



STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CUSTOMER ASSISTANCE

JUSTIN EGEOLU,
Petitioner

V.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY,
Respondent

) ORDER ADOPTING
) INITIAL DECISION
)
)
)
) BPU DKT. NO. GC11060357U
) OAL DKT. NO. PUC08977-11

Parties of Record:

Justin Egeolu, Petitioner, appearing *pro se*
Mally Becker, Esq., appearing on behalf of Respondent, Public Service Electric and Gas Company

BY THE BOARD:

On June 14, 2011, Justin Egeolu ("Petitioner") filed a petition with the Board of Public Utilities ("Board") requesting a formal hearing related to a dispute with Public Service Electric and Gas Company ("Respondent") for utility services rendered by Respondent.

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") Kimberly A. Moss.

A telephone prehearing conference took place on August 18, 2011. Status conferences were held on August 18, and September 19, 2011. An evidentiary hearing was held on November 18, 2011, at which Petitioner testified and moved exhibits in evidence. ALJ Moss' Initial Decision in this matter was issued on December 8, 2011, and submitted to the Board on December 12, 2011. Copies were also forwarded to the parties. Pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8(e), the Board was granted extensions to issue a final decision.

Following a request to file exceptions out of time, Petitioner filed exceptions on February 16, 2012. On February 21, 2012, Respondent filed its reply.

ALJ Moss's Initial Decision sets forth a statement of the case, the findings of facts, the legal analysis, and the conclusions of law. These findings and conclusions need not be restated herein. Suffice it to say that the record clearly shows that Petitioner's testimony did not support his claims that Respondent had: (1) improperly billed him for service; (2) removed electric and gas meters located at the subject three-family premises after he had filed his petition with the Board; and (3) ignored his requests to have a member of Board's Staff witness the meter tests. Petitioner bore the burden of proof by a preponderance of the competent, credible evidence. Atkinson v. Parsekian, 37 N.J. 143, 149 (1962). Having reviewed the record, we agree with the findings and conclusions of ALJ Moss, including; (1) that Respondent did not know of the filing of the Petition until after 5 of 6 meters were removed; (2) that the meters tested were all accurate as provided in N.J.A.C. 14:3-4.6; (3) that Petitioner did not file an application with the Board or pay the fee for a Board-witnessed meter test; (4) that a meter test for the sixth meter be scheduled as soon as practicable; and (5) that should Petitioner want that test to be Staff-witnessed, he should file an application with the Board and pay the appropriate fee.

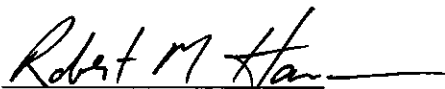
Petitioner's exceptions basically restate his position which was outlined in the petition and to which he testified at the hearing. The exceptions provide no basis to reject the ALJ's findings that the meters tested accurately and that Respondent's actions were consistent with the law. Petitioner's exception to the ALJ's determination that the petition did not include Petitioner's prayer for relief -- which contained his request that the meter test be supervised by the Board Staff -- is without merit. Whether the page containing the prayer for relief was attached to the copies of the petition forwarded to the OAL or to Respondent is of no moment because the record reflects that Petitioner was allowed to testify regarding his request for Staff to witness the meter test. More important, Petitioner did not present any evidence that he pay the required fee, as set forth at N.J.A.C. 14:3-4.5(f). Therefore, the ALJ's dismissal of the petition was appropriate.

After review of the record, the Board HEREBY FINDS that the findings of fact and conclusions of law of ALJ Moss are reasonable and based upon sufficient, competent, and credible evidence. The Board FURTHER FINDS that the exceptions filed by Petitioner are not supported by the record, are basic restatements of his petition and his testimony at the hearing and do not meet the requirements of N.J.A.C. 1:1-18.4(b).

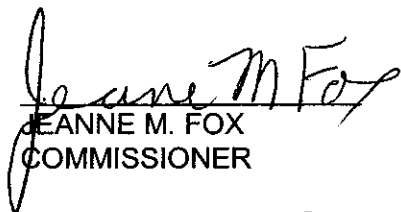
Accordingly, the Board HEREBY ADOPTS the Initial Decision in its entirety as if fully set forth herein. Therefore, the petition in this matter is HEREBY DISMISSED.

DATED: 4/12/12

BOARD OF PUBLIC UTILITIES
BY:



ROBERT M. HANNA
PRESIDENT



JEANNE M. FOX
COMMISSIONER



JOSEPH L. FIORDALISO
COMMISSIONER



NICHOLAS ASSELTA
COMMISSIONER



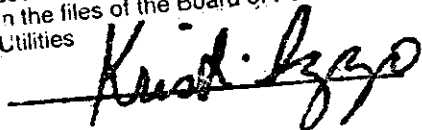
MARY-ANNA HOLDEN
COMMISSIONER

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



JUSTIN EGEOLU

V.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

BPU DOCKET NO. GC11060357U

OAL DOCKET NO. PUC08977-11

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Newark, New Jersey 07101

CRMS
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DAG(2)
RPA

Ford-Williams
Hayes

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CASE MANAGER
2011 DEC 13 PM 4:15
BOARD OF PUBLIC UTILITIES
NEWARK, N.J.



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

BPU MAILROOM
DEC 13 2011
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INITIAL DECISION

OAL DKT. NO. PUC 08977-11

AGENCY DKT NO. GC11060357U

JUSTIN EGEOLU,

Petitioner,

v.

**PUBLIC SERVICE ELECTRIC
AND GAS COMPANY,**

Respondent.

Justin Egeolu, pro se

Mally Becker, Esq., appearing on behalf of respondent

Record Closed: November 18, 2011

Decided: December 8, 2011

BEFORE KIMBERLY A. MOSS, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner Justin Egeolu (Egeolu or petitioner) filed a complaint before the Board of Public Utilities (BPU) disputing the billing charges of Public Service Electric and Gas (PSE&G) for gas and electric service provided to 9 Frederick Terrace, Irvington, New Jersey. On July 29, 2011, this matter was transmitted to the Office of Administrative Law (OAL) for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and

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N.J.S.A. 52:14F-1 to-13. A telephone prehearing was conducted on August 18, 2011. Status conferences were held on August 18, 2011, and September 19, 2011. The hearing was scheduled for November 18, 2011. On November 15, 2011, petitioner submitted a request for documents to respondent. Petitioner's request for discovery was out-of-time since it was sent less than ten days prior to the hearing date. The hearing was held on November 18, 2011, after which I closed the record. On November 21, 2011, petitioner emailed a document that he stated was a missing part of his petition. Since that document was not part of the original filed petition it will not be considered.

FACTUAL DISCUSSION AND FINDINGS

As the following is undisputed, I **FIND** it to be the **FACTS** of this case:

Egeolu is a customer of PSE&G. He has three electric and gas service accounts at 9 Frederick Terrace, Irvington, New Jersey. The premise is a three-family house. He has a gas and electric meter for the second-floor account. There were two gas meters on the basement account. One of the gas meters on the basement account, gas meter number 321730, was transferred to the first-floor account on August 5, 2011. There were several estimated reading of the meters between March 2009 and November 2011 on five of the six meters.

Testimony

Justin Egeolu

In 2004 Egeolu opened three accounts with PSE&G for electric and gas at 9 Frederick Terrace, Irvington. In approximately December 2004, he noticed that one of his accounts had three meters in the billing statement. He attempted to resolve this with PSE&G.

In May 2011, PSE&G required him to pay a security deposit for two of the accounts. Between May 2011 and June 2011, PSE&G applied \$238 of his payments on

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the second-floor account, and \$252 of his payments for the first-floor account to the security deposit. As a result of the money being applied to the security deposit, he accrued an outstanding with PSE&G balance. His service was discontinued in June 2011 for two days.

Egeolu began requesting meter tests in 2004. In seven years he received seven actual meter readings. He filed an informal complaint on June 31, 2010. PSE&G removed two gas meters on September 13, 2010, and replaced them. The meters that were removed were not tested until May 11, 2011. His request to have a third party witness the test was not honored. On June 14, 2011, he filed a complaint with the Board of Public Utilities (BPU). On June 28, 2011, PSE&G technicians removed and replaced three electric meters. His request that the technicians not remove the meters was not honored. The electric meters were tested on July 7, 2011, without a Board representative being present.

PSE&G made several appointments with petitioner that it did not honor. On August 20, 2011, September 18, 2011, and November 16, 2011, PSE&G failed to show up for appointments it made with Egeolu. He had to take time off from work for these appointments. Prior to the installation of the new meters, his bills were never less than \$400-\$500. Since the installation of the new meters his bills are approximately \$180 each month for each account. Petitioner's prayer for relief was not included in the filed petition. Egeolu did not file an application or pay the fee for a Board-witnessed test.

Ed Sullivan

Ed Sullivan (Sullivan) is the manager of customer operations and regulatory services for PSE&G. He is a liaison handling OAL matters for PSE&G.

Egeolu's first-floor account number is 6668484905. The previous account number was 1101126159. There were several estimated electric bills between March 10, 2009, and November 18, 2011. On June 28, 2011, electric meter number 126407727 was changed to meter number 127021070, a meter with a remote reader. The remove index verification number (Index) was 18074 when it was removed and

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when it was tested. The Index takes a final reading at the time the meter is removed. Meter number 126407727 was tested on July 7, 2011, and found to run at 100.5 percent. On August 5, 2011, the gas meter number 321730 was transferred from the basement account to the first-floor account. That meter was not tested.

On March 31, 2011, PSE&G requested a security deposit of \$252 on the first floor-account because at that time there was an outstanding balance of \$1,529.55. \$150 of petitioner's April 12, 2011, payment was applied to the security deposit. \$102 of petitioner's May 31, 2011, payment was applied to the security deposit. As of November 18, 2011, the first-floor account had an outstanding balance of \$1,223.50.

Egeolu's second-floor account number is 6548686608. The previous account number was 1101126280. There were several estimated meter readings from March 10, 2009, thru November 18, 2011. The gas meter number 3180197 was replaced with a remote reading meter on September 13, 2010. The index for that meter was 1712 on the day it was removed and the day it was tested. Meter number 3180197 was tested on May 11, 2011. The test showed that the meter ran at 101.5 percent, which is deemed accurate. The electric meter number 126407725 was replaced with a remote reading meter on July 28, 2011. The Index was 92897. The electric meter was tested on July 7, 2011. It tested at 99.67 percent.

PSE&G requested a security deposit on the second-floor account in the amount of \$238 because there was an outstanding balance at that time of \$1041.26. \$150 of petitioner's April 21, 2011, payment was applied to the security deposit. \$88 of petitioner's May 31, 2011, payment was applied to the security deposit. As of November 18, 2011, the second-floor account had an outstanding balance of \$2,102.06.

Egeolu's basement apartment had two gas meters and an electric meter. The electric meter number 126757657 was changed on June 28, 2011. It was tested on July 7, 2011, which showed it ran at 100 percent. The index was 59818 on the day it was removed and the day it was tested. One of the gas meters, meter number 31801152, was changed on September 13, 2010. That meter was tested on May 11, 2011, and was found to be running at 100.9 percent. The index was 9392 on the day it

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was removed and the day it was tested. As of November 1, 2011, there is a balance of \$14,790 on the basement account.

PSE&G received notice that the petition was filed in this case on June 28, 2011. Sullivan does not know why the gas meters were changed in September 2010. He does not know why there was a delay in testing the meters that were removed in September 2010. On July 27, 2010, Egeolu's electric service was shut off. It was restored the same day.

Having heard the testimony and witnesses **FIND** the following additional **FACTS**:

Petitioner's gas meter for the second floor was removed on September 13, 2010, and replaced with a remote reading meter. The meter was tested on May 11, 2011. The test showed that the meter ran at 101.5 percent. The index on the meter on the removal date and test date was 1712. The index takes a final reading when the meter is removed. Petitioner's second-floor electric meter was replaced with a remote reading meter on June 28, 2011. The meter was tested on July 7, 2011. The test showed that the meter ran at 99.67 percent. The index was 92897 on the removal date and the test date.

The basement gas meter number 31801152 was removed on September 13, 2010. The meter was tested on May 11, 2011. The test showed that the meter ran at 100.9 percent. The index was 9392 on the date it was removed and the date it was tested. The basement electric meter was removed on June 28, 2011. The meter was tested on July 7, 2011. The test showed that the meter ran at 100 percent. The index was 59818 on the date it was removed and the date it was tested. The gas meter that was moved from the basement account to the first-floor account in August 2011 was not tested

The first-floor electric meter was removed on June 28, 2011. The meter was tested on July 7, 2011. The test showed the meter ran at 100.5 percent.

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PSE&G required a security deposit from petitioner on the second-floor account in the amount of \$238 because petitioner had a \$1,041.26 outstanding balance as of February 3, 2011. PSE&G also required a security deposit for the first-floor account in the amount of \$252 because there was an outstanding balance of \$1,529.55.

Petitioner knew that he could request a Board-witnessed meter test. He did not apply or pay the fee for a Board-certified meter test.

PSE&G failed to keep several appointments with petitioner. The petition that was filed did not include a request for third-party-witnessed meter tests. PSE&G did not receive the petition until June 28, 2011.

Petitioner's electric service was shut off on July 27, 2010. It was restored the same day. Petitioner provided no evidence that the shut off occurred without proper notice.

LEGAL ANALYSIS AND CONCLUSION

N.J.A.C. 14:3-4.6 provides:

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 none of the meters that were tested were found to be registering fast by more than two percent. I CONCLUDE that the meter that were tested were accurate.~~

N.J.A.C. 14:3-4.5 provides:

(a) Each utility shall, without charge, make a test of the accuracy of a meter upon request of a customer, provided

such customer does not make a request for test more frequently than once in 12 months.

(b) A report giving results of such tests shall be made to the customer, and a complete record of such tests shall be kept on file at the office of the utility in accordance with N.J.A.C. 14:3-4.9, meter records.

(c) When a billing dispute is known to exist, the electric, gas or water utility shall, prior to removing the meter, advise the customer that the customer may have the meter tested by the utility or may have the Board witness a testing of the meter by the utility, and that in any event the customer may have the test witnessed by a third party.

(d) A meter test arising from a billing dispute may be appropriate in instances which include, but are not limited to, unexplained increased consumption, crossed meters, consumption while account is vacant or any other instance where the meter's accuracy might be an issue in a bill dispute.

(e) Upon application by any customer to the Board, a Board inspector shall test the customer's meter. Such test shall be made as soon as practicable after receipt of the application for the test, and Board staff shall notify the customer and the utility as to the time and place of such test.

(f) The Board shall charge a fee of \$ 5.00 for a meter test, payable at the time application is made for the test. This fee is to be retained by the Board if the meter is found to be slow or correct within the allowable limits. ~~If the meter is found to be fast beyond the allowable limits, that is, more than two percent, or in the case of water meters, more than one and one-half percent, the utility shall reimburse the customer for the test fee paid.~~

In this matter petitioner was aware that he could have a Board-witnessed meter test. His petition did not include a request for a Board-witnessed meter test. PSE&G received his petition on the day that the meters were removed. In addition, petitioner did not file an application with the Board or pay the fee for the Board-witnessed meter test. I CONCLUDE PSE&G actions were not in violation of N.J.A.C. 14:3-4.9.

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N.J.A.C. 14:3-3.4(d) provides:

A utility may require an existing customer to furnish a deposit or increase their existing deposit if the customer fails to pay a bill within 15 days after the due date printed on the bill. The deposit required shall be in an amount sufficient to secure the payment of future bills.

PSE&G required petitioner to pay a security deposit on the first- and second-floor accounts because there was an outstanding balance of \$1,529.55 on the first-floor account and an outstanding balance of \$1,041.26. I CONCLUDE that PSE&G requiring petitioner to pay a security deposit was in accordance with N.J.A.C. 14:3-3.4(d).

I CONCLUDE petitioner has not proved by a preponderance of the evidence that he did not have proper notice of the discontinuance of service or that the discontinuance of service was subsequent to PSE&G having knowledge of the filing of the petition. In fact PSEG received the petition on June 28, 2011, after the discontinuance of service.

N.J.A.C. 14:3-4.8(c) provides:

If a customer has a complaint filed with the Board reflecting on the accuracy or performance of the meter, the utility shall not remove the customer's meter from service during the pendency of said complaint, or during the 30 days following the Board's decision on the complaint, unless otherwise authorized by the Board's staff.

In this case PSE&G did not receive the petition until the June 28, 2011, the day that the meters were removed. PSE&G removed the meters before it knew that the petition was filed. ~~In addition, the petitioner had made numerous requests for the meters to be tested.~~ In fact he had scheduled several appointments with PSE&G regarding the meters. I CONCLUDE that PSE&G removed the meters before it received the petition in this case.

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ORDER

It is therefore **ORDERED** that the petition in regard to the five meters that were tested be and is hereby **DISMISSED**.

It is further **ORDERED** that a meter test be scheduled as soon as is practicable for the sixth meter to be tested by PSE&G. If petitioner wants the test to be Board-witnessed, he shall file the application with the Board and pay the fee.

It is therefore **ORDERED** that the all other claims in the petition be and is hereby **DISMISSED**.


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.

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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, 2 Gateway Center, Suite 801, Newark, NJ 07102**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

12-8-11
DATE


KIMBERLY A. MOSS, ALJ

Date Received at Agency:

12/8/11


Date Mailed to Parties:

DEC - 9, 2011

DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE

ljb

WITNESSES

For Petitioner:

Justin Egeolu

For Respondent:

Ed Sullivan

EXHIBITS

For Petitioner:

- P-1 Unfiled Informal Complaint Form printed July 31, 2010
- P-2 November 2004 PSE&G bill for account number 1101109254
- P-3 Notice from PSE&G Regarding Inability to Access Meters
- P-4 PSE&G bill for June 2011 for account number 6713188109
Notes of petitioner
PSE&G bill of May 2011 for account number 6713188109
- P-7 Letter from PSE&G to petitioner dated August 26, 2011
- P-8 PSE&G bill of June 2011 for account number 6548686608
PSE&G bill of May 2011 for account number 6668484905
- P-10 PSE&G bill of May 2011 for account number 6548686608

For Respondent:

- R-1 Statement of electric and/or gas billing or payment of Justin Egeolu for account number 6668484905
- R-2 Statement of electric and/or gas billing or payment of Justin Egeolu for account number 6548686608
- R-3 PSE&G bills for basement account of Justin Egeolu
- R-4 Letters from PSE&G to Justin Egeolu showing meter test results
- R-5 Terms and conditions of PSE&G Tariff Electric B.P.U.N.J. No. 14 Electric 9.5-9.9
- R-6 Terms and conditions of PSE&G Tariff Electric B.P.U.N.J. No. 14 Gas 8.5.2-8.9