



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

CUSTOMER ASSISTANCE

JANET SOLONDZ,
Petitioner

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)

ORDER ADOPTING
INITIAL DECISION

v.

NEW JERSEY AMERICAN WATER COMPANY,
Respondent

)
)
)

BPU DOCKET NO. WC070240285U
OAL DOCKET NO. PUC 7467-07

(SERVICE LIST ATTACHED)

BY THE BOARD:

On April 26, 2007, Janet Solondz (Petitioner) filed a petition with the Board of Public Utilities (Board) disputing a bill of New Jersey American Water Company (Respondent) for water services. Although the petition neither states the water bill in question nor the amount in disputed, in early correspondence with Board Staff dating back to June 2006, Petitioner informally contested a May 2003 water bill. A copy of this earlier correspondence was forwarded to Respondent on June 6, 2006.

After the filing of Respondent's answer, the Board, on July 6, 2007, transmitted this matter to the Office of Administrative Law (OAL) for hearing and initial disposition as a contested case pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. This matter was assigned to Administrative Law (ALJ) Judge James A. Geraghty. The hearing was scheduled for September 21, 2007.

In his Initial Decision, issued on November 13, 2007, ALJ Geraghty indicated that, by letter dated September 20, 2007, a day before the scheduled hearing in this matter, counsel for Respondent informed the tribunal that Respondent had decided to issue a one-time credit to the

Petitioner for \$253.81, the entire amount in controversy. (See Exhibit R-1.) In that letter, counsel further advised the tribunal that, if Petitioner refused to withdraw her petition despite the credit, Respondent would move for a dismissal. (See id.)

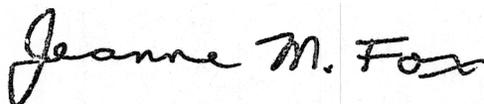
ALJ Geraghty explains in his Initial Decision that, due to the apparent settlement between the parties, the tribunal asked Petitioner to submit a letter withdrawing her petition on October 30, 2007. By letter dated November 5, 2007, Petitioner asserted that, among other things, she had never agreed to a settlement and that the disputed amount was "somewhere close to \$300.00." (See Exhibit P-1.) That same day, Respondent submitted a letter explaining that the credited amount of \$253.81 represented the entire amount Respondent sought to collect from Petitioner. (See R-2.) In addition, Respondent enclosed a copy of the May 2003 bill, which indicated that Respondent reached the amount \$253.81 by adding a \$236.83 charge as well as a \$16.98 facilities charge. (See id.) With reference to this correspondence in his Initial Decision, ALJ Geraghty ultimately concluded Respondent's credit for the full amount in dispute rendered the case moot and deprived the OAL of jurisdiction. Therefore, the tribunal recommended that the matter be dismissed.

The Board's review of the record disclosed that, as early as June 2006, Petitioner informally contested a water bill from May 2003. Although Petitioner's formal petition filed with the Board on April 26, 2007 did not state the bill disputed, subsequent correspondence among the parties as well as ALJ Geraghty revealed that the May 2003 bill was indeed the disputed bill. Further, Respondent's correspondence with the tribunal contained a copy of the May 2003 bill, which reflected a charge in the amount of \$253.81. (See Exhibit R-2.) As stated in the Initial Decision, Respondent issued a "one-time, goodwill credit in the amount of \$253.81," which represented the entire amount in controversy. (See Exhibit R-1.) Based on the record before the tribunal, ALJ Geraghty dismissed the case as moot because Respondent no longer sought to collect from Petitioner. While Petitioner claims that the disputed amount is closer to \$300.00 (see Exhibit P-1) there is no documentary evidence or competent proofs in the record to support this monetary amount. In any event, on November 29, 2007, Board Staff was advised that, in the interest of customer relations, Respondent provided Petitioner with an additional credit of \$50.00, which had been reflected on the bill issued to the Petitioner on November 9, 2007. Ultimately, Respondent provided a total credit to Petitioner in the amount of \$303.81.

After a thorough review of the record and for the reasons noted herein, the Board HEREBY FINDS that the findings and conclusions of the ALJ as set out in his Initial Decision are sound, fair and reasonable. Accordingly, the Board HEREBY ADOPTS the Initial Decision in its entirety as if set out at length herein and, as a result, HEREBY DISMISSES the petition in this matter.

DATED: 12/21/07

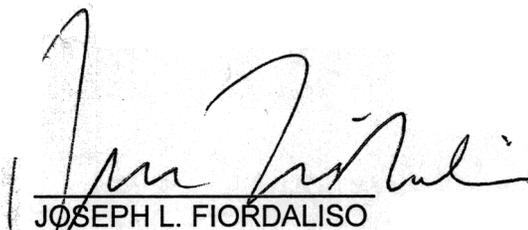
BOARD OF PUBLIC UTILITIES
BY:



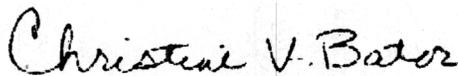
JEANNE M. FOX
PRESIDENT



FREDERICK F. BUTLER
COMMISSIONER

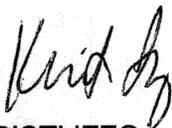


JOSEPH L. FIORDALISO
COMMISSIONER



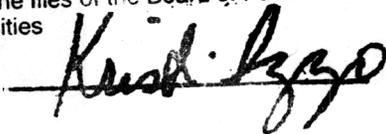
CHRISTINE V. BATOR
COMMISSIONER

ATTEST:



KRISTI IZZO
SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities



JANET SOLONDZ

v.

NEW JERSEY AMERICAN WATER COMPANY

**BPU DOCKET NO. WC07040285U
OAL DOCKET NO. PUC 7467-07**

SERVICE LIST

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State of New Jersey
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INITIAL DECISION

OAL DKT. NO. PUC 07467-07
AGENCY DKT. NO. WCO7040285U

JANET SOLONDZ,

Petitioner,

v.

NEW JERSEY AMERICAN WATER COMPANY,

Respondent.

Janet Solondz, pro se

Robert J. Brabston, Esq., for respondent

Record Closed: November 5, 2007

Decided: November 13, 2007

BEFORE JAMES A. GERAGHTY, ALJ

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

By letter of April 26, 2007, petitioner Janet Solondz requested a hearing to contest New Jersey American Water Company's June 9, 2003 bill to her in the amount of \$236. The matter was transmitted to the Office of Administrative Law ("OAL") on July 16, 2007. N.J.S.A. 52:14B-1 to -15 and 52:14F-1 to -13. After a pre-hearing conference, the matter was scheduled for a hearing on September 21, 2007. By letter

of September 20, 2007, counsel for respondent advised the tribunal that the utility had acceded to petitioner's claim and issued her a "one-time goodwill credit in the amount of \$253.81," the entire amount in dispute. (Exhibit R-1). On October 30, 2007, the tribunal asked petitioner to submit a letter withdrawing her petition. By letter of November 5, 2007, petitioner contended that counsel for respondent misrepresented that the matter had been settled. Instead, she claimed that she never agreed to the stipulated amount and that she had spoken "to a lawyer on your staff" who suggested that the tribunal could help her resolve her "communication" problem. Further, petitioner complained of having had difficulty contacting counsel for respondent. Petitioner attached a copy of her October 19, 2007 letter to respondent's customer service representative in which she stated that the amount that should be credited to her account is "somewhere close to \$300." (Exhibit P-1). By letter dated November 5, 2007, counsel for respondent advised the tribunal that the amount of the credit was the total amount of the utility claim. The credit is broken down to include \$236 which comports with the amount stated during the scheduling telephone conference as well as a \$17 "facilities charge." The letter was accompanied by a copy of the May 23, 2003 bill to petitioner. (Exhibit R-2).

In the September 20, 2007 letter, counsel for respondent stated that if, in view of the hearing adjournment, petitioner refuses to withdraw despite the credit, he would move for a dismissal.

STATEMENT OF THE ISSUES

The issue is whether there is a contested billing dispute before the OAL or whether the matter has become moot.

FINDINGS OF FACT

Based on the documentary evidence submitted by the parties and other evidence on the record, I **FIND:**

- 1 Petitioner disputed a May 2003 bill by respondent water utility in the amount of \$236.
- 2 Respondent has issued petitioner a credit in the amount of \$253.81 representing the disputed amount plus a "facilities charge."

LEGAL AUTHORITY AND ANALYSIS

A motion for summary decision should be granted when there is no genuine issue of material fact and the moving party is entitled to prevail as a matter of law. N.J.A.C. 1:1-12.5(b). If the evidence, when viewed in the light most favorable to the non-moving party, is insufficient to permit a rational fact finder to resolve the disputed issue in favor of that party, summary decision should be granted. Brill v. Guardian Life Insurance Co. of America, 142 N.J. 520 (1995).

A consumer may dispute a utility charge before the Board of Public Utilities N.J.A.C. 14:3-7.13.

The OAL has jurisdiction over matters that have been determined to be contested cases by an agency head. N.J.A.C. 1:1-3.2(a). A "contested case" means an adversary proceeding in which the legal rights, among other things, of specific parties are to be determined by an agency decision after an opportunity to be heard. Id. at section 2.1.

The Board transmitted a billing dispute to the OAL for adjudication as a contested matter involving approximately \$236. Petitioner had a right to dispute the utility's charge and the Board properly invoked OAL jurisdiction. However, respondent's decision to revoke its charge in full effectively mooted the dispute. Thus, there is no longer a contested case before the OAL. The OAL has no authority to award petitioner affirmative relief since no part of the disputed bill has been paid. Without a contested matter to adjudicate, the OAL has no jurisdiction.

CONCLUSION

Based on the circumstances of this case, **CONCLUDE** that the billing dispute has become moot thereby depriving the OAL of a contested matter over which it may exercise jurisdiction.

DECISION AND ORDER

Based on the foregoing facts and conclusion, I **GRANT** respondent's motion to dismiss and **ORDER** that the matter should be and hereby is **DISMISSED**.

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, 2 Gateway Center, Newark, NJ 07102**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.



November 13, 2007

DATE

JAMES A. GERAGHTY, ALJ

Date Received at Agency:

Mailed to Parties:

DATE

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OFFICE OF ADMINISTRATIVE LAW