STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

PROVIDENCE, SC. **SUPERIOR COURT**

(FILED: JULY 13, 2012)

CHERYL CHURCH	:	
	:	
	:	
V.	:	**C.A. No. PC-11-4597**
	:	
	:	
RHODE ISLAND DIVISION OF PUBLIC UTILITIES AND CARRIERS, and NATIONAL GRID	:	

Decision

VAN COUYGHEN, J. Plaintiff Cheryl Church (Ms. Church) seeks reversal of a decision of the Rhode Island Division of Public Utilities and Carriers (PUC), finding her liable for outstanding gas and electric accounts while residing at property belonging to her late mother. Ms. Church timely filed this appeal on August 10, 2011. This Court has jurisdiction pursuant to R.I. Gen. Laws §§ 39-5-1 and 42-35-15.

I

Facts and Travel

A formal evidentiary hearing was held in this matter before a Hearing Officer (Hearing Officer) on February 23, 2011 pursuant to Section VI(4) of the PUC Rules and Regulations Governing the Termination of Residential Electric, Gas, and Water Utility Service (Termination Rules). The formal hearing followed an informal review under Section VI(1) of the Termination Rules on November 29, 2010 at which Ms. Church failed to appear. (PUC Report and Order in D-10-154, July 20, 2011, at 2).

The testimony before the Hearing Officer established that Ms. Church had moved into property owned by her mother, Brenda Adams (Ms. Adams), located at 28 Wannissett Avenue, Riverside, Rhode Island (Wannissett Property) sometime between September and December 2006 – four years prior to the evidentiary hearing. (Hearing Tr., 3-4, 31, February 23, 2011). The record shows that the electric and gas accounts were current when Ms. Church moved in with her mother.

The timeframe in which Ms. Church moved into the Wannissett Property is confirmed by her own testimony, as well as National Grid's records, which indicate that she first notified the company that she moved into the Wannissett Property in September 2006. Id. at 16. National Grid's records regarding the gas and electric accounts at the Wannissett Property also report multiple incidents which establish that Ms. Church continuously lived with her mother at the Wannissett Property from 2006 – 2010. The question of whether Ms. Church actually lived in the Wannissett Property does not appear to be disputed in this case.

Ms. Church testified that her 14-year-old son, Eugene, lived with her at the Wannissett Property for an eight month period in 2006, and that he now lives with his father. Id. at 9. She also testified that her older son, Brandon Church (Brandon), moved into the Wannissett Property for a four month period in 2009. Id. at 28-29.

According to Ms. Church, she lived in a finished room in the basement and paid Ms. Adams $75.00 per week in rent. Id. at 4. Ms. Church claimed the Department of Human Services (DHS) had receipts evidencing her rent payments, but she did not produce any documentation evidencing payment of rent. Instead, she informed the Hearing Officer he would need to subpoena the records from DHS. Id. at 4, 31. Ms.

Church testified that she gave her address as 28 Wannissett Avenue, Apartment B, with the "B" indicating she lived in the basement; however, there is no record of a separate apartment in the Wannissett Property. Id. at 37. The house is identified in the Providence Tax Assessor's records as a single family home with a 780 square foot living area containing three rooms. Id. at 27-28. The property is not designated as a rental property.

Ms. Church testified that her sister, Brenda Church (Brenda), had power of attorney for Ms. Adams who suffered from health complications from the time Ms. Church moved into the Wannissett Property until her death. Id. at 4. According to Ms. Church, Ms. Adams passed away on April 2, 2010. Id. at 3. Ms. Church testified Brenda was responsible for handling all of Ms. Adams' bills and expenses, and that Ms. Church had nothing to do with paying her mother's bills. Id. at 33. However, testimony from National Grid employee Roxanne Butler (Ms. Butler) contradicts her testimony.

Ms. Church testified that she informed National Grid of Ms. Adams' death in April of 2010 and requested that the electricity account be transferred into her name. Id. at 5. Ms. Butler, as well as Ms. Church, testified at the evidentiary hearing that the accounts could not be switched immediately because Ms. Church had an outstanding balance of $163.65 from a prior residence dating back to 2003. Id. at 5-6, 14-15, 25-26. Ms. Church paid the $163.65, and the electricity account for the Wannissett Property was transferred into her name on April 24, 2010, along with an arrearage of $3,728.05 that had accrued between 2006 and 2010.[1] Id. at 25. The gas account was transferred into

[1] The outstanding balance due on the electric account for the Wannissett Property had increased to $4099.33 on the date of the evidentiary hearing, and the Hearing Officer found Ms. Church liable for this amount.

Ms. Church's name on November 23, 2010, and an outstanding balance of $1,547.16 was added to the account, which represented outstanding gas charges between 2006 and 2010.[2] Id. at 40, 45.

The record shows the electric account for the Wannissett Property remained in Ms. Adams' name from 1998 until April 7, 2009. Id. at 19-20, 40. Ms. Butler testified the account was then transferred into Brandon's name from April 7, 2009 to March 9, 2010. Id. at 23. Notably, Ms. Butler also testified that National Grid's records indicate Ms. Adams' electricity was shut off in April 2009 because of an outstanding balance of $2,442.94 before the account was transferred to Brandon's name. Id. at 20-21. The account was then transferred back to Ms. Adams' name in March 2010 with an outstanding balance of $3,921.00, and it remained in Ms. Adams' name until her death the following month. The record shows a payment was made during that time period reducing the balance to $3,728.05. Id. at 24.

Ms. Butler testified that company records show Brandon and Ms. Church both called National Grid on behalf of Ms. Adams during the time period the account was in Brandon's name. It appears Ms. Church called to have the property coded for life support because of Ms. Adams' medical situation. Id. at 19-20. The record also shows Ms. Church had contact with National Grid regarding the gas account for the Wannissett Property. Ms. Butler testified that in 2009 Ms. Adams gave National Grid permission to speak with Ms. Church regarding the gas account. Id. at 41. Ms. Butler testified that company records noted a specific incident in October 2009 when Ms. Church called to

[2] The balance on the gas account for the Wannissett Property at the date of the evidentiary hearing was $ 2,244.21. (Hearing Tr., 3-4, 44, 49, February 23, 2011.)

check on the protected status of Ms. Adams' gas account. During this call, National Grid spoke with Ms. Adams, who authorized Ms. Church to speak on her behalf. Id. at 42.

Furthermore, in April 2009 — at the same time the electric account was put in Brandon's name — an attempt was made to transfer the gas account into Brandon's name, but a transfer was never made. Id. at 41. The reason why the transfer was never completed is not entirely clear, but National Grid's records indicate that a company employee was told that Ms. Church had only lived in the Wannissett Property for one week, which contradicted the company's records and Ms. Church's testimony. Id. at 3-4, 16, 31.

Ms. Butler also testified that National Grid's records indicated that following Ms. Adams' passing in April 2010, Ms. Church called claiming to be Ms. Adams. Id. at 42. However, the employee determined Ms. Adams was deceased and advised Ms. Church that she would need to transfer the gas and electric services for the Wannissett Property into her name or the name of the person who was responsible for the property and the outstanding balances. Id. at 42.

Ms. Church testified that the electric account was transferred into Brandon's name in 2009 at the behest of her sister, who had power of attorney for Ms. Adams. According to Ms. Church, Ms. Adams experienced health complications and was forced to enter a nursing home for several months, leaving Ms. Church and her son as the only occupants of the Wannissett Property. Id. at 29. Ms. Church stated that her sister demanded the account be transferred into either Ms. Church's or Brandon's name and they decided to transfer it to Brandon's. Id. The account was then transferred back to Ms. Adams' name when she returned from the nursing home in March 2010. Id. at 24-25, 28-29.

Though there was a high utility cost, Ms. Church testified that there was no heat in the basement and that her only electricity usage was for a small television that she plugged in and used in the basement. Id. at 28, 31. She claims that the medical equipment required to keep Ms. Adams alive was the primary reason for the high utility usage at the Wannissett Property. Id. at 7. Ms. Church maintains that she only had limited use of the facilities in her mother's home. However, the record reveals that the Wannissett Property is a single-family home with three rooms including one bedroom and one full bathroom. Id. at 27-28.

The Hearing Officer examined National Grid's billing records for the electric account at the Wannissett Property and concluded that Ms. Church was responsible for her mother's electric charges. (PUC Report & Order in D-10-163, July 20, 2011, at 8). The Hearing Officer reached the same conclusion regarding the gas account. (PUC Report & Order in D-10-154, July 20, 2011, at 8). The Hearing Officer based his conclusion on § 39-2-1.1, which governs the provision of utility service to new occupants of a premises. The Hearing Officer found that the record established that Ms. Church had lived at the Wannissett Property since 2006 and that she had benefited from the electric and gas services to the property, making her responsible for the outstanding balances. (PUC Report & Order in D-10-163, July 20, 2011, at 8-9); (PUC Report & Order in D-10-154, July 20, 2011, at 8-9).

The Hearing Officer also found that Ms. Church was a "Step 3" protected customer under the Termination Rules, which meant she was required to make an initial down payment of all unpaid balances in order to receive utility services. (PUC Report & Order in D-10-163, July 20, 2011, at 9); (PUC Report & Order in D-10-154, July 20,

2011, at 9). The Hearing Officer ordered that Ms. Church make a down payment of $1,024.83 and monthly payments thereafter of $335.20 per month for twelve months on the electric account. (PUC Report & Order in D-10-163, July 20, 2011, at 9). On the gas account, Ms. Church was ordered to pay $290.20 per month for twelve months with a down payment of $560.80. (PUC Report & Order in D-10-154, July 20, 2011, at 9).

Ms. Church timely appealed the Hearing Officer's decision to this Court on August 10, 2011 seeking judicial review of the determination that she benefited from the services provided to the Wannissett Property. Ms. Church is requesting reversal of the Hearing Officer's decision that she is liable for her mother's outstanding charges for both gas and electricity. (Pet'r's Br. in Supp. of Reversal, at 10.)

II

Standard of Review

Pursuant to § 39-5-1, "any person aggrieved by a final decision or order of the administrator [of the PUC] may appeal therefrom to the superior court pursuant to the provisions of § 42-35-15." Individuals must exhaust all administrative remedies before appealing. § 42-35-15(a). When this Court reviews an appeal from the PUC or another administrative agency, § 42-35-15(g) provides:

> "The court shall not substitute its judgment for that of the agency as to the weight of the evidence on questions of fact. The court may affirm the decision of the agency or remand the case for further proceedings, or it may reverse or modify the decision if substantial rights of the appellant have been prejudiced because the administrative findings, inferences, conclusions, or decisions are:
>
> (1) In violation of constitutional or statutory provisions;
> (2) In excess of the statutory authority of the agency;
> (3) Made upon unlawful procedure;
> (4) Affected by other error or law;
> (5) Clearly erroneous in view of the reliable, probative, and substantial evidence on the whole record; or

(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion."

The Superior Court's scope of "review is circumscribed and limited to an examination of the certified record to determine if there is any legally competent evidence therein to support the agency's decision. Nickerson v. Reitsma, 853 A.2d 1202, 1205 (R.I. 2004). This restriction applies even when the reviewing court may have been inclined to arrive at different conclusions and inferences from the evidence presented. Johnston Ambulatory Surgical Assocs., Ltd. v. Nolan, 755 A.2d 799, 805 (R.I. 2000) (quoting Rhode Island Pub. Telecomm. Auth. v. Rhode Island State Labor Relations Bd., 650 A.2d 479, 485 (R.I. 1994)); Barrington Sch. Comm. v. Rhode Island State Labor Relations Bd., 608 A.2d 1126, 1138 (R.I. 1992).

Evidence is considered legally competent when "some or any evidence supporting the agency's findings" is present in the record. Auto Body Ass'n. of Rhode Island v. State Dept. of Business Regulations., 996 A.2d 91, 95 (R.I. 2010) (quoting Environmental Scientific v. Durfee, 621 A.2d 200, 208 (R.I. 1993)). The agency is entitled to great deference and the reviewing court cannot substitute its judgment for that of the agency on questions of fact already decided by the agency. Auto Body Ass'n. of Rhode Island, 996 A.2d at 97; Johnston Ambulatory, 755 A.2d at 805 (quoting Rhode Island Pub. Telecomm. Auth., 650 A.2d at 485). Despite the high level of deference afforded the agency, the Superior Court will review all questions of law de novo. Iselin v. Retirement Bd. of Employee's Retirement Sys. Of R.I., 943 A.2d 1045, 1049 (R.I. 2008) (citations omitted).

Additionally, when an agency is charged with interpreting a regulatory statute like § 39-2-1.1 which the Legislature has empowered it to enforce, the agency's interpretation

of that statute is entitled to great weight and deference provided it is not clearly erroneous or unauthorized. Labor Ready Ne., Inc. v. McConaghy, 849 A.2d 340, 345 (R.I. 2004). Agencies are not empowered to modify the statutory provisions within their enforcement authority, but when the terms of a statute are ambiguous, the agency's interpretation must be given deference. Id. (citing In re Lallo, 768 A.2d 921, 926 (R.I. 2001) (internal citations omitted)). Judicial deference is required "even when other reasonable constructions of the statute are possible." Id. (citing Pawtucket Power Assocs. Limited P'ship v. City of Pawtucket, 622 A.2d 452, 456-57 (R.I. 1993)).

III

Analysis

Ms. Church's primary argument in favor of reversal rests upon the theory of unjust enrichment. It does not appear that the Hearing Officer relied upon the theory of unjust enrichment in his decision. Rather, the Hearing Officer based his decision on sec. 39-2-1.1. Consequently, this Court's review is governed by Sec. 42-35-15(g). Therefore, the Court will begin its analysis by applying the appropriate standard of review as found in Sec. 42-35-15(g).

A

Propriety of Hearing Officer's Decision under the APA Standard of Review

The Court must first consider whether the PUC's interpretation of § 39-2-1.1 is entitled to deference. The PUC does not have the power to modify statutes entrusted to its care, but if a statute is susceptible to multiple interpretations, the agency's interpretation is entitled to deference. McConaghy, 849 A.2d at 345. The General Assembly empowered the PUC to supervise, regulate, and issue orders governing the actions of companies like National Grid that offer intrastate utility services. G.L. 1956 §

39-1-1(c). The PUC's scope of authority includes enforcing and regulating the duties imposed upon utilities carriers under Title 39, Chapter 2.

In this case, the Hearing Officer applied § 39-2-1.1. Section 39-2-1.1 provides that: "[n]o public utility shall refuse to furnish services to new occupants at any premises on the grounds that the previous occupant has vacated the premises without paying the public utility for services furnished, provided that the service is not for the use or benefit of the previous occupant." The General Laws do not define the term "previous occupant." However, it is a well settled rule that when the language of a statute is clear and unambiguous, this Court must interpret the statute literally and give the words their plain and ordinary meaning. DeMarco v. Travelers Ins. Co., 26 A.3d 585, 616 (R.I. 2011). The term "previous occupant" clearly and unambiguously refers to individuals who previously resided at a residence.

The record reveals that the Hearing Officer viewed § 39-2-1.1 as permitting denial of service to a new customer for a previous customer's outstanding balance when the service is for the benefit of anyone that occupied a premises with the former customer. In other words, the term "previous occupant" was construed as applying to Ms. Church in this case because she resided with the former customer. (Hearing Tr., 49-53, February 23, 2011). The Hearing Officer then construed the statute to allow a utility provider to deny service to a new applicant who lived with a previous occupant and to hold such individuals liable for outstanding balances incurred on an account.

This Court believes the Hearing Officer's interpretation of § 39-2-1.1 in this case is reasonable. The Hearing Officer's interpretation is essentially that, by permitting a denial of service to new customers when the utilities are for the benefit of a "previous

occupant," § 39-2-1.1 treats individuals who benefited from another's utilities as primarily liable for payment of said utilities. National Grid posits in its brief that the purpose of § 39-2-1.1 is to prevent situations where multiple individuals occupy a premises, accrue outstanding balances in one individual's name, and then transfer the account to another person's name without paying the balance. (National Grid's Br. in Supp. of Report & Order Issued by the Division of Public Utilities & Carriers & Dated July 20, 2011, at 8). Similar reasoning may be inferred from the Hearing Officer's statements during the evidentiary hearing. (Hearing Tr., 49-50, February 23, 2011).

After thoroughly reviewing the relevant statutory provision and considering the agency's explanation of its legislative intent, this Court does not believe the Hearing Officer's interpretation is clearly erroneous or unauthorized. McConaghy, 849 A.2d at 345. Therefore, despite the fact that there may be other reasonable interpretations of the statute, the Hearing Officer's interpretation of § 39-2-1.1 is entitled to deference in this instance and is not considered erroneous or unauthorized. Id.

The next issue before this Court is to ascertain whether the Hearing Officer's finding that Ms. Church was a previous occupant of the Wannissett Property who benefited from the utilities is supported by legally competent evidence in the record. Auto Body Ass'n of Rhode Island, 996 A.2d at 95. The Hearing Officer's factual findings are entitled to great deference by this Court. Johnston Ambulatory, 755 A.2d at 805.

The Hearing Officer found that Ms. Church had moved into the Wannissett Property in 2006 and that she was a beneficiary of the electric and gas services provided by National Grid for four years. (PUC Report & Order in D-10-163, July 20, 2011, at 8-

9); (PUC Report & Order in D-10-154, July 20, 2011, at 8). The Court finds that the Hearing Officer's finding on this point is supported by legally competent evidence.

Ms. Church testified that she had moved into the Wannissett Property in 2006 along with her son Eugene who lived there for a few months. Ms. Church also admitted that her older son, Brandon, lived in the home for approximately four months in 2009. Additionally, National Grid's records indicated that Ms. Church telephoned them to change her billing address from her prior residence to the Wannissett Property sometime in September 2006. (Hearing Tr., 16, February 23, 2011). The record reflects some conflict regarding exactly what month Ms. Church moved into the Wannissett Property, but all accounts establish that she moved in with her mother in 2006, a fact Ms. Church does not dispute.

Furthermore, the records produced by National Grid indicate multiple incidents in which Ms. Church contacted the company regarding the utility services for the Wannissett Property in 2009. Not only did Ms. Church speak with National Grid, but Ms. Adams also expressly authorized National Grid to speak with Ms. Church regarding the gas account. Id. at 3-4, 31. The Hearing Officer clearly believed Ms. Church's contact with the company established her presence in the Wannissett Property as well as her awareness of the past due status of her mother's accounts. Her interaction with National Grid also demonstrates appreciation of the benefits of the utility services. Id. at 49-50.

Ms. Church maintains that she had limited use of the utilities in the home and that her electricity usage was limited to a single television in the basement. She also maintains that there was no heat in the basement and her mother's life support machinery

was the reason for the high electricity usage. Id. at 7, 28, 31. Ms. Church is also adamant in her assertion that she paid her mother and her sister Brenda, who had power of attorney for Ms. Adams, $75.00 per week in rent, which, according to her testimony, included utilities. Id. at 4, 60. However, she did not produce any evidence of rent payments and claimed the Hearing Officer would need to obtain the records evidencing the payments from DHS himself. Id. at 4, 31. The Hearing Officer was clearly not persuaded by Ms. Church's testimony that she paid rent, and it does not appear that he accepted her testimony that her use of the utilities was limited as is shown by the following exchange:

> "[Hearing Officer]: Okay. Miss Church, I understand you didn't agree with a lot of that, but basically the bottom line is they're making you responsible for your mother's bills.
>
> Ms. Church: Yes. I'm on disability . . .
>
> [Hearing Officer]: Here is the state law . . .
>
> Ms. Church: I have a sister that had power of attorney . . .
>
> [Hearing Officer]: Can I finish please? If someone lives in the property with a sibling, mother, father, and the company can prove that you've been in that property . . . they have the right to charge the person who's living there now and who has been for the past four, five years and has benefited from that gas, as your mother and whoever else was living there. The problem now is you're taking that responsibility on, and you were there and you have notes – they have notes in the system that you called them. You were in this deal to begin with. So, you knew there was a balance. You knew something wasn't getting paid, but you were still using that utility, gas and electric.
>
> Ms. Church: Yeah, but I paid rent, though, to my mother and to my sister. She had power of attorney.
>
> [Hearing Officer]: I don't think that's what happened in this case.
>
> Ms. Church: That's – that's ridiculous. That's just absurd . . . I paid rent while I was there to them. I did not have power of attorney. My sister did.

> She took care of all that stuff. I paid my rent every month over there. I don't see how I am responsible. That is a totally different thing . . . I'm one person that was in the basement that had a TV on. That is it. How can I be responsible for my mother's bill? I have a sister and two brothers . . .
>
> [The Hearing Officer then quoted § 39-2-1.1 to Ms. Church.]
>
> Ms. Church: I paid rent. I paid rent, though. I paid every single month to my mother and to my sister. My mother did all her own business for the last year of her life and that's when my sister got power of attorney, I guess . . . I don't know nothing about that. That's – that has nothing to do with me. All I did was pay my rent . . .
>
> [Hearing Officer]: I understand that portion, but it looks like the laws are going to be against you . . .
>
> Ms. Church: What is that, just Rhode Island? I mean how can I be responsible for my deceased mother's bills when I paid rent there?
>
> [Hearing Officer]: Because you were living there.
>
> Ms. Church: But I paid rent there.
>
> [Hearing Officer]: That's going to be very hard to prove." Id. at 50-53.

The Hearing Officer's rejection of Ms. Church's testimony that she paid rent and had limited use of the utilities is a credibility determination. This conclusion is supported by sufficiently competent evidence, namely that Ms. Church lived in her mother's home and at various times other family members resided there as well. Furthermore, although Ms. Church claims there is a separate apartment in the basement, all of the evidence demonstrates that the Wannissett Property is not a rental property. Id. at 27-28. Therefore, this Court will not disturb the Hearing Officer's decisions regarding the weight afforded to the evidence and the Hearing Officer's decision that Ms. Church is liable for the outstanding amounts of $3,728.05 for electricity and $1,546.10 for gas under § 39-2-1.1 will be affirmed.

Although Ms. Church has not challenged the Hearing Officer's determination that she is a "Step 3" protected customer,[3] the Court notes that National Grid may deny her service under § 39-2-1.1 unless she pays the balance or enters into an acceptable payment plan. The Hearing Officer set out payment plans in compliance with the Termination Rules regarding both the gas and electricity accounts, and Ms. Church must follow these payment plans or otherwise satisfy the outstanding balances.

B

Appellant's Unjust Enrichment Argument

Ms. Church raises the issue of unjust enrichment in her brief and asserts that the PUC and National Grid relied upon Narragansett Elec. Co. v. Carbone, 898 A.2d 87 (R.I. 2006)[4] to argue Ms. Church is liable for Ms. Adams' outstanding bills. The Court does not find the Hearing Officer's decision was predicated upon the principles of unjust enrichment and cannot find any reference to Carbone in either of the Hearing Officer's decisions. However, assuming for the sake of argument that this case did involve the principles of unjust enrichment, the Court would find Ms. Church liable for the benefits conferred upon her.

Plaintiffs must establish three elements to recover under a theory of unjust enrichment:

[3] Under the Termination Rules, the term "Step 3" protected customer refers to a particular payment plan for outstanding balances. Under a "Step 3" plan, an initial down payment of 25% of the outstanding balance is required and thereafter the customer must pay 1/12 of the estimated average utility cost less any amounts paid by a public energy assistance program, which is added to 1/12 of the unpaid balance. Termination Rules Section V(4).

[4] The Carbone case was not a case brought under the Rhode Island Administrative Procedures Act (RIAPA). Rather, it was a case involving a civil suit for damages, conversion, unjust enrichment, and doubling damages under G.L. 1956 § 9-1-2 if the defendants were found criminally liable for the charge of larceny. 898 A.2d at 91. The scope of review in the present dispute is the much narrower standard set forth in Sec. 42-35-15 of the RIAPA.

> (1) A benefit must be conferred upon the defendant by the plaintiff; (2) there must be appreciation by the defendant of such benefit, and (3) there must be an acceptance of such benefit in such circumstances that it would be inequitable for a defendant to retain the benefit without paying the value thereof. Bouchard v. Price, 694 A.2d 670, 673 (R.I. 1997).

Our Supreme Court has held that "a benefit is conferred when improvements are made to property, materials are furnished, or services are rendered without payment." Carbone, 898 A.2d at 99. A plaintiff may satisfy the first and second elements through circumstantial evidence, provided the evidence establishes them by a preponderance of the evidence. Id. However, the most important element of unjust enrichment is that the enrichment to the defendant be unjust. R&B Elec. Co. v. Amco Co., 471 A.2d 1351, 1356 (R.I. 1984). A plaintiff may meet the third element by producing evidence of the reasonable value of the services or materials rendered to the defendant. Carbone, 898 A.2d at 100.

In Carbone, our Supreme Court held that providing electricity to a defendant constituted conferring a benefit. Id. at 99. The record establishes that National Grid provided electric and gas service to the Wannissett Property from 2006 to April 2, 2010, when Ms. Adams passed away. (Hearing Tr., 3, February 23, 2011). There does appear to be some dispute in the record regarding the provision of gas services following Ms. Adams' death; however, the Hearing Officer found that National Grid provided gas service to the Wannissett Property after Ms. Church paid her outstanding debts from her prior residence. The Court defers to the Hearing Officers factual findings here, which establish that National Grid conferred a benefit on Ms. Church by providing gas and electric service to the Wannissett Property while she resided there.

The second element of unjust enrichment may, like the first element, be established through circumstantial evidence supporting an inference that a defendant appreciated the benefit conferred upon her. Carbone, 898 A.2d at 100. In Carbone, the Supreme Court held it could be inferred that the defendant appreciated the benefit of illegally obtained electricity because she was a homemaker who paid some of the electric bills during the relevant time period and she presumably used appliances connected to an illegal electricity bypass. Id. Ms. Church argues her case is distinguishable from Carbone in that she did not pay any of the utility bills between 2006 and 2010 and the utilities were rendered to her mother who owned the house. (Appellant's Br. in Supp. of Reversal, at 7-8). The Court is not persuaded.

The record establishes Ms. Church lived in the Wannissett Property for a four year period during which National Grid provided both electric and gas services. Ms. Church reiterates that she paid $75 per week in rent to her mother to cover utilities and contends that her liability should be limited to this amount. Id. at 8. However, no evidence was presented to the Hearing Officer supporting Ms. Church's claim. Furthermore, the Wannissett Property is not classified as a rental property, and Ms. Church lived in the home with her mother and at times with her sons Eugene and Brandon. (Hearing Tr., 9, 27-29, 37, February 23, 2011). It is illogical to conclude Ms. Church did not utilize the services National Grid provided to her mother's home. Therefore, the evidence in this case shows Ms. Church appreciated the benefit of the gas and electric services rendered. If Ms. Church believes her mother's estate is responsible for all or part of the outstanding balance, she has the right to proceed accordingly.

As for the third element, the PUC had before it evidence produced by National Grid of the reasonable value of the utility services it provided to the Wannissett Property. The record clearly establishes outstanding balances at the time of Ms. Adams' death of $3,728.05 for electricity and $1,547.16 for gas. Id. at 25, 40, 45. Therefore, since the reasonable value of a benefit conferred on Ms. Church that she accepted and appreciated has been established, the third element of unjust enrichment is met in this instance.

Conclusion

After review of the entire record, this Court affirms the Hearing Officer's decision. That decision is supported by the reliable, probative, and substantial evidence, is not affected by error of law, and is not in violation of statutory provisions. Furthermore, the substantial rights of the Appellant have not been prejudiced. Counsel shall confer and submit an order and judgment consistent with this Decision.