



Agenda Date: 1/31/24  
Agenda Item: 7A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
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Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CUSTOMER ASSISTANCE

**MARTIN CAPOZZI,**  
Petitioner,

v.

**JERSEY CENTRAL POWER & LIGHT COMPANY,**  
Respondent.

) ORDER ADOPTING INITIAL  
) DECISION  
)  
)  
) BPU DOCKET NO. EC20030227U  
) OAL DOCKET NO. PUC 06441-20  
)

**Parties of Record:**

**Martin Capozzi**, Petitioner, *pro se*  
**Tori Giesler, Esq.**, on behalf of Respondent, Jersey Central Power & Light Company

BY THE BOARD:

The instant matter involves a billing dispute between Martin Capozzi (“Capozzi” or “Petitioner”) and Jersey Central Power & Light Company (“JCP&L” or “Respondent”). This Order sets forth the procedural history and factual background of Petitioner’s claims and represents the Final Order in the matter pursuant to N.J.S.A. 52:14B-10(c). Having reviewed the record, the New Jersey Board of Public Utilities (“Board”) now **ADOPTS** the Initial Decision rendered on November 2, 2023, as follows.

**BACKGROUND AND PROCEDURAL HISTORY**

On or about March 9, 2020, Capozzi filed a petition with the Board (“Petition”). Capozzi alleged that since 2003, electric charges for his townhouse in Neptune, New Jersey (“Property”) have been based upon meter usage at his neighbor’s property (“Neighboring Property”). Capozzi alleged that this crossed meter was confirmed by JCP&L on October 21, 2019. Capozzi further alleged that he first became aware of the problem in 2008 when a family of four moved into the Neighboring Property. Although JCP&L offered Capozzi a credit of \$7,962.59 based upon an account rebilling from October 24, 2013 through October 9, 2019, Capozzi sought additional compensation for overcharges for the period between 2008 and 2013.

On April 6, 2020, JCP&L filed an Answer to the Petition. JCP&L admitted it provided service to Capozzi at the Property since February 13, 2003. However, JCP&L denied receiving any complaints from Capozzi about overbilling until November 29, 2011. JCP&L also alleged that it investigated Capozzi’s electric usage at the Property at that time and determined there was no

issue. JCP&L acknowledged additional complaints from Capozzi in 2012 and indicated that Capozzi's meter was replaced in February 2012, though it tested as accurate.

In October 2019, JCP&L reported additional contact regarding the Property about a running meter. On October 22, 2019, JCP&L performed a Switched Meters Investigation ("SMI") at the Property and determined that the meter for the Property was registering service for the Neighboring Property. The SMI Report indicated that the meter pans/sockets for the Property and the Neighboring Property were not marked.

On November 13, 2019, JCP&L completed a rebill of Capozzi's account at the Property ("Account"), which resulted in a credit to the Account in the amount of \$7,962.59. The total amount of the billing adjustment, which relied upon meter number G22779445 instead of G05075980, was a credit of \$8,220.42. On January 14, 2020, at Capozzi's request, JCP&L issued a refund check to Capozzi in the amount of \$7,721.90, the then-remaining credit on the Account. JCP&L contended that no additional compensation was due Capozzi based upon Sections 3.06 and 5.08 of JCP&L's Tariff.

On July 14, 2020, this matter was transmitted to the Office of Administrative Law ("OAL") for a 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. This matter was assigned to Administrative Law Judge Jeffrey N. Rabin ("ALJ Rabin"), who issued an initial decision in OAL docket PUC 06441-20 on November 2, 2023 ("Initial Decision").

The evidentiary hearing was held on April 7, 2021, via telephone due to continuing Covid-19 protocols. Initial Decision at 2. The parties were given the opportunity to obtain transcripts and submit summation briefs, but failed to do so. Ibid. After a status conference on September 6, 2023, and subsequent to an unattended status conference on September 26, 2023, the record was closed without briefs, effective October 12, 2023. Ibid.

The Initial Decision was received by the Board on November 2, 2023; therefore, the 45-day statutory period for issuing a Final Decision was set to expire on December 18, 2023. Prior to that date, by Order dated December 6, 2023, the Board obtained a 45-day extension of time for issuing the Final Decision pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8.

### **INITIAL DECISION**

At the evidentiary hearing, Capozzi, Lisa Weinstock ("Weinstock"), and Capozzi's brother, Robert Capozzi, testified on behalf of Capozzi. Initial Decision at 2-3. Robert Capozzi's testimony was stricken from the record, after an objection from JCP&L, because the testimony was hearsay without a residuum of confirmatory evidence. Id. at 3.

Capozzi testified that he realized his energy bill was too high in June 2009. Id. at 2. Capozzi testified that he contacted JCP&L in 2019 regarding the issue and in November 2019, JCP&L confirmed Capozzi's meter was switched with his neighbor's. Ibid. Capozzi contended he should be compensated for the entire period from June 2009 through June 2020, which would amount to \$14,400. Id. at 3. Capozzi claimed that he received \$7,721.90, but was still owed the remainder. Ibid.

Weinstock lived on the same street as the Property in 2009 and recalled comparing utility bills with Capozzi at that time. Ibid. Weinstock had her own electric bill issue and testified that the bill for her first two months was zero. Ibid.

Charles Howlett (“Howlett”) and Michelle Whelan (“Whelan”) are JCP&L employees who testified on behalf of JCP&L. Id. at 3-5. Howlett testified regarding Capozzi’s Customer Contact History. Id. at 3-4; Exhibit R-2. Petitioner contacted JCP&L several times between 2011 and the end of 2019. Capozzi made first contact regarding his energy bills on November 29, 2011. Initial Decision at 3. A bill analysis concluded that the bills comported with Capozzi’s electricity use and his appliances. Id. at 3-4. Petitioner contacted JCP&L a second time on January 24, 2012 to complain about high bills. Id. at 4. Petitioner’s electrician identified no issue at the Property, but suggested Petitioner might have had an old meter. Ibid. JCP&L came and tested the meter on February 3, 2012, and found it to be 99.97% accurate. Ibid. When Capozzi contacted JCP&L on February 6, 2012 asking when his meter would be replaced, he was told that the replacement had already taken place. Ibid.; Exhibit R-2.

The next contact pertaining to Capozzi did not occur until October 5, 2019. Initial Decision at 4. Someone named Mike Fox called JCP&L to say he had done a meter test in relation to the Account and the meter just kept running. Ibid. JCP&L subsequently performed an SMI on October 22, 2019, eight days after Petitioner submitted the request form. Ibid.; Exhibit R-3.

Whelan is a billing supervisor who testified regarding JCP&L’s billing practices and what occurred in this case. Initial Decision at 5. In mixed meter situations, JCP&L would perform a rebill analysis, including a field analysis. Ibid. Subsequently, one customer would get credited and the other would pay extra. Ibid. A rebill analysis was performed on behalf of Petitioner, and a rebill settlement was sent to him. Ibid.; Exhibit R-7. Petitioner had originally been billed from meter G05075980, but after the analysis it was apparent that Petitioner was using electricity through meter G22779445. Initial Decision at 5. Petitioner was given a total adjustment of \$8,220.42 for October 2013 through October 2019. Ibid. Petitioner was given a credit and in January 2020, was sent a check for the balance. Ibid. Billing records are retained for seven (7) years, per JCP&L and Board requirements. Ibid.

ALJ Rabin made various credibility findings. ALJ Rabin determined that Capozzi’s testimony was self-serving, lacked detail and specificity, and therefore, was not credible. Id. at 6. ALJ Rabin determined Weinstock lacked personal knowledge of relevant facts, and as a result, gave her testimony no weight. Ibid. By contrast, ALJ Rabin found that Howlett was knowledgeable, that his testimony had documentary support, and that he was a credible witness. Ibid. Similarly, ALJ Rabin determined Whelan was experienced with billing and a credible witness. Id. at 7.

ALJ Rabin found that Petitioner made first contact with JCP&L regarding his energy bills on November 29, 2011, and a billing analysis concluded that the amounts charged to Petitioner comported with his energy use and the appliances he owned. Ibid. Petitioner contacted JCP&L a second time, on January 24, 2012, to complain about high bills. Ibid. JCP&L conducted a meter test on February 3, 2012, and found Petitioner’s meter to be 99.97% accurate. Ibid.

ALJ Rabin further found that Petitioner’s next complaint about billing occurred on October 7, 2019, resulting in JCP&L performing an SMI on October 22, 2019, which was eight (8) days after Petitioner submitted the request form. Ibid. JCP&L found that several townhouse meters were located in the same area, and had been marked with addresses by someone other than JCP&L. Ibid. The meters checked were meters G22779445 and G05075980. Ibid. JCP&L became aware of Petitioner’s switched meter situation in October 2019 and issued an initial rebill statement, dated November 13, 2019. Ibid. (citing Exhibit R-7). The rebill statement gave Capozzi a total adjustment of \$8,220.42 for October 2013 through October 2019, with Capozzi receiving a credit and, in January 2020, a check for the balance. Ibid.

ALJ Rabin also identified the Petitioner's burden of proof as being a preponderance of the evidence. Id. at 7-8 (citing Atkinson v. Parsekian, 37 N.J. 143 (1962); see Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div.), certif. denied, 31 N.J. 75 (1959))). With reference to JCP&L's Tariff, Section 3.06, ALJ Rabin ultimately determined that Capozzi submitted no credible evidence to establish he was entitled to additional reimbursement above the \$8,220.42 he had already received. Id. at 8. By contrast, JCP&L documented all interactions between itself and Capozzi, including JCP&L's responses to each of Capozzi's complaints. Ibid. JCP&L proved that it identified that there was a mixed meter situation, performed a rebill analysis, and that the rebill could only take place for a six-year period prior to discovery of the issue. Ibid. JCP&L also established that it had already reimbursed Capozzi for the six-year period in the amount of \$8,220.42. Ibid. Therefore, ALJ Rabin concluded that Capozzi failed to prove by a preponderance of the credible evidence that he was entitled to additional reimbursement. Ibid.

### **DISCUSSION AND FINDINGS**

In customer billing disputes before the Board, a Petitioner bears the burden of proof by a preponderance of the competent, credible evidence. See Atkinson, 37 N.J. at 149.

Pursuant to Section 3.06 of JCP&L's tariff:

**Billing Adjustments:** An adjustment of charges due to the Company for Services provided by the Company will be made when a meter fails to register within the limits of accuracy prescribed by the BPU in accordance with N.J.A.C. 14:3-4.6, or for any other legitimate reason, in which case such adjustment shall not be for a period of more than six years prior to the time the reason for the adjustment became known to the Company. (See N.J.A.C. 14:3-4.6)

[Jersey Central Power and Light Company, Tariff for Service § 3.06.]

Here, it is undisputed that Capozzi was entitled to an adjustment due to the switched meter at the Property, which resulted in excessive charges to the Account. Capozzi made a complaint in October 2019, which pertained to meter G05075980, to which JCP&L responded, performed an investigation, and determined in October 2019 that there was a switched meter. Accordingly, JCP&L made an adjustment for the six-year period from October 2013 through October 2019 and reimbursed Capozzi in the amount of \$8,220.42. All of this is supported by written documentation from JCP&L and is consistent with Section 3.06 of JCP&L's Tariff. Exhibits R-2, R-3 and R-7.

By contrast, the parties dispute Capozzi's claim seeking additional compensation for alleged overcharges for the period between 2008 and 2013. The Board agrees with ALJ Rabin that there is insufficient evidence to support Capozzi's entitlement to additional compensation for billing prior to October 2013.

Pursuant to Section 3.06 of JCP&L's Tariff, for such compensation to be appropriate, JCP&L would need to be notified of a problem, prior to October 2019, justifying adjustment. The record shows that the only potential problem identified in relation to the Account prior to October 2019 was first raised by Capozzi in November 2011. Exhibit R-2. However, the record also shows that JCP&L investigated that issue, determined Capozzi's energy bills were consistent with his reported usage, and tested the meter registering usage at that time. Ibid. The meter was tested

on February 3, 2012 and found to be 99.97% accurate. Ibid. Thus, no adjustment was appropriate at that time. See N.J.A.C. 14:3-4.6(a) (“No adjustment shall be made if a meter is found to be registering less than 100 percent of the service provided...”).

The record also shows that Capozzi’s original, accurate meter was replaced on February 1, 2012. Exhibit R-2. It is possible that the switched meter situation began at the time of the meter replacement in 2012, but the record does not establish this fact. Regardless, there is no evidence that JCP&L was aware of any problem relating to usage on the Account, including the existence of switched meters, before October 2019. Accordingly, even the evidence pertaining to meter replacement in 2012 does not justify any billing adjustment.

The only evidence relevant to Capozzi’s claim that he was being improperly billed prior to October 2019 are Capozzi and Weinstock’s testimonies, which are unsupported by any documentary or tangible evidence and which ALJ Rabin determined not to be credible. Initial Decision at 6. ALJ Rabin’s credibility determinations with regard to testimony are entitled to deference and the Board sees no basis to question them based upon the record in this matter. N.J.S.A. 52:14B-10(c) (prohibiting an agency from rejecting or modifying credibility findings as to lay witnesses without identifying specific reasons, supported by the record); see also In re D.L.B., 468 N.J. Super. 397 (App. Div. 2021); State v. Gideon, 244 N.J. 538, 562 (2021).

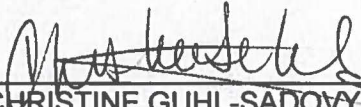
Thus, after careful review and consideration of the record, the Board **HEREBY FINDS** the findings and conclusions of ALJ Rabin to be reasonable and, accordingly, **HEREBY ACCEPTS** them. Specifically, the Board **FINDS** that Petitioner failed to bear his burden of proof.

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

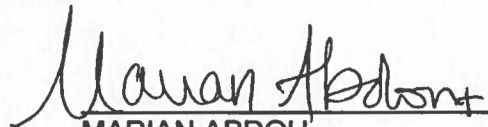
This order shall be effective January 31, 2024.

DATED: January 31, 2024

BOARD OF PUBLIC UTILITIES  
BY:

  
CHRISTINE GUHL-SADOVY  
PRESIDENT

  
DR. ZENON CHRISTODOULOU  
COMMISSIONER

  
MARIAN ABDOU  
COMMISSIONER

  
MICHAEL BANGE  
COMMISSIONER

ATTEST:   
SHERRI L. GOLDEN  
SECRETARY

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

**MARTIN CAPOZZI, Petitioner v. JERSEY CENTRAL POWER & LIGHT COMPANY, Respondent**

**BPU Docket No. EC20030227U**

**OAL Docket No. PUC 06411-20**

**SERVICE LIST**

**Petitioner**

Martin Capozzi

**JCP&L**

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

**INITIAL DECISION**

OAL DKT. NO. PUC 06441-20

AGENCY DKT. NO. EC20030227U

**MARTIN CAPOZZI,**

Petitioner,

v.

**JERSEY CENTRAL POWER AND  
LIGHT COMPANY,**

Respondent.

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**Martin Capozzi**, petitioner, pro se

**Joshua R. Eckert**, Esq. and **Tori Giesler**, Esq., for respondent Jersey Central Power and Light Company (FirstEnergy Service Company)

**Terel Klein**, Deputy Attorney General, for respondent Board of Public Utilities (Matthew J. Platkin, Attorney General of New Jersey, attorney) <sup>1</sup>

Record Closed: October 12, 2023

Decided: November 2, 2023

BEFORE **JEFFREY N. RABIN**, ALJ:

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<sup>1</sup> DAG Klein participated in telephone conferences but not at the telephone hearing.



## **STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Petitioner, Martin Capozzi, filed a complaint before the Board of Public Utilities (BPU) disputing the billing charges of Jersey Central Power and Light (JCP&L) for electrical service provided to his townhouse in Neptune, New Jersey.

On July 14, 2020, this matter was transmitted to the Office of Administrative Law (OAL) for a hearing as a contested case. N.J.S.A. 52:14B-1 to -15, N.J.S.A. 52:14F -1 to -13. The hearing was held on April 7, 2021, via telephone due to continuing Covid-19 protocols. The parties were given the opportunity to obtain transcripts and submit summation briefs, but failed to do so. After a status conference on September 6, 2023, and subsequent to an unattended status conference on September 26, 2023, the record was closed without briefs, effective October 12, 2023.

### **FACTUAL DISCUSSION**

The following is undisputed and is found as **FACT**:

1. Petitioner owned a three-bedroom townhouse at [REDACTED], Neptune, New Jersey. Electric power was provided by respondent.

### **TESTIMONY**

#### **For petitioner**

Petitioner **Martin Capozzi** testified. In June 2009 he realized that his energy bill was too high. He spoke with his next-door neighbor, who had not received their bill. He called respondent because his bill was higher than his neighbor four houses down. Petitioner contacted respondent in 2019, and their representative said his bill was too high. She told him to figure out which meter was his. He examined his meter with his brother. He then called respondent again to say that the meter controls were switched, and he was told to complete a form before they would visit his property. A representative of JCP&L came to his house, perhaps in November 2019, and tested the meters. This confirmed that his meter controls were connected to his neighbor's meter,

and so he started his attempts to get a refund from JCP&L. They offered a \$7,800 credit, and he accepted that check, eschewing another \$6,500 he felt he was owed.

From June 2009 through June 2020, 144 months times \$1,000 equals \$14,400, but he only received \$7,800. Respondent was getting money from the new neighbor at [REDACTED], so the reimbursement was not costing them anything.

On cross-examination petitioner admitted that the amount he was sent and accepted was \$7,721.90.

**Lisa Weinstock**, formerly of [REDACTED], Neptune, New Jersey, testified that she spoke with petitioner in mid-July 2009 and they compared utility bills. Petitioner told her that he had called JCP&L and that their “lines were crossed.” Her energy bills were very low; for the first two months living at her own property her bills were zero. The bills were switched with Samantha Bennett.

Weinstock was aware of the switched bills. She moved out of that home in February 2019. The mix-up did not involve her property, it was between petitioner and someone else, and she was not involved in petitioner’s billing dispute.

Petitioner’s brother, **Robert Capozzi**, testified. This court sustained an objection to strike his testimony because it was all hearsay without a residuum of confirmatory evidence.

### **For respondent**

**Charles Howlett** had been a Compliance Specialist for respondent JCP&L for twenty-three years, and a Senior Compliance Specialist for ten years. In explaining Exhibit R-1, Mr. Eckert’s letter to New Jersey BPU, dated April 6, 2020, Howlett stated that he signed the Answer to petitioner’s complaint. There was a rebill due to mixed meters. Howlett went on to explain that R-2, the Customer Contact History. Petitioner made first contact regarding his energy bills on November 29, 2011. A bill analysis

concluded that the bills comported with bills in general and petitioner's electricity use and his appliances.

Petitioner contacted respondent a second time on January 24, 2012, to complain about high bills. Petitioner's electrician said everything was right, but that petitioner might have had an old meter. JCP&L came and tested the meter on February 3, 2012, and found it to be 99.97% accurate.

Third contact from petitioner came on February 6, 2012, asking when his meter would be replaced, and he was told that the meters had already been switched.

Fourth contact from petitioner came on October 5, 2019. Someone named Mike Fox called to say he had done a meter test and it just kept spinning. Fifth contact came on October 7, 2019, when petitioner called JCP&L to complain that his bills had been too high for years. As seen in R-3, JCP&L performed a "switched meter investigation" on October 22, 2019, eight days after petitioner submitted the request form. The meters checked were meters G22779445 (██████████, petitioner's home) and G05075980 (██████████). There were multiple meters at this location. The meter pans had been marked by either the customer or the townhouse building staff.

R-4 was JCP&L's section 5 "Customer Installation" document. "Tarriff sheet 20," available on respondent's website, was approved by BPU. Per section 5.08, "meter sockets and current transformer cabinets," it was the customer's responsibility to install meter sockets. This was referred to in R-5, the JCP&L Customer Guide, section 7.6, which said that for identification purposes, if two or more meters were at one location, all equipment must be marked for each apartment or unit. Respondent would perform a rebill analysis in the case of a mixed meter situation.

Per R-6, JCP&L "Tarriff sheet 11" approved by BPU, section 3.06, adjustments shall not be for a period of more than six years prior to the need for an adjustment became known to JCP&L, citing N.J.A.C. 14:3-4.6. As respondent became aware of petitioner's switched meter situation in October 2019, they would do a rebill back six years from then. This six-year rule had been in place since 1984.

**Michelle Whelan** was a general billing supervisor for respondent JCP&L, working there for twenty-six years, with sixteen years' experience in customer accounts. She supervised twenty-one billers.

In mixed meter situations, they would perform a rebill analysis, including a field analysis. Subsequently, one customer would get credited and the other would pay extra. A rebill analysis was performed on behalf of petitioner, and a rebill settlement was sent to him. Exhibit R-7 was the initial rebill statement, dated November 13, 2019. Petitioner had originally been billed from meter G05075980, but after the analysis he was pulling electricity from G22779445. Per R-7, petitioner was given a total adjustment of \$8,220.42 for October 2013 through October 2019. Petitioner was given a credit and in January 2020, was sent a check for the balance.

Billing records are retained for seven years, per JCP&L and BPU requirements.

### **CREDIBILITY**

In evaluating evidence, it is necessary to assess the credibility of the witnesses. Credibility is the value that a finder of the facts gives to a witness's testimony. It requires an overall assessment of the witness's story in light of its rationality or internal consistency and the manner in which it "hangs together" with the other evidence. Carbo v. United States, 314 F.2d 718, 749 (9th Cir. 1963). "Testimony to be believed must not only proceed from the mouth of a credible witness but must be credible in itself," in that "[i]t must be such as the common experience and observation of mankind can approve as probable in the circumstances." In re Perrone, 5 N.J. 514, 522 (1950).

A fact finder "is free to weigh the evidence and to reject the testimony of a witness . . . when it is contrary to circumstances given in evidence or contains inherent improbabilities or contradictions which alone or in connection with other circumstances in evidence excite suspicion as to its truth." Id. at 521–22; see D'Amato by McPherson v. D'Amato, 305 N.J. Super. 109, 115 (App. Div. 1997). A trier of fact may also reject testimony as "inherently incredible" when "it is inconsistent with other testimony or with

common experience” or “overborne” by the testimony of other witnesses. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App. Div. 1958).

Further, “[t]he interest, motive, bias, or prejudice of a witness may affect his credibility and justify the [trier of fact], whose province it is to pass upon the credibility of an interested witness, in disbelieving his testimony.” State v. Salimone, 19 N.J. Super. 600, 608 (App. Div.), certif. denied, 10 N.J. 316 (1952) (citation omitted). The choice of rejecting the testimony of a witness, in whole or in part, rests with the trier and finder of the facts and must simply be a reasonable one. Renan Realty Corp. v. Dep’t of Cmty. Affairs, 182 N.J. Super. 415, 421 (App. Div. 1981).

### **For petitioner**

Petitioner **Martin Capozzi** offered no proofs or documentation to confirm his assertions. He failed to provide any true analysis to support the dollar amount he was seeking. His testimony was self-serving and lacked detail and specificity. I ultimately found petitioner’s testimony lacking in credibility.

**Lisa Weinstock** had no personal knowledge of the facts or issues in this matter, except what petitioner told her, and therefore, her testimony will receive no weight.

**Robert Capozzi**’s testimony was struck as being hearsay without a residuum of confirming evidence.

### **For respondent**

**Charles Howlett** was a knowledgeable witness, with great familiarity of the facts in this case and of the pertinent processes and protocols. He had significant experience in this field. He had documentary support for his testimony. He was a credible witness.

**Michelle Whelan** was a highly experienced billing person, who was able to explain the rebill process clearly. She was a credible witness.

Accordingly, after carefully considering the testimonial and documentary evidence presented, I **FIND** the following to be the relevant and credible **FACTS**:

Petitioner made first contact with respondent JCP&L regarding his energy bills on November 29, 2011, and a billing analysis concluded that the amounts charged to petitioner comported with his energy use and the appliances he owned. Petitioner contacted respondent a second time, on January 24, 2012, to complain about high bills. Respondent JCP&L conducted a meter test on February 3, 2012, and found petitioner's meter to be 99.97% accurate. Petitioner's next complaint about billing occurred on October 7, 2019, resulting in respondent performing a "switched meter investigation" on October 22, 2019, eight days after petitioner submitted the request form. Respondent found that several townhouse meters were located in the same area, and had been marked with addresses by someone other than JCP&L, either the owners of each meter or the townhouse staff. The meters checked were meters G22779445 [REDACTED], petitioner's home) and G05075980 ([REDACTED]). Per JCP&L "Tarriff sheet 11" approved by BPU, section 3.06, adjustments shall not be for a period of more than six years prior to the date when the need for an adjustment becoming known to JCP&L, citing N.J.A.C. 14:3-4.6. (R-6.). As respondent became aware of petitioner's switched meter situation in October 2019, they could do a rebill back six years from then, back to 2013. Respondent issued an initial rebill statement, dated November 13, 2019 (R-7), in which petitioner was given a total adjustment of \$8,220.42 for October 2013 through October 2019, with petitioner receiving a credit and, in January 2020, a check for the balance.

### **LEGAL DISCUSSION**

The issue is whether petitioner has proven by a preponderance of the credible evidence that he was entitled to additional reimbursement for his allegedly high energy bills.

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

Petitioner offered no documentary evidence and no credible testimonial evidence, and offered nothing to show that he was entitled to any additional reimbursement other than the \$8,220.42 already reimbursed to him by respondent.

Conversely, respondent documented all interactions between petitioner and respondent, including their timely responses to each of petitioner's complaints. Respondent provided evidence that as soon as it identified that there was a mixed meter situation, it performed a rebill analysis. Such rebill could only take place for a six-year period prior to respondent becoming aware of the mixed meter situation. Respondent had already reimbursed petitioner for a six-year period in the amount of \$8,220.42.

I **CONCLUDE** that petitioner failed to prove by a preponderance of the credible evidence that he was entitled to additional reimbursement for having had a mixed meter situation.

### **ORDER**

All relief sought by petitioner is **DENIED** and the appeal filed by petitioner 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.

November 2, 2023 \_\_\_\_\_

DATE



\_\_\_\_\_  
**JEFREY N. RABIN, ALJ**

Date Received at Agency: \_\_\_\_\_

Date Mailed to Parties: \_\_\_\_\_

JR/jm/lam



**APPENDIX**  
**WITNESSES**

**For petitioner**

Martin Capozzi  
Lisa Weinstock  
Robert Capozzi

**For respondent**

Charles Howlett  
Michelle Whelan

**EXHIBITS**

**For petitioner**

none

**For respondent**

- R-1 Eckert letter to BPU, dated April 6, 2020
- R-2 Customer Contact History
- R-3 Switch Meter Investigation notes, dated October 22, 2019
- R-4 JCP&L Tariff Sheet 20
- R-5 JCP&L Customer Guide
- R-6 JCP&L Tariff Sheet 11
- R-7 Rebill Statement, dated November 13, 2019