



Agenda Date: 12/17/09
Agenda Item: IIB

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

ENERGY

GERALDO & MARIE TOLEDO,
Petitioner
v.

) ORDER ADOPTING INITIAL DECISION
) SETTLEMENT
)

PUBLIC SERVICE ELECTRIC AND GAS
COMPANY
Respondent

) BPU DOCKET NO. EC07090690
) OAL DOCKET NO. PUC02391-09S
)

Kenneth C. Marano, Esq., Paterson, New Jersey, on behalf of the Petitioners

David Richter, Esq., PSEG Services Corporation, Newark, New Jersey, on behalf of the Respondent

Alex Moreau, DAG, Division of Law, Newark, New Jersey, on behalf of the Staff of the Board of Public Utilities

BY THE BOARD:

On September 14, 2007, Geraldo and Marie Toledo ("Petitioners") filed a petition with the Board requesting a formal hearing regarding their claim of "unfair safeguard 'proximity' costs" for the relocation of poles, transformers, and electric service conductors owned by Public Service Electric and Gas Company ("Respondent"). Petitioner claims that the relocation was required because the poles, transformers, and electric service conductors were deemed a safety hazard by the Occupational Safety & Health Administration ("OSHA"), which prevented Petitioners from having repair work done to their property. Respondent filed its Answer with the Board on October 23, 2007.

Upon receipt of Respondent's Answer, the Board 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 originally assigned to Administrative Law Judge ("ALJ") Irene Jones and was subsequently re-assigned to ALJ Gail M. Cookson.

While this matter was pending at the OAL, the parties, with the assistance of ALJ Cookson, engaged in negotiations and entered into and signed a Consent Order ("Consent Order") that was submitted to and executed by the ALJ. By Initial Decision issued on November 12, 2009, and submitted to the Board on November 19, 2009, to which the Consent Order was attached and made part thereof, ALJ Cookson found that the settlement terms contained in the Consent Order were voluntary, that said terms fully disposed of all issues in controversy and that it satisfied the requirements of N.J.A.C. 1:1-19.1.

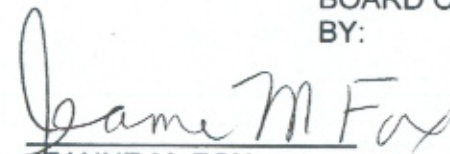
Pursuant to the terms of the Consent Order, Respondent agreed that on November 17, 2009, or a date thereafter provided that fourteen days notice is provided, Respondent will temporarily de-energize the electric service to the Petitioners' buildings located at 222 Park Avenue and 738 E. 18th Street, in the City of Paterson for two days subject to the following conditions: (1) Upon receiving fourteen days notice of the date that the outage should take place, Respondent will schedule the outage for that day and for the return of service two days thereafter. Because Respondent's ability to take an outage is dependent on weather and operating conditions, should a delay occur, the outage will be rescheduled with no penalty to either party. (2) Petitioners will provide notice to tenants or residents in the affected building ten days prior to the beginning of the interruption of service and provide proof of said notice to Respondent. (3) The work performed by Respondent to de-energize the electric service at the subject location is temporary and will be performed one time at the costs set forth in the Consent Order. Any future costs, except in the case of a delay in the scheduling of the work, will be at the request of and at the cost of the building owner.

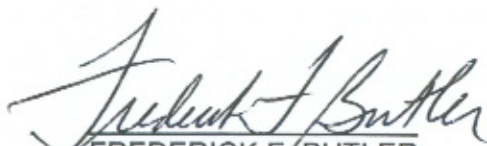
It was further agreed that Petitioners would be responsible for all costs associated with Respondent's work in providing the interruption of service not to exceed \$9,000.00 in total. This amount is to be paid in bi-annual payments of \$1,500.00 with the first payment due on or before December 31, 2009, with future payments to be made once every six months until the \$9,000.00 is satisfied. Petitioners have also agreed that if payment is not made pursuant to the terms set out in the Consent Order, they shall be responsible for Respondent's total costs without cap and any interest on such amount.

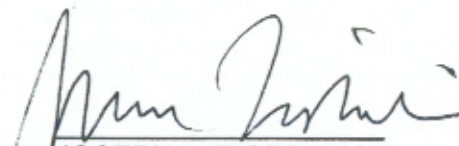
After review of the Initial Decision and the Settlement of the parties, the Board HEREBY FINDS that, by the terms of the Consent Order, the parties have resolved all outstanding contested issues in this matter. Accordingly, the Board HEREBY ADOPTS the Initial Decision and the Consent Order executed by the parties and ALJ Cookson in their entirety as if fully set forth herein.

DATED: 12/17/09

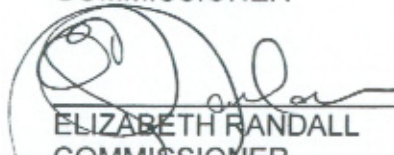
BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

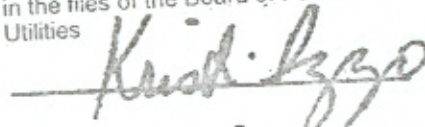

NICHOLAS ASSELTA
COMMISSIONER


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



GERALDO & MARIE TOLEDO

v.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

**BPU DOCKET NO. EC07090690
OAL DOCKET NO. PUC11784-07N**

SERVICE LIST

Kenneth C. Marano, Esq.
311 Main Street, 2nd Fl.
Paterson, New Jersey 07505

David Richter, Esq.
PSEG Services Corporation
80 Park Plaza – T5G
Newark, New Jersey 07102-4194

Jerome May, Director
Ricky John, PhD.
Division of Energy
NJ Board of Public Utilities
Two Gateway Center
Newark, New Jersey 07102

Alex Moreau, DAG
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

Cynthia Holland, DAG
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

CMS

BSLOW

Ref. 800-700-1117

MOREAU-DUG.

COMES - DUG.

RD6

ELECTRIC
R. JOHN (2)



State of New Jersey

OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 11784-07

AGENCY DKT. NO. EC07090690

GERALDO & MARIE TOLEDO,

Petitioner,

v.

PUBLIC SERVICE ELECTRIC AND

GAS COMPANY,

Respondent.

311 Marie St. Princeton 07505
Kenneth C. Marano, Esq., for petitioners Geraldo and Marie Toledo (Law Office of
Kenneth C. Marano, attorney)

David Richter, Esq., for respondent Public Service Electric & Gas Company (Jodi
L. Moskowitz, General Regulatory Counsel)

Alex Moreau, Deputy Attorney General, for Board of Public Utilities (Anne Milgram,
Attorney General)

Record Closed: November 9, 2009

Decided: November 12, 2009

BEFORE GAIL M. COOKSON, ALJ:

On November 9, 2007, this matter was transmitted to the Office of Administrative Law (OAL) for 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- 13, relating to the issue of the temporary disconnection of electrical

service at petitioner's commercial property, and the costs relating thereto, in order to allow access by petitioners' contractor to a location in close proximity with that service. It was initially assigned to the Honorable Irene Jones, A.L.J. In or about July 24, 2008, the case was re-assigned to the Honorable Gail M. Cookson, A.L.J. The undersigned convened several settlement conferences with the parties and at each of those conferences, significant progress toward an amicable resolution was reached.

As a result of these constructive negotiations at both the OAL and privately amongst the parties, the parties submitted under cover of November 5, 2009, a fully-executed Order in the form of a Consent Order which I have entered, and which is attached hereto and made part hereof. It resolves this utility consumer dispute to the full satisfaction of the parties. Accordingly, and on that basis, I have reviewed the record and terms of the Consent Order and **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by the signatures of the parties or their representatives.
2. The settlement fully disposes of all issues in controversy and is consistent with law.

I **CONCLUDE** that the agreement meets the requirements of N.J.A.C. 1:1-19.1 and therefore, it is **ORDERED** that the matter be deemed dismissed with prejudice and that these proceedings be and are hereby concluded.

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 (45) 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.

November 12, 2009

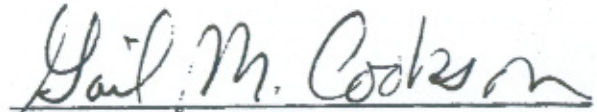
DATE

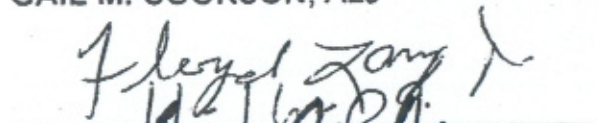
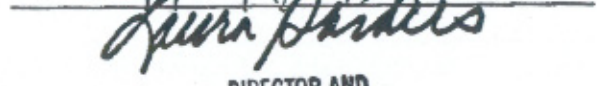
Date Received at Agency: 11-19-09

Date Mailed to Parties:

NOV 16 2009

id


GAIL M. COOKSON, ALJ



DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE

LAW OFFICE OF
KENNETH C. MARANO
311 MAIN STREET, 2ND FL.
PATERSON, NEW JERSEY 07505
(973)278-4993
ATTORNEY FOR PETITIONERS

GERALDO & MARIA TOLEDO,
Petitioners

OFFICE OF ADMINISTRATIVE LAW
OAL DOCKET NO: PUCOT 11784-2007N

vs.

PUBLIC SERVICE ELECTRIC AND
GAS COMPANY,

Board of Public Utilities
Docket No: EC07090690

Respondent

ORDER

This matter having been opened to this Court by Kenneth C. Marano, Esquire appearing on behalf of the Petitioners, Geraldo and Maria Toledo; and it appearing that the Parties have reached an amicable settlement of the dispute regarding temporary termination of electrical service to the Petitioner commercial property located at 222 Park Avenue, Paterson, New Jersey and the costs thereto in order for the Petitioners' contractor to complete the siding work at that location; and it further appearing that the Parties are desirous of having that settlement made an Order by this Court as is evident by the consent of both Counsel affixed hereto; and, for good cause shown;

IT IS on this _____ day of November, 2009;

ORDERED that on November 17th, or a date thereafter provided fourteen (14) days notice is provided, PSE&G will temporarily de-energize the electric to the customers located at 222 Park Avenue and 738 E. 18th Street in the City of Paterson, State of New Jersey (the "Customers") for two (2) days subject to the following conditions:

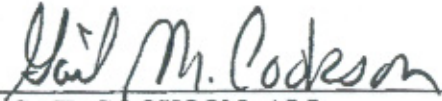
1. The Petitioner will provide PSE&G with fourteen (14) days notice of the date that PSE&G should begin the outage. PSE&G will then

schedule the outage for that day and schedule to place the customers back in service two days after that date. PSE&G's ability to take an outage is dependent on weather and operating conditions. Should a delay occur, the outage will be reschedule at no penalty to either party.

2. Petitioners will provide notice to the tenants or residents of 222 and 738 E. 18th Street, Paterson, New Jersey ten (10) days prior to the beginning of the interruption of service and shall provide proof of such notice to PSE&G.
3. The work performed by PSE&G to de-energize the electric facilities at this location is temporary in nature. PSE&G will perform this outage one (1) time at the costs set forth in this Agreement. Any costs in the future (except in the case of a delay pursuant to Paragraph 1 herein) to have PSE&G de-energize electric facilities at the request of the building owner will be the responsibility of the building owner.

IT IS FURTHER ORDERED that the Petitioners shall be responsible for all costs associated with PSE&G's work in order to provide the interruption of service. It is agreed; however, that this cost shall not exceed \$9,000.00. Respondent agrees to the payment of this amount in bi-annual payments of \$1,500.00 with the first payment due on or before December 31, 2009 at the address of PSE&G c/o Theodore J. Urbanski, 300 New Albany Road, Moorestown, New Jersey 08057. A payment shall be made once every six months until the full payment of \$9,000 is reached. If payment is not made pursuant to the terms set forth herein, Petition shall be responsible for PSE&G's total costs, without cap and any interest on such amount; and

IT IS FURTHER ORDERED that a copy of this Order shall be served on all
Counsel of Record within ten (10) days of the date of this Order.


GAIL COOKSON, ALJ

Consent to both form and content by:


KENNETH C. MARANO, ESQUIRE
ATTORNEY FOR PETITIONERS
GERALDO & MARIA TOLEDO


DAVID RICHTER, ESQUIRE
ATTORNEY FOR RESPONDENT
PUBLIC SERVICE ELECTRIC and
GAS COMPANY