



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

JAROD NAPPI
Petitioner

v.

NEW JERSEY AMERICAN WATER COMPANY
Respondent

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ORDER OF EXTENSION

BPU DOCKET NO. WC19030377U
OAL DOCKET NO. PUC 09022-19

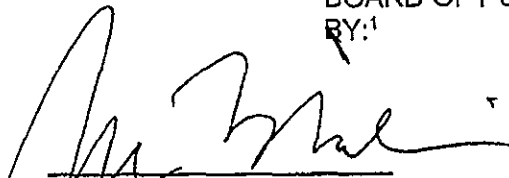
(SERVICE LIST ATTACHED)

The Initial Decision of the Administrative Law Judge was received by the Board of Public Utilities (Board) on January 13, 2020; therefore, the 45-day statutory period for review and the issuing of a Final Decision will expire on February 27, 2020. 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 April 15, 2020.

DATED: 2/5/20

BOARD OF PUBLIC UTILITIES
BY: ¹



JOSEPH L. FIORDALISO
PRESIDENT

ATTEST: 
AIDA CAMACHO-WELCH
SECRETARY

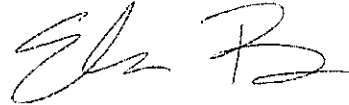
I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.

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

Date Board mailed Order to OAL: 2-5-2020

cc: Service List Attached

DATED: 2/6/2020



ELLEN S. BASS, ACTING DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE

Date OAL mailed executed Order to Board: 2/6/2020

Date Board mailed executed Order to Parties: 2-6-2020

JAROD NAPPI, PETITIONER

v.

NEW JERSEY AMERICAN WATER COMPANY, RESPONDENT

BPU DOCKET NO. WC19030377U
OAL DOCKET NO. PUC 09022-19

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. PUC 09022-19

AGENCY DKT. NO. WC19030377U

JAROD NAPPI,

Petitioner,

v.

NEW JERSEY AMERICAN WATER COMPANY,

Respondent.

Jarod Nappi, pro se, petitioner

Thomas J. Herten, Esq. and Josiah Contarino, Esq., for respondent (Archer & Greiner, attorneys)

Record Closed: November 27, 2019

Decided: January 8, 2020

BEFORE KELLY J. KIRK, ALJ:

STATEMENT OF THE CASE

This matter arises from a billing dispute between Jarod Nappi and New Jersey American Water Company (NJAWC or NJAW).

PROCEDURAL HISTORY

Petitioner, Jarod Nappi, filed a petition with the Board of Public Utilities (Board), alleging a "potential water meter mismatch" and inaccurate billing by NJAWC. NJAWC filed an answer to the petition on May 17, 2019. The Board determined to treat the matter 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, and transmitted it to the Office of Administrative Law (OAL), where it was filed on July 2, 2019.

Respondent filed a motion for summary decision on November 6, 2019, accompanied by a brief with one exhibit and certification of Thomas Hoffman, with exhibits (Hoffman Cert.). On November 19, 2019, petitioner filed a reply letter with one exhibit. On November 27, 2019, Respondent filed a reply letter brief and reply certification of Thomas Hoffman with one exhibit (Hoffman Reply Cert.).

FACTUAL DISCUSSION

The Statement of Uncontested Facts in respondent's brief in support of its motion for summary decision is as follows:

1. Petitioner's water meter for 24 Beasley Street is located in front of 20 Beasley Street, West Orange, New Jersey 07052. (Certification of Thomas H. Hoffman (Nov. 5, 2019) ("Hoffman Cert.") ¶ 3).
2. 20 Beasley Street is the "adjoining property" specified in Petitioner's Petition. (Petition ¶ 1).
3. The water meter for 20 Beasley Street, by contrast, is located inside the residence of 20 Beasley Street. (Hoffman Cert. ¶ 4).
4. Once Petitioner alerted NJAW to his concern of a potential meter mismatch, NJAW reviewed the account details for 24 Beasley Street and 20 Beasley Street. (Hoffman Cert. ¶ 7).

5. From that review, NJAW determined that the serial number for the meter located in front of 20 Beasley Street matches the serial number associated with Petitioner's water usage and resulting charges, and that the serial number for the meter located inside the residence at 20 Beasley Street matches the serial number associated with the water usage and resulting charges to Petitioner's adjoining neighbor at 20 Beasley Street. (Hoffman Cert. ¶¶ 7-8).
6. But NJAW did not stop there. Because of Petitioner's concern of a potential meter mismatch, NJAW reviewed the account history as far back as possible for both 24 Beasley Street and 20 Beasley Street, which showed that from July 2004 through July 2019, 24 Beasley Street used (and was correspondingly charged) 436,000 units less than 20 Beasley Street. (Hoffman Cert. ¶ 10).
7. In other words, the water usage associated with Petitioner's residence at 24 Beasley Street, West Orange, New Jersey 07052 for the period of July 22, 2004 through July 22, 2019 was 537,000 units. (Hoffman Cert. ¶ 11).
8. The water usage associated with the neighbor's residence at 20 Beasley Street, West Orange, New Jersey 07052 for the period of July 22, 2004 through July 22, 2019 was 973,000 units. (Hoffman Cert. ¶ 12).

Additionally, respondent's reply brief cites to paragraphs two through five of the Hoffman Reply Cert., which are as follows:

2. While a New Jersey American Water Company field service representative should have the information necessary to correctly identify meter locations, it is understandable that one not familiar with the unusual position of Petitioner's meter being in front of 20 Beasley Street could mistake the meter in front of 20 Beasley Street as belonging to 20 Beasley Street. This is entirely different from unique computerized meter reading devices that are each attached to separate water meters and that confirm the correct meter is being read during every reading.
3. Thus Petitioner is also wrong to imply that the serial numbers on the water meters do not prevent mismatched billing. The computerized meter reading device traces the serial number on Petitioner's meter to confirm Petitioner's water usage, and traces the serial number on the

neighbor's meter to confirm the neighbor's water usage. Obviously, a field service representative – a human – can physically turn a valve on the meter to shut off the water notwithstanding the serial number on that meter. In other words, the field service representative was able to turn off the water meter in front of 20 Beasley Street even though it had the serial number on it assigned to Petitioner's account.

4. Indeed, look at the bizarre positioning of Petitioner's property (24 Beasley Street) and his neighbor's (20 Beasley Street). (Attached as Exhibit A are two photographs where 20 Beasley Street is on the left and the entrance to 24 Beasley Street is on the right.) Petitioner's residence is hardly noticeable from the street. Whereas a field service representative could understandably look at 20 Beasley Street and believe the water meter in front thereof belonged to 20 Beasley Street, a computerized system for which the location of the meter makes no difference (because the water is read remotely) has no risk of similar misidentification.
5. Finally, Petitioner selects only the instances where water usage assigned to his neighbor at 20 Beasley Street was greater than Petitioner's at 24 Beasley Street to come up with "potential overbilling." A stretch under any circumstances, Petitioner's logic could work only if the meter reads had the potential of switching from one property to another property month by month. But that is not how the meter reading devices operate. A single serial number from a specific meter is used for a property until a new meter is installed. Petitioner's logic is therefore flawed.

LEGAL DISCUSSION

If a dispute arises between a utility and any other person regarding a utility, an informal complaint may be submitted to the Board in accordance with N.J.A.C. 14:1-5.13, or a petition may be filed under N.J.A.C. 14:1-5. N.J.A.C. 14:3-1.2(d). The customer of record, as defined at N.J.A.C. 14:3-1.1, is responsible for payment for all utility service rendered. N.J.A.C. 14:3-7.1(a).

Petitioner's Petition for a Formal Hearing states as follows:

Summary Statement

I am seeking assistance with resolving a dispute with the New Jersey American Water Company arising from a potential water meter mismatch between my property and an adjoining property.

Facts of the Case

1. In April 2017 New Jersey American Water Company (NJAWC) contacted me to schedule a replacement of the water meter servicing my property at 24 Beasley Street in West Orange NJ. I contacted NJAWC and informed them that I wanted to have my meter tested and verified by the Board of Public Utilities to ensure the accuracy of the existing meter prior to replacement. Upon investigation NJAWC discovered that my meter had already been replaced several months before they contacted me. I was informed that the meter servicing a neighboring property at 20 Beasley Street was supposed to be replaced but mine was replaced instead. Several weeks later I arrived home to find that the water service to my property had been shut off. I contacted NJAWC and a technician was dispatched to my property. The technician discovered that a shutoff notice had been issued and executed for the same neighboring property at 20 Beasley Street, but my service was shut off instead. The technician showed me that the water meter for my property is located in a pit in front of the neighboring property.
2. Based on the events described in Paragraph 1, I became concerned that there was a meter mismatch between 20 Beasley Street and my property at 24 Beasley Street. I contacted NJAWC to investigate this matter and have been unable to reach a satisfactory resolution. Tom Hoffman, the service representative assigned to my case, has informed me that he investigated and found no discrepancy between the two properties. However, no evidence has been provided to support that claim. I am seeking demonstrative proof that NJAWC meter identification systems are in control and that I have been properly billed for water use at 24 Beasley Street since taking ownership of the property in December 1998. In addition, I am seeking reimbursement for any overpayment resulting from inaccurate billing that may have resulted from a water meter mismatch.

Summary Decision

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." Further, "[w]hen a motion for summary decision is made and supported, an adverse party in order to prevail must by responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding." This standard is substantially similar to that governing a civil motion under New Jersey Court Rule 4:46-2 for summary judgment. E.S. v. Div. of Med. Assistance & Health Servs., 412 N.J. Super. 340, 350 (App. Div. 2010); Contini v. Bd. of Educ. of Newark, 286 N.J. Super. 106, 121 (App. Div. 1995).

In Brill v. Guardian Life Insurance Co., 142 N.J. 520, 540 (1995), the New Jersey Supreme Court set forth the standard governing a motion for summary judgment:

[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." [. . .] If there exists a single, unavoidable resolution of the alleged disputed issue of fact, that issue should be considered insufficient to constitute a "genuine" issue of material fact [. . .].

[Citations omitted.]

Even viewing the evidential materials presented in the light most favorable to the petitioner, they do not create a genuine issue of material fact sufficient to resolve the alleged disputed issue in his favor. It is not disputed that NJAWC mistakenly replaced the water meter for petitioner's property instead of the neighbor's property or that NJAWC mistakenly shut off petitioner's water when the shutoff notice was for petitioner's neighbor. Having viewed the photographs of the properties and petitioner's meter, these mistakes

are not surprising. However, NJAWC has certified that meter readings are performed remotely by computer and are tied to a meter's serial number – thereby removing any human error as a result of the incongruous location of a meter. Petitioner has not argued or submitted any evidence to establish that the foregoing is not true or that the serial number associated with the billing records for his property does not match the serial number on his water meter. Further, the records reflect that since 2004, petitioner has been billed for 436,000 units less than his neighbor. Petitioner argues that any monthly difference in units between petitioner and his neighbor where the neighbor's usage was higher than petitioner's (which is overwhelmingly the case) is "potential overbilling." It is not clear how he could have been overbilled when he would have paid less than his neighbor in every such case. Further, he has not submitted any evidence to suggest that his water meter was replaced or switched with his neighbor on a monthly or other basis for years - which is essentially what would have to have occurred for petitioner's argument of any "potential overbilling" be viable – or any evidence to then establish that his property corresponded to a different serial number on any given month.

There simply has been no evidence presented by petitioner to contradict NJAWC's certifications and create a genuine issue of material fact to support any finding that petitioner was improperly billed or entitled to any reimbursement. Accordingly, I **CONCLUDE** that there is no genuine issue as to any material fact challenged and respondent's motion for summary decision should be granted and the petitioner's petition should be dismissed.

ORDER

I **ORDER** that respondent's motion for summary decision be and hereby is **GRANTED**. I further **ORDER** that petitioner's appeal is **DISMISSED** with prejudice.

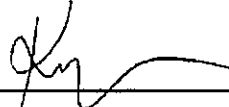
I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

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.

January 8, 2020
DATE



KELLY J. KIRK, ALJ

Date Received at Agency:

January 8, 2020

Date Mailed to Parties:
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January 9, 2020