



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

CUSTOMER ASSISTANCE

Corrado de Gioia,
Petitioner,

v.

SUEZ Water New Jersey,
Respondent.

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ORDER MODIFYING
INITIAL DECISION

BPU DOCKET NO. WC16060488U
OAL DOCKET NO. PUC 11835-16

Parties of Record:

Richard W. Mackiewicz, Esq., on behalf of Petitioner, Corrado de Gioia
John P. Wallace, Esq., on behalf of SUEZ Water New Jersey

BY THE BOARD:

Corrado de Gioia ("Petitioner") filed a petition with the Board of Public Utilities ("Board") on June 2, 2016 ("Petition") disputing charges associated with service provided by SUEZ Water New Jersey ("SWNJ" 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 now MODIFIES the Initial Decision rendered on April 16, 2019.

PROCEDURAL HISTORY

In the Petition, Petitioner stated that in September 2015, SWNJ back-billed Petitioner in the amount of \$29,039.28 for "catch-up" charges for water service provided at Petitioner's property. Petitioner claims that in September 2015, he learned that SWNJ replaced the meter in December 2014, and that SWNJ advised that it conducted an extensive review of the property's consumption history. Petitioner further claimed that SWNJ incorrectly determined that meter tampering had occurred. Petitioner denied the tampering claim and made payment to the bill in question under protest.

SWNJ, in its answer dated June 22, 2016, contended that services were supplied and billed in accordance with terms and conditions and rate schedules set forth in its Board approved Tariff. The Company stated it conducted an extensive review of the water consumption at the premises, which showed significant inconsistencies when comparing the consumption on the removed meter with that on the newly installed meter. SWNJ further contended that the bill in question was properly calculated and issued to reflect water consumption which had not been

paid for by Petitioner. SWNJ requested that the relief sought be denied on the basis that Petitioner failed to set forth a claim upon which relief may be granted.

On August 4, 2016, the Board transferred the matter to the Office of Administrative Law 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.

The case was originally assigned to Administrative Law Judge ("ALJ") Joan Bedrin Murray. However, on January 5, 2018, this matter was re-assigned to ALJ John P. Scollo.

The parties subsequently voluntarily agreed to resolve the matter and entered into a signed Settlement Agreement ("Agreement") that was submitted to the ALJ on April 15, 2019.

Pursuant to the terms of the Agreement, and in order to fully resolve this matter, SWNJ agreed that prior payment made by Petitioner of \$29,098.26 previously tendered to SWNJ is full payment of the entire under-billed period of March 29, 1996 to December 15, 2014. The Agreement constitutes a new, currently due bill from SWNJ in the amount of \$29,098.26. Petitioner agreed to provide SWNJ access to the water meter within twenty-four (24) hours after written request by SWNJ is sent by regular and certified mail to Petitioner. In the event that SWNJ is unable to gain access as requested, Petitioner agreed to pay SWNJ \$75.00 per day for each day access is not made available.

By Initial Decision issued on April 16, 2019, and submitted to the Board on April 26, 2019, ALJ Scollo found that the Agreement was voluntary, that its terms fully disposed of all issues in controversy, that it was consistent with the law, and that it satisfied the requirements of N.J.A.C. 1:1-19.1.

No exceptions to this Initial Decision were filed.

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 25, 2019.

DISCUSSION AND FINDINGS

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

Paragraph 3 of the Stipulation provides that if SWNJ is unable to gain access to Petitioner's premises, as requested, Petitioner "agrees to pay SWNJ the sum of \$75.00 per day for each day that access is not made available." Neither the Stipulation, nor the Initial Decision provide a basis in law, regulation, or tariff for this proposed access fee. To the contrary, SWNJ's Tariff pages 31-32 and the Board regulations at N.J.A.C. 14:3-3A.1(a)5i and N.J.A.C. 14:3-3A.1(d) provide for a remedy if Petitioner fails to permit SWNJ appropriate access to its premises. Specifically, SWNJ may discontinue service, upon proper notice. In light of the above, the Board **MODIFIES** the Initial Decision to remove the \$75.00 charge set forth in paragraph 3. The remaining terms of the Stipulation, including requirements regarding notice if Petitioner fails to provide appropriate access shall remain in full force and effect.

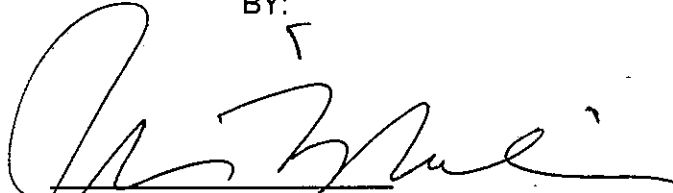
The Board, however, **FINDS** that ALJ Scollo's conclusion that the Stipulation is otherwise consistent with law is correct. Therefore, the Board **HEREBY FINDS** that the parties have voluntarily agreed to the settlement as evidenced by their signatures and that, by the terms of the Stipulation, they have fully resolved all outstanding contested issues in this matter.

Accordingly, the Board **HEREBY ADOPTS** the Initial Decision and the Stipulation **AS MODIFIED.**

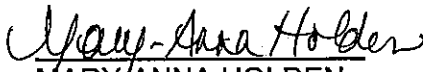
This order shall be effective on July 20, 2019.

DATED: 7/10/19

BOARD OF PUBLIC UTILITIES
BY:



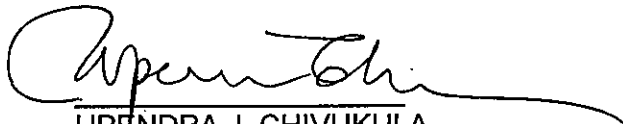
JOSEPH L. FIORDALISO
PRESIDENT



MARY ANNA HOLDEN
COMMISSIONER



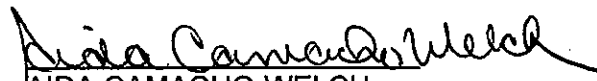
DIANNE SOLOMON
COMMISSIONER



UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

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.

CORRADO DE GIOIA

V.

SUEZ WATER NEW JERSEY

BPU DOCKET NO. WC16060488U

OAL DOCKET NO. PUC 11835-16

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

RECEIVED
CASE MANAGEMENT

APR 26 2019

BOARD OF PUBLIC UTILITIES
TRENTON, NJ

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 11835-16

AGENCY REF. NO. WC16060488U

CORRADO DE GIOIA,

Petitioner,

v.

SUEZ WATER NEW JERSEY

BILLING DISPUTE,

Respondent.

Richard W. Mackiewicz, Esq., for Petitioner

John P. Wallace, for Respondent SUEZ Water New Jersey

Record Closed: April 15, 2019

Decided: April 16, 2019

BEFORE JOHN P. SCOLLO, ALJ:

The Board of Public Utilities transmitted this matter to the Office of Administrative Law (OAL) where it was received and filed on August 5, 2016 for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F1 to -13. Several telephone conferences were held wherein the parties discussed with the undersigned the possibility of working towards an amicable resolution of the within matter. By e-mail correspondence dated April 15 2019, Petitioner's counsel forwarded to the Court a

Settlement Agreement indicating the terms of settlement which is attached hereto and made a part hereof.

I have reviewed the record and terms of the settlement and **FIND:**

1. The parties have voluntarily agreed to the resolution of the within matter as evidenced by their signatures or the signatures of their representatives.
2. The Settlement fully disposes of all issues in controversy and is consistent with the law.

Therefore, I **CONCLUDE** that this Settlement Agreement meets the requirements of N.J.A.C. 17:27-19.1 and that the settlement should be approved. Accordingly, it is **ORDERED** that the parties comply with the terms, and it is **FURTHER ORDERED** that the proceedings in this matter be concluded.

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.

April 16, 2019
DATE


JOHN P. SCOLLO, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____
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SETTLEMENT AGREEMENT

WHEREAS CORRADO deGIOIA (hereinafter "Customer") and SUEZ WATER NEW JERSEY, (hereinafter "SWNJ") have agreed to a resolution of a dispute with respect to unbilled and unpaid charges for water consumption at premises at 112 49th Street, Union City, New Jersey (hereinafter "Premises"), and

WHEREAS Customer has challenged the accuracy of meter readings upon which SWNJ relied on in issuing the disputed bills, and

WHEREAS SWNJ has issued to Customer multiple bills for water service resulting from estimate readings of the water meter between 3/29/1996 and 12/15/2014, and

WHEREAS said bills failed to include actual water consumption during said period, and

WHEREAS SWNJ has alleged that Customer should have known that said bills were incorrect, and

WHEREAS Customer has denied that it should or could have known of any inaccuracies in said bills, and

WHEREAS Customer filed a Petition with the Board of Public Utilities, which was referred to the Office of Administrative Law as a contested case, under OAL Docket Number PUC 11835-2016N, Agency Ref. No. WC 16060488U, challenging the actions of SWNJ, and

WHEREAS SWNJ has not acknowledged that Meter # [REDACTED] 0920 which was removed from Customer's premises on December 15, 2014 did not show physical evidence of tampering, and

WHEREAS SWNJ and Customer have conferenced the issues raised in the proceedings before the Honorable John P. Scollo, Administrative Law Judge, and have agreed to accept the recommendation of Honorable John P. Scollo;

NOW THEREFORE, SWNJ and Customer have agreed to resolve this dispute according to the following terms:

1. SWNJ agrees the prior payment by Customer of \$29,098.26 previously tendered to SWNJ by Customer is full payment amounting to 10,185 CCF or 7,618,380 gallons that were under-billed by SWNJ and provided between March 29, 1996 and December 15, 2014.

2. This settlement agreement supersedes disputed bills for the billing period in dispute. This Settlement agreement constitutes a new, currently due bill from SWNJ in the amount of \$29,098.26 for service provided in the disputed billing period which was between March 29, 1996 and December 15, 2014. Said parties agree that Customer is free to share the content of this settlement agreement with NORTH HUDSON SEWER AUTHORITY (hereinafter "NHSA") in the event that a sewer bill results from this new, currently due bill from SWNJ. Said parties acknowledge that NHSA is separate from and unaffiliated with SWNJ and SWNJ has no input or control with respect to NHSA, its management or operations. The parties further agree that all billing issued to Customer by SWNJ to the date hereof are accurate, complete and all sums due have been paid in full and the account is current.

3. Customer agrees to provide to SWNJ access to the water meter at said premises within twenty-four (24) hours after written request for such access by SWNJ sent by certified and regular mail. Customer shall provide to SWNJ the name, address, and telephone number of the person to whom such a request is to be directed. In the event SWNJ is unable to gain access as requested, Customer agrees to pay SWNJ the sum of \$ 75.00 per day for each day that access is not made available, to compensate SWNJ for expenses incurred as a result of its failure to gain access to said meter. Notice of said failure to gain access shall be given to Customer and his attorney Richard W. Mackiewicz, Jr., Esq., or his successor, as shall be designated by Customer

as the additional party to receive notice of failure to gain access upon execution of this agreement. Said designation of such additional party shall continue until Customer shall advise SWNJ of a successor designee by Certified Mail, which successor designation shall not be effective until said notice by Certified Mail is received by SWNJ at 69 DeVoe Place, Hackensack, NJ 07601;

4. Customer agrees to file voluntary dismissals of his Petition against SWNJ filed and/or pending in the Office of Administrative Law under OAL Docket Number PUC 11835-2016 N, Agency Ref. No.: WC16060488U, within seven (7) days of the date hereof;

5. This Settlement Agreement is not an acknowledgment of wrongdoing by either party.

6. The parties shall exchange mutual general releases.

7. Customer entered into this settlement after NHSA acknowledged this settlement agreement is a new, currently due bill from SWNJ and NHSA is to render a new, currently due bill of its own reflecting only current charges with no interest or penalty.

DATED: April 2, 2019


CORRADO deGIOIA

April 02, 2019

SUEZ WATER NEW JERSEY

by 

Authorized Representative of
SUEZ WATER NEW JERSEY