

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

IN RE: [REDACTED] [REDACTED]  
[REDACTED] Porter Street, NW  
Washington, DC 20016

Account No: [REDACTED]

Amount in Dispute - \$ 273.84

Before Janet W. Blassingame, Hearing Officer  
May 2, 2017 at 10:00 a.m.

The customer contested water and sewer bills for the above account for the periods of time September 16, 2016 to October 5, 2016 and February 3, 2017 to March 8, 2017. The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges for September 16, 2016 to October 5, 2016 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. During the hearing, DC Water consented to the consolidation of the customer's pending disputes and the dispute pertaining to the period February 3, 2017 to March 8, 2017 was also heard.

This matter was originally scheduled for hearing on January 11, 2017 and was continued to March 29, 2017. Testimony was taken on March 29, 2017 but the case was further continued to allow DC Water to test the water meter and conduct an interior inspection. This matter was re-set for further hearing on May 2, 2017. Present for hearing were: [REDACTED] [REDACTED] and Eileen Wright, Sr. Customer Care Associate, DC Water.

RECAP OF MARCH 29, TESTIMONY AND EVIDENCE

The property involved is a single family residence owned by [REDACTED] [REDACTED]. The house has three and one-half (3 ½) bathrooms, one kitchen, a washing machine, a utility sink, and two (2) outside faucets. [REDACTED] [REDACTED] stated that he has lived in the home for four (4) years and that he and his wife had a child last year. He stated that his water and sewer bill changes according to season but that it has ranged between Eighty Dollars (\$80.00) and One Hundred Dollars (\$100.00) per billing cycle with usage ranging between 8 CCF and 10 CCF. [REDACTED] [REDACTED] pointed to his February 2017 bill for Eighty-five Dollars (\$85.00) as an example of a typical bill during the winter months and his September 2016 bill for One Hundred Forty Dollars (\$140.00) as an example of a typical bill during the summer months.

[REDACTED] [REDACTED] testified that nothing unusual was occurring within his home during the period in dispute. He stated that he has made no repairs. He, also, stated that he and his wife had a new baby in September 2016 and they used a lot of water during that time because the entire family was home and they had guests.

██████████ stated that DC Water installed a new water meter at the property in April 2016 after estimating their water usage in February and March 2016.

██████████ asserted that he believes that the administrative hearing process is flawed because the Hearing Officer is paid by DC Water. He also asserted that he believes that something is wrong with the water meter.

The customer testified that DC Water came out to his property in January 2017 to look at the meter but nothing was found wrong. ██████████ complained that by the time that a call was made to DC Water about the alleged high water consumption, usage was back to within normal range. He stated that he was told by a DC Water representative that high water usage had occurred at the property. ██████████ testified that he walked through the home and found no leaks. ██████████ did acknowledge that he knows of a toilet flapper that he has to periodically shake to stop the water from running, however, he asserted that the toilet flapper has had no impact upon his water bill in the past.

██████████ testified an unusual spike in water usage occurred also between February 3, 2017 and March 6, 2017 when 21 CCF of water registered on the water meter. ██████████ stated that he contacted DC Water regarding the increased water usage and the representative was able to trace the water use and indicated what the flow had been over a number of hours and overnight. ██████████ asserted that if there had been a leak he would have assumed that the water flow would have been constant and not increasing. He asserted that an increasing water flow does not make sense to him.

██████████ stated that in response to the March 2017 bill, DC Water tested for an underground leak but found nothing. The customer asserted that the water meter may be periodically acting up and then resuming normal function. He stated that it is coincidental that there are two (2) periods of high water usage occurring on a new water meter installed in April 2016.

Ms. Wright agreed to combine the customer's two (2) bill disputes for purposes of this hearing, so that the periods involved are: September 16, 2016 to October 5, 2016 and February 3, 2017 to March 6, 2017.

██████████ stated that he has not hired a plumber to investigate any cause of the alleged high water usage because he has not noticed anything wrong.

The customer stated that he wants a new water meter and adjustment of his bill. He also indicated his intent to sign up for high usage alerts.

Ms. Wright requested a continuance based upon issues and facts revealed in ██████████ testimony. Ms. Wright stated that she wanted to have the current water meter tested. She stated that the current meter was installed at the property on April 2, 2016 and that

the utility removed and tested the prior meter but not the meter since the customer's second dispute arose. Ms. Wright testified that the prior water meter, based upon its test, had 99.25% accuracy.

██████████ interjected that something in the overall system is not working properly at 100% all of the time.

Upon consideration of Ms. Wright's request for a continuance, the basis for the request and the customer's testimony, the Hearing Officer granted the continuance. The Hearing Officer, sua sponte, also ordered, in addition to the meter test, that DC Water conduct an interior inspection for leaks within the customer's property.

#### TESTIMONY AND EVIDENCE ON MAY 2, 2017

Present for the hearing were ██████████ and Eileen Wright. By phone were Francis Peters, Meter Foreman, DC Water, and, Clyde Wilkins, Senior Meter Technician, DC Water.

Ms. Wright testified that DC Water conducted an interior inspection of the home on April 17, 2017 and the technician found a toilet leak in the 2<sup>nd</sup> floor bathroom. She further testified that DC Water tested the water meter on April 20, 2017 and the meter was determined to have 99.95% accuracy. She stated that accuracy standards have been established by the American Water Works Association and that a water meter is considered accurate if it is operating between 95% and 102%.

██████████ asserted that he questions whether the water meter was functioning properly when the spike in water usage occurred at the property. He stated that DC Water tested the water meter on January 4, 2017 and found that the meter was OK as well, yet, spikes are occurring and he does not understand why spikes are occurring at his home.

Mr. Peters stated that test results are provided to DC Water by the meter manufacturer when a new meter is delivered to the utility. He stated that DC Water conducts the same test on a water meter as done by the manufacturer and in most cases, it is found that the water meter is not capturing all of the water used. He stated that he doubted that the meter failed in the field but functioned on the test bench.

Mr. Wilkins added that a water meter is designed to register water flowing through it and that a meter does not speed up or slow down if no water is flowing, He testified that he has never seen a water meter speed up in registering water flow. He stated that he has only seen that water meters will slow down over time.

██████████ stated that the problem with the water meter only started last year after DC Water installed a new water meter at the property and that since the new meter installation, he has had spikes allegedly on two (2) occasions.

██████████ stated that he knows that there is a slow leak in the upstairs bathroom but he does not believe that the leak caused the spike in water usage. He stated that the toilet leak is a slow trickle.

Ms. Wright pointed out that ██████████ has admitted that he did a toilet repair in October 2016. She stated that the technician only found that toilet leak during his inspection and she stated that the toilet may only run when it is flushed.

██████████ asserted that the technician told him that classifying the toilet leak as a medium leak was a term of art and that medium did not mean a lot of water was being lost. ██████████ stated that medium leak meant that there was a constant flow of water. ██████████ acknowledged that he has not repaired the toilet leak found on April 17<sup>th</sup>. He asserted that the meter read on April 17<sup>th</sup> does not show a spike occurring on that day. He also stated that the leak was in the guest bedroom which is not used by the family. ██████████ testified that the technician told him that the flapper was close but that the seal had started to erode and that the seal was old causing a steady water flow. ██████████ asserted that the water loss caused by the defective toilet was de minimis so as that the water did not always register on the water meter.

Mr. Peters stated that the toilet flapper is a rubber seal and that the seal deteriorates over time. He asserted that there will be times when one sees no water loss for the water will stop and start because the flapper is a piece of rubber.

██████████ asked to look at the meter read on February 12, 2017 and Mr. Peters responded stating that between 6:00 p.m. and 11:00 p.m. something was going on at the property. He stated that a flapper leak can be constant or sporadic and that even a trickle of water would register on the water meter. Mr. Peters testified that any water loss will register on the water meter. ██████████ countered that to loose seven (7) gallons of water would have taken all day. Mr. Peters responded that the water meter was registering water use almost all day and that on February 13<sup>th</sup> into 14<sup>th</sup>. Peters pointed out that between 11:00 p.m. and Midnight on February 13<sup>th</sup>, 11 CCF of water passed through and registered on the water meter. Mr. Peters asserted that the water meter was not defective. Mr. Peter stated that maybe there was an underground leak but then he recanted the possibility of the existence of an underground leak because water usage would stop and an underground leak does not stop until repaired.

██████████ argued that the toilet leak is not driving the spikes and has not resulted in the huge spike in water usage. He asserted that even with the toilet leak, he has had a normal water bill.

Ms. Wright interjected that based upon the records, the water meter was accurately registering water used at the property and that based upon her experience, the spikes in water usage were caused by an internal fixture or outside faucet. She stated that generally

abnormalities in usage are caused by a toilet. She stated that based upon the record, she believes that the charges are valid.

██████████ stated that nothing was wrong with water usage within the house from when he moved in in year 2012 until the new meter was installed in April 2016. He stated that it is strange that both spikes are essentially of the same amount of water increase/loss and he asserted that there is an event every four (4) months. He stated that the technician found a medium leak but no other problems and that it is a mystery as to what caused the spike in water usage at the property.

Ms. Wright clarified that the water meter at the property was re-installed after its first testing and that the same meter was tested on April 20, 2017. She stated that the meter removed on April 22, 2016 was not put back at the property and that both spikes occurred on the same water meter.

Mr. Peters stated that the meter was put back at the property because it was a new meter with a life span of ten (10) years and, as such, DC Water took it out for a day or two for testing and put it back at the property.

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

#### FINDINGS OF FACT

1. The property involved is a single family residence owned and occupied by ██████████ (Testimony of ██████████)
2. The periods in dispute are September 16, 2016 to October 5, 2016 and February 3, 2017 to March 8, 2017. (Testimony of the parties)
3. DC Water installed a new water meter at the property in April 2016. (Testimony of the parties)
4. During each period in dispute, a significant increase in water registered on the water meter. (Testimony of the parties)
5. The property owner was aware that there was a leak or defect in the toilet in his guest bedroom but felt that the problem was not affecting his water and sewer bill because the resulting loss of water was small or de minimus. (Testimony of ██████████)
6. DC Water sent a technician to the property to conduct an interior inspection and the technician found a toilet leak in a upstairs bathroom of the property; the technician classified the leak as being medium. (Testimony of the parties; DC Water Service Audit-Inspection Notes dated April 17, 2017)
7. DC Water removed and tested the water meter on April 20, 2017 and the meter was determined to have 99.95% accuracy. (Testimony of Eileen Wright; DC Water Meter Test Results)

8. DC Water ruled out the existence of an underground leak as causing increased water usage at the property because such leaks do not repair themselves and the usage remains high until repairs are made and no repairs were made at the property and usage declined. (DC Water Investigation Letter dated 10/28/2016)
9. The defective toilet on the second floor of the customer's house remains not repaired. (Testimony of [REDACTED])
10. A defective toilet flapper can result in both a constant loss of water and a sporadic loss of water. (Testimony of Francis Peters)

#### 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. D.C. Municipal Regulations relating to water and sanitation bar adjustment of a customer's bill if excessive water consumption is the result of a leaking faucet, household fixtures, and similar leaks or the malfunctioning water-cooled air conditioning equipment. (21 DCMR 406)
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

In this case, the customer cannot establish a case that more likely than not the disputed water bills are wrong or that for some other reason he should not be responsible for payment of the disputed water bills.

Here the customer knew that he had a defective toilet but insisted that the defective toilet did not cause increased water usage registering on his water meter during the periods in dispute. The customer asserted that it is a mystery as to the cause of the spikes but he suspects the cause to have been the water meter not functioning properly. First, D.C. Municipal Regulations state that the utility cannot adjust a customer's account when all tests and checks are negative and the cause of excessive water usage remains unexplained. (See, 21 DCMR 408) In this case, the meter was found to be accurately registering water used at the property and DC Water explained that the existence of an underground leak was ruled out as a possible cause of the increased usage because usage declined without necessity of repairs being made at the property.

The customer stated that he has known that he had a defective toilet but has not repaired the toilet because it has not affected his water usage. Not only did DC Water's technician find the defective toilet and classified the toilet leak as a medium leak, DC Water presented evidence and testimony that its water meter was not defective and had accuracy of 99.95%. DC Water further rebutted the customer's argument that the defective toilet did not cause the spikes in water usage because the customer did not experience a constant increased flow of water, in that DC Water's Meter Foreman testified that a defective toilet flapper could result in both a constant flow of lost water and a sporadic loss of water. The Meter Foreman testified that a defective flapper may sometimes seal and other times remain open resulting in sporadic increases of water being loss/used. As such, the weight of the testimony and evidence points to the defective toilet as the cause of the spikes in water usage at the property and pursuant to the District of Columbia Municipal Regulations, DC Water is barred from adjusting a customer's account when increased water usage is the result of an interior fixture such as a toilet. (See, 21 DCMR 406)

In this case, DC Water prevails because there was a defective toilet on the premises, the utility presented testimony that such a defect can cause spikes in water usage, that the meter was functioning properly and there were no underground leaks.

Accordingly, DC Water's determination that the charges are valid and no basis exists to adjust the customer's account is hereby AFFIRMED.

By: Janet W. Blassingame  
Janet W. Blassingame, Hearing Officer  
Date: June 30, 2017

Copy to:

██████████  
██████████ Porter Street, NW  
Washington, DC 20016

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

IN RE: [REDACTED]  
[REDACTED] Darrington Street, SW  
Washington, DC 20032

Account No: [REDACTED]

Amount in Dispute - \$ 364.71

Before Janet W. Blessingame, Hearing Officer  
May 2, 2017 at 11:00 a.m.

The customer contested water and sewer bills for the above account for the periods of time June 13, 2016 to October 3, 2016. 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.

The matter was scheduled for hearing on May 2, 2017. Present for the hearing were [REDACTED] and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

The property involved is a semi-detached single family residence owned and occupied by [REDACTED]. The property has one bathroom, one kitchen, a washing machine, and one outside faucet. [REDACTED] stated that her water and sewer bill historically has run in the low Forty Dollar (\$40.00) range per billing period.

The customer stated that she received a bill from DC Water in October 2016 which caused her to telephone the utility. She stated that DC Water sent a technician to conduct an internal audit. She stated that the technician was at her home on December 21, 2016 and no leaks were found. [REDACTED] stated that the technician also removed her water meter and replaced the meter with a new meter.

[REDACTED] questioned the accuracy of the meter and she questioned why DC Water is changing meters throughout the City if nothing is wrong with the meters. [REDACTED] asserted that since the new meter was installed at her home, there have been no spikes in registered water usage. She also stated that her neighbors have also experienced registration of high water usage during the same period as high water usage registered on her water meter.

Ms. Wright explained that [REDACTED] has an automated meter at her property and that the meter has a device (MTU) which transmits meter reads. Ms. Wright stated that if the MTU fails to transmit meter reads, DC Water will estimate a customer's water usage or send a technician to the property to read the water meter.

██████████ pointed out that the disputed bill covers a period of 96 days and reflects that 997.33 gallons of water were used over the three (3) month period. The customer pointed out that she lives alone and goes to work.

Ms. Wright referred to the customer's usage and bill history. She stated that the October 3, 2016 bill was an adjusted bill which went back to the last actual meter read on June 13, 2016 and then took the actual read obtained on September 17, 2016 to determine the customer's water usage. She stated that the customer's bills dated August 1<sup>st</sup> and September 1<sup>st</sup> were estimated and that the estimates were too low based upon the actual meter read. Ms. Wright testified that even though the MTU at the property had not sent daily meter reads, it did send a meter read on September 17, 2016 which DC Water used for billing the customer. Ms. Wright further testified that high water usage occurred at the property between August 12, 2016 and September 17, 2016.

Ms. Wright testified DC Water tested the water meter and the meter was determined to have 98.38% accuracy so the meter was functioning within accepted meter accuracy range.

Ms. Wright testified that the high water usage was not caused by an underground leak because the usage declined without necessity of repairs being performed and underground leaks must be repaired before there is a decline in water consumption.

Ms. Wright calculated that the customer's average daily water usage over the three (3) month period that usage was estimated as .416 CCF or 311 gallons per day.

██████████ countered that she works Monday through Friday from 10:00 am to 8:00 pm and that she works from home two (2) days per week. She reiterated that she knew of no leaks, had no repairs performed, had taken no trips, had no guests, and did not have to shake the toilet handle to stop the toilet from running. The customer summarized that there was nothing usual going on within her home during the period in dispute.

Ms. Wright testified that ██████████ November bill was based upon an estimate. She stated that DC Water read the water meter on November 25, 2016 and that the customer used 7 CCF of water between September and November averaging 2+CCF per month.

Ms. Wright asserted that she does not know what happened at the property to cause high water usage but she does know that the usage was not caused by an underground leak. She also testified that the customer had a large amount of water registering on the water meter from August 12, 2016 to September 17, 2016.

██████████ stated that she paid for a sewer back-up in 2014 and she reasserted that others are getting high bills as well. ██████████ challenged as to how Ms. Wright could know that the water meter was fine in August and September 2016 and she questioned why the utility was changing all of its water meters. Ms. Wright responded that the standard life of a water

meter is ten (10) years and that a water meter will generally slow down over time. She stated that the customer's water meter did not fail and that the DC Water technician was at the home in December 2016. Ms. Wright further stated that she can only go by the meter reads. She stated that the MTU can break but the water meter will continue to register water usage.

██████████ reiterated that nothing happened in her life to account for a spike and that there was no spike in over twelve (12) years.

Ms. Wright acknowledged that the customer had been incorrectly charged a late fee of \$36.47 and Ms. Wright stated that she would remove and adjust the account accordingly. Ms. Wright informed the customer the current amount due is \$256.90.

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 home owned and occupied by ██████████. (Testimony of ██████████)
2. The period in dispute is June 13, 2016 to September 17, 2016. (Testimony of the parties)
3. The MTU at the property failed to consistently transmit meter reads. (Testimony of Eileen Wright; DC Water Meter Read History)
4. Between June 13, 2016 and September 17, 2016, the MTU transmitted seven (7) times. Transmittals were made on June 13, 2016, August 5, 2016, August 9, 2016, August 12, 2016, August 23, 2016, August 31, 2016, and September 17, 2016. (DC Water Meter Read Record; Testimony of Eileen Wright)
5. Between June 13, 2016 and August 5, 2016, the customer used 11 CCF of water; between August 5, 2016 and August 9, 2016, the customer used 2 CCF of water; between August 9, 2016 and August 12, 2016, the customer used 1 CCF of water; between August 12, 2016 and August 23, 2016, the customer used 10 CCF of water; between August 23, 2016 and August 31, 2016, the customer used 8 CCF of water; and, between August 31, 2016 and September 17, 2016, the customer used 8 CCF of water. (DC Water Meter Read Record; Testimony of Eileen Wright)
6. DC Water estimated the customer's water usage for billings in September 2016 and August 2016. (DC Water Billed History and Usage History; testimony of Eileen Wright)
7. When DC Water received a MTU transmission on September 17, 2016, it used the meter read transmission for billing of the customer on October 3, 2016 for the period of June 13, 2016 to September 17, 2016 in an adjusted billing reflecting 40 CCF of water having been used during the extended period. (DC Water Billed History and Usage History; testimony of Eileen Wright)
8. The customer knew of no leaks and had performed no repairs. (Testimony of ██████████  
██████████)

9. DC Water performed an internal inspection of the property and no leaks were found. (Testimony of the parties)
10. DC Water removed and tested the water meter and meter was determined to have 98.38% accuracy. (Testimony of Eileen Wright; DCWASA Meter Test Results)
11. DC Water excluded an underground leak as a possible cause of high water usage occurring at the property because usage declined without need for repairs being performed. (Testimony of Eileen Wright; DC Water Investigation Letter dated February 23, 2017)
12. The customer's historical usage ranged between 2 CCF and 3 CCF per billing period dating back to May 2014. (DC Water Billing and Usage History)
13. There was a significant increase in water usage occurring at the property between August 12, 2016 and September 17, 2016. (Testimony of Eileen Wright)
14. DC Water estimated the customer's water usage for the November 2016 bill and then obtained a meter read on November 25, 2016. Based upon the meter read, it determined that the customer's water usage declined between September 17, 2016 and November 25, 2016 and that the customer had used 7 CCF of water which averaged to just over 2 CCF of water per month. (Testimony of Eileen Wright)
15. The customer paid her water and sewer bill as presented based upon the utility's estimate of water used at the property. (DC Water Ledger Information Report)

#### 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. 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 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)
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).
8. 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 in this case was able to establish a prima facie case that more likely than not the bill being disputed was wrong. The basis of the customer's case was evidence and testimony of the customer not knowing of any leaks or plumbing problems within the residence, DC Water not detecting any leaks or plumbing problems, the exclusion of the possible existence of an underground leak as causing the excessive usage, the fact that no repairs were performed by the customer or DC Water to cause a decline in water usage and the customer's lack of guests, her work schedule, and non-deviation from normal activities.

On the part of DC Water in its rebuttal of the customer's case, the utility showed that the water meter was functioning properly and that the excessive usage was not caused by internal leaks or underground leaks. DC Water asserted that it did not know the cause of the high water usage but the utility was not at fault for the occurrence because its equipment was functioning properly.

There is a Municipal Regulation which bars DC Water from adjusting a customer's bill when all checks and tests are inconclusive as to what caused the excessive consumption. (See, 21 DCMR 408) In this case, however, the tests and checks verified that there was no leak and, as

such, equally supported the customer's position that she did not use the water as they supported the utility's position that the customer was responsible for the usage. Since neither party knows of the cause of the excessive water use, it becomes relevant as to whether either was capable of mitigating the loss through its knowledge that high usage was occurring. The customer testified that she was unaware of the high water usage and she pointed to her historical water usage bills which never exceeded 4 CCF during a billing period except for the bill in dispute. DC Water pointed to its authority to estimate a customer's water usage whenever the MTU fails to transmit meter reads from a property. In this case, the MTU did not totally stop transmitting meter reads; it transmitted on an infrequent basis and as it turned out, the MTU transmitted seven (7) times during the period that DC Water seeks to back-bill and adjust the customer's account- June 13, 2017 to September 17, 2016. During the period at issue, the utility received meter read transmissions indicating that high usage was occurring at the property. The transmission on August 5, 2016, told the utility that the customer used 11 CCF of water since June 13, 2016. The meter read transmission on August 23, 2016, told that utility that the customer has used 10 CCF of water since August 12, 2016. The meter read transmission on August 31, 2016 told the utility that the customer had used 8 CCF of water in eight (8) days and finally the transmission on September 17, 2016 told the utility that another 8 CCF of water had been used in sixteen (16) days. Such transmissions were not available to the customer and the utility sent no notice to the customer of high water usage occurring at the property.

Even though the MTU was not functioning as it should, DC Water had information in August 2016 that high water usage was occurring at the property and such information was not shared with the customer until the customer was billed in October 2016.

The issue herein is one of fairness to both sides. This is not a case of DC Water failing to read the water meter. It is a case of the utility having information through transmitted meter reads that the customer did not have. Here the utility estimated the customer's water usage for the bills dated August 1, 2016 and September 1, 2016 and did not advise the customer of high water usage occurring at the property. The customer's September 1, 2016 billing reflected that the customer had used 2 CCF of water when, in fact, the utility had meter read transmissions showing that during the billing period July 28, 2016 to August 30, 2016, the customer had used 13 CCF of water. Moreover, when the utility estimated the customer's water usage for the period June 13, 2016 to July 28, 2016, the utility had meter read transmissions telling it that the customer had used 11 CCF of water but the bill reflected an estimate of 3 CCF of water.

In some cases where a customer is caused harm through no fault of his/her doing but due to the utility's failure to perform some task, the customer is relieved from liability based upon the equitable defense of laches.

DC Water has no specific regulation regarding back-billing or limitation on its ability to back-bill a customer's account. The authority to back-bill comes only through its broad authority to charge and collect for water and sewer service. (See, D.C. Code §34-2202.03(11)).

Some water authorities have addressed the issue of back-billing but DC Water has not done so and other authorities have established back-billing practices relating to length of time that they can back-bill or the types of customers subject to back-billing. The water authorities that have passed regulations addressing back-billing have indicated that they have done so to protect the interests of consumers in promptly settling their accounts while at the same time providing a reasonable time for utilities to correct inaccuracies in billing. For example, the NY Water Authority has a statutory limit on back-billing. (See , *Perry Thompson Third Co., v. City of New York, et al.*, 279 A.D.2d 108; 718 N.Y.S.2d 306; 2000 N.Y. App. Div. LEXIS 13984, citing the Governor's Mem Approving L. 1979, ch 233, 1979 Legis Ann, at 147.)

In that there are no specific regulations authorizing back-billing or restricting the same, this body maintains that it is appropriate to examine bill disputes on a case-by-case basis in an effort to weigh unpredictable and/or arbitrary billing and the prompt settling of customer accounts against correcting billing deficiencies. In weighing the factors, the Hearing Officer is convinced that this dispute is appropriate for imposition of the doctrine of laches on behalf of the customer.

Laches is an equitable defense against harm caused by another's delay or failure to take action. In this case, DC Water estimated the customer's water usage at amounts far below actual meter read transmissions received by the utility and if the customer has been advised of high water usage occurring when the utility had knowledge of it occurring, the customer not only would have had opportunity to stop the loss of water but also the cause of the high water usage could have been investigated and identified.

The customer paid the water and sewer bills sent to her and nothing in her usage history would have given notice to her of any possibility that her payments were insufficient. Because the utility failed to take action regarding the high meter reads that it received, the customer is faced with a high water bill for an extended period at an amount that she has never been billed before in her billing history. Based upon the facts presented, the Hearing Officer hereby imposes laches as a defense for the customer against her liability for payment of the adjusted bill.

Accordingly, DC Water's determination that the charges are valid and no adjustment of the customer's bill is warranted is hereby REVERSED and the customer's payments on water and sewer bills issued by the utility August 1, 2016 and September 1, 2016 shall be considered full payment for said billing periods and DC Water shall charge the customer based on the average previous water consumption determined by meter readings through September 17, 2016 thereby removing 40 CCF of water and adjusting the account.

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

Date: June 30, 2017

Copy to:

██████████  
██████████ Darrington Street, SW  
Washington, DC 20032

7

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

IN RE: [REDACTED] [REDACTED] [REDACTED].

[REDACTED] [REDACTED]  
[REDACTED] Tennyson Street, NW  
Washington, DC 20036

Account No: [REDACTED]

Amount in Dispute - \$ 228.97

Before Janet W. Blessingame, Hearing Officer  
May 2, 2017 at 1:00 p.m.

The customer contested water and sewer bills for the above account for the periods of time June 1, 2016 to July 1, 2016. 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.

The matter was scheduled for hearing on May 2, 2017. Present for the hearing were [REDACTED] and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

The property involved is a single family residence owned by [REDACTED]. The property has one and one-half (1 ½) bathrooms, one kitchen, a dishwasher, a washing machine, radiators, a utility sink, and two (2) outside faucets. [REDACTED] [REDACTED] stated that historically his water and sewer bill ranges between Fifty Dollars (\$50.00) and Sixty Dollars (\$60.00) per billing period.

[REDACTED] [REDACTED] testified that nothing unusual was going on within the home during the period in dispute and, in fact, he and his wife were out of town for various periods of June and July 2016. He stated that he and his wife left on June 1, 2016 for Ft. Pierce and returned on June 14, 2016 and he and his wife left on July 9, 2016 and returned home on July 20, 2016. [REDACTED] [REDACTED] testified that when he departed on his trip in June, he and his wife simply locked the doors to their home and that no one had access to the house while they were away. He testified that he received no alert from DC Water of high water usage occurring within the house and upon his return home, he saw no evidence of leaks either inside or outside of the house.

[REDACTED] [REDACTED] asserted that a toilet does not just start running and stop running. He stated that he has fifteen (15) years working in the mechanical, electrical and plumbing fields. He stated that he worked at Dumbarton Oaks as an engineer for two (2) or three (3) years and he, then, was Chief Engineer at the Watergate Apartments for four (4) or Five (5) years. [REDACTED] [REDACTED] stated that he is now retired. He acknowledged that he is not a licensed plumber.

Ms. Wright testified that there was a significant spike in water usage registered on the water meter between June 6, 2016 and June 8, 2016. She testified that there was no water usage registering on the water meter starting at 9:00 a.m. on June 6, 2016 and then a small amount of

water registered on the meter between 10:00 a.m. and 11:00 a.m. She stated the water started flowing at 14:00 pm. on June 6, 2016 and stopped on June 8, 2016 at 16:00 pm. Ms. Wright testified that 17 CCF of water was consumed during the spike in usage.

Ms. Wright stated that she cannot tell what was running within the home during the spike period but she has seen a toilet flapper start to leak and stop when no one is home. She stated that DC Water did not send a technician to inspect for leaks because by the time [REDACTED] wife telephoned DC Water on July 11, 2016 about the bill, the high water usage had declined. Ms. Wright went on to point out that a very small amount of water registered on the water meter on June 8, 2016 at 19:00 hours and then there was no water registration until June 14, 2016 which was the date that [REDACTED] returned home.

[REDACTED] stated that he also traveled in July 2016 and Ms. Wright pointed out that water usage registration stopped on July 9, 2016 between 11:00 p.m. and Midnight but then started again in the morning and water consumption registered on the water meter every day through July 20, 2016. Ms. Wright testified that 1 CCF of water registered on the meter for the period July 9, 2016 to July 20, 2016 and she asserted that someone was in the [REDACTED] house during that period. [REDACTED] responded that he has a degree in electronic engineering. He also stated that his neighbors are having the same problem. [REDACTED], then, stated that his daughter lives two (2) blocks from him and maybe she did come into the house in July but that his daughter and grandchildren were with him and his wife when they were away in June and there is no logical explanation as to why water started within the home and stopped in June. Ms. Wright stated that she could see when no water was being used in June within the house and then when something was turned on. She asserted that the evidence of meter registrations shows that the system was working properly.

Ms. Wright presented the meter test results which showed that the meter was determined to have 98.42% accuracy.

[REDACTED] stated that his daughter and grandchildren were with him out of town in June but not in July and that he does not know what happened in June to start and stop water usage in his house. [REDACTED] stated that he is only disputing the occurrence of water usage in June, not in July. He stated that he does not have a housekeeper or gardener and that his daughter and grandchildren were away with him in June and no one was in the house when water was allegedly used. [REDACTED] argued that there is no plausible explanation for two (2) days of high water usage registering on the water meter when no one was home and that all DC Water has presented is an assumption of what occurred and their assumption does not hold up.

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] Jr. and his wife. (Testimony of [REDACTED])

2. The period in dispute is June 1, 2016 to July 1, 2016. (Testimony of the parties)
3. The customer and his wife were away from the home from June 1, 2016 to June 14, 2016 and July 9, 2016 to July 20, 2016. (Testimony of [REDACTED])
4. There was a high registration of water usage at the residence between June 6, 2016 and June 8, 2016. (Testimony of Eileen Wright; DC Water Meter Read Transmissions Log)
5. The customer does not dispute water consumption occurring in July 2016 and acknowledged that his daughter and her family live two (2) blocks from his home and his daughter might have come into the house in his and his wife's absence. (Testimony of [REDACTED])
6. [REDACTED] testified that his daughter and grandchildren traveled with him and his wife in June 2016 and no one had access to the house after he locked the doors. (Testimony of [REDACTED])
7. DC Water has actual meter reads of water usage occurring at the property between June 6m 2016 and June 8, 2016. (Testimony of Eileen Wright; DC Water Meter Read Transmissions Log)
8. That water usage stopped as of June 8, 2016 and did not resume until June 14, 2016 which coincides with the customer's travel return date. (Testimony of the parties)
9. Water usage declined before the customer initiated an investigation of the bill. (Testimony of Eileen Wright)
10. DC Water removed and tested the water meter and the meter was determined to have 98.42% accuracy. (Testimony of Eileen Wright; DCWASA Meter Test Results)
11. The MTU device was sending regular transmissions of meter reads from the property. (Testimony of Eileen Wright; DC Water Meter Read Transmissions Log)
12. The customer has experience as a building engineer and holds a degree in electronic engineering but he is not a licensed plumber. (Testimony of Charles Paige, Jr.)
13. DC Water ruled out the existence of an underground leak as a possible cause of the high water usage at the property because usage declined without necessity of repairs being performed and the nature of an underground leak is such that the leak will not stop without repair. (DC Water Investigative Letter dated September 28, 2016)

#### 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 July3, 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 established a prima facie case that the disputed bill was more likely than not wrong because he and wife were away from the home during the time that high water usage registered on the water meter. In rebuttal, DC Water presented a meter test reflecting the accuracy of the water meter and it investigated the customer's dispute and ruled out the existence of an underground leak as a possible cause of the water usage. DC Water further presented its record of transmitted meter reads from the property and its usage history and billing record reflecting that the disputed bill was based upon an actual meter read.

DC Water acknowledged that based upon its tests and checks, it cannot determine the cause of the water usage but its tests and checks establish that the meter was operating accurately and the water was not the result of an underground leak which might or might not have been the responsibility of the utility. During her testimony, Ms. Wright pointed to the possibility of a faulty toilet as a plausible explanation for the water and she testified that she has knowledge and information of a toilet causing water usage when the occupants are out of the house. Ms. Wright, however, could not establish that a toilet was the culprit and, as such, testified that she could only establish that water usage occurred and stopped but not what caused the usage.

In the end, no one could establish the cause of the water usage but, because DC Water could establish that its meter was functioning, the MTU was functioning and water usage was registered on the meter and there was not an underground leak as a possible cause of the usage, the weight of the evidence favors the utility.

Ultimately, a property owner is responsible for water used at his property. In this case, even though the owner was out of town, there was water used in his absence. Such use could have been due to a faulty toilet or some other internal fixture as assumed by Ms. Wright, someone could have gained access to the premises even though the customer testified that he locked the door, or someone could have tapped into the water from the outside faucets. ■■■ testified that he merely locked the door without taking any precautionary actions such as shutting off the water in his absence. Likewise, while ■■■ testified that his daughter and grandchildren traveled with him in June but that his daughter may have come into the home in July, he provided no testimony as to who else, such as a son-in-law or other children, may have had access and/or knowledge as to how to gain entry to the home in his absence. As stated, the cause of the water usage is speculative. The only fact established with certainty is the water usage occurred and that the billing is accurate and correct.

Pursuant to the D.C. Municipal Regulations in situations where the tests and checks failed to conclusively establish the cause of high water consumption, DC Water is barred from adjusting a customer's account for such high water usage. (See, 21 DCMR 408) Accordingly, based upon foregoing, the determination by DC Water that the charges are valid and no basis exists to adjust the customer's account is hereby AFFIRMED.

By: Janet W. Blassingame  
Janet W. Blassingame, Hearing Officer  
Date: June 30, 2017

Copy to:

■■■ ■■■ ■■■  
■■■ Tennyson Street, NW  
Washington, DC 20036

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

IN RE: [REDACTED]  
[REDACTED] Farragut Place, NW  
Washington, DC 20011

Account No: [REDACTED]

Amount in Dispute - \$ 477.66

Before Janet W. Blassingame, Hearing Officer  
May 3, 2017 at 11:00 a.m.

The customer contested water and sewer bills for the above account for the periods of time September 15, 2016 to October 9, 2016. 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.

The matter was scheduled for hearing on May 3, 2017. Present for the hearing were [REDACTED] and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

The property involved is a townhouse owned and occupied by [REDACTED]. The house has two (2) bathrooms, a dishwasher, and one outside faucet. [REDACTED] stated that her water and sewer bill generally ranged between Thirty Dollars (\$30.00) and Sixty Dollars (\$60.00).

[REDACTED] testified that she has never received a water bill as high as the bill being disputed. She further testified that DC Water sent a technician to her home and technician found no leaks and saw nothing new regarding the plumbing. [REDACTED] stated that the DC Water technician took the water meter for testing.

The customer testified that since the meter change, her water and sewer bill has been in the amount due of Eighteen Dollars and eighty cent (\$18.80) since the meter change. Ms. Wright interjected that [REDACTED] is now receiving assistance through the CAP Program and that is why her water and sewer bill is so low and that the change in her bill is not related to the meter change.

[REDACTED] complained that payment of the disputed bill was taken from her bank account because she had enrolled in auto-pay and that it was very difficult for her to secure a refund from DC Water based upon her dispute of the charge. She stated that she had now received a refund check from DC Water for the amount in dispute.

[REDACTED] testified that she is not aware of any leaks or plumbing problems within her home. She stated that she has not had any plumbing work performed in the home. She stated that it is only her and her young son residing in the house and that their routine has not changed and that they have not taken any trips.

Ms. Wright testified that DC Water estimated the customer's water usage for the months of August and September 2016. She testified that DC Water billed the customer based upon an actual meter read for her bill dated October 9, 2016. Ms. Wright explained that DC Water did not back bill the customer but billed from the last estimated read to the actual bill. Ms. Wright testified that had the utility billed the customer from last actual read to most recent actual read, the customer's amount due would have been higher.

Ms. Wright testified that the MTU at the property failed to transmit meter reads from July 6, 2016 to September 30, 2016 and during that period of time 55 CCF of water registered on the customer's water meter.

Ms. Wright testified that DC Water sent a technician to the property and no leaks were found. Ms. Wright noted that the high water usage had declined before the interior inspection was conducted. Ms. Wright also stated that she did not know why the technician removed the customer's water meter because no meter test was performed.

██████████ questioned why no meter test performed by the utility.

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

#### FINDINGS OF FACT

1. The property involved is a single family home owned and occupied by ██████████. (Testimony of ██████████)
2. The period in dispute is September 15, 2016 to October 9, 2016. (Testimony of the parties)
3. The MTU at the property failed to transmit meter reads between July 6, 2016 and September 30, 2016. (Testimony of Eileen Wright)
4. DC Water estimated the customer's water consumption for bills issued in August and September 2016. (Testimony of Eileen Wright)
5. DC Water obtained an actual read from the water meter on October 9, 2016 and billed the customer going forward from the last estimate of usage. (Testimony of Eileen Wright)
6. DC Water did not adjust the customer's bill based upon last actual read on July 6, 2016 to the read obtained on October 9, 2016, but, instead billed the customer going forward from last estimate to actual read. (Testimony of Eileen Wright)
7. The customer's bill dated October 19, 2017 reflected usage of 45 CCF during the disputed period; the customer's usage both before and after the disputed bill ranged between 1 and 6 CCF of water. (DC Water Billed History and Usage History; testimonies of the parties)
8. DC Water did not adjust the customer's account based upon the meter read obtained in October 2016. (Testimony of Eileen Wright)
9. DC Water ruled out the existence of an underground leak as a possible cause of high water usage at the property because the usage declined without necessity of repairs being performed.

10. DC Water conducted an interior inspection of the property and no leaks were found. (Testimony of the parties)
11. DC Water removed the water meter from the property but did not conduct a meter test. (Testimony of Eileen Wright)
12. The customer was not aware of any leaks or plumbing issues within the house and she has had no plumbing work performed in the house. (Testimony of [REDACTED] [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, 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. 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 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)
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)
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

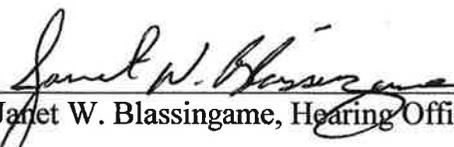
The customer in this matter established a prima facie case that more likely than not the disputed bill was incorrect or that she should not be held responsible for its payment. The basis of the customer's case was that she had never had a bill as high as the disputed bill, no leaks were found in the house by the DC Water technician, her bill went back to within normal range immediately following the disputed bill, no repairs were performed and the customer knew of no leaks or plumbing problems in the home.

DC Water conducted an interior inspection of the house and no leaks were found and it ruled out the existence of an underground leak; both the inspection and elimination of an underground leak as a possible culprit support the customer's position that the disputed bill is incorrect.

DC Water removed the customer's water meter but the meter was not tested for accuracy. Without a meter test and its results, it is impossible to determine whether the meter was functioning properly and all weight of the evidence presented supports the customer's contention that the bill is wrong.

As such, it is the determination of the Hearing Officer that DC Water cannot rebut the customer's prima facie case and its determination that the charges are valid must be reversed.

Pursuant to the Municipal Regulations of the District of Columbia, when a MTU device fails to transmit meter reads, the utility is authorized to estimate a customer's water usage. Here DC Water obtained a meter read however it cannot be shown that the meter registration was accurate. Accordingly, DC Water is hereby directed to base the customer's water charge for the period September 15, 2016 to October 9, 2016 on the average previous water consumption determined by meter readings. (21 DCMR 308.4)

By:   
Janet W. Blessingame, Hearing Officer

Date: June 30, 2017

Copy to:

  
 Farragut Place, NW  
Washington, DC 20011

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

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

Account No: [REDACTED]

Amount in Dispute - \$ 424.28

Before Janet W. Blassingame, Hearing Officer  
May 3, 2017 at 1:00 p.m.

The customer contested water and sewer bills for the above account for the periods of time September 13, 2016 to October 12, 2016 (\$150.02), October 12, 2016 to November 10, 2016 (\$152.76) and November 10, 2016 to December 12, 2016 (\$121.50). 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.

The matter was scheduled for hearing on May 3, 2017. Present for the hearing were [REDACTED] with her husband, [REDACTED] and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

The property involved is a single family home owned and occupied by [REDACTED] [REDACTED]. The house has four and one-half (4 ½) bathrooms, one kitchen, three (3) outside faucets, a dishwasher and a washing machine. [REDACTED] [REDACTED] stated that her water and sewer bill generally ranges between Eighty-six Dollars (\$86.00) and Ninety-six Dollars (\$96.00) per billing cycle.

[REDACTED] stated she recognizes that there have been fees instituted and rate changes by DC Water but she feels that her bills have been excessive. She also stated that when the house was built, different size pipes were installed in the house. She stated that it is her understanding that the fee for a 1 ½ inch water pipe is the same as the fee for a 1 inch water pipe.

[REDACTED] testified that DC Water installed a new water meter at the property on September 1, 2016 and that it sent a service technician to the property to look at the meter. [REDACTED] stated that the technician took off the meter lid and said that the meter looked good. [REDACTED] stated that the technician inspected for leaks as well as looked at the meter and no leaks were found.

[REDACTED] [REDACTED] testified that he is very environmental conscious and he consistently inspects the house for leaks. He further stated that his neighbors' water bills average Seventy Dollars (\$70.00) per billing cycle.

██████████ testified that nothing has changed in their home and that they have had no visitors to account for an increase in water consumption.

Ms. Wright stated that the disputed bills are based upon actual meter readings.

██████████ reiterated that her and her husband's habits have not changes and that they have not had any company. She asserted that the only change to account for the high bills is the new water meter. She stated that the water meter was installed in September 2016 and that DC Water put another meter at the property in December 2016 and the water bill/usage immediately returned to normal when the meter was changed.

██████████ testified that she understood from a service representative that she was not to pay her water bill pending resolution of her dispute and only recently does she understand that she was to have paid subsequent bills and only the disputed bills should have been left unpaid.

██████████ stated that she is now paying her current charges but that she incurred late fees as a result of the misunderstanding.

Ms. Wright stated that a late charge of Twelve Dollars and fifteen cents (\$12.15) would be removed from the customer's account. Mrs. Wright went on to state that DC Water takes the position that the charges are valid based upon the meter readings from the property. Ms. Wright testified that the customer's first bill after installation of the new meter and MTU on September 1, 2016 reflected 11 CCF as having been used but Ms. Wright explained that DC Water did not have a meter read for the billing and the utility estimated the customer's water usage for the bill dated September 13, 2016. Ms. Wright testified that between September 1, 2016 and October 10, 2016 12 CCF registered on the water meter and that the customer's daily average usage was .307 CCF. She stated between October 12, 2016 and October 22, 2016, the customer used 3 CCF; between October 22, 2016 and October 25, 2016, the customer used 1 CCF with daily average usage of .333 CCF. Ms. Wright testified that between October 25, 2016 and October 28, 2016, the customer used 2 CCF which made her daily average usage .666 CCF. Ms. Wright testified that the customer's usage declined after October 28, 2016 to the point that between October 28, 2016 and October 31, 2016, the customer used 1 CCF of water and that the customer used 1 CCF of water between November 4, 2016 and November 7, 2016 and 2 CCF of water between November 7, 2016 and November 10, 2016. Ms. Wright testified that customer's average daily usage between November 10, 2016 and November 13, 2016 was .333 CCF and between November 13, 2016 and December 12, 2016 the customer's average daily usage was .206 CCF.

Ms. Wright testified that an internal inspection was performed December 9, 2016 and no leaks were found and that an underground inspection was done on December 13, 2016 and no leaks, sounds or water registration were reported. Ms. Wright stated that DC Water removed the

water meter for testing on December 28, 2016 and the meter was determined to have 96.91% accuracy.

Ms. Wright testified that she does not know the cause of the high water consumption which occurred at the property but that the high usage declined before the meter was removed from the property.

█ questioned the meter testing process and commented that the water meter is not tested in a real world setting. He also questioned the length of time that the meter is tested.

Ms. Wright responded that the water meter was in good working order because a meter is not designed to run fast then slow down if the meter is broken. She stated that if a meter is malfunctioning, the meter will continue to run fast.

█ asserted that when the meter was in the ground at her house, water usage registration was up but when the meter was removed and a new meter installed, the registration went down. █ pointed out that the only different factor accounting for the change in water usage registration was the change in meters.

Ms. Wright testified that she has been investigating water bill disputes for sixteen (16) years and that water meters are tested by the manufacturer and then tested before placed at a property and if a customer disputes a water bill, DC Water will test the water again. Ms. Wright reasserted that she does not know the cause of the high water usage at the property but the usage declined before the meter change. She further asserted that meter function has no bearing/relation to the MTU and if the MTU fails to transmit, the water meter continues to register water usage.

█ resubmitted that the usage history shows that high water registration only occurred when the water meter was placed at the property in September 2016.

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 █. (Testimony of █)
2. The periods in dispute are from September 13, 2016 through December 12, 2016. (Testimony of the parties)

3. DC Water installed a new water meter at the property on September 1, 2016. (Testimony of the parties)
4. Prior to installation of the new water meter, the customers' water usage had not exceeded 6 CCF in any billing cycle. (DC Water Usage and Billing History log)
5. During the periods in dispute, the customers' water usage registered 11 CCF for two (2) of the disputed billings and 8 CCF on the last disputed billing. (DC Water Usage and Billing History log)
6. Each bill incurred by the customer during the periods in dispute was based upon an actual meter reading from the property. (Testimony of Eileen Wright; DC Water Usage and Billing History log)
7. The customers were not aware of any leaks or plumbing problems at the home during the periods in dispute and they had not altered their lifestyle to cause a change in water consumption. (Testimony of ██████████)
8. DC Water conducted an interior inspection of the property and no leaks were detected. (Testimony of Eileen Wright)
9. DC Water conducted an underground inspection at the property and no leaks, sounds or meter registration were found. (Testimony of Eileen Wright)
10. DC Water removed and tested the water meter and the meter was determined to have 96.91% accuracy. (Testimony of Eileen Wright)
11. The water meter was removed from the property on December 28, 2016 and replaced with another water meter. (Testimony of Eileen Wright)
12. Water consumption at the property declined on or after October 28, 2016 and remained low until between November 10, 2016 and November 13, 2016 when there was a slight spike in usage and then usage again declined between November 13, 2016 and December 12, 2016. (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. 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 had the burden of showing by a preponderance of the evidence that more likely than not the bills that she was disputed were incorrect. The customer argued that she had never incurred bills or water usage as high as those being disputed and that the high water usage only occurred during the time that a particular water meter was at the property and once the water meter was removed, the high water usage registration ceased. The customer asserted that the high water registration was the fault of the water meter and was not based upon her and her husband's actual water consumption.

DC Water presented a meter test reflecting that the water meter at issue was operating within accepted accuracy standards. The utility conducted an interior inspection and an underground inspection and found no leaks. The utility further presented meter reads from the property and calculations of the customer's daily average usage which reflected that the high water registration declined before the meter change occurred at the property.

Unfortunately for the customer, there was nothing to challenge the utility's evidence.

Pursuant to the District of Columbia Municipal Regulations, when all checks and tests failed to establish the cause of high water consumption, DC Water is barred from adjusting a customer's bill for any portion of the high water consumption. (See, 21 DDCMR 408) Ms. Wright repeatedly acknowledged that despite all the tests, she did not know what caused the high water usage at the customer's residence. Based upon the evidence and testimony presented, however, the utility was able to show that the high water usage was not caused by its water meter and that whatever had caused the high water usage stopped before the water meter change occurred on December 28, 2016. A property owner is the ultimate person responsible for water used at his/her property and in this case, nothing was presented that absolves the owner from responsibility for payment of the water bills. Accordingly, the determination by DC Water that the charges are valid and no basis exists to adjust the customer's account is hereby AFIRMED.

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

Date: June 30, 2017

Copy to:

██████████  
██████████  
██████████ K Street, SE  
Washington, DC 20003

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

IN RE: [REDACTED] [REDACTED] [REDACTED]  
P.O. Box [REDACTED]  
Clarksburg, MD 20872

Service Address:  
[REDACTED] Jones Court, NW  
Washington, DC 20007

Account No: [REDACTED]

Amount in Dispute - \$ 532.12

Before Janet W. Blassingame, Hearing Officer  
May 3, 2017 at 2:00 p.m.

The customers contested water and sewer bills for the above account for the periods of time October 26, 2015 to January 7, 2016. The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges and determined that an adjustment to the account was not warranted. The customer appealed DC Water's decision and requested an administrative hearing.

This matter was previously scheduled for hearing on January 4, 2017 and the customers failed to appear for the hearing. An Order of Default was entered dated February 28, 2017. The default is vacated based upon representations by the customers that [REDACTED] [REDACTED] contacted DC Water on the day of the scheduled to request a continuance because of a death in the family; DC Water had no objection to the rescheduling of the hearing and, as such, this matter was scheduled for hearing on May 3, 2017. On May 3, 2017, the customers were delayed in arriving for the hearing due to a GPS system error but called to inform the Hearing Officer and DC Water of their travel difficulty and impending arrival. The customers were afforded the standard grace period and they did arrive for the hearing. Present for the hearing were: [REDACTED] [REDACTED] and [REDACTED] [REDACTED] and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

The property involved is a townhouse owned by [REDACTED] [REDACTED] [REDACTED] for the past three (3) years. Two (2) people live in the home and the house has two and one-half (2 ½) bathrooms, one kitchen, a dishwasher, and a washing machine. [REDACTED] stated that the water and sewer bill generally ranges between Sixty-five Dollars (\$65.00) and Seventy-five Dollars (\$75.00) per billing cycle.

[REDACTED] [REDACTED] testified that he felt that the water and sewer bills for October, November and December 2016 were high, but, then, he got the January 2017 bill for \$532.12 and he was compelled to contact DC Water.

[REDACTED] [REDACTED] stated that the house is occupied by two (2) seniors and that they have the same water usage that they have always had. He stated that he walked through the house and saw

no leaks. He stated that when he contacted DC Water, the utility scheduled a technician to come out to the property to conduct an inspection.

██████████ testified that he had Twins' Plumbing to inspect the house sometime during the week of January 16, 2017 and that the plumber checked everything within the house and found no leaks. ██████████ testified that DC Water's technician came to the house on January 29, 2017 and found a leak in the 2<sup>nd</sup> floor toilet. ██████████ stated that the technician told him that the chain was stuck under the flapper in the toilet. ██████████ stated that he was at the house during the inspection by the DC Water technician and he did not see the chain stuck in the flapper. He stated that he asked the technician to replicate the problem and the technician told him that he had to go. ██████████ stated that he took a video of the toilet and that the video could be viewed on his telephone. The Hearing Officer and Ms. Wright viewed the video. Ms. Wright commented that she could see how the chain would get stuck; ██████████ stated that the video shows that the chain is not stuck. ██████████ conceded that it was difficult to get a good angle of the toilet chain and that he could not get a picture from the side of the toilet which would clearly show the action of the chain.

██████████ testified that there have been no repairs performed in the house.

The Hearing Officer stated that in her opinion the video was inconclusive because you could not clearly see the action of the toilet chain.

██████████ testified that the bills started declining and for March 2016, the bill was One Hundred Eighty-four Dollars (\$184.00) and just over One Hundred Dollars (\$100.00+) in April 2016. He stated that by June and July 2016, the charge was Sixty-four Dollars (\$64.00) and Fifty-five Dollars (\$55.00) respectively. He noted that the September 2016 bill for One Hundred Four Dollars (\$104.00) was based upon an actual meter readings and he pointed out that after the meter was changed on October 5, 2016, the bills have ranged from Forty Dollars (\$40.00) to Sixty-five Dollars (\$65.00).

██████████ stated that the prior meter was placed at the property in year 2002.

Ms. Wright testified that spikes in water consumption began occurring at the property in September 2015. She explained that the property has an automated meter and that a MTU transmits meter readings from the property.

Ms. Wright testified that the customer's December 2015 bill was based upon an estimate of water usage but then the utility obtained a meter reading and the customer's January 2016 bill was based upon an actual meter read. Ms. Wright testified that DC Water adjusted the customer's account back to October 26, 2015.

Ms. Wright stated that the MTU at the property transmitted but not every day. She stated that between September 6, 2015 and September 16, 2015, the customer consumed 12 CCF of water with an average daily usage of 1.200 CCF. Ms. Wright testified that the customer's usage declined between September 16, 2015 and October 6, 2015 and during that period the customer consumed 10 CCF of water and had an average daily usage of .500 for the period. Ms. Wright

testified that between October 26, 2015 and October 26, 2015, the customer used 18 CCF of water and had an average daily usage of .900 CCF.

Ms. Wright testified that a DC Water service representative noted in the telephone logs maintained by the utility that [REDACTED] [REDACTED] contacted DC Water on October 27, 2015 and informed the service representative that he had replaced a leaking toilet roughly two (2) months ago. Ms. Wright further testified that during the call to DC Water on January 12, 2016, the customer stated that he had no leak and an inspection was scheduled. Ms. Wright testified that DC Water removed the water meter for testing on October 5, 2016, that the testing was performed on October 7, 2016 and it was determined that the meter had 99.55% accuracy.

Ms. Wright surmised that the high water usage was caused by an internal fixture. She stated that she knew that the high water usage was not the result of an underground leak because underground leaks do not repair themselves and DC Water has made no repairs at the property. Ms. Wright pointed out that normal usage returned to the property before the water meter was removed and changed. Ms. Wright testified that 58 CCF of water registered on the customer's water meter between October 26, 2015 and January 7, 2016.

[REDACTED] reiterated that after the service technician left the property, usage went back to normal. He also added that the flappers in the toilet were changed in year 2014 when the house was purchased and not two (2) months prior to the call to DC Water and he asserted that his father made a mistake in referencing the toilet repair as though it was a recent repair. [REDACTED] [REDACTED] asserted that his Dad confirms when the flappers were changed.

Ms. Wright asserted that when water usage fluctuates as seen in this case, it is an internal fixture.

[REDACTED] ended by stating that usage at the house went down even more after the service technician was at the house.

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 single family residence occupied by [REDACTED] [REDACTED]. (Testimony of [REDACTED] [REDACTED])
2. The period in dispute is October 26, 2015 to January 7, 2016. (Testimony of the parties)
3. There is a MTU at the property to transmit meter reads, however, the unit failed to transmit on a regular basis resulting in gaps or lack of meter reads for periods of days. (Testimony of Eileen Wright; DC Water Meter Read Log)
4. Despite erratic meter reads transmissions, from the reads available, DC Water was able to base the customer's billing upon actual meter reads, except for the period from October 26, 2015 to December 4, 2015 and the utility was able to use the meter reads available to it to calculate the customer's average daily usage. (Testimony of Eileen Wright; DC Water Billing and Usage History)

5. There was a significant increase in consumption occurring at the property between September 6, 2015 and September 16, 2015 and again between October 6, 2015 and October 26, 2015. (Testimony of Eileen Wright)
6. The MTU transmitted a meter read on October 6, 2015 and the read was the basis for the customer's bill dated October 8, 2015 which reflected 23 CCF having been used. (Testimony of Eileen Wright; DC Water Billing and Usage History; DC Water Meter Read Log)
7. The customer's bill dated November 9, 2015 reflecting 18 CCF having been used was also based upon an actual meter read transmission dated October 26, 2015. (DC Water Billing and Usage History; DC Water Meter Read Log)
8. DC Water estimated the customer's water usage for the period October 26, 2015 to December 4, 2015 as reflected on the bill dated December 8, 2015. (DC Water Billing and Usage History; DC Water Meter Read Log)
9. The customer's bill dated January 11, 2016 reflecting 58 CCF having been used was based upon a meter read transmission on January 7, 2016 and was an extended period bill of seventy-three (73) days back billing and adjusting the customer's account for water usage exceeding the estimated amount for the period October 26, 2015 to December 4, 2015. (Testimony of Eileen Wright; Bill Summary dated 01/11/16)
10. The customer's bill dated February 8, 2016 was based upon a meter read transmission and reflected that the customer had used 16 CCF between January 7, 2016 and February 2, 2016. (DC Water Billing and Usage History)
11. The customer's water usage declined between September 16, 2016 and October 6, 2015 but spiked again between October 6, 2015 and October 26, 2015 and then declined again. (Testimony of Eileen Wright)
12. The customer hired a Twin's Plumbing to inspect the property and no defects were detected; [REDACTED] [REDACTED] believed the inspection occurred the week of January 18, 2016 but he lacked any documentation of the inspection. (Testimony of [REDACTED] [REDACTED])
13. DC Water sent a technician to conduct an internal inspection of the house on January 29, 2016 and the technician noted a leak in the 2<sup>nd</sup> floor toilet. (Testimony of the parties; DCWASA Service Order results)
14. [REDACTED] [REDACTED] disputed the technician's finding of a toilet defect and he took a video of the toilet flushing, however, due to the angle of the video shot a viewer cannot see the chain in relation to the flapper of the toilet as the toilet flushes. (Testimony of [REDACTED] [REDACTED])
15. DC Water ruled out the existence of an underground leak as the cause of high water consumption at the property. (Testimony of Eileen Wright)
16. DC Water removed the water meter on October 5, 2016 and tested the water meter on October 7, 2016 and the meter was determined to have 99.55% accuracy. (Testimony of Eileen Wright; DCWASA Meter Test Results)
17. During a phone contact with a DC Water customer service representative, Surender Boveja, on October 27, 2015, and informed the service representative that he had replaced a leaking toilet roughly two (2) months ago. (Testimony of Eileen Wright; DC Water telephone contact 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. D.C. Municipal Regulations relating to water and sanitation bar adjustment of a customer's bill if excessive water consumption is the result of a leaking faucet, household fixtures, and similar leaks or the malfunctioning water-cooled air conditioning equipment. (21 DCMR 406)

## DECISION

██████████ is the son of the property occupants, ██████████, and he came to the hearing on behalf of his parents after seeing how high their water and sewer bill was in January 2016 and not believing that the bill was the result of a toilet defect found in the house upon an inspection conducted by a DC Water technician. ██████████ asserted that the high water registration was due to a water meter error or malfunction and he argued that after removal of the meter, his parents' water consumption significantly declined which was proof that the prior meter caused the high water registration and not his parents' water usage or anything within their home. The evidence and testimony presented during the hearing did not, however, support ██████████'s positions.

The bill in dispute- January 11, 2016- was an adjusted extended period bill spanning back seventy-three (73) days after the utility had estimated the customers' water usage for the prior billing cycle. The customers' earlier billings for the two (2) cycles before the estimated period were based upon actual meter reads and those bills reflected water usage of 16 CCF and 23 CCF which does not differ significantly from the customers' water usage over the extended period having used 58 CCF over a period longer than two (2) normal billing cycles and which would be approximately 23 CCF in thirty (30) days. Moreover, following the period of the disputed bill, the customers' water usage registered 16 CCF based upon an actual meter read.

DC Water's technician found a defective toilet on January 29, 2016 during an internal audit of the house. Ms. Wright explained that a defective flapper will cause usage to fluctuate within a residence and, in fact, the customers' usage record shows high water usage over a four (4) cycle billing periods with periods of decline in usage interspersed with high usage occurring at the house. The Hearing Officer notes that ██████████ presented his video of the toilet flushing and the video was viewed by both Hearing Officer and Ms. Wright on behalf of DC Water. ██████████ acknowledged that he could not get a good angle in which to shot the video but contended that it showed that the chain did not get stuck under the flapper. Ms. Wright asserted that the chain did get stuck under the flapper and the Hearing Officer decided that she could not determine if the chain got stuck or did not get stuck because of the poor angle of shot of the video. As such, no weight is given to the video and the Hearing Officer credits the report of the service technician that he found a toilet leak at the property.

DC Water also ruled out the existence of an underground leak and gave explanation as to why the high water usage could not have been caused by an underground leak.

DC Water tested the water meter and the meter was found to be operating within accepted accuracy range at 99.55%.

Lastly, DC Water was able to calculate the customer's daily usage averages and show that water usage declined prior to removal and change of the water meter which debunked [REDACTED] position that the high water usage was caused by a faulty water meter.

All evidence and testimony considered, [REDACTED] failed to make a case that the disputed bill is wrong and, as such, it is the conclusion of the Hearing Officer that determination by DC Water that the charges are valid and no basis exists to adjust the customers' account is supported by the weight of the evidence and, as such, is hereby AFFIRMED.

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

Date: June 30, 2017

Copy to:

[REDACTED]  
[REDACTED] Jones Court, NW  
Washington, DC 20007

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

IN RE: [REDACTED] [REDACTED]  
P.O. Box [REDACTED]  
Washington, DC 20029

Service Address:  
[REDACTED] Division Avenue, NE

Account No: [REDACTED]

Amount in Dispute - \$ 372.37

Before Janet W. Blessingame, Hearing Officer  
November 7, 2017 at 10:00 a.m.

The customer contested water and sewer bills for the above account for the period of time May 9, 2017 to June 20, 2017. The DC Water and Sewer Authority (DC Water) reviewed the account and determined that the charges were valid. The customer appealed DC Water's decision and requested an administrative hearing.

This matter was scheduled for hearing on November 7, 2017. Present for the hearing were [REDACTED] [REDACTED] and Eileen Wright, Senior, Customer Care Representative, on behalf of DC Water.

The property involved is a semi-detached single family residence owned by [REDACTED]. The property has one and one-half (1 ½) bathrooms, one kitchen, a washing machine, and one outside faucet. [REDACTED] [REDACTED] stated that she purchased the property in year 1986 and rented out the house until year 2003 when she began her occupancy. She testified that her water usage in year 2016 ranged between 1 CCF and 3 CCF of water per billing cycle.

[REDACTED] [REDACTED] stated that DC Water installed a new water meter at the property in January 2017 and that her usage in the month of January 2017 was 5 CCF of water. She complained that she was in California throughout the month of January 2017 and did not return home until March 9, 2017. She asserted that she missed a scheduled hearing on an earlier dispute regarding her water bill because she was, in fact, away from home and in California. [REDACTED] [REDACTED] pointed out that she had disputed her water bill for the period of December 19, 2016 to January 19, 2017 in the amount of \$75.17 and that the dispute had been dismissed due to her failure to appear for the hearing. [REDACTED] [REDACTED] explained that she is an author and has been conducting extensive research in California for a new book. She requested that DC Water reconsider its dismissal of her first dispute and allow her to incorporate the same into her hearing. Ms. Wright indicated that DC Water had no objection to setting aside the Order of Default entered against the customer. It was noted that the default was dated June 30, 2017 and related to a May 9, 2017 hearing involving the dispute period of December 19, 2016 to January 19, 2016. Ms. Wright stated that the utility would recognize three (3) periods to be in dispute for this hearing. Ms. Wright asserted that the periods and amounts in dispute are as follows:

December 19, 2016 to January 19, 2017 in the amount of \$75.17;  
January 19, 2017 to May 9, 2017 in the amount of \$172.40; and,  
May 9, 2017 to June 20, 2017 in the amount of \$124.80, thereby, making the total amount in dispute to be \$372.37.

■■■■ explained that her dispute involves the periods of alleged surges in water usage when she has not been at home.

■■■■ testified that she had a plumber inspect her home and that the plumber found nothing wrong. She stated that the plumber performed his service in May 2017 and she identified the plumber as Charles Wesley. She further stated that DC Water was at the property on July 7, 2017 and no leaks were found. ■■■■ pointed out that she was away from the property from February 14, 2017 to April 11, 2017, May 9, 2017, December 20, 2016 to January 26, 2017, and, most recently from late July 2017 until November 5, 2017. She stated that she has been on a book tour but did not bring her itinerary.

■■■■ noted that her bill dated September 22, 2017 was an estimated bill and has been adjusted by DC Water from \$75.13 to \$26.39.

Ms. Wright asserted that the utility regards the customer's bill dated February 23, 2017 for the period of December 19, 2016 to January 9, 2017 to reflect valid charges. She stated that DC Water has adjusted the customer's bills dated May 10, 2017 and June 21, 2017 because the water meter in existence at the property during those billings periods, when tested, failed to have meter accuracy within the accepted perimeters of accuracy established by the American Water Works. Ms. Wright testified that DC Water changed the customer's water meter on February 10, 2017 for testing due to the customer's dispute of charges for the period December 19, 2016 to January 19, 2017. She stated that the meter that was removed on February 10, 2017 was tested and determined to have 98.41% accuracy which is passing according to accepted standards for water meter accuracy. Ms. Wright stated that the second water meter placed at the property on February 10, 2017 was removed for testing on August 16, 2017 and that the meter failed testing, thus, causing the utility to unilaterally take the step to adjust the customer's bill. Ms. Wright distinguished the period of December 19, 2016 to January 19, 2017 by pointing out that the meter registering usage during the period passed testing and that 5 CCF of water passed thru the water meter during the period.

Ms. Wright acknowledged that the MTU at the property failed to transmit meter reads from December 27, 2016 to January 11, 2017 but she testified that the MTU re-started transmissions as of January 11, 2017.

Ms. Wright testified that DC Water did not conduct an audit of the property because no usage was registering on the meter after January 11, 2017 thru February 8, 2017.

Ms. Wright testified that the customer's account was adjusted on November 6, 2017, the day before the hearing, and that \$297.20 was adjusted from the account for the period February 20, 2017 to June 20, 2017, leaving a balance due of \$135.46 reducing water billed from 13 CCF to 4 CCF for the period. Ms. Wright asserted that she felt the adjustment to be reasonable and

justified. She stated that the customer's account reflects a \$107.30 credit.

Ms. Wright suggested to [REDACTED] [REDACTED] that she sign-up for HUNA. Despite that adjustment of her account in this instance, the Hearing Officer interjected that the customer, in the future, should turn the valve to her toilets to the off position when she plans to be away from the residence on travel for significant periods of time.

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 by [REDACTED] [REDACTED]. (Testimony of [REDACTED] [REDACTED])
2. The periods in dispute are: December 19, 2016 to January 19, 2017; January 19, 2017 to May 9, 2017; and, May 9, 2017 to June 20, 2017. (Testimony of the parties)
3. The water meter in place at the property from February 10, 2017 to August 16, 2017 failed the meter test. (Testimony of Eileen Wright)
4. DC Water, by unilateral action, adjusted the customer's account for the period of February 10, 2017 to June 20, 2017 due to the failure of the water meter in place at the property during said period. DC Water adjusted the account by reducing the water charged from 13 CCF to 4 CCF and deducting \$297.20 in charges. (Testimony of Eileen Wright)
5. DC Water also adjusted the customer's account regarding the bill dated September 22, 2017. (Testimony of [REDACTED] [REDACTED])
6. DC Water removed and tested the water meter in place at the property prior to February 10, 2017 when it was removed for testing and the meter was determined to have 98.41% accuracy which is within the accepted standards for meter accuracy established by the American Water Works Association. (Testimony of Eileen Wright)
7. The customer hired a plumber to inspect her home and no leaks were found. (Testimony of [REDACTED] [REDACTED])
8. The customer has a current account balance reflecting \$107.30 credit. (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. 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)
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 in this matter failed to establish that the charges for the period of December 19, 2016 to January 19, 2017 were incorrect. The evidence established that the water meter was functioning adequately and even though no leaks were found when the customer had the property inspected by a plumber, pursuant to the applicable regulations, a customer’s account cannot be adjusted when the cause of excessive usage has not been determined following tests. (See, 21 DCMR 408) As such, the charges for said period are determined to be valid and no adjustment of the account is warranted.

DC Water, however, has conceded and adjusted the customer’s account for the remaining periods in dispute as well as the billing period immediately following. As such, the customer’s account has been adjusted for the period February 20, 2017 through the bill dated September 22, 2017. Accordingly, the relief sought by the customer in her dispute for said period has been granted and the issue is moot.

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

Date: Jan. 29, 2018

Copy to:

██████████  
P.O. Box ██████████  
Washington, DC 20029

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

IN RE: [REDACTED]  
[REDACTED] 30<sup>th</sup> Street, SE  
Washington, DC 20020

Account No: [REDACTED]

Amount in Dispute - \$ 775.64

Before Janet W. Blessingame, Hearing Officer  
May 9, 2017 at 11:00 a.m.

The customer contested water and sewer bills for the above account for the period of time December 19, 2016 to January 9, 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.

The matter was scheduled for hearing on May 9, 2017. Present for the hearing were [REDACTED] and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

The property involved is a single family residence owned and occupied by [REDACTED]. The house has one bathroom, one kitchen, a washing machine, radiators, and one outside faucet. Two (2) people live in the home and [REDACTED] stated that her water and sewer bill is generally approximately Forty Dollars (\$40.00) per billing cycle.

[REDACTED] testified that she immediately called DC Water when she received her January 2017 billing statement. She stated that she knew that the bill had to be a mistake but when she spoke with a customer service representative, she was told that there had been a ten (10) day spike in water consumption at her home.

[REDACTED] testified that during the period that the alleged spike occurred, she did not see any water and that she had no leaks and had performed no plumbing repairs or work in or about her property. [REDACTED] stated that she approached her neighbor and asked the neighbor if he saw anything amiss. [REDACTED] stated that her neighbor had had a plumbing issue in his home wherein his basement was full of water and his yard had to be dug up to repair the problem. [REDACTED] testified that she believed that the neighbor's water problems occurred before January 2017. [REDACTED] also testified that there was on-going house construction behind her house and that she went to the construction site and asked whether what was occurring regarding the construction could have affected her water usage and bill. She stated that the construction workers denied having any affect upon her water usage and she stated that her neighbor had not seen any water issues about her property. [REDACTED] denied having to shake her toilet handle to stop the toilet from running and she stated that she had had no guests visiting her, that she had not done any entertaining and that to her knowledge, there was nothing unusual occurring in or about her property during the time of the alleged spike in water usage.

██████████ testified that the DC Water service representative informed her that the problem was not caused by the water meter because the usage stopped and started registration on the meter.

The customer testified that her February 2017 charges were back to within normal range and that both prior to the January 2017 billing and after the billing, her bills have been normal.

██████████ complained that the DC Water service representative told her that she had to pay the bill that she was disputing.

██████████ testified that DC Water did not inspect her property for leaks or otherwise investigate her dispute and that the utility did not change her water meter. She stated that she, personally, did not have a plumber come out to the property to inspect the same.

The customer stated that she cannot visualize the amount of water allegedly used. She further stated that DC Water provided no alerts to her of high water usage; she stated that she never signed up for HUNA alerts by the utility.

Ms. Wright testified that there was a spike in water consumption at the property from January 10, 2017 to January 18, 2017. Ms. Wright explained that the customer has a MTU attached to the water meter and DC Water relies upon the device to transmit meter reads from the property. Ms. Wright stated that the customer had been billed by zero water usage from August 2015 to August 2016 and that after the period in dispute, the customer has incurred no water usage. Ms. Wright testified that the customer's meter readings did not change between January 19, 2016 and January 10, 2017 but then on January 11, 2017, water started to register on the water meter and water usage continued to register on the meter until January 18, 2017 when it stopped. Ms. Wright testified that during this period of water usage registering on the water meter usage was at a rate of .5CCF of water being used every twelve (12) hours.

Ms. Wright testified that DC Water removed the water meter for testing on March 20, 2017 and that the test took place on March 31, 2017 and determined that the water meter had 100.56% accuracy.

██████████ interjected that she deliberately does not use water at the house. She stated that she does not do laundry or cook at the residence and that she does not sleep at the residence. ██████████ stated that she comes to the house during the day. When asked directly if she lived at the property, after first asserting that she did live at the property, ██████████ stated that she has another house in Alexandria, Virginia. ██████████ maintained, however, that the house in the District of Columbia was her primary residence. She further acknowledged that she may use the bathroom at the house during her visits. She also stated that her daughter has access to the house.

Ms. Wright testified that the customer contacted DC Water on February 6, 2017 to dispute her bill. Ms. Wright asserted that by the time that the customer contacted DC Water about the bill, high water consumption was not occurring at the property and, as such, the utility had no reason to come out to the property and inspect the property for leaks. Ms. Wright went on

to explain that the utility did not have to conduct an underground inspection for leaks at the property because usage stopped and an underground leak requires repair before the leak will stop. Ms. Wright concluded that it was her opinion based upon the numerous water disputes that she had handled while employed by the utility that the high usage that occurred at the property was due to an internal fixture.

■■■■ maintained that she goes to the house every day and saw nothing amiss.

Ms. Wright countered that 1 CCF equals 748 gallons of water and that the customer consumed 71 CCF of water over the eight (8) day spike, meaning that the customer's average daily usage was 8.875 CCF. Ms. Wright asserted that a toilet can use that level of water and that the water loss is consistent with what a defective toilet may use in running water. Ms. Wright reiterated that the water meter only registers when water goes through the meter.

■■■■ asserted that she thinks that she would have heard water running if a toilet was running in the house.

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 by ■■■■.  
(Testimony of ■■■■, ■■■■)
2. The period in dispute is December 19, 2016 to January 19, 2017. (Testimony of the parties)
3. There was high water usage registering on the water meter at the property for a period of eight (8) days from January 10, 2017 to January 18, 2017. (Testimony of Eileen Wright; DC Water meter read log)
4. The customer visits the property but does not sleep at the property and contends that she does not cook or do laundry at the property. The customer did concede that she might use the toilet at the property during her visits. (Testimony of ■■■■, ■■■■)
5. Other than during the period that water registered on the water meter in January 2017, there has been no water registration on the water meter both before the water registration and thereafter dating back at least to August 2015. (Testimony of Eileen Wright; DC Water Usage and Billing History)
6. The water registration stopped without necessity of any repairs being performed.  
(Testimony of the parties)
7. DC Water did not inspect the property for leaks because water usage had stopped by the time that the customer contacted the utility to dispute the bill. (Testimony of Eileen Wright)
8. DC Water ruled out the existence of an underground leak as causing the high water usage at the property because the usage stopped without necessity of repairs being performed and an underground leak necessitates repair before it will stop leaking. (Testimony of Eileen Wright)
9. DC Water removed and tested the water meter and the meter was determined to have

100.56% accuracy. (Testimony of Eileen Wright; DCWASA Meter Test Results)

10. More than [REDACTED] has access to the inside of the house in that [REDACTED]'s daughter has access to the house. (Testimony of [REDACTED] [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. D.C. Municipal Regulations relating to water and sanitation bar adjustment of a customer's bill if excessive water consumption is the result of a leaking faucet, household fixtures, and similar leaks or the malfunctioning water-cooled air conditioning equipment. (21 DCMR 406)
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 in this matter could not establish that more likely than not the disputed charges were incorrect. Initially, the customer was not forthright regarding the occupancy of the residence and claimed that it was her primary residence and she just did not use water at the property.

As the evidence developed in this case, it became clear that the property involved is not lived in by the customer or by anyone else in that there had been no registration on the water meter for at least eighteen (18) months prior to the eight (8) day period that there was registered water usage and after the usage stopped, there was no water registration on the water meter. It remains unclear as to why the customer wanted to purport to be living at the property but not using water at the property but ultimately she acknowledged having another residence. The customer testified that she goes to the property every day and she conceded that she may use the toilet or wash her hands sometimes when she is at the property. Based upon the usage history of the property it is improbable that the owner spends any significant time within the house.

Ms. Wright surmised that the water usage was caused by a toilet and that in all likelihood someone used the toilet and the flapper stuck and the toilet ran until someone returned to the house and either used the toilet again or otherwise stopped the toilet from running. Ms. Wright can only speculate and has no proof that the water usage was caused by the toilet, however, her

explanation of a possible cause is plausible and based upon the facts presented that the property is not inhabited, the Hearing Officer accepts the theory as highly likely to be true.

Whether the usage was the result of a faulty toilet or not DC Water presented a meter test establishing the water meter's accuracy and the utility provided reasonable explanation for how it conducted its investigation of the customer's dispute of the charges, in that, it determined that there was no need to conduct an interior inspection of the house since there was no registration on the water meter by the time that the customer disputed the bill and that it ruled out the existence of an underground leak as a cause of the water usage because usage stopped without necessity of repairs being performed.

Pursuant to the District of Columbia Municipal Regulations, when all tests and checks do not determine the cause of excessive water usage, DC Water is barred from adjusting a customer's account for the excessive usage. (See, 21 DCMR 408) In this case, the evidence established that the meter was functioning and that the water usage stopped without necessity of repairs being performed, all of which point to a fixture or faucet being the cause of the water usage even though one cannot conclusively determine the cause. Ultimately, the property owner is responsible for water used at his/her property and as such, the determination by DC Water that the charges are valid and no basis exists to adjust the customer's account is hereby AFFIRMED.

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

Date: *June 30, 2017*

Copy to:

████████████████████  
██████████ 30<sup>th</sup> Street, SE  
Washington, DC 20020

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

IN RE: [REDACTED]  
[REDACTED] Naylor Road, SE  
Washington, DC 20019

Account No: [REDACTED]

Amount in Dispute - \$ 728.70

Before Janet W. Blessingame, Hearing Officer  
May 9, 2017 at 2:00 p.m.

The customer contested water and sewer bills for the above account for the periods of time September 20, 2016 to October 20, 2016 (\$257.74), October 20, 2016 to November 17, 2016 (\$208.89), December 9, 2016 to January 19, 2017 (\$136.54) and January 19, 2017 to February 17, 2017 (\$125.53). 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.

The matter was scheduled for hearing on May 9, 2017, but, was moved up from 2:00 p.m. to 1:00 p.m. and actually started at 12:50 p.m. Present for the hearing were [REDACTED] [REDACTED] and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

[REDACTED] [REDACTED] initial statement was that he feels that the credibility of the administrative hearing is in question because the Hearing Officer is employed/paid by DC Water.

[REDACTED] [REDACTED] proceeded to describe his property as a house that he purchased in year 2002. He stated that he gutted the house and lived in the house during its rebuilding and remodeling. He stated that the property has two (2) bathrooms, one kitchen, a washing machine and one outside faucet. The customer stated that the valves to the basement bathroom and outside faucets are turned off. He also stated that his toilet commode has a dual flushing device for water conservation. [REDACTED] [REDACTED] stated that he and his wife reside in the home and that their water and sewer bill generally is in the range of Fifty Dollars (\$50.00) to Sixty Dollars (\$60.00) per billing cycle.

[REDACTED] [REDACTED] testified that a new meter was installed at his property sometime during the summer of 2016. He stated that he is not sure when the meter was placed but it got his attention when a water and sewer bill arrived for over Two Hundred Dollars (\$200.00+). [REDACTED] [REDACTED] testified that a second meter was installed at the property but thereafter his water and sewer bill remained higher than the average norm.

[REDACTED] [REDACTED] testified that he saw on the meter reads that water was running twenty-four (24) hours per day. He testified that his pattern is that he leaves the house by 6:00 a.m. and that he is in bed by 9:30 p.m. The customer pointed out that DC Water inspectors twice found no leaks in the house. He further stated that ordered a water meter for himself but the meter is not

installed. He stated that his water and sewer bill reduced in March and April to the Sixty Dollar (\$60.00) range.

██████████ testified that he had HEP Construction come out to his home in the middle of April 2017 to give an estimate of installation of the secondary meter and to check for leaks.

The customer stated that he understood that from December 10, 2016 until January 26, 2017, there was continuous water being used at his property as reflected in the meter reads from DC Water. ██████████ asserted that something was wrong with the water meter. He stated that he and his wife had the same water usage, that it was the same two (2) people occupying the home and that they had no leaks. ██████████ asserted that it does not make any sense that there would be water usage in the early mornings- 2:00 a.m. and 3:00 a.m.

In response to a question from Ms. Wright, the customer pointed to the meter reads starting at midnight on January 25, 2017 and noted that water was reflected in the reads as continuously being used until 16:00. The Hearing Officer pointed out that she saw in the meter reads water starting to run on January 23, 2017 between 4:00 a.m. and 5:00 a.m. and continuing to run until January 25, 2017 at 16:00. The customer asked Ms. Wright what was the meter read on November 30, 2016 and he, then, stated that he was out of the country from November 24, 2016 until December 5, 2016. ██████████ testified that his house was shut down in his absence.

Ms. Wright testified that DC Water considers the charges valid based upon the meter reads transmitted from the property. She testified that the first spike in usage was recorded lasting twenty-two (22) days from October 7, 2016 to October 29, 2016 during which the customer used 35 CCF of water and had an average daily usage of 1.590 CCF. Ms. Wright testified that water usage declined at the property between October 29, 2016 and November 17, 2016 and that during those nineteen (19) days, the customer used only two (2) CCF of water and had an average daily usage of 1.05 CCF. She testified that the customer's water usage further declined between November 17, 2016 and December 9, 2016 during which one CCF of water was consumed and the customer's daily average usage was .045 CCF. Ms. Wright testified that she saw a second spike in the customer's water usage from December 11, 2016 to December 12, 2016 and that the customer used five (5) CCF of water. Ms. Wright stated that the usage declined and that between December 12, 2016 and December 19, 2016, the customer used one CCF in seven (7) days and his average daily usage for the seven (7) days period was .142 CCF.

Ms. Wright pointed out that by the time that DC Water changed the customer's water meter, the customer's water usage had declined.

██████████ interjected that the DC technician who came to his property told him that DC Water had to replace 60,000 water meters within the District of Columbia. Ms. Wright responded that DC Water was engaged in a major project which started last year to replace all water meters in the city because some of the meters have slowed down in registering water usage.

Ms. Wright testified that water meters do not run fast and then slow down if they are faulty. She stated that a faulty water meter will continue to run fast.

Ms. Wright testified that DC Water installed a new meter at the customer's property on December 9, 2016 and that the same meter is still at the property.

██████████ stated that DC Water changed the meter cover in March 2017. He declared that DC Water had a monopoly.

Ms. Wright testified that starting December 11, 2016, water started running at the property and every hour there was recorded water usage at the property until December 12, 2016 between 12:00 and 1:00 p.m.

Ms. Wright testified that over the fifteen (15) years that she has been reviewing water disputes, 90% of all spikes are caused by a toilet and that toilet leaks are indicative of stops/starts in water being used. She stated that such leaks are controlled inside of the house. She added that if the increased water usage had been caused by an underground leak, usage would have continued until repaired.

Ms. Wright testified that DC Water conducted an underground inspection for leaks on February 5, 2017 and no meter registration was found. She clarified that DC Water did not pull and test the meter at the property but, instead, the technician did an equipment check. She pointed out that all of the bills being disputed were based upon actual meter reads.

██████████ stated that he and his wife go to Virginia Beach regularly. Ms. Wright noted that there was registration on the water meter on February 5, 2017 when no one was supposed to be home.

The Hearing Officer noted that there were spikes reflected in the record occurring in July and August 2016, both of which pre-date the disputed billings.

██████████ concluded that he planned to install an automatic shut-off valve and a monitoring device to dispute meter reads from his property.

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

#### FINDINGS OF FACT

1. The property involved is a single family residence owned by ██████████.  
(Testimony of ██████████ ██████████)
2. The customer is disputing four (4) billing periods spanning from September 20, 2016 to February 17, 2017. (Testimony of the parties)
3. Since July 2016, there have been fluctuations in water consumption occurring that the property where high water usage will occur and decline and reoccur and decline. Before the periods in dispute, the customer was billed for 15 CCF of water in July 2016 and 9 CCF of water in August 2016. The customer was billed for 4 CCF of water used in September 2016. The customer was billed for 22 CCF and 17 CCF in October and November 2016 respectively, then, in December 2016, he was billed for using 1 CCF. He

was billed for using 10 CCF in January 2017 and using 9 CCF in February 2017. He was billed for 3 CCF in both March and April 2017. (DC Water Billing History and Usage History)

4. DC Water conducted an interior inspection and a meter leak check on December 9, 2016 and no leaks were found. (Testimony of Eileen Wright; DC Water Investigation Letter dated March 3, 2017)
5. DC Water ruled out the existence of an underground leak as a cause of high water usage occurring at the property because usage declined and in order for usage caused by an underground leak to decline, repairs are required to be made. (Testimony of Eileen Wright; DC Water Investigation Letter dated March 3, 2017)
6. The customer hired a plumbing company to inspect his property and no leaks were found in April 2017. (Testimony of [REDACTED])
7. DC Water changed the customer's water meter on December 9, 2016 as part of its project to replace every customer's water meter. (Testimony of Eileen Wright)
8. Each bill being disputed by the customer is based upon actual meter read transmissions from the property. (Testimony of Eileen Wright)
9. Two (2) different water meters registered water usage at the property during the periods in dispute in that the water meter was changed in December 2016 and the disputed periods span from September 20, 2016 to February 17, 2016. . (DC Water Billing History and Usage History; testimony of Eileen Wright)
10. Each water meter existing at the property during the periods in dispute registered water usage fluctuating between spikes of excessive usage and declines in water usage

#### 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. D.C. Municipal Regulations relating to water and sanitation bar adjustment of a customer's bill if excessive water consumption is the result of a leaking faucet, household fixtures, and similar leaks or the malfunctioning water-cooled air conditioning equipment. (21 DCMR 406)
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

In this case, the customer cannot establish a case that more likely than not the disputed water bills are wrong or that for some other reason he should not be responsible for payment of the disputed water bills.

Ms. Wright testified that over the course of fifteen (15) years hearing water bill disputes, 90% of the time high water usage is caused by a toilet and that fluctuations in water usage are indicative of a faulty toilet. Ms. Wright's assessment of the cause of the high water usage in this case was not sustained or ruled out by the tests and checks conducted by both the utility and the customer for neither found any leaks. With respect to the plumber hired by the customer, the plumber was at the property in April 2017 when usage had declined and the customer only consumed 3 CCF of water between March 20, 2017 and April 19, 2017. Likewise, when DC Water's technician was at the property on December 9, 2016, usage had declined as Ms. Wright testified that the customer between November 17, 2016 and December 9, 2016 used only one CCF of water and had a daily average usage of .045 CCF whereas there had been recorded high usage occurring at the property for varying periods of days starting in September 2016.

The customer maintained that his water meter was faulty. The evidence and testimony however did not support the customer's contention in that two (2) different water meters existed at the property during the periods in dispute and both water meters registered periods of high water usage and declines in water usage and DC Water verified the meter reads and all of the reads were transmitted from the property so that specific dates and times that high water usage occurred could be seen in the record of meter reads maintained by the utility. DC Water ruled out the existence of an underground leak as a possible cause of the high water usage citing the characteristic of an underground leaks as being that the leak will continue until repairs are performed as opposed to usage fluctuating as it did at the customer's property.

Had the plumber and technician inspected the property when high water usage was occurring, either might have detected a faulty toilet as surmised to be the culprit by Ms. Wright. If a toilet defect had been found, the Municipal Regulations bar DC Water from adjusting a customer's account when excessive water usage is caused by a faulty internal fixture. (See 21 DCMR 406) In that a faulty toilet was not found during the inspections but neither was any cause to explain the high water usage and the meters were functioning, the reads were being sent, the customer was billed based upon actual meter reads and no leaks were found when the inspections occurred, the weight of the evidence does not show that the bills were wrong, just that the cause of the high water usage was not found by the test and checks conducted. In instances where tests and checks are inconclusive as to the cause of high water usage, DC Water is barred from adjusting the customer's account for the high water usage. (See, 21 DCMR 408)

In this case, the evidence points to a faulty toilet as causing the high water usage and fluctuations in water consumption at the property and the Hearing Officer finds the utility's assumption of the cause to be plausible even though not proven. Nothing presented showed the bills to be wrong and no basis exists to otherwise excuse the customer from payment of his water

bills. Accordingly, the determination by DC Water that the charges are valid and no basis exists to adjust the customer's account is hereby AFFIRMED.

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

Date: June 30, 2017

Copy to:

  
 Naylor Road, SE  
Washington, DC 20019

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

IN RE: [REDACTED]  
c/o [REDACTED], POA  
[REDACTED] 23<sup>rd</sup> Street, SE  
Washington, DC 20020

Account No: [REDACTED]

Amount in Dispute - \$ 2,887.88

Before Janet W. Blassingame, Hearing Officer  
May 10, 2017 at 10:00 a.m.

CORRECTED DECISION

The customer contested water and sewer bills for the above account for the period of time September 16, 2016 to December 20, 2016. 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.

The matter was scheduled for hearing on May 10, 2017. Present for the hearing were [REDACTED] on behalf of [REDACTED] and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

The property involved is a single family residence owned and occupied by [REDACTED]. The property has one and one-half (1 ½) bathrooms, one kitchen, a washing machine, a dishwasher and one outside faucet. [REDACTED] is eighty (80) years old, lives alone, but employs two (2) healthcare aides to assist her with her daily personal needs. [REDACTED] stated that the water and sewer bill generally ranges between Seventy-four Dollars (\$74.00) and One Hundred Ten Dollars (\$110.00) per billing cycle. [REDACTED] stated that she has served as [REDACTED] power of attorney for the past four (4) years and in that capacity, she manages [REDACTED] finances and pays her bills.

[REDACTED] testified that she contacted DC Water regarding [REDACTED] water and sewer bill and the utility sent a technician out to the property to conduct an interior audit in January 2017. [REDACTED] stated that the technician found no leaks inside or outside of the property. She also stated that after receipt of the bill being disputed, she paid two subsequent bills and each bill was for Three Hundred Dollars (\$300.00). [REDACTED] testified that [REDACTED] water bill declined back to within normal range- Eighty Dollars (\$80.00).

[REDACTED] testified that there have been no repairs performed at [REDACTED] home. [REDACTED] stated that she asked [REDACTED] neighbors if anyone has seen anything unusual or seen anyone using water from [REDACTED] property and none of the neighbors have seen anything. [REDACTED] further stated that she, personally, has not seen any leaks.

██████████ concluded by stating that ██████████' has never had such a high bill as the bill being disputed.

Ms. Wright testified that the customer has an automated water meter and that meter reads are transmitted from the property by a meter transmittal unit (MTU) which is attached to the water meter. Ms. Wright asserted that if and when the MTU fails to transmit meter reads, the utility can estimate a customer's' water usage for billing purposes.

Ms. Wright testified that the MTU at the property stopped transmitting meter reads as of September 16, 2016 and thereafter, DC Water based the customer's water and sewer bills for October and November 2016 based upon its estimates of the customer's water usage. Ms. Wright testified that DC Water obtained an actual meter read on December 20, 2016.

Ms. Wright testified that prior to the MTU failing to send meter reads, the customer had a spike in water consumption in August 2016 at 4 CCF. Ms. Wright stated that in September 2016, the customer consumed 13 CCF and that between September 5 and September 7, 9 CCF of water registered on the water meter making the customer's daily average usage 4.5 CCF per day.

Ms. Wright testified that a service technician conducted an interior inspection of the customer's home on January 10, 2017 and on the same day but before the inspection took place, another service technician was at the property and removed the water meter. Ms. Wright testified that the water meter was tested and determined to have 98.23% accuracy which is within the accepted range for meter accuracy as established by the American Water Works Association. Ms. Wright testified that the accepted range for meter accuracy is 95% to 102%.

Ms. Wright testified that the MTU has no bearing upon meter function. She stated that the meter read obtained on January 10, 2017 was high. Ms. Wright went on to review the meter read record of the property and stated that no water usage occurred at 2:00 pm and then the meter began to move but by 3:00 pm only 4 cubic feet (29 gallons) has registered on the meter. Ms. Wright explained that DC Water only bills in 100 cubic feet and that it took until January 17, 2017 for 1 CCF of water to register on the water meter. Ms. Wright testified that there appears to have been a spike in water usage starting at 3:00 pm on January 17, 2017 and stopping at 6:00 pm on the same day. Ms. Wright noted that 5 cubic feet (37 gallons) of water registered on the meter as having been used during the three (3) hours period. ██████████ interjected that ██████████ aides are in the home caring for her between 9:00 am to 4 pm and between 11:00 pm to 7:00 am.

Ms. Wright stated that she does not know what is causing water to run in the ██████████ home but it happens several times during the day and that one can see water usage on January 12<sup>th</sup>, January 13<sup>th</sup>, and January 15<sup>th</sup>. Ms. Wright stated that on January 14<sup>th</sup>, water ran between 7:00 am and 9:00 am and that small spikes can be seen occurring on May 7<sup>th</sup> and May 8<sup>th</sup>. Ms. Wright concluded that someone is using water within the home or there is a slow, slow leak.

Ms. Wright stated that she knows that the usage is not being caused by an underground leak because the usage stops.

Ms. Wright testified that before DC Water started to estimate the customer's water usage there was a spike in water usage for two days- September 5<sup>th</sup> – 7<sup>th</sup>, and 9 CCF of water registered

on the meter. Ms. Wright testified that the spike in usage accounted for part of the 13 CCF in total usage reflected on the customer's September 2016 bill.

Ms. Wright reiterated that she cannot say what caused the high water usage at the property but based upon her experience at DC Water, 90% of the time the high water usage is caused by a toilet. Ms. Wright acknowledged that the DC Water technician, however, did not find a toilet leak. Ms. Wright stated that the high water usage reflected on the disputed bill occurred sometime between September 2016 and December 2016.

████████ stated that she called the Greater Urban League seeking assistance for payment of the water and sewer bill and she was told that the amount due on the bill was too high. Ms. Wright suggested that ██████ contact the D.C. Office on Aging and Strong Families which might be able to help. She told ██████ that the DC Energy Office may give a credit to ██████ on future bills each month.

Ms. Wright acknowledged that the customer had been assessed late charges on her account pending resolution of the bill dispute and that the late charges were inappropriate. Ms. Wright stated that she would remove from the ██████ account late charges of \$25.82 and \$30.28. She informed ██████ that after the late charges are removed ██████ balance due will be \$2,966.44 and that of the balance due, the customer needs to pay \$48.28 for her account to be current pending resolution of the bill dispute.

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 ██████. (Testimony of ██████)
2. The period in dispute is September 16, 2016 to December 20, 2016. (Testimony of the parties)
3. The MTU at the property stopped transmitting meter reads on September 16, 2016 and thereafter, DC Water estimated the customer's water usage for billing purposes in October and November 2016. (Testimony of Eileen Wright)
4. DC Water obtained an actual meter read from the property on December 20, 2016 and thereafter sent a bill to the customer dated December 23, 2016. (Testimony of Eileen Wright)
5. DC Water was able to detect an increase in water usage occurring at the property for two (2) days in September 2016, however, the customer received no notice of high water usage or of a spike occurring at the property and was otherwise unaware of the high water usage. (Testimony of the parties)
6. DC Water estimated the customer's water usage for October and November 2016 at the same volume of water used in September 2016, so for three (3) consecutive months, the customer's received bills for the same amount of water- 13 CCF, before receiving a bill reflecting 313 CCF as having been used. (DC Water Billed History and Usage History Chart)
7. There were no known leaks at the property during the period in dispute and no repairs

- were performed at the property. (Testimony of [REDACTED])
8. There were no visual indicators to the customer or her neighbors that there was a water issue occurring at the property and the neighbor saw no water about the property or saw anyone taking the water. (Testimony of [REDACTED])
  9. There was continuing high water usage occurring at the property in January 2017 however by February 2017 there was a significant decline in water usage at the property. (Testimony of Eileen Wright; DC Water Billed History and Usage Chart)
  10. DC Water ruled out the existence of an underground leak as a cause of high water usage occurring at the property. (Testimony of Eileen Wright; DC Water Investigation Letter dated February 14, 2017)
  11. DC Water removed and tested the water meter and the water meter was determined to have 98.23% accuracy. (Testimony of Eileen Wright; DCWASA Meter Test Report)
  12. DC Water conducted an interior inspection of the property and the service technician found no leaks. (Testimony of the parties)

### 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 July3, 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 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)

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).
8. 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 in this case was able to establish a prima facie case that more likely than not the bill being disputed was wrong. The basis of the customer's case was evidence and testimony of the customer not knowing of any leaks or plumbing problems within the residence, DC Water not detecting any leaks or plumbing problems, the exclusion of the possible existence of an underground leak as causing the excessive usage, and the fact that no repairs were performed by the customer or DC Water to cause a decline in water usage.

On the part of DC Water in its rebuttal of the customer's case, the utility showed that the water meter was functioning properly and that the excessive usage was not caused by internal leaks or underground leaks. DC Water asserted that it did not know the cause of the high water usage but the utility was not at fault for the occurrence because its equipment was functioning properly.

There is a Municipal Regulation which bars DC Water from adjusting a customer's bill when all checks and tests are inconclusive as to what caused the excessive consumption. (See, 21 DCMR 408) In this case, however, the tests and checks verified that there was no leak and, as such, equally supported the customer's position that she did not use the water as they supported the utility's position that the customer was responsible for the usage. Since neither party knows of the cause of the excessive water use, it becomes relevant as to whether either was capable of mitigating the loss through its knowledge that high usage was occurring. The customer testified that she was unaware of the high water usage and she pointed to her historical water usage bills. DC Water pointed out that the customer's usage increased between August and September 2016 which was before the two (2) billing cycles that the utility estimated the customer's water usage.

DC Water further pointed to its authority to estimate a customer's water usage whenever the MTU fails to transmit meter reads from a property. In this case, the MTU did stop transmitting meter reads on September 16, 2016 which was the last day of the billing period for the period August 16, 2016 to September 16, 2016 and then the utility estimated the customer's usage for the next two (2) billing cycles.

There was no evidence or testimony that the utility informed the customer of increased water consumption occurring at her residence even though in retrospect the utility provided such information at the hearing as evidence that the customer knew or should have known that a problem existed with her water usage.

The issue herein is one of fairness to both sides. This is a case of a customer receiving an exceedingly high bill without warning of high water usage occurring in her residence or opportunity to stop or mitigate the loss because the utility was estimating her water usage for two (2) months and the prior month before the MTU stopped, the billed usage based upon an actual meter read was no indication of the amount of water loss for which the utility would ultimately seek payment. Here the utility estimated the customer's water usage for the bills dated October 26, 2016 and November 26, 2016 and did not advise the customer of high water usage occurring at the property but in December 2016 back billed the customer for 303 CCF of water used when the customer had previously been billed based upon actual and estimated usage for the prior three (3) months, each, at 13 CCF.

In some cases where a customer is caused harm through no fault of his/her doing but due to the utility's failure to perform some task, the customer is relieved from liability based upon the equitable defense of laches.

DC Water has no specific regulation regarding back-billing or limitation on its ability to back-bill a customer's account. The authority to back-bill comes only through its broad authority to charge and collect for water and sewer service. (See, D.C. Code §34-2202.03(11).

Some water authorities have addressed the issue of back-billing but DC Water has not done so and other authorities have established back-billing practices relating to length of time that they can back-bill or the types of customers subject to back-billing. The water authorities that have passed regulations addressing back-billing have indicated that they have done so to protect the interests of consumers in promptly settling their accounts while at the same time providing a reasonable time for utilities to correct inaccuracies in billing. For example, the NY Water Authority has a statutory limit on back-billing. (See, *Perry Thompson Third Co., v. City of New York, et al.*, 279 A.D.2d 108; 718 N.Y.S.2d 306; 2000 N.Y. App. Div. LEXIS 13984, citing the Governor's Mem Approving L. 1979, ch 233, 1979 Legis Ann, at 147.)

In that there are no specific regulations authorizing back-billing or restricting the same, this body maintains that it is appropriate to examine bill disputes on a case-by-case basis in an effort to weigh unpredictable and/or arbitrary billing and the prompt settling of customer accounts against correcting billing deficiencies. In weighing the factors, the Hearing Officer is convinced that this dispute is appropriate for imposition of the doctrine of laches on behalf of the customer.

Laches is an equitable defense against harm caused by another's delay or failure to take action. In this case, DC Water both billed the customer based upon actual meter reads and estimated usage at amounts far below actual meter read transmissions received by the utility and if the customer has been advised of high water usage occurring when the utility had knowledge of it occurring, the customer not only would have had opportunity to stop the loss of water but also the cause of the high water usage could have been investigated and identified.

The customer paid the water and sewer bills sent to her and nothing in her usage history would have given notice to her of any possibility that her payments were insufficient. Because the utility failed to take action regarding the high meter reads that it received, the customer is faced with a high water bill for an extended period at an amount that she has never been billed before in her billing history. Based upon the facts presented, the Hearing Officer hereby imposes laches as a defense for the customer against her liability for payment of the adjusted bill.

By regulation, DC Water can estimate a customer's water usage when the MTU fails to transmit meter reads. (See, 21 DCMR 308.4). The regulations further dictate that DC Water must read water meters on a quarterly basis. (See, 21 DCMR 308.1 and 309.1) The utility got a meter reading in this case on December 20, 2016 after last having a reading on September 16, 2016 which meant that a total of 94 days elapsed between meter readings. A quarterly basis is comprised of less than 92 days. Being late by two (2) days is a technical violation of the mandate for meter readings by statute but would not be deemed necessarily unreasonable if the customer had not suffered such harm from not knowing the extent of water being loss during the period that her meter was not read and reads were not being transmitted.

Accordingly, DC Water's determination that the charges are valid and no adjustment of the customer's bill is warranted is hereby REVERSED and dc Water is hereby directed to adjust the customer's account by reinstating the estimated water usage for billing purposes as reflected in the Bill Summaries dated October 26, 2016 and November 26, 2017 and the customer's payment of the charges shall be considered full payment for said billing periods. DC Water shall further, if it have not already done so, remove from the customer's account late charges of \$25.82 and \$30.28.

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

Date: July 5, 2017

Copy to:

██████████  
██████████ 23<sup>rd</sup> Street, SE  
Washington, DC 20020

██████████  
██████████ Good Luck Rd., Apt. T2  
Lanham, MD 20706

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

IN RE: [REDACTED]  
[REDACTED] Division Avenue, NE  
Washington, DC 20019

Account No: [REDACTED]

Amounts and Periods in Dispute:

6/20/16 – 7/21/16 = \$ 180.51  
7/21/16 – 8/18/16 = \$ 240.21  
8/18/16 – 9/21/16 = \$ 528.76  
9/21/16 – 9/29/16 = \$ 217.33  
9/29/16 – 11/21/16 = \$527.28

Before Janet W. Blassingame, Hearing Officer  
May 10, 2017 at 2:00 p.m.

ORDER OF DEFAULT

The customer contested a water and sewer bills for the above account for the periods of time from June 20, 2016 through November 21, 2016. 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 May 10, 2017. Eileen Wright, Sr. Customer Care Associate, DC Water, was present for hearing on behalf of DC Water.

The customer was afforded a thirty (30) minute grace period and although the hearing was delayed until 10:30 a.m., the customer failed to appear. The letter of notification that was sent to the customer advised her that "Failure to appear at your scheduled hearing may result in a default judgment being entered against you." (See, 21 DCMR 415.3) As such, based upon customer's failure to appear or to request in advance that the hearing be postponed, a default judgment is entered against the customer and the determination that the bill is valid is affirmed.

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

Date: June 17, 2017

Copy to:

[REDACTED]  
[REDACTED] Division Avenue, NE  
Washington, DC 20019

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

IN RE: [REDACTED] [REDACTED]  
[REDACTED] Aspen Street, NW  
Washington, DC 20012

Account No: [REDACTED]

Service Address:  
[REDACTED] Rittenhouse Street, NW

Amount in Dispute - \$ 622.69

Before Janet W. Blassingame, Hearing Officer  
May 16, 2017 at 10:00 a.m.

The customer contested water and sewer bills for the above account for the period of time December 18, 2015 to June 15, 2016. The DC Water and Sewer Authority (DC Water) refused to honor the request for investigation the charges citing the customer's failure to challenge the charges prior to the mailing of his next bill. The customer appealed DC Water's decision and requested an administrative hearing. DC Water elected not to seek dismissal of the hearing request by motion and it set the matter for hearing.

The matter was scheduled for hearing on May 16, 2017. Present for the hearing were [REDACTED] [REDACTED] along with [REDACTED] [REDACTED], his wife, and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

Ms. Wright requested to make a preliminary statement before testimony began... Ms. Wright declared that DC Water has decided to adjust the customer's bill for the period January 23, 2015 to June 15, 2016. She stated that the adjustment effected 96 CCF of water billed to the account amounting to a charge of \$896.24. Ms. Wright further stated that the customer will only owe for fees which DC Water does not adjust and that said fees amount to a cost of \$253.95 and cover fees for the meter, clean river, storm water and replacement.

[REDACTED] [REDACTED] indicated that he was satisfied with the adjustment and that his only request would be that his wife is added as a third party on his accounts for properties located at [REDACTED] Rittenhouse Street, NW, [REDACTED] Rittenhouse Street, NW, and [REDACTED] Rittenhouse Street, NW. Ms. Wright agreed to the addition of [REDACTED] [REDACTED] as a third party on her husband's accounts with the utility and Ms. Wright stated that she would modify each account by the end of the business day.

Based upon the representation of DC Water regarding the adjustment of the account and the customer acceptance and satisfaction with the adjustment, the Hearing Officer declared the matter resolved and SETTLED.

By:   
Janet W. Blassingame, Hearing Officer

Date: June 30, 2017

Copy to:

■■■■■■■■■■  
■■■■ Aspen Street, NW  
Washington, DC 20012

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

IN RE: [REDACTED]  
[REDACTED] A Street, NE  
Washington, DC 20002

Account No: [REDACTED]

Amount in Dispute - \$ 277.03

Before Janet W. Blessingame, Hearing Officer  
May 16, 2017 at 11:00 a.m.

The customer contested water and sewer bills for the above account for the periods of time July 29, 2016 to August 28, 2016 (\$103.69) and August 28, 2016 to September 27, 2016 (\$173.34). 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.

The matter was scheduled for hearing on May 16, 2017. Present for the hearing were [REDACTED] and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

The property involved is a single family residence owned and occupied by [REDACTED]. The property has two and one-half (2 ½) bathrooms, one kitchen, a dishwasher, a washing machine, radiators, and one outside faucet. [REDACTED] stated that the property was purchased in year 2001 and that his water and sewer bill usually is in the range of Seventy Dollars (\$70.00) to Eighty Dollars (\$80.00) per billing cycle.

[REDACTED] stated that he and his wife travel a lot. He testified that they travel to West Virginia often for short trips. He stated that they were in India from December 15, 2016 to February 2, 2017 and that they were in England in October 2016 for two (2) weeks.

[REDACTED] stated that he called DC Water and in response a DC Water technician came out to his house. [REDACTED] stated that the technician told him that his water meter was broken. [REDACTED] testified that a DC Water technician came to his house on two (2) occasions- first, the technician inspected for leaks, found no leaks and said something was wrong with the water meter and that the meter was not performing correctly; second, the technician or sub-contractor replaced the water meter.

[REDACTED] commented that in a previous year, he had had to contact a plumber to correct pressurization in his water line.

[REDACTED] testified that all of a sudden he got a high water and sewer bill. He stated that nothing has changed within the home. He stated that at one time he questioned whether water was being stolen from the property, so he took the handle off of the water faucet to avoid water theft. He further stated that he has had no plumbing work performed in the house, that he

does not need to jingle the toilet handle to stop the toilet from running and he has not heard any running water.

██████████ testified that he remembers receiving an alert from DC Water of high water usage occurring at the home. The customer stated that he called the utility to say that there were no leaks in house. ██████████ testified that it is his normal procedure to check for leaks within his home. ██████████ interjected that the technician was at their home to check for leaks on December 9, 2016. ██████████ stated that he had his son, as well, look for any leaks within the home and his son saw no water, saw no leaks and did not hear water running within the house.

██████████ questions whether the utility actually reads the water meter based upon his observance that his water and sewer bill is always for the same amount.

Ms. Wright explained that the customer has a device on his meter called an MTU which transmits meter reads. She stated that previously installed MTUs transmitted every twelve (12) hours but new MTUs transmit hourly. She went on to state that the customer's MTU was changed in December 2016 and then, in February 2017, the customer's water meter was removed for testing. Ms. Wright asserted that when the technician stated that something was wrong, the technician was referring to the MTU not working, not the water meter. Ms. Wright stated that the bills being disputed by the customer are based upon actual meter reads.

Ms. Wright testified that two (2) spikes in water usage registered on the customer's water meter and DC Water considers the charges valid because they are based upon actual meter reads from the residence. Ms. Wright testified that the spikes occurred August 25, 2016 to August 29, 2016 during which the customer used 3 CCF of water which averaged to 1 CCF per day, and, on August 28, 2016 to August 31, 2016 during which the customer used 4 CCF of water which averaged to 1.33 CCF per day.

The customer pointed out that the DC Water Meter Read Log had several entries in lieu of a meter read that said "Meter Err". Ms. Wright responded that the entry "Meter Err" means that the MTU was not transmitting a meter read. Ms. Wright acknowledged that there were no meter reads on August 26<sup>th</sup> and August 27<sup>th</sup> and that the next meter read entry was on August 28<sup>th</sup>. Ms. Wright stated that after August 28<sup>th</sup>, the next received meter transmission was on August 31<sup>st</sup>, then September 2, 2016 and September 3, 2016. Ms. Wright testified that 2 CCF of water registered on the water meter between September 4, 2016 and September 6, 2016. She acknowledged that she had no meter reads for September 5<sup>th</sup> and only one read on September 4<sup>th</sup>. Ms. Wright testified that the meter reads reflect that a significant decline in water usage occurred starting September 6, 2016.

██████████ stated that he and his wife have no children or pets.

Ms. Wright further testified that DC Water conducted an internal inspection of the home on December 9, 2016 and no leaks were found but the technician found that the MTU was not transmitting meter reads, so MTU was replaced. She stated that on February 10, 2017, the customer's meter and MTU were replaced. Ms. Wright testified that even though the meter was

replaced on February 10, 2017 on February 24, 2017, another technician found that the meter had not been programed in the meter pit. Ms. Wright testified that the meter was removed and another meter was placed at the property.

Ms. Wright testified that DC Water tested the water meter from the property on February 16, 2017 and the meter was determined to have 100.63% accuracy.

██████████ interjected that there is nothing obstructing the water meter which would have prevented the transmission of meter reads.

Ms. Wright stated that the meter read corresponds with the customer's billing.

██████████ noted that when the 1<sup>st</sup> spike occurred between August 25, 2016 and August 28, 2016, the record reflected meter errors on the intervening days of the spike. He further noted that there were no reads on August 29<sup>th</sup> and August 30<sup>th</sup>, the intervening days that the 2<sup>nd</sup> spike occurred between August 28, 2016 and August 31, 2016. Ms. Wright responded by reiterating that the MTU has no bearing upon meter function, and that the notation "Meter Err" relates to the MTU, not to the water meter.

██████████ stated that they do have someone come into their home when they travel to check on the house and to water the plants, get the mail, and flush the toilet. They also acknowledged that they sometimes have a house sitter. ██████████ stated that the worst bill received for water and sewer service was dated October 4, 2016 for 14 CCF of water. Ms. Wright responded that an alert was sent out to the ██████████ regarding the spike that occurred September 3, 2016 to September 6, 2016 and the customers used 2 CCF of water. ██████████ noted that there were five (5) meter errors on the read log for the period between September 2, 2016 and September 6, 2016. Ms. Wright responded that a water meter does not slow down when it malfunctions. She stated that when a meter malfunctions, the dials on the meter would have continued to move. Ms. Wright pointed out that in this case the registration of the water meter slowed down before DC Water came out to the property for the inspection. She continued that between September 12, 2016 and September 27, 2016, the customers used only 2 CCF of water which is considerably less than during the spike periods.

██████████ ending statement was that he seriously doubts that they used that much water.

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 home owned and occupied by ██████████ and his wife, ██████████. (Testimony of ██████████)
2. The periods in dispute are July 29, 2016 to August 28, 2016 and August 28, 2016 to September 29, 2016. (Testimony of the parties)
3. There was a significant increase in water usage registering on the water meter August 25,

2016 to August 28, 2016 and August 28, 2016 to August 31, 2016. (Testimony of Eileen Wright; DC Water Meter Read Log)

4. Water usage declined after each spike without necessity of repairs being made. (Testimony of the parties; DC Water Meter Read Log)
5. The customers were unaware of any leaks or plumbing issues in or about the property. (Testimony of [REDACTED] [REDACTED] [REDACTED])
6. The bills being disputed by the customer are based upon actual meter reads. (Testimony of Eileen Wright; DC Water Bill and Usage History; Bill Summary dated 09/02/16; Bill Summary dated 10/04/16)
7. The MTU at the property intermittently failed to transmit meter reads however the utility did not estimate the customer's water usage. (Testimony of Eileen Wright; DC Water Meter Read Log; DC Water Bill and Usage History)
8. DC Water conducted an interior inspection of the customer's property and found no leaks. (Testimony of the parties; DCWASA Inspection Notes)
9. DC Water removed and tested the water meter and the meter was determined to have 100.63% accuracy. (Testimony of Eileen Wright; DCWASA Meter Test Results)
10. DC Water sent an alert of high water usage to the customers on September 8, 2016. (Testimony of Eileen Wright; email memorandum from Danny Ballerini, DC Water)
11. MTU transmission errors or failures have no impact upon meter function. (Testimony of Eileen Wright)
12. The customers are frequent travelers and when they do travel, they will have someone come into their home to check on the house and perform such tasks as watering flowers, getting the mail, flushing the toilet and sometimes the customers will have house sitters when they are away from the home. (Testimony of [REDACTED] [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. 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

In this case, the customer cannot establish a case that more likely than not the disputed water bills are wrong or that for some other reason he should not be responsible for payment of the disputed water bills.

The customer testified that he was unaware of any leaks or plumbing problems to account for high water usage at his property, however, DC Water presented evidence of its sending the



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

IN RE: [REDACTED] [REDACTED]  
[REDACTED] Indian Paintbrush Way  
Lorton, VA 22079

Service Address:  
[REDACTED] Potomac Street, NW

Account No: [REDACTED]

Amount in Dispute - \$3,089.58

Before Janet W. Blassingame, Hearing Officer  
May 16, 2017 at 1:00 p.m.

The customer contested water and sewer bills for the above account for the periods of time October 6, 2016 to November 7, 2016 (\$2,286.99) and November 7, 2016 to November 30, 2016 (\$802.59). 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.

The matter was scheduled for hearing on May 16, 2017. Present for the hearing were [REDACTED] [REDACTED], her son and translator, and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

The property involved is a townhouse designated as commercial property purchased by [REDACTED] in year 2014. The property has three (3) floors. On the first floor is an office which has a half bathroom (sink and toilet). On the second floor, which is divided into three (3) office spaces, there is a bathroom and in the basement, there is a sink. There is one outside faucet which the customer stated has never been used. [REDACTED] stated that the house has been vacant since purchase and that a realtor is trying to lease the property but to [REDACTED] knowledge, the property has only been viewed three (3) times by potential tenants.

[REDACTED] stated that her realtor was out of the country in Korea during the periods in dispute and would not have been showing the property.

[REDACTED] stated that she visits the property on a weekly basis and she acknowledged that she has used the bathroom at the property during such visits.

[REDACTED] [REDACTED] stated that since February 2016, the water and sewer bill for the property has been \$28.01 and that prior to October 11, 2016, the bills had reflected no water usage occurring at the property. He stated that the October bill for the period September 7, 2016 to October 6, 2016 reflected 1 CCF (748 gallons) of water having been used at the property. [REDACTED] [REDACTED] stated that the bill increase was insignificant enough that his mother was not concerned. He stated that neither he nor his mother looked at the usage reflected on the bill and that they just saw a Ten

Dollars (\$10.00) increase in charges and did not think much of it. ■■■ testified that the November 9, 2016 bill caught their attention for that bill reflected that 217 CCF of water had been used at the property. ■■■ pointed out that based upon 217 CCF of water, it meant that 5000 gallons of water had been used per day at the property. He asserted that he did not believe even with a leak that that much water could be missed without their knowing that something was occurring at the property. ■■■ testified that there was no sign of any leaks or of a squatter in or about the property.

■■■ testified that he called DC Water on November 23, 2016 and spoke with ■■■ who informed him that he would get a new water meter.

■■■ stated that the January 10, 2017 bill reflected that 72 CCF of water had been used even though the meter was changed on November 30, 2016. He pointed out that the bill reflected that all of the usage had occurred between November 7, 2016 and November 30, 2016 and that after the meter change on November 30, 2016, there was zero (0) usage reflected on the bill as having occurred at the property. ■■■ pointed out that no bill was sent to his mother in December 2016 so that the January billing covered a sixty (60) day period.

■■■ asserted that once the water meter was changed, there was no more usage. He argued that there was a possibility of water theft or of a leak but the meter change and resulting no usage is definitive evidence that the cause of the high water usage was a meter problem.

■■■ stated that his mother is/was very concern about seeing that her bills are paid. He stated that his mother called DC Water on December 1, 2016 about a hold on the account. He stated that he did not call a plumber because he saw no leaks and had been told that the meter would be changed.

■■■ stated that the high bills made no sense and that one cannot open all of the faucets at the property to spend that much water.

Ms. Wright asserted that the charges are valid based upon the meter reads. She explained that the customer has a MTU at the property. She stated that the meter read record started as of September 7, 2016 and that the MTU was transmitting meter reads every hour. Ms. Wright testified that the initial meter read was 18855 and that the meter read remained the same readings until September 25, 2016 when a small amount of water passed through the water meter between 6:00 p.m. and 7:00 p.m. Ms. Wright pointed out that the meter read log shows that another small amount of water registered on the water meter between 2:00 p.m. and 3:00 p.m. on September 26, 2016. Ms. Wright then proceeded to review each meter read reflecting water registering on the meter and she read the following meter registrations:

- A small amount of water between 5:34 a.m. and 6:34 a.m. on September 25, 2016;
- A small amount of water between 3:30 a.m. and 4:30 a.m. on September 28, 2016;
- A small amount of water between 7:34 a.m. and 8:34 p.m. on September 28, 2016;
- A small amount of water between 9:00 p.m. and 10:00 p.m. on September 29, 2016;
- A small amount of water between 6:00 p.m. and 7:00 p.m. on September 30, 2016;
- A small amount of water between 5:34 a.m. and 6:34 a.m. on October 2, 2016;
- A small amount of water between 6:34 a.m. and 7:34 a.m. on October 3, 2016;

A small amount of water between 6:30 p.m. and 7:30 p.m. on October 4, 2016;  
A small amount of water between 6:34 p.m. and 7:34 p.m. on October 5, 2016;  
A small amount of water between 4:34 a.m. and 5:34 a.m. on October 7, 2016; and,  
A small amount of water between 4:34 a.m. and 5:34 a.m. on October 8, 2016.

Ms. Wright testified that the meter read log reflected that between 2:34 p.m. and 3:34 p.m. on October 9, 2016, water started running within the property and that the water continued to continuously run until November 16, 2016 between 2:34 p.m. and 3:34 p.m. when the water stopped. Ms. Wright stated that previous water use pattern of small amounts of water being consumed, then, restarted on November 17, 2016 and then there was no water use reported until November 30, 2016 between 1:00 p.m. and 2:00 p.m. when a small amount of water registered on the water meter.

Ms. Wright testified that DC Water removed the water meter on November 30, 2016 for testing. She asserted that water usage at the property declined before the meter was removed. She stated that the meter was tested on December 8, 2016 and the meter was determined to have 99.71% accuracy.

Ms. Wright stated that she does not know the cause of the high water usage which occurred at the property but she does know that the usage was not caused by an underground leak because such leaks cannot self-repair.

Ms. Wright emphasized that from November 7, 2016 which was the end of the billing period for the first bill being disputed, 72 CCF of water registered on the customer's water meter and that the registration occurred between November 7, 2016 and November 16, 2016. Ms. Wright asserted that DC Water made no repairs and she pointed out that there is no record of any broken pipes.

Ms. Wright pointed out that usage every day occurring between September 28, 2016 and October 9, 2016 varies regarding the time of occurrence. [REDACTED] interjected that she does not know of anyone being at the house in the mornings. [REDACTED] stated that she generally visits the house on the weekends. [REDACTED] stated that she was not concern with a little consumption however she wonders what could have been running for so long at such a high rate. Ms. Wright stated that it has been her job to investigate high volume water cases for fifteen (15) years and that the facts here indicate that something was running and that it has been her experience that 90% of the time it's a toilet when a flapper does not seal. [REDACTED] [REDACTED] responded that she does not believe that a toilet would lose the amount of water charged to her by DC Water. Ms. Wright stated that she cannot say what caused the water loss only that if it had been caused by an underground leak, the usage would have continued until repairs were made but in this case, water usage stopped on November 16, 2016 and the stoppage is an indication that someone turned something off. [REDACTED] retorted that there is no evidence of something leaking. [REDACTED] asserted that she does not know how a water meter works or how it would act if malfunctioning.

[REDACTED] complained that she did not receive a letter of reporting the investigation of her dispute by DC Water. Ms. Wright stated that the Administrative Hearing Petition is enclosed in the investigation letter from the utility [REDACTED] stated that she got the petition form on-line; Ms.

Wright said the petition form is not available on-line.

██████████ again stated that she visits the property on the weekends. She added that during her visits to the property, she checks each floor of the house.

Ms. Wright stated that October 2, 2016 was the only date on which there was no water usage registering on the water meter. Ms. Wright went on to acknowledge that the customer had incurred some late charges and a turn-off fee which should not have been posted on her account pending resolution of her dispute. Ms. Wright indicated that she would adjust the customer's account and remove late charges in the amount of \$377.59 and she would also remove the turn-off fee assessed in the amount of \$50.00, thereby making a total adjustment of \$427.57.

The parties agreed that ██████████ is disputing two (2) billing periods and that this hearing applies to both bills. The parties further agreed that DC Water inappropriately assessed a turn-off fee for non-payment as reflected in the customer's bill statement dated March 2, 2017.

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 townhouse designated as a commercial building and is owned by ██████████ operating under the name of ██████████ ██████████. (Testimony of ██████████ ██████████)
2. The periods in dispute are October 6, 2016 to November 7, 2016 and November 7, 2016 to November 30, 2016. (Testimony of the parties)
3. The property was purchased in year 2014 and has not been occupied by tenants since its purchase. The property is visited by the property owner on a weekly basis and a realtor has access to the property in an effort to secure tenants for the building. (Testimony of ██████████ ██████████)
4. There was no water usage recorded as occurring at the property from purchase date up until September 2016, then, small amounts of water began registering on the water meter. (Testimony of Eileen Wright and ██████████ ██████████)
5. Prior to the periods in dispute, small amounts of water registered on the water meter started registering on the water meter starting September 25, 2016 and the customer was billed for water usage on her October 11, 2016 Billing Summary. (Testimony of Eileen Wright; DC Water Meter Read Log; Billing Summary dated October 11, 2016)
6. The customer paid the October 11, 2016 without questioning the reflected water usage on the bill. (Testimony of ██████████ ██████████ and ██████████ ██████████)
7. Small amounts of water continued to register on the water meter between September 25, 2016 and October 8, 2016. (Testimony of Eileen Wright; DC Water Meter Read Log)
8. There was continuous registration of water on the water meter at the property starting October 9, 2016 and continuing until November 16, 2016 when all usage stopped. (Testimony of Eileen Wright; DC Water Meter Read Log)
9. After completely stopping the day before, water began to register on the water meter on November 17, 2016, however, it was significantly less than the amount used between

October 9, 2016 and November 16, 2016. (Testimony of Eileen Wright; DC Water Meter Read Log)

10. Neither DC Water nor the customer made any repairs to the property to effect water loss or usage. (Testimony of the parties)
11. The customer did not know of any leaks and failed to investigate water usage at the property when usage started to occur. ((Testimony of [REDACTED]; [REDACTED] [REDACTED] [REDACTED])
12. DC Water ruled out the existence of an underground leak as a possible cause of high water usage occurring at the property. (Testimony of Eileen Wright; DC Water Investigation Letter dated March 22, 2017)
13. DC Water removed and tested the water meter at the property and the meter was determined to have 99.71% accuracy. (Testimony of Eileen Wright; DCWASA Meter Test Results)
14. The customer was inappropriately assessed late charges and a turn-off fee for non-payment of the bill during the pendency of her bill dispute; DC Water has agreed to adjust the customer's account to reflect removal of said charges which totaled \$427.57. (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. 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

In this case, the customer cannot establish a case that more likely than not the disputed water bills are wrong or that for some other reason she should not be responsible for payment of the disputed water bills.

DC Water speculated that the high water usage for which the customer was billed and is now disputing was caused by a leaking toilet, however, Ms. Wright could not definitively state the cause of the water usage. The utility did present evidence and testimony that its equipment was functioning appropriately. The utility had meter reads transmitted daily from the property and it tested the water meter which was determined to be accurately recording water usage occurring at the property. The utility also was able to rule out the existence of an underground leak as a possible cause of the high water usage since such leaks would continue unless repairs are performed and in this case, usage not only declined but stopped for a brief period.

The customer acknowledged that even though the house was not occupied by tenants, both she and a realtor accessed the property. As such the utility's speculation that a toilet was the cause of the high usage is plausible even if not proven.

In cases where all tests and checks fail to conclusively determine the cause of high water usage at a property, the District of Columbia Municipal Regulations preclude DC Water from adjusting a customer's account for the high water usage. Such is the case in this instance and as such the determination by DC Water that the charges are valid and no basis exists to adjust the customer's account is hereby AFFIRMED, except for the utility's admission that it inappropriately accessed late charges and a turn-off fee to the customer's account. DC Water agreed to remove the late charges and turn-off fee and adjust the customer's account in the amount of \$ 427.57 as of the day of the hearing. In the event that the amount of \$427.57 has not been removed from the customer's account, DC Water is directed to do so forthwith.

By: Janet W. Blassingame  
Janet W. Blassingame, Hearing Officer  
Date: June 30, 2017

Copy to:

■■■■■■■■■■  
■■■■ Indian Paintbrush Way  
Lorton, VA 22079

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

IN RE: [REDACTED]  
[REDACTED] Crittenden Street, NE  
Washington, DC 20011

Account No: [REDACTED]

Amount in Dispute - \$ 105.14

Before Janet W. Blassingame, Hearing Officer  
May 17, 2017 at 10:00 a.m.

The customer contested water and sewer bills for the above account for the period of time November 23, 2016 to December 22, 2016. 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.

The matter was scheduled for hearing on May 17, 2017. Present for the hearing were [REDACTED] and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

The property involved is a single family residence owned and occupied by [REDACTED]. The property has two (2) bathrooms, one kitchen, a washing machine, a dishwasher and one outside faucet. [REDACTED] stated that he purchased the house in year 2010 and lives alone.

The customer testified that DC Water sent him a high water usage alert on December 21, 2016 when he was out of the country. [REDACTED] stated that he traveled to Peru on December 16, 2016. The customer presented as proof of travel a copy of ticket confirmation from Avianca Airline reflecting a departure on 16/12/2016 and return on 05/01/2017. Mr. [REDACTED] stated that it is his practice to turn off the water at the main water valve in his house during traveling. He testified that he, in fact, turned off the water prior to leaving for Peru.

[REDACTED] stated that he experienced before the problem of a bill skyrocketing for one month. In his petition for an administrative hearing, the customer wrote that in September 2015 he was billed for 26 CCF of water and when he contacted DC Water regarding the bill, he was told that his water meter was broken. He, further, wrote that the utility recalculated his water consumption. [REDACTED] also testified that in July 2016, a DC Water crew was replacing a neighbor's water meter and he asked where was the meter and was told that the meter was not transmitting.

[REDACTED] testified that DC Water sent a technician to his house in January 2017 and technician found no leaks.

[REDACTED] testified that he grew up in Peru where there is desert and he is very

conscious of water and his experience in Peru has lead him to turn off the water when away from home. He stated that only he has a key and no one else has a key to his property. He further stated that he found that high usage alert notice upon his return from Peru when he checked his email. He testified that his house looked normal upon his return. He also testified that he has had no plumbing work performed in his house. He testified that, even though his submitted itinerary reflected a return date of January 5<sup>th</sup>, he actually returned home on January 9, 2017 because he postponed his return.

Ms. Wright asserted that DC Water views the charges as being valid. She stated that the customer has an automated meter with a MTU which transmits meter reads from the property. Ms. Wright testified that sometime between December 17, 2016 and December 19, 2016, 6 CCF of water registered on the customer's water meter. Ms. Wright stated that the MTU failed to transmit on December 18, 2016 and as such she cannot pinpoint precisely when the water started to register. Ms. Wright testified that there was water usage at the property the entire time that the customer was on travel.

Ms. Wright confirmed that DC Water conducted an interior inspection of the property on January 23, 2017 and no leaks were found. She testified that DC Water removed the water meter on January 24, 2017 but the removal was not to test the meter but was connected with the utility's project to replace meters throughout the District of Columbia. Ms. Wright stated that the customer's meter was not tested for its accuracy. Ms. Wright asserted that when the technician removed the meter and replaced the meter with a new meter, the technician did not identify abnormalities with the replaced water meter. Ms. Wright further pointed out that transmissions by the MTU or lack thereof has no bearing upon the functions of the water meter. Ms. Wright acknowledged that anything can fail and she does not know if the customer's meter failed because it was not tested. She asserted that water meters are not designed to run and stop if the meter is defective and in this instance she believed that someone turned something on at the property. Ms. Wright testified that DC Water did not conduct an underground inspection at the property.

██████████ wrote in his petition that "apparently DC Water make the mistake of overcharging me every ten month" and he testified that he believes that DC Water makes up water use when the MTU fails to transmit. The customer acknowledged that for the past four (4) weeks, he has had a visitor at the home who arrived in mid-January, thus, accounting for increased water usage. He also stated that he was on travel for ten (10) days in October 2016.

Ms. Wright reiterated her assertion that a defective water meter does not just stop and start back by itself.

The Hearing Officer notes that the meter read record presented by DC Water reflects that no water usage occurring at the property between December 16, 2016 at 2:12 and December 17, 2016 at 14:12, then no meter read transmissions on December 18, 2016. When the record resumes recording meter read transmissions on December 19, 2016 at 2:12, it reflects water usage that continues as reflected through transmissions up to January 23, 2017 on the old water meter, then, after the replaced, the record reflected that water usage stopped for ten (10) hours on January 24, 2017. The Hearing Officer further notes that the customer's old meter was

transmitted read every twelve (12) hours and the new meter placed at the property transmits every hour which provides far more detail of water usage than previously available for analyzation. It is further noted that the record of meter reads from the customer's old water meter, in addition to missing reads on December 18, 2016, also, reflects a period of ten (10) days of no meter reads between January 11, 2016 and January 23, 2016.

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 November 23, 2016 to December 22, 2016. (Testimony of the parties)
3. The customer was out of town on travel to Peru from December 16, 2016 until January 9, 2017. (Testimony of [REDACTED]; Avianca Airline information page)
4. The customer turned off water to the house at the main water valve prior to his departure for Peru. (Testimony of [REDACTED])
5. There was no water registering on the meter on December 17, 2016. (DC Water meter read log)
6. The MTU at the property failed to transmit any meter reads on December 18, 2016 but when the MTU started transmitting meter reads on December 19, 2016, the meter read reflected water being used at the property and the record of transmitted meter reads reflects on-going water usage occurring at the property thru January 23, 2017 when the meter was removed and replaced by DC Water. (Testimony of Eileen Wright; DC Water Meter Read Log)
7. When the customer returned home from Peru, he saw nothing amiss regarding water at his home but he did see an emailed high water usage alert to him from DC Water dated December 21, 2016. (Testimony of [REDACTED] [REDACTED]; DC Water HUNA alert email dated December 21, 2016)
8. DC Water conducted an interior inspection of the customer's home on January 23, 2017 and no leaks were found. (Testimony of Eileen Wright; DC Water Service Order Report)
9. DC Water removed the water meter from the property on January 24, 2017 pursuant to its city-wide project of meter replacement; DC Water did not test the water meter for accuracy. (Testimony of Eileen Wright)
10. DC Water did not conduct an underground test for leaks at the property because usage declined without necessity of repairs being performed. (Testimony of Eileen Wright; DC Water Investigation Letter dated February 17, 2017)
11. After the meter was replaced and a new meter installed at the property, the new meter reflected a significant decline in water being used at the property as well as stoppage of water usage for hours during the day based upon the meter's capability of hourly meter read transmissions. (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. 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. If the investigation of the bill challenge reveals doubtful meter registration or possible meter malfunction, the Department shall remove the meter and test it. (21 DCMR 405.2)
5. If the results of the tests under §405.2 verify doubtful registration or meter malfunction, the bill shall be adjusted to equal the average consumption of water at the same premises for up to three (3) previous comparable periods for which records are available. (21 DCMR 405.3)

## DECISION

The customer in this case was able to establish a prima facie case that more likely than not the bill being disputed was wrong. The basis of the customer's case was evidence and testimony of the customer being in Peru during the time water usage registered on his water meter and of his turning off the water to his house before departing on travel. Additionally, the meter read log reflected no water being used at the property on the day that the customer departed for Peru and no water being used at the property on the succeeding day.

On DC Water's part, the utility speculated that someone turned something on at the property. It also asserted that its water meter would not have self-started water registration and that water usage declined without repairs being performed.

The customer response was that no one other than him had a key to the property.

Both parties pointed to no leaks being found by the DC Water technician upon interior inspection of the property as support of their respective arguments. The fact that no leaks were found inside of the house favors the customer's position that he did not use the water in his absence from the house when on travel than it does to support the utility that the charges are valid because the inspection took place almost six (6) weeks after water usage started when the customer was away from the home, there was continuous registration of water being used after the customer returned home and while he was away from home, and usage stopped for hours after the meter was changed on the day after the inspection was conducted.

There were flaws in the utility's rebuttal of the customer's prima facie case. First, DC Water has a duty to investigate a customer's dispute of charges. In this instance, DC Water failed to test the water meter at the property during the period in dispute. Ms. Wright asserted that a defective water meter will not stop registering usage until repaired/replaced or it will not register at all. Because the meter was not tested, the utility has no proof that its water meter was functioning appropriately or within the guidelines established by the American Water Works Association whose standards the utility follows regarding accuracy of its water meters. Moreover, the record of meter reads transmitted from the property during the period in dispute reflects that once the meter started registering water usage sometime after the customer's departure for Peru on December 16<sup>th</sup>, the meter continued to register water usage up until it was replaced on January 24, 2017. The meter read record further reflected that the new meter placed at the property on January 24<sup>th</sup>, thereafter, stopped registering continuous water use occurring at the property. As such, the meter read record supports the customer's assertion that something was wrong with the old meter at his house for, as stated by Ms. Wright, a defective meter will continue to register water usage until it is repaired/replaced which is exactly what the customer's old meter did based upon the meter reads transmitted from the property. Second, DC Water could not and had nothing to substantiate its speculation that someone turned the water on at the property in the owner's absence. Third, DC Water did not conduct an underground leak inspection and accepting that such a leak could be ruled out as causing the water usage because usage declined without necessity of repairs being performed, the absence of an underground leak further buttressed the customer's case that the charges were wrong since water usage was not based upon leaks at the property for which the owner/customer would be responsible for repair and resulting billing for payment of the water.

Based upon the foregoing, the weight of the evidence favors the customer because DC Water failed to rebut the customer position that the charges were wrong and/or that he was not responsible for payment of the disputed bill. Accordingly, it is hereby determined that DC Water's determination that the charges are valid and no basis exists to adjust the customer's bill is REVERSED. DC Water is directed to adjust the customer's bill for the period November 23, 2016 to December 22, 2016 to equal the average consumption of water at the premises for up to three (3) previous comparable periods for which records are available.

By:   
Janet W. Blassingame, Hearing Officer

Date: June 30, 2017

Copy to:

████████████████████  
██████████ Crittenden Street, NE  
Washington, DC 20011

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

IN RE: [REDACTED] [REDACTED].  
[REDACTED] 56<sup>th</sup> Place, SE  
Washington, DC 20019

Account No: [REDACTED]

Amount in Dispute - \$ 470.93

Before Janet W. Blessingame, Hearing Officer  
May 17, 2017 at 11:00 a.m.

The customer contested water and sewer bills for the above account for the period of time October 6, 2016 to November 16, 2016. 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.

The matter was scheduled for hearing on May 17, 2017. Present for the hearing were [REDACTED] [REDACTED] and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

The property involved is a single family residence owned and occupied by [REDACTED] [REDACTED]. The house has two (2) bathrooms, one kitchen, a dishwasher, a washing machine, a utility sink and one outside faucet. [REDACTED] [REDACTED] stated that he has lived in the home since year 2000 and purchased the house in year 2003. He stated that his water and sewer bill averages Thirty-seven Dollars (\$37.00) per billing cycle. [REDACTED] [REDACTED] stated that he had his account on auto-pay and contacted DC Water when he saw Four Hundred Seventy Dollars and ninety-three cents (\$470.93) deducted from his account for payment of a water and sewer bill. The customer proclaimed that the charge almost equals his annual cost for water and sewer service.

[REDACTED] [REDACTED] testified that nothing was going on in the house to cause such an increase in his bill. He stated that there were no leaks and that he checked the faucets and hot water heater and saw no leaks or running water. The customer stated that he replaced all of his appliances a year ago. [REDACTED] [REDACTED] stated that he felt no need to contact a plumber. He further stated that he talked with one of his neighbors and the neighbor said that he too had a problem with his water and sewer bill and had contacted DC Water's customer service which resolved his issue. [REDACTED] [REDACTED] stated that his neighbor did not see anyone around [REDACTED] s house. [REDACTED] [REDACTED] added that there is considerable renovation and construction around the area where his house is situated but he did not witness anything involving his home.

[REDACTED] [REDACTED] testified that he understood that the high water usage occurred within one day and that his usage returned to normal.

[REDACTED] [REDACTED] stated that he goes to Pittsburgh, PA every weekend but that the property at issue is his primary residence. He stated that he did not receive any notice of high water usage

occurring at his property from DC Water.

Ms. Wright testified that the high water usage occurred sometime between October 9, 2016 and November 13, 2016, a thirty-five (35) day period. She stated that the MTU at the property failed to transmit between October 9<sup>th</sup> and November 13<sup>th</sup> so she was unable to pinpoint when the usage occurred. Ms. Wright stated that the MTU would transmit but not every day and she pointed out that the MTU failed to transmit September 7<sup>th</sup> to 27<sup>th</sup>, September 28<sup>th</sup> to October 9<sup>th</sup>, October 9<sup>th</sup> to November 13<sup>th</sup>, November 16<sup>th</sup> to 20<sup>th</sup>, and November 28<sup>th</sup> to December 2<sup>nd</sup>.

Ms. Wright testified that the customer had no reported water usage prior to the period in dispute and he has had zero consumption since the period. The customer confirmed that he had and is staying away from the house.

Ms. Wright testified that DC Water removed and tested the water meter and the meter was determined to have 101.41% accuracy.

Ms. Wright stated that she did not know what caused the water usage but she did not that the usage stopped and that told her that it was not an underground leak. Ms. Wright stated that she believed that something started running at the home and was an internal fixture or outside faucet.

Ms. Wright pointed out that the customer had regularly reported consumption in years 2014 and 2015 but since year 2015, the customer's has had either zero reported usage or very little usage.

██████████ interjected that he turns the shut-off valves on the toilet and on the sink when he is away from the home. He also stated that he is not accusing anyone but he wants to know what happened to cause the water usage. He stated that he knows that his neighbor ██████████ had been overbilled and his charges were reversed by DC Water and that Customer Service took care of him. ██████████ asserted that equipment is not 100% reliable if not fully calibrated and equipment can malfunction. He asserted that a person is not believed about something happening until other people experience the same thing.

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 owned by ██████████ ██████████. (Testimony by ██████████ ██████████)
2. The period in dispute is October 9, 2016 to November 16, 2016. (Testimony of the parties)
3. Sometime between October 9, 2016 and November 13, 2016, 42 CCF of water registered on the customer's water meter. (Testimony of Eileen Wright; DC Water Billed History and Usage Chart)
4. The MTU failed to transmit meter reads from the property between October 9, 2016 and November 13, 2016 so DC Water is unable to pinpoint when water usage started and

- stopped. (Testimony of Eileen Wright; DC Water Meter Read Log)
5. The MTU did transmit a meter read from the property on November 13, 2016 and DC Water billed the customer based upon an actual meter read transmitted from the property on November 16, 2016. (DC Water Meter Read Log; DC Water Billed History and Usage Chart)
  6. Since year 2015, the customer consumed little if any water at the property up until the period in dispute and after November 13, 2016, his pattern of consuming little if any water at the property resumed with there being no water usage registering on the water meter for lengthy periods of time. (Testimony of Eileen Wright; DC Water Meter Read Log; DC Water Billed History and Usage Chart)
  7. The customer acknowledged being away from the property every weekend but initially asserted that the property was his primary residence; the customer later in testimony acknowledged staying away from the property. (Testimony of [REDACTED])
  8. DC Water removed and tested the water meter and the meter was determined to have 101.41% accuracy. (Testimony of Eileen Wright; DC WASA Meter Test Results)
  9. DC Water eliminated an underground leak as a possible cause of the water usage that occurred at the property because the usage stopped without necessity of repairs being performed. (Testimony of Eileen Wright; DC Water Investigation Letter dated 01/09/17)

#### 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. D.C. Municipal Regulations relating to water and sanitation bar adjustment of a customer's bill if excessive water consumption is the result of a leaking faucet, household fixtures, and similar leaks or the malfunctioning water-cooled air conditioning equipment. (21 DCMR 406)
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

In this case, the customer cannot establish a case that more likely than not the disputed water bills are wrong or that for some other reason he should not be responsible for payment of the disputed water bills.

The evidence presented did not support the customer's testimony that the property was his primary residence and that he was only away from the property on the weekends. After being

weekends. After being presented with usage records reflecting zero water being used at the property for extended periods of time, the customer changed his testimony and confirmed that he was staying away from the house. The customer did not elaborate as to frequency of his visits to the house. The evidence was, however, that except for the period in dispute, water usage was registering very infrequently. Having changed his testimony regarding his presence in the house, the Hearing Officer viewed the customer's statement very late in the proceedings that he turned the toilet and sink shut-off valves off when away from the property to be not credible and were self-serving especially since the customer gave this testimony after Ms. Wright speculated that something had been turned on within the house to cause the water usage and that the fixture was later turned off.

DC Water presented evidence of the water meter functioning properly and it gave a plausible explanation as to why it could rule out the existence of an underground leak as a possible cause of the water usage. DC Water acknowledged that the MTU failed to transmit meter reads during the period that the water usage occurred, however, the MTU did transmit intermittently and the customer's bill was based upon an actual meter read. The Hearing Officer finds no evidence of equipment malfunction and based upon the customer's lack of candor in his testimony explaining his presence or absence at the house, no weight is given in favor of the customer to his assertion that the charge for water is not valid because he turned off the valve at the toilet and sink. In fact, the Hearing Officer notes that the customer never specifically denied that water usage occurred at the property, instead the customer asserted that he did not know what the cause of the water usage. Likewise, no weight is given to the customer's testimony that a neighbor had billing issues with DC Water which were resolved without hearing. The Hearing Officer notes that each customer is subject to his/her acts or lack thereof leading to water usage and each customer has a water meter unique to his/her property, as such, what happens in the household of a neighbor is not relevant to Mr. Jammeh's water usage.

In cases where all tests and checks fail to conclusively determine the cause of high water usage at a property, the District of Columbia Municipal Regulations preclude DC Water from adjusting a customer's account for the high water usage. ( See, 21 DCMR 408) Such is the case in this instance and as such the determination by DC Water that the charges are valid and no basis exists to adjust the customer's account is hereby AFFIRMED .

By: Janet W. Blassingame  
Janet W. Blassingame, Hearing Officer  
Date: June 30, 2017

Copy to:

██████████ ██████████ ██████████  
██████████ 56<sup>th</sup> Place, SE  
Washington, DC 20019

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

IN RE: [REDACTED] [REDACTED] [REDACTED]  
[REDACTED] Rittenhouse St. NW  
Washington, DC 20015

Account No: [REDACTED]

Amounts in Dispute - \$ 975.22 and \$190.75

Before Janet W. Blassingame, Hearing Officer  
May 17, 2017 at 1:00 p.m.

The customer contested water and sewer bills for the above account for the periods of time August 1, 2016 to September 1, 2016 (\$975.22) and September 1, 2016 to October 3, 2016 (\$190.75). 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.

The matter was scheduled for hearing on May 17, 2017. Present for the hearing were [REDACTED] [REDACTED] and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

The property involved is a single family residence owned and occupied by [REDACTED] [REDACTED] for the past forty (40) years. The house has three and one-half (3 ½) bathrooms, one kitchen, a dishwasher, a washing machine and two (2) outside faucets. The customers complained that their water and sewer bill has been estimated by DC Water for the past year and a half.

The customers assert that there has been nothing unusual occurring in or around their home. They stated that they have been at home most of the time and that they have had no leaks. [REDACTED] [REDACTED] stated that he, personally, checked the house for leaks and called DC Water to arrange for inspection. He stated that the inspection took place on September 16, 2016 and no leaks were found by the service technician.

[REDACTED] [REDACTED] stated that in year 2015, one out of twelve months of billing was based on an actual meter read and his other bills were based upon estimates of water usage. He stated that in year 2016, four (4) bills were estimated. The customer stated that DC Water replaced the water meter at the house in December 2016. He stated that DC Water had trouble finding the water meter at his property and the utility had to dig up the yard in order to locate the water meter. He added that his water and sewer bills have been exactly the same four (4) out of five (5) months with the new meter in use.

[REDACTED] asserted that the DC Water service technician who came to his property for the inspection told him that to have used the amount of water charged to him, he would have had a continuous massive flood.

██████████ testified that he saw that high usage covered twenty-eight (28) days from August 2, 2016 to August 28, 2016. The customer also stated that he saw on NBC that DC Water was engaged in a new program replacing all meters because the meters in the City were more than ten (10) years old and the utility had been estimating usage of its customers because of lack of meter transmissions.

██████████ testified that he tested his toilets with food coloring and detected no leaks.

██████████ asserted that his toilet would have had to flush Seven Hundred Forty (740) times per day to account for the amount of water alleged to have been used at his house. ██████████ went on to state that he conserves even rain water for use in his garden. He stated that he does not wash cars. He stated that he and his wife only shower. He added that he doubted that someone was stealing his water because of how the house was situated high on a hill. The customer asserted that he knew of no massive leak in his house but that he knows that the meter had problems and that the meter was buried. ██████████ asserted that he believes that DC Water should prove that he and his wife used the water as charged.

The customers concluded by asserting that there is no evidence of wrongdoing or negligence by either of them to account for excessive water usage.

Ms. Wright asserted that DC Water considers the charges valid based upon meter reads from the property. She testified that a spike in water usage occurred at the property from August 1, 2016 to August 26, 2016 and that during the twenty-five (25) day period of high water usage, the customers used 87 CCF of water which averaged to 3.48 CCF per day.

Ms. Wright pointed out that the customers have a MTU at their property and the new meter which was installed in March 2016 reads the meter and transmits reads on an hourly basis. Ms. Wright testified that based upon the meter reads something started running in the home between 7:00 pm and 8:00 pm on August 1<sup>st</sup> and the water continued to run until it stopped on August 25, 2016 between 11:00 pm and 12 midnight. Ms. Wright testified that one can see a pattern of water usage occurring at the property where there is no usage or the usage stops for a few hours then there is a small amount of water used, usage stops and then there is again a small amount of water used at the property. Ms. Wright pointed out that a lessor spike occurred on August 28, 2016 starting at 6:00 am and the usage did not stop until 1:00 am the next day and then, usage started again between 6:00 am and 7:00 am on August 29, 2016 and continued until 11:00 pm. Ms. Wright stated that usage started at the house on August 30, 2016 at 2:00 pm and she saw that the water runs sometimes and then stops for a period of time only to start running again.

Ms. Wright explained that the dials on a water meter do not spin until water goes through the meter. She stated that she has been told by service technicians that water meters do not run fast and then slow down if defective. Ms. Wright pointed out that each of the disputed charges is based upon actual meter reads and that there was no interference with meter read transmissions.

Ms. Wright acknowledged that the customers' water usage is high for what would be expected for two (2) people. Ms. Wright pointed out that the applicable Municipal Regulations

contain a provisions barring adjustment of a customer's account when test and checks are inconclusive as to the cause of high water usage. [REDACTED] pointed out that she found the Gatewood case and believed that the case applied to their dispute. [REDACTED] also reiterated that the service technician did not see evidence of leaks or flooding at the property.

Ms. Wright pointed out that whatever was going in the house causing high water usage stopped on September 10, 2016 which was six (6) days before the inspection took place.

Ms. Wright testified that DC Water removed the water meter for testing and determined that the water meter had 93.67% accuracy which is below the acceptable range for meter accuracy as established by the American Water Works Association. Ms. Wright testified that the acceptable range for meter accuracy is 95% to 102%.

[REDACTED] [REDACTED] asserted that she and her husband want DC Water to show the amount of water that a toilet can lose in one day. She stated that she and her husband dispute that a toilet would lose the amount water charged to them over the period that high water usage allegedly occurred at their home.

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 periods in dispute are August 1, 2016 to September 1, 2016 and September 1, 2016 to October 3, 2016. (Testimony of the parties)
3. The customers' water usage had been estimated for repeated billing cycles by DC Water, however, their water meter was changed in March 2016 and after the meter change, the customers' water and sewer bill was based upon actual meter reads and the utility obtained hourly transmitted meter reads from the property. (Testimony of Eileen Wright; DC Water Billed and Usage History; DC Water Meter Read Log)
4. There was a significant spike in water usage at the property between August 1, 2016 and August 26, 2016 and there were lessor spikes in water usage registering on the water meter at the property on various days thereafter. (Testimony of Eileen Wright; DC Water Billed and Usage History; DC Water Meter Read Log)
5. After August 30, 2016, there was a recognizable pattern of water usage occurring at the property whereby water would start to run for a period and then the water would stop for a period and the pattern would repeat. (Testimony of Eileen Wright; DC Water Billed and Usage History; DC Water Meter Read Log)
6. Water usage at the property began to decline at the property as of September 6, 2016 and is normal for the customers although higher than two (2) people would normally be expected to use. (DC Water Investigation Letter dated February 17, 2017; testimony of Eileen Wright)
7. DC Water conducted an interior inspection of the property and no leaks were detected by the service technician. (Testimony of the parties)

8. [REDACTED] conducted dye tests on his toilets and detected no leaks. (Testimony of [REDACTED])
9. The customers knew of no leaks or plumbing issues at their property. (Testimony of [REDACTED])
10. DC Water ruled out that existence of an underground leak as a possible cause of increased water usage at the property because usage declined without necessity of repairs being performed. (DC Water Investigation Letter dated February 17, 2017)
11. DC Water removed and tested the water meter and the meter was determined to have 93.67% accuracy which is below the acceptable range for water meter function. (Testimony of Eileen Wright; DC WASA Meter Test Results)

#### 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. If the investigation of the bill challenge reveals doubtful meter registration or possible meter malfunction, the Department shall remove the meter and test it. (21 DCMR 405.2)
5. If the results of the tests under §405.2 verify doubtful registration or meter malfunction, the bill shall be adjusted to equal the average consumption of water at the same premises for up to three (3) previous comparable periods for which records are available. (21 DCMR 405.3)

#### DECISION

The customers in this matter prevail not because they showed that the water as charged was not used by them but because pursuant to the Municipal Regulations of the District of

Columbia, whenever it is established that a customer's water meter is not accurately registering water usage, the customer's bill is to be adjusted. (21 DCMR 405.3)

Here the meter test performed by DC Water established that the water meter was under registering water usage at the property and its accuracy was below acceptable established standards for water meters. DC Water asserted in its Investigation Letter to the customers that based upon the under registration of water usage by the water meter, the utility had not billed the customers for all of the water used. DC Water also had hourly meter reads from the property establishing how much water registered through the water meter during the period in dispute and it ruled out the existence of an underground leak as a possible cause of increased water usage. Clearly the implication of the utility's position was that the charges should be paid by the customers because the charges were less than what the customers should have been charged if the water meter were registering properly. The regulations, however, do not make a distinction between water meters that over register and meters that under register usage. Until the regulations are changed, whenever a water meter is found to be not accurately registering water usage, the customer's account is to be adjusted.

As such, the determination by DC Water that the charges are valid and no basis exists to adjust the customers' account is hereby REVERSED and DC Water is directed to adjust the customers' bills for periods in dispute to reflect water usage equal the average consumption of water at the same premises for up to three (3) previous comparable periods for which records are available.

By: Janet W. Blessingame  
Janet W. Blessingame, Hearing Officer  
Date: June 30, 2017

Copy to:

████████████████████  
████████████████████ Rittenhouse Street, NW  
Washington, DC 20015

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

IN RE: [REDACTED]  
[REDACTED]  
[REDACTED] 10<sup>th</sup> Street, NE  
Washington, DC 20002

Account No: [REDACTED]

Amounts in Dispute - \$ 336.70

Before Janet W. Blessingame, Hearing Officer  
May 17, 2017 at 2:00 p.m.

The customer contested water and sewer bills for the above account for the periods of time December 2, 2016 to January 4, 2017 (\$129.60), January 4, 2017 to February 2, 2017 (\$108.76) and February 2, 2017 to March 3, 2017 (\$98.34). The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges and determined that an adjustment to the account was not warranted. The customer appealed DC Water's decision and requested an administrative hearing.

The matter was scheduled for hearing on May 17, 2017. Present for the hearing were [REDACTED] and Eileen Wright, Senior Customer Care Associate, on behalf of DC Water.

The property involved is a single family residence owned and occupied by [REDACTED]. The house has one bathroom, one kitchen, one utility sink, and radiators. [REDACTED] stated that she has lived in the home since year 1973 and her water and sewer bill is generally for 1 CCF of water used every few months.

The customer stated that she went thru a similar issue in year 2013. She stated that she had high water usage for three (3) or four (4) months and then the usage declined without her undertaking any repairs or doing anything to affect her water usage. She stated that in year 2013, she was told that the high water usage was caused by a leaking toilet.

[REDACTED] testified that she was told by a DC Water technician that she had a running toilet.

[REDACTED] testified that she shut off the main water valve from February 1, 2017 to February 5, 2017 and the shut-off made no difference in her water usage. [REDACTED] stated that she requested that DC Water shut off her water at the property line but she was told that her request was ridiculous.

[REDACTED] stated that she was given a new water meter on March 9, 2017.

The customer questioned whether there is an underground leak causing high usage at her property.

██████████ testified that she has the practice of by-passing use of water from her toilet tank by using dirty water to flush the toilet. She stated that she showers at the gym and sends her wash/laundry to North Carolina where her husband resides.

Ms. Wright testified that DC Water considers the charges to be valid. She stated that for the entire period that ██████████ testified as to having shut off the water at the main valve, there was registered water use at the property. ██████████ interjected that her water meter registered water being used last night when she was not using water.

Ms. Wright continued stating that the customer's use of water is not constant and that usage registration does stop. Ms. Wright pointed out that if the usage were being caused by an underground leak, the usage would not stop.

Ms. Wright testified that DC Water removed and tested the water meter and that the meter was determined to have 100.68% accuracy.

Ms. Wright testified that a DC Water technician said that the flapper in the first floor toilet needs to be replaced.

██████████ stated that she thinks that her heating system is an automatic fill system. Ms. Wright responded that she cannot say what caused the high water usage but there could be a fathom flush with the toilet.

Ms. Wright testified that .234 CCF or 17.5 gallons of water registered on the customer's water meter every day from December 4, 2016 to March 29, 2017. She stated that since March 29, 2017 and up to May 17, 2017, water usage at the property has returned to normal and the customer is using 7.5 gallons or .122 CCF of water per day.

██████████ insisted that the high water usage was not caused by her toilet and she reiterated that it might have been caused by the heating system.

Ms. Wright stated that there is no evidence of the existence of an underground leak.

██████████ stated that she had disputed every month her water and sewer bill because she has not determined where the leak is.

Ms. Wright ended by stating that every time the meter read changes approximately 7 gallons of water is registering.

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 ██████████ ██████████. (Testimony of ██████████)

2. The period in dispute is from December 2, 2016 to March 3, 2017. (Testimony of the parties)
3. High water usage occurred at the property from December 4, 2016 to March 29, 2017. (Testimony of Eileen Wright)
4. DC Water conducted an interior inspection of the house and the service technician found that the flapper in a toilet needed to be replaced. (Testimony of Eileen Wright; DC Water Service Order dated 2017-01-23)
5. The customer refuses to accept that the high water usage was caused by a defective toilet and she contends that her heating system possibly caused the high usage. (Testimony of [REDACTED])
6. The high usage declined after March 29, 2017 without any repairs being performed by DC Water. (Testimony of Eileen Wright)
7. DC Water removed and tested the water meter and the water meter was determined to have 100.68% accuracy. (Testimony of Eileen Wright; DC WASA Meter Test Results)
8. DC Water ruled out the existence of an underground leak as a possible cause of high water usage at the property because the usage declined without necessity of repair and underground leaks require repair in order to stop the leak. (Testimony of Eileen Wright; DC Water Investigation Letter dated March 9, 2017)

#### 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. D.C. Municipal Regulations relating to water and sanitation bar adjustment of a customer's bill if excessive water consumption is the result of a leaking faucet, household fixtures, and similar leaks or the malfunctioning water-cooled air conditioning equipment. (21 DCMR 406)

#### DECISION

The customer in this case was unable to meet her burden of proof that more likely than not the bills being disputed were incorrect or for some other reason, she should not be held responsible for payment of the charges.

The testimony and evidence presented established that there was a faulty toilet in the residence. DC Water established, through testing of the water meter, that the water meter was functioning adequately. The utility also was able to exclude the possibility of an underground leak as having caused the excessive water usage based upon the need of repairs being performed to stem water loss caused by such leaks and the utility was able to show that the high water usage in this case declined without necessity of repairs, at less by the utility, being performed.

The customer was steadfast in her denial or dismissiveness that the high water usage was caused by the defective toilet and, in the alternative, the customer asserted that the usage might have been caused by the heating system. Regardless of the cause of the high water usage, whether it resulted from the toilet or heating system, the evidence and testimony established that

the utility's equipment did not cause the high water usage and the high usage was not caused by an underground leak which the utility might possibly have been responsible for repair.

Pursuant to the District of Columbia Municipal Regulations, DC Water is barred from adjusting a customer's account for high water usage caused by an internal fixture, such as a toilet or a heating system. (See, 21 DCMR 406) Whether the high water usage was caused by the defective toilet or by the heating system, the customer is responsible for payment of the resulting charges for water and sewer service. Accordingly, 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: June 30, 2017

Copy to:

  
 10<sup>th</sup> Street, NE  
Washington, DC 20002

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

IN RE: [REDACTED]

[REDACTED] Westover Place, NW  
Washington, DC

Account No: [REDACTED]

Amount in Dispute - \$ 535.98

Before Janet W. Blassingame, Hearing Officer  
May 23, 2017 at 10:00 a.m.

ORDER OF DEFAULT

The customer contested a water and sewer bill for the above account for the period of time January 6, 2017 to February 2, 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 May 23, 2017. Eileen Wright, Sr. Customer Care Associate, DC Water, was present for hearing on behalf of DC Water.

The customer was afforded a thirty (30) minute grace period and although the hearing was delayed until 10:30 a.m., the customer failed to appear. 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) As such, based upon customer's failure to appear or to request in advance that the hearing be postponed, a default judgment is entered against the customer and the determination that the bill is valid is affirmed.

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

Date: June 30, 2017

Copy to:

[REDACTED]  
[REDACTED] I Street, NW, Suite 1200  
Washington, DC 20006

[REDACTED]  
[REDACTED] Westover Place, NW  
Washington, DC

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

IN RE: [REDACTED]  
[REDACTED] Davenport Street, NW  
Washington, DC 20012

Account No: [REDACTED]

Amount in Dispute - \$ 656.95

Before Janet W. Blessingame, Hearing Officer  
May 23, 2017 at 11:00 a.m.

ORDER OF DEFAULT

The customer contested a water and sewer bill for the above account for the period of time December 6, 2016 to January 6, 2017. The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges and determined that 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 May 23, 2017. Eileen Wright, Sr. Customer Care Associate, DC Water, was present for hearing on behalf of DC Water.

The customer was afforded a thirty (30) minute grace period and although the hearing was delayed until 11:30 a.m., the customer failed to appear. 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) As such, based upon customer's failure to appear or to request in advance that the hearing be postponed, a default judgment is entered against the customer and the determination that the bill is valid is affirmed.

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

Date: June 30, 2017

Copy to:

[REDACTED]  
[REDACTED] Davenport Street, NW  
Washington, DC 20016