



Agenda Date: 5/31/17

Agenda Item: 7A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**44 South Clinton Avenue, 3<sup>rd</sup> Floor, Suite 314**  
**Post Office Box 350**  
**Trenton, New Jersey 08625-0350**  
**www.nj.gov/bpu/**

CUSTOMER ASSISTANCE

<p><b>IAN STRASSLER,<sup>1</sup></b>  <b>PETITIONER,</b></p> <p style="text-align: center;">V.</p> <p><b>PUBLIC SERVICE ELECTRIC AND GAS COMPANY,</b>  <b>RESPONDENT.</b></p>	<p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p> <p>)</p>	<p><b>ORDER MODIFYING</b>  <b>INITIAL DECISION</b></p> <p><b>BPU DOCKET NO. EC15091076U</b>  <b>OAL DOCKET NO. PUC 11836-16</b></p>
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**Parties of Record:**

**Michael Botton, Esq.,** on behalf of Petitioner, Ian Strassler  
**Alexander C. Stern, Esq.,** on behalf of Respondent, Public Service Electric and Gas Company

**BY THE BOARD:**

The within matter is a billing dispute between Ian Strassler ("Petitioner") and Public Service Electric and Gas Company ("PSE&G" or "Respondent"). This Order sets forth the background and procedural history of Petitioner's claims and represents the Final Order in the matter pursuant to N.J.S.A. 52:14B-20. Having reviewed the record, the Board of Public Utilities ("Board") now **MODIFIES** the Initial Decision rendered on April 10, 2017 as follows.

**PROCEDURAL HISTORY**

On September 10, 2015, Ian Strassler filed a petition with the Board requesting a formal hearing and disputing charges for electric service rendered at his residence at Browning Lane, Cherry Hill, New Jersey ("the property"). Petitioner alleged that his PSE&G bills, which reflected approximately 7,000 kw of power per month, were too high for a single family home. Petitioner requested an investigation on his PSE&G account for suspicion of fraudulent usage and sought relief for high invoices dating back forty-eight (48) months.

On or about October 19, 2015, Respondent filed an answer to the petition, noting that Petitioner is PSE&G's customer for electric and gas service at the property. Respondent also noted that Petitioner had ongoing concerns about his electric usage, and that PSE&G conducted multiple meter tests, which have all indicated that the meters tested were within acceptable limits

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<sup>1</sup> The caption for the Initial Decision by Joseph A. Ascione, ALJ, was amended to "Ian Strassler, Deceased, Stephen Strassler, Heir at Law." However, the caption should remain as originally filed – "Ian Strassler v. PSE&G" – as Counsel for Petitioner indicated that he was appearing on behalf of Ian Strassler and as no evidence was introduced at the evidentiary hearing to warrant such a change.

pursuant to N.J.A.C. 14:3-4.6. Respondent further stated that Petitioner had an outstanding balance of \$6,090.22 and the last record of payment was July 28, 2015. Subsequently, on August 5, 2016, 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 -23. This matter was assigned to Administrative Law Judge ("ALJ") Joseph A. Ascione.

On November 21 and December 12, 2016, evidentiary hearings were held before ALJ Ascione. Although represented by counsel, Petitioner failed to appear at either hearing, and did not present any evidence. (1T5:24 to 1T6:16; 2T:58-9)<sup>2</sup> On November 21, 2016, Ian Strassler's counsel advised the ALJ that the Petitioner was unable to appear due to a medical condition, and requested an adjournment to permit the Petitioner an opportunity to appear and testify at a later date. (1T5:24 to 1T6:16) ALJ Ascione denied the adjournment request, but granted Petitioner an additional hearing date to present testimony. (1T7:3-20)

James Walsh testified on behalf of Respondent on both hearing dates. During the November 21, 2016, hearing, Mr. Walsh identified R-1, R-2, R-3, R-4, R-4a, R-5 and R-6. (1T10; 1T14; 1T16; 1T20; 1T24; 1T25; 1T36) Of these seven exhibits, only R-1, R-2, R-4 and R-4a were moved into evidence on that date. (1T27:16-17)<sup>3</sup> Exhibits R-7 and R-8 were identified and moved into evidence on December 12, 2016. (2T5:24 to 2T7:7) The record was closed on March 1, 2017.

On April 10, 2017, Judge Ascione issued an Initial Decision, in favor of Respondent, denying the relief sought by Petitioner and dismissing the petition. No exceptions to ALJ Ascione's Initial Decision were filed.

On April 21, 2017, the Board obtained a forty-five (45) day extension of time in which to issue a Final Decision pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.

### **EVIDENTIARY HEARINGS**

Hearings in this matter began on November 21, 2016, and continued on December 21, 2016. PSE&G customer billing statements and the record of meter tests for the account in dispute show that the account holder is Ian Strassler. (R-7; R-8)

On November 21 and December 12, PSE&G presented the testimony of James Walsh, a Senior Customer Relations Consultant for PSE&G who has been employed by PSE&G for thirty-eight (38) years. (1T8:17-21) Mr. Walsh testified that he investigated Petitioner's dispute by reviewing multiple years of account statements, meter tests results, and payment history. (1T10:1-8) He testified that Petitioner receives electric service from PSE&G at his Browning Lane, Cherry Hill home, and has since prior to 2009. (1T13:8-16) He testified that Petitioner's last payment on record to PSE&G was July 28, 2015. (1T13:24-25)

Mr. Walsh testified that four meters were tested for accuracy and replaced at the property between 2002 and 2015 due to concerns about high bills. (1T15:1-22; 1T17:7-17; 1T24:3-19;

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<sup>2</sup> 1T refers to Transcript of November 21, 2016, hearing. 2T refers to Transcript of December 12, 2016, hearing. This transcript lists the name of the Petitioner as Enian Strassler.

<sup>3</sup> It's unclear when R-5 and R-6 were moved into evidence, but ALJ Ascione notes at the December 12, 2016 hearing that R-5 and R-6 were taken into evidence. (2T7:22 to 2T8:1) It is uncertain whether R-3 was ever made part of the record. See 2T7:22 to 2T8:8.

1T26:1-10; 2T12:13-25) All four meter tests demonstrated that the meter being tested was accurate within the prescribed limits of N.J.A.C. 14:3-4.5f. Ibid.

Specifically, Mr. Walsh testified as to meter 18219881, which was installed on the property on January 17, 2002 and was subsequently removed on January 13, 2012. (R-2; 1T15:1-22) This meter was tested on January 20, 2012, and showed a 99.890% accuracy, which was within acceptable limits. Ibid. Mr. Walsh then explained that meter 127068288 replaced meter 18219881, and that the new meter remained on the property until April 21, 2014. (R-3; 1T17:7-17; 2T10:1 to 2T12:2) Meter 127068288 was tested on May 1, 2014, and showed a 100.060% accuracy. Ibid. Mr. Walsh testified that a third meter, 127178525, was installed on April 21, 2014, but was subsequently removed April 21, 2015, and tested on June 5, 2015. (R-4; R-4a; 1T24:3-19) This meter test was witnessed by BPU at the request of Petitioner, and was within the prescribed limits showing a 99.970% accuracy. Ibid. Finally, Mr. Walsh testified that a fourth meter, 127268841, was installed on April 21, 2015, and removed on October 19, 2016. (R-5; 1T26:1-10) This meter was tested on November 15, 2016, and was determined to be 99.99% accurate. Ibid.

On cross-examination, Mr. Walsh testified that he had never personally visited Petitioner's home, but that PSE&G representatives had. (1T27:3-5) He testified that he reviewed the home on google maps, and provided counsel with an estimated square footage for the property. (1T27:6-25) During this testimony, Mr. Walsh noted that in his experience the amount of usage reflected on Ian Strassler's bill seemed a little higher than normal, but that he has also seen that level of consumption before; Mr. Walsh further indicated that he could not speculate on usage as he goes by the meter measurements. (1T29:1 to 1T30:19)

Petitioner, Ian Strassler, did not appear at either hearing and did not submit any documentary evidence into the record. At the November 21, 2016, hearing, Petitioner's counsel advised the ALJ that the property owner, Stephen Strassler, had passed away and that Ian Strassler was his stepson, account holder, and resident of the property.<sup>4</sup> (1T42:17 to 1T43:1)

On April 10, 2017, ALJ Ascione issued an Initial Decision, in favor of Respondent, denying the relief sought by Petitioner and dismissing the petition. ALJ Ascione found the testimony of Mr. Walsh to be credible.

In addition, ALJ Ascione found that Petitioner's counsel represented the death of Petitioner, and that no letters of administration or death certificate for Ian Strassler were ever provided to the tribunal despite being requested. ALJ Ascione noted that Petitioner's counsel had represented that he also represented the son and heir of the property, Stephen. The ALJ further stated that Petitioner's son offered no testimony and that Petitioner had predeceased. (ID at 1-2)

In his Initial Decision, ALJ Ascione made the following findings of fact based upon his review of the testimony and exhibits: (1) the customer formally disputed high billing to the Board; (2) Petitioner's bills may be slightly high for the building size, but that it is not disproportionately inconsistent with billings for similarly sized residences in the area; (3) Respondent, at the request of Petitioner, replaced the meter on numerous occasions and that each meter tested was consistently accurate within less than one percent accuracy; (4) Petitioner's large

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<sup>4</sup> There is no information in the record as to why this information was raised at the evidentiary hearing or why it was relevant to the proceeding.

outstanding balance was the result of failure to make full payments in the past and the failure to make payment since July 28, 2015; and (5) the outstanding balance is \$6,090.22. (ID at 2-3)

ALJ Ascione found that "petitioner could not provide any legally competent evidence to support the claim that the meter was inaccurate." (ID at 3) Consequently, the ALJ concluded that the meters and bills were accurate, and dismissed the petition for "petitioner's failure to present any evidence to support its position at the hearing." Accordingly, the outstanding bill of \$6,090.22 remains the obligation of Petitioner to PSE&G. (ID at 4)

Within the statutory period, the Board requested a 45-day extension pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18. The request was granted and, therefore, the time limit for the Board to render a Final Decision is extended until July 10, 2017.

No exceptions to this Initial Decision were filed.

### **DISCUSSION AND FINDINGS**

After review of the entire record, the Board **HEREBY MODIFIES** the Initial Decision.

The Board **MODIFIES** ALJ Ascione's conclusion that the Petitioner had predeceased the evidentiary hearings as represented by his counsel. On November 21, 2016, Petitioner's counsel represented that Stephen Strassler, not Ian Strassler, had passed away. Specifically, it was noted on the record that Stephen Strassler was the property owner, while Ian Strassler was the stepson, account holder, and resident of the property. (1T42:17 to 1T43:1) Also, pursuant to the petition filed on September 10, 2015, Ian Strassler was the Petitioner. Because there is no evidence in the record to support the ALJ's findings that Ian Strassler, the Petitioner, had predeceased, the Board **FINDS** that Ian Strassler, the Petitioner, had not predeceased.

N.J.A.C. 14:3-1.1 defines a customer of record as the person who applies for utility service and is identified in the account records of a public utility as the person responsible for payment of the public utility bill. A customer of record, such as Petitioner, is responsible for payment of all utility service provided. N.J.A.C. 14:3-7.1(a) Documentary evidence, representation by Petitioner's counsel, and PSE&G's answer clearly identify Ian Strassler as the account holder and Petitioner, and therefore, the customer of record. To avoid any confusion, the Board **MODIFIES** the Initial Decision to find that Ian Strassler is, in fact, the customer of record in this matter.

The Board, however, **FINDS** that ALJ Ascione's conclusion that Petitioner failed to prove a preponderance of the evidence is correct. In customer billing disputes before the Board, petitioners bear the burden of proof by a preponderance of evidence of the competent, credible evidence. See Atkinson v. Parsekian, 37 N.J. 143, 149 (1962) Evidence is preponderate if it establishes reasonable probability that the facts alleged are true. See Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div.), cert. denied, 31 N.J. 75 (1959)

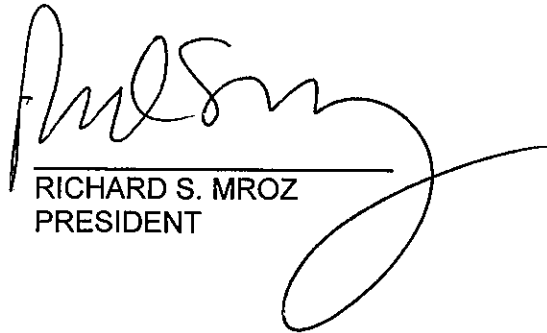
In this case, Petitioner failed to present any testimony or documentary evidence during the hearings. In fact, Petitioner failed to appear at the hearings, and his counsel did not provide any evidence to the tribunal. Consequently, ALJ Ascione's conclusion that Petitioner failed to prove by a preponderance of the evidence that his electric bills were inaccurate is appropriate and is **HEREBY ADOPTED** by the Board.

After careful review and consideration of the entire record, the Board **HEREBY ADOPTS** the Initial Decision as **MODIFIED** and **ORDERS** that that the petition in this matter be **DISMISSED**.

This order shall be effective June 10, 2017.

DATED: 5/31/17

BOARD OF PUBLIC UTILITIES  
BY:



RICHARD S. MROZ  
PRESIDENT



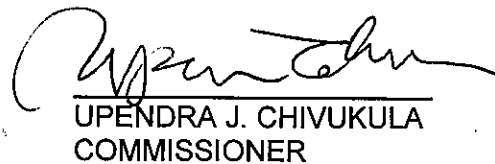
JOSEPH L. FIORDALISO  
COMMISSIONER



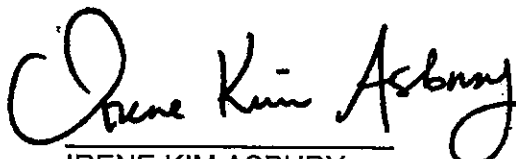
MARY-ANNA HOLDEN  
COMMISSIONER



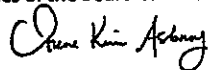
DIANNE SOLOMON  
COMMISSIONER



UPENDRA J. CHIVUKULA  
COMMISSIONER

ATTEST:   
IRENE KIM ASBURY  
SECRETARY

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



**IAN STRASSLER**

**V.**

**PUBLIC SERVICE ELECTRIC & GAS COMPANY  
BPU DOCKET NO. EC15091076U  
OAL DOCKET NO. PUC 11836-16**

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

C.A.  
4/11/17  
DB

**INITIAL DECISION**

OAL DKT. NO. PUC 11836-16  
AGENCY DKT. NO. EC15091076U

**IAN STRASSLER, DECEASED**  
**STEPHEN STRASSLER, HEIR AT LAW,**  
Petitioner,

v.

**PUBLIC SERVICE ELECTRIC**  
**AND GAS COMPANY,**  
Respondent.

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**Michael Botton, Esq.,** for petitioner

**Samuel A. Wolfe, Esq.,** for respondent

Record Closed: March 1, 2017

Decided: April 10, 2017

BEFORE **JOSEPH A. ASCIONE, ALJ:**

**STATEMENT OF THE CASE AND PROCEDURAL HISTORY**

Petitioner disputes the electrical billing of \$6,090.22, for multiple months for his residence at 416 B. Lane, Cherry Hill, NJ. On August 5, 2016, this matter was transmitted to the Office of Administrative Law (OAL) for determination 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. The OAL conducted hearings on November 21, 2016 and December 12, 2016. An issue arose as no one had letters of administration or testamentary for the estate of Ian Strassler.

This office informed petitioner's counsel that the petitioner would be dismissed if letters were not provided by December 12, 2016. No letters or death certificate were filed. The record closed on March 1, 2017.

### FACTUAL DISCUSSION AND FINDINGS

At the November 21, 2016, hearing, counsel for petitioner represented the death of petitioner, request of petitioner's counsel to produce letters of administration or testamentary were requested by the tribunal, none were provided, nor did counsel provide proof of death. The hearing proceeded on November 21, 2016, with respondent offering testimony regarding the billing and procedural steps taken. Petitioner's counsel attended and defended the hearing application. Petitioner's counsel represented that he also represented the son and heir of the property.

Respondent presented testimony from James T. Walsh, a Senior Customer Relations Consultant, employed by respondent for over thirty-eight years. He testified to the replacement of meters and testing. He testified that the outstanding amount resulted from failure to make full payments keeping up with the billing, and eventual failure to make any payments at all. He never attended at the premises. His testimony was accepted as credible. He testified to the exhibits R-1 to R-8.

Petitioner's son, Stephen, offered no testimony and petitioner had predeceased.

I have reviewed the testimonial record and I **FIND**:

1. The customer has formally disputed high billing to the Board of Public Utilities.
2. Petitioner's billing may be slightly high for the building size but it is not disproportionately inconsistent with billings for similarly sized residences in the area.
3. Respondent, at the request of petitioner, replaced the meter on numerous occasions. Each meter testing was consistently accurate within less than one percent of accuracy. These testing are acceptable public utility guidelines.



4. Petitioner's large outstanding balance is the result of failure to make full payments in the past and the failure to make payment since July 28, 2015.
5. The outstanding balance is \$6,090.22.

### LEGAL DISCUSSION

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).

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.

### CONCLUSION

In this case, the meters which were removed from the petitioner's apartment, were tested and registered within less than one-percent inaccuracy. The amount is within the two percent margin permitted in accordance with the regulation. Petitioner could not provide any legally competent evidence to support the claim that the meter was inaccurate. I therefore **CONCLUDE** that the meters were accurate, as were the bills in question.

I **CONCLUDE** that the respondent has properly billed the petitioner.

I **CONCLUDE** the petitioner has failed to pay his billing obligations to respondent in at least the amount of \$6,090.22

**ORDER**

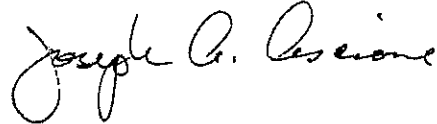
I **ORDER** the petition to be **DISMISSED** for petitioner's failure to present any evidence to support its position at the hearing.

I **ORDER** the petition to be **DISMISSED** for respondent's proof that petitioner is obligated to respondent in at least the amount of \$6,090.22.

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.



April 10, 2017  
\_\_\_\_\_  
DATE

\_\_\_\_\_  
JOSEPH A. ASCIONE, ALJ

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

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

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**APPENDIX**

**LIST OF WITNESSES**

**For Appellant:**

None

**For Respondent:**

James T. Walsh, PSE&G Service Center Relations Consultant

**LIST OF EXHIBITS**

**For Appellant:**

None

**For Respondent:**

- R-1 Statement of Billing and Payment
- R-2 Meter Testing 1/20/12
- R-3 Meter Testing 5/1/14
- R-4 Meter Testing 6/5/15
- R-4A June 8, 2015, correspondence to Stephen Strassler
- R-5 Meter Testing 11/15/16
- R-6 Billing and Payment History
- R-7 Monthly Billings
- R-8 Meter Reading Unit 076187