



Agenda Date: 12/6/19
Agenda Item: VIII

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CUSTOMER ASSISTANCE

SARABJIT KAUR,
Petitioner

v.

JERSEY CENTRAL POWER AND LIGHT COMPANY,
Respondent

ORDER OF EXTENSION

BPU DOCKET NO. EC19030414U
OAL DOCKET NO. PUC 07328-19

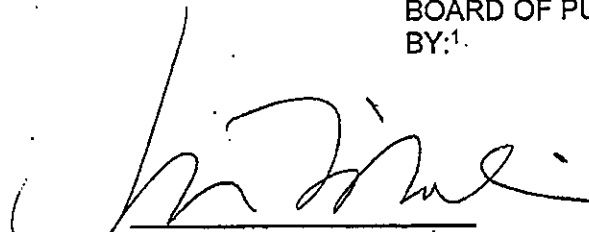
(SERVICE LIST ATTACHED)

The Initial Decision of the Administrative Law Judge was received by the Board of Public Utilities (Board) on November 4, 2019; therefore, the 45-day statutory period for review and the issuing of a Final Decision will expire on December 19, 2019. 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 February 2, 2020.

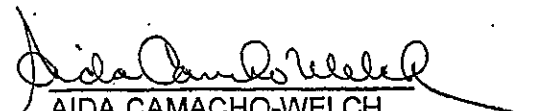
DATED: 12/6/19

BOARD OF PUBLIC UTILITIES
BY:1



JOSEPH L. FIORDALISO
PRESIDENT

ATTEST:



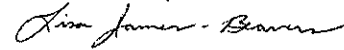
AIDA CAMACHO-WELCH
SECRETARY

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

¹ Authorized by Board to execute this Order of Extension on its behalf.

Date Board mailed Order to OAL: 12-6-19

cc: Service List Attached



DATED: 12/6/19

LISA JAMES-BEAVERS
ACTING DIRECTOR & CHIEF
ADMINISTRATIVE LAW JUDGE

Date OAL mailed executed Order to Board: 12/6/19

Date Board mailed executed Order to Parties: 12-10-19

SARABJIT KAUR, PETITIONER

V.

JERSEY CENTRAL POWER AND LIGHT COMPANY, RESPONDENT

**BPU DOCKET NO. EC19030414U
OAL DOCKET NO. PUC 07328-19**

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION GRANTING
MOTION FOR SUMMARY DECISION

OAL DKT. NO. PUC 07328-19

AGENCY DKT. NO. EC19030414U

SARABJIT KAUR,

Petitioner,

v.

**JERSEY CENTRAL POWER AND LIGHT
COMPANY,**

Respondent.

Sarabjit Kaur, petitioner, pro se

Joshua R. Eckert, Esq., for respondent, Jersey Central Power and Light
Company

Record Closed: October 22, 2019

Decided: November 01, 2019

BEFORE **SUSAN L. OLGATI**, ALJ:

STATEMENT OF THE CASE

This matter concerns an electric service billing dispute. Petitioner, Sarabjit Kaur, alleges that between 2006 and 2010, she received monthly billing statements at her commercial property with balances far exceeding the amounts she was responsible to

pay. Respondent, Jersey Central Power & Light (JCP&L) contends that petitioner is unable to demonstrate any overcharges and that any relief sought by petitioner is barred by its tariff regarding billing adjustments.

PROCEDURAL HISTORY

On or about March 25, 2019, Kaur filed a petition with the Board of Public Utilities. Thereafter, respondent filed a Verified Answer in response. On May 30, 2019, the matter was transmitted to the Office of Administrative Law, for a hearing as a contested case. N.J.S.A. 54:14B-1 to -15 and N.J.S.A. 14F-1 to -13. On August 30, 2019, respondent filed a Motion for Summary Decision. In support of the motion, JCP&L provided a brief, affidavit of Charles J. Howlett, (Customer Services Compliance Specialist) and supporting exhibits. Petitioner was advised of the due date for her response to the motion and given several extensions on same. Several teleconferences were held and emails were sent from the Office of Administrative Law in an attempt to explain to petitioner that if she wished to oppose the motion for summary decision she needed to provide reasons for same and/or produce documentation evidencing her claims. On October 18, 2019, petitioner submitted a letter in opposition to JCP&L's motion. Thereafter, on October 22, 2019, respondent filed a letter brief in reply and the record closed on that date.

FACTUAL DISCUSSION AND FINDINGS

The following is not disputed therefore I **FIND** as fact:

Petitioner is a current JCP&L customer with an account for commercial electric service at XXXX Route 88, Brick, New Jersey 08724 (the "property"). JCP&L provides service to the property under account No. XXXX7679 (the "account"), which was first established on August 26, 2005.

The current outstanding balance on the account is \$7,234.58. The total balance on the account as of December 27, 2010, was \$5,009.35.

Meter G28601067 was the electric service meter registering usage at the property. It was upon this meter that JCP&L based its billing for the time period including August 26, 2005, through April 8, 2011.

On or about April 8, 2011, JCP&L tested Meter G28601067 to determine its accuracy. The meter tested at an average accuracy of 100.04%. The results of the testing for Meter G28601067 was provided to petitioner in April 2011.

Beginning on January 10, 2018, and through April 8, 2019, JCP&L issued ten disconnection notices due to outstanding unpaid balances on the account.

In her March 25, 2019, petition filed with the Board of Public Utilities, petitioner alleged that "between 2006-2010, I received month-to month billing statements with balances far exceeding amounts I felt I was responsible to pay." As a result, petitioner requested that "my case be reviewed by the Board of Public Utilities."

In her answers to interrogatories, petitioner responded that she believed her billing was incorrect because "between 2006-2010 charges dropped more than half." See answer to Interrogatory No. 7, at Exhibit A-1. Petitioner acknowledged that the electric service meter on the property was working properly. Id. at answer to Interrogatory No. 12. Petitioner disputes approximately \$6,000 of the total amount charged. Id. at answer to Interrogatory No. 14. Further, in response to the Request for Production of Documents, petitioner responded that "I added more electric equipment after 2010, but bill came down. That's major reason I am questioning JCPNL [sic]." Id. at answer to Request for Production of Documents No. 1.

Petitioner produced no documentation in support of her petition or in response to the interrogatories and request for the production of documents served in this case. JCP&L no longer maintains the billing records which petitioner now disputes.

LEGAL ANALYSIS AND CONCLUSION OF LAW

Pursuant to N.J.A.C. 1:1-12.5(b), summary decision “may be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law.” This rule is substantially similar to the summary judgment rule embodied in the New Jersey Court Rules, R. 4:46-2. See Judson v. Peoples Bank & Trust Co. of Westfield, 17 N.J. 67, 74 (1954). In connection therewith, all inferences of doubt are drawn against the movant and in favor of the party against whom the motion is directed. Id. at 75. In Brill v. Guardian Life Insurance Co., 142 N.J. 520 (1995), the New Jersey Supreme Court addressed the appropriate test to be employed in determining the motion:

[A] determination whether there exists a ‘genuine issue’ of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational fact finder to resolve the alleged disputed issue in favor of the non-moving party. The ‘judge’s function is not . . . to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial’.

Id. at 540.

N.J.A.C. 14:3-1.3(a) provides that “each public utility shall, prior to offering a utility service to the public, submit a tariff or tariff amendments to the [BPU] for approval[.]” The tariff shall “clearly describe . . . all terms and conditions regarding the services[.]” N.J.A.C. 14:3-1.3(b)2. A utility is expected to operate in accordance with its tariff, N.J.A.C. 14:3-1.3(d), though any inconsistency between a tariff and the governing regulations is resolved in favor of the regulation, unless the tariff “provides for more favorable treatment of customers.” N.J.A.C. 14:3-1.3(i). In other words, a tariff is essentially the law governing the relationship between a public utility and its customers, and is binding upon those parties. Application of Saddle River, 71 N.J. 14, 23 (1976).

Section 3.06 of JCP&L’s tariff provides:

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 NJAC 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. [Emphasis added.]

Pursuant to N.J.A.C. 14:3-6.1(b) each utility company shall keep a record of each customer's account in a manner that will permit computation of the customer's bill for any billing period occurring within six years.

In support of its motion for summary decision, JCP&L argues that petitioner has failed to provide any evidence or credible basis for her claims that her billing during 2006-2010 was incorrect. JCP&L argues that the undisputed facts support that the electric service meter for petitioner's property was accurate. It further argues that even if petitioner were able to demonstrate any overcharges, she is not entitled to relief as the disputed charges fall well beyond the period for which its tariff permits a billing adjustment. Finally, JCP&L argues that petitioner only filed her petition after she accrued a large outstanding balance on her account and was issued multiple disconnection notices and that she is using this appeal to avoid paying the charges owed.

In opposition to the motion for summary decision, petitioner argues (1) "my store is 900 SF [square feet]. I had few equipments [sic] the time I bought it in 2006. My electric bill came 1,100.00, 1,500, 1,600 at that time;" (2) Finally bill went down after couple of years my bill started coming 500-600 per month;" and (3) "unfortunately I could not find my old records yet."

Here, petitioner does not dispute the accuracy of the electric service meter on her commercial property account. She provided no documentary or other competent evidence supporting her blanket assertions that her billing far exceeded amounts owed. She does not take issue with any specific bill or charge during the 2006-2010 time frame, rather petitioner simply states, without any explanation for same, that she

disputes approximately \$6,000 of the amount owed. While this amount is lower than the current \$7,234 outstanding balance on the account, it exceeds the \$5,000 balance owing on the account as of December 27, 2010--the end of the disputed time period. JCP&L no longer maintains the billing records which petitioner disputes as the date of these records exceeds the mandated six-year retention period.

To the extent that petitioner contends that overcharges are demonstrated by decreased billing following the purchase of new/additional equipment, she failed to produce any documentation or detail regarding the numbers, type, or nature of the equipment which she had and that which she replaced or added during the disputed time period.

Thus, having reviewed the parties' submissions in support of, and opposition to, the motion for summary decision, I **CONCLUDE** that petitioner has failed to provide any competent evidence demonstrating a genuine issue of material fact which precludes summary decision. I further **CONCLUDE** that any relief sought by petitioner is barred by respondent's tariff as the disputed billing falls well beyond the six-year period in which billing adjustments, if any, may be made. Accordingly, I **CONCLUDE** that this matter is ripe for summary decision and respondent is entitled to same as a matter of law.

ORDER

I hereby **ORDER** that respondent's motion for summary decision is **GRANTED**, and petitioner's appeal is hereby **DISMISSED**.

I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

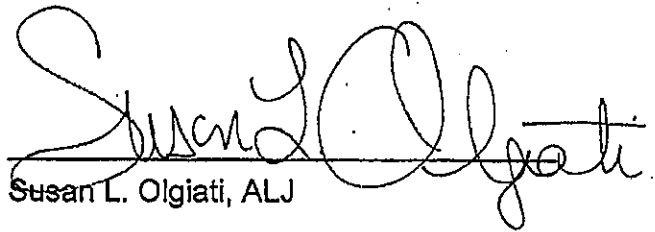
This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this

recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

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 01, 2019

DATE


Susan L. Olgiati, ALJ

Date Received at Agency:

November 1, 2019.

Date Mailed to Parties:

November 1, 2019

/v/

APPENDIX

Documents relied upon

For respondent:

Brief in support of Motion for Summary Decision, August 30, 2019, affidavit of Charles Howlett, and supporting exhibits: A-1 through D.

Reply brief in support of Motion for Summary Decision, October 22, 2019.

For petitioner:

Petition filed with the Board of Public Utilities, March 25, 2019.

Letter in opposition to the Motion for Summary Decision, October 18, 2019.