made a payment of \$200 and his service was restored. The petitioner has paid his current water bills, but the outstanding amount of \$1,761.15 remains in dispute and is the subject of this hearing.

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<sup>1</sup> The matter had previously been assigned to another judge.

<sup>2</sup> Subsequent billing statements showed a substantial reduction in water usage and billing amounts.

4. NJAWC offered the petitioner a courtesy adjustment to the bill for the leak, but this offer was not acceptable to the petitioner.

5. As the petitioner could not believe that his water usage could be so high because of a leak, he contacted the PUC and arranged to have the meter tested to ensure it was giving accurate readings.<sup>3</sup> The meter was tested by the PUC on July 28, 2016. The test result showed that the meter was accurate and reporting water flow within acceptable limits. The petitioner did not challenge this conclusion of the PUC, nor did he arrange for independent testing of the meter.

6. No other evidence was presented to prove that the meter readings were not accurate during the contested period of water service to the residence.

#### **LEGAL ANALYSIS AND CONCLUSION**

In this administrative proceeding, the petitioner bears the burden of proof by a preponderance of the competent, credible evidence as to the matter 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).

The issue here is whether the petitioner has been properly charged for water service provided to him by the respondent.

N.J.A.C. 14:3-7.6 provides for disputes as to bills:

- (a) A customer that disputes a charge shall so notify the utility, and shall pay all undisputed charges.
- (b) If the utility and the customer do not resolve the dispute, the utility shall notify the customer that:

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<sup>3</sup> The petitioner questioned where so much water could have gone.

1. The customer may make a request to the Board for an investigation of the disputed charge;
2. The request for investigation shall be made within five business days after the customer contacts the utility to dispute the charges; and
3. If the customer does not make a request for investigation within five days, the customer's service will be discontinued for nonpayment in accordance with N.J.A.C. 14:3-3A.

(c) Once a formal or informal dispute is before the Board, all collection activity on the charge in dispute shall cease until Board staff notify the utility and the customer that the dispute has been resolved in accordance with (e) below.

(d) Each utility shall provide the Board's Division of Customer Assistance with responses to written complaints within five days of receipt of the complaint, and within three days of receipt of verbal complaints.

(e) When Board staff have determined that a formal or informal dispute has been resolved, Board staff shall notify the utility. If the resolution of the dispute results in discontinuance of the customer's service, the utility shall provide notice to the customer in accordance with N.J.A.C. 14:3-3A.3 before service may be discontinued.

(f) In appropriate cases the Board may require that the customer place all or a portion of disputed charges in escrow pending the resolution of the dispute.

(g) **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.**

[Emphasis added.]

Here, the established consumption history to June 2015 was not in dispute. From June through October, however, consumption rose substantially. This resulted in larger than usual bills starting with the July bill and the subsequent discovery of the leak. NJAWC has presented proof that the leak was not its responsibility, but, rather, was that of the petitioner, who arranged for the leak to be repaired in September. Pursuant to N.J.A.C. 14:3-4.5, the meter was later tested for accuracy by the PUC and was found to be within acceptable limits. No challenge was made by the petitioner that the PUC's conclusion was not correct. Accordingly, the amount of usage reflected in the billing statements is accepted as correct and appropriate.<sup>4</sup>

I **CONCLUDE** that petitioner has not proved by a preponderance of the evidence that his NJAWC water bills were incorrect or inaccurate for the time period from June through October 2015. Accordingly, the outstanding bill of \$1,761.15 remains the responsibility of the petitioner.

#### 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.

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<sup>4</sup> The petitioner seeks a more substantial billing adjustment than the one offered to him by NJAWC. No evidence has been presented to support such a substantial discount where the meter accurately calculated usage.



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.

March 2, 2017

DATE



SUSAN M. SCAROLA, ALJ

Date Received at Agency:

\_\_\_\_\_

Date Mailed to Parties:

\_\_\_\_\_

SMS/cb

**APPENDIX**

**WITNESSES**

**For petitioner:**

Colleen Claeys, NJAWC Service Delivery Specialist

**For respondent:**

Howard M. Stein

**EXHIBITS**

**For petitioner:**

- P-1 Summary water usage from October 2014 through October 2015
- P-2 Summary water usage from October 2015 through February 2016
- P-3 Summary water usage from April 2015 through August 2015
- P-4 Summary water usage from April 2014 through August 2014
- P-5 Billing statement from October 21 to November 19, 2014
- P-6 Billing statement November 20 to December 17, 2014
- P-7 Billing statement December 18, 2014, to January 19, 2015
- P-8 Billing statement January 20 to February 18, 2015
- P-9 Billing statement February 19 to March 19, 2015
- P-10 Billing statement March 20 to April 17, 2015
- P-11 Billing statement April 18 to May 18, 2015
- P-12 Billing May 19 to June 16, 2015
- P-13 Billing June 17 to July 17, 2015
- P-14 Billing July 18 to August 18, 2015
- P-15 Billing August 19 to September 17, 2015
- P-16 Billing September 18 to October 16, 2015

- P-17 Billing October 17 to November 18, 2015
- P-18 Bill due January 8, 2016
- P-19 Bill due February 11, 2016
- P-20 Bill due March 14, 2016
- P-21 Account information
- P-22 Account information
- P-23 Account information
- P-24 Account information
- P-25 Account information
- P-26 Account information
- P-27 Account information
- P-28 Account information
- P-29 Account information
- P-30 Account information
- P-31 Account information
- P-32 Account information
- P-33 Billing statement September 20 to October 21, 2013
- P-34 Billing statement October 22 to November 20, 2013
- P-35 Billing statement November 21 to December 18, 2013
- P-36 Billing statement December 19, 2013, to January 21, 2014
- P-37 Billing statement January 22 to February 19, 2014

**For respondent:**

- R-1 Billing statement November 21 to December 18, 2013
- R-2 Billing statement December 19, 2013, to January 21, 2014
- R-3 Billing statement January 22 to February 19, 2014
- R-4 Billing statement February 20 to March 20, 2014
- R-5 Billing statement March 21 to April 17, 2014
- R-6 Billing statement April 18 to May 19, 2014
- R-7 Billing statement May 20 to June 18, 2014
- R-8 Billing statement June 19 to July 18, 2014
- R-9 Billing statement July 19 to August 19, 2014

- R-10 Billing statement August 20 to September 18, 2014
- R-11 Billing statement September 19 to October 20, 2014
- R-12 Billing statement October 21 to November 19, 2014
- R-13 Billing statement November 20 to December 17, 2014
- R-14 Billing statement December 18, 2014, to January 19, 2015
- R-15 Billing statement January 20 to February 18, 2015
- R-16 Billing statement February 19 to March 19, 2015
- R-17 Billing statement March 20 to April 17, 2015
- R-18 Billing statement April 18 to May 18, 2015
- R-19 Billing May 19 to June 16, 2015
- R-20 Billing June 17 to July 17, 2015
- R-21 Billing July 18 to August 18, 2015
- R-22 Billing August 19 to September 17, 2015
- R-23 Billing September 18 to October 16, 2015
- R-24 Billing October 17 to November 18, 2015
- R-25 Summary of monthly water usage from January 2014 through December 2015
- R-26 Customer Investigative Work Order
- R-27 Letter from BPU dated July 28, 2016