



Agenda Date: 7/26/17  
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

**AARON T. KANAR,**  
Petitioner,

v.

**SOUTH JERSEY GAS COMPANY,**  
Respondent

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)  
)  
)  
)  
)  
)  
)

ORDER ADOPTING  
INITIAL DECISION  
SETTLEMENT

BPU DOCKET NO. GC16040279U  
OAL DOCKET NO. PUC 8026-16

**Parties of Record:**

**Aaron T. Kanar,** Petitioner, pro se  
**James R. Birchmeier, Esq.,** for Respondent, South Jersey Gas Company

BY THE BOARD:<sup>1</sup>

**PROCEDURAL HISTORY**

By petition filed with the Board of Public Utilities ("Board") on April 1, 2016, ("Petition"), Aaron T. Kanar, ("Petitioner" or "Mr. Kanar") disputed charges associated with gas service provided to his property in West Deptford, New Jersey by South Jersey Gas Company ("SJG" or "Respondent"), and requested a full credit for the bills in question.

Respondent, in its answer dated April 27, 2016, denied the allegations that Petitioner was incorrectly billed.

On May 26, 2016, the Board transferred the matter to the Office of Administrative Law ("OAL") for a hearing as a contested case pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. The case was assigned to Administrative Law Judge ("ALJ") Mary Ann Bogan.

The parties subsequently voluntarily agreed to resolve the matter and entered into a signed Stipulation of Settlement ("Stipulation") that was filed with the OAL on June 14, 2017.<sup>2</sup>

<sup>1</sup> Commissioner Upendra J. Chivukula did not participate.

<sup>2</sup> The Stipulation included a provision in which the parties agreed that the "Agreement and its contents (including but not limited to, the fact of payment and the amounts to be paid hereunder) shall remain CONFIDENTIAL." However, the agreement was not submitted pursuant to the Board's procedures for

Pursuant to the terms of the Stipulation, and in order to fully resolve this matter, SJG agreed to adjust Mr. Kanar's gas account to reflect a zero balance as of May 1, 2017. SJG also agreed to issue two checks totaling \$7,075.00 to settle this matter. Mr. Kanar and SJG acknowledge that the settlement was agreed upon as a final settlement of the disputed claims, and that payment of the Settlement is not, and may not be construed as an admission of liability by either party.

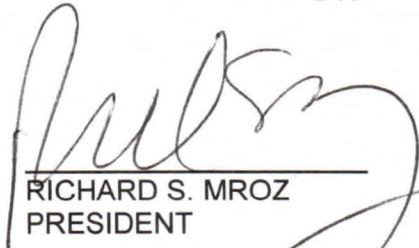
By Initial Decision issued on June 16, 2017, and submitted to the Board on June 19, 2017, to which the Stipulation was attached and made part thereof, ALJ Bogan found that the Stipulation was voluntary, that its terms fully disposed of all issues in controversy and that it satisfied the requirements of N.J.A.C. 1:1-19.1.

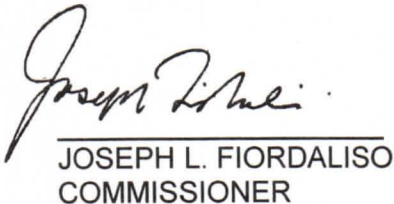
After review of the Initial Decision and the Stipulation, the Board **HEREBY FINDS** that the parties have voluntarily agreed to the settlement as evidenced by their signatures and that, by the terms of the Stipulation, they have fully resolved all outstanding contested issues in this matter. Accordingly, the Board **HEREBY ADOPTS** the Initial Decision and the Stipulation executed by the parties in their entirety as if fully set forth herein. The Stipulation is attached hereto and made a part hereof.

The effective date of this Order is August 5, 2017.

DATED: 7/26/17

BOARD OF PUBLIC UTILITIES  
BY:

  
RICHARD S. MROZ  
PRESIDENT

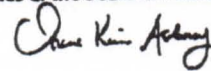
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
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



making a confidentiality claim. See N.J.A.C. 14:1-12.3. Moreover, the Stipulation was adopted in its entirety and attached to the Initial Decision. Therefore, in adopting the Initial Decision, the Board has attached the stipulation herein.

**AARON T. KANAR**

**V.**

**SOUTH JERSEY GAS COMPANY  
BPU DOCKET NO. GC16040279U  
OAL DOCKET NO. PUC 8026-16**

**SERVICE LIST**

Aaron T. Kanar  
27 Beech Place  
West Deptford, NJ 08096

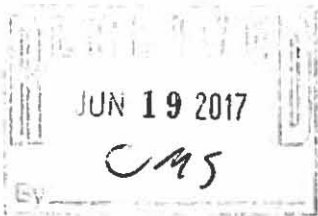
James R. Birchmeier, Esq.  
Birchmeier & Powell, LLC  
1891 State Highway 50, PO Box 582  
Tuckahoe, NJ 08250-0582

Eric Hartsfield, Director  
Julie Ford-Williams, Chief  
Division of Customer Assistance  
Board of Public Utilities  
44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314  
Trenton, NJ 08625-0350  
[Eric.hartsfield@bpu.nj.gov](mailto:Eric.hartsfield@bpu.nj.gov)  
[Julie.ford@bpu.nj.gov](mailto:Julie.ford@bpu.nj.gov)

Andrew Kuntz, DAG  
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Post Office Box 45029  
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[Andrew.Kuntz@law.njoag.gov](mailto:Andrew.Kuntz@law.njoag.gov)



No. 1075 F.  
**RECEIVED**



**JUN 19 2017**

BOARD OF PUBLIC UTILITIES  
MAIL ROOM

**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

**INITIAL DECISION**

**SETTLEMENT**

OAL DKT. NO. PUC 8026-16

AGENCY DKT. NO. GC16040279U

**AARON T. KANAR,**

Petitioner,

v.

**SOUTH JERSEY GAS CO.,**

Respondent.

**Aaron T. Kanar, petitioner, pro se**

**James R. Birchmeier, Esq., for respondent (Birchmeier & Powell, LLC,  
attorneys)**

Record Closed: June 14, 2017

Decided: June 16, 2017

**BEFORE MARY ANN BOGAN, ALJ:**

*CMS*  
V. Haynes  
D. Lee Thomas  
E. Hartsfield  
J. Ford  
R. Lambert  
R. Matos  
D. Brantley  
B. Agee  
C. Vachier

This proceeding involves a billing dispute. The petition was transmitted to the Office of Administrative Law on May 31, 2016, for determination as a contested case.

The parties filed on June 14, 2017, a Stipulation of Settlement (J-1) which resolves all issues in this proceeding. Said Stipulation of Settlement has been signed by petitioner and respondent. It indicates the terms of settlement, and is attached and fully incorporated herein.

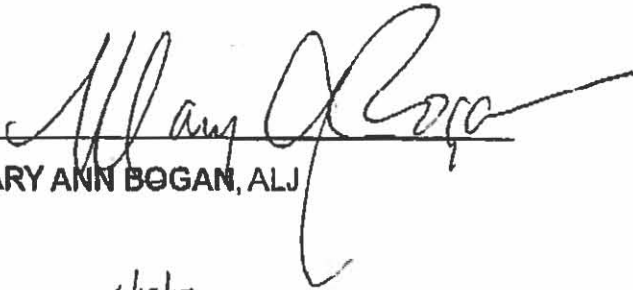
I have reviewed the terms of settlement and I FIND:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures on the attached document.
2. The settlement fully disposes of all issues in controversy between the parties and is consistent with the law.

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.

June 16, 2017 \_\_\_\_\_  
DATE

  
\_\_\_\_\_  
MARY ANN BOGAN, ALJ

Date Received at Agency:

6/17/17 \_\_\_\_\_

Date Mailed to Parties:

\_\_\_\_\_

/cb

**APPENDIX**

**EXHIBITS**

**Jointly Submitted**

J-1 Stipulation of Settlement

In the Matter of South Jersey Gas Company and Aaron Kanar

SETTLEMENT AND RELEASE AGREEMENT

This confidential SETTLEMENT AND RELEASE AGREEMENT ("Agreement") is entered into as of May \_\_, 2017, by and between SOUTH JERSEY GAS COMPANY, (hereafter referred to as "SJG"), having an address of 1 South Jersey Plaza, Folsom, New Jersey 08037, on behalf of itself and its present and former parents, subsidiaries, officers, directors, shareholders, insurers, employees, agents, attorneys, representatives, predecessors, successors and assigns; and AARON KANAR, (hereafter referred to as "Counterparty") having an address of 27 Beech Place, West Deptford, New Jersey 08096. SJG and Counterparty shall be collectively referred to as the "Parties."

WHEREAS, SJG is a natural gas public utility company engaged in providing residential gas service to customers throughout southern New Jersey; and

WHEREAS, Counterparty is an SJG customer who filed a petition with the New Jersey Board of Public Utilities with regard to certain billing disputes ("Billing Dispute"); and

WHEREAS, in order to avoid the expense, burden and delay of litigation, and without admitting or acknowledging any liability, the Parties to this Agreement now wish to effect a complete resolution and settlement of either Party's claims against the other, and freely and voluntarily enter into this Agreement for that purpose.

NOW THEREFORE, for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and intending to be legally bound hereby, the Parties agree as follows:

AGREED TERMS:

1. SETTLEMENT. SJG will pay Counterparty the total sum of Five Thousand US Dollars (US \$5,000.00) as earned legal fees pursuant to the terms of this Agreement. SJG will also credit Counterparty's gas account to reflect a zero balance as of May 1, 2017 ("Effective Date").
2. PAYMENT PROCESS. SJG shall pay Counterparty the Settlement by check no later than 15 calendar days after Counterparty returns: (1) a signed copy of this Agreement to SJG; and (2) the attached Stipulation of Dismissal with prejudice in the matter of Aaron T. Kanar v South Jersey Gas, OAL Docket No. PUC 08026-2016 S; and (3) a current and completed IRS W-9 form to SJG, (a copy of which has been attached for convenience). Upon receipt of both documents, SJG will issue a check to Counterparty for the full Settlement indicated in this Agreement and will provide a fully executed copy of this Agreement to Counterparty signed by an officer of SJG duly authorized to legally bind SJG to the terms of this Agreement
3. Counterparty shall contact SJG's customer service department to transfer the gas account at 27 Beech Place, West Deptford, NJ into his name within the same time frame as set forth in paragraph 2 above (15 calendar days after Counterparty mails the two documents referenced in Paragraph 2 above to SJG, (PS Form 3817 to be conclusive proof of such mailing). SJG agrees that: (1) No deposit will be required to transfer or open a new gas account; (2) The gas rate to be charged will be as listed in SJG Tariff for Gas Service; (3) There will be no negative credit reporting by SJG against Counterparty related to this Billing Dispute; and (4) that Counterparty's 9 digit SSN will not be disclosed nor required by SJG. SJG will require an alternative identification number for establishing a gas account. This paragraph is a material part of this Agreement.
4. TAXES. Counterparty is solely responsible for, and is legally bound to make payment of any taxes determined to be due and owing by it to any federal, state, local or regional taxing authority as a result of the Settlement (including any penalties and interest). Counterparty agrees to hold SJG harmless in the event that any government taxing authority asserts any claim against SJG for Counterparty's failure to pay and/or withhold Counterparty's taxes, penalties, or interest based upon the payment of the Settlement.

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PUBLIC UTILITIES  
ADMIN. LAW

## In the Matter of South Jersey Gas Company and Aaron Kanar

## SETTLEMENT AND RELEASE AGREEMENT

5. **NO ADMISSION OF LIABILITY.** The Parties acknowledge that the Settlement was agreed upon as a compromise/final settlement of the disputed claims, and that payment of the Settlement is not, and may not be construed as an admission of liability by either Party, and is not to be construed as an admission that either Party engaged in any wrongful, tortious or unlawful activity. Although not an admission of liability, SJG further agrees to a check in the amount of \$2,075.00 to settle the disputed billing.
6. **RELEASE.** The Parties, for themselves and their successors and assigns hereby release, discharge and hold each other harmless, including but not limited to their officers, directors, shareholders, attorneys, agents, and employees, from all claims, complaints, grievances, damages whatsoever, existing up to the Effective Date of this Agreement, under any municipal, local, state or federal law, concerning the Billing Dispute.
7. **CONFIDENTIALITY.** Subject to permissible disclosures as may be required by law or order of court, the Parties expressly understand and agree that this Agreement and its contents (including, but not limited to, the fact of payment and the amounts to be paid hereunder) shall remain CONFIDENTIAL and shall not be disclosed to any third party whatsoever, except the Parties' counsel, accountants, financial advisors, tax professionals retained by them, any federal, state, or local governmental taxing or regulatory authority, and the Parties' management, officers and Board of Directors. This paragraph is a material part of this Agreement.
8. **NEW OR DIFFERENT FACTS: NO EFFECT.** Except as provided herein, this Agreement shall be, and remain, in effect despite any alleged breach of this Agreement or the discovery or existence of any new or additional fact, or any fact different from that which either Party now knows or believes to be true. Notwithstanding the foregoing, nothing in this Agreement shall be construed as, or constitute, a release of any Party's rights to enforce the terms of this Agreement.
9. **INTERPRETATION.** Should any provision of this Agreement be declared or be determined by any court to be illegal or invalid, the validity of the remaining parts, terms or provisions shall not be affected thereby, and said illegal or invalid part, term or provision shall be deemed not to be a part of this Agreement. The headings within this Agreement are purely for convenience and are not to be used as an aid in interpretation. Moreover, this Agreement shall not be construed against either Party as the author or drafter of the Agreement.
10. **CHOICE OF LAW AND FORUM.** This Agreement has been made and entered into within and shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of New Jersey, without regard to the principles of conflicts of laws. Any action to enforce this Agreement shall be brought only in the Superior Court of New Jersey, Gloucester County, New Jersey.
11. **ENTIRE AGREEMENT.** The recitals set forth at the beginning of this Agreement are incorporated by reference and made a part of this Agreement. This Agreement constitutes the entire agreement and understanding of the Parties and supersedes all prior negotiations and/or agreements, proposed or otherwise, written or oral, concerning the subject matter hereof.
12. **RELIANCE ON OWN COUNSEL.** In entering into this Agreement, the Parties acknowledge that they have relied upon, or waived, the legal advice of their respective attorneys, who are the attorneys of their own choosing, and that the terms of this Agreement are fully understood and voluntarily accepted.
13. **AUTHORITY TO EXECUTE AGREEMENT.** By signing below, each Party warrants and represents: (1) that the person signing this Agreement has the full power, authority and capacity to make this Agreement; and (2) that this Agreement is being made voluntarily and not under coercion or duress. These representations and warranties shall survive the execution of this Agreement indefinitely.



In the Matter of South Jersey Gas Company and Aaron Kanar

SETTLEMENT AND RELEASE AGREEMENT

14. COMPLETE RESOLUTION. The Parties acknowledge and agree that this Settlement represents the complete resolution, fully and forever, of all claims of each party against the other, to the Effective Date of this Agreement, no matter how characterized, and that Counterparty is solely responsible for paying his own related costs and fees not captured in the Settlement (including any attorney's fees and costs). By signing this Agreement, and accepting the Settlement (the \$5,000.00 in Paragraph 1 and the \$2,075.00 in Paragraph 5) and the other terms and conditions of this Agreement as consideration, the Counterparty forever gives up any right to seek further monetary or other relief from SJG regarding this billing dispute docketed at Office of Administrative Law Docket Number PUC 08026-2016S.

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be executed as of the date set forth below.

SOUTH JERSEY GAS COMPANY

By: Gina Merritt-Epps  
Gina Merritt-Epps  
Sr. VP, General Counsel & Corporate Secretary

Date: 5/22/17

COUNTERPARTY

By: Aaron T. Kanar  
Aaron T. Kanar

Date: 05/15/2017

STATE OF NEW JERSEY:

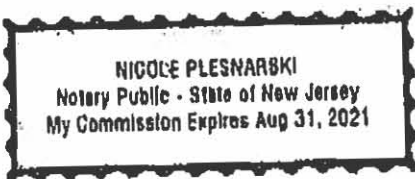
COUNTY OF Gloucester : SS

On May 15, 2017, AARON T. KANAR personally appeared before me, and, being duly sworn upon his oath, stated that he is the person named in this release, and that he has read and understood this release, and freely and voluntarily signed it without any coercion.

SWORN TO AND SUBSCRIBED

BEFORE ME THIS 5 DAY OF May 2017

Nicole Plesnarski  
(NOTARY PUBLIC)



**BIRCHMEIER & POWELL LLC**  
**BY: JAMES R. BIRCHMEIER, ESQUIRE**  
**ATTORNEY ID NO.: 022821986**  
**1891 STATE HIGHWAY 50, PO BOX 582**  
**TUCKAHOE, NJ 08250**  
**(609) 628-3414**  
**jbirchmeier@birchmeierlaw.com**  
**ATTORNEY FOR RESPONDENT**

**SOUTH JERSEY GAS COMPANY**  
**BY: STACEY M. BARNES, ESQUIRE**  
**ATTORNEY ID NO.: IHC003873**  
**1 SOUTH JERSEY PLAZA**  
**FOLSOM, NEW JERSEY 08037**  
**(609) 561-9000 x 6964**  
**sbarnes@sjindustries.com**  
**RESPONDENT**

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OFFICE OF ADMIN. LAW

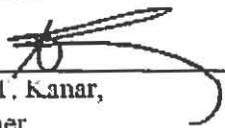
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STATE OF NEW JERSEY  
OFFICE OF ADMINISTRATIVE LAW  
OAL DOCKET NO.: PUC 08026-2016S  
BPU DOCKET NO.: GC16040279U  
JUDGE MARY ANN BOGAN

**STIPULATION OF DISMISSAL WITH PREJUDICE**


The parties to this action, by and through the undersigned, hereby stipulate that the above-captioned contested case may be dismissed, with prejudice, as a settlement has been reached by all parties hereto, with all parties bearing their own costs.

**PETITIONER**

BY:   
Aaron T. Kanar,  
Petitioner

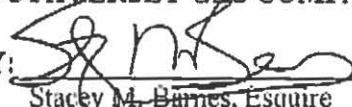
Dated: 05/15/2017

**BIRCHMEIER & POWELL LLC**

BY:   
James R. Birchmeier, Esquire  
Attorney for Respondent,  
South Jersey Gas Company

Dated: 5/26/17

**RESPONDENT,  
SOUTH JERSEY GAS COMPANY**

BY:   
Stacey M. Barnes, Esquire  
Attorney for Respondent,  
South Jersey Gas Company

Dated: 5/18/17