

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

IN RE: [REDACTED] [REDACTED]
[REDACTED] Ingomar Street, NW
Washington, DC 20015

Account No: [REDACTED]
Case No: 19-444667

Amounts in Dispute: \$971.36

Before Janet W. Blassingame, Hearing Officer
January 8, 2020 at 10:00 a.m.

The customer contested a water and sewer bill for the above account for the period of time December 18, 2018 to February 7, 2019. The DC Water and Sewer Authority (DC Water) determined that the dispute was untimely. The customer requested an administrative hearing.

This matter was scheduled for hearing on January 8, 2020. Present for hearing were [REDACTED] [REDACTED] and Kimberly Arrington, Supervisor, Customer Support, on behalf of DC Water.

The property involved is a single-family residence owned and occupied by [REDACTED] [REDACTED] with his family. The house has three (3) bathrooms, one kitchen, two (2) outside faucets, a dishwasher, a washing machine and radiators. [REDACTED] [REDACTED] has occupied the house since December 1999 and reports that his water and sewer bill has always been below One Hundred Fifty Dollars (\$150.00) each billing cycle.

[REDACTED] [REDACTED] stated that he experienced a high bill problem in May 2018 and he spoke with June Adams, a customer service representative, and Ms. Adams agreed to refund Fifteen Hundred Dollars (\$1,500.00) of the charge of One Thousand Five Hundred Twenty-five Dollars and ninety-nine cents (\$1,525.99). [REDACTED] [REDACTED] stated that DC Water technicians had been working in the street which suggests to him that there was a leak, however, he stated that he does not know why (the basis for) the adjustment was made.

[REDACTED] [REDACTED] testified that, in this case, he saw no ice or standing water and he was unaware of any leaks. He asserted that no plumbing work had been performed in or about his house. He stated that he had had no guests and had not traveled during the period in dispute.

Ms. Arrington stated that [REDACTED] [REDACTED] dispute was untimely. She asserted that the bill charges were based upon actual meter reads and she pointed out that the customer had an automated system.

Ms. Arrington testified that there was a spike in water usage at the property which started on December 21, 2018 and continued until December 29, 2018 when usage started to decline. Ms. Arrington stated that water usage at the property continued to decline until December 31, 2018.

Ms. Arrington stated that the period in dispute covered sixty-two (62) days. She asserted that the period in dispute was lengthen because when a customer's bill is not within normal usage range, the bill is kicked out of the billing system in order to allow the utility to check the accuracy of the billing. Ms. Arrington, further, explained that DC Water did not conduct an interior audit of the customer's home because by the time, [REDACTED] contacted the utility his water usage was back to normal.

Ms. Arrington testified that during the period of increased water usage- December 21, 2018 to December 31, 2018, the water meter was continuously running. She testified that she could see from the meter reads that the high usage on December 31, 2018 at 5:00 p.m. Ms. Arrington asserted that when one sees such a pattern of high-water usage and stoppage, it suggests that a toilet was the culprit. She suggested to the customer that he check the flappers in his toilets with particular attention to unused or lessor used toilets within the house.

[REDACTED] acknowledged that he received letters from DC Water advising him that high water usage was occurring in the home. [REDACTED] admitted that he did not open the letters from DC Water because he thought that the letters were copies of his bill statement which he paid by credit card on-line. [REDACTED] stated that he did not receive an email alert of high-water usage occurring at his home.

Ms. Arrington testified that DC Water pulled the customer's water meter for testing and the water meter was determined to 101.17% accuracy which is within the accepted range for water meter accuracy.

[REDACTED] asked Ms. Arrington how this could have happened twice and in response, Ms. Arrington informed the customer that she sees on his meter reads that there was a spike in water usage at the property again on February 25, 2019.

Based upon the 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]. (Testimony of [REDACTED])
2. The period in dispute is 12/18/2018 to 2/7/2019. (Testimony of the parties)
3. High water usage was reported occurring at the residence starting 12/21/2018 to 12/31/2018. (Testimony of Kimberly Arrington; DC Water Meter Read Report)
4. DC Water sent to the customer high water usage alerts when the spike was occurring, however, the customer failed to open the mailed noticed believing that the notice was his bill statement. (Testimony of [REDACTED])
5. The customer contacted DC Water to dispute his February 8, 2019 bill on May 8, 2019. (DC Water Customer Contact Note dated 5/8/2019)
6. DC Water did not conduct an interior audit of the house for leaks and the customer was unaware of any leaks in the home. (Testimony of the parties)
7. DC Water pulled and tested the water meter and the water meter was determined to have

- 101.17% accuracy. (Testimony of Kimberly Arrington)
8. Despite asserting that the bill dispute was untimely, DC Water investigated the dispute. (Testimony of the parties; DC Water Investigation report dated 8/20/2019; DC Water Customer Contact Note dated 5/8/2019)

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:
 - (a) Verify the computations made in the formulation of the water and sewer charges;
 - (b) Verify the meter reading for possible meter overread or doubtful registration;
 - (c) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
 - (d) Check the meter for malfunction;
 - (e) Check the water-cooled air conditioning system, if any, for malfunction; and
 - (f) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.
See, 21 DCMR 403.
3. D.C. Municipal Regulations bar adjustment of a customer's bill when all checks and tests provide no reasonable explanation for excessive water consumption. (See 21 DCMR 408 which states: "In cases in which all checks and tests result in inconclusive findings that provide no reasonable explanation for excessive consumption, no adjustment shall be made to the bill for any portion of the excessive consumption, except as may be approved by the General Manager, based upon a demonstration by the owner or occupant that such an adjustment will further a significant public interest.")
4. An owner or occupant may challenge the most recent charges assessed by DC Water for water, sewer and groundwater sewer service by either:
 - (a) Paying the bill, and notifying WASA in writing that he or she believes the bill to be incorrect and is paying under protest; or
 - (b) Not paying the current charges contained in the bill and notifying WASA in writing, within ten (10) working days after receipt of the bill of the reason(s) why the bill is believed to be incorrect.
(See, 21 DCMR §402)
5. "Challenges received after the ten-day (10) period stated in §402.1 will be deemed to have been filed in an untimely manner..." 21 DCMR §402.2

DECISION

The customer in this matter failed to establish that more likely than not the bill being disputed was incorrect.

The evidence and testimony established that a significant spike in water usage occurred at the customer's home during the period in dispute. DC Water established that its water meter was properly recording water used at the home and the utility presented meter reads from the property reflecting when the spike started and when it stopped. The utility, also, had evidence and the customer admitted that the utility had sent to him high water usage alerts that high water usage was occurring at the property. The customer admitted that he failed/neglected to open the alert letter.

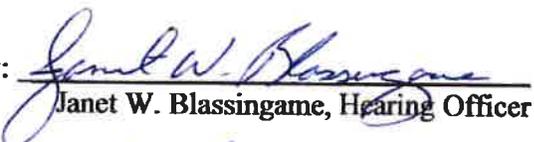
The evidence further established that the customer failed to timely dispute the February 2019 bill. His testimony was that he used auto-pay with his credit card and failed to notice the high bill or that his credit card had been taken off of his water account. DC Water's notes established that the customer noticed the high bill for water usage back in February 2019 because his water service was interrupted for non-payment and a lien had been placed by DC Water.

In this case, the evidence established that the customer was lax in keeping aware of his water bill payment and reading notices sent to him. No basis is found to relieve the customer of his responsibility for payment of water used at his property. DC Water suggested that the customer check his toilet flappers, however, that the high usage was caused by a toilet is only speculated since by the time the customer contacted DC Water to dispute the charge, high water usage was no longer occurring at the property.

In instances where the utility's equipment is found to be operating properly and the cause of high-water consumption is undetermined, the municipal regulations bar DC Water from adjusting the customer's account for high water consumption. (See, 21 DCMR §408)

As such, the customer was untimely in his dispute of the bill but nevertheless, DC Water investigated his bill challenge and nothing was presented to relieve the customer from responsibility for payment of the water used or to show that the water as charged was not consumed at the property.

Accordingly, the customer's dispute is dismissed based upon procedural untimeliness and lack of substance.

By: 
Janet W. Blassingame, Hearing Officer

Date: March 9, 2020

Copy to:

██████████

██████████ Ingomar Street, NW

██████████ Washington, DC 20015

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

IN RE: [REDACTED] [REDACTED]
[REDACTED] Reno Road, NW
Washington, DC 20008

Account No: [REDACTED]
Case No: 19-323722

Amounts in Dispute: \$856.56

Before Janet W. Blassingame, Hearing Officer
January 9, 2020 at 1:00 p.m.

The customer contested a water and sewer bill for the above account for the period of time December 7, 2018 to January 4, 2019. The DC Water and Sewer Authority (DC Water) determined that the charges were valid and no adjustment was warranted. The customer requested an administrative hearing.

This matter was scheduled for hearing on January 9, 2020. Present for hearing were [REDACTED] and Kimberly Arrington, Supervisor, Customer Support, on behalf of DC Water.

The property involved is a single-family residence owned and occupied by [REDACTED] his wife and three (3) children. The house has four (4) full bathrooms, two (2) half bathrooms, one kitchen, a washing machine, utility sink, two (2) outside faucets, a fish pond and radiators. [REDACTED] stated that his water and sewer bill has been typically in the One Hundred Dollar (\$100.00) range each billing cycle.

[REDACTED] stated that he and his family were away between December 21, 2018 and December 31, 2018.

The customer stated that he telephoned DC Water on February 6, 2019 to dispute his bill, however, no one from the utility called him back so he telephoned the utility, again, in September 2019.

[REDACTED] testified that he noticed that his water meter had an unlocked iron lid and, then, a couple days of later, he saw that the lid had been changed.

[REDACTED] stated that contractors had been in his neighborhood months prior to his receipt of the high bill.

The customer noted that he received an Investigation Letter from DC Water one day after his call to the utility in September.

Ms. Arrington testified that the meter reads from the property are field reads. She stated that the meter transmittal unit (MTU) at the property was not working.

Ms. Arrington asserted that the customer's dispute was untimely and she noted the Investigation letter. After referring to the Investigation letter, she acknowledged that neither the Bill Investigation Report nor its accompanying letter mentioned that the dispute was not timely made by the customer. Ms. Arrington, then, stated that the Petition was what was referenced in a customer contact note dated March 14, 2019 as being untimely

Ms. Arrington testified that DC Water pulled the water meter for testing and that the meter was determined to have 100.43% accuracy.

Ms. Arrington stated that the customer did not receive a high usage alert letter from DC Water and there were no HUNA alerts by the utility. When Ms. Arrington searched on her computer, she stated that she could not tell if work was being done in the customer's neighborhood but there was no work under [REDACTED] address. [REDACTED] interjected that Reno Road and Springland was the neighborhood area where DC Water was working and that the work was performed in the Spring or Summer, although he could not recall exactly when the work was done. [REDACTED] stated that the utility was removing pipe approximately six (6) months to a year ago.

Ms. Arrington stated that the MTU at the property had not worked since year 2017 and was replaced in November 2019.

[REDACTED] stated that he had had no plumbing work done in his house.

Ms. Arrington stated that she could not explain why there was extended billing between July 2019 and November 2019 and she stated that she could not say when the spike in water consumption occurred at the customer's home. Ms. Arrington, further, acknowledged that DC Water did not offer an interior inspection for leaks to be performed at the property. Ms. Arrington added that no interior inspection was offered because usage had declined by the time the customer contacted DC Water regarding his bill.

Based upon the 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] and his family. (Testimony of [REDACTED])
2. The period in dispute is December 7, 2018 to January 4, 2019. (Testimony of the parties)
3. The customer received a high water and sewer bill and called DC Water on February 6, 2019 to dispute to dispute the bill. (Testimony of [REDACTED] [REDACTED]; DC Water Customer Contact note dated 02/06/2019)
4. The customer heard nothing from DC Water for months after his initial call so he telephoned DC Water on September 13, 2019 for the status of his bill dispute. (Testimony of [REDACTED] [REDACTED]; DC Water Customer Contact note dated 09/13/2019)

5. DC Water conducted an investigation of the customer's dispute sometime between the customer's telephone call in February and April 3, 2019, however, DC Water did not communicate the report to the customer until after the customer called in September 2019. (DC Water Customer Contact notes 9/20/19, 2/6/2019, 3/11/2019, 3/14/2019 and 4/3/2019)
6. Per DC Water's investigation of the dispute, the utility determined that it was not receiving any reads in STAR and that a field read taken 3/6/19 was not in line with previous field reads. Thereafter, the utility closed the clarification case. (DC Water Customer Contact note 3/11/2019)
7. DC Water did not generate a service order or send a technician to the property to repair/replace the MTU until 9/17/2019. (DC Water Customer Contact notes 10/8/2019 and 4/3/2019)
8. Not hearing anything from DC Water after his initial call in February 2019, the customer telephoned DC Water on September 13, 2019 and the service representative created a new case file. (DC Water Customer Contact note 9/13/2019)
9. DC Water went out to the property on 9/17/2019 and found the meter covered with an iron lid and replaced iron lid and attached a MTU to the new lid. (DC Water Customer Contact note 10/8/2019)
10. The customer received an Investigation Report from the utility in which the utility determined that the charges were valid and that the account was billed based on actual meter readings; the report did not mention that lack of electronically sent meter reads. (DC Water letter dated 9/20/2019)
11. The MTU at the property did not transmit meter reads from year 2017 to November 2019. (Testimony of Kimberly Arrington; DC Water Customer Contact note 3/11/2019)
12. DC Water cannot state when high water usage occurred at the property and it did not alert the customer of high-water usage occurring at the property. (Testimony of Kimberly Arrington)

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. Once the customer establishes a prima facie case that s/he did not use and/or was not responsible for payment of the water as charged, the burden shifts to DC Water to rebut the customer's claim that s/he did not use the water as charged. ((Gatewood v. DC WASA, 82 A.3d 41, D.C. Court of Appeals 2013)
3. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:
 - (a) Verify the computations made in the formulation of the water and sewer charges;
 - (b) Verify the meter reading for possible meter overread or doubtful registration;
 - (c) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
 - (d) Check the meter for malfunction;

- (e) Check the water-cooled air conditioning system, if any, for malfunction; and
- (f) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.

See, 21 DCMR 403.

- 4. Upon completion of investigation, the Utility shall issue a written decision containing a brief description of the investigation and findings. (21 DCMR §404.1)
- 5. If at any time, a meter, data collection device or transmitter fails to register correctly or collect, deliver or transmit data or otherwise operate or bears evidence of having been tampered with, as determined by qualified personnel of the Authority, the water charge for the interval in which the incident occurred shall be based on the average previous water consumption for that interval. (21 DCMR §308.4)

DECISION

The customer in this case disputed that he used the amount of water charged to him in a bill received in January 2019. When the customer contacted DC Water to dispute the bill, the utility conducted an investigation but did not communicate with the customer its findings and it did not take any action to rectify defective equipment found at the residence. The utility closed the case file and only after the customer's persistence did it open a new file and ten (10) months later send an investigation report to the customer.

The customer's testimony was sufficient to establish a prima facie case that he had not used the water as charged, in that, he customer denied any leaks at his property or having performed any plumbing repairs at the property. The customer, further, testified that he and his family were away on travel during a portion of the period in dispute.

DC Water did not send any alert notices to the customer that high water usage was occurring at his property and the utility is unable to discern when high-water usage occurred at the property. The utility has no electronic meter reads from the property and relied upon field reads to charge the customer for service. The utility did not provide a record of historical usage when the MTU was transmitting reads from the property and the utility acknowledged that the MTU had not functioned at the property since year 2017. The only bill copy presented into evidence during the hearing was dated 12/6/19 which reflected that the water meter was changed on 11/24/2019. DC Water did perform a meter test and seems to rely upon the meter test to prove the accuracy of its billing.

This case is more about what was not done than what was done... The evidence and testimony established that the customer properly disputed his water and sewer bill. During the hearing, Ms. Arrington asserted that the dispute was not timely and she based that contention, first, upon the Investigation Report and then upon a note in the contact notes maintained by the utility. With respect to both purported basis of the untimeliness assertion, no support was found

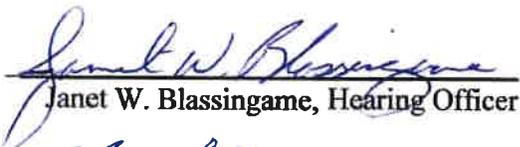
in either. The Investigation Report makes no mention of untimeliness and the contact note dated 3/14/2019 was also devoid of any reference to the dispute being untimely. To the contrary, there is a customer contact note dated 11/21/2019 in which a customer service representative wrote "customer contacted us 02/06/19 payment received before next bill was generated therefore they were not untimely..."

When a customer disputes a bill, the utility is obligated to investigate the dispute. The utility will either determine that the dispute is untimely and deny the dispute, or, take action to determine if the bill is correct or if the customer is entitled to an adjustment of his account. (See, 21 DCMR §403) In this case, however, the utility found that its equipment was defective and did nothing else for months thereafter including but not limited to sending the customer a written decision containing a description of its investigation and findings. See, 21 DCMR §404.1. When the investigation report was sent to the customer, the report did not mention defective equipment.

DC Water did test the water meter and the meter was determined to be functioning properly. The utility's obligation to investigate a customer's complaint extends beyond testing the water meter in preparation for an administrative hearing, as was the impetus in this case. The meter test was performed on December 10, 2019, however, the Investigation letter was done sometime before April 3, 2019, even though it was sent to the customer in September 2019. As such, the Investigation Report was not based upon the meter test. No evidence was presented by the utility to support its Investigation Report. The utility did find that its MTU was not functioning but, after making the finding, it failed to repair the device for many months thereafter.

Pursuant to 21 DCMR §308.4, when a MTU fails to transmit data or otherwise operate, the water charge for the interval in which the incident occurred shall be based on the average previous water consumption for that interval.

In that the utility failed to conduct a sufficient investigation of the customer's dispute, the Hearing Officer cannot determine if the charge is valid. It is clear, however, that because the dispute was not investigated as it should have been, the utility was unable to meet its burden of rebutting the customer's prima facie case. Accordingly, the customer prevails in his dispute of the charge and DC Water's determination that the charge is valid and no basis exists to adjust the customer's account if hereby REVERSED. DC Water shall adjust the customer's account for the period 12/7/18 to 1/4/19 based on the average previous water consumption for that period at the period.

By: 
Janet W. Blessingame, Hearing Officer

Date: March 9, 2020

Copy to:

██████████

██████████ Reno Road, NW
Washington, DC 20008

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

IN RE: 1451 Maryland Ave Holding LLC
c/o Alexandra Matthews
1451 Maryland Avenue, NE
Washington, DC 20002

Account No: [REDACTED]
Case No: 19-127244

Service Address:
1451 Maryland Avenue, NE

Amounts and Periods in Dispute:
6/8/2019 to 7/8/2019 = \$1,313.01
7/9/2019 to 8/7/2019 = \$ 411.09

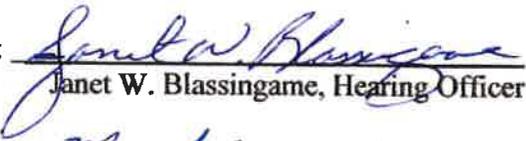
Before Janet W. Blassingame, Hearing Officer
January 9, 2020 at 2:00 p.m.

ORDER OF DEFAULT

The customer contested a water and sewer bill for the above account for the periods of time above referred. The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges and determined that the dispute was untimely regarding the bill dated 8/9/2019. The customer appealed DC Water's decision and requested an administrative hearing.

This matter was scheduled for hearing on January 9, 2020. Present for hearing was Kimberly Arrington, Supervisor, Customer Support, DC Water on behalf of DC Water.

The customer was afforded an extended grace period due to the awareness of so many customers having difficulty finding the new location of DC Water. However, although the hearing was delayed until 3:00 p.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) Accordingly, based upon customer's failure to appear or to request 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, Hearing Officer

Date: March 9, 2020

Copy to:

1451 Maryland Ave Holding LLC
c/o Alexandra Matthews
1451 Maryland Avenue, NE
Washington, DC 20002

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

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

Account No: [REDACTED]
Case No: 2018-09-10

Amounts in Dispute: \$1,564.11

Before Janet W. Blassingame, Hearing Officer
January 14, 2020 at 11:00 a.m.

The customer contested a water and sewer bill for the above account for the period of time November 28, 2017 to May 21, 2018. The DC Water and Sewer Authority (DC Water) determined that the customer's high-water consumption was most likely caused by a toilet leak and, as such, no adjustment of her account was warranted. The customer requested an administrative hearing.

This matter had been previously scheduled for hearing on September 13, 2018 and November 1, 2018 and removed from the calendar upon notice of a bankruptcy filing by the customer. DC Water became aware that the customer's bankruptcy was dismissed and determined that all charges were collectible. The customer renewed her request for an administrative hearing and the hearing was scheduled for January 14, 2020. Present for hearing was Kimberly Arrington, Supervisor, Customer Support, on behalf of DC Water. [REDACTED] [REDACTED] having previously represented that her medical condition prevented her from appearing for the hearing, participated in the hearing by telephone.

Ms. Arrington represented that she sent and the customer acknowledged receiving documents to be used in the hearing, as well as, a package of emails requested by the customer.

The property involved is a single-family residence. The customer represented that the property is her childhood home and had been purchased by her parents in year 1957. [REDACTED] [REDACTED] stated that, having moved up after growing up in the house, she moved back home approximately twenty (20) years ago and currently lives in the house with her sister. She stated that she is bedridden and resides on the first floor of the house and due to her condition, she cannot determine if any water problems exist on the upper floor. She stated that the house has one bathroom, one kitchen, a washing machine, a utility sink and two (2) outside faucets. [REDACTED] [REDACTED] stated that she cannot recall the historical water usage for the property.

[REDACTED] testified that when she received the bill, she telephoned DC Water and asked where the high water usage came from. She stated that she was told that the utility would send out a technician to investigate/inspect. [REDACTED] [REDACTED] complained that she never received an email from DC Water advising her when the inspection would take place and, then, she received another high bill from the utility. The customer stated that she called DC Water again and that a technician came out to the property. [REDACTED] [REDACTED] testified that the service technician checked the toilet, sinks and faucets and found a slight leak in the toilet but told her that he did not believe

that the leak was significant enough to cause the high bill as received. ██████ stated that she next called DC Water requesting an external inspection of her property and she was told that the utility would schedule such an inspection. ██████ stated that the technician told her that her next bill would be adjusted.

█████ testified that she decided to get the toilet overhauled after she could not get an answer from DC Water as to the cause of the high-water bills. She stated that she had a plumber come in and that she believes that the toilet flapper was replaced. She stated that at some point her water and sewer charge started to decline and after several month, the bill was back to normal.

█████ asserted that she did everything that she could to remedy the situation regarding her bill. She complained that if the service technician who came to her property to conduct the inspection, had recommended to her to replace the toilet flapper she would have done so. ██████ stated that she is financially on a limited income and receives Seven Hundred Dollars (\$700.00) a month from social security. She complained that the service technician assured her that the toilet was the issue causing high usage. She asserted that the technician told her to get an external audit and went by the technician's advice and suggestions.

Ms. Arrington stated that the customer's bills are based upon actual meter reads from the property. She stated that an interior audit was conducted by the utility on February 12, 2018 and the service technician found a minor leak. Ms. Arrington testified that the customer's water usage started increasing in December 2017 and each month thereafter the water usage at the property went higher until July 2018.

█████ interjected and reemphasized that she went by the service technician's verbal assessment of what was going in her house and if the technician had told her that the a minor leak found could have caused increased water usage, she would have approached family member to assist her with the cost of repairing the toilet.

Ms. Arrington stated that the DC Municipal Regulations do not allow DC Water to adjust a customer's water and sewer bill when increased usage is caused by a leak.

Referring to the customer's meter reads, Ms. Arrington testified that it looks like the toilet repair was done July 3rd or July 4, 2018.

Ms. Arrington stated that DC Water does not perform an underground inspection until a known interior leak has been fixed.

█████ argues that the service technician should make recommendations to customers as to what to do based upon audit findings. Ms. Arrington stated that DC Water recommends that all customers check for leaks and ██████ countered that she could not check the toilet herself due to her medical condition and she had to rely on the service technician's assessment that the high-water usage was not caused by the bathroom toilet. ██████ asserted that a lot could have been prevented if she had been told that a toilet leak could have caused increased water usage.

Ms. Arrington testified one can see from the documents (meter reads) that as soon as the leak was fixed, usage declined at the property. Ms. Arrington testified that DC Water tested the water meter and the meter was determined to have 101.06% accuracy. Ms. Arrington pointed out that the meter's accuracy was in-line with American Water Works Association guideline for meter accuracy. Ms. Arrington explained that DC Water did not conduct an underground inspection because the customer's water usage went back down after the toilet leak was repaired. Ms. Arrington reiterated that the service technician was at the property on February 12, 2018 and that the toilet repair was done on July 2nd or 3rd of year 2018.

The hearing was concluded but the customer called back and requested to go back on record because she had additional information that she wanted to put on the record. As such the hearing was resumed... [REDACTED] testified that she spoke with her sister and her sister told her that on the day that DC Water tested the water meter, she was told that the water meter would be removed and replaced with a new meter.

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 occupied by [REDACTED] and her sister. (Testimony of [REDACTED])
2. The period in dispute is November 28, 2017 to May 21, 2018. (Testimony of the parties)
3. Water usage at the property began to increase as of December 2017 and usage continued to go upward until July 2018. (Testimony of Kimberly Arrington; DC Water Meter Read Log)
4. The property was subject to an interior leak inspection by DC Water on February 12, 2018 and a toilet leak was detected. (Testimony of the parties)
5. The toilet leak was repaired in July 2018 and based upon meter reads, it appears that the repair was performed either on the 3rd or 4th of July, 2018. (Testimony of Kimberly Arrington; 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 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 failed to establish a prima facie case that more likely than not the bill in dispute was wrong. The evidence and testimony established that there was a defective toilet in the house and, moreover, when the toilet was repaired, water usage declined.

The customer argues that she relied upon a DC Water service technician assessment of what could have caused her high water usage and even though the toilet leak was found during the inspection of the house, the technician's statements lead her to believe that the toilet leak was not the source of the increased water usage. The customer asserted that had the technician not led her to believe that the toilet was not the source of her problem, she could have mitigated her damages, i.e. high-water bills, and the utility should take some responsibility as causing her extended high-water consumption. The customer also inferred that she should not be held responsible for payment of the high-water bills because of her medical condition limiting her ability to know what is occurring in the house and because of her limited financial ability to pay.

Both the customer's financial ability and medical conditions are life-challenges and may qualify her for assistance from both public and private entities who have programs to assist individuals with her needs, DC Water is bound by regulations relating to when it can adjust a customer's bill. Unfortunately, the regulations allow no discretionary decision to assist customer's with toilet leaks and, specifically, declare that when increased water consumption is caused by an interior fixture such as a toilet, DC Water is barred from adjusting the customer's account based upon the increased water usage caused by the leak. (See, 21 DCMR §406)

The service technician inspected and found a toilet leak at the customer's home. The customer asserts that the technician's statements in addition to doing his assignment to inspect the house, led her to not get the toilet leak repaired sooner than she ultimately did. Property owners/occupants are responsible for water usage occurring within their homes. Once a leak was detected in home, it was incumbent upon the owner to get the leak fixed. The customer in this case knew she had leak and despite the opinion of the technician or any other third party, the responsibility to take care of one's property and to pay one's water and sewer bill rests with the property owner/occupant. Nothing in this record relieves the customer of responsibility for payment of the charges.

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

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

Date: March 9, 2020

Copy to:

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

BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

DEPARTMENT OF CUSTOMER SERVICES

IN RE: 3927 Properties, LLC
515 M Street SE
Washington, DC 20003

Service Address:
3929 Georgia Avenue, NW

Account No: [REDACTED]
Case No: 19-530360

Amounts and Dates in Dispute:

12/14/2018 to 1/14/2019	= \$2,098.33
11/15/2018 to 12/13/2018	= \$2,309.85
10/13/2018 to 11/14/2018	= \$2,534.49

Before Janet W. Blassingame, Hearing Officer
January 15, 2020 at 12:00 Noon

The customer contested water and sewer bills for the above account for the periods of time noted above. The DC Water and Sewer Authority (DC Water) declared that the customer's dispute of each billing period was untimely. The customer requested an administrative hearing.

This matter was scheduled for hearing on January 15, 2020. Present for hearing were Fadil Abdel Fatah, owner of 3927 Properties, LLC, and, Kimberly Arrington, Supervisor, Customer Support, on behalf of DC Water.

The property involved is a two (2) story commercial building brought in 2017 by 3927 Properties, LLC. Mr. Fatah explained that when the property was purchased, he inherited the building's tenants which consisted of a ground floor barbershop and a second floor nail and business operation. Each business had one bathroom. Mr. Fatah stated that the tenants signed an agreement in March 2018 to vacate the building and they were out of the property by September 30, 2018 due to a fire. Mr. Fatah stated that a fire occurred at the property on September 17, 2018. The fire started on the second floor and the tenants were displaced/walked out and filed insurance claims for their losses. Mr. Fatah stated that the company ServPro was brought in following the fire and it boarded the property. Mr. Fatah stated that he did not know exactly what ServPro did within the building. Mr. Fatah stated that the building was demolished either in May 2019 or June 2019. Mr. Fatah explained that the property had been purchased for its development.

Mr. Fatah testified that after he received the high bill from DC Water, he had his contractor, Thiago, check the building for leaks and the contractor found nothing leaking. Mr. Fatah also stated that no water was seen during excavation of the property. The parties agreed

that Mr. Fatah would submit within five (5) days of the hearing, copies of the fire report and the bill from ServePro.

Mr. Fatah stated that the building was an old row house and that there was no sprinkler system.

Ms. Arrington testified that the water meter reads were transmitting from the building up until January 9, 2019 when reported usage stopped.

Mr. Fatah interjected that he sent the contractor to inspect the building when he received the high bill for service.

Ms. Arrington stated that the usage was not caused by a broken pipe because there is a new meter at the property and the new meter is not registering water usage. She stated that water usage at the property stopped before DC Water disconnected service.

Ms. Arrington verified that the utility was aware that a fire occurred at the property.

She further testified that the customer never set-up an account with the utility so the utility did not send a notice of high usage.

Ms. Arrington testified that water usage at the property was consistently going up after the fire occurred and, then, one day- January 9, 2019, usage at the property just stopped. Ms. Arrington testified that she does not know what stopped water usage from occurring at the building. She stated that "Martha" called on behalf of the customer on February 25, 2019 and she was asked to submit the fire report to DC Water and the report was never submitted.

Ms. Arrington testified that the customer did not dispute the bill(s) until April 22, 2019 and by then, the disputes were untimely. Ms. Arrington asserted that the utility did not even have a telephone number on the account.

Ms. Arrington testified that DC Water tested the water meter and the meter was determined to have 100.31% accuracy.

Ms. Arrington asserted that the customer never requested that DC Water turn-off service to the property.

Post-hearing by over three (3) weeks, the Hearing Officer inquired on DC Water whether Mr. Fatah submitted the fire report and a copy of the ServPro statement and DC Water reported that the customer had not submitted any documents.

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

FINDINGS OF FACT

1. The property involved was purchased by 3927 Properties LLC for commercial development but at the time of the purchase there were two (2) pre-existing tenant occupants which the new owner sought to move-out by agreement, (Testimony of Fadil Fatah)
2. The property owner failed to establish an account with DC Water and no contact information was provided to the utility after the customer's purchase of the property in year 2017. (Testimony of Kimberly Arrington)
3. There was a significant spike in water usage reported from the property starting sometime between 8/13/2018 and 9/14/2018 and high-water usage continued to register at the property until January 9, 2019. (DC Water meter read raw MR results and consumption report)
4. Before the tenants moved, voluntarily, a fire occurred at the property and tenants vacated the property; the fire occurred September 17, 2018. (Testimony of Fadil Fatah)
5. Following the fire, ServPro was brought in and the company ultimately boarded the building. (Testimony of Fadil Fatah)
6. Following the fire, water and sewer service to the building remained established and there was reported water usage at the property until January 9, 2019. (Testimony of the parties; DC Water Meter Read Log)
7. After January 9, 2019, the water meter at the property registered no water usage. (Testimony of Kimberly Arrington, DC Water Meter Read Log)
8. The property owner was not focused upon the property in that it had several properties for development, however, an employee of the owner named Martha contacted DC Water on February 25, 2019 seeking information regarding the water and sewer service charges for the property. (Testimony of Kimberly Arrington; DC Water customer contact note dated 2/25/2019)
9. The property owner contacted DC Water on April 22, 2019 to add Martha Maasho to the water and sewer account so she could act on his behalf. The owner stated that they would like to dispute bills dated 11/20/18, 12/24/18 and 1/31/19. The customer informed DC Water that the property had been vacant since November and that they had a plumber come out in January but no leaks were found. (DC Water customer contact note dated 4/22/2019)
10. DC Water requested of Martha that she submit to the utility a copy of the fire report and she failed to do so. (Testimony of Kimberly Arrington; DC Water customer contact note dated 2/25/2019)
11. The customer failed to submit the fire report and a copy of ServPro bill per the request of the Hearing Officer and agreement of the parties. (the hearing record in this matter)
12. Water usage at the property stopped on January 9, 2019. (Testimony of Kimberly Arrington)
13. DC Water pulled and tested the water meter and the meter was determined to have 100.31% accuracy. (Testimony of Kimberly Arrington)

14. DC Water ruled out the existence of an underground leak at the property because usage at the property stopped. (Testimony of Kimberly Arrington)
15. DC Water ultimately terminated service to the property due to non-payment and the utility placed a lien upon the property. (Testimony of Kimberly Arrington; DC Water customer contact notes)

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. Once the customer establishes a prima facie case that s/he did not use and/or was not responsible for payment of the water as charged, the burden shifts to DC Water to rebut the customer's claim that s/he did not use the water as charged. (Gatewood v. DC WASA, 82 A.3d 41, D.C. Court of Appeals 2013)
3. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:
 - (a) Verify the computations made in the formulation of the water and sewer charges;
 - (b) Verify the meter reading for possible meter overread or doubtful registration;
 - (c) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
 - (d) Check the meter for malfunction;
 - (e) Check the water-cooled air conditioning system, if any, for malfunction; and
 - (f) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.
See, 21 DCMR 403.
4. An owner or occupant may challenge the most recent charges assessed by DC Water for water, sewer and groundwater sewer service by either:
 - (a) Paying the bill, and notifying WASA in writing that he or she believes the bill to be incorrect and is paying under protest; or
 - (b) Not paying the current charges contained in the bill and notifying WASA in writing, within ten (10) working days after receipt of the bill of the reason(s) why the bill is believed to be incorrect.
(See, 21 DCMR §402)
5. "Challenges received after the ten-day (10) period stated in §402.1 will be deemed to have been filed in an untimely manner...." 21 DCMR §402.2

DECISION

The customer based his dispute of the water and sewer charges upon the fact that the property had been subject to a fire and subsequently was vacant and boarded up. Accepting both facts to be true, the customer failed to establish that more likely than not the charges were wrong

or for some other reason the property owner should not be held responsible for payment.

First, the customer failed to timely dispute the charges. The customer was disputing three (3) bills incurred during the period 10/13/2018 to 1/14/2019, yet the customer failed and/or neglected to contact DC Water to dispute the charges until February 25, 2019 when one of his employees telephoned the utility for information regarding the charges. The employee (Martha) was not authorized to discuss the water and sewer account when she called the utility in February 2019 and the customer did not authorize Martha to act on his behalf regarding the water and sewer account until Mr. Fatah telephoned the utility in April 2019 giving such authorization and advising the utility that he wanted to dispute the bill charges.

Pursuant to the DC Municipal Regulations at Section 21-§402, a customer, who does not pay the water and sewer bill, must notify WASA in writing, within ten (10) working days after receipt of the bill of the reason(s) why the bill is believed to be incorrect. When the customer contacted DC Water in April 2019, he stated that he wanted to dispute bills dated 11/20/18, 12/24/18 and 1/31/19. Clearly, more than ten (10) working days elapsed from receipt of each bill before the customer did anything to establish his intent to dispute the charges.

Notwithstanding the untimeliness of the customer's dispute, DC Water did investigate the validity of the charges. In its investigation, the utility verified the meter reads and found that the reads were actual reads from the property. The utility presented its meter reads reflecting usage occurring at the property despite the customer's contention that the property was boarded and vacant. The utility submitted its meter reads from the property and the reads indicate that high water usage started at the property before the fire occurred and continued after the fire and up to January 2019. The utility tested the water meter and determined that the meter was functioning within accepted range for water meter accuracy. The utility ruled out the existence of an underground leak as a possible cause of water usage registering on the water meter. The customer was vague and less than candid regarding the status of the property following the fire and what if anything was done by his plumber and ServPro in the wake of the fire and the customer's receipt of bills from the utility.

During the hearing, the customer testified that he did not know what exactly ServPro did regarding the property. The ServPro bill was requested of the customer and he failed to submit the same. With respect to the fire report, the customer's employee, Martha, was requested by the utility to submit the fire report and she failed to do so. Mr. Fatah, at the hearing, agreed to submit the fire report post-hearing within five (5) days and he failed to do so. The customer testified that he sent his contactor to the property after he received the high-water bill from DC Water. The customer did not have for presentation anything from the contractor to evidence the contractor's investigation or actions at the property, however, Mr. Fatah testified that the contractor found no leaks. The customer did not testify as to when his contractor in fact inspected the property for leaks, however, the water usage at the property stopped in January 2019 and thereafter in February 2019, contact was made with the utility on behalf of the

customer to inquire regarding the bill. The evidence further established that the property owner failed to give attention to the property, in that, even though the tenants vacated the property, water and sewer service remained connected, the water and sewer bills were unpaid, and high-water usage started earlier than the bills being disputed by the customer. Yet the customer ignored the charges for water and sewer service incurred at the property and did nothing regarding water usage being incurred at the property for months after the tenants vacated and the fire occurred.

The Hearing Officer is convinced that the owner gave no attention to the property and ignored bills incurred for water and sewer service after the fire and after the tenants vacated the property. The evidence established that high water usage started at the property before the tenants vacated and before the fire and the high usage continued thereafter. Ultimately, the property owner is responsible for what happens within his building and the evidence clearly established that water usage was occurring in the building despite the fire and despite the building being boarded. In that the property owner ignored what was going on within the building and allowed water and sewer charges to accumulate, it is the property owner's responsibility and liability to pay for the service as charged. By failing to submit documents requested and having memory lapse as to when actions were taken or what acts were done, the property owner sought to rest his case upon there having been a fire and the property being boarded. The fact of the fire and boarding up the property, however, do not overcome the utility's evidence of water usage and the owner's failure to address the issue either by making a timely inspection of water usage, having the service turned off, paying the bills for service or initiating a dispute within a reasonable period after being charged for service.

For the reasons stated above, the customer is determined responsible for payment of all water and sewer charges incurred at the property up to January 9, 2019 when the water usage stopped.

By: 
Janet W. Blessingame, Hearing Officer

Date: March 9, 2020

Copy to:

Mr. Fadil Abdel Fatah
3927 Properties LLC
515 M Street, SE
Washington, DC 20003

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

IN RE: [REDACTED]
[REDACTED] 44th Street, NW
Washington, DC 20016

Account No [REDACTED]
Case No: 19-599438

Amount in Dispute: \$1,879.46

Before Janet W. Blassingame, Hearing Officer
January 15, 2020 at 2:00 p.m.

ORDER OF DEFAULT

The customer contested a water and sewer bill for the above account for the period of time March 9, 2019 to May 9, 2019. The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges and determined that the charges were valid and that the increased consumption was caused by an internal leak on the property. The customer appealed DC Water's decision and requested an administrative hearing.

This matter was scheduled for hearing on January 15, 2020. Present for hearing was Kimberly Arrington, Supervisor, Customer Support, DC Water on behalf of DC Water.

The customer was afforded an extended grace period due to the awareness of so many customers having difficulty finding the new location of DC Water. Nevertheless, even though the hearing was delayed until 3:00 p.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) Accordingly, based upon customer's failure to appear or to request 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: March 9, 2020

Copy to:

[REDACTED]
[REDACTED] 44th Street, NW
Washington, DC 20016

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

IN RE: [REDACTED] [REDACTED]
[REDACTED] Sheriff Road, NE
Washington, DC 20019

Account No: [REDACTED]
Case No: 19-700809

Periods and Amounts in Dispute:
7/24/2019 to 8/22/2019 = \$ 544.87
6/25/2019 to 7/23/2019 = \$ 389.56

Before Janet W. Blassingame, Hearing Officer
January 22, 2020 at 11:00 a.m.

The customer contested water and sewer bills for the above account for the periods of time noted above. The DC Water and Sewer Authority (DC Water) determined that the charges were valid and no adjustment was warranted. The customer requested an administrative hearing.

This matter was scheduled for hearing on January 22, 2020. Present for hearing were [REDACTED] [REDACTED] and Kimberly Arrington, Supervisor, Customer Support, 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 washing machine and one outside faucet. [REDACTED] stated that this is her family home and that she has lived in the house since her birth. She stated that the house was brought in year 1941 and currently, five (5) people occupy the home. Historically, the water and sewer bill has been approximately One Hundred Dollars (\$100.00) per billing period.

[REDACTED] testified that she received a high-water usage notification from DC Water which prompted her to telephone the utility to inquire regarding her property. She stated that she was told that 10,000 to 12,000 gallons of water were being used per day. [REDACTED] [REDACTED] stated that she called the People's Counsel and was told to request a hearing and to call a plumber. [REDACTED] [REDACTED] stated that she, next, called Williams Sewer and Drain Service on August 15, 2019 and the responding plumber found no leaks but indicated that the meter was flashing. [REDACTED] stated that the plumber told her that the meter might be defective. [REDACTED] stated that she took a video of the water meter and she showed the video from her cell phone to the Hearing Officer and to Ms. Arrington. The video showed the water meter flashing 050370089 than 0000.

[REDACTED] stated that DC Water sent a technician to inspect her home on August 14, 2019 and no leaks were found.

[REDACTED] testified that she heard no water running in the home and that she had no occasion to jingle a toilet handle to stop a toilet from running. She, further, asserted that there

was nothing usual occurring at the property to the period of alleged high-water usage and that she was not on any trips and away from the home during the period in dispute.

Ms. Arrington asked the customer regarding her toilets and [REDACTED] responded that she has not changed any toilets flappers and that as of March 2019, one toilet was new and that the other toilet in the home was changed 2 -3 years ago.

Ms. Arrington asserted that the meter reads are actual and that the reads were sent by a meter transmittal unit (MTU) at the property.

Ms. Arrington testified that a new meter was placed at the property on December 5, 2019 and that water usage has been registering on the new meter almost every hour. Ms. Arrington informed the customer that one CCF is equivalent to 748 gallons of water.

Ms. Arrington asserted that whenever water usage is occurring hourly, a toilet flapper is always suspected as being the cause of the usage. Ms. Arrington explained that the customer's water service charge may appear to have declined because the customer is now in the CAP program gives a reduction in charges for water and sewer as well as the replacement fee and clean waters fee. Ms. Arrington stated that the customer began benefiting from the CAP program as of December 2019 but, prior thereto, she had not been in the CAP program.

Ms. Arrington testified that DC Water removed and tested water meter and the meter was determined to have 101.36% accuracy which is within accepted standard for water meter accuracy as established by the American Water Works Association as 98.50% to 101.50%.

Ms. Arrington testified that DC Water conducted an inspection for the existence of an underground leak at the property and no underground leak was found. She stated that the underground inspection was performed on August 23, 2019.

Ms. Arrington asserted that the customer had a high bill dated 10/29/2019 reflecting that 31 CCF of water had been used during the period 9/25/2019 to 10/23/2019. Ms. Arrington asserted that during the prior billing period of 8/29/2019 to 9/24/2019 which had been a 33-day period, the customer used 12.68 CCF of water.

Ms. Arrington asserted that the customer's video showed water turned-off and that no water was being used at the time.

Ms. Arrington recommended to the customer that she change her toilet flappers.

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] [REDACTED])
2. The period in dispute is 6/25/2019 to 8/22/2019. (Testimony of the parties)
3. DC Water sent HUNA alerts to the customer on 8/4/2019, 8/6/2019 and 9/29/2019. (DC Water Customer Contact Notes; testimony of the parties)
4. The customer's registering water usage reflected significant increased water usage as early as April 2019 and thereafter a decrease in usage in May 2019, only, to reflect increased water usage in June 2019 and a significant spike in water usage occurring in July 2019. (Usage At A Glance chart reflected on the customer's Bill Summaries)
5. That the customer's water usage spiked higher in August 2019, then, decreased in September 2019, only to spike again in October 2019. (Usage At A Glance chart reflected on the customer's Bill Summaries; testimony of Kimberly Arrington)
6. The customer's water meter is registering water usage occurring at the property almost on an hourly basis since a new water meter was placed at the property when the old meter was removed by DC Water for testing on December 5, 2019. (Testimony of Kimberly Arrington; DC Water Meter Read Log)
7. DC Water removed the water meter for testing in December 2019 and the meter was determined to have 101.36% accuracy. (Testimony of Kimberly Arrington; DC Water Meter Test Results)
8. DC Water sent a technician to the property on August 14, 2019 for an interior inspection for leaks and no leaks were detected. (Testimony of the parties)
9. DC Water conducted an inspection for underground leaks on August 23, 2019 and no underground leaks were found. (Testimony of Kimberly Arrington)

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:
 - (a) Verify the computations made in the formulation of the water and sewer charges;
 - (b) Verify the meter reading for possible meter overread or doubtful registration;
 - (c) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
 - (d) Check the meter for malfunction;
 - (e) Check the water-cooled air conditioning system, if any, for malfunction; and
 - (f) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.See, 21 DCMR 403.
3. D.C. Municipal Regulations bar adjustment of a customer's bill when all checks and tests

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

4. The repair of leaking faucets, household fixtures and similar leaks, and the repair of malfunctioning water-cooled air conditioning equipment, are the responsibility of the owner or occupant. (21 DCMR §406.1)
5. If the investigation discloses leaking faucets, leaking fixtures, or similar leaks, no adjustment will be made to the bill for any portion of the excessive consumption attributable to those leaks. (21 DCMR §406.2)

DECISION

The customer in this matter failed to establish that more likely than not the bills being disputed were wrong or for some other reason she should not be held responsible for their payment.

The evidence and testimony established that the customer had been and is experiencing high water usage on a fluctuating basis as early as April 2019 and the utility has sent to the customer alerts of high-water usage occurring at the property both in August 2019 and September 2019. Finding the cause of the high-water usage has proven to be difficult and elusive, in that, DC Water has conducted both interior inspections and underground leak inspections at the property and no leaks were found. Likewise, the customer hired a plumber who failed to detect a leak at the property. DC Water further conducted a meter test and the water meter was determined to be functioning within accepted perimeters for water meter accuracy, yet, the new water meter at the property continues to register almost hourly water usage occurring at the property.

DC Water suggests that based upon the fluctuation in water usage occurring at the property, a toilet flapper is suspected as the cause of increased consumption. Unfortunately, toilet flappers do not always stay open and while suspected, no toilet flapper has been found open when inspections have taken place. DC Water is recommending to the customer that she change the toilet flappers in the house.

While the cause of the increased water usage has not been determined and a cause is only speculated, the evidence is clear that increased water usage is occurring at the property with same spiking and declining in no particular pattern.

In cases such a presented herein, when tests and checks do not find the cause of excessive water consumption at a property, the Municipal Regulations bar DC Water from adjusting the customer's bill for the increased water usage. (See, 21 DCMR 408) The evidence proved that DC

Water's equipment was functioning properly and that there was no underground leak as a possible cause of increased water usage occurring at the property. Ultimately, the property owner and/or occupant is responsible for water usage occurring at his/her property and, in this instance, the customer must pay the service charges for no basis can be found to relieve her of the responsibility.

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: *March 9, 2020*

Copy to:

██████████
██████████ Sheriff Road, NE
Washington, DC 20019

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

IN RE: [REDACTED]
[REDACTED]
[REDACTED]
Darien, GA 31305-0591

Service Address:
[REDACTED] H Street, SE

Account No [REDACTED]
Case No: 20-150541

Amount in Dispute: \$1,307.00

Before Janet W. Blassingame, Hearing Officer
January 22, 2020 at 1:00 p.m.

The customer contested a water and sewer bill for the above account for the period of time August 30, 2019 to September 19, 2019. The DC Water and Sewer Authority (DC Water) determined that the dispute was untimely. The customer requested an administrative hearing.

This matter was scheduled for hearing on January 22, 2020. Present for hearing was Kimberly Arrington, Supervisor, Customer Support, on behalf of DC Water. The customer, [REDACTED] and his daughter, [REDACTED], participated by telephone.

The property involved is a single-family residence owned by [REDACTED]. The property has one and one-half (1 ½) bathrooms, one kitchen, a washing machine, a utility sink, and two (2) outside faucets. [REDACTED] stated that he has owned the property since 1960 and that the water and sewer bill has been Forty-one Dollars (\$41.00) for fees only since there has been no water usage occurring at the property. [REDACTED] stated that the house has been vacant for five (5) or six (6) years and he has not visited the property in approximately one year. He recalled that his last visit was in April 2019. [REDACTED] stated that he recently listed the property for sale and that one of his friends has a key to the property. [REDACTED] stated that he is enrolled in the Auto-pay plan.

[REDACTED] testified that she received a high-water usage alert from DC Water and she called DC Water about the bill. [REDACTED] explained that the utility has already taken payment from the account by the time that she contacted it regarding the bill. [REDACTED] stated that she was told that the spike in water usage lasted one month and then usage went back to normal. She further stated that she was told that there had been billing problems and that other customers had experienced issues with large bills and that errors had been generated.

[REDACTED] testified that he asked his friend to check on the house and that his friend went inside of the house and did not hear any running water. He stated that his friend checked the water faucets and that the faucets had been turned off from the inside of the house.

[REDACTED] stated that spike occurred during one week and no one was in the house. She stated that, in fact, no one was in the house until October 2019.

█ █ stated that he asked DC Water for a meter reading.

█ █ also complained that the utility deemed the dispute to be untimely and it was not.

Ms. Arrington testified that the meter reads are actual and the bill is accurate. She increased water usage started on September 7, 2019 at 12:00 hour until September 18, 2019. She stated there was constant usage up to 18:00 hour on September 18, 2019.

Ms. Arrington stated that the customer contacted DC Water on October 24, 2019 and she confirmed that the utility had taken double payment from some customers' accounts but that the billing error did not mean that the bill was wrong.

Ms. Arrington testified that DC Water conducted a meter test and the meter was determined to have 101.24% accuracy.

█ █ stated that he comes up to Washington, DC at least once per year. He stated that his neighbor/friend only comes into the house if he is asked to do so in the event of an emergency.

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

FINDINGS OF FACT

1. █ is the owner of the property involved which is a single-family residence. █ has not lived in the home for a number of years (5 – 6) and visits the property approximately one time per year. (Testimony of █)
2. The customer utilizes Auto-pay for his water and sewer bill and had only paid for fees to the utility since no water was being used in the house prior to the period in dispute. (Testimony of █)
3. The period in dispute is August 30, 2019 to September 19, 2019. (Testimony of the parties)
4. Water usage occurred at the property starting September 7, 2019 and lasted until September 18, 2019. (Testimony of Kimberly Arrington)
5. The property owner was not in residence during the period that usage occurred in September 2019. (Testimony of █)
6. The property's outside faucets were turned off from inside of the house. (Testimony of █)
7. The customer contacted a friend/neighbor to whom he had given a key to the property and requested that the friend go over to the house and inspect for problems. The friend/neighbor reported not seeing any leaks or hearing any running water. (Testimony of █)
8. DC Water tested the water meter and the meter was determined to have 101.24% accuracy. (Testimony of Kimberly Arrington)
9. The charge for water and sewer service during the period in dispute is based upon actual meter reads from the property. (Testimony of Kimberly Arrington)

10. The customer utilized Credit Card Auto-pay for his water and sewer bill and, as such, the bill was paid at the time that the customer's daughter contacted DC Water on his behalf to dispute the charge and the bill was paid before the utility charged the customer for the next billing cycle. (Testimony of [REDACTED]; [REDACTED])
11. The customer was billed for 33.59 CCF of water for the period July 20, 2019 to August 17, 2018; the bill was not disputed. (Bill Summary dated 8/21/18)
12. The customer received a HUNA alert of high-water usage occurring at the property. (Testimony of [REDACTED]; DC Water Customer Contact log dated 09/16/2019)

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:
 - (a) Verify the computations made in the formulation of the water and sewer charges;
 - (b) Verify the meter reading for possible meter overread or doubtful registration;
 - (c) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
 - (d) Check the meter for malfunction;
 - (e) Check the water-cooled air conditioning system, if any, for malfunction; and
 - (f) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.

See, 21 DCMR 403.
3. D.C. Municipal Regulations bar adjustment of a customer's bill when all checks and tests provide no reasonable explanation for excessive water consumption. (See 21 DCMR 408 which states: "In cases in which all checks and tests result in inconclusive findings that provide no reasonable explanation for excessive consumption, no adjustment shall be made to the bill for any portion of the excessive consumption, except as may be approved by the General Manager, based upon a demonstration by the owner or occupant that such an adjustment will further a significant public interest.")
4. An owner or occupant may challenge the most recent charges assessed by DC Water for water, sewer and groundwater sewer service by either:
 - (c) Paying the bill, and notifying WASA in writing that he or she believes the bill to be incorrect and is paying under protest; or
 - (d) Not paying the current charges contained in the bill and notifying WASA in writing, within ten (10) working days after receipt of the bill of the reason(s) why the bill is believed to be incorrect.

(See, 21 DCMR §402)

DECISION

Ultimately, a property owner is responsible for what occurs in and on his property and when the owner is absent from his property for extended periods of time without a caretaker or property manager or a camera surveillance system, it is difficult for the owner to know what is occurring in his absence. In this case, the customer has not lived in his house in the District of Columbia for many years and visits the property only approximately once per year. For some reason, water started to run at or within the property in the owner's absence. DC Water detected the unusual occurrence since there had been consistence no usage at the property for months and the utility sent an alert of the water usage to the customer. The customer was not specific as to when his friend/neighbor was able to visit the property, at the customer's request, to see if anything as amiss to cause water usage. The testimony was that the friend/neighbor found nothing wrong. The evidence established that the water usage occurred during a period of eleven (11) days and the utility sent a HUNA alert to the customer two (2) days before the water usage stopped. Based upon the evidence and testimony presented, it is impossible to know if the friend/neighbor was at the house prior to the water usage stopping or if he was there after the water usage stopped. The evidence did establish that DC Water's equipment was functioning appropriately, in that, it had meter reads from the property, its alert system notified the customer of the water usage, and its water meter accuracy was within accepted standards for meter accuracy.

In circumstances where the utility conducts an investigation and its tests and checks fail to determine what caused the usage and its equipment is functioning properly, the utility is barred pursuant to the D.C. Municipal Regulations from adjusting a customer's account for excessive consumption. (See, 21 DCMR § 408)

Because he was enrolled in Credit Card Auto-Pay the customer made a timely dispute of the bill, however, despite the timeliness of the dispute, he was unable to establish that the charge was incorrect or for some other reason he should not be held responsible for its payment.

As such, DC Water's determination that the dispute is untimely is REVERSED, however, it is determined that the disputed charge is valid and no basis exists to adjust the customer's account.

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

Date: *March 9, 2020*

Copy to:


Darien, GA 31305-0591

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

IN RE: [REDACTED] [REDACTED]
[REDACTED] Highview Place, SE
Washington, DC 20019

Account No: [REDACTED]
Case No: 20-10766

Periods and Amounts in Dispute:
5/2/2019 to 6/3/2019 = \$ 542.21
6/4/2019 to 7/1/2019 = \$ 611.88

Before Janet W. Blassingame, Hearing Officer
January 22, 2020 at 2:00 p.m.

The customer contested water and sewer bills for the above account for the periods of time noted above. The DC Water and Sewer Authority (DC Water) declared that the customer's dispute was untimely. The customer requested an administrative hearing.

This matter was scheduled for hearing on January 22, 2020. Present for hearing were [REDACTED] and Kimberly Arrington, Supervisor, Customer Support, on behalf of DC Water.

The property involved is a single-family residence owned and occupied by [REDACTED]. The house has one and one-half (1 ½) bathrooms, one kitchen and a washing machine. [REDACTED] stated that she has lived in the home for twenty-five (25) years and that there are two (2) people occupying the home. She stated that her water and sewer bill is, generally, less than One Hundred Dollars (\$100.00) per billing cycle. [REDACTED] emphasized that both she and her are gone from the house during the day.

[REDACTED] stated that a toilet flapper was changed in a bathroom in January 2020 and that a sink has a drip and a new faucet was installed, also, in January 2020. She admitted that she had been jingling the toilet handle in one bathroom since October or November and that the sink was dripping even a little longer in time. Despite the plumbing issue involving the sink and toilet, [REDACTED] asserted that she did not notice anything wrong in the house in May/June 2019 when the high water usage occurred.

[REDACTED] testified that DC Water sent a service technician to the house to check for leaks and the technician performed dye tests. [REDACTED] stated that she did not remember what the technician said regarding any leaks detected.

Ms. Arrington testified that the meter read upon which the charges are based were actual. She further testified that the customer has constant water usage occurring at the house.

Ms. Arrington stated that DC Water sent alerts to the customer by telephone since May 23, 2019 that increased water usage was occurring at the property. She stated that when a service technician inspected the property for leaks, it was found that the 1st floor kitchen faucet was leaking and that the 1st floor bathroom toilet needed a flapper change.

Ms. Arrington testified that she spoke with the customer on December 4, 2019 about the fact that water usage at the property had not declined and she told the customer to hire a plumber. Ms. Arrington asserted that DC Water would not do anything further in investigation of the customer's dispute until the customer hired a plumber to correct the defects identified.

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 owned and occupied by [REDACTED] (Testimony of [REDACTED] [REDACTED])
2. The period in dispute is May 2, 2019 to July 1, 2019. (Testimony of the parties)
3. High water usage began at the property in May 2019 and continues as of the date of the hearing. (Testimony of Kimberly Arrington; DC Water Meter Read Log; DC Water Customer's Graph of daily water usage May 2019 thru December 2019)
4. Starting May 23, 2019 and continuing up to June 23, 2019, DC Water attempted to alert the customer of high-water usage occurring at the property. HUNA alerts were attempted by telephone on 6/23/2019, 6/17/2019, 6/17/2019, 6/10/2019, 6/4/2019, 5/29/2019, and 5/23/2019. (See, DC Water Customer Contact Log)
5. The customer contacted DC Water on August 16, 2019 after her service was disconnected for non-payment. During the telephone call, the customer wanted to dispute her 7/28/2019 bill and was told that the dispute was untimely and in order to have service restored, she would have to the past due amount owed to the utility. (DC Water Customer Contact note dated 8/16/2019)
6. DC Water conducted an interior audit of the customer's property on December 2, 2019 and the service technician found a kitchen faucet leak and a defective toilet flapper in the home. (Testimony of Kimberly Arrington)
7. The customer acknowledged that she has had to jingle the handle on her toilet since October/November 2019 and that she was aware of her kitchen sink dripping before October/November 2019. (Testimony of [REDACTED] [REDACTED])
8. The customer changed the toilet flapper in January 2020. (Testimony of Sandra Curtis)

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. An owner or occupant may challenge the most recent charges assessed by DC Water for water, sewer and groundwater sewer service by either:
 - (e) Paying the bill, and notifying WASA in writing that he or she believes the bill to be incorrect and is paying under protest; or
 - (f) Not paying the current charges contained in the bill and notifying WASA in writing, within ten (10) working days after receipt of the bill of the reason(s) why the bill is

believed to be incorrect.
(See, 21 DCMR §402)

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. The repair of leaking faucets, household fixtures and similar leaks, and the repair of malfunctioning water-cooled air conditioning equipment, are the responsibility of the owner or occupant. (21 DCMR §406.1)
5. If the investigation discloses leaking faucets, leaking fixtures, or similar leaks, no adjustment will be made to the bill for any portion of the excessive consumption attributable to those leaks. (21 DCMR §406.2)

DECISION

The customer in this matter failed to establish that more likely than not the bills being disputed were wrong or for some other reason she should not be held responsible for their payment.

The customer contended that, because no one was home during the daytime, the usage, as charged, was wrong. The evidence and testimony established that high water usage had been occurring for several months at the property and the customer give no attention to her water and sewer charges until the utility disconnected her service. The customer contacted DC Water regarding her high bill in August 2019 but the high usage started in May 2019. Further, the customer acknowledged that she was aware of a defect in her toilet because she had to jingle the toilet handle and, even before being aware of the toilet defect, she knew that her kitchen sink was dripping. The customer testified that she had the toilet repaired in January 2020 but she did not mention any repair of the kitchen sink and DC Water asserted that high water usage continues occurring at the property as of the date of the hearing.

Despite informing the customer that her dispute of her bill was untimely, DC Water conducted an investigation of the validity of the charges and thru an interior audit of the house, a

service technician identified a kitchen faucet leak and a defective bathroom toilet flapper in the home.

Pursuant to 21 DCMR §406 when the utility's investigation reveals the existence of a faulty household fixture such as a toilet or sink faucet, the utility does not adjust the customer's bill for the increased water usage due to the plumbing issue detected.

In this case, the evidence and testimony were clear that there were leaks in the home. The customer admitted knowledge of the leaks and her testimony established a timeframe of existence which corresponds with the increased usage of water in the home. While the customer asserted that there were no plumbing defects during the period in dispute, the evidence of increased water usage conflicts with her testimony. As such, based upon the evidence and testimony the Hearing Officer is convinced that more likely than not the plumbing defects found to exist in the home caused increased water consumption.

Accordingly, the customer's dispute of the charges is determined to be unfounded. no basis exists to adjust the customer's account and the customer is responsible for payment of the water and sewer charges as reflected in the bills.

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

Date: March 9, 2020

Copy to:

■■■■■■■■■■
■■■■ Highview Place, SE
Washington, DC 20032

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

IN RE: Washington Factoring, Inc.
3411 Dent Place, NW
Washington, DC 20007

Service Address:

██████████ (tenant)
██████ O Street, NW

Account No: ██████████
Case No: 19-614427

Periods and Amounts in Dispute:
6/11/2019 to 7/9/2019= \$ 611.01
8/9/2019 to 9/10/2019= \$ 658.61
9/11/2019 to 10/8/2019=~~\$466.13~~
\$1735.75

Before Janet W. Blessingame, Hearing Officer
January 23, 2020 at 10:00 a.m.

The customer contested water and sewer bills for the above account for the periods of time noted above. The DC Water and Sewer Authority (DC Water) declared that the customer's dispute was untimely regarding the bill dated 9/12/19 and that the charges were valid and no adjustment warranted regarding the bill dated 10/9/19. The customer requested an administrative hearing.

This matter was scheduled for hearing on January 23, 2020. Present for hearing were: ██████████ (tenant); Kevin Schlosberg, property manager, on behalf of the landlord, Washington Factoring, Inc; and Kimberly Arrington, Supervisor, Customer Support, on behalf of DC Water. Curtis Brown, DC Water, General Foreman, was contacted and testified by telephone.

The property involved is residential rental property consisting of two (2) houses on the same lot which share one water meter. The property is and has been rented to students on an annual basis with leases starting in June of each year. The dispute was brought by one such student, namely, ██████████ ██████████. The tenants are responsible for the water and sewer bill charges. What is considered the "main house" has one and one-half (1 ½) bathrooms, one kitchen, one washing machine, a dishwasher and one outside faucet. Five (5) students currently reside in the main house and during the summer, there were four (4) students living in the house during the summer which was the period in dispute. The second house has one bathroom, one kitchen, and a washing machine and two (2) students reside in the house. ██████████ stated that she moved into the main house in the last week of August 2019. She stated that even though she was not residing on the property during the periods in dispute, the other students told her what was doing on at the property.

██████████ stated that over the past six (6) months, she and her fellow occupants have received extraordinarily high bills for water and sewer service. She stated that the previous occupants were charged for less than 13 CCF of water per billing periods. As an example, ██████████ pointed out that the bill dated June 11, 2019 for the period May 9, 2019 to June 10, 2019 was twice as much at \$952.95 for 26.04CCF of water. She stated that the bill dated July 10th was for \$611.01 for 46.97 CCF of water.

██████████ testified that she was told that ██████████, a tenant, inspected for leaks and that s plumber (Stevens Plumbing) inspected in July and no leaks were found. She stated that DC Water sent a service technician to inspect the property on November 5, 2019 and no leaks were found. Ms. Schlosberg interjected that the prior tenants had no complaints.

██████████ noted that by November 2019, water usage had declined and the bill was \$254.20. She asserted that there had been no change in behavior by the tenants. She noted that water usage had also declined in August 2019 and the bill had been \$175.00 but that water usage spiked again in September 2019 and the bill was \$658.00 She stated that the water meter at the property was changed in December 2019. She stated that the most recent water and sewer bill for January 2020 was in the amount of \$196.35, however, the billing period was split reflecting two (2) difference water meters after the water meter was changed.

██████████ complained that DC Water's response time for coming out to inspect the property was slow and that the dispute process was very frustrating. She asserted that she did not understand that one had to dispute every billing period.

██████████ stated that there is just one water meter for both houses.

Mr. Schlosberg stated that he does not send a cleaning crew when tenants change each year.

Ms. Arrington testified that the meter reads upon which the disputed bills were based were actual reads and she stated that, in fact, the utility has hourly meter reads from the property. She stated that water started running as of June 1, 2019 and that for the period May 9, 2019 to June 10, 2019 which encompassed 33 days, the customer was billed \$352.00. Mr. Schlosberg interjected that a normal bill for the property would have been for 26.04 CCF.

Ms. Arrington stated that DC Water conducted an inspection for underground leaks at the property on December 18, 2019 and no underground leaks were found.

██████████ noted that the service order has failure codes on the bottom of the form and she asked Ms. Arrington what was the meaning of the codes. Ms. Arrington requested permission to call the Water Services Department to ascertain the code meanings. Her request was granted and she telephoned, in the hearing, Curtis Brown, General Foreman. Mr. Brown testified that the codes had no meaning regarding this property and were simply the format of the document.

Ms. Arrington testified that DC Water pulled and tested the water meter from the property and the meter was determined to have 98.63% accuracy which is passing according to standards established by the American Water Works Association.

Ms. Arrington testified that water usage at the property has historically fluctuated and she suggests that the customer change the water flappers at the property.

Ms. Arrington stated that DC Water sent out HUNA alerts to that high-water usage was occurring at the property, however, it appears that the alerts went to prior tenants and that notification information had not been updated by the customer.

Ms. Arrington asserted that two (2) disputes by the customer were not timely and that it states on the back of each bill that customers must dispute every period.

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 two (2) houses on the same lot and same water meter. The property is owned by Washington Factoring, Inc, and rented, on an annual basis, to college students. The tenant change-over is in June of each year. (Testimony of [REDACTED])
2. Both houses are monitored by one water meter and, as such, it is impossible to isolate where increased water usage is occurring. (Testimony of the parties)
3. The periods in dispute are 6/11/2019 to 7/9/2019 and 9/11/2019 to 10/8/2019. DC Water determined that the customer's dispute of the bill dated 9/12/2019 for the period 8/9/2019 to 9/10/2019 was untimely. (DC Water Investigative Letters dated 11/7/19; DC Water Customer Contact Log dated 07/25/2019)
4. There was a significant increase in water used at the property starting on June 1, 2019 and water usage has fluctuated thereafter with spikes and declines to the present. (Testimony of Kimberly Arrington)
5. The spike in water usage coincided with the change in tenancy of students renting the property. New students took over occupancy of the property as of June 1st and additional students moved in for the Fall semester of classes. (Testimony of the parties)
6. DC Water sent numerous alerts that high water usage was occurring at the property. (Customer Contact Log dated 9/19/2019, 8/30/2019, 8/17/2019, 7/9/2019, 7/3/2019, 6/13/2019 and 6/3/2019; testimony of Kimberly Arrington)
7. During the period of high-water usage, a former tenant's name was linked to the account and the HUNA alerts were sent to the tenant. The property manager added current tenants, [REDACTED] and [REDACTED] to the account on 7/25/2019 and [REDACTED] was instructed by DC Water to create an online account which the owner must complete and thereafter grant the online account access. (DC Water Customer Contact Log entries dated 7/25/2019 and 7/22/2019)
8. The property was inspected for leaks by one of the tenants, DC Water and a plumbing company and no leaks were found. (Testimony of the parties)

9. DC Water inspected for an underground leak and no underground leak was detected. (Testimony of Kimberly Arrington; DC Water Service Order dated 12/18/19)
10. DC Water pulled and tested the water meter and the meter was determined to have 98.63% accuracy. (Testimony of Kimberly Arrington)

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:
 - (a) Verify the computations made in the formulation of the water and sewer charges;
 - (b) Verify the meter reading for possible meter overread or doubtful registration;
 - (c) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
 - (d) Check the meter for malfunction;
 - (e) Check the water-cooled air conditioning system, if any, for malfunction; and
 - (f) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.
See, 21 DCMR 403.
3. D.C. Municipal Regulations bar adjustment of a customer's bill when all checks and tests provide no reasonable explanation for excessive water consumption. (See 21 DCMR 408 which states: "In cases in which all checks and tests result in inconclusive findings that provide no reasonable explanation for excessive consumption, no adjustment shall be made to the bill for any portion of the excessive consumption, except as may be approved by the General Manager, based upon a demonstration by the owner or occupant that such an adjustment will further a significant public interest.")
4. An owner or occupant may challenge the most recent charges assessed by DC Water for water, sewer and groundwater sewer service by either:
 - (a) Paying the bill, and notifying WASA in writing that he or she believes the bill to be incorrect and is paying under protest; or
 - (b) Not paying the current charges contained in the bill and notifying WASA in writing, within ten (10) working days after receipt of the bill of the reason(s) why the bill is believed to be incorrect.
(See, 21 DCMR §402)
5. "Challenges received after the ten-day (10) period stated in §402.1 will be deemed to have been filed in an untimely manner...." 21 DCMR §402.2

DECISION

The customer in this matter failed to establish that more likely than not the bill being disputed was incorrect.

The evidence and testimony established that high water consumption was occurring at the customer's property for an extended period starting June 1, 2019 and including the periods in dispute and that water consumption has/is fluctuating to the present. DC Water established that its water meter was properly recording water used at the home and the utility presented meter reads from the property reflecting when the spike started and its fluctuation to the present. The utility, also, has evidence and the customer admitted that the utility sent high water usage alerts that high water usage was occurring at the property and that the alerts were ineffective because the customer failed to change contact information for the property when the tenants changed. Notwithstanding that no leaks were detected upon inspection of the property, DC Water presented evidence that its water meter was functioning properly and within accepted standards of meter accuracy and, as already noted, the utility has meter reads from the property documenting water usage.

In instances where the utility's equipment is found to be operating properly and the cause of high-water consumption is undetermined, the municipal regulations bar DC Water from adjusting the customer's account for high water consumption. (See, 21 DCMR §408)

The evidence further established that the customer failed to timely dispute the September 12, 2019 bill. A bill challenge is based upon a customer's most recently received bill and a customer has ten (10) working days to dispute a bill after receipt if the bill is not paid. DC Water denied the customer's dispute as being untimely but because the utility did investigate the high usage and conducted its tests and checks the effect of the untimely dispute of one period is nullified in that throughout the course of high water usage occurring at the period, which includes the period of dispute deemed untimely, nothing was presented to relieve the customer from responsibility for payment of the water used or to show that the water as charged was not consumed at the property.

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: March 9, 2020

Copies to:

[REDACTED]
[REDACTED] O Street, NW
Washington, DC 20007

Washington Factoring, Inc.
c/o Kevin Schlosberg
3411 Dent Place, NW
Washington, DC 20007

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

IN RE: Airdome LLC
c/o Steve Weatherby
3400 Idaho Avenue, NW
Washington, DC 20002

Account No: [REDACTED]
Case No: 19-699779

Service Address:
1107 H Street, NE

Amounts and Periods in Dispute:
6/7/2019 to 7/5/2019 = \$11,682.89
7/6/2019 to 8/7/2019 = \$12,397.99

Before Janet W. Blassingame, Hearing Officer
January 23, 2020 at 2:00 p.m.

The customer contested a water and sewer bills for the periods of time noted above. The DC Water and Sewer Authority (DC Water) declared that the customer's dispute was untimely. The customer requested an administrative hearing.

This matter was scheduled for hearing on January 23, 2020. Present for hearing were: Steve Weatherby and Addison Holladay on behalf of Airdome LLC; and, Kimberly Arrington, Supervisor, Customer Support, on behalf of DC Water.

Airdome LLC acquired the property in August 2018 with plans to convert what had been commercial building housing a thrift store into a residential property. Mr. Weatherby stated that there were problems with loiterers and drug transfers in front of the building so, in February 2019, a decision was made to board-up the building. The building was a two-story structure with a basement. The building had one bathroom on the second floor.

Mr. Weatherby testified that he went into the building to look for any evidence of standing water and he saw no water and he heard no running water. He added that the company also wants to dispute its August 2019 bill which is in the amount of \$22,000.00. Ms. Arrington interjected and asserted that the customer must contact the utility to dispute each billing period and, in this instance, the utility's investigation of the customer's dispute did not extend to the August bill.

Mr. Weatherby stated that the water and sewer bills were going to the property which is and has been vacant since purchase.

Mr. Weatherby stated that the water meter was removed from the pit sometime in August or September 2019. Ms. Arrington interjected that the water meter was pulled by DC Water on October 17, 2019.

Mr. Weatherby asserted that the owner had no problem with vagrants or squatters regarding the building. He stated that he did not call a plumber to inspect the building. He stated that he called DC Water and spoke with Leah Marshall.

Mr. Weatherby explained that the water and sewer bills have been paid after the owner entered into a joint venture agreement in March 2019 for development of the property. He stated that prior to March 2019, bills for water service went to the site. Mr. Weatherby stated that the charge for water and sewer service at the property had been \$113.00 per billing period and that after the high bills of July and August, 2019, the September 2019 bill was back to normal at \$156.00.

Ms. Arrington stated that the property owner failed to inform DC Water of the change of title regarding the property.

Mr. Weatherby asserted that ever since September 2019, the charge for water and sewer service has been within normal range and that nothing was done at the property to cause a change in water usage.

Mr. Weatherby stated that the Administrative Hearing Petition was filed with DC Water on September 23, 2019 and in so doing, he was disputing the August bill. Mr. Weatherby asserted that he assumed that his bill dispute would cover the earlier bill charge.

Ms. Arrington stated that the water service to the building was disconnected for non-payment on August 13, 2019. She stated that the customer's August bill statement was dated August 7, 2019 and, as such, by the time the customer disputed the bill, DC Water had turned off the water.

Ms. Arrington testified that the meter reads are actual and correct. She stated that DC Water conducted a test of the water meter and the meter was determined to 99.55% accuracy. She stated that, based upon meter reads from the property, the water usage started on June 19, 2019 at 4:00 p.m. and continued until August 3, 2019 at 8:00 a.m.

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

1. The property involved was a commercial building purchased in August 2018 for development by converting the site to a residential building. (Testimony of Steve Weatherby)
2. The customer's water reads showed no consumption until June 2019. (DC Water Customer Contact Log entry dated 7/19/2019)
3. The property was boarded up as of February 2019 and was not developed when water usage occurred at the property. (Testimony of Steve Weatherby)
4. Water service to the property was connected until DC Water disconnected service for non-payment on August 13, 2019. (Testimony of Kimberly Arrington)
5. The customer failed and/or neglected to provide information to DC Water of the transfer of ownership of the property and the utility lacked contact for the owner until the utility conducted its own search for developers and obtained a telephone number

- for the Holladay Corp. (Testimony of Kimberly Arrington; DC Water Customer Contact Log entry dated 9/13/2019)
6. DC Water conducted a search for the property owner and identified the phone number of The Holladay Corp. and during a phone contact, DC Water advised that usage had occurred at the property in the period June thru August. (DC Water Customer Contact Log dated 9/13/2019)
 7. The customer contacted DC Water regarding the water and sewer charges on September 16, 2019 when someone (Ms. Baumgarder) called on behalf of the developer/new owner and a request was made for an investigation after the DC Water service representative advised the caller that high water usage had been occurring starting 6/19/19 and ending 8/3/19. (DC Water Customer Contact Log entry 9/16/2019)
 8. On September 17, 2019, Leah Marshall, Supervisor, Department of Customer Services, DC Water, sent an email instructing staff to generate untimely letters for July and August bills regarding the customer's account. (DC Water Customer Contact Log entry 09/17/2019)
 9. The customer's July and August bills were dated 7/19/19 and 8/19/19, respectively, (See Bill Summaries dated 7/19/19 and 8/19/19)
 10. DC Water sent to the customer a Petition form and Investigation letter stating that the customer's dispute was untimely. (Testimony of Kimberly Arrington; Investigation Letter dated 9/17/2019; DC Water Customer Contact Log entry 9/17/2019)
 11. DC Water noted that the customer was disputing the bill dated 7/19/2019 for the period June 7, 2019 to July 5, 2019. (Customer Contact Log dated 9/24/2019)
 12. When the customer submitted the Administrative Hearing Petition, the customer wrote that the dispute was of the bill dated 8/19/19; the hearing petition was dated 9/23/2019 and received by DC Water on 9/24/2019. (The record in this matter)
 13. When the customer's representative entered the property, there was no evidence of standing water or running water. (Testimony of Steve Weatherby; DC Water Customer Contact Log dated 9/16/2019)
 14. DC Water has meter reads reflecting the start and end of water usage at the property. (Testimony of Kimberly Arrington; DC Water Meter Read Log)
 15. DC Water tested the water meter and the meter was determined to have 99.55% accuracy. (Testimony of Kimberly Arrington; DC Water Meter Test Results)
 16. There was no reported water usage at the property until June 19, 2019 at 4:00 p.m. and water ran until August 3, 2019 when it stopped at 8:00 a.m. (Testimony of Kimberly Arrington; DC Water Meter Test Results)
 17. There had been a problem at the property regarding loiterers and drug transactions but the customer denied any problem with vagrants or squatters. (Testimony of Steve Weatherby)
 18. When asked if any contractors had been at the property location, the customer's representative did not answer the DC Water representative's inquiry but stated that the owner/developer's team had not visited the location. (DC Water Customer Contact Log entry dated 9/16/2019)

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. Once the customer establishes a prima facie case that s/he did not use and/or was not responsible for payment of the water as charged, the burden shifts to DC Water to rebut the customer's claim that s/he did not use the water as charged. (Gatewood v. DC WASA, 82 A.3d 41, D.C. Court of Appeals 2013)
3. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:
 - (a) Verify the computations made in the formulation of the water and sewer charges;
 - (b) Verify the meter reading for possible meter overread or doubtful registration;
 - (c) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
 - (d) Check the meter for malfunction;
 - (e) Check the water-cooled air conditioning system, if any, for malfunction; and
 - (f) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.
See, 21 DCMR 403.
4. An owner or occupant may challenge the most recent charges assessed by DC Water for water, sewer and groundwater sewer service by either:
 - (a) Paying the bill, and notifying WASA in writing that he or she believes the bill to be incorrect and is paying under protest; or
 - (b) Not paying the current charges contained in the bill and notifying WASA in writing, within ten (10) working days after receipt of the bill of the reason(s) why the bill is believed to be incorrect.
(See, 21 DCMR §402)
5. "Challenges received after the ten-day (10) period stated in §402.1 will be deemed to have been filed in an untimely manner...." 21 DCMR §402.2
6. After receiving the Investigation Report by DC Water, an owner or occupant may file a petition for an administrative hearing to review the Utility's decision with fifteen (15) calendar days. (See, 21 DCMR §409.2 and §412.2)

DECISION

DC Water has dispute processing rules that limit the time in which a customer may dispute bill charges, as well as, request an administrative hearing. Ten (10) working days after receipt of the bill is the time within which a customer may dispute a bill that the customer fails to pay. (See, 21 DCMR §402.2) 15 calendar days of the utility's decision regarding a bill dispute is the time limit within which a customer may request an administrative hearing. The D.C. Court of

Appeals has ruled that DC Water may waive the time limits but if the utility elects not to do so, a customer who fails to meet the set time limits loses his right to dispute a bill and/or request and have an administrative hearing. (See, Gatewood v. DC WASA, 82 A.3d 41, D.C. Court of Appeals 2013)

DC Water determined and maintains that the customer failed to timely dispute the bill charges. The evidence established that a call was made to the utility on behalf of the customer on September 16, 2019 at which time DC Water informed the caller that it was too late to dispute the bill. The customer service representative supervisor taking the call wrote that the customer asked for a bill investigation letter and administrative hearing petition. Per the utility's records, an untimeliness letter and a petition form were emailed to the customer on September 17, 2019. Pursuant to the applicable regulations, the customer was, in fact, untimely in the dispute of the charges. With respect to the bill dated 7/19/2019, the customer's time for disputing the bill charges expired on August 2, 2019. With respect to the bill dated 8/19/2019, the customer's time for disputing the bill charges expired on September 3, 2019.

The customer's request for an investigation letter and administrative hearing petition form does not or, at least, should not revive the missed time limitations for disputing a bill charge. In this instance, however, DC Water scheduled this matter for hearing and investigated the customer's dispute.

During the hearing, testimony established that the customer purchased the property for development and development has not yet occurred. The property sits boarded up as an effort by the owner to prevent and/or discourage drug sales and loitering. The owner/developer's representative who called DC Water on September 16, 2019 told the utility that none of their team had been in the property. DC Water documented its efforts to identify the property owner and to contact the owner regarding non-payment of the water and sewer bill. Mr. Weatherby, who appeared for the hearing, admitted that no interest was shown to the property because development of the same had not begun and the developer had several other projects in addition to the property at issue. During the September 16, 2019 call to DC Water, the owner's representative did not answer DC Water's inquiry as to whether contractors had been in the building and DC Water suggested that a vacant and boarded building, such as the property, could allow for all types of illegal usage. Mr. Weatherby denied having a problem with vagrants and squatters at the building, but, his testimony lacks foundation in that based upon the evidence, after purchase, the owner did nothing with the building except to board the same six (6) months later and then, to send someone out to inspect the property after DC Water identified the owner and contacted the owner about non-payment of the bill and advised that high water usage had occurred at the property. The testimony and evidence established that water service to the property was turned off by DC Water on August 13, 2019 but Mr. Weatherby testified that he went into the property to look for standing water and he heard no running water. In that the owner did not know about the status of the water account until DC Water contacted the owner on September 13, 2019, the preponderance of the evidence is that the property inspection could not have occurred prior to contact by the utility and DC Water's notes reflect that "Ms. Bamberger" called DC Water regarding a dispute and said that "they" went to the property and there were no

signs of leaks. (See, DC Water Customer Contact Log entry 9/16/2019 at 15:28:56) This communication between utility and customer reveals that Mr. Weatherby did not realize that the water service was disconnected and that it would be unreasonable to investigate leaks when the water was not turned on. The Hearing Officer is convinced that, even though Mr. Weatherby did not testify as to when he went to the property to inspect for leaks, the inspection occurred sometime between September 13, 2019 when DC Water made contact with the owner and the call was made on September 16, 2019 to DC Water on behalf of the owner and it was said that "they" went to the property and there were no signs of any leaks.

DC Water presented meter reads from the property which reflect when usage started and when usage ended at the property. The utility also tested that water meter from the property and the meter was determined to be functioning appropriately regarding accuracy.

A property owner is responsible for what occurs at its property. The evidence and testimony established that water usage occurred at the property. The property owner failed to monitor both the property and the water and sewer charges billed regarding water used, consumed or wasted at the property. No evidence established any negligence or fault by the utility; the utility's equipment was shown to be working While the dispute was untimely, DC Water investigated this matter and granted a hearing. The charges are determined to be valid, based upon meter reads from the property, and no basis exists to adjust the customer's account. As such, the owner is responsible for the bill charges.

By: 
Janet W. Blassingame, Hearing Officer

Date: March 9, 2020

Copy to:

Mr. Steve Weatherby
Airdome LLC
3400 Idaho Avenue, NW
Washington, DC 20016

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

IN RE: [REDACTED]
[REDACTED] Road, NW
Washington, DC 20016

Account No: [REDACTED]
Case No: 19-539731

Amounts and Periods in Dispute:
11/3/2018 to 5/7/2019 = \$1,334.77
5/8/2019 to 1/8/2020 = \$2,129.29

Before Janet W. Blassingame, Hearing Officer
January 28, 2020 at 1:00 p.m.

The customer contested water and sewer bills for the periods of time noted above. The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges and determined that the charges were valid and no basis exists to adjust the customer's account with respect to the charges billed for the period 5/8/2019 to 1/8/2020. With respect to the charges billed for the period 11/3/2018 to 5/7/2019, the utility determined that the account had been overbilled for water consumption. The customer requested an administrative hearing.

This matter was scheduled for hearing on January 28, 2020. Present for hearing were: [REDACTED]; Kimberly Arrington, Supervisor, Customer Support, on behalf of DC Water; Mary Larris, Senior Billing Agent, DC Water; and, Arlene Andrews, DC Water (as an observer only).

The property involved is a single-family home purchased by [REDACTED] in July 2018. [REDACTED] stated that he and his family actually moved into the home in August 2018. The property has one kitchen, five and one-half (5 ½) bathrooms, a washing machine, a dishwasher, one outside faucet and an irrigation system. [REDACTED] stated that the irrigation system is equipped with a saturation sensor and it, generally, runs every day or every other day and is turned off in November of each year. The customer stated that, on average, less than .3 CCF of water are used at the property on a daily basis and that, historically, the water and sewer charge is under Two Hundred Dollars (\$200.00) per billing period.

[REDACTED] testified that, with respect to the first dispute of the bill dated 11/28/2018, DC Water conducted an administrative bill review which resulted in an added charge of Eight Hundred Dollars (\$800.00) to his account. The customer complained that he had just been billed Five Hundred Dollars (\$500.00) on his bill dated May 2019. He asserted that the utility added the \$800.00 charge to the account without explanation.

[REDACTED] testified that he hired a plumber to inspect his property and the plumber found no leaks but suspected that the water meter was faulty. The customer stated that the plumber told him that his bill was high for a family of five (5) people. The customer submitted a copy of a plumber's invoice dated June 17, 2019 from Thomas E. Clark Plumbing, Inc. On the invoice, the plumber wrote that a small run was found on one toilet and that the flapper needed to

be replaced. The plumber wrote that the customer would replace the flapper himself. The plumber, further, wrote that a hose bib was replaced on the left of the house, that the water service was checked and it was not leaking. The plumber questioned whether the meter was bad.

The customer stated that he thought the administrative hearing was about the first dispute and that he was told that DC Water tested the water meter and that the meter passed. The customer questioned why the utility replaced the water meter if the meter passed testing.

With respect to the dispute of the bill dated 1/14/2020 for the period 5/8/2019 to 1/8/2020, the customer pointed out that the utility estimated his water usage for four (4) months from September to December and, then, adjusted the bills. [REDACTED] contended that the usage amounts reflected on the 1/14/2020 bill do not add up and he pointed out that the adjusted bill shows three (3) meters at his property.

[REDACTED] asserted that water usage at his home, when compared to that of others in his neighborhood, was high. The customer provided a chart reflecting his water usage based upon the main domestic water meter and his irrigation water meter. The customer stated that .7 CCF of water per day was allegedly used by his household while the neighborhood average was 2.5 CCF. [REDACTED] stated that his reported water usage has declined since the new water meter was placed at his property.

[REDACTED] stated that the irrigation water meter at his property has never been tested and that the meter was at the property when he purchased the house. He, also, asserted that there have been no repairs.

The customer pointed out that there was greater than average rainfall in June, July and October, yet, his reported water usage tripled. [REDACTED] pointed out that the irrigation system has a saturation sensor which prevents watering when it is not necessary.

Ms. Arrington stated that DC Water did not test the irrigation water meter. She stated that the utility did test the main domestic water meter and that the meter was determined to have 101.04% accuracy which is passing based upon standards set by the American Water Works Association as accepted accuracy of a water meter is between 98.5% and 101.5%.

Ms. Arrington testified that the utility estimated water used at the property from 9/9/2019 to 12/6/2019. She stated that the meter reads were valid and that the utility adjusted for irrigation meter credit. She asserted that when the customer moved into the house, he established his historical usage between the period 7/13/2018 to 11/2/2018 on the domestic water meter and that over 112 days the customer averaged 7.435CCF of usage. Ms. Arrington pointed out that, based upon the usage chart provided by the customer, between 11/2018 and 5/2019, the customer averaged 8.00 CCF of water per month.

Ms. Arrington stated that there was no water usage registering on the irrigation water meter until May 7, 2019.

Ms. Arrington testified that a DC Water service technician went out to the property in

May 2019 because of the customer's complaint that his water usage was too high. She stated that there was no customer contact with the utility in April or May 2019. When questioned regarding customer contact with the utility, Ms. Arrington stated that she did not customer notes of the customer calling DC Water regarding his bill and that there was no note made of an April call by the customer to the utility. Ms. Arrington, then, stated that the service order generated was to have a technician go out to validate the water meter and to read the water meter. She testified that on May 16, 2019, the service technician found two (2) water meters at the property- one meter was 3/4" and the other meter was a one-inch meter. Ms. Arrington stated that the technician did not find an irrigation water meter at the property, so, between July 2019 and October 2019, the customer was billed for both water and sewer service.

Ms. Arrington testified that the one-inch water meter is the domestic water meter and that it was only the one-inch domestic water meter upon which the customer was billed between 5/8/2019 and 10/2019. Ms. Arrington asserted that the utility did not bill the customer on the 3/4" water meter for water usage; she asserted that regarding the 3/4" water meter, the customer was only billed for fees. Ms. Arrington continued that, based upon its investigation, the utility found that the 3/4" water meter was an irrigation water meter and based upon this determination, the utility on January 14, 2020 reversed the charges on the bills between 5/8/2019 and 10/2019 and re-billed the customer. Ms. Arrington stated that usage up to 8/5/2019 was based upon actual meter reads in the utility's STAR system. She asserted that irrigation usage started on 5/7/2019 and that the meter fee for a 3/4" water meter is higher than the fee for a 5/8" water meter, so, as such, when the bill was corrected, the charge was higher.

█ █ interjected that the calculations by DC Water do not make sense. Ms. Arrington stated that she did not know how the calculations were made and that Ms. Larris would explain the same.

Ms. Larris testified that a new domestic water meter was installed at the property on December 4, 2019. She stated that DC Water estimated the customer's water usage from August 6, 2019 to December 6, 2019 based upon historical water usage. Ms. Larris testified that the customer's original bill did not give credit for his irrigation water meter for the period May 8, 2019 to January 8, 2020. Ms. Larris added that the customer had no water meter between August 8, 2019 and December 4, 2019 because the water usage had been put on a straight line and, as such, the utility estimated the customer's domestic water usage. Ms. Larris testified that the utility had actual meter reads from the irrigation water meter at the property. Ms Larris stated that she can only say that water went thru the irrigation water meter and that the irrigation water meter was not tested and that the irrigation water meter still has not been tested. She stated that the irrigation system is turned off October/November of each year and that, as of now, the irrigation water meter is not showing usage so the meter is fine.

The customer pointed out that he used 7.435 CCF of water over 112 days which is .066 CCF per day as historical usage but Ms. Larris used 8 CCF over 30 days which averages .267

CCF of water usage per day and that her calculation is higher by 25% upon which his bills were estimated.

The Hearing Officer noted that the usage chart shows actual meter reads from May 2019 to December 2019 even though the testimony is that there was no meter at the property.

██████████ argues that he was deprived of the lower historical usage rate because he was not billed monthly. He points out that a customer is billed at a lower rate for the first 4 CCF of water usage each month but that he only got the lower rate for May 2019.

Ms. Larris stated that the customer received the same rate for his water usage.

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 ██████████ his wife and three (3) children. (Testimony of ██████████)
2. There are two (2) periods in dispute. The first dispute involved the bill dated 5/28/2019 for the period 11/28/2018 to 5/7/2019. The second dispute involved the bill dated 1/14/2020 for the period 5/8/2019 to 1/8/2020. (The record in this matter)
3. The customer has two water meters- a domestic water meter measuring water used in the home and an irrigation water meter measuring water used for irrigation only and as such which does not go into the sewer system. (Testimony of the parties)
4. The customer has a one-inch water meter owned by DC Water which is located outside in the tree space of the property and the customer has a ¾ inch irrigation meter located inside. (Testimony of the parties)
5. DC Water based the customer's water usage charge upon his having a one-inch water meter and a 5/8" water meter at the property. (The record in this matter; See customer Bill Summaries dated 8/7/18, 9/14/18 10/28/18, 11/18/18, 12/10/18, 1/8/19, 2/7/19, 5/28/19, 1/14/20)
6. The customer did not have a domestic water meter between 8/8/2019 and 12/4/2019 and during this period, the customer's water usage was estimated. (Testimony of Kimberly Arrington and Mary Larris)
7. The customer complained that his water bill was too high and he hired a plumber to inspect the property. The plumber wrote that a small run was found on one toilet and that the flapper needed to be replaced and that the customer would replace the flapper himself. The plumber, further, wrote that a hose bib was replaced on the left of the house, that the water service was checked and it was not leaking. The plumber questioned whether the meter was bad. (Invoice dated June 17, 2019 from Thomas E. Clark Plumbing, Inc.)
8. DC Water sent a service technician out to the property on May 16, 2019. When the service technician was at the property, the service technician noted finding a ¾" water meter inside and a 1" water meter in the tree space but no 5/8" meter at the property. (Service Technician notes; Testimony of Kimberly Arrington)

9. Ms. Arrington's testimony was that because the service technician failed to report finding an irrigation water meter at the property, DC Water billed the customer for water and sewer for the period 7/2019 to 10/2019, however, Ms. Larris testified that the utility did not give the customer irrigation credit for the period 5/8/19 to 1/5/20. A review of the bill charges to the customer reflects that the customer was charged for total water and sewer for the period 5/8/19 thru 11/7/19, without any credit being given for water diverted for irrigation only. (Testimony of Kimberly Arrington, Mary Larris, Bill Summaries dated 6/11/19, 7/25/19, 8/9/19, 9/11/19, 10/9/19, and 11/12/19) DC Water did not provide a copy of the Bill Summary for the period 11/7/19 to 12/3/19. (The record in this matter)
10. DC Water conducted an investigation of the bill charges of 5/28/2019 and determined that an adjustment was warranted because actual meter readings indicated that the account was overbilled for water consumption. (DC Water Investigation Letter dated 6/27/2019)
11. Instead of reducing the customer's account charges, for the period 11/3/2018 to 5/7/2019, after the bill adjustment by DC Water, the customer believed that an additional charge of Eight Hundred Dollars (\$800.00) was added to customer's bill charge. (Testimony of [REDACTED], [REDACTED]; Bill Summary dated 5/28/2019)
12. The bill adjustment was for bills between 12/20/2018 to 05/20/19 and resulted in other charges and credits of \$159.44 to the customer's account. (Bill Summary dated 5/28/2019)
13. A charge of \$883.58 appears of the customer's Bill Summary dated 6/11/19 and the charge is an accumulated charge of past due amount of \$532.20 and current charges for the period 5/8/19 to 6/5/19 in the amount of \$351.38; the past due amount includes the \$159.44 charged to the customer's account on the adjusted bill statement dated 5/28/19. (The record in this matter; See Bill Summaries dated 5/28/19 and 6/11/19)
14. On January 14, 2020, DC Water determined that the 3/4" water meter at the property was, in fact, the irrigation water meter and the utility reversed its charges for bills between 5/8/19 to 10/19 and re-billed the customer using a higher rate based upon meter size – 5/8" vs/ 3/4" meters, resulting in the customer's rate for the 3/4" meter being higher than previous billings since the utility had been billing for a 5/8" meter. (Testimony of Kimberly Arrington)
15. DC Water installed a new domestic water meter on December 4, 2019. (Testimony of Kimberly Arrington)
16. DC Water did not test the customer's irrigation meter for purposes of investigation of the dispute. (Testimony of Kimberly Arrington and Mary Larris)
17. The irrigation meter at the property was there at time of purchase of the property by [REDACTED]. (Testimony of [REDACTED], [REDACTED])
18. DC Water tested the customer's main water meter and the meter was determined to have 101.04% accuracy. (Testimony of Kimberly Arrington)

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. Once the customer establishes a prima facie case that s/he did not use and/or was not responsible for payment of the water as charged, the burden shifts to DC Water to rebut the customer's claim that s/he did not use the water as charged. (Gatewood v. DC WASA, 82 A.3d 41, D.C. Court of Appeals 2013)
3. An irrigation meter is a privately-owned dedicated water meter used exclusively to meter water used for outdoor water and irrigation and allows tracking of water that does not go into the sewer system. DC Water maintains the right to approve and test such meters for installation by a property owner and the utility may inspect and remove the meter for testing. (See, 21 DCMR §305)
4. 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.
5. An owner or occupant may challenge the most recent charges assessed by DC Water for water, sewer and groundwater sewer service by either:
 - (a) Paying the bill, and notifying WASA in writing that he or she believes the bill to be incorrect and is paying under protest; or
 - (b) Not paying the current charges contained in the bill and notifying WASA in writing, within ten (10) working days after receipt of the bill of the reason(s) why the bill is believed to be incorrect.
6. If the utility finds the bill to be erroneous, it shall adjust the bill accordingly and refund any overcharge paid. (21 DCMR §401.1(c))
7. Meters shall be read quarterly, or at such other times as the Director shall determine. (21 DCMR 308.1 and 309.1)
8. 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)
9. 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 testified that his bills did not make sense and upon examination of the bills and consideration of DC Water's explanation of the billing, the Hearing Officer concludes that the facts are convoluted, the bills are confusing and DC Water's explanation of the billing fails to overcome the evidence that certain disputed charges are incorrect. As such, the customer is entitled to an adjustment of his account.

The customer believed that his water and sewer bills were too high. He hired a plumber and a leak was found in addition to the plumber casting suspicion that the water meter was faulty. When DC Water investigated the bill dispute, it determined that it had overbilled the customer. When the utility adjusted the customer's account, the customer was charged more money than he had been charged before the account was adjusted. DC Water provided no reasonable explanation of why the customer's charge as reflected in the Bill Summary dated 5/28/19 increased by \$159.44 after it had determined that it had overbilled the customer. On the customer's bill, the utility showed current charges of \$1,334.77 and a total amount due of \$532.20 and that the bill was an adjusted bill for an extended period. Based upon the evidence and testimony presented, the Hearing Officer is unable to determine how and in what amount the utility corrected the customer's account for overbilling as reflected on the bill statement dated 5/28/19 for the period 11/3/18 to 5/7/19, since the customer's charge increased as opposed to decreasing as one would assume if the customer had been overbilled.

DC Water admits that it failed to take into consideration the irrigation meter at the property and it billed the customer for sewer for water used strictly for irrigation. Ms. Larris testified that the customer's original bills for the period 5/8/19 to 1/8/20 did not give an irrigation credit.

When the customer purchased his home, the house came with an irrigation meter. Such a meter is owned by the property owner but it is still subject to the authority of the water company. Somehow, DC Water believed, or, at least, billed the customer for a 5/8-inch water meter. The customer did not have a 5/8-inch water meter at his property. The customer's main water meter was a one-inch meter and the irrigation meter was 3/4-inch. Testimony and evidence established that the main water meter was in the tree box outside of the home and that the irrigation meter was located inside. There was no evidence that the customer had more than one water line, therefore, the main water meter measured all water used by the customer including water used for the irrigation system and the irrigation meter measured that portion of overall used water that went outside for irrigation and did not go through the sewer system.

DC Water adjusted the customer's account, a second time, as reflected in the Bill Summary dated 1/14/20. The customer argued and asserted that the adjustment failed to take into

consideration the reduced rate given to the first 4 CCF of usage each billing period. The customer asserted that he would have received the reduced rate charge if he had been billed monthly as opposed to a single billing for an extended period of adjustment. A review of the bill shows that the customer was afforded the reduced rate on 20.00 CCF @ \$2.91., then, there was a rate change and the utility afforded the customer the new rate of \$3.06 for 13 CCF of water per each subsequent billing. In total, the customer was afforded the reduced rate on 33 CCF of water usage. As such, the Hearing Officer finds no error in the application of the billing rate by the utility.

The Hearing Officer found an error in the calculation of water usage registering on the main water meter for the period 5/8/19 to 12/3/19. The utility stated that the prior read was 5,361 and the current read was 21,725 rendering CCF usage of 163.64. The subtraction of the prior read from the current read, however, results in CCF usage of 153.64, as such the customer was overbilled 10 CCF.

DC Water did not provide a customer bill statement between November 7, 2019 to the adjusted ending date of January 8, 2020; presumably, the missing statement would have been for the period November 7, 2019 to December 3, 2019. The utility estimated the customer's water usage for bill charges starting August 6, 2019 thru November 7, 2019 and it billed based on actual meter reads for the prior bills June 2019 thru August 5, 2019. It had an actual meter read for the period December 4, 2019 to January 8, 2020. The usage reflected in said bills from June 2019 to November 2019, both estimated and actual, totaled 108.20 CCF of water. The chart provided by the customer showed estimated usage of 8 CCF for 12/6/2019 and the utility shows 9.42 CCF used by the customer between 12/4/19 and 1/8/20, however, when one calculates usage billed to the customer's account, the utility billed for a total of 172.06 CCF of water for the period 5/8/19 to 1/8/20 which amounts to an adjustment of an additional 55.44 CCF of water charged to the customer. Thus, while the utility corrected the failure to account for the irrigation meter, it back billed the customer for added water usage over that estimated or not billed in the original bills to the customer. In essence, without explanation by the utility either at time of adjusting the customer's account or during the hearing of the customer's dispute, the utility did not acknowledge that, in the adjusted bill dated 1/14/20, the customer was being charged for water usage not previously billed to his account. To the contrary, in testimony DC Water purported that the customer's charge was increased because the charge for a 5/8-inch water meter was lower than the charge for a 3/4 inch water meter. The Hearing Officer, after review of the customer's bills submitted during the hearing, finds no evidence of a change in rate charge on the customer's account for correction of meter size because it was determined that the irrigation meter was, in fact, a 3/4 inch meter as opposed to a 5/8-inch meter;. Each of the customer's Bill Summaries, in evidence, a 5/8-inch meter appears on the bill in addition to the customer's main one-inch water meter.

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). In this case, it appears, based upon the evidence, that DC Water sought to collect additional payment for water and sewer services through its back billing of the customer in the guise of an adjusted bill to give credit of the irrigation meter, after having estimated the water usage. DC Water estimated the customer's water usage starting August 6, 2019 until it obtained a meter read on December 3, 2019 when it changed the customer's water meter. It estimated the customer's water usage for four (4) months.

Some water authorities have addressed the issue of back-billing but DC Water has not done so. 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.)

The issue herein is one of fairness to both sides. The one regulation that clearly applies in this matter is that DC Water has an obligation to read the water meter and according to the regulation, the reading is to be done on a quarterly basis. See, 21 DCMR 308.1 and 309.1. In this case, the meter was not read pursuant to regulation or, at least, the utility failed to bill the customer using meter reads for a period exceeding a quarterly basis.

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 like, in this case, billing the customer based upon meter reads for a period longer than three (3) months, the customer is relieved from liability based upon the equitable defense of laches.

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 summary, the customer is entitled to the defense of laches against the imposition of 55.44 CCF of water usage not previously billed to his account. DC Water shall remove the back billed charges for water and sewer service in the amount of 55.44 CCF of water usage and the customer's estimated charges billed for the period August 6, 2019 to November 7, 2019 shall reinstated to the account as water used during said period. With respect to the period starting November 8, 2019 to December 3, 2019 the estimated charge of 8 CCF shall be applied to the account if the same was not already billed. [Note, the Hearing Officer was not provided a copy

of the Bill Summary for November 8, 2019 to December 3, 2019 or any bill after the bill dated 11/12/19 until the utility issued the adjusted bill dated 1/14/20. 8 CCF is reflected on the chart submitted by the customer showing 8 CCF as the estimated water usage billed December 6, 2019.] With respect to the period December 4, 2019 to January 8, 2020, the customer's Bill Summary dated 1/14/20 reflects that the customer used 9.42 CCF of water based upon an actual meter read. As such, the utility shall charge the customer for 9.42 CCF for water usage the period December 4, 2019 to January 8, 2020.

Based upon the directed removal of 55.44 CCF billed to the customer's account, DC Water shall recalculate the appropriate irrigation credit to be applied to the account and adjust the customer's account appropriately.

As previously stated, the Hearing Officer lacks sufficient evidence to address how the customer's bill increased as opposed to decrease when the account was adjusted based upon the utility's determination that it had overbilled the customer pursuant to its investigation of charges on the 05/28/2019 bill. (See Investigation Letter dated 06/27/2019) DC Water is directed to revisit the determination that the customer's actual meter reads indicate the account was overbilled for water consumption and provide further explanation to the customer of the overbilling and adjust the customer's account appropriately.

Based upon the foregoing, the determination by DC Water that the charges on the 01/14/2020 bill are valid and no basis exists to adjust the customer's account is hereby REVERSED and the determination by DC Water in its investigation of charges on the 05/28/2019 bill is remanded to the utility as explained above.

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

Date: March 9, 2020

Copy to:

[REDACTED]
[REDACTED] Belt Road, NW
Washington, DC 20016

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

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

Account No: [REDACTED]
Case No: 20-38249

Amount in Dispute: \$186.98

Before Janet W. Blassingame, Hearing Officer
January 28, 2020 at 10:00 a.m.

MEMORANDUM TO FILE

The customer contested water and sewer bills for the above account for the period July 19, 2019 to August 19, 2019. The DC Water and Sewer Authority (DC Water) investigated the charges and determined that the account had been billed based on actual meter readings, that the charges were valid and no adjustment was warranted. The customer requested an administrative hearing.

This matter was scheduled for hearing on January 28, 2020. Present for hearing were [REDACTED] and Kimberly Arrington, Supervisor, Customer Support, on behalf of DC Water.

In his Petition for Administrative Hearing, the customer contended that only two (2) adults lived and used water at the property. He discussed that fact that, during the mummer months, he waters his grass and the grass of his neighbor but he inferred that his activity did not account for the water usage as charged and/or that he should not be charged for sewer service.

At the start of the hearing, Ms. Arrington requested opportunity to speak with the customer. Upon conclusion of their discussion, the parties requested to put of the record a memorialization of their agreement.

Ms. Arrington represented that DC Water pulled the water meter at the property for testing and it was determined that the water meter failed the test, in that, the water meter accuracy was 97.00% which is outside of the accepted perimeters for water meter accuracy as established by the American Water Works Association. Based upon the water meter test failure, Ms. Arrington stated that DC Water has adjusted the customer's account and based his charge upon his historical average daily usage. Ms. Arrington stated that the customer 's next Bill Summary will reflect for the period at issue a charge of \$86.31 for 7 CCF of water.

[REDACTED] [REDACTED] stated that he accepts the adjustment as represented by Ms. Arrington and he withdraws his dispute.

Ms. Arrington suggested to the customer, since he waters his yard and that of his neighbor, that he might consider installing an irrigation meter. She informed the customer that a licensed plumber is required to install an irrigation meter.

Based upon the foregoing, Hearing Officer declared this matter MOOT based upon settlement and agreement of the parties.

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

Date: March 9, 2020

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

IN RE: [REDACTED]
[REDACTED] Nash Street, NE
Washington, DC 20019

Account No: [REDACTED]
Case No: 19-444340

Amounts and Periods in Dispute:
1/25/2019 to 2/25/2019 = \$185.26
5/23/2019 to 6/20/2019 = \$191.31
5/14/2018 to 6/21/2018 = \$184.49

Before Janet W. Blassingame, Hearing Officer
January 28, 2020 at 2:00 p.m.

The customer contested water and sewer bills for the periods of time noted above. The DC Water and Sewer Authority (DC Water) investigated the water and sewer charges for the period 1/25/2019 to 2/25/2019 and determined that the charges were valid and no basis exists to adjust the customer's account. With respect to the charges billed for the period 5/14/2018 to 6/21/2018, the utility determined that the dispute was untimely. The customer requested an administrative hearing.

This matter was scheduled for hearing on January 28, 2020. Present for hearing were: [REDACTED] [REDACTED] represented by Grace Soderberg, Assistant People's Counsel, DC Office of People's Counsel, along with Rusheeda Boyd, Community Outreach Specialist, DC People's Counsel, and, Chandler Crumlin, Program Management, DC People's Counsel; Kimberly Arrington, Supervisor, Customer Support, on behalf of DC Water; June Adams, Sr. Communication Specialist, DC Water; and, Arlene Andrews, DC Water (as an observer only). Geneva Parker, Manager, Department of Customer Services, DC Water joined the hearing at the very end of the hearing as an observer.

The property involved is a single-family residence owned and occupied by [REDACTED]; [REDACTED] [REDACTED] for the past eighteen (18) years. The house has a total of five (5) occupants. The house has three and one-half (3 ½) bathrooms, one kitchen, two (2) outside faucets, a washing machine, a utility sink, and a dishwasher. [REDACTED] [REDACTED] stated that her water and sewer bill has, historically, been between Eighty-five Dollars (\$85.00) and One Hundred Ten Dollars (\$110.00) per billing period.

[REDACTED] [REDACTED] testified she noticed that her bill dated 2/20/2019 was extremely high on particular days and she went back and saw that, also, on particular days her usage was high in June 2018, as well. She called DC Water to dispute the bills and was told that the dispute for the 2018 bill was too old and that the bill had been paid. The customer stated that her June 2019 bill was, also, high.

██████ testified that DC Water sent a service technician to her home to inspect for leaks. She stated that the technician performed dye tests and found no leaks. She pointed out that the investigation report dated 8/14/2019 indicated that there were no leaks interior or underground.

Ms. Arrington interjected that when DC Water removed and tested that water meter at the property, the water meter was determined to have 102.3% accuracy which is below the accepted standard for water meter accuracy and, as such, the meter failed testing. Ms. Arrington explained that water meters are to have accuracy between 98.5% and 101.50% pursuant to standards set by the American Water Works Association.

Ms. Arrington stated that DC Water offered to adjust the customer's account due to the failure of the water meter, however, the customer thought that the offered adjustment was too low. Ms. Arrington asserted that the utility, nevertheless, did adjust the customer's account. ██████ asserted that she did not understand the calculation of the account adjustment. She, further, complained that the process took too long. She acknowledged that the account was adjusted by DC Water in November 2019.

Ms. Arrington testified that when DC Water adjusts a customer's account, it adjusts water, sewer, pilot and ROW charges. Ms. Arrington testified that she told the customer that the utility wanted to adjust her account in lieu of an administrative hearing. She testified that the periods to be adjusted were:

1/25/2019 to 2/25/2019

5/23/2019 to 6/24/2019

5/18/2018 to 6/21/2018

Ms. Arrington testified that after the water meter failed testing, the customer wanted a hearing even though her account had been adjusted. Ms. Arrington testified that the customer wanted the adjustment to apply to the entire period that the water meter was in service at the property- 5/17/2017 to 10/23/2019.

██████ complains that DC Water has not been fair to her, that she has received no help from the utility, the utility has no concern for her and its dispute system is set-up to discourage complaint. ██████ feels that the utility's position is that with respect to the credit given, she is to take the credit given or leave it. ██████ stated that the utility's attitude made her mad.

June Adams asserted that DC Water relies upon its customers to dispute bills if anything appears to be wrong regarding the charges. Ms. Adams asserted that ██████ accepted the charges to her account in the past. Ms. Adams apologized to ██████ for delay in treatment by DC Water regarding her dispute and she informed the customer that the utility has adjusted the disputed periods. Ms. Adams explained how the utility uses a customer's historical usage to calculate an account adjustment.

██████ stated that she wants her charges regarding specific spike days adjusted as opposed to an adjustment for a billing period/month. Ms. Adams responded that the utility adjusts based upon billing period.

Mr. Crumlin asked whether the adjustment is based on the CAP2 rate? Ms. Adams responded that the adjustment is on the whole rate.

Ms. Adams testified that DC Water reversed its grant of a credit to the customer's account because the customer wanted an administrative hearing. She indicated that the adjustment had been \$182.54 for the period 5/20/2018 to 6/20/2019. Ms. Arrington interjected and confirmed that the adjustment had been reversed; she asserted that the new adjustment is \$133.68, thus reducing the adjustment by \$48.86.

The customer requests restoration of the original adjustment.

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 by [REDACTED] [REDACTED]. (Testimony of [REDACTED])
2. The periods in dispute are 5/14/2018 to 6/21/2018, 2/25/2019 to 2/25/2019 and 5/23/19 – 6/20/2019. (The record in this matter)
3. The customer contacted DC Water to dispute three (3) specific dates/charges on which she noticed significantly increased water usage. The dates were: 5/24/18; 2/10/19 and 2/11/19. (See, Administrative Hearing Petition by [REDACTED] dated 4/24/19)
4. DC Water declared the customer's dispute of charges incurred for bill dated 6/21/2018 for the billing period 5/18/2018 to 6/21/2018 to be untimely. (DC Water Investigation Letter dated 8/14/2019)
5. DC Water investigated the customer's dispute of charges reflected on the bill dated 2/25/2019 and determined that the charges were valid and no adjustment of the customer's account was warranted. (DC Water Investigation Letter dated 4/2/2019)
6. The customer requested an administrative hearing by petition dated 4/24/19 and marked received by DC Water on 5/22/19. (See, Administrative Hearing Petition by [REDACTED] [REDACTED] dated 4/24/19)
7. DC Water conducted an interior audit and underground inspection for leaks at the customer's home and no leaks were found. (Testimony of the parties)
8. DC Water pulled the customer's water meter for testing and the meter was determined to have 102.3% accuracy which is below the accepted rate of accuracy for water meters. (Testimony of Kimberly Arrington)
9. DC Water determined that the water meter failed its meter test and as such, the customer was entitled to an adjustment of her account. (Testimony of Kimberly Arrington)
10. DC Water advised the customer that its adjustment of her account went beyond her original dispute and that it adjusted 3 billing periods as opposed to 2 billing periods. (DC Water Interaction Records/Notes History dated November 8, 2019)
11. DC Water adjusted the customer's account for the periods 1/25/19 to 2/25/19, 5/23/19 to 6/24/19 and 5/18/18 to 6/21/18. (Testimony of June Adams)

12. The customer's account adjustment appeared on the Bill Summary dated 1/16/20 and reflected that bills corrected were for 5/2018 to 2/2019 in the amount of \$133.68 credit and 11/2019 to 12/2019 in the amount of \$107.10. (See Bill Summary dated 1/16/20)
13. DC Water advised the customer that because it had adjusted her account, it would not honor her Petition for a hearing. (DC Water Interaction Records/Notes History dated November 8, 2019)
14. DC Water, unilaterally, cancelled the customer's scheduled administrative hearing and the customer objected to the cancellation of her hearing and demanded that the hearing go forward. (DC Water Interaction Records/Notes History dated November 8, 2019)
15. Following the customer's continued demand for an administrative hearing despite the account adjustment. DC Water cancelled the adjustment of her account. (Testimony of June Adams and Kimberly Arrington)
16. DC Water justified the cancellation of the account adjustment made to the customer's account as reflected on the bill dated 1/16/20 stating that the adjustment having been an offer of settlement in lieu of hearing and because the customer rejected the settlement and wanted to proceed with the administrative hearing, the utility was justified in retracting the settlement offer. (Testimony of Kimberly Arrington)
17. At hearing, DC Water stated that the customer was only entitled to adjustment of her account in the amount of \$133.68 as opposed to \$182.54 as originally credited to the customer's account. (See (DC Water Interaction Records/Notes History dated 1/17/2020 by Kimberly Arrington to [REDACTED])
18. DC Water asserted that the customer wanted her account adjustment to extend to back to 5/17/2017 thru 10/23/2019. (Testimony of Kimberly Arrington)

CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of DC Water is incorrect. (21 DCMR 420.7 and 420.8)
2. DC Water is obligated to investigate a challenge to a bill by doing any or all of the following:
 - (a) Verify the computations made in the formulation of the water and sewer charges;
 - (b) Verify the meter reading for possible meter overread or doubtful registration;
 - (c) If feasible, check the premises for leaking fixtures, underground invisible leaks, and house-side connection leaks;
 - (d) Check the meter for malfunction;
 - (e) Check the water-cooled air conditioning system, if any, for malfunction; and
 - (f) Make a reasonable investigation of any facts asserted by the owner or occupant which are material to the determination of a correct bill.See, 21 DCMR 403.
3. An owner or occupant may challenge the most recent charges assessed by DC Water for water, sewer and groundwater sewer service by either:

- (a) Paying the bill, and notifying WASA in writing that he or she believes the bill to be incorrect and is paying under protest; or
- (b) Not paying the current charges contained in the bill and notifying WASA in writing, within ten (10) working days after receipt of the bill of the reason(s) why the bill is believed to be incorrect.

(See, 21 DCMR §402)

- 4. "Challenges received after the ten-day (10) period stated in §402.1 will be deemed to have been filed in an untimely manner...." 21 DCMR §402.2
- 5. Upon completion of the investigation, the Utility shall issue a written decision containing a brief description of the investigation and findings. (21 DCMR 404.1)
- 6. On the basis of the investigation and findings, the Utility shall make appropriate adjustments to the bill for water or sewer charges... (See, 21 DCMR 404.2)
- 7. 21 DCMR 405 Adjustment for Meter or Computation Errors

405.1 If the investigation discloses meter overread or faulty computations, adjustment(s) shall be made to reflect the correct charges, as indicated by the correct reading or corrected computations.

405.2 If the investigation reveals doubtful meter registration or possible meter malfunction, the Department shall remove the meter and test it.

405.3 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.

- 8. 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)
- 9. DC Water has dispute processing rules that limit the time in which a customer may dispute bill charges, as well as, request an administrative hearing. Ten (10) working days after receipt of the bill is the time within which a customer may dispute a bill that the customer fails to pay. (See, 21 DCMR §402.2) 15 calendar days of the utility's decision regarding a bill dispute is the time limit within which a customer may request an administrative hearing.
- 10. The D.C. Court of Appeals has ruled that DC Water may waive the time limits but if the utility elects not to do so, a customer who fails to meet the set time limits loses his right to dispute a bill and/or request and have an administrative hearing. (See, Gatewood v. DC WASA, 82 A.3d 41, D.C. Court of Appeals 2013)

DECISION

The water meter at the customer's home failed testing and pursuant to regulations, the customer was entitled to an adjustment of her account and the utility adjusted the customer's account prior to the administrative hearing as reflected on the customer's bill dated 1/16/20.

After having declared that the customer's dispute of the June 2018 bill was untimely, DC Water extended its adjustment of the customer's account to include adjustment of the June 2018 bill charges, in addition to adjustment of the charges in the disputed bills dated 6/24/2019 and 2/25/2019.

DC Water, then, cancelled the adjustment already made to the customer's account and advised the customer that it would not adjust the charges of June 2018 bill in that the customer maintained her request for an administrative hearing, not because she rejected the adjustment granted but because she believed that she should have been entitled to an extended period of adjustment than that accepted by the utility. The issue is- was DC Water's cancellation of the account adjustment credited as reflected on the customer's bill dated 1/16/20 proper based upon the facts of this case? The Hearing Officer determines that the action of the utility was not proper and having granted the adjustment to the customer's account, the adjustment should be restored, in full, to the customer's account.

The D.C. Court of Appeals in the Gatewood vs D.C. WASA, supra., ruled that the time limits found in the municipal regulations applicable to DC Water were rule processing rules which meant that the rules were not jurisdictional or absolute bars if not enforced by the utility and that DC Water could waive the time limits for the dispute of a bill and for requesting an administrative hearing. In this instance, DC Water, having declared the dispute of the June 2018 bill to be untimely, then, granted to the customer an adjustment of the bill. The act of including the bill for adjustment is a waiver of the time limitation for its dispute. During the hearing, DC Water asserted that the adjustment was a settlement offer rejected by the customer and, as such, the offer was not binding upon the utility. Using an analogy of baseball, if the hitter of swings the bat too far, he commits to the swing and he is out if he misses the ball. Here, not only did DC Water offer the account adjustment, it adjusted the customer's account. The utility committed to the adjustment of the customer's account and waived the untimeliness of the dispute.

With respect to the customer's demand that the account be adjusted for the entire time that the water meter was at the property, the Hearing Officer finds to basis for the relief requested. First, there was no evidence or testimony as to how long the water meter may have been registering water usage above the accepted standard of accuracy. Second, the customer did not dispute the charges other than the charges at issue as adjusted by the utility. As stated above, a customer has a right to dispute charges by the utility pursuant to 21 DCMR §402. The customer failed to dispute the bill charges in a timely reason and DC Water has not and does not waive the time limit for bill disputes regarding the entire period of the life of the water meter at the property. Accordingly, the customer is time barred.

Based upon the foregoing, DC Water is directed to restore the adjustment to the customer's account as reflected in the Bill Summary dated 1/16/20. The customer's demand that the account be further adjusted back to 5/17/2017 is denied.

By: Janet W. Blessingame
Janet W. Blessingame, Hearing Officer
Date: March 9, 2020

Copies to:

[REDACTED] Nash Street, NE

Washington, DC 20019

Grace Soderburg, Esq.

Assistant People's Counsel

1133 15th Street, NW, #500

Washington, DC 20005-2710

BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

DEPARTMENT OF CUSTOMER SERVICES

IN RE: [REDACTED]
[REDACTED] 24th Street, NE
Washington, DC 20011

Account No: [REDACTED]

Amount in Dispute: \$3,588.85

Billing Periods:

ORDER

This matter comes before the Hearing Officer upon a Motion to Dismiss Administrative Hearing Petition by the District of Columbia Water and Sewer Authority (DC Water). The Hearing Officer has reviewed the customer's Administrative Hearing Petition and letter dated August 31, 2018, the Investigative Report, and considered the representations of the motion and customer emails to the utility.

Based upon the foregoing, the Hearing Officer finds that the customer has failed to file a Petition upon which relief can be granted and, moreover, the Petitioner failed to request file a timely hearing demand and, as such, the Motion to Dismiss Administrative Hearing Petition should be and hereby is GRANTED.

Petitioners rented the Property to a tenant who has a history of being in arrears of payment of water and sewer usage service charges. The customer recounts numerous times that the tenant has been in arrears, liens were placed upon the property and the tenants has satisfied the arrearage. The customer complains that DC Water did not terminate service to the property most recently after being requested to do so in February 2018. According to the customer's representations, DC Water disconnected service to the property on March 17, 2018, only to have the service turned back on without utility authority in April 2018. The customer represents that DC Water removed the water meter from the property on June 21, 2018.

DC Water placed a lien upon the property for unpaid water and sanitary sewer charges and, it appears that the property was sold and the utility paid for its services from the sale of the property.

The customer makes no allegation that the tenant did not use the water as charged or that the bill(s) upon which the lien was based was incorrect. The essence of the customer's complaint is that she should be relieved from responsibility (1) because the tenant incurred the charges and was responsible for paying the water and sewer service charges, and (2) she requested DC Water to terminate service to the property.

DC Water has authority to file a lien against real property when the water and sewer bill is remains unsatisfied for 60 days or more. (See, Section 34-2202 of the DC Code) The property owner is provided written notice of intent to file a lien and the municipal regulations provide for the sale of the property at tax sale if the lien is not satisfied. (See, DCMR Title 21 §427) A

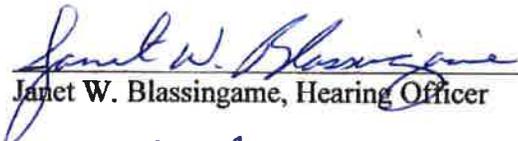
tenant's failure to pay water and sewer charges does not absolve the owner of liability and an owner's request to DC Water to terminate service to the property does not absolve the owner of liability.

Just as the customer complains that DC Water was aware of the tenant's poor history of payment of water and sewer charges, the owner continued to rent the property to the tenant and rely upon the tenant to pay the water and sewer charges when it was well known of the tenant's poor payment history. The rent agreement is between property owner and tenant; DC Water is not a party to any lease agreement and has no responsibility to enforce a tenant's obligations to a landlord including an agreement to be responsible for payment of water and sewer charges. In this case, the customer failed to mitigate her own loss by failing to enforce the rental agreement.

Pursuant to the municipal regulations, a property owner may request termination of water and sewer service under certain circumstances when property is tenant occupied. (See 21 DCMR §426) As noted above, the utility was requested in February 2018 to terminate service due to an outstanding delinquent balance on the account and the utility did terminate service in March 2018. According to the owner, service was restored to the property without authorization of the utility in April 2018 and the utility removed the water meter, thus, terminating service in June 2018. The Hearing Officer finds no unreasonable delay by DC Water in responding to the owner's request for termination of service.

The customer failed to timely dispute the bills/liens and the customer's request for hearing was not timely filed. The Petition was filed in July 2019 relating to charges dating back to year 2018 and earlier. As asserted by the utility in its motion to dismiss, if petitioners wished to challenge water bills, such claims are untimely if the customer fails to dispute the bill within ten working days of receipt of the bill or fails to pay the bill. (See, 21 DCMR § 402) And the petition to request a hearing is untimely if the customer fails to file a petition within fifteen days of General Manager's decision regarding a bill dispute. (See, 21 DCMR §409). Clearly, the petitioner failed to dispute the water bills which constituted the basis for the liens against the property in a timely manner and the request for a hearing was made over a year after service was terminated at the property.

For the above reasons, the Motion to Dismiss Administrative Hearing Petition is GRANTED and the Petition for Administrative Hearing is DISMISSED.


Janet W. Blassingame, Hearing Officer
Date: March 9, 2020

Copies to:


 4th Street, NW
Washington, DC 20011

Nat N. Polito, Esq.
1776 K Street, NW, Suite 200
Washington, DC 20006

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

IN RE: [REDACTED]
[REDACTED] 7th, FL Ave
Brooklyn, NY 11215

Service Address:
[REDACTED] 16th Street, NW

Account No: [REDACTED]

Amount in Dispute: \$1,190.66

Billing Period: July 2019

ORDER

This matter comes before the Hearing Officer upon a Motion to Dismiss Administrative Hearing Petition by the District of Columbia Water and Sewer Authority (DC Water). The Hearing Officer has reviewed the customer's Administrative Hearing Petition, the Investigative Report, and customer contacts with DC Water.

Based upon the foregoing, the Hearing Officer finds that the customer has failed to file a timely hearing demand and, as such, the Motion to Dismiss Administrative Hearing Petition should be and hereby is GRANTED.

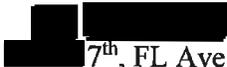
Based upon a telephone call by the customer's tenant, DC Water initiated and conducted an investigation of the July 2019 bill charges. The utility issued its Investigative Report with a letter dated October 28 2019 advising the customer of his right to request an administrative hearing and that the Petition had to be filed within 15 calendar days of the date of the report. The customer filed a Petition for Administrative Hearing on December 12, 2019.

21 DCMR §412 is a dispute processing rule and limits the time in which a customer may request an administrative hearing to 15 calendar days of the utility's decision regarding a bill dispute. The D.C. Court of Appeals has ruled that DC Water may waive the time limit but if the utility elects not to do so, a customer who fails to file within the set time limit loses his right to an administrative hearing. (See, Gatewood v. DC WASA, 82 A.3d 41, D.C. Court of Appeals 2013) In this case, over six weeks elapsed before the customer filed his Petition and the utility has not waived its time limitation. As such, the Petition was untimely and DC Water has no obligation to allow the customer to pursue the dispute.


Janet W. Blassingame, Hearing Officer

Date: March 9, 2020

Copies to:


7th, FL Ave
Brooklyn, NY 11215

Nat N. Polito, Esq.
1776 K Street, NW, Suite 200
Washington, DC 20006