



Agenda Date: 10/25/19
Agenda Item: 7A

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CUSTOMER ASSISTANCE

KIM J. NOTTE T/A COLTS NECK INN
HOTEL AND RESIDENCE,
Petitioner,

v.

NEW JERSEY NATURAL GAS,
Respondent

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ORDER ADOPTING
INITIAL DECISION

BPU DOCKET NO. GC17030190U
OAL DOCKET NO. PUC 03616-18

Parties of Record:

Bert Lundberg, Esq., on behalf of Petitioner, Kim J. Notte
Eileen Quinn, Esq., **Assistant General Counsel**, on behalf of Respondent, New Jersey
Natural Gas

BY THE BOARD:

The within matter is a billing dispute between Kim J. Notte ("Petitioner") and New Jersey Natural Gas ("NJNG" or "Respondent"). This Order sets forth the background and procedural history of Petitioner's claims and represents the Final Order in this matter. Having reviewed the record, the Board of Public Utilities ("Board") now **ADOPTS** the Initial Decision rendered on August 27, 2019, as follows.

PROCEDURAL HISTORY

On or about March 2, 2017, Petitioner filed a petition with the Board requesting a formal hearing to resolve a billing dispute between her and NJNG regarding her application to obtain gas service at the Colts Neck Inn Hotel and Residence, 191 Route 537, Colts Neck, NJ 07722 ("Property," "Colts Neck Inn," or "the Inn"). Petitioner noted in her application dated June 24, 2016, that her new business, Love Grace Peace, was located at the Inn. On or about May 5, 2017, NJNG filed an answer to the petition, emphasizing that on March 25, 2015, Mr. Peter Mavrookas, Petitioner's husband, executed a deferred payment agreement with NJNG for any outstanding gas bills. According to Respondent, Mr. Mavrookas failed to make approximately half of the deferred payments, and consequently, in or about June 2016, NJNG filed a notice to terminate its gas service with the Inn. In or about July 2016, NJNG advised Petitioner that under

Tariff Section 2.13, she would need to make all of the required deferred payments before gas service to the Inn could continue. Furthermore, Respondent rejected Petitioner's claim that Love Grace Peace constituted a new business under the Tariff.

On March 9, 2018, the dispute was transferred to the Office of Administrative Law ("OAL") for a hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -23. This matter was assigned to Administrative Law Judge ("ALJ") Judith Lieberman. On February 13, 2019, the date of the evidentiary hearing, Suzanne Bostwick and Patrick Hughes testified on behalf of Respondent. Petitioner testified on her own behalf, and Grace Caputo testified as Petitioner's witness. (1T).¹ Petitioner's exhibits P-1 through P-11 and Respondent's exhibits R-18, R-262, R-263, R-264, and R-265 were admitted into evidence. Both parties have stipulated to the rest of Respondent's exhibits, which were marked as J-1 to J-261. (1T127:19-22).² On May 31, 2019, and June 3, 2019, the parties submitted post-hearing briefs. Additionally, on July 17, 2019, Respondent submitted exhibits in support of its brief. The record was closed on the same day.

On August 27, 2019, ALJ Lieberman issued an Initial Decision in favor of Respondent, denied the relief sought by Petitioner, and dismissed the petition. The OAL did not receive exceptions to the Initial Decision from either party. On September 27, 2019, the Board obtained a forty-five (45) day extension of time in which to issue a Final Decision, pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.

EVIDENTIARY HEARING

The hearing on this matter was heard before ALJ Lieberman on February 13, 2019. (1T). Suzanne Bostwick, NJNG's customer service manager, testified on behalf of Respondent (1T16:7-21). She testified that she worked for NJNG for twenty-nine (29) years, and, as a manager, she would undertake "review of escalated applications for service." (1T16:9-12). Ms. Bostwick also testified that she was familiar with Petitioner's application for service because she had reviewed Petitioner's phone calls with NJNG's customer service department, the account history associated with the subject Property, and all relevant research conducted by Patrick Hughes, NJNG's security investigator. (1T21:6-15; 1T22:18-23:5). Ms. Bostwick stated that in January 2015, NJNG contacted Peter Mavrookas, the owner of the Inn, and Grace Caputo, the Inn's manager, concerning unpaid service bills, and in March 2015, NJNG issued a "disconnection notice" to the Inn, due to Mr. Mavrookas' failure to make about half of the required payments, pursuant to a deferred payment agreement. (1T24:17-26:25). Furthermore, Ms. Bostwick explained that for a "new commercial customer" to create an account with NJNG, the applicant would be required to present proof of a service address location, the name of the subject business, tax ID number, mailing address, and, in matters where gas service was discontinued due to "non-payment," any information as to whether the applicant is a "bona fide new customer." (1T16:22-17:16). She testified that in June 2016, Petitioner called NJNG's customer service department to pay the outstanding balance of Mr. Mavrookas' LKY2 business account, and Petitioner provided documents concerning her purportedly new business, Love Peace Grace, LLC. (1T18:5-19:3). Petitioner also submitted a lease from the new owner of the Property where Love Grace Peace was located, and her identification. (1T18:5-20:3). According to Ms. Bostwick, the customer service department observed from Petitioner's documents that she was related to Mr. Mavrookas, the owner of LKY2; however, as testified by

¹ 1T refers to the transcript of the February 13, 2019 hearing before Judge Lieberman.

² All jointly stipulated documents marked as "J" contain the prefix "NJNG."

Ms. Bostwick, Petitioner denied that she was married to Mr. Mavrookas, even though Petitioner had not provided Ms. Bostwick with a copy of a divorce decree. (1T20:4-18; 1T20:22-21:5; 1T31:19-32:14). Lastly, Ms. Bostwick stated that the customer service department received "at least two" prior phone calls claiming that new owners operated the Inn, without presenting supporting documentation of the new businesses, which heightened Ms. Bostwick's suspicions regarding whether Petitioner operated a new *bona fide* business. (1T22:6 -17; 1T23:12-24:5; 1T27:1-20; 1T30:9-19).

Next, Patrick Hughes testified on behalf of Respondent. He testified that he worked for NJNG for twenty-two (22) years, and he was employed by NJR Service Corp. for the last two and a half (2.5) years. (1T43:15-19). Mr. Hughes' duties included "researching customer accounts and public records relating to customer accounts." (1T43:20-23). According to Mr. Hughes, Ms. Bostwick notified him of Petitioner's billing dispute and Petitioner's denial of "any prior connection to the Colts Neck Inn"; thus, he testified that he was tasked with determining whether Petitioner had "any connection" to the Inn. (1T44:3-8; 1T45:23-46:6). Through further investigation, Mr. Hughes learned that a 1997 deed transferred ownership of the Property from George and Mary Mavrookas to Peter and Kim Mavrookas. (1T44:9-16). Mr. Hughes further testified that in about 1997, Peter Mavrookas filed a Certificate of Incorporation for GABGEO, Inc. ("GABGEO"), which "operated the Colts Neck Inn" until the company's second foreclosure in 2012. (1T44:20-45:2). In addition, Mr. Hughes testified that a deed registered in 2001 transferred ownership of the Property from Peter and Kim Mavrookas to Peter Mavrookas for nominal consideration. (1T45:16-22). Additionally, Mr. Hughes testified that during GABGEO's bankruptcy proceedings in 2012, Petitioner filed an objection to "the proposed transfer of GABGEO's liquor license" for the Inn, and she characterized herself as a creditor of GABGEO since she lent GABGEO \$500,000 to pay all outstanding taxes in 2007. (1T46:9-47:24; 1T63:16-64:24). Furthermore, he noted that both Petitioner and Peter Mavrookas shared "common residences" prior to June 2016, including the Inn, and that there were no significant changes to the Inn's personnel since Love Grace Peace's formation in 2016. (1T52:12-53:2; 1T57:5-13). Lastly, Mr. Hughes testified that Petitioner did not apply "for any of the typical types of permits and inspections" for the purportedly new business, such as a Certificate of Occupancy or a mercantile license. (1T54:5-57:13). Thus, Mr. Hughes determined that Petitioner "had an interest" in the subject Property and business and that Love Grace Peace was composed of "the same family members operating the same business." (1T47:25-48:3; 1T58:11-22).

Subsequently, Petitioner testified on her own behalf. She testified that she was married to Peter Mavrookas for thirty (30) years, and she lived and continues to live with her husband. (1T68:18-70:21; 1T74:19-22). Even though Petitioner filed a Complaint for Divorce on September 18, 2018, she informed NJNG in a July 2016 phone conversation that Peter Mavrookas was no longer her husband. (1T101:7-103:20). Additionally, Petitioner stated that she never ran or became involved with the Colts Neck Inn, GABGEO, or LKY2 businesses. (1T74:17-80:19; 1T84:2-12; 1T96:5-21). Although the 2001 deed transferred her ownership of the subject Property to her husband exclusively, she testified that the 1997 deed's reference to her name was to help Peter Mavrookas' family obtain a mortgage for the subject Property. (1T77:3-21). Furthermore, she acknowledged that she took a \$500,000 "home equity loan" for GABGEO so that it would pay off its unpaid taxes in 2007, and she characterized herself as a creditor in GABGEO's subsequent bankruptcy proceedings. (1T82:16-84:17).

Petitioner testified that on or about June 21, 2016, ZJJ Holdings, LLC acquired the Inn via foreclosure. (1T89:12-20). Neither Petitioner nor Peter Mavrookas had any financial interest in ZJJ Holdings. (1T87:14-22). To recoup the funds she had loaned to GABGEO, she entered into

a lease agreement with ZJJ Holdings on June 21, 2016. (1T89:8-90:6). Thereafter, she operated the Colts Neck Inn through her company, Love Grace Peace. (1T85:2-87:16). Petitioner testified that after she entered the lease agreement, she kept several Inn employees and received training from Grace Caputo, the Inn's hotel manager. (1T91:1-92:19).

Grace Caputo testified about her employment with the Inn. She stated that she worked for the Inn for fifteen (15) years, and since 2013, she was employed as the Inn's general manager. (1T120:15-121:11). Ms. Caputo testified that she reported solely to Peter Mavrookas, the employer of the Inn, up until the company's foreclosure in 2016, and since June 2016, she reported solely to Petitioner. (1T121:10-124:5). Specifically, Ms. Caputo testified that she remained the general manager of the Inn upon Petitioner's request, since Ms. Caputo was more experienced with the "property management system" and various hotel functions. (1T123:22-124:17). Ms. Caputo added that she taught Petitioner about the day-to-day hotel operations. (1T123:22-124:17).

On August 27, 2019, ALJ Lieberman issued an Initial Decision in favor of Respondent and denied the relief sought by Petitioner. In the Initial Decision, ALJ Lieberman made specific findings of fact based upon her review of the testimony, documentary evidence, and audio recording of Petitioner's phone conversation with NJNG in 2016 in regard to her marital status. ALJ Lieberman found that:

1. The Inn was undercharged for service, which led to Peter Mavrookas entering into a deferred payment agreement with Respondent for the remaining debt in 2015;
2. Respondent sent Peter Mavrookas' Inn-based business a gas service disconnection notice in June 2016, due to Mr. Mavrookas' failure to comply with the deferred payment agreement;
3. Petitioner was married to Peter Mavrookas at, and prior to, the time she purportedly established her business, Love Grace Peace;
4. In 2016, Petitioner applied for gas service at the Inn and informed Respondent that she founded Love Grace Peace, which operated at the same location;
5. Petitioner attempted to mislead Respondent as to her marital status in 2016;
6. In July 2016, Respondent denied Petitioner's application to re-open gas service under Tariff Section 2.13, since Petitioner was required to clear the Inn's outstanding debt to Respondent before proceeding with the gas service application;
7. Petitioner had "a long-standing financial and familial relationship with the Colts Neck Inn and her husband's company, which owned and operated the Inn, notwithstanding her lack of involvement with the Inn's day to day operations"; and
8. Petitioner failed to present evidence that Love Grace Peace was a *bona fide* new business. (ID at 2-3; 18).

In ALJ Lieberman's legal analysis, the ALJ noted that a customer of record is required to make payments "for all utility service rendered." N.J.A.C. 14:3-7.1(a); see also N.J.A.C. 14:3-1.1. (ID at 18). ALJ Lieberman further noted that both a public utility and its customers are required to operate or act in accordance with the public utility's Board-approved tariff and that the tariff binds all customers. N.J.A.C. 14:3-1.3(a); Application of Saddle River, 71 N.J. 14, 29 (1976); (ID at 19). According to Section 2.13 of Respondent's Tariff for Service, Respondent may not provide service to a company unless "any and all amounts or outstanding balances owed to [Respondent] for previous service have been paid or otherwise discharged. . . ." (ID at 19). Furthermore, the same provision of the Tariff establishes that Respondent may refuse to provide service to a former customer of record after sufficient notice if Respondent "has reason

to believe substantially the same entity occupies the premises to be or being served." (ID 19-20).

Analyzing the totality of the circumstances, ALJ Lieberman found that Petitioner failed to demonstrate by a preponderance of the evidence that Love Grace Peace was not the same business as the one operated by Peter Mavrookas prior to 2016. (ID at 20). Namely, ALJ Lieberman reasoned that Petitioner did not present evidence of a bona fide new business, and on the contrary, the preponderance of the evidence weighed in favor of Respondent, since the record showed that Petitioner had "an interest in the prior business." Ibid. Thus, the ALJ denied Petitioner's requested relief and concluded that "the outstanding gas service bill must be satisfied," as a condition to Petitioner's application for gas service. Ibid.

DISCUSSION AND FINDINGS

In customer billing disputes before the Board, a petitioner bears the burden of proof by a preponderance of the competent, credible evidence. See Atkinson v. Parsekian, 37 N.J. 143, 149 (1962). The burden of proof is met if the evidence establishes the reasonable probability of the facts alleged and generates reliable belief that the tended hypothesis, in all human likelihood, is true. See Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div.), certif. denied, 31 N.J. 75 (1959). As referenced in ALJ Lieberman's Initial Decision, a customer of record is "responsible for payment for all utility service rendered," and if the prerequisite payment is not rendered, a utility may discontinue the provision of service to the former customer's property. N.J.A.C. 14:3-7.1(a); R-265; see also N.J.A.C. 14:3-1.1. In addition, a utility may refuse to continue service to the indebted, former customer's property if it "has reason to believe substantially the same entity occupies the premises to be or being served." R-265. Thus, in accordance with NJNG's Tariff Section 2.13, Petitioner was required to establish her contention that Love Grace Peace, LLC was not substantially the same entity as Peter Mavrookas' hotel business at the Colts Neck Inn by a preponderance of the competent, credible evidence.

In the present instance, Petitioner failed to show, by a preponderance of the evidence, that Love Grace Peace, a hotel business, was not substantially the same entity as Peter Mavrookas' hotel business. She did not provide sufficient documentary evidence, testimonial evidence, or municipal records to support her position. In addition, Respondent's evidence reasonably showed that Petitioner had an interest in her husband's business, since she attempted to facilitate the Mavrookas family's procurement of a mortgage on the subject Property and became a creditor to her husband's GABGEO business, upon taking out a \$500,000 home equity loan, for the purpose of paying the company's outstanding taxes. Furthermore, by her own admission, Petitioner remained married to Peter Mavrookas at least through the date of the hearing in this matter, and it is apparent that she withheld information or misrepresented her marital status in an attempt to mislead the Company in an effort to achieve her desired outcome.

Pursuant to the Administrative Procedure Act, "[t]he agency head may not reject or modify any findings of fact as to issues of credibility of lay witness testimony unless it is first determined from a review of the record that the findings are arbitrary, capricious or unreasonable or are not supported by sufficient, competent, and credible evidence in the record." N.J.S.A. 52:14B-10(c); N.J.A.C. 2:1-18.6(c). While ALJ Lieberman found the testimonies of Ms. Bostwick, Mr. Hughes, and Ms. Caputo to be credible due to the "clear and precise manner" of their findings and conclusions, ALJ Lieberman did not view Petitioner's testimony as credible or consistent. (ID at 17). Namely, the ALJ stressed that: (1) Petitioner "did not tell the truth about her marital status";

(2) Petitioner erroneously claimed that she had no say in Peter Mavrookas' operation of the Inn, for the 1997 deed referred to Petitioner's name so that the Petitioner could facilitate the Mavrookas family's procurement of a mortgage on the subject Property; (3) Petitioner took out a \$500,000 home equity loan to pay off GABGEO's outstanding debt, which counters Petitioner's contention that she was not at all involved with GABGEO; and (4) even though Petitioner claimed to have owned two day care centers for approximately thirty (30) years, Petitioner's rationale for operating the Inn "every day for the first two years" when she purportedly lacked the prerequisite work experience "strains credulity." (ID 16-17). As such, ALJ Lieberman did not find Petitioner's testimony to be credible. (ID 17). Based on a review of the record, the Board **ADOPTS** ALJ Lieberman's credibility determinations in their entirety.

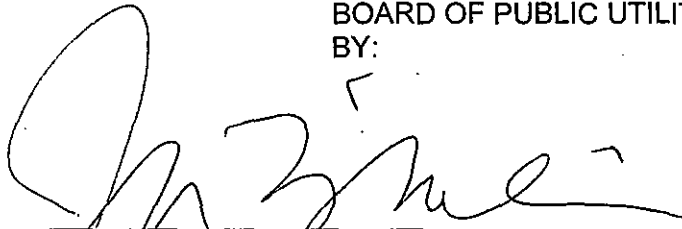
Thus, after careful review and consideration of the entire record and ALJ Lieberman's credibility findings, the Board **HEREBY FINDS** the findings and conclusions of law of ALJ Lieberman to be reasonable and, accordingly, **HEREBY ACCEPTS** them. Specifically, the Board **FINDS** that Petitioner failed to meet her burden of proof.

Accordingly, the Board **HEREBY ADOPTS** the Initial Decision in its entirety and **ORDERS** that the Petition be **DISMISSED**.

This order shall be effective November 4, 2019.

DATED: 10/25/19

BOARD OF PUBLIC UTILITIES
BY:



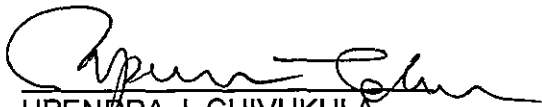
JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER

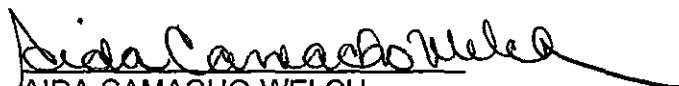


UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

KIM J. NOTTE T/A COLTS NECK INN HOTEL AND RESIDENCE, PETITIONER

v.

NEW JERSEY NATURAL GAS, RESPONDENT

**BPU DOCKET NO. GC17030190U
OAL DOCKET NO. PUC 03616-18**

SERVICE LIST

Kim J. Notte
c/o Colts Neck Inn Hotel & Residence
191 Country Road 537
Colts Neck, NJ 07722

Bert Lundberg, Esq.
Attorney for Kim J. Notte
1816 Englishtown Road
Old Bridge, NJ 08857

Eileen Quinn, Esq.
Associate General Counsel
New Jersey Natural Gas
1415 Wyckoff Road
Post Office Box 1464
Wall, NJ 07719

Julie Ford-Williams, Director
Division of Customer Assistance
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, NJ 08625-0350
Julie.Ford@bpu.nj.gov

Karriemah Graham, Chief
Office of Case Management
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Trenton, NJ 08625-0350
Karriemah.graham@bpu.nj.gov

Matko Ilic, DAG
Department of Law and Public Safety
Division of Law
25 Market Street, 7th Floor West
Post Office Box 112
Trenton, NJ 08625
Matko.Ilic@law.njoag.gov



BOARD OF PUBLIC UTILITIES

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BOARD OF PUBLIC UTILITIES
TRENTON, NJ

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

OAL DKT. NO. PUC 03616-18

AGENCY DKT. NO. GC17030190U

KIM J. NOTTE T/A COLTS NECK INN
HOTEL AND RESIDENCE,

Petitioner,

v.

NEW JERSEY NATURAL GAS,

Respondent.

Bert T. Lundberg, Esq. for petitioner

Eileen Quinn, Assistant General Counsel, for respondent (New Jersey Natural Gas)

Record Closed: July 17, 2019

Decided: August 27, 2019

BEFORE JUDITH LIEBERMAN, ALJ:

STATEMENT OF THE CASE

Petitioner, Kim J. Notte, filed a billing dispute with the Board of Public Utilities (BPU) appealing the denial by respondent, New Jersey Natural Gas (NJNG), of her application for gas service at a business location. Respondent denied the application because it determined petitioner did not operate a bona fide new business entity at that

Cms
K. Graham
D. Thomas
E. Hartsfield
J. Ford
R. Lambert
R. Matos
K. Flynn
C. Vachier

location. Respondent determined a past due balance owed by the business associated with that location must first be paid before service could be provided.

PROCEDURAL HISTORY

Petitioner filed a petition with the Board of Public Utilities (BPU) on or about February 28, 2017. NJNG received the petition on March 16, 2017, and filed an answer on May 5, 2017. On March 9, 2018, the BPU transmitted this matter to the Office of Administrative Law for a hearing as a contested case. N.J.S.A. 54:14B-1 to -15 and N.J.S.A. 14F-1 to -13. The matter was heard on February 13, 2019, and the record was kept open to permit the parties to file post-hearing briefs. After an extension of the filing deadline was granted, the briefs were filed on May 31, 2019 and June 3, 2019. Respondent provided exhibits supporting its brief on July 17, 2019, and the record closed that day.

FACTUAL DISCUSSION AND FINDINGS

The following is undisputed. I, therefore, **FIND** the following as **FACT**:

1. Petitioner was married to Peter Mavrookas during the times at issue. Petitioner filed for divorce on September 18, 2018.
2. Mavrookas owned and operated the Colts Neck Inn via companies called GABGEO, Inc. and LKY II, Inc. J¹-93, 101.
3. In or about January 2015, respondent determined that the Colts Neck Inn had been undercharged for service and issued a bill for the amount that was due. On March 25, 2015, Mavrookas entered into a deferred payment agreement with the respondent for the past due gas bills. He agreed to pay \$1,057.10 per month for twenty-three months. J-7.

¹ "J" refers to jointly stipulated documents; they are marked with the prefix "NJNG."

4. Mavrookas paid approximately half of the payments due pursuant to the deferred payment agreement.
5. In or about June 2016, respondent issued a gas service disconnection notice to the company then operating the Colts Neck Inn.
6. On June 24, 2016, petitioner applied for gas service at the location of the Colts Neck Inn. She represented in her application that she had established a new business that would operate at the Inn.
7. On July 22, 2016, the respondent advised the petitioner that her application to be considered a new business at the location at issue had been rejected pursuant to Tariff section 2.13. The petitioner was advised that the debt owed to the respondent by the Colts Neck Inn must first be satisfied before an account could be established in her company's name. Unless the debt was satisfied, respondent would proceed with termination of gas service at the location pursuant to the July 15, 2016, notice of disconnection. J-48.

Testimony

For the respondent:

Suzanne Bostwick, was the respondent's customer service manager and had been employed by the respondent for twenty-nine years. She explained that, ordinarily, a new customer who sought to establish an account would provide respondent with the address of the location where service was to be provided, a business name and tax identification number if appropriate, mailing address, and security deposit. Additional documentation was required if the then-current account at that proposed service location was delinquent or if service there had been disconnected due to non-payment. The respondent had past experience with delinquent customers who claimed to be a new business at the location to avoid payment a past due bill. As an example,

spouses, business partners, and other family members have "substitute[d] themselves as a customer of record." (T17:19-20).²

On June 24, 2016, the petitioner phoned the respondent to make payment on an account associated with a company called LKY II. She spoke with a customer service representative and provided the account number and tax identification number for LKY II. Upon learning that a monthly payment of \$3,000 was past due, petitioner told the representative that she was operating a new business entity at the same location. She did not reference the new business entity until after she learned about the past due bill.

The customer service representative asked the petitioner to provide documentation concerning her new business entity. Over several days, the petitioner provided documentation concerning the formation of a business called Peace Love Grace, its tax identification number, and a lease from ZJJ Holdings, which was the new owner of the property. The petitioner also provided her driver's license, which alerted the customer service representative to her married name, Mavrookas. The petitioner previously used only her maiden name, Notte. The customer service representative who reviewed the materials noted that Mavrookas was the owner of the Colts Neck Inn and he and LKY II were associated with a delinquent account at that location. The representative reviewed the phone number provided by the petitioner and found that Mavrookas was an authorized "speaker for that account." (T20:11).

The matter was brought to Bostwick's attention by a senior clerk. The clerk told Bostwick that the petitioner had been evasive about Peter Mavrookas and said he was not her husband. Bostwick listened to the phone calls between the petitioner and the representatives in the call center. She also reviewed the account history at the location. She found that it was "well documented" that Peter Mavrookas was the owner of the Colts Neck Inn for many years and "other members of the Mavrookas family name [were] listed in remarks[.]" (T21:9-13). There was a concern that the petitioner "may not be a genuine bona fide new applicant for service at this location." (T21:14-15).

² "T" refers to the transcript of the February 13, 2019 proceedings. Citations are to the transcript page number, followed by the page lines. (T page:line(s)).

Bostwick observed that, on at least two prior occasions, individuals had called the respondent to advise they were the new owners of the business. They were directed to provide documentation of their ownership but did not do so. She noted that some of those calls occurred when a substantial amount was owed or a disconnection notice had been issued. She further noted that one of these calls occurred the month prior to the petitioner's call. This heightened the respondent's concern about the petitioner's relationship with the then-current account holder.

Bostwick asked Patrick Hughes, respondent's security investigator, to research the property and the account. He gathered documents concerning the account and reviewed the customer tracking system.³ In November 2014, a person named Pankaj requested new service at the location. A significant amount was owed on the account at that time. Pankaj did not produce a notarized lease and tax identification number, as requested, or any other information to support his application for a new business account.

In January 2015, a revenue billing supervisor contacted the Colts Neck Inn concerning a bill that had been outstanding for months. The supervisor spoke with the manager, Grace, and left a message for the owner, Peter, asking him to call back. Hughes noted that Grace Caputo is listed in the respondent's records as the Inn's manager.

Billing records revealed that a disconnection notice was sent to the Inn on March 7, 2015. The past due amount was \$27,361.54. The respondent had withheld collection activity until it issued the disconnection notice. Peter Mavrookas requested a longer deferred payment arrangement than originally discussed.⁴ The respondent agreed to a longer payment period. Mavrookas paid approximately half of the scheduled payments.

³ The customer tracking system contains the notes recorded by customer service representatives when they speak with a customer.

⁴ The respondent previously communicated with Mavrookas concerning a deferred payment arrangement.

On May 6, 2016, Grace Caputo advised the respondent there was a new business owner, The County Comfort Inn, LLC. J-8. Caputo was told that the new owner was required to provide documents concerning the business. No documents were provided. The customer of record was thus not changed to The Country Comfort Inn. Upon review, Hughes found that The County Comfort Inn's original filing date was April 2016 and Dino Mavrookas was its agent. J-9-12. Dino Mavrookas was also associated with the Colts Neck Inn. On June 7, 2016, he signed a check from the Colts Neck Inn payable to NJNG. J-14-15.

Another disconnection notice was issued on June 15, 2016.⁵ The petitioner placed her first call to the respondent on June 24, 2016, during which she initially expressed an intent to make a payment but subsequently said a new company was located at the site.

Bostwick spoke with the petitioner on July 28, 2016. The petitioner initially said she was divorced from Peter Mavrookas. She later said she was separated and there was not a divorce decree that awarded her ownership of the business.

Bostwick explained the person or entity that resides in or utilizes a commercial space is responsible for the account. An account will be in the name of the person or entity who uses the site. The record demonstrated that the Colts Neck Inn had been operating at the site since 1989, under the name Mavrookas. Although the petitioner claimed that she was divorced from Peter Mavrookas, the respondent would not transfer ownership of a business without a divorce decree or other documentation of a settlement concerning the marriage as well as appropriate documentation concerning the new business. Also, the petitioner made contradictory statements concerning her marital status. She stated she was separated and divorced. Respondent determined that a bona fide new entity had not begun operating at the site. Rather, a family member had claimed but not established that a new entity was operating there.

⁵ Bostwick referred to an internal record that reflected that a final disconnection notice was issued on June 15, 2016. J-17. July 22, 2016, correspondence to the petitioner referenced a July 15, 2016, disconnection notice. J-48.

On cross-examination, Bostwick acknowledged that the petitioner did not participate in the negotiation or finalization of the 2015 deferred payment agreement. Peter Mavrookas was solely involved. She also acknowledged that she did not have information documenting that the petitioner was affiliated with County Comfort Inn, the company with which Dino Mavrookas was affiliated. The petitioner was never a customer of record for the Colts Neck Inn and the respondent's records did not reflect any communication with the petitioner concerning the account at issue prior to June 24, 2016.

Patrick Hughes was a security investigator for the respondent for twenty-two years. He was responsible for researching customer accounts and public records concerning customer accounts. Bostwick told him that the petitioner had denied any prior connection to the Colts Neck Inn, while her driver's license indicated her full name was Kim Notte-Mavrookas. Bostwick asked him to review records concerning the Colts Neck Inn property.

Hughes found that, in July 1997, George and Mary Mavrookas transferred ownership of the Colts Neck Inn to Peter Mavrookas and the petitioner for \$1.8 million. J-85. In June 1997, a certificate of incorporation was filed for a company called GABGEO, Inc. Peter Mavrookas was its president, agent for service and member of its Board of Directors. J-98. On December 5, 2001, Peter Mavrookas and the petitioner executed a deed transferring the Colts Neck Inn to Peter Mavrookas for one dollar. J-88. GABGEO operated the Colts Next Inn until its second bankruptcy in 2012. LKY II filed its certificate of incorporation in December 2011. J-101.

On December 5, 2012, during GABGEO's bankruptcy proceeding, the petitioner filed an objection to the proposed transfer of GABGEO's liquor license for the Colts Neck Inn restaurant. In her filing, she identified herself as a party in interest and creditor of GABGEO. J-105. She asserted she lent GABGEO \$500,000 to pay taxes it owed. She contested the sale of the liquor license to a new corporate entity that was owned by a family member because the sale would "prejudice the estate, and will not

benefit creditors[.]” J-105. She added, “the separate sale of the property will greatly reduce the value of the estate.” Ibid.

Hughes reviewed records in an effort to confirm the petitioner’s marital status. On June 22, 2016, he conducted a search using a database that helps to verify residences. His search revealed that the petitioner and Peter Mavrookas resided at the same addresses over a period of time and continued to do so at the time she contacted the respondent in June 2016. The database also listed the address for the Colts Neck Inn for both the petitioner and Peter Mavrookas. R-262.

Hughes also reviewed records produced by the Township of Colts Neck to determine whether a new business had registered to conduct business at the Colts Neck Inn. He found no records indicating that the petitioner or her purported company, Love Grace Peace, LLC, were bona fide new tenants or operators. None of the applications that would ordinarily be filed by a new business, for permits and inspections, had been filed. Also, there was not a new certificate of occupancy or mercantile license⁶ and required fire inspections had not been requested. J-260, 261.

Based on records concerning the petitioner and Peter Mavrookas’ residences, it appeared to Hughes they shared a common residence, which was inconsistent with the petitioner’s claim that they were no longer married at the time she contacted the respondent. Hughes also found evidence of petitioner’s interest in the Colts Neck Inn when her husband was the sole owner. He also found no proof that the petitioner or her company had established operations at the Colts Neck Inn. Given the prior claims by other people associated with the Colts Neck Inn that a new business had assumed operations at the site, in an apparent attempt to avoid paying then-overdue bills, it appeared that the petitioner had similarly attempted to void a debt by claiming she was operating a new business.

⁶ Hughes sought these documents again in 2017. None was located.

On cross-examination, Hughes acknowledged that the petitioner is not listed as a principal of GBGEO or LKY II on any filings with the New Jersey Secretary of State. He did not visit the Colts Neck Inn to determine who was working there.

For the petitioner:

Kim Notte Mavrookas⁷, the petitioner, married Peter Mavrookas July 1, 1989. She and Peter resided together in a home for thirty years. Only the petitioner was listed on the deed for that home. She sold the home and purchased a new home in Monmouth Beach, New Jersey, where she resided at the time of the hearing. Hers was the only name on the Monmouth Beach deed. Peter lived with her in Monmouth Beach at the time of the hearing. They were "getting divorced"⁸ and he had "nowhere else to go." (T69:18-20). She intended to sell the Monmouth Beach house; Peter would get some of the proceeds and then move to his own home.

The petitioner operated day care centers in Asbury Park and Neptune for thirty years. She began the businesses before she was married. She "supported" her family with the income from these businesses. (T73:4). Peter had no interest in the businesses and did not have an "interest in the running of the companies." (T73:20-22). She always paid the New Jersey Natural Gas bills associated with these businesses.

The petitioner was not involved with the daily operations of the Colts Neck Inn before she became "involved as an entity in [the] company." (T74:23-24). Her husband's family, led by his father, ran the business. She explained, "I could not say anything, I couldn't even say to bring in more housekeeping. My opinion meant nothing." (T75:14-16). She did not go to the Inn before she obtained her lease for the site. She did not want to be involved.

⁷ Petitioner filed her complaint as "Kim J. Notte, t/a Colts Neck Inn Hotel and Residence". When sworn as a witness she stated her name as "Kim Notte Mavrookas".

⁸ The petitioner filed for divorce on September 18, 2018. P-4. Peter did not file an Answer and the petitioner filed a Request and Certificate to Enter Default on February 12, 2019. P-5.

She also had no involvement with GABGEO or LKY II. Although she knew these companies operated the Colts Neck Inn at different times, she did not know when this occurred. She was neither permitted nor wanted to be involved and was occupied with her own businesses.

In 1997, George and Mary Mavrookas, the petitioner's father-in law and mother-in-law, wanted to refinance the business. As the petitioner had good credit, she permitted them to use her name to get the mortgage. Her name was later "taken off" because she had nothing to do with the company. (T77:15). She never paid the mortgage and did not received a benefit, such as a paycheck. She transferred the deed to her husband for one dollar "to get [her] name off of it. . . . So for my name to be on something that I cannot help control, good or bad – again, I wasn't involved with the company. I had nothing to do with it." (T78:18-21). The petitioner's tax returns for 2015, 2016, and 2017, reflected that she had no interest in or income from the Colts Neck Inn. She filed her returns separately from Peter. P- 6 to 8. All of her income was derived from property she owned and her preschools.

The petitioner explained that, because she had no role with respect to the business, she had no responsibility, obligation or involvement with paying its utility bills. Peter did not tell her about the utility debt or that he arranged a payment plan with the respondent. She did not participate in the negotiation of the payment plan.

Although she was not responsible for tax obligations, petitioner paid the business' overdue taxes. She took a home equity loan to pay the \$500,000 debt "so they would not lock the doors on that place." (T63:10-11). The family was to have reimbursed her. She was, thus, a creditor of GABGEO or LKY II rather than an owner.

When the petitioner learned about the large outstanding utility bill, she contacted the respondent to understand why the bill was so high.

[W]hen I researched to find out how could it possibly even get that high, again, I have businesses, how could a bill –

why would New Jersey Natural Gas allow a bill to even get that high, was my biggest question, when I did call.

I mean, I agree with 99 percent of the things they have said. That was ridiculous . . . When I finally came in and asked to have it put . . . I'm coming in now, I need to have it in my name, when I found out there was a bill of \$20,000-something that was being worked down, I had to find out why. How could you let it get that high?

And, again, it was a broken meter. Well, what does that have to do with me if there was a broken meter? Go after the person who was there when there was a broken meter. . . I had nothing to do with it.
(T 81:3-25).

The petitioner decided to operate the Colts Neck Inn to recoup the \$500,000 she used to pay the overdue taxes. On June 21, 2016, she signed a lease with ZJJ Holdings, Inc., the landlord for the Colts Neck Inn. P-1. ZJJ Holdings, Inc. had purchased the property when it was in foreclosure. Starting May 2016, she paid rent to ZJJ Holdings and made her payments in a timely fashion. She explained her rationale and goal:

I made an agreement with the person who bought it at foreclosure, and I have gone in there every day and have worked every day. I have changed that place around. I started a whole new company, and I'm recouping some of that \$500,000, which I would have never seen unless I did this. I have two children who I pay for their education. Plus I'm still paying that \$500,000 every month that they owe me. So, again, I'm trying to get that money back and I'm getting it back. I'm recouping it by working.⁹
(T85: 9-21).

She explained that the Inn was not the same entity as when her husband operated it. The fire department conducted an inspection one week prior to the hearing. All inspections are under the name of her company, Love Grace Peace. She created Love Grace Peace after the property was foreclosed upon and Elliott Braun purchased it. Elliott Braun signed the lease for ZJJ Holdings, Inc. P-1. Her company

⁹ The petitioner testified that she believed her \$500,000 loan was discharged when her husband's company went bankrupt. She was not reimbursed for the loan.

was assigned an Employer Identification Number on June 14, 2016. P-2. A Certificate of Formation was issued by the New Jersey Division of Revenue and Enterprise Services on June 14, 2016. Ibid.

The petitioner largely retained the staff that worked at the Inn prior to her taking over. She explained this was necessary due to her lack of familiarity with the business:

There was some change of personnel. But, again, I was never involved in the Colts Neck Inn or the hotel business at all. I'm a day care worker, a preschool worker, teacher, so I wasn't involved, I knew nothing about it. I kept the staff that was there at the time. Some people I did terminate. People that were there that were good I kept. I didn't know the business at all. . . . [General Manager Grace] knew the business, she trained me, she showed me everything, and she is still there.
(T91:6-18).

Grace ran the day to day operations of the Inn. She taught the petitioner all aspects of its operation, the customer check-in process, maids' schedules, billing, maintenance and washer and dryer operation. The petitioner was at the Inn every day for the first two years and sometimes slept there. At the time of the hearing, she would be there a minimum of two days per week, as she also reported to her other businesses. She was recouping the money she lent to the prior business for its tax debt.

With respect to the petitioner's statement to NJNG that she was not married when she was, in fact, still married, she believed her marital status was irrelevant because she had no involvement with her husband's business. The petitioner acknowledged that prior attempts by others to claim a new entity was operating the Inn were likely made in an effort to avoid paying past due NJNG bills. She, however, did not do this as hers was a truly new entity. She suggested a review of hotel booking websites would document that she had established a new entity. Further, Peter Mavrookas had no role with her company. He had no decision-making authority

concerning the Inn's operations; could not write a check on behalf of the Inn; and was unable to negotiate contracts.

With respect to the petitioner's NJNG account, she has paid her bills and service had not been suspended. She did not pay the past-due amount owed by the prior operator of the site. She has multiple NJNG accounts in her name and all are current.

On cross-examination, the petitioner listened to a recording of her conversations with a NJNG representative.¹⁰ She testified that she did not say she was married to Peter Mavrookas. Although she said that she was divorced, she did not intend to mislead NJNG. She was "emotionally divorced" from her husband in 2016. (T117:10-11).

The petitioner acknowledged that, as of the date of the hearing, she was not divorced from her husband and she filed her Complaint for Divorce September 18, 2018. She further acknowledged she wrote in her March 2017, complaint against NJNG, "Peter Mavrookas is my ex-husband[.]" She explained that she "considered" him to be her ex-husband notwithstanding they were legally married. (T103:20).

Grace Caputo worked for the Inn since 2004. She became its manager in 2013, when Peter Mavrookas ran the business. She reported to and took direction from him. He signed contacts and checks on behalf of the business. The petitioner had no decision-making role with respect to the Inn and Caputo had no "dealings" with the petitioner until 2016. (T122:5). In approximately May 2016, the petitioner approached her and advised that she had a lease for the site. The petitioner asked Caputo if she wanted to continue working for the Inn as its manager. The petitioner explained that she had day care centers and did not know about the property management system and the Inn's day to day operations. Caputo helped train the petitioner concerning the property management system, reservations, housekeeping and food service.

¹⁰ Petitioner's counsel objected to the admission of the recording, as he was not provided a copy of it in discovery. Counsel did not contest the authenticity of the recording. (T114:11-12). The petitioner acknowledged that she participated in the conversation and her voice was on the recording. (T113:25).

The petitioner had authority over contracts and signing checks; Peter Mavrookas did not have such authority. Peter Mavrookas did not have any authority with respect to the business.

Audio recording

I listened to the audio recording of the petitioner's phone conversations with a NJNG representative. J-18. On June 24, 2014, petitioner called NJNG and said she was "calling in reference to paying a bill." She provided the account number and tax identification number associated with the NJNG account. She stated the account was under "LKY". She said she wanted to pay some of the bill and asked what was due. The NJNG representative told her a deferred payment arrangement had been established; monthly payments of \$1,084.21 were to be paid for twenty-five months. The last bill that had been issued, on May 31, included the current amount then due plus the deferred payment, which totaled \$3,489.59. Petitioner did not know this much money was owed and advised the NJNG representative that, although the account is still in the prior corporation's name, that entity no longer operated at the site. She did not want the service to be disconnected. She advised she would change the name on the account.

The NJNG representative asked petitioner to provide proof that she took over the property and that the name of the company will change. Petitioner agreed to send her company's tax identification number and the date her company took control of the site.

A second phone conversation was initiated by Gail, an assistant to the NJNG supervisor who was working on the account. She called the Colts Neck Inn and asked to speak with petitioner. Gail said that although she received a copy of the lease from petitioner it was unclear who owned the site. Petitioner said Elliott Braun was the owner, although his name was not on the lease. Gail asked who Peter Mavrookas was; petitioner replied he was one of the prior people who owned the site. Gail advised that her records indicated the prior owners still owned the property. Petitioner advised the records were incorrect because the property had been foreclosed upon the prior month.

Gail reiterated that she had no information about the foreclosure and, as there was a very large outstanding balance, the balance due must be paid before the service could be transferred to another entity. Petitioner said she would provide information about the foreclosure and the name of the new owner who bought the property after the foreclosure. Gail asked petitioner if "Peter" is her husband. Petitioner replied, "Not anymore." Gail advised she would ask the NJNG collection department to defer disconnection of service to the property.

Gail called petitioner a second time to inquire about the status of the materials petitioner was to send. Gail advised that service was scheduled to be turned off Wednesday unless the materials were received by the following day. Petitioner said she would provide the materials by the following day.

Gail called petitioner a third time. Petitioner had provided the foreclosure documents but Gail needed to confirm who was responsible for the outstanding debt before the account could be placed in petitioner's name. Gail noted that petitioner and her ex-husband were then listed as defendants in foreclosure documents. Petitioner advised she was included because she was a creditor and was still owed money. Gail advised petitioner the legal department was reviewing the account.

Gail called petitioner a fourth time and advised that petitioner's application for new service was rejected. The gas service account would, thus, not be transferred into petitioner's company's name. A letter explaining the reason for the rejection was forthcoming.

Additional Findings of Fact

It is the obligation of the fact finder to weigh the credibility of the witnesses before making a decision. Credibility is the value that a fact finder gives to a witness' testimony. Credibility is best described as that quality of testimony or evidence that makes it worthy of belief. "Testimony to be believed must not only proceed from the mouth of a credible witness but must be credible in itself. It must be such as the common experience and

observations of mankind can approve as probable in the circumstances.” In re Estate of Perrone, 5 N.J. 514, 522 (1950). To assess credibility, the fact finder should consider the witness’ interest in the outcome, motive, or bias. A trier of fact may reject testimony because it is inherently incredible, or because it is inconsistent with other testimony or with common experience, or because it is overborne by other testimony. Congleton v. Pura-Tex Stone Corp., 53 N.J. Super. 282, 287 (App. Div. 1958).

As the fact finder, I had the ability to observe the demeanor, tone, and physical actions of the petitioner during the hearing. She primarily testified in a calm manner; however, she became agitated and somewhat argumentative on some occasions. This could reasonably be attributed to upset over the circumstances that caused the need for a hearing. However, her testimony was inconsistent or incredible in significant ways.

First, it is undisputed that petitioner did not tell the truth about her marital status. She claimed that she did not reveal her marital status when asked by NJNG because she determined that information was irrelevant and because she had no involvement with her husband’s business. She also affirmatively attempted to mislead when she told Bostwick that she was divorced when she was not.¹¹

Petitioner’s claim that she independently determined what was and was not relevant to NJNG suggests an intent to mislead to achieve a desired goal. Considered in conjunction with a history of other family members of business associates having attempted to eliminate a prior debt to NJNG by claiming the establishment of a new business at the site – something petitioner acknowledged – this misrepresentation appears to have been caused by something other than a simple misunderstanding.

Second, petitioner claimed that she was not previously involved with her husband’s operation of the Inn. This is belied by the fact that the mortgage for the company was in her name, along with that of her husband. She claimed this was merely to facilitate obtaining the mortgage and that she did not receive a benefit, such

¹¹ During a July 28, 2016, conversation, petitioner told Bostwick she was divorced. Petitioner filed for divorce on September 18, 2018. In her March 2017, appeal of NJNG’s determination, which initiated this matter, she referred to her husband as her ex-husband.

as a paycheck. However, her family intended to derive a benefit from the Inn and the mortgage remained in her husband's name for several years after her name was removed. They were married during these years. Further, she paid the company's \$500,000 tax debt, having taken a home equity loan to pay the debt. Although she expected to be reimbursed, she made the loan to help the business.

Third, although petitioner testified that she supported her family with the income she earned from two day care centers and rental properties she owned, she also testified that she devoted herself to the Inn full-time, for two years, after she assumed responsibility for it. She was at the Inn every day for the first two years and sometimes slept there. At the time of the hearing in this matter, she reported to the Inn a minimum of two days per week and also reported to her other businesses. She did not reconcile how she managed her other businesses and earned income during the two year period she was fully devoted to the Inn. Moreover, in an effort to recoup \$500,000, she opted to run an Inn -- which had just been foreclosed upon -- when she had no prior experience. She testified at length that she had absolutely no involvement with the Inn while her husband operated it and she had no other relevant experience. She testified that she needed to retain most of the Inn's staff because she needed them to teach her all aspects of its operations. Petitioner's explanation for assuming responsibility for a significant -- and presumably struggling -- business operation, notwithstanding her complete lack of relevant experience and other business obligations, strains credulity. Accordingly, considering all of the above testimony, I cannot find petitioner's testimony to be credible.

I also had the ability to observe the demeanor, tone, and physical actions of Bostwick and Hughes during the hearing. Each testified calmly, consistently and professionally. They relayed the history of their interactions with petitioner and their findings and conclusions in a clear and precise manner. They did not evidence any intent to make an adverse finding against petitioner. Rather, they were forced to reach the conclusion they did and they supported their determinations with relevant facts. I find their testimony credible. Similarly, Caputo testified credibly concerning her need to train petitioner about the Inn's day to day operations.

Accordingly, having considered testimony, documentary evidence, and audio recording, I **FIND** the following **FACTS**:

Petitioner had a long-standing financial and familial relationship with the Colts Neck Inn and her husband's company, which owned and operated the Inn, notwithstanding her lack of involvement with the Inn's day to day operations. Petitioner was married to her husband, Peter Mavrookas, when she claimed that she started a new business that intended to operate the Inn. When asked about her marital status by NJNG representatives, she withheld information or misrepresented the status of her information, in an attempt to mislead. There was no basis for innocent confusion or misunderstanding on the part of petitioner, as she admittedly chose to withhold information about her marriage and she did not file a complaint for divorce until over two years later.

Petitioner did not provide evidence supporting her assertion that she established a new business that was wholly distinct from the prior business that operated the Inn. She claimed that a review of hotel booking websites would demonstrate that the Inn was truly a new entity. She did not explain in what ways it was different. She did not identify the relevant websites or produce examples of these websites, excerpts of reviews, or other evidence supporting her claim.¹² She did not produce municipal records documenting approval to operate a new business in the Township of Colts Neck.

LEGAL ANALYSIS AND CONCLUSION

Pursuant to N.J.A.C. 14:3-7.1(a), the "customer(s) of record, as defined at N.J.A.C. 14:3-1.1, shall be responsible for payment for all utility service rendered." "Customer of record" means the person that applies for utility service and is identified in the account records of a public utility as the person responsible for payment of the

¹² Petitioner objected to the introduction into evidence of address records obtained by Hughes. The documents were generated by LexisNexis and the date they were generated is indicated on the documents. R-263, 264. Although they may be public records, they were not relied upon in a significant way to determine that the petitioner remained married and shared a home with Mavrookas. Her testimony, including but not limited to her statement that they lived together at the time of the hearing, was sufficient foundation for the above factual findings.

public utility bill. A customer may or may not be an end user, as defined herein.”
N.J.A.C. 14:3-1.1.¹³

Public utilities are required to file tariffs setting forth complete schedules and charges for all classifications of service provided, as well as all rules and regulations relating to rates and charges or services used or to be used. N.J.A.C. 14:1-1.3 “Each utility shall operate in accordance with its tariff at all times, unless specifically authorized in writing by the Board to do otherwise.” N.J.A.C. 14:1-1.3(d). Each utility’s tariff shall be made available for public inspection. In the event the tariff is inconsistent with promulgated regulations, the regulations shall govern unless the tariff’s provisions are more favorable to the customer. N.J.A.C. 14:1-1.3(h), (i). A public utility’s tariff binds all customers, regardless of their familiarity with its provisions. Application of Saddle River, 71 N.J. 14, 29 (1976).

Respondent’s Tariff for Service, section 2.13, addresses the provision of service when there is an outstanding balance:

Service will not be supplied by the Company to former Customers until such time as any and all amounts or outstanding balances owed to the Company for previous service have been paid or otherwise discharged in accordance with N.J.A.C. 14:3-3A.9, as may be amended or superseded. Customers qualifying for Winter Termination Protection who have a prior outstanding balance due from their existing service location may have service restored upon the establishment of satisfactory payment arrangements. The Company may refuse to initiate service, or may discontinue service after proper notice and in accordance with N.J.A.C. 14:3-3A.2, as may be amended or superseded, to a residential applicant, or a member of the household then indebted to the Company for services provided by the Company at any location, if the Company reasonably determines that substantially the same household occupies the premises to be or being served. The Company may refuse to initiate service or may discontinue service after proper notice and in accordance with N.J.A.C. 14:3-3A.2, as may be amended or

¹³ “End user” means a person who receives, uses, or consumes electricity, gas, telephone, water or wastewater service. An end user may or may not be a customer of record, as defined in this section. Ibid.

superseded, to a commercial applicant, or an officer, director, general or limited partner, business associate, or other agent, of an entity then indebted to the Company for services provided by the Company at any location, if the Company has reason to believe substantially the same entity occupies the premises to be or being served.
<https://www.njng.com/regulatory/pdf/Tariff%208-1-19.pdf>
(emphasis added)

Petitioner contends she was operating a new business at the Colts Neck Inn and she is merely a tenant at that location. Petitioner has the burden of demonstrating by a preponderance of credible evidence that her business is not the same as the one that owes an outstanding balance to respondent. I **CONCLUDE** petitioner has not met this burden. Petitioner did not produce evidence documenting that her company is distinct from the indebted business. Rather, the preponderance of the evidence suggests petitioner had an interest in the prior business. Petitioner's explanations concerning her entanglements with the prior business and its owner, her then-husband, were insufficient to satisfy her burden in this matter. Petitioner also provided sworn testimony that she knowingly provided false information to respondent concerning her marital status in conjunction with her application for service.

Despite not having the burden of proof, respondent took efforts to establish many facts of this case, proceeding first with its case. Despite possessing a presumption of validity of its actions, respondent took care to demonstrate its analysis, which led to its reasonable belief that petitioner sought to establish a service account for an existing business.

Accordingly, I **CONCLUDE** that petitioner did not meet her burden of proof. Respondent properly denied petitioner's application for service and determined the outstanding gas service bill must be satisfied.

ORDER

It is therefore **ORDERED** that the petition in this matter be and is hereby **DISMISSED**.

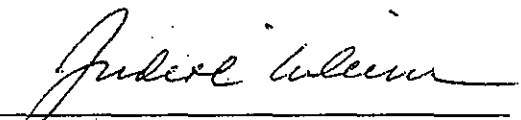
I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

Within thirteen days from the date on which this recommended decision was mailed to the parties, any party may file written exceptions with the **SECRETARY OF THE BOARD OF PUBLIC UTILITIES, 44 South Clinton Avenue, P.O. Box 350, Trenton, NJ 08625-0350**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

August 27, 2019

DATE



JUDITH LIEBERMAN, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

/vj

APPENDIX

LIST OF WITNESSES

For petitioner:

Kim Notte

Grace Caputo

For respondent:

Susan Bostwick

Patrick Hughes

LIST OF EXHIBITS

Joint

J-1A Attached chart listing all jointly stipulated documents. The documents bear the prefix "NJNG".

For petitioner:

P-1 Lease

P-2 June 14, 2016, IRS EIN assignment notice

P-3 May 5, 2016, IRS EIN assignment notice

P-4 September 18, 2018, Complaint for Divorce

P-5 February 12, 2019, Request and Certification to Enter Default

P-6 through 10 Tax returns

P-11 Account statements

For respondent:

R-262 through 264 LexisNexis Accurint search results (prefix "NJNG")

R-265 NJNG Tariff – BPU No. 9 Gas

Love Grace Peace LLC

t/a Colts Neck Inn Hotel & Residence

191 Country Road 537 Colts Neck, NJ 07722

Email: kimprek@aol.com phone: 732 409 1200 cell: 732 513 3900

Meter# 00947351

MAR 02 2017

RECEIVED


MAR 02 2017

CAS

BY

1. Specifically, on May 23, 2016, a Sheriff's Sale of the property: owned solely by Peter Mavrookas; Tax Lot No 5 Block No 31.01 - 191 County Road 537 Colts Neck, NJ, was conducted by the Monmouth County Sheriff's Department. Elliot Braun, manager of ZJJ Holdings LLC, attended the Sheriff's sale on behalf of ZJJ Holdings and made a successful bid. ZJJ Holdings is now the owner of the property.
2. Peter Mavrookas is my ex-husband, whom I have 2 children with. As records show, I Kim Notte did not own the property, nor did I own, manage, or have ANYTHING to do with the business LKY II LLC. Precisely, I own and manage my own businesses and home, specifically. -A Little Class Preschool 2, located at 1235-37 Monroe Avenue Asbury Park NJ and A Little Class Preschool 3, located at 640 Green Grove Road Neptune NJ. My home is located at 227 Allen Avenue Allenhurst NJ. *I have paid NJNG on time for my home and businesses for over 30 years.* Again records show, including my income tax returns, I did not have anything to do with this business before June of 2016.
3. After the property was foreclosed on, I solely made an agreement with ZJJ Holding to lease part of his property, the hotel not restaurant. I filed with The New Jersey Department of the Treasury Division of Revenue and Enterprise Services and received a certificate of formation on 6/14/16 - LOVE, GRACE, PEACE LLC # 0450083475. I am the sole registered member (corp. forms attached). I applied to the IRS Department of Treasury Internal Revenue Services for an employer identification number which was issued 6/14/16.#81-2926753 (forms attached). I opened a bank account with New Jersey Community Bank in Neptune, NJ. I opened an electric account with JCPL. I sent in all the information requested to open a NJNG account.
4. On 7/22/16 I received a letter from NJNG stating that they received my letter requesting service and denied it based on tariff section 2.13; this tariff basically states that they believe the same entity occupies the premise to be served. *OR in other words, I am guilty by association.*
5. If Mr. Mavrookas owes NJNG or any other lender any money, they need to get it from him. Since when is an ex-spouse or even spouse responsible for the other's actions. This is why businesses must file with state and government authorities, naming all members who are responsible. Contracts and forms must be signed acknowledging responsibility.
6. I can and will pay all gas bills that I have incurred since I came in. I can and will also pay a deposit. Actually, I sent 6 monthly checks to NJNG on 2/14/17 certified mail. They have not cashed them. NJNG is demanding full payment for all of LKY II LLC bills or they are turning gas off on 3/3/17. Elliot Braun the owner of the property even requested to open the account in his name when he was told of NJNG's irrational response to service.
7. Under the Boards Rules of Practice, NJAC 14:1-1, I Kim Notte, am filing this petition for a formal hearing; requesting relieve from NJNG shut off and approved gas service.

Please be guided accordingly,



Kim J. Notte