



Agenda Date: 5/29/13  
Agenda Item: 7A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CUSTOMER ASSISTANCE

PATRICIA ATALEASE,	)	ORDER ADOPTING INITIAL
Petitioner	)	DECISION
	)	
V.	)	
	)	
ATLANTIC CITY ELECTRIC COMPANY,	)	BPU DKT NO. EC12030277U
Respondent	)	OAL DKT NO. PUC7704-12

Parties of Record:

**Patricia Atalese, Petitioner**, appearing pro se  
**Pamela J. Scott, Esq.**, on behalf of Respondent, Atlantic City Electric Company

BY THE BOARD:

On March 29, 2012, Patricia Atalese ("Petitioner"), filed a petition with the Board of Public Utilities ("Board") requesting a formal hearing related to a billing dispute with Atlantic City Electric Company ("Respondent") alleging high bills for electric utility services rendered by Respondent that resulted from an inaccurate meter.

After the filing of Respondent's answer, the Board transmitted this matter to the Office of Administrative Law ("OAL") for hearing and initial disposition 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. This matter was assigned to Administrative Law Judge ("ALJ") Edward J. Delanoy, Jr. On February 27, 2013, ALJ Delanoy issued an Initial Decision in this matter which was submitted to the Board on March 4, 2013. No exceptions to the Initial Decision have been received by the Board. In order to have time to adequately review the record, the Board, at its March 20, 2013, requested an extension of time in which to render its final decision in this matter. No exceptions have been filed in this matter.

The findings of fact and conclusions of law of the ALJ are set out in detail in the Initial Decision on pages 2 and 3 and pages 4 and 5, respectively and need not be repeated herein. Suffice it to say that Petitioner's home, which had three (3) occupants in early 2011 and six (6) occupants by early 2012, has electric heat and also contains a wood burning stove. Because of an inability to gain access to the meter, Respondent was unable to make actual readings from March 2011 through September 2011. Because the next bill after the actual reading seemed too high, Petitioner requested that the meter be tested. The meter was tested twice, in fact, with an

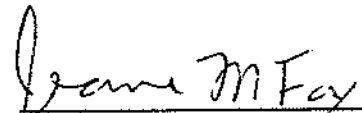
average accuracy of 99.756 percent, well within the Board's acceptable levels of plus or minus two (2) percent. N.J.A.C. 14:5-4.3(a). Subsequently, Petitioner's bills were lowered to some extent but, as Respondent's witness noted, that could have been the result of using the wood burning stove more and less use of the electric heat.

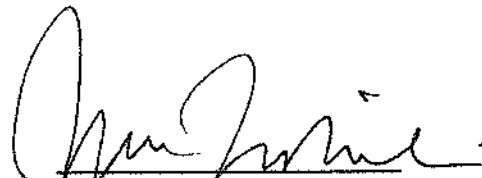
Based on the record before the Board, the Board **HEREBY FINDS** that the Petitioner has failed to bear the burden of proof necessary to sustain her allegations by a preponderance of the credible evidence. Accordingly, the Board **HEREBY ADOPTS** the Initial Decision in this matter in its entirety as if fully set forth herein.

DATED: 5/29/13

BOARD OF PUBLIC UTILITIES  
BY:


  
ROBERT M. HANNA  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
MARY-ANNA HOLDEN  
COMMISSIONER

ATTEST:  
  
KRISTI IZZO  
SECRETARY

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


PATRICIA ATALEASE

v.

ATLANTIC CITY ELECTRIC COMPANY

BPU DOCKET NO. EC12030277U

OAL DOCKET NO. PUC7704-12

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*for*  
3/5/13



REC'D

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

RECEIVING

NJ BPU  
CASE MANAGEMENT

**INITIAL DECISION**

OAL DKT. NO. PUC 7704-12

AGENCY REF. NO. EC12030277U

**PATRICIA ATALEASE,**

Petitioner,

v.

**ATLANTIC CITY ELECTRIC  
COMPANY,**

Respondent.

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**Patricia Atalese, petitioner, pro se**

**Pamela J. Scott, Esq., for respondent Atlantic City Electric Company**

Record Closed: February 1, 2013

Decided: February 27, 2013

BEFORE EDWARD J. DELANOY, JR., ALJ:

**STATEMENT OF THE CASE**

On March 29, 2012, Patricia Atalese (hereinafter Atalese or petitioner) filed a billing dispute against Atlantic City Electric Company (hereinafter ACE) with the Board of Public Utilities (hereinafter Board or BPU). ACE supplies electric service to the Atalese home. Petitioner believes there was an issue with her electric meter, and she alleges that the failure of the meter caused her to be overcharged.

**PROCEDURAL HISTORY**

The petitioner requested a fair hearing, and the matter was transmitted to the Office of Administrative Law (hereinafter OAL) where it was filed on June 11, 2012, to be heard as a contested case pursuant to N.J.S.A. 52:14B-1 to 15 and 14F-1 to 13. The matter was heard on February 1, 2013, and on that date the record closed.

**SUMMARY OF RELEVANT FACTS**

The record in this matter includes documentary evidence and the testimony of the individuals who prepared the documents or had knowledge of the matter. After considering the evidence presented, I **FIND** the following to be the relevant and credible **FACTS** in this matter:

Patricia Atalese has owned her ranch style 1,300 square foot home for fourteen years. The home is heated by electric heat, but contains a wood burning stove for supplemental heat. Occupancy of the house ranged from three people in early 2011 to six people in early 2012. The electric meter at the Atalese home was not read from March 2011 through September 2011. The next physical meter reading was on October 19, 2011. The reading resulted in an unusually high bill, which Atalese was told was a catch up bill due to the previous bills being estimated. As a result, Atalese asked that the meter be read again, and this was done on October 28, 2011. It indicated that from October 19, 2011, to October 28, 2011, Atalese used 1,455 kilowatts (hereinafter KWH). This reading indicated an average usage for this nine-day period of 161.67 KWH per day. Because the average usage was so high, Atalese requested the meter be removed and tested.

The meter was removed and replaced on November 7, 2011, and it showed a total usage of 1,806 KWH in nineteen days. This calculated to 95.05 KWH per day. Such a level of usage had not been experienced in several prior years. The new meter was read at the end of petitioner's billing cycle on November 15, 2011. From November 7 to November 15, 2011, a period of eight days, Atalese used a total of 181 KWH or 22.65 KWH per day. Atalese was concerned and could not understand how her total

electric use in 2011 with the old meter was 23,286 KWH, while her total electric use in 2012 with the new meter was 14,425 KWH. Atalese believed there had to be a problem with the meter because her use of electric heat did not change. Petitioner's father, Vincent Atalese, who has been living in the petitioner's home since Superstorm Sandy, confirmed that the home was kept at a temperature of sixty-five degrees, and that the supplemental heat from the use of the wood stove was not used more often in 2012 than in 2011.

Agnes Carpenter is a Senior Analyst with ACE, and she was assigned the Atalese complaint. Her job is to handle billing disputes and inquiries. Carpenter testified that ACE made six consecutive estimated readings in 2011 because meter readers claimed a gate was locked, creating an access issue to the Atalese meter. The estimated readings were based on readings done in the same month of the prior year. On October 19, 2011, an actual reading was done. As a result, Carpenter prepared usage histories for the premises. (R-1, 2.) Her review revealed that petitioner's April to November 2011 usage was comparable to that same time period in other years. (R-1.) The October 2011 actual reading and true-up bill revealed that the prior six months of estimated billings were underestimated. In any event, at the request of the customer, the meter was read again on October 28, 2011, and November 7, 2011. The usage was reduced significantly during this time, showing an average use of 35 KWH a day. The meter was then changed on November 7, 2011. The old meter was subsequently tested and proven accurate. Carpenter believed that the decreased usage in 2012 was based on increased use of the wood stove for heat, and less demand for the electric heat. In addition, Carpenter noted that more residents were using the home in 2012 than in 2011.

Robert Polk, a support engineer for the ACE meter department, was assigned to test the old meter. His initial testing of meter #26569089, which was removed from the Atalese home, was on November 28, 2011. The meter was tested for full load (FL), light load (LL), and power factor (PF). The average accuracy was 99.756 percent. (R-4.) This fully complied with New Jersey state regulations. After testing, the meter was retired and placed in storage, where it would typically be kept for ninety days and then discarded.

In July 2012, Polk was asked to re-test the meter. Because so much time had passed, ACE assumed the meter was retired and scrapped, and advised their legal representative that the old meter could not be located. The meter #26569089 was later discovered, and at that time, Polk was asked to re-test the meter. The meter was re-tested on November 27, 2012. On this occasion, the average accuracy was 99.664 percent. (R-5.)

Polk could not identify any circumstance that would cause a meter to become temporarily inaccurate. Damage to a meter's permanent magnet from lightning could result in a customer overbill, but such an inaccuracy would be permanent, and the meter would not correct itself. Any other meter problem would typically result in a meter underbill to the customer.

### 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 those matters that are justifiably before the OAL. Atkinson v. Parsekian, 37 N.J. 143 (1962). Evidence is found to preponderate if it establishes the reasonable probability of the facts alleged and generates reliable belief that the tendered hypothesis, in all human likelihood, is true. See Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div.), certif. denied, 31 N.J. 75 (1959).

N.J.A.C. 14:5-4.3(a) states:

No meter that has an error in registration of more than plus or minus two percent shall be placed in service or allowed to remain in service without adjustment.

N.J.A.C. 14:3-4.6(a) states:

Whenever a meter is found to be registering fast by more than two percent, or in the case of water meters, more than one and one half percent, an adjustment of charges shall be made in accordance with this section. No adjustment shall

be made if a meter is found to be registering less than 100 percent of the service provided, except under (d) below.

In this case, meter #26569089, which was removed from the Atalese home, was registering at 99.7 percent and 99.6 percent. Being not more than two percent over or under 100 percent, the meter was accurate in accordance with the regulation. Atalese provided no legally competent evidence to support the claim that the meter was inaccurate. The decrease in KWH usage in 2012 could be accounted for by temperature and change in the operation and use of the electric heat, and/or by change in the operation and use of the wood stove. Increased use of the wood stove could have lowered petitioner's's electric heating bills in 2012. I therefore **CONCLUDE** that the meter that was removed from the Atalese home on November 7, 2011, was accurate.

#### **ORDER**

All relief sought by petitioner is **DENIED** and the action 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.

February 27, 2013

DATE



EDWARD J. DELANOY, JR., ALJ

Date Received at Agency:

February 27, 2013

Date Mailed to Parties:

February 27, 2013

/cb