

**BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY
DEPARTMENT OF CUSTOMER SERVICES**

IN RE: [REDACTED]
[REDACTED] Walter Street, SE
Washington, DC 20003

Account No: [REDACTED]

Amount in Dispute - \$ 488.82

Before Janet W. Blassingame, Hearing Officer
March 6, 2018 at 11:00 a.m.

The customer contested water and sewer bills for the above account for the period of time August 8, 2017 to October 11, 2017. The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges and determined that the charges were valid and an adjustment to the account was not warranted. The customer appealed DC Water's decision and requested an administrative hearing.

This matter was scheduled for hearing on March 6, 2018. Present for the hearing were [REDACTED] and Eileen Wright, Communication Specialist, DC Water, on behalf of DC Water.

The property involved is a row house owned and occupied by [REDACTED] Ms. [REDACTED] stated that she has lived in the house for thirty-four (34) years and currently lives there alone. The house has one bathroom, one kitchen, radiators, a washing machine, and a dishwasher. Historically, the water and sewer bill has ranged between Sixty-Five Dollars (\$65.00) and Seventy Dollars (\$70.00) per billing cycle.

[REDACTED] testified that her water and sewer bill dated 9/17/2017 was for the amount of \$136.83 and she understood that the bill was a double bill meaning that it covered two (2) billing cycles. [REDACTED] stated that she paid \$65.00 on the balance due, leaving an arrearage on her account. She stated that the next bill which was dated 10/17/2017 was for the amount of \$565.72 and she understood that the bill covered the period 8/11/2017 to 9/14/2017. The customer stated that she had never received a bill that high for water and sewer services and she telephoned DC Water regarding the bill. [REDACTED] recounted that she was told of a rate change and that the bill was for an extended period. She testified that she was informed by June Adams of DC Water's Customer Service Department that the bill was for an extended period and that the utility had re-done her previous billing because the prior bill had been based upon estimated usage.

[REDACTED] testified that the meter maid came to the house to check the meter on October 27, 2017; she stated that the DC Water employee did not talk with her or come into the house.

[REDACTED] testified that, on August 8, 2017, she underwent surgery for her hip and as

a result of the surgery, she could not go to the bathroom and as such, used a portable commode. She stated that from August 7, 2017 until September 15, 2017 she never took a shower and she did not cook her food. She added that she did not wash her clothes during her recuperation period. She stated that her waste from the portable commode was disposed of in a large barrel/receptacle and, as such, her toilet was not flushed during her recuperation period.

██████████ stated that DC Water did not conduct an interior inspection of her home for leaks or plumbing problems. She testified that the bill received in November 2017 (bill dated 11/16/17) was for \$71.18 which was back to within normal range. The customer stated that she did not contact a plumber to inspect the home because usage returned to normal. She asserted that she had not had to jingle the toilet handle and to her knowledge, she had no leaks. She stated that she checked the house before she went into the hospital for surgery in August 2017 and during her inspection, she saw nothing amiss regarding her plumbing. She stated that she did not turn off the water during her absence when in the hospital.

██████████ testified that her water meter was changed on December 19, 2017. She asserted that the meter, probably, had not been working properly.

██████████ stated that her most recent water and sewer bill which was dated 2/15/2018 was for the amount of \$41.01.

Ms. Wright stated that DC Water considers the charges valid based upon meter readings from the property. She testified that there was a reported high volume of water used at the property sometime between August 8, 2017 to October 11, 2017; Ms. Wright stated that she does not know when the actual spike occurred during the period because the MTU at the property was not transmitting meter reads on a consistent basis.

Ms. Wright testified that the customer's September bill was estimated and, then, the utility obtained a meter read from the property on October 11, 2017. Ms. Wright stated that based upon the meter read, the utility determined that it had underestimated water usage at the property. Ms. Wright stated that DC Water sent a service technician to the property on October 26, 2017 to obtain and verify the meter reading. She stated that the meter read was 562.

Ms. Wright testified that DC Water tested the water meter at the property and the meter was determined to have 100.26% accuracy. Ms. Wright pointed out that the American Water Works Association set acceptable water meter accuracy to range between 95% to 102%.

Ms. Wright asserted that there was no evidence of an underground leak as having caused increased water usage at the property.

Ms. Wright pointed out that on August 9, 2017 the meter read was 513, on October 11, 2017 the meter read was 561 and on October 26, 2017 the meter read was 562.

Based upon the foregoing evidence and testimony adduced during the hearing, the Hearing Officer makes the following:

FINDINGS OF FACT

1. The property involved is a row house owned and occupied by [REDACTED] (Testimony of [REDACTED])
2. The period in dispute is August 8, 2017 to October 11, 2017. (Testimony of the parties)
3. The customer was hospitalized for hip surgery on or about August 8, 2017 and upon her return home, she was unable to utilize her bathroom facilities, cook or wash clothing and did not do so in the home until sometime on or about September 15, 2017. (Testimony of [REDACTED])
4. There were no known leaks or plumbing problems at the property prior to and at the time of the customer's hospitalization and prior to her hospitalization, the customer inspected her property and found nothing amiss. (Testimony of [REDACTED])
5. DC Water estimated the customer's water usage for billing purposes for the billing cycle 8/08/17 to 9/14/17 as reflected in the bill dated 9/18/17. (Testimony of the parties; Bill Summary dated 9/18/17)
6. The customer's water usage was estimated because the MTU at the property was not operating consistently and failed to send a meter read for billing purposes. (Testimony of Eileen Wright)
7. DC Water obtained a meter read from the property on October 11, 2017 and then sent a service technician to the property to verify the meter read and obtain a meter read on October 26, 2017. (Testimony of Eileen Wright)
8. Based upon the meter read obtained on October 11, 2017, DC Water was able to determine that it had underestimated the customer's water usage during the previous billing cycle. (Testimony Eileen Wright)
9. DC Water did not conduct an interior inspection of the property for leaks. (Testimony of [REDACTED])
10. The customer did not obtain the services of a plumber to inspect the property for leaks or plumbing issues. (Testimony of [REDACTED])
11. DC Water tested the water meter and the meter was determined to have 100.26% accuracy which is within acceptable range of meter accuracy as established by the American Water Works Association. (Testimony of Eileen Wright)
12. DC Water found no evidence of and ruled out the existence of an underground leak as having caused increased water usage at the property because the usage declined. (Testimony of Eileen Wright; DC Water Investigation Letter)

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. Once the customer establishes a prima facie case that s/he did not use and/or was not responsible for payment of the water as charged, the burden shifts to DC Water to rebut the customer's claim that s/he did not use the water as charged. (Gatewood v. DC WASA, 82 A.3d, DC Court of Appeals 2013)
3. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:

- (a) Verify the computations made in the formulation of the water and sewer charges;
- (b) Verify the meter reading for possible meter overread or doubtful registration;
- (c) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
- (d) Check the meter for malfunction;
- (e) Check the water-cooled air conditioning system, if any, for malfunction; and
- (f) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.

See, 21 DCMR 403.

- 4. Meters shall be read quarterly, or at such other times as the Director shall determine. (21 DCMR 308.1 and 309.1)
- 5. If at any time, a meter, data collection device or transmitter fails to register correctly or collect, deliver or transmit data or otherwise operate or bears evidence of having been tampered with, as determined by qualified personnel of the Authority, the water charge for the interval in which the incident occurred shall be based on the average previous water consumption determined by meter readings. (21 DCMR 308.4)
- 6. DC Water is granted the authority to establish, adjust, levy, collect and abate charges for services, facilities, or commodities furnished or supplied by it, pursuant to D.C. Code §34-2202.03(11)
- 7. Equitable laches comes into play when two prerequisites are met- the defendant must have been prejudiced by the plaintiff's delay and the delay must have been unreasonable. (See, King v. Kitchen Magic, 391 A.2d 1184, 1187-88 (D.C. 1978); Fannie B. Martin v. William Carter, 400 A.2d 326 (D.C. 1979).

DECISION

In this case, the customer made a prima facie case that the disputed bill is incorrect and, thus, shifted the burden to DC Water to establish that the charges are valid and should be paid by customer. The basis of the customer's prima facie case was [REDACTED] testimony that, due to her hospitalization and physical incapacity thereafter, she was not using water within her home for a substantial period of time and there were no known leaks or running water at the property prior to her going into the hospital. The customer further pointed out that she had never received a bill for water usage as high the bill in dispute and that her bill was back to within historical water usage levels by the next billing cycle.

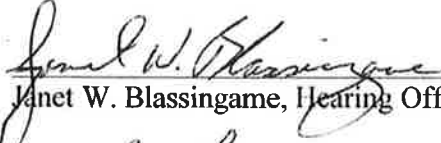
The Court in Gatewood supra. made it clear that the utility must investigate and present evidence that the customer used the water as charged. Normally, the utility will investigate by conducting an interior inspection for leaks, an underground inspection for leaks and/or a meter test, as warranted. DC Water did test the customer's meter. DC Water did not conduct an interior inspection of the premises. The utility ruled out the presence of an underground leak based upon

the fact that measured water used at the property went down. The utility further verified the accuracy of the meter read obtained by sending out a service technician to the property.

In this case, DC Water only estimated the customer's usage for one billing period. DC Water cannot determine when high usage occurred because the MTU was not transmitting. Likewise, the customer had no notice of high usage occurring at the property and the only notice that high water usage had occurred at the property was given to the customer based upon her receipt of the October 2017 bill. Under the regulations, DC Water is obligated to read water meters on a quarterly basis and since it only estimated the customer's usage for one billing period before it obtained an actual meter read, the utility complied with the applicable regulations and cannot be faulted as unreasonably causing any delay in adjusting its billing of the customer for actual water use.


The evidence of the meter test results, verification of the meter read and its explanation of why an underground leak could not have been the cause of the increased water usage at the property did sufficiently rebut and outweigh the customer's prima facie case. As such, the preponderance of the evidence lies with the utility that the charges are valid and no basis exists for adjustment of the customer's account.

Accordingly, the determination by DC Water that the charges are valid and no adjustment to the account is appropriate is hereby AFFIRMED.



Janet W. Blessingame, Hearing Officer
Date: April 26, 2018

Copy to:


Walter Street, SE
Washington, DC 20003

**BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY
DEPARTMENT OF CUSTOMER SERVICES**

IN RE: [REDACTED]
[REDACTED] 38th Street, SE
Washington, DC 20020

Account No: [REDACTED]

Amount in Dispute - \$ 501.94

Before Janet W. Blassingame, Hearing Officer
March 6, 2018 at 1:00 p.m.

ORDER OF DISMISSAL

An Administrative Hearing Petition was received by the DC Water and Sewer Authority (DC Water) on October 11, 2017 regarding a water and sewer bill for the above account for the period of time June 5, 2017 to June 21, 2017. DC Water had investigated the water and sewer charges and determined that the charges were valid and an adjustment to the account was not warranted. The aforementioned petition appealed DC Water's decision and requested an administrative hearing. The petition identified Queenell McClain and Jeinine McClain as the property owner.

This matter was originally scheduled for hearing on November 15, 2017. Present for hearing were [REDACTED] and Eileen Wright, Sr. Customer Care Associate on behalf of DC Water. [REDACTED] identified herself as the daughter of [REDACTED] and stated that her mother died in year 2012. [REDACTED] stated that her mother was the property owner, that the property remains in her mother's sole name and that the estate had not been opened. Ms. [REDACTED] stated that she had her mother's Power of Attorney and has been paying the water bill since her mother's death. [REDACTED] was informed that she needs to commence administration of her mother's estate and until Letters of Administration are issued by a court of jurisdiction, no one has authority to dispute the charge on the water account. The parties agreed to continue this matter to allow [REDACTED] to open her mother's estate. It was further agreed that upon issuance of Letters of Administration, [REDACTED] will provide copy of the letters to Ms. Wright. The Hearing Officer directed DC Water to to reschedule this matter for hearing during the next calendar cycle of hearings which would have been held in March 2018.

This matter was rescheduled for hearing on March 6, 2018. Again, Eileen Wright appeared on behalf of DC Water. The customer was afforded a thirty (30) minute grace period and although the hearing was delayed until 1:30 p.m., no one appeared on behalf of [REDACTED] or the Estate of [REDACTED]. A review of the notification for hearing showed that the notice had been addressed to [REDACTED] at the customer's address of record and advised that "Failure to appear at your scheduled hearing may result in a default judgment being entered against you." (See, 21 DCMR 415.3). Further, Ms. Wright indicated that to the best of her knowledge and information, no one had presented to the utility Letters of Administration regarding the Estate of [REDACTED].


Based upon the prior continuation of this matter to afford the customer's daughter an opportunity to gain standing in this dispute or to allow someone else to enter an appearance as personal representative of the customer's estate and it appearing that no one has presented proof of appointment as personal representative of the estate, no one requested a further continuance of this matter and no one appeared on behalf of the customer and/or the estate, it is the determination of this Hearing Officer that dismissal of this matter is appropriate based upon a failure to prosecute/proceed.

As such, based upon the failure to appear by anyone authorized to represent the customer/estate or to request in advance that the hearing be postponed, this matter is hereby DISMISSED.

By: Janet W. Blessingame
Janet W. Blessingame, Hearing Officer

Date: April 26, 2016

Copy to:


38th Street, SE
Washington, DC 20020

**BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY
DEPARTMENT OF CUSTOMER SERVICES**

IN RE: [REDACTED]
[REDACTED] 10th Street, NE
Washington, DC 20018

Account No: [REDACTED]

Amounts and Periods in Dispute:
7/3/17 – 7/29/17 - \$656.95
7/29/17 – 9/10/17 - \$427.72

Before Janet W. Blassingame, Hearing Officer
March 7, 2018 at 11:00 a.m.

The customer contested water and sewer bills for the above account for the periods of time July 3, 2017 to July 29, 2017 and July 29, 2017 to September 10, 2017. The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges and determined that the charges were valid and an adjustment to the account was not warranted. The customer appealed DC Water's decision and requested an administrative hearing.

This matter was scheduled for hearing on March 7, 2018. Present for the hearing were [REDACTED] and Eileen Wright, Communication Specialist, DC Water, on behalf of DC Water.

As a preliminary matter, the customer stated that she is disputing billings for March, April, May and June 2017 as well. [REDACTED] stated that she was on auto-pay for her water and sewer account billings and she did not realize until August 2017 that she had been billed for high water consumption in previous months. Ms. Wright responded that bills received before the customer's call to DC Water to dispute charges are considered untimely. [REDACTED] responded that no one told her of time limits within to dispute charges and Ms. Wright retorted that the procedure to dispute charges in a bill is outlined on the back of the bill. [REDACTED] stated that she had not been concerned regarding her water and sewer bill because she was on auto-pay. She admitted that she did not look at the actual bill from the utility because of auto-pay. She stated that her charges for water and sewer had been pretty consistent until the period being disputed. The customer pointed out that she is no longer enrolled in auto-pay.

The property involved is a single-family home owned and occupied by [REDACTED]. The house has two and one-half (2 ½) bathrooms, two (2) outside faucets, a kitchen, a washing machine and a dishwasher. [REDACTED] stated that she has lived in the home just over one year and that the water and sewer bills have averaged Forty Dollars (\$40.00) per billing cycle.

[REDACTED] testified that she checked her bank statement and then proceeded to open her water and sewer bill. She, then, telephoned DC Water regarding the bill charges and according to the customer, she made the telephone call to the utility in late July or early August 2017. Ms. [REDACTED] stated that she was told that the MTU at her property was not transmitting properly. Ms. [REDACTED] stated that she requested that the MTU be replaced and that she wanted her water meter replaced. Ms. [REDACTED] stated that she was told by the service representative with whom she

spoke that she did not need an internal audit of her house for leaks. Ms. [REDACTED] testified that she found out on September 8, 2017 that the MTU had not been replaced and she was told that an audit was cancelled. Ms. [REDACTED] stated that an internal audit and an underground inspection was set for September 12, 2017 but that the inspector failed to show up at the house during the window of time established for the inspections to occur. Ms. [REDACTED] stated that she left the house but returned to meet the service technician. The customer stated that the service technician showed her damage to the MTU. Ms. [REDACTED] testified that the service technician did not detect any underground leak and did not find any leaks inside of the house. Ms. [REDACTED] stated that her bill for the next billing cycle was also high and she complained to DC Water that it had not changed the MTU at her property. Ms. [REDACTED] testified that she was told that the water meter and MTU change was part of the larger plan by DC Water to change all customer meters in the City. Ms. [REDACTED] stated that she submitted a Report A Problem statement on September 25, 2017.

It was noted by the Hearing Officer that the customer was reading her testimony from a written statement and the Hearing Officer asked if the customer wanted to submit the statement into evidence. Ms. [REDACTED] responded that she was uncomfortable submitting her written statement and would only read the same. Ms. [REDACTED] complained that DC Water was poor in communicating with her. The Hearing Officer urged the customer to submit her statement, however, she maintained her position that she would not do so. The Hearing Officer advised the customer that she was taking notes of her testimony but the notes were not verbatim and admitting the statement would be helpful to the Hearing Officer for a complete record of what she was saying. The customer maintained her position that she would only read the statement.

Ms. Wright interjected that a customer's Report A Problem statement is for emergencies only and is not seen by DC Water's Customer Service Department.

Ms. [REDACTED] presented copies of door tags left at the property. On one door tag, there was handwritten- "0349-35 @ 11:32 AM Meter Readings No Leaks and 0349-35 @ 2:00 PM". On the door tag with the handwritten note was, also, the identifier A-17 L. Chapman as the DC Water Representative with the further notation "Call me @" with a telephone number provided.

Ms. Wright stated that DC Water considers the charges to be valid based upon the meter readings. She pointed out that the customer has a MTU and an AMR meter.

Ms. Wright testified that the spikes in water usage at the house started in February 2017 and, then, sometime between June 10, 2017 and July 3, 2017, water usage at the property declined to 3 CCF. Ms. Wright testified that water usage at the property, then, increased significantly between July 3, 2017 and September 10, 2017.

Ms. Wright calculated the daily water usage at the property and testified that from May 27, 2017 to June 6, 2017, 17 CCF of water registered on the water meter making the customer's daily usage to be 1.7 CCF. She testified that between June 6, 2017 and June 28, 2017, 2 CCF of water registered on the water meter and as such, the customer's daily usage for that period was .090 CCF. Ms. Wright stated that between June 29, 2017 and August 30, 2017, 99 CCF of water registered on the water meter and the customer's daily usage was 1.596 CCF. Ms. Wright stated

that between August 30, 2017 and September 10, 2017 the customer used less than 1 CCF of water and as such 0 CCF registered on the water meter even though the last two (2) digits on the water meter did, in fact, move.

Ms. Wright testified that DC Water did not initiate cancelation of the scheduled internal audit for September 9, 2017 but, instead, Ms. ██████ telephoned the utility and cancelled the audit. Ms. Wright stated that the underground inspection scheduled for September 12, 2017 did take place and the service technician found no registration on the water meter, no sound and no leaks. Ms. Wright stated that DC Water performed an equipment check at the property on October 2, 2017. Ms. Wright stated that the service technician who came to the property failed to note on the service report that he did an internal inspection of the property.

Ms. Wright stated that DC Water did advise its service technicians not to change water meters and/or MTU due to the citywide AMR project pursuant to which the utility planned to change all customers' water meters. Ms. Wright testified that Ms. ██████ water meter was, in fact, removed and replaced on October 19, 2017 as part of the AMR project and because the meter was removed, as part of the project, it was not tested.

Ms. Wright testified that there is a pattern of the water usage going up and down at the property.

Ms. ██████ stated that the service representative told her that everything looked weird due to the water usage going up and down. The customer stated that she disputes Ms. Wright that DC Water scheduled an internal audit and Ms. ██████ reiterated that the service representative told her that no audit would be necessary if the meter is checked. Ms. ██████ stated that she thought and understood that the water meter and MTU would be replaced on September 8, 2017 and they were not. Ms. Wright submitted the telephone log of customer contacts with the Customer Service Department of DC Water and she pointed to the input memorializing Ms. ██████ call on September 8, 2017 at 9:25 AM to cancel the audit. Ms. ██████ responded that she called DC Water on September 8, 2017 to see if her water meter and MTU had been changed. She stated that she had been on vacation and called the utility for an update. The Hearing Officer notes that in addition to the memorialization of the Ms. ██████ cancelling the audit, the telephone log note for September 8, 2017 states that the customer inquired as to whether the MTU had been changed and if the water meter had been read, to which, the customer service representative responded that, yes, the meter had been read and the read appeared to be in-line with the earlier meter read and, no, the MTU had not been changed. Ms. Wright further expounded that an underground audit had also been scheduled on September 8, 2017 to take place on September 12, 2017. Ms. ██████ argued that both an underground and internal audit were set for September 12, 2017 and that she took off from work. She stated that when the technician did not show during the window of 9:00 am to 12:00, she left for work only to return home upon receiving a call that the technician was present at the house. Ms. ██████ stated that service technician Chapman conducted both an internal audit and an underground audit on September 12, 2017 and that the technician did not see any water and found no leaks. Ms. ██████ stated that based upon the technician not detecting any problem, she asked for a new meter and MTU and that she requested that the change be expedited instead of waiting for her turn on the project schedule.

Ms. [REDACTED] reconsidered her position regarding submitting her written statement into evidence and the statement was submitted. The Hearing Officer notes that the customer gave details of the internal audit to include a description of the service technician placing dye tablets in the toilets. The Hearing Officer also notes that there is no mention of the internal audit taking place or of the service technician's findings in the records submitted by DC Water.

DC Water submitted into evidence the meter reads transmitted by the MTU at the property, as well as, the usage history of the property.

Based upon the foregoing testimony and evidence adduced during the hearing, the Hearing Officer makes the following:

FINDINGS OF FACT

1. The property involved is a single-family house owned and occupied by [REDACTED] (Testimony of [REDACTED])
2. The period in dispute is July 3, 2017 to September 10, 2017. (Testimony of the parties)
3. The customer sought to dispute her charges from March 2017 thru October 2017, however, she did not contact DC Water to dispute her water and sewer charges until August 25, 2017 because she was enrolled in auto-pay and did not review the bills sent to her until she noticed her bank statement and opened her bill dated 8/14/17) (Testimony of [REDACTED]; DC Water Utility Contacts- telephone communication log)
4. Water usage at the property began to significantly increase in February 2017 and remained high until sometime between June 3, 2017 and July 3, 2017 when the usage declined. (Testimony of Eileen Wright; DC Water Meter Read Log)
5. Water usage at the property spiked again as of July 3, 2017 and remained high thru August 30, 2017. (Testimony of Eileen Wright; DC Water Meter Read Log)
6. Prior to February 2017, the customer's water usage ranged from 1 CCF to 2 CCF per billing cycle, however, the customer used 8 CCF, 13 CCF, 30 CCF. and 16 CCF, each consecutive billing cycle between 2/9/17 and 6/10/17. The customer used 60 CCF between 7/3/17 and 7/29/17 and the customer used 36 CCF between 7/29/17 and 9/10/17. (DC Water Usage/Meter Log)
7. Between 9/10/17 and 10/7/17, the customer's water usage returned to within historical usage level at 1 CCF. (DC Water Usage/Meter Log)
8. The customer's water and sewer charges were based upon actual meter readings obtained by DC Water's MTU device at the property or by sending a service technician to the property to read the water meter. (Testimony of Eileen Wright; DC Water Usage/Meter Read History)
9. The MTU at the property was transmitting meter reads on a sporadic basis, particularly in July, August and September 2017, however, the MTU's transmittals were used for billing purposes for the bills dated 7/17/17, 8/14/17 and 9/15/17; DC Water submitted its meter read record which reflected that the customer had been billed based upon actual meter reads from 8/10/2016 to 11/13/17 either by MTU transmissions or technician reads. (Testimony of Eileen Wright; DC Water Usage/Meter Read History)
10. DC Water conducted an internal audit and underground inspection of the property on September 12, 2017 and no leaks were found. (Testimony of the parties)

11. DC Water changed the water meter and MTU at the property on November 15, 2017 through its citywide project of equipment replacement. (Testimony of Eileen Wright)
12. DC Water did not test the customer's water meter; DC Water sent a technician to conduct an equipment test and verification of the meter read on 8/31/17 and 10/2/17. (Testimony of Eileen Wright; DC Water Utility Contacts- telephone log)

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. 21 DCMR §402.1 dictates a customer has ten (10) working days after receipt of the bill in which to challenge a bill that she believes to be incorrect and she does not pay the bill, or, the customer may pay the bill and note that she pays under protest, provided she does so before she receives her next bill because a challenge pertains to the most recent charges.
3. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:
 - (g) Verify the computations made in the formulation of the water and sewer charges;
 - (h) Verify the meter reading for possible meter overread or doubtful registration;
 - (i) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
 - (j) Check the meter for malfunction;
 - (k) Check the water-cooled air conditioning system, if any, for malfunction; and
 - (l) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.See, 21 DCMR 403.
4. D.C. Municipal Regulations bar adjustment of a customer's bill when all checks and tests provide no reasonable explanation for excessive water consumption. (See 21 DCMR 408 which states: "In cases in which all checks and tests result in inconclusive findings that provide no reasonable explanation for excessive consumption, no adjustment shall be made to the bill for any portion of the excessive consumption, except as may be approved by the General Manager, based upon a demonstration by the owner or occupant that such an adjustment will further a significant public interest.")
5. If at any time, a meter, data collection device or transmitter fails to register correctly or collect, deliver or transmit data or otherwise operate or bears evidence of having been tampered with, as determined by qualified personal of the Authority, the water charge for the interval in which the incident occurred shall be based on the average previous water consumption determined by meter readings. (21 DCMR 308.4)

DECISION

The customer in this matter was unable to establish a prima facie case that the charges disputed were wrong or for some other reason the customer was not or should not be held responsible for payment. The customer based her case upon the fact that she lived alone and she believed that there was no way that she could use the amount of water charged to her account by DC Water. The customer demanded a new MTU and water meter and while the meter and MTU were ultimately changed by DC Water, the utility did not do so based upon the customer's request but did so on its schedule of meter replacement pursuant to its citywide project to replace all customer water meters.

The evidence and testimony established a picture of frustration on the part of the customer due to the failure of the utility to change the meter and MTU on her demand. The testimony and evidence also established that the utility's representatives did a poor customer service job in explaining to the customer how her dispute was being investigated and its determination of why the water increased/declined and to provide the customer with some information as to what to do on her part to avoid the high water usage in the future.

The testimony and evidence established that high water usage was occurring unbeknownst to the customer for months before she initiated a dispute of the charges. The customer testified that she was not attentive to her water and sewer bill because she was enrolled in auto-pay. Pursuant to the applicable rules regarding bill disputes, the customer needed to contact DC Water before she received the next billing statement in order to dispute charges in instances such as here where the customer paid the bill. (See, 21 DCMR 402.1) Enrollment in auto-pay does not excuse one from paying attention to bill charges and in this instance, it provides no basis to allow the dispute of bill charges long ago made and paid. As such, the customer lost her opportunity to dispute bill charges dating back to March 2017 up to and thru June 2017. The customer contacted the utility regarding her bill dated 8/14/2017 which covered the period 7/3/17 to 7/29/17 and the utility extended acknowledgement of the dispute to the succeeding billing cycle covering 7/29/17 to 9/10/17. For all bills and charges dating before 7/3/17, the customer's desire to dispute the same was untimely.

The fact that high water usage was on-going for several billing cycles before the customer paid attention to the charges weighs against her...high water consumption was not a one-time event but span several billing cycles. While meter malfunction and MTU problems can persist for months, in this case, usage declined significantly after September 10, 2017 without replacement of either the water meter or MTU which suggests that high water usage was not the result of meter or MTU malfunction but due to something else at the property. On DC Water's part, it conducted an investigation of the charges through verifying the meter reads, equipment checks, an underground inspection and an internal audit. Unfortunately, all of the utility's investigation occurred after water usage declined and the cause of the high-water usage was not detected. What the investigation proved was that there was no underground leak, the meter reads were correct, and nothing was detected to be amiss with DC Water's equipment; all of these factors weigh against the customer's assertion that the charges were wrong.

Lastly, in cases such as here where all tests and checks fail to determine the cause of the high-water consumption, the regulations bar adjustment of the customer's account for high water consumption. (See 21 DCMR 408) The evidence weighs in favor of the utility that the charges are correct if nothing is found to be wrong with the equipment, the meter read and no leaks are found.

Accordingly, based upon the foregoing, DC Water's determination that the charges are valid and no basis exists for adjustment of the customer's account is hereby AFFIRMED.

By: Janet W. Blessingame
Janet W. Blessingame, Hearing Officer

Date: April 26, 2018

Copy to:

██████████
██████████ 10th Street, NE
Washington, DC 20018

**BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY
DEPARTMENT OF CUSTOMER SERVICES**

IN RE: [REDACTED]
[REDACTED] Riggs Pl., NW
Washington, DC 20009

Account No: [REDACTED]

Amounts and Periods in Dispute:
8/25/17 – 9/30/17 - \$708.99
9/30/17 – 10/27/17 - \$121.97

Before Janet W. Blassingame, Hearing Officer
March 7, 2018 at 1:00 p.m.

The customer contested water and sewer bills for the above account for the periods of time August 25, 2017 to September 30, 2017 and September 30, 2017 to October 27, 2017. The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges and determined that the charges were valid and an adjustment to the account was not warranted. The customer appealed DC Water's decision and requested an administrative hearing.

This matter was scheduled for hearing on March 7, 2018. Present for the hearing were [REDACTED] and Eileen Wright, Communication Specialist, DC Water, on behalf of DC Water.

The property involved is townhouse owned by [REDACTED]. The property has a basement rental unit which has been occupied by a husband and wife since July 2017. The basement unit has one bathroom, a kitchen, a washing machine and a dishwasher. The upper unit (3 levels) has two and one-half (2 ½) bathrooms, a dishwasher, and a washing machine. The property is monitored by a single water meter. The property has radiators and there are two (2) outside faucets. [REDACTED] stated that his water and sewer bill is generally about Eighty Dollars (\$80.00) per billing cycle.

The customer asserted that he believes a fair resolution of the dispute would be for DC Water to erase the disputed bills and bill the customer based upon his average historical usage.

Mr. [REDACTED] stated that he called DC Water regarding his water and sewer bill and was told that the utility would check the water meter in a few weeks. Mr. [REDACTED] stated that the utility did not conduct an interior inspection of the property. The customer testified that he checked the plumbing in his house and found everything to be normal. He stated that there were no running toilets. Mr. [REDACTED] further stated that his tenants attested to him that everything was okay and that they had not experienced a running toilet. The customer submitted an affidavit from his tenant- [REDACTED] in which the tenant asserted that he and his wife's water usage had been entirely normal and consistent since 1 July 2017; that no leaks or running water had been noted anywhere in the unit; and, that the peculiar spikes of water usage shown on the DC Water's graph are wholly inconsistent with actual water usage in their unit. Mr. [REDACTED] identified himself as a retired Navy Commander and he stated that his tenant was also an ex-

naval officer. Mr. [REDACTED] stated that he was not a party animal, does not waste water and that he takes "Navy showers" which he explained to consist of turning the water off while in the shower and that when in the shower, water is used only to lather and rinse off as opposed to running continuously. Mr. [REDACTED] stated that he has not performed any repairs.

Ms. Wright stated that DC Water considers the charges valid based upon meter readings. She testified that there was a spike in water usage at the property between September 7, 2017 and October 8, 2018. She pointed out that the customer has a meter transmittal unit (MTU) but that the MTU was not transmitting every day during the period at issue.

Ms. Wright testified that in the five (5) days of September 7, 2017 to September 12, 2017, the customer used 8 CCF of water. She stated that water usage at the property slowed between September 30, 2017 and October 8, 2017 but a total of 68 CCF of water were used at the property between September 7, 2017 and October 10, 2017 which calculated to daily usage of 2.00 CCF.

Ms. Wright stated that the customer called DC Water on October 10, 2017 and the utility scheduled a technician to come out to the property to read the water meter because the MTU was not transmitting daily. Ms. Wright testified that a service technician was at the property on October 13, 2017 and obtained a meter read of 369. She stated from October 8, 2017 to October 13, 2017, the customer used only 1 CCF of water which was a considerable decline. Ms. Wright stated that between October 8, 2017 and October 13, 2017, the customer average daily usage declined to .461 CCF.

Ms. Wright testified that DC Water removed the water meter in January 2018 and the meter was determined to have 100.24% accuracy. Ms. Wright explained that meter accuracy has been set by the American Water Works Association and the accepted range for accuracy is 95% to 102%.

Ms. Wright asserted that it was her conclusion that the increased water usage was the result of an internal fixture or outside faucet. She stated that the utility did not do an underground inspection but the technician who was at the property, did not indicate any underground leak to be present and moreover, an underground leak does not decline unless repairs are performed and no repairs were performed. Ms. Wright asserted that there can be no decline in water usage unless there's a repair or someone turns something off that is causing usage.

Mr. [REDACTED] retorted that it is impossible to prove a negative. He stated that it would have taken days to reach the usage numbers charged to him. He stated that he did not hire a plumber because he did not think that his tenant ran water. He asserted that he was not an irresponsible person...Mr. [REDACTED] stated that the water usage was a mystery to him and that such usage had never happened in the years that he had occupied the house. Mr. [REDACTED] asserted that the water usage charged to him reflects irresponsibility and he is not irresponsible.

Based upon the foregoing evidence and testimony adduced during the hearing, the Hearing Officer makes the following:

FINDINGS OF FACT

1. The property involved is a townhouse with a basement apartment unit which is owned and occupied by [REDACTED] Mr. [REDACTED] rents his basement unit to two (2) tenants. (Testimony of [REDACTED])
2. The period in dispute is August 25, 2017 to October 27, 2017. (Testimony of the parties)
3. There was a significant increase in water usage reported occurring at the property between September 7, 2017 and October 8, 2017. (Testimony of Eileen Wright; DC Water Meter Read Record)
4. Water usage at the property declined between September 30, 2017 and October 8, 2017 but meter reads from the property reflected that a total usage of 68 CCF of water registered on the water meter between September 7, 2017 and October 8, 2017. (Testimony of Eileen Wright; DC Water Meter Read Record)
5. There was a significant decline in water usage reported to have occurred at the property between October 8, 2017 and October 13, 2017. (Testimony of Eileen Wright; DC Water Meter Read Record)
6. The customer contacted DC Water regarding his bill on October 10, 2017 and the utility responded by sending a technician to the property to obtain a meter reading on October 13, 2017. (Testimony of the parties)
7. A service technician on October 13, 2017 read the water meter, noted the read to be 369.330, and verified both the meter number and the MTU number. (DC Water Maintenance by Account record dated 2017-10-13)
8. During the period in dispute, the MTU at the property was transmitting meter reads but not on a consistent basis, however, both billings comprising the period in dispute were based upon actual meter reads. (DC Water Meter Read Record; Bill Summary dated 10/03/17; Bill Summary dated 11/02/17)
9. The customer inspected his property for leaks and plumbing problems and found none. (Testimony of [REDACTED])
10. The customer did not consult a plumber and DC Water did not inspect the interior of the property. (Testimony of [REDACTED])
11. The tenants provided a statement to the property owner attesting that their water usage pattern had not changed and they were unaware of any leaks or plumbing defects in their unit. (Affidavit of [REDACTED])
12. DC Water removed and tested the water meter and the meter was determined to have 100.24% accuracy. (Testimony of Eileen Wright; DC Water Meter Test results)
13. DC Water ruled out the existence of an underground leak as a possible cause of increased water usage at the property because usage declined without repairs being performed and an underground leak requires repair in order for the leak to stop. (Testimony of Eileen Wright)

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. Once the customer establishes a prima facie case that s/he did not use and/or was not responsible for payment of the water as charged, the burden shifts to DC Water to rebut the customer's claim that s/he did not use the water as charged. (Gatewood v. DC WASA, Case No: 12-AA-368, decided DC Court of Appeals on July 3, 2013)
3. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:
 - (a) Verify the computations made in the formulation of the water and sewer charges;
 - (b) Verify the meter reading for possible meter overread or doubtful registration;
 - (c) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
 - (d) Check the meter for malfunction;
 - (e) Check the water-cooled air conditioning system, if any, for malfunction; and
 - (f) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.

See, 21 DCMR 403.
4. D.C. Municipal Regulations bar adjustment of a customer's bill when all checks and tests provide no reasonable explanation for excessive water consumption. (See 21 DCMR 408 which states: "In cases in which all checks and tests result in inconclusive findings that provide no reasonable explanation for excessive consumption, no adjustment shall be made to the bill for any portion of the excessive consumption, except as may be approved by the General Manager, based upon a demonstration by the owner or occupant that such an adjustment will further a significant public interest.")

DECISION

The customer was able to establish a prima facie case that more likely than not the disputed charges were incorrect. The customer's case was based upon his inspection of the premises as well as the statements of his tenants that they were unaware of any leaks or plumbing problems within their apartment. The customer also cited the historical record of usage regarding his property and that usage had been consistent other than during the period in dispute.

For its rebuttal, DC Water presented evidence of its testing of the water meter and the test results reflecting that the meter was accurately registering water usage at the property. The utility also ruled out the existence of an underground leak as a possible cause of the high usage based upon an explanation of the nature of underground leaks and the fact that such leaks require repair in order for usage to stop or decline and, in this case, there was a decline in water usage without repairs being performed. DC Water further presented its record of meter reads from the

property sent by the MTU device, as well as, as the meter read obtained by a service technician sent to the property. The utility acknowledged that its MTU device was not consistently transmitting meter reads from the property but the bills being disputed were based upon actual meter reads, as opposed to estimates of usage.

The customer suggests that the way to handle this dispute is for the utility to delete the disputed charges and bill him based upon his historical usage. Had the MTU stopped transmitting or if the utility billed the customer based upon estimated usage, as opposed to actual meter reads, the Municipal Regulations applicable to DC Water, provide basis under certain circumstance for the adjustment of a customer's account as suggested by Mr. [REDACTED]. Nothing presented in this hearing, however, supports an adjustment of the customer's account based upon historical usage. To the contrary, the utility presented sufficient evidence to support its billing of the customer and to rebut the customer's case that the billing was incorrect.

The utility was obligated to investigate the disputed charges and it did so by testing the water meter, sending a technician to the property to verify the meter read and it ruled out the existence of an underground leak as a possible cause of the high-water usage. The customer testified as to his impressive naval career and that of his tenant's naval career, his history of excellent water bill payment, his conservation of water and his good character, however, none of these factors support adjusting a customer's bill(s) when the meter is determined to be accurate and all other checks and tests failed to find the cause of the high-water usage. Specifically, Title 21, Section 408 of the District of Columbia Municipal Regulations bar DC Water from adjusting a customer's account when all tests and checks are inconclusive of the cause of high water usage, i.e. the meter is found to be accurate, no underground leak exists, no evidence of any other type of leak which would excuse or support adjusting the customer's charge for high water consumption.

Accordingly, based upon the foregoing, the determination of DC Water that the charges are valid and no basis exists for adjustment of the customer's account is hereby AFFIRMED.

By: Janet W. Blassingame
Janet W. Blassingame, Hearing Officer

Date: April 26, 2018

Copy to:

[REDACTED]
[REDACTED] Riggs Pl. NW
Washington, DC 20009

**BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY
DEPARTMENT OF CUSTOMER SERVICES**

IN RE: [REDACTED]
[REDACTED] 11th Pl. SE
Washington, DC 20032

Account No: [REDACTED]

Amount in Dispute: \$4,780.98

Before Janet W. Blassingame, Hearing Officer
March 7, 2018 at 2:00 p.m.

The customer contested water and sewer bill for the above account for the periods of time March 24, 2017 to May 23, 2017. The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges and determined that the charges were valid and an adjustment to the account was not warranted. The customer appealed DC Water's decision and requested an administrative hearing.

This matter was scheduled for hearing on March 7, 2018. Present for the hearing were [REDACTED] and Eileen Wright, Communication Specialist, DC Water, on behalf of DC Water.

The property involved is a house used as the location for a daycare/child development center operating under the name of [REDACTED]. The property and business are owned and operated by [REDACTED]. Ms. [REDACTED] stated that she has been in business for over thirty (30) years. The center is opened Mondays – Fridays from 7:00 a.m. to 6:00 p.m. and provides services to forty-two (42) children ranging in age from six (6) months to five (5) years old. There are fourteen (14) employees at the center. The property has two (2) outside faucets, radiators, a washing machine and one kitchen. Bathroom facilities within the center are situated and used based upon children groupings by age and there is a separate employee bathroom. Ms. [REDACTED] stated that her little ones- pre-tots to two (2) years old- have two (2) bathrooms consisting of three (3) toilets and three (3) sinks, each; her older children have one bathroom that has two (2) toilets and two (2) sinks. She stated that her staff's bathroom is comprised of a toilet and sink. Ms. [REDACTED] stated that her sister resides in the basement of the house and that there is a bathroom and kitchen in the basement. Ms. [REDACTED] stated that the water and sewer bill for the center has historically ranged between Two Hundred Dollars (\$200.00) and Three Hundred Dollars (\$300.00) per billing cycle.

Ms. [REDACTED] testified a DC Water service technician came out on October 6, 2017 and inspected the bathrooms, sinks and meter at the property and found no water problems at the site. Ms. [REDACTED] stated that she was told to hire a licensed plumber to check the service lines to the property. Ms. [REDACTED] testified that she hired a plumber and the inspection of the property took place on October 29, 2017. Ms. Tucker stated that her plumber conducted the same inspection as was done by the DC Water service technician and, again, no visual leaks were found.

Ms. [REDACTED] stated that since August 2017, the water and sewer bills for the center have been or have been close to One Thousand Dollars (\$1,000.00) per billing cycle.

Ms. Wright testified that DC Water sent to the customer HUNA alerts of high water usage occurring at the property.

Ms. [REDACTED] interjected that there has been a lot of construction activity occurring near her property and neighbors have also had water problems. She added that she has not seen any standing water or leaks in or about her property.

Ms. Wright stated that water usage at the property has followed a pattern of stop/start which is an indication of a defective fixture or outside faucet controlled at the premises.

Ms. Wright testified DC Water conducted an audit of the property on May 19, 2017 and no leaks were found and that the utility conducted an underground inspection at the property on May 24, 2017 and no underground leaks were found on the water line. She stated that the water meter at the property was changed on June 12, 2017 and that high water usage continued after placement of the water meter. Ms. Wright testified that DC Water tested that second water meter and based upon the test, the water meter was determined to have 102% accuracy which is within the accepted range of accuracy for water meters as established by the American Water Works Association; Ms. Wright stated that the utility did not test the water meter at the property prior to June 12, 2017. She pointed out that even to date, water usage at the property remains higher than historical levels.

Ms. Wright testified that in February 2018 in response to a HUNA alert, someone telephoned DC Water and said that s/he sometimes had to shake the handle at the property. A DC Water representative noted in the customer contact memo memorializing the telephone contact that the customer would check for leaks.

Ms. Wright stated that DC Water sent two (2) HUNA alerts to the customer in February 2018 and one, yesterday- March 6, 2018.

Based upon the foregoing testimony and evidence adduced during the hearing, the Hearing Officer makes the following:

FINDINGS OF FACT

1. The property involved is a house in which a childcare facility is operated by [REDACTED] Ms. [REDACTED] also provides housing to her sister in a basement apartment at the house. (Testimony of [REDACTED])
2. The period in dispute is March 24, 2017 to May 23, 2017. (Testimony of the parties)
3. There was a significant increase in water usage at the property as reflected in the billing statements dated 4/27/17 and 5/25/17. (Bill Summaries dated 4/27/17 and 5/25/17; DC Water Usage Information report)
4. Water usage at the property declined in June 2017 from that which occurred in the previous two (2) billing cycles, however, water usage at the property began increasing in

July 2017 and each billing cycle thereafter usage has progressively gotten higher until in October 2017 water usage at the property equaled that of April 2017. Water usage at the property remained high in November 2017 but was lower than in the previous month of October 2017. (DC Water Usage Information report)

5. No leaks or plumbing problems were found at the property despite inspections performed by DC Water on May 19, 2017 (interior) and May 24, 2017 (underground).
6. No leaks or plumbing problems were found at the property by an independent plumber hired by the property owner. The plumber's inspection occurred on October 29, 2017. (Testimony of the parties)
7. DC Water removed and changed the water meter at the property on June 12, 2017; high-water usage has registered on both the prior water meter and the meter installed on June 12, 2017. (Testimony of Eileen Wright; DC Water Usage Information report)
8. DC Water conducted a test of the water meter at the property post June 12, 2017 and the meter was determined to have 102% accuracy. (Testimony of Eileen Wright)
9. Each billing of the customer during the disputed period, as well as, before the dispute and periods thereafter were and have been based upon actual meter reads. (DC Water Usage Information report)
10. The customer received high water usage notice alerts (HUNA) from DC Water. (Testimony of Eileen Wright; DC Water record of Huna alert notifications- 3/7/2018; 2/7/2018; 2/16/2018; 2/24/2018)

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. Once the customer establishes a prima facie case that s/he did not use and/or was not responsible for payment of the water as charged, the burden shifts to DC Water to rebut the customer's claim that s/he did not use the water as charged. (Gatewood v. DC WASA, 82 A.3d, DC Court of Appeals 2013)
3. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:
 - (a) Verify the computations made in the formulation of the water and sewer charges;
 - (b) Verify the meter reading for possible meter overread or doubtful registration;
If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
 - (c) Check the meter for malfunction;
 - (d) Check the water-cooled air conditioning system, if any, for malfunction; and
 - (e) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.

See, 21 DCMR 403.

4. D.C. Municipal Regulations bar adjustment of a customer's bill when all checks and tests provide no reasonable explanation for excessive water consumption. (See 21 DCMR 408 which states: "In cases in which all checks and tests result in inconclusive findings that provide no reasonable explanation for excessive consumption, no adjustment shall be made to the bill for any portion of the excessive consumption, except as may be approved by the General Manager, based upon a demonstration by the owner or occupant that such an adjustment will further a significant public interest.")

DECISION

The customer was able to establish a prima facie case that more likely than not the disputed charges were incorrect. The customer's case was based upon her plumber's inspection of the premises as well as the fact that a DC Water service technician inspected the property and failed to detect any leaks or plumbing issues. The customer also cited the historical record of usage regarding the property.

When a customer is able to establish a prima facie case, the burden shifts to the utility to rebut the evidence that the charges are incorrect or for some other reason the customer should not have to pay the water and sewer bill. (See, Gatewood supra.) For its rebuttal, DC Water presented evidence of its testing of the water meter, the test results reflecting that the meter was accurately registering water usage at the property, its test for underground leaks and its finding of no leaks, as well as, the record of water usage at the property post the disputed period.


In this case, the record established that high water usage occurred at the premises during the period in dispute, but, also, that high water usage continued to occur at the premises beyond the disputed period. While the utility did not test the water meter at the property during the period in dispute, it did test the water meter placed at the property within weeks of the disputed period and that water meter also registered high water usage occurring at the property and that meter tested to be accurately registering water use. The implication of the meter testing of the second meter is that if the second meter also registered high water usage occurring at the property and the meter was accurate as confirmed by the test, the prior meter's registration of high water usage was also correct. The Hearing Officer gives credit to the inference of meter accuracy during the disputed period in light of the continuing registration of high water usage on the new meter placed at the property. DC Water also tested for interior leaks and found none and it tested for the presence of an underground leak and it found no evidence of an underground leak. Lastly, the utility presented evidence of an admission by someone, maybe the customer, at the property of having to shake the handle of a toilet. One shakes a toilet handle to stop a toilet from running. As such, even though a toilet might not have been running at the time of inspections, such an admission by the person calling into DC Water establishes a basis to believe that a faulty toilet was at the property and is a possible cause of excessive water use. DC Water's test of the water meter tipped the scale of proof in DC Water's favor that the charges support use of water at the premises. Lastly, pursuant to the D.C. Municipal Regulations, when tests and checks are inconclusive, DC Water is barred from adjusting a customer's account for excessive water usage. (See 21 DCMR 408)

Based upon the foregoing, it is the determination of the Hearing Officer that more likely than not the charges are valid. Accordingly, based upon the foregoing, the determination of the DC Water that the charges are valid and no basis exists for adjustment of the customer's account is hereby AFFIRMED.

By: Janet W. Blassingame
Janet W. Blassingame, Hearing Officer

Date: April 26, 2018

Copy to:


11th Place, SE
Washington, DC 20032

**BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY
DEPARTMENT OF CUSTOMER SERVICES**

IN RE: [REDACTED]
[REDACTED] 30th St. NE
Washington, DC 20018

Account No: [REDACTED]

Amount in Dispute: \$963.72

Before Janet W. Blassingame, Hearing Officer
March 14, 2018 at 11:00 a.m.

The customer contested water and sewer bill for the above account for the periods of time February 16, 2016 to July 6, 2017. The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges and determined that dispute was untimely. The customer appealed DC Water's decision and requested an administrative hearing. The matter was scheduled for hearing on the merits of the dispute; DC Water did not raise the issue of dispute untimeliness.

This matter was scheduled for hearing on March 14, 2018. Present for the hearing were [REDACTED] and Eileen Wright, Communication Specialist, DC Water, on behalf of DC Water.

The property involved is a single family house owned and occupied by [REDACTED]. The house has one and one-half (1 ½) bathrooms, one kitchen, a utility sink, a washing machine, radiators and one outside faucet. Ms. [REDACTED] stated that her water and sewer bill is generally around One Hundred Dollars (\$100.00) per billing cycle.

Ms. [REDACTED] testified that she called DC Water every month regarding the whereabouts of her bill for water and sewer service and she was constantly told each month that she had a zero (\$0) balance and did not have a bill. She stated that she was ultimately told by DC Water that she did not have a water meter. Ms. [REDACTED] testified that she decided that [not getting a bill for water and sewer service] was her "blessing".

Ms. [REDACTED] testified that after not being billed for months, she received a bill from DC Water for Two Thousand Dollars (\$2000.00) and was informed that the total amount due had to be paid all at once and was due September 28, 2017.

Ms. [REDACTED] stated that DC Water turned off water service to her house in November 2017 and thereafter she brought bottle water. She testified that at the time of the cut-off of service, she was struggling between jobs and was subsisting by delivering phone books. She stated that she had to wash so she brought water.

Ms. [REDACTED] stated that she asked DC Water to establish a payment plan for her but that she was informed that she would have to pay Nine Hundred Dollars (\$900.00) in order for a payment plan to be instituted.

Ms. [REDACTED] testified that the Disconnect Notice was dated September 28, 2017. She stated that the original bill from the utility was dated July 25, 2017 and covered the period February 14, 2016 to July 6, 2017.

Ms. [REDACTED] testified as of 2/18/16 the balance on her water and sewer account was \$294.11, her charge was \$79.72, and that she paid \$205.00 on 3/3/16 and \$90.90 on 4/7/16. She stated that, as of 4/7/16, she had a credit of \$.71. She stated that she did not receive her next water and sewer service bill until 7/26/17.

Ms. [REDACTED] stated that she made no payments on her water and sewer account after July 2017. She explained that when she telephoned DC Water about the July 2017 bill, she was told that she had to pay \$900.00 in July. Ms. [REDACTED] complained that the utility did not give her an option of paying a smaller amount on the large bill. She stated that she wanted to make payments on the bill and that it was not her fault that DC Water failed to bill her for service for a year and five (5) months.

Ms. [REDACTED] stated that she was told by DC Water that she did not have a water meter. The customer stated that she saw a DC Water truck near her property and she was nervous that the utility was going to cut-off her water service because she had not gotten a bill. Ms. [REDACTED] asserted that in order for her to keep up in bill payment, she needed to receive her bill in a timely manner.

Ms. [REDACTED] asserted that she needs DC Water to turn-on her water service and she wants all additional charges wiped from her account. She stated that she does not owe \$2200.00 because her water has been cut-off since November 2017.

Ms. Wright interjected that Ms. [REDACTED] has been and is being billed for fees. She stated that the Clean water fee, storm water fee and late fees are examples of fees charged to the account even though service has been cut-off. Ms. [REDACTED] retorted that it is ridiculous to bill fees to her account when she is receiving no service. Ms. Wright replied that Ms. [REDACTED] is billed for fees whether she used water or not.

Ms. Wright stated that DC Water considers the disputed charges to be valid. She stated that the bill in dispute covers the period February 14, 2016 to July 6, 2017 and she acknowledged that the customer was not billed by the utility for the extended period because for some unknown reason, the customer's water meter was not connected to DC Water's billing system.

Ms. Wright asserted that Ms. [REDACTED] owed total charges in the amount of \$1,937.95 and that the original usage was 129 CCF.

Ms. Wright continued that DC Water, based upon its own volition, adjusted the customer's account for the period. She stated that DC Water has adjusted 99 CCF based upon the meter reading and that it is billing the customer for 30 CCF for the period April 3, 2017 to July 6, 2017. Ms. Wright acknowledged that DC Water had a meter reading from the property as of April 2017 but failed to send a bill for service to the customer until July 2017. Ms. Wright testified that DC Water installed a new water meter at the property on April 5, 2016 but

information was not sent to its Billing Department. She testified that the utility imputed water used at the property for the period April 2017 to July 6, 2017. Ms. Wright stated that DC Water's billing agent telephoned the customer regarding the account adjustment and, then, a letter was sent dated August 1, 2017. Ms. Wright stated that a 45 day hold was placed upon the customer's account.

Ms. Wright testified that Ms. ██████ telephoned DC Water on August 21, 2017 to request bill payment terms. She stated that Ms. ██████ called DC Water a second time on September 26, 2017 and in response a supervisor returned her telephone call on September 28, 2017 by leaving a voicemail. Ms. Wright stated that Ms. ██████ called DC Water on October 31, 2017 complaining of having no water and in response, she was told that she had to pay \$916.00 in order to have her water service restored.

Ms. Wright testified that the customer had been billed in August 2017 in the amount of \$1,236.20 and that she was assessed a late charge on September 18, 2017. She stated that DC Water sent the customer a Final Bill on November 2, 2017 for the disconnect. Ms. Wright stated that Ms. ██████ was informed that she had to pay \$916.00 on October 31, 2017 to avoid disconnection of service; the customer owed a total amount of \$1,832.79.

Ms. ██████ again stated that when she called DC Water, she was told that she had to pay \$900.00 in July 2017 and she told the customer service representative that she did not have the money demanded and that she wanted to speak with someone. She stated that on August 1st, she was told by the customer service representative with whom she spoke regarding her bill that the customer service representative had to collect \$963.00 (the bill balance) in order to assist her with a payment plan. Ms. ██████ stated that she, again, told the service representative that she did not have such money and she asked to speak with a supervisor. Ms. ██████ stated that a supervisor called her back on September 28, 2017 and left a voice message.

Ms. Wright referred to the DC Water log of telephone contacts with the customer and stated that Ms. ██████ called regarding the whereabouts of her bill only one time and that was on April 12, 2017. Ms. ██████ refuted the accuracy of the phone contact log and stated that she called DC Water on a regular basis to inquire where her bill for service was.

Ms. Wright stated that the account hold related to the charge of \$963.00 on the customer's account but, because the customer was being billed for service- August 2017- \$272.98 and September 2017- \$296.71, the customer had an arrearage of \$569.69 and incurred late charges. Ms. Wright stated that as of November 13, 2017, the customer's balance owed was \$1,790.75.

Ms. Wright testified that Ms. ██████ water service was cut-off because she failed to keep her bill current.

The hearing, at this time, was declared over but Ms. ██████ and Ms. Wright began discussing factual issues of the dispute, so the hearing was resumed.

Ms. ██████ asserted that DC Water's focus was to insist that she come up with \$900.00.

She stated that in addition to the charges and money demand, she does not understand why her bills are so high. Ms. Wright stated that high water usage occurred at the property between July 6, 2017 and August 11, 2017 when 23 CCF of water were used. Ms. [REDACTED] responded that the high water usage may have been caused by construction near her property. Ms. [REDACTED] had previously stated that a new apartment building was being constructed and that the road was being worked upon across the street from her house. Ms. Wright stated that between August 11, 2017 and September 18, 2017 the customer used 25 CCF and between September 18, 2017 and October 10, 2017, the customer used 8 CCF.

Ms. Wright stated that in order to get her water turned back on, Ms. [REDACTED] needs to pay \$1101.56. Ms. Wright stated that she can adjust by taking off, late charges of \$191.94 thereby bringing the amount due down to \$909.62.

Based upon the foregoing testimony and evidence adduced during the hearing, the Hearing Officer makes the following:

FINDINGS OF FACT

1. The property involved is a single family residence owned and occupied by [REDACTED] [REDACTED] (Testimony of [REDACTED])
2. The period in dispute is February 14, 2016 to July 6, 2017. (Testimony of the parties)
3. DC Water installed a new water meter at the property on April 5, 2016. (Testimony of Eileen Wright; DC Water telephone contact log dated 7/20/17)
4. After installation of the new meter, the customer called DC Water each month for over a year to inquire as to the whereabouts of her water and sewer bill and was repeatedly told that her account had a zero (\$0) balance; the customer ultimately stopped calling the utility about the lack of a bill and considered not being billed for service as "my blessing". (Testimony of [REDACTED])
5. The customer called DC Water on 4/12/17 stating that she had not received a bill from DC Water and her call prompted the utility to schedule a technician to read the water meter on 4/17/17. (DC Water telephone log of customer contacts)
6. DC Water obtained a meter read from the property in April 2017 but did not bill the customer for service. (Testimony of Eileen Wright)
7. DC Water did not bill the customer for water usage after the meter was changed and the utility did not bill the account again until a bill was mailed on or after August 1, 2017 for the period February 14, 2017 to July 7, 2017. (Testimony of the parties; DC Water telephone contact log dated 12/1/17; Bill Summary dated 07/26/17; DC Water letter to [REDACTED] dated August 1, 2017)
8. The bill dated 07/26/17 reflected that the customer had used 10 CCF of water between February 14, 2016 and April 5, 2016 and 119 CCF of water between April 5, 2016 and July 6, 2017, resulting in total water usage of 129 CCF of water over a period of 508 days. (Bill Summary date 07/26/17)
9. DC Water decided and did adjust the customer's account by 99 CCFs to only reflect 3 months of usage. DC Water's record notation was "Total ADJ \$974.82 = \$549.63". The internal notation went on to note (Use read on 4/3/17 89 and read on 7/6/17 used to determine how much to bill cust) (DC Water telephone contact log)

10. The bill dated 07/26/17 reflected total current charges of \$1,937.95 for the period February 14, 2016 to July 6, 2017 with adjustments for sewer and water services, Pilot fee and ROW fee, bringing the charge down to \$963.22 which was to be paid by 8/21/17. (Bill Summary date 07/26/17)
11. DC Water sent a letter to the customer dated August 1, 2017, along with the Bill Summary dated 07/26/17, advising that the account had not been billed water and sewer consumption since 02/18/16, due to the meter change at the property, that DC Water had adjusted the bill, the utility apologized for any inconvenience and informed the customer that her account had been placed on hold for 45 days and if the customer desired payment arrangements or had any questions, she could contact the identified customer service representative at the telephone number stated in the letter. (DC Water letter to [REDACTED] dated August 1, 2017)
12. The customer contacted DC Water on August 21, 2017 regarding the 07/26/17 dated Bill Summary to request a payment plan; the customer was informed that a supervisor has to be conferred with regarding how long she could be put on payment terms; there was no call back by the customer service representative or a supervisor in response to the customer's call. (Testimony of [REDACTED]; DC Water telephone log of customer contacts dated 8/21/17)
13. The customer called DC Water on September 26, 2017 and requested to speak with a supervisor to discuss a payment plan; a supervisor returned the call on September 28, 2017 but did not reach the customer on the call and left a voice message for the customer to call the utility. (Testimony of the parties)
14. DC Water sent a Disconnection Notice to the customer dated 9/28/17 in which the customer was informed that she had to pay \$963.22 to avoid disconnection of her water and sewer services by 10/12/17. (DC Water Disconnection Notice date 09/28/17)
15. DC Water disconnected the customer's water service in October 2017 and the customer has not had water and sewer service since the disconnection. (Testimony of the parties; email transmittal from June Adams to Lisa Barton dated December 1, 2017)
16. There is conflicting statements as to how much the customer must pay for restoration of service- Ms. Wright testifies that DC Water demands that the customer pay \$1101.56 for restoration of service; when the customer contacted DC Water regarding service on 10/31/17, a customer service representative informed her that she had to pay \$916.00 and then, she could have a payment plan for remaining charges. (Testimony of Eileen Wright; DC Water telephone contact log dated 10/31/17)
17. The customer lacked the ability to pay a lump sum amount to the utility based upon the bill dated 7/26/17 and wanted to pay \$100.00 per month toward the accumulated charges for the extended billing period. (Testimony of [REDACTED]; email transmittal from June Adams to Lisa Barton dated December 1, 2017)
18. After receipt of the bill in dispute, the customer did not pay subsequent bills received from DC Water as she attempted to obtain a payment plan from the utility. (Testimony of [REDACTED])
19. The utility based disconnection of the customer's service upon the customer's failure to pay charges for service incurred after the period in dispute. (Testimony of Eileen Wright)
20. Since disconnection of service to the customer in November 2017, the utility has billed the customer for fees. (Testimony of Eileen Wright)
21. DC Water's Investigation Report informed the customer that her account was on hold

until 12/22/17, that her account balance was \$1993.36 and that the customer was to pay the past due balance of \$1993.36 by 12/22/17. (DC Water Investigative Report dated 12/06/17 and accompanying letter)

22. There was high water usage registering on the meter at the property between 7/6/17 and 8/11/17- 23 CCF and, again, between 8/11/17 and 9/18/17- 25 CCF. (Testimony of Eileen Wright)
23. There was no investigation of the high water usage occurring at the property and the customer asserts that the utility's focus was solely on her payment of \$900.00 for charges reflected on the bill dated 7/26/17. (Testimony of [REDACTED])

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. Once the customer establishes a prima facie case that s/he did not use and/or was not responsible for payment of the water as charged, the burden shifts to DC Water to rebut the customer's claim that s/he did not use the water as charged. (Gatewood v. DC WASA, 82 A.3d, DC Court of Appeals 2013)
3. Meters shall be read quarterly, or at such other times as the Director shall determine. (21 DCMR 308.1 and 309.1)
4. If at any time, a meter, data collection device or transmitter fails to register correctly or collect, deliver or transmit data or otherwise operate or bears evidence of having been tampered with, as determined by qualified personal of the Authority, the water charge for the interval in which the incident occurred shall be based on the average previous water consumption determined by meter readings.(21 DCMR 308.4)
5. DC Water is granted the authority to establish, adjust, levy, collect and abate charges for services, facilities, or commodities furnished or supplied by it, pursuant to D.C. Code §34-2202.03(11)
6. Equitable laches comes into play when two prerequisites are met- the defendant must have been prejudiced by the plaintiff's delay and the delay must have been unreasonable. (See, King v. Kitchen Magic, 391 A.2d 1184, 1187-88 (D.C. 1978); Fannie B. Martin v. William Carter, 400 A.2d 326 (D.C. 1979).

DECISION

The customer in this case was able to establish a prima facie case that more likely than not she should not be held responsible for payment of the charges reflected in the bill dated 7/26/17. The customer's case was based upon the utility's failure to bill her for service over an unreasonably long extended period, its refusal to grant her a payment plan option when it did bill for services even though she repeatedly requested a payment plan, and, the utility's turn-off of service to her residence while her dispute was pending and, thus, causing the customer hardship. In rebuttal, DC Water asserted that its disconnection of service was based upon the customer's failure to pay for charges incurred after the period in dispute and that it has already adjusted the customer's account pertaining to usage charges incurred during the period in dispute.

The evidence and testimony established that, due error on its part, DC Water failed to bill the customer for service for over 500 days because after a new water meter was installed at the property, information was not sent to the Billing Department regarding the meter at the property. DC Water provided no explanation as to how such a lapse occurred or why, despite calls from the customer, the utility failed to correct the billing omission. Nevertheless, the fact is that DC Water did not send a bill to the customer for over a year and a half. The evidence and testimony further established that DC Water had a meter reading from the property one year into its failure to bill the customer and despite it having a the meter reading in April 2017, it failed to send a bill to the customer for service for an additional four (4) months. (April 2017 to August 2017) Lastly, the evidence and testimony established that high water usage registered on the customer's meter before the utility sent out the disputed bill to the customer, that high water usage was occurring at the property in subsequent billings when the customer was seeking a payment plan and that no notice of high water usage registration was given to the customer by DC Water and no investigation was undertaken regarding the high water usage registering on the water meter.

The customer was offered the option of a payment plan for the charges incurred during the period that DC Water failed to bill the customer. (See, DC Water letter dated August 1, 2017) The customer sought a payment plan and thus, her downward spiral with the utility began. It appears based upon the record in this matter, that the Billing Department ignored the fact that the customer was offered the option of a payment plan for the \$963.22 amount due reflected in the Bill Summary dated 7/26/2017 (the disputed bill). DC Water adjusted the customer's account prior to sending out the bill now in dispute and its customer service representative treated the amount due as though it were a past due balance requiring full payment. As such, each time the customer called to establish a payment plan, she was told that she had to pay \$900.00+ before any plan could be established. The fact that the customer was refused a payment plan when she called the utility in August, September and October 2017 sat her on a path down which it was impossible to meet her obligation to pay her water bill charges, even though the customer had done nothing wrong, attempted to advise the utility of its failure to send her regular billing statements for service, and she followed through repeatedly as instructed in the letter to her by DC Water to contact the utility for a payment plan. The demand for \$900.00+ from the customer created an insurmountable hurdle and directly resulted in the disconnection of service to the customer.

Ironically, the customer appears to have been willing to pay the adjusted charge reflected in the July 2017 Bill Summary, but for, the utility's representatives' refusal to honor the offer of a payment plan. At hearing, the customer asserted the unfairness of billing her for an extended period, stating that it was not her fault that the utility did not send her a bill(s) for a year and a half. Based upon the customer's argument, the Hearing Officer must examine if the customer is entitled to a defense in equity- laches. First, pursuant to applicable regulations, DC Water is to read a customer's water meter at least on a quarterly basis (See, 21 DCMR 308.1 and 309.1) In this case, the water meter was not read for over a year after its installation and even after obtaining a meter read in April 2017, the utility did not bill and send the statement out to the customer until August, 2017. Second, pursuant to the applicable regulations, whenever a MTU device fails to transmit reads or the meter fails to register usage, the utility is bill the customer based upon historical usage. (See, 21 DCMR 308.4) In this case, the record is not clear as to why

the Billing Department failed to bill the customer for service- no usage records were presented into evidence, the meter was not tested, and no explanation was provided to explain the billing failure, as such, the Hearing Officer is unable to determine if the problem was human error or mechanical error. Lastly, pursuant to statute, the utility has the right to bill for its service (see, D.C. Code §34-2202.03(11), however, its authority to do so is tempered by the customer's right to rely upon regular billing and the utility's right to secure payment for its service. Equitable laches comes into play when two prerequisites are met- the defendant must have been prejudiced by the plaintiff's delay and the delay must have been unreasonable. In this case, the customer was prejudiced by her receipt of a bill covering over 500 days of service/usage and the delay in billing was unreasonable because the utility is obligated to read the meter on a quarterly basis and it failed to do so . The utility did adjust the customer's charges before it sent out the bill however, as noted above, error ensued thereafter due to the Billing Departments failure to establish the offered and requested payment plan to/by the customer. The customer was further prejudiced, also as noted above, when DC Water failed to advise her of high water usage occurring at the property, i.e. high water usage occurred between July 6, 2017 and August 11, 2017 and the utility only sent the dispute bill out to the customer sometime after August 1, 2017. No evidence was submitted regarding when the customer was mailed the bill for usage occurring July 6, 2017 to August 11, 2017, however, the bill date was August 17, 2017. The customer called DC Water on August 21, 2017 regarding her charges. The record is devoid of any mention of the high water usage and no investigation was undertaken or notice sent to the customer. Lastly, the utility wrote in its Investigation Report that the customer's account was placed on hold for collection activity through 12/22/17, yet, the customer was sent a Disconnection Notice dated 9/28/17 and her service was disconnected in November 2017.

The Hearing Officer finds that the utility's explanation for disconnecting the customer's water and sewer service in November 2017 is disingenuous. The customer repeatedly called to establish a payment plan and the utility was not responsive, even though, it told the customer that such a plan was an option. DC Water demanded \$900.00+ from the customer as a condition of a payment plan after the customer was billed for high water consumption. Most importantly, in the middle of trying to resolve the disputed bill and not being responded to, the customer's water is turned off. The customer's assertion that the utility was focused on securing the initial payment of the disputed bill and nothing else is credited by the Hearing Officer. It appears that the customer's calls were handled by the Billing Department which focused only on the entire balance due on the account. Had this matter been reviewed by another office within the Customer Service Department, the customer's concerns might have been handled differently. The problem appears to stem from the initial adjustment of the account and, then, the Billing Department treating the balance due on the bill as a past due amount requiring payment in full, which was an error.

No fault is attributed to the customer in this matter. It is determined that she should have been given a payment plan regarding the balance due on the dispute bill and she should not have

been required to pay the balance in full. The Hearing Officer finds that laches is an appropriate defense by the customer against the charges and actions taken against her. DC Water is directed to restore the customer's water service without payment of fees for turn-off or service restoration. DC Water is further directed to reexamine the customer's account based upon her historical usage for the period of February 14, 2016 to July 6, 2017 to determine the lessor charge- the adjusted amount of \$963.22 vs. historical usage, and apply the lessor amount to the customer's account and, then, establish a payment plan allowing installment payments by the customer for the amount due. [The Hearing Officer notes that the customary payment plan is 1/3 of the balance due and then monthly installment payments toward the remaining balance.] With respect to the charges incurred July 6, 2017 to September 18, 2017, the Hearing Officer determines that, because the customer was calling the utility about her bill during the period of high water usage and the utility was not responsive, in that, a supervisor did not return the customer's calls until September 28, 2017 and then only left a message, DC Water should have sent notice of high water usage to the customer and the utility had an obligation to investigate the high water usage on the water meter and failed to do so and as such, the customer is entitled to adjustment of her account and DC Water shall bill the customer based upon her historical usage for the period of July 6, 2017 to September 18, 2017. Likewise, DC Water should allow the customer to meet her obligation to pay the charge for service through establishing a payment plan with the utility. Lastly, the Hearing Officer lacks authority to direct adjustment for fees incurred after disconnection of the customer's service, however, based upon the hardship endured by the customer, the lack of good customer service and responsiveness, and the fact that the customer has been without water and sewer service for several months, the Hearing Officer hopes that DC Water will work with the customer through establishing a payment plan for the entire balance determined due or payable.


The Hearing Officer finds that the customer's dispute was timely made, as was, her request for a hearing.

Accordingly, the determination by DC Water that the charges are valid and no adjustment to the customer's account is warranted is hereby REVERSED and the customer is granted the relief above outlined.

By: Janet W. Blessingame
Janet W. Blessingame, Hearing Officer

Date: April 26, 2018

Copy to:


30th Street, NE
Washington, DC 20018

**BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY
DEPARTMENT OF CUSTOMER SERVICES**

IN RE: [REDACTED]
[REDACTED] Morningwood Lane
Great Falls, VA 22016

Service Address:
[REDACTED] Mellon Street, SE

Account No: [REDACTED]

Amount in Dispute: \$3,129.66

Before Janet W. Blassingame, Hearing Officer
March 14, 2018 at 1:00 p.m.

The customer contested water and sewer bill for the above account for the periods of time June 27, 2017 to October 23, 2017. The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges and determined that the charges were valid and no basis existed for adjustment of the account. The customer appealed DC Water's decision and requested an administrative hearing.

This matter was scheduled for hearing on March 14, 2018. Present for the hearing were [REDACTED], owner and principal, on behalf of [REDACTED] and Eileen Wright, Communication Specialist, DC Water, on behalf of DC Water.

The property involved is two (2) story, two (2) unit apartment building. Each unit has a kitchen, two (2) bathrooms and a dishwasher. One unit, also, has a washing machine. The property has been owned by [REDACTED] since September 2012 and [REDACTED] stated that the water and sewer bill has generally ranged between One Hundred Fifty Dollars (\$150.00) and Two Hundred Dollars (\$200.00) per billing cycle and the water usage generally has ranged between 13 CCF to 17 CCF per billing cycle. [REDACTED] stated that each unit is occupied by three (3) tenants. [REDACTED] testified that his tenants are participants in the Section 8 program and his units have passed annual inspection. He stated that he was enrolled in auto-pay and saw a decline in his account balance.

[REDACTED] referred to a plumber's report dated October 14, 2017 in which the plumber stated upon an inspection of the property revealed no leaks.

[REDACTED] asserted that he believes that the high-water usage problem stems from the water meter. He stated that high water usage has registered on the water meter since its placement at the property and such usage had not occurred prior to the new meter being installed at the property. [REDACTED] stated that he consulted Google and saw that 88 gallons per person per day is considered normal usage. He asserted that the alleged water usage which occurred at the property equated to usage by fourteen (14) people. [REDACTED] testified that before the meter change which occurred on July 11, 2017 water usage at the property had been 14 CCF and that

after the meter change water usage jumped to 57 CCF as reflected on the August 1, 2017 bill. [REDACTED] stated that the most recent bills for the past two (2) month are back to within normal range and, in fact, usage reflected on the March 2018 bill is lower than historical usage.

[REDACTED] stated that high water usage was supposedly occurring at the property when his plumber conducted his inspection. [REDACTED] asserted that he suspects that DC Water adjusted the water meter to cause usage to decline. Ms. Wright asked when the plumber was at the property and [REDACTED] responded that he believes that the plumber was probably at the property on October 12, 2017.

Ms. Wright testified that DC Water considers the charges to be valid and that the charges are based upon actual meter readings from the property. She stated that there was a spike in water usage at the property between July 13, 2017 and October 14, 2017. Ms. Wright explained that the MTU at the property transmits meter reads every hour. She stated that the water meter was placed at the property on July 11, 2017.

Ms. Wright testified that based upon the meter reads, usage stopped on July 12, 2017 for a couple of hours but the meter dials started moving on July 13, 2017 and did not stop moving until October 13, 2017. She stated that after October 13th, she could detect a pattern on usage occurring at the property whereby a small amount of water registers of the water meter per hour, then usage stops for a while and then a small amount of water usage starts up again.

Ms. Wright testified that the customer first contacted DC Water on October 20, 2017 regarding a high bill for service. She stated that the customer was told that there may be an underground leak. She stated that DC Water scheduled an underground inspection to occur on October 23, 2017. She stated that the time window for the inspection was 12 noon to 3:00 p.m. and the service technician came to the property between 2:16 p.m. and 2:48 p.m. and no one was available at the property. Ms. Wright stated that the customer called DC Water on October 24, 2017 to reschedule the underground inspection and the inspection occurred on October 25th. She testified that the service technician conducting the underground inspection at the property detected to sounds and found no registration on the water meter. Ms. Wright testified that after the underground inspection was performed, DC Water removed the water meter for testing. She stated that the meter was removed on December 19, 2017 and the test was performed on December 21, 2017. She testified that as a result of the meter test, the water meter was determined to have 101.16% accuracy which is within the accepted range of water meter accuracy as established by the American Water Works Association. Ms. Wright stated that for a water meter to be determined to be accurately registering usage, its accuracy must be between 95% and 102%. Ms. Wright testified that the tested water meter was put back into service at the property after its testing because the meter passed its test. She stated that the water meter was away from the property from December 19, 2017 until December 28, 2017.

Ms. Wright testified that based upon the meter reads, usage at the property declined on October 13, 2017. She pointed out that by the time that the underground inspection was performed, water usage at the property had already declined and that the utility ruled out the existence of an underground leak as a possible cause of the high water usage. [REDACTED] interjected that he really does not know what happened to cause the high usage but he knows that

there were no leaks. Ms. Wright responded that she also does not know what happened to cause the high usage but she knows that DC Water's equipment was functioning properly and that there was not an underground leak.

Ms. Wright raised the issue of dispute untimeliness and asserted that the customer failed to make a timely dispute of the November and December 2017 bills. Ms. Wright retracted her assertion that the customer failed to timely dispute the November 1, 2017 bill and stated that the charge in the bill was \$688.67.

Ms. Wright testified that between January 30, 2018 and February 28, 2018, usage at the property declined to 13 CCF. She asserted that water usage at the property has fluctuated over years and overall water usage at the property started to increase in year 2016 and has since continued to go up.

Ms. Wright stated that DC Water removed the water meter for testing and put the meter back after its testing, but, otherwise, has not done anything at the property to effect water usage. She pointed out that, even yesterday- March 13, 2018, the meter read record reflects that water has been continuously running at the building from 5:00 p.m. to 2:00 a.m., stopped, resumed running from 6:00 a.m. to 3:00 p.m., stopped, and resumed running at 4:00 p.m. and has continued running up to 2:00 a.m. this morning.

Ms. Wright concluded that she can only attest that the water meter is functioning properly.

Based upon the foregoing testimony and evidence adduced during the hearing, the Hearing Officer makes the following:

FINDINGS OF FACT

1. The property involved is a two (2) unit building owned by [REDACTED] (Testimony of [REDACTED])
2. The period in dispute is June 27, 2017 to October 23, 2017. (Testimony of the parties)
3. DC Water installed a new water meter at the property on July 11, 2017; the water meter registers water usage on an hourly basis. (Testimony of the parties)
4. High water usage registered on the water meter between July 13, 2017 and October 14, 2017. (Testimony of Eileen Wright; DC Water meter read log)
5. Meter reads from the property reflected a significant decline in water usage as of October 13, 2017. (Testimony of Eileen Wright)
6. Prior to the change in water meter, the past water meter registered usage at the property as increasing and continuing to increase at the property starting in year 2016. (Testimony of Eileen Wright)
7. The meter reads from the property reflect a pattern of continuous running of water occurring at the property for several hours, then, usage stops for a short period, and, then, continuous water usage resumes for several hours, only, to stop for a short period. (Testimony of Eileen Wright)
8. The owner hired a plumber to inspect the property and the plumber detected no visual

- leaks or plumbing issues but expressed the thought that the increased water usage might be the result of an underground leak. (Testimony of [REDACTED] Letter dated October 14, 3027 by Will Nelson of Nelson, LLC)
9. The customer believed that his plumber was at the property on or about October 12, 2017. (Testimony of [REDACTED])
 10. DC Water conducted an underground inspection at the property and found no sounds or registration on the water meter; the result of the underground inspection was that no underground leak was present. (Testimony of Eileen Wright; DC Water Service Work Order dated 10/25/17)
 11. DC Water removed and tested the water meter at the property and the meter was determined to have 101.16% accuracy which is within accepted range for accuracy of a water meter. (Testimony of Eileen Wright; DC Water Note Log of meter test results)
 12. The disputed bill(s) were based upon actual meter reads transmitted by MTU from the property. (Testimony of Eileen Wright; DC Water meter read log)

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:
 - (a) Verify the computations made in the formulation of the water and sewer charges;
 - (b) Verify the meter reading for possible meter overread or doubtful registration;
 - (c) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
 - (d) Check the meter for malfunction;
 - (e) Check the water-cooled air conditioning system, if any, for malfunction; and
 - (f) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.See, 21 DCMR 403.
3. D.C. Municipal Regulations bar adjustment of a customer's bill when all checks and tests provide no reasonable explanation for excessive water consumption. (See 21 DCMR 408 which states: "In cases in which all checks and tests result in inconclusive findings that provide no reasonable explanation for excessive consumption, no adjustment shall be made to the bill for any portion of the excessive consumption, except as may be approved by the General Manager, based upon a demonstration by the owner or occupant that such an adjustment will further a significant public interest.")

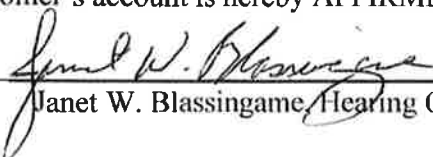
DECISION

The customer was able to establish a prima facie case that more than likely the disputed charges were incorrect. The basis of the customer's case was the plumber's findings of no visual leaks, as well as, the customer's assertion of the historical usage of water at the property and his contention that the water usage only increased upon the placement of a new water meter at the property, thus, casting fault upon the water meter as the culprit causing doubtful high water usage.

DC Water, on its part, refuted the customer's case. The utility conducted an investigation of the high water registration and determined, through its testing of the water meter, that the water meter was functioning properly and accurately. The utility, further, conducted an underground inspection and, finding no sounds or registration on the meter, ruled out the existence of an underground leak as causing the high water usage. The utility, further, referred to the historical usage of water at the property and pointed out a pattern showing that increased water usage was occurring at the property prior to installation of the water meter in place during the period in dispute. Lastly, the utility presented evidence of a decline in water usage registration occurring at or about the time that the customer's plumber was at the property. During the hearing, the customer asserted his belief that DC Water had done something to the water meter to cause it to stop registering high water usage occurring at the property, but, the utility was able to show that the water usage declined before its service technicians were present at the property and, instead, the decline occurred in proximity of the owner's plumber being at the property. DC Water did not assert that the customer did something to cause a decline in water usage at the property, however, it did clearly establish that its employees did nothing to affect water usage at the property and that its equipment was functional and accurately recording water used at the property during the period in dispute.


DC Water's investigation of the charges concluded that no basis exists for adjustment of the customer's account and that the charges were valid. Such determination is supported under the applicable regulations controlling the utility. Specifically, Title 21, Section 408 of the District of Columbia Municipal Regulations bars DC Water from adjusting a customer's account for excessive water consumption when all tests and checks are inconclusive and fail to establish the cause of the high water usage. Here, DC Water performed an inspection for an underground leak and tested the water meter to establish the accuracy of the water meter, and, the customer had an interior inspection performed by a plumber, and, none of the tests and inspections revealed conclusive findings or any finding of the cause of the high water consumption. As such, the Hearing Officer is precluded from reversing the determination by DC Water that no basis exists to adjust the customer's account since the utility is barred from doing so pursuant to its regulations.

Accordingly, based upon the foregoing, the determination by DC Water that the charges are valid and no basis exists for adjusting the customer's account is hereby AFFIRMED.

By: 
Janet W. Blessingame, Hearing Officer

Date: April 26, 2018

Copy to:


Morningwood Lane
Great Falls, VA 22016

**BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY
DEPARTMENT OF CUSTOMER SERVICES**

IN RE: [REDACTED]
[REDACTED] 21st Street, NE
Washington, DC 20018

Account No: [REDACTED]

Amount in Dispute - \$ 2,011.68

Before Janet W. Blassingame, Hearing Officer
March 20, 2018 at 10:00 a.m.

MEMORANDUM TO FILE

The customer contested water and sewer bills for the above account for the period of time June 13, 2017 to September 12, 2017. The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges and determined that the dispute was untimely. The customer appealed DC Water's decision and requested an administrative hearing.

This matter was scheduled for hearing on March 20, 2018. Eileen Wright, Communication Specialist, DC Water, was present on behalf of DC Water; the customer, [REDACTED], failed to appear despite the hearing being delayed thirty (30) minutes as a grace period afforded to the customer.

The letter of notification that was sent to the customer advised him that "Failure to appear at your scheduled hearing may result in a default judgment being entered against you." (See, 21 DCMR 415.3).

On information from DC Water, the Hearing Officer was informed that the customer contacted DC Water on or about March 22, 2018 inquiring regarding his hearing date which he stated was set for March 23, 2018. The Hearing Officer has reviewed the letter of notification sent to the customer and the letter states that the hearing is (was) scheduled for March 20, 2018 at 10:00 a.m. No scheduling error is found in the notification letter sent to the customer.

The Hearing Officer initially found the customer to be in default and drafted an Order of Default. The Default Order is not being entered based upon later communication by the customer to DC Water that he was unable to attend the hearing due to a death in his family. DC Water has indicated to the Hearing Officer that it does not object to a continuance of this matter and would like to set this matter for hearing. As such, the Hearing Officer authorized that this matter be rescheduled for hearing.

By: Janet W. Blassingame
Janet W. Blassingame, Hearing Officer
Date: April 26, 2018