



Agenda Date: 7/30/08
Agenda Item: 7A

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

CUSTOMER ASSISTANCE

LOUIS L. ANDERSON,
Petitioner.

v.

VERIZON NEW JERSEY INC.,
Respondent.

) ORDER ADOPTING INITIAL
) DECISION
)
)
)
) BPU DOCKET NO. TC07060428U
) OAL DOCKET NO. PUC 6796-07

(SERVICE LIST ATTACHED)

BY THE BOARD:

By petition filed on June 7, 2007, Louis L. Anderson (Petitioner) disputed a portion of a bill rendered by Verizon New Jersey Inc. (Respondent) and alleged consumer fraud. After receipt of Respondent's answer, this matter was transmitted to the Office of Administrative Law (OAL) for hearing as a contested matter on August 20, 2007. It was assigned to Administrative Law Judge (ALJ) Ana C. Viscomi.

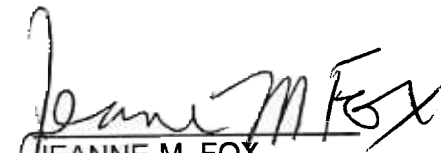
Subsequent to the hearing in this matter on April 7, 2008, Respondent filed a Motion to dismiss the matter for lack of jurisdiction, as to the consumer fraud count, and for summary dismissal with regard to the count involving the disputed charge. By Initial Decision issued on May 21, 2008, and submitted to the Board on May 22, 2008, ALJ Viscomi granted the Motion of Respondent. A copy of the Initial Decision is attached hereto and made a part hereof. Petitioner filed exceptions to the Initial Decision on June 5, 2008, wherein he also requested additional time to perfect his exceptions. As a result, the time in which the Board must render a final decision was extended from July 7, 2008, until August 21, 2008, by Order executed on behalf of the Board and OAL on June 16, 2008, and June 17, 2008, respectively. Petitioner thereafter failed to file any additional information. Petitioner's June 5, 2008 exceptions, unperfected, do not meet the requirements of N.J.A.C. 1:1-18.4 because they fail to specify the findings of fact, conclusions of law, or dispositions to which exception is taken and they further fail to set forth supporting authority relied upon for exceptions to conclusions of law. Petitioner's exceptions provide only a summary of the issues which ALJ Viscomi considered and rejected in the Initial Decision.

The procedural history of this matter and the ALJ's legal analysis, findings and conclusions are set forth in sufficient detail in the Initial Decision and need not be restated herein. After review and consideration of the record, including the transcript of the evidentiary hearing held on April 7, 2008, the Board HEREBY FINDS the findings and conclusions of the ALJ to be reasonable and, accordingly, HEREBY ACCEPTS them. The Board FURTHER FINDS that the exceptions submitted by the Petitioner constitute a mere narrative summary of the proceeding and do not contain that information required by the provisions of N.J.A.C. 1:1-18.4(b).

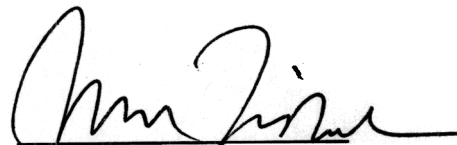
Therefore, the Board HEREBY ADOPTS the Order of the Administrative Law Judge in its entirety and ORDERS that the petition of Louis L. Anderson be HEREBY DISMISSED with prejudice.

DATED: 8/1/08

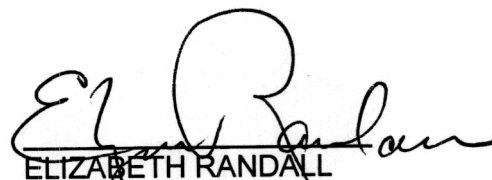
BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT

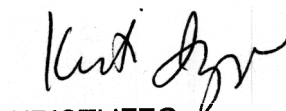

FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

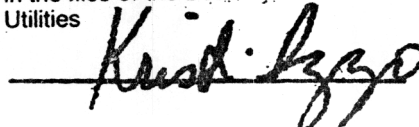

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
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



LOUIS L. ANDERSON

v.

VERIZON NEW JERSEY INC.

BPU DOCKET NO. TC07060428U

OAL DOCKET NO. PUC 6796-07

SERVICE LIST

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

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BOARD OF PUBLIC UTILITIES
REMARKS

CMS
BGSLOW
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PASKO, A
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~~FOR 2/16/08~~ (2)

INITIAL DECISION

OAL DKT. NO. PUC 6796-07

AGENCY DKT. NO. TC07060428U

LOUIS L. ANDERSON,

Petitioner,

v.

VERIZON NEW JERSEY, INC.

Respondent.

Louis L. Anderson, petitioner, pro se

Ralph V. Lee, Esq., Assistant General Counsel, for respondent

Record Closed: April 7, 2008

Decided: May 21, 2008

BEFORE **ANA C. VISCOMI**, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner contests his Verizon telephone bill in a disputed amount of \$2.43 and also alleges consumer fraud. He requested a hearing and the matter was transmitted to the Office of Administrative Law (OAL) on September 4, 2007, for a hearing as a contested case pursuant to N.J.S.A. 52:14F-1 to -13 and N.J.S.A. 52:14B-1 to -15. The matter was originally scheduled for a hearing on January 8, 2008, and the parties

appeared at that time and engaged in settlement discussions. As a result, the matter was continued until April 7, 2008, at which time it was heard and the record closed.

FACTUAL DISCUSSION

This is an Initial Decision granting the respondent's motion to dismiss the within action for lack of jurisdiction, as to the consumer fraud count, and summary dismissal with regard to the petition's main count. In Mr. Anderson's petition, he asserts violations of the Consumer Fraud Act that Verizon has closed all of its customer walk-in centers and customer inquiries must, therefore, be made by telephone and that this practice is unethical and contrary to the provisions of the New Jersey Consumer Fraud Act. Second, Mr. Anderson asserts that when he received the telephone bill of May 10, 2007, which showed a total due of \$26.61, he paid an amount of \$24.18 as it represented a valid charge and he has contested, as part of this petition, the amount of \$2.43 as invalid. That \$2.43 amount does not represent a specifically denominated amount on the bill.

At the hearing, petitioner presented a certification of actual expenditures which incorporated his statement. (P-1). Respondent's counsel stipulated to this being admitted into evidence without being further read by the petitioner into the record. With regard to the \$2.43 dispute, petitioner testified that he "can't really recall what that represented." He also testified that his entire case revolves around his assertion that consumers are obliged to pay tariffs for services provided by the telephone carriers and, if the services are not covered by tariff, then they should not be payable.

At the conclusion of petitioner's presentation, respondent's counsel asserted that the \$2.43 petitioner claimed to be in dispute should not be considered as such. Reference is made to the May 10, 2007, Verizon telephone bill incorporated in both the petition as well as P-1. That billing statement reflects that petitioner received a courtesy adjustment of \$99.29. The new amount due then was \$26.61. All of the charges are itemized. The tariffs indicated therein are appropriate and FCC requirements and on file with the Board of Public Utilities. Petitioner's pleading, including P-1, and his

Even if petitioner's consumer fraud claims were properly delineated, there is no jurisdiction before the OAL. Pursuant to the New Jersey Consumer Fraud Act,

Any person who suffers any ascertainable loss of monies or property, real or personal, as a result of the use or employment by another person of any method, act, or practice declared unlawful under this act or the act hereby amended and supplemented may bring an action or assert a counter-claim therefore in any court of competent jurisdiction.

N.J.S.A. 56:8-19. Any consumer fraud claim to which the petitioner has a private right of action is not proper before this agency.

The motion to dismiss for lack of jurisdiction as to the consumer fraud is hereby **GRANTED**. Based on the foregoing, petitioner has not met the burden of proof as to his billing dispute and his appeal is **DISMISSED**.

DECISION AND ORDER

The petition is **DISMISSED** for lack of jurisdiction as to consumer fraud count and **DISMISSED** for failure to meet the burden of proof as to the remainder billing dispute count.

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

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.

John C. Williams

ANA C. VISCOMI, ALJ

Mailed to Parties: Floyd Long

Mailed to Parties:

OFFICE OF ADMINISTRATIVE LAW

/cs

APPENDIX

WITNESSES

For petitioner:

Louis L. Anderson

For respondent:

None

EXHIBITS

For petitioner:

P-1 Certification of Expenditures, Pleadings and Statement

For respondent:

None