



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

CUSTOMER ASSISTANCE

WILLIAM TAYLOR,)	ORDER DENYING PETITIONER'S
)	MOTION FOR RECONSIDERATION
PETITIONER,)	
v.		
		BPU DOCKET NO. EC06020077U
JERSEY CENTRAL POWER & LIGHT COMPANY,)	OAL DOCKET NO. PUC 6811-07
)	
RESPONDENT.)	

(SERVICE LIST ATTACHED)

BY THE BOARD:

On February 1, 2006, William Taylor (Petitioner) filed a petition with the Board of Public Utilities (Board) claiming that he had been over-billed by Jersey Central Power & Light Company (Respondent), due to Respondent's alleged provision of low-voltage to his residence. On March 13, 2006, Respondent filed an Answer generally denying the provision of low-voltage and outlining a history of investigation into Petitioner's claims. Thereafter, the Board transmitted the matter to the Office of Administrative Law (OAL) on August 10, 2007 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. The matter was assigned to Administrative Law Judge (ALJ) Douglas H. Hurd and a hearing was held on April 11, 2008. ALJ Hurd subsequently filed an Initial Decision with the Board on April 23, 2008, which was mailed to the parties on April 28, 2008. In his Initial Decision, ALJ Hurd concluded that the Petitioner had not presented any credible evidence that there is low-voltage coming into Petitioner's residence. He further concluded that Petitioner's lay testimony was outweighed by the expert testimony of Respondent's electrical engineers, that Respondent performed a thorough investigation of Petitioner's claims, and that, with the exception of once instance during peak season, voltage readings indicated that the voltage coming into Petitioner's residence was within the established guidelines. The Initial Decision, therefore, dismissed Petitioner's petition and ordered Petitioner to pay Respondent the total amount currently past due and owing for electrical services (\$13,045.47 in March 2008). On May 9, 2008, the Board requested that the forty-five day time limit to render a Final Decision be extended from June 9, 2008 until July 24, 2008, which was granted on May 14, 2008 (Order of Extension). At its June 13, 2008 Agenda Meeting, the Board considered the above matter and, by Order dated June 16, 2008, adopted the Initial Decision. As stated in the June 16, 2008 Order, at the time of the Board's consideration of the Initial Decision, no exceptions had been received.

On July 2, 2008, the Petitioner filed a letter titled "Request for Rescission and Reinstatement" (Request) with the Board, wherein he requested additional time in which to file exceptions, in addition to requesting the Board to rescind its Final Decision of June 16, 2008, and reinstate a hearing. By letter dated July 14, 2008, Respondent filed a response to Petitioner's Request (Response). On July 31, 2008, Petitioner submitted a Notice of Appeal in the Superior Court of New Jersey, Appellate Division, containing certain deficiencies. On August 13, 2008, Petitioner filed a "Response to Respondent's Objection to Allow Petitioner to Except OAL Decision, Rescind the Board's Decision, and Reinstate the Matter" (August 13, 2008 Letter). On August 18, 2008, Respondent filed a response, requesting that the Board disregard Petitioner's August 13, 2008 Letter. On August 19, 2008, the Board authorized a Secretary's Letter notifying Petitioner that it would continue to consider his Request beyond the sixty days for Board review, pursuant to N.J.A.C. 14:1-8.7(c), until such time as the Board receives notice that Petitioner's Notice of Appeal has been perfected. On August 25, 2008, the Petitioner notified the Board Secretary that he was withdrawing his Notice of Appeal, as it was premature.

Upon the withdrawal of the Petitioner's Notice of Appeal, the Board considered in part his Request at its October 3, 2008 agenda meeting (October Order). Since the Board's regulations do not provide for a "Request for Rescission and Reinstatement," the Board considered his Request as a Motion for Reconsideration (Motion) under N.J.A.C. 14:1-8.6, which provides that a motion for reconsideration of a proceeding may be filed by any party within fifteen days after the issuance of any final decision. The Board noted that Petitioner's Motion was filed with the Board sixteen days after the issuance of the Final Decision in this matter. Therefore, pursuant to the Board's authority under N.J.A.C. 14:1-1.2, the Board relaxed the fifteen day filing limitation and accepted Petitioner's filing as timely. The Board further granted Petitioner's request for additional time to file exceptions contained in his Motion. Because the Board granted the Petitioner additional time to file exceptions, the Board did not reach or consider the efficacy of the additional requests to rescind the Board's Final Decision and reinstate the Petitioner's case for hearing.

Thereafter, on October 20, 2008, Petitioner filed exceptions with the Board. Two days later, Petitioner filed a document containing revisions to his October 20, 2008 exceptions (collectively October Exceptions), in which Petitioner again professed his inability to adequately submit exceptions because he did not have the transcript and exhibits from the April 11, 2008 hearing. Respondent submitted a response to Petitioner's October Exceptions on October 27, 2008, after a series of correspondence between the parties with regard Petitioner's submittal of incomplete exceptions and later revisions to his exceptions. On November 3, 2008 Respondent filed an objection to Petitioner's correspondence requesting interim relief from his deferred payment arrangement.

On November 10, 2008 the Board Secretary issued a letter to Petitioner in response to his request for interim relief and his assertion that he was unable to obtain the transcript and exhibits, wherein Petitioner was advised that, although he voluntarily entered into a deferred payment plan, Respondent agreed to place a hold on collection until December 30, 2008. In addition, Petitioner was notified that he could request the transcript from the court reporter service, or in the alternative, review the transcript at the Board. The letter also set a new schedule for the submittal of exceptions by December 1, 2008 and attached the exhibits from the April 11, 2008 hearing.

Petitioner informed Board Staff by facsimile on November 17, 2008 that he had just received the Board Secretary's letter containing the exhibits and requesting that he be afforded three weeks

from that date to submit exceptions. Petitioner also requested to review and make a copy of the transcript, which he was permitted to do on December 5, 2008. On December 2, 2008 and December 4, 2008, Petitioner submitted additional correspondence to Board Staff claiming that certain exhibits were not provided in the November 10, 2008 Secretary's letter. In response, on December 5, 2008, the Board Secretary sent a letter to Petitioner containing the alleged missing exhibits and again extending Petitioner's time to submit exceptions until December 15, 2008. On December 17, 2008, Petitioner filed exceptions to the OAL Decision of April 11, 2008 (December Exceptions). Respondent submitted an answer on December 22, 2008.

The Board now considers Petitioner's Motion, in totality with the filings made by each party after the Board's Final Decision. The Board notes that Petitioner was provided copies of the transcript and exhibits, and was given an extension of the time in which collection activities would begin on his amount due and owing pending the outcome of the Board's decision in this matter.

Petitioner submitted exceptions in four different filings made after the Board's Final Decision: July 2, 2008 Motion, August 13, 2008 Letter, October Exceptions, and December Exceptions.

Petitioner's Motion

Petitioner's July 2, 2008 Motion requested that the Board rescind its Final Decision, reinstate a hearing, and allow the Petitioner additional time to file exceptions, in addition to certain substantive exceptions to the Initial Decision. In response to Petitioner's claim that he was unable to timely submit exceptions to ALJ Hurd's Initial Decision due to the passing of his parents, the Board granted Petitioner an additional thirteen days in accordance with N.J.A.C. 1:1-18.4 to file exceptions in its October Order. In addition, in response to Petitioner's claim that he was unable to adequately submit exceptions because the Initial Decision did not contain the hearing transcript and exhibits, the Board notified the Petitioner in its October Order that he must request such documents from the OAL. The Board notes that Respondent's Response requested that Petitioner's Motion be denied because there is no requirement that the Initial Decision contain the transcript and a list of exhibits need only be provided. The Board notes that, although N.J.A.C. 1:1-18.3 does not require that the exhibits be attached to the Initial Decision, Board Staff provided them to the Petitioner as a courtesy. In addition, the Board notes that, despite Petitioner's refusal to request the transcript from the OAL or court reporter service at any time after the April 11, 2008 hearing as required in N.J.A.C. 1:1-14.11(c), Board Staff allowed the Petitioner to make a copy of the transcript as a courtesy.

According to Petitioner's Motion, he also assumed the Board's May 8, 2008 Order of Extension meant that a Board hearing would be taking place on July 24, 2008, and that Petitioner would be entitled to participate in such hearing. The Board notes that its Board agenda meetings represent the Board's conducting of business in an open public forum, pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-6 *et. seq.* While the Board's agenda meetings are open to the public, they are not hearings and members of the public do not participate in such meetings. Therefore, Petitioner was incorrect in assuming that he would be afforded the opportunity to participate in a hearing when the Board considered this matter for Final Decision. Also, as the Board's Order of Extension expressly stated, the Board was seeking an extension of its time to render a final decision in this matter. The Order for Extension did not state that the Board would, in fact, be considering the matter on July 24, 2008; rather, the last day the Board had to consider the matter was July 24, 2008. The Board was free to consider this matter at an agenda meeting prior to the expiration of the forty-five day extension.

Petitioner's Motion further took exception with the Initial Decision, in that ALJ Hurd considered Petitioner a layman and Respondent's witnesses, including four electrical engineers, as experts. Petitioner's claim that he is not a layman is repeated throughout each filing he submitted containing exceptions. At the hearing, Petitioner testified he was not an electrician or an electrical engineer. (Transcript at 81:13-21). Rather, in his Motion, Petitioner seems to rely on his extensive and commendable background in sciences, in addition to the advice of his brother and neighbor who are both electrical engineers, to support his contention that he was receiving low-voltage in his home since 1998. Respondent asserts that Petitioner did not request to be considered an expert at the hearing and that Petitioner is barred from introducing new evidence into the record in his exceptions, pursuant to N.J.A.C. 1:1-18.4(c). Petitioner did not have any witnesses testify at the hearing, and did not offer himself as an expert. Neither his brother nor neighbor was present at the hearing. Petitioner seeks now to offer his curriculum vitae to support his position that he was inappropriately characterized as a layman in the Initial Decision. Because evidence not presented at the hearing cannot be submitted, incorporated or referred to in an exception under N.J.A.C. 1:1-18.4(c), and because Petitioner did not raise this issue at the hearing, the Board supports ALJ Hurd's decision to treat the Petitioner as a layman.

Petitioner's Motion asserts that the Initial Decision inaccurately relied on Respondent's witnesses as experts, since no experts were required to understand the issues raised in the petition. Respondent responded that, even assuming no expert testimony was required, as the Initial Decision indicated, Petitioner presented no credible evidence of low voltage. Respondent had six witnesses testify during the hearing in this matter on Respondent's investigation into Petitioner's complaint. Four of these witnesses were electrical engineers that testified to results from various tests performed on Petitioner's equipment. N.J.A.C. 1:1-15.1 provides general guidance on evidence issues in a contested case before an administrative agency. According to the rule, evidence rulings are to be made with the goal of promoting fundamental principles of fairness and justice, and to aid in ascertaining the truth.

N.J.A.C. 1:1-15.8 provides that, subject to exclusions not relevant here, every person is qualified to be a witness. To qualify as an expert, however, there must be evidence that the witness has personal knowledge of the matter or has special experience, training or education. Further, the determination of whether a witness qualifies as an expert is left to the sound discretion of the hearing officer. Rempfer v. Deerfield Packing Corp., 4 N.J. 135 (1950). The requirements for expert qualification are in the disjunctive, and can be based on knowledge or training or experience, including expertise acquired over a period of years. Expert testimony is admissible where the witness has peculiar knowledge or experience not common to the world which makes his opinion useful to the finder of fact. Pursuant to N.J.A.C. 1:1-15.9(b), expert testimony is admissible to assist the judge to understand the evidence or determine a fact in issue.

Respondent presented six witnesses at the hearing that testified to their experience, expertise, training, and education, four of whom are electrical engineers. Charles Howlett testified to being an advanced business analyst employed with Respondent for twenty-five years. (Transcript at 95:13-25). Earl Frantz testified to being a senior engineer for the central electrical lab of Respondent. (Transcript at 117:1-21). Bobbie Wolfinger testified as an advanced distribution specialist that has worked with Respondent for thirty-five years in various customer service capacities. (Transcript at 121:2-25, 122:1-7). Lawrence Hayes testified as a registered professional engineer that has worked for Respondent for almost twenty-five years. (Transcript at 151:17-25, 152:1-25). Francisco Del Valle testified as a supervising engineer with Respondent for thirty-years. (Transcript at 171:17-25). Gary Hansen testified as an advanced engineer for Respondent. (Transcript at 207:18-25). Each of these witnesses testified to their

personal knowledge of Petitioner's complaint in addition to their expertise and experience. Based upon the above, and the additional testimony of each of Respondent's witnesses, ALJ Hurd was reasonable in characterizing Respondent's witnesses as experts. More importantly, Petitioner was afforded the opportunity at the hearing to cross-examine each witness as to their expertise, but failed to do so.

Petitioner's Motion asserts that the Initial Decision is based on subjective conclusions that are contrary to the objective evidence and testimony produced at the hearing. Specifically, Petitioner states that he is "concerned with the cursory report, the paucity of factual information required to support conclusions and generalized unsupported subjective opinions in the Initial Decision of the OAL." (Petitioner's Motion at 3). In response, Respondent stated that the Initial Decision met the legal requirements for Initial Decisions. Under N.J.A.C. 1:1-18.3(c), the Initial Decision must contain: a caption, appearances of the parties, statement of the case and issues, procedural history, factual discussion, factual findings, a legal conclusion, a disposition, a list of exhibits, and the required language for Board action within forty-five days. The Board supports Respondent's position, as ALJ Hurd's Initial Decision meets these requirements. ALJ Hurd was not required to reproduce the entire record for purposes of the Initial Decision. The Initial Decision presents the case as a billing dispute involving alleged provision of low-voltage into Petitioner's home. It contains a procedural history and a discussion of factual findings resulting from the April 11, 2008 hearing. Lastly, the Initial Decision contains a legal conclusion, that Petitioner has not established a claim against the Respondent because he has not presented any credible evidence. Therefore, the Board finds that the Initial Decision met the requirements Under N.J.A.C. 1:1-18.3(c), and that further, it was based on objective evidence and testimony from the April 11, 2008 hearing.

August 13, 2008 Letter

After the filing of Respondent's response to Petitioner's Motion, Petitioner submitted his August 13, 2008 Letter. Respondent thereafter filed a response requesting that the Board disregard Petitioner's August 13, 2008 Letter because there are no regulations providing for the filing of a reply to an answer to a motion and because, in any event, it was filed more than thirty days after the deadline. The Board notes that there is no regulation which provides for the filing of a reply to a response to a Motion for Reconsideration or exceptions. Because Petitioner's August 13, 2008 Letter contains much of the same arguments as those set forth in his Motion and subsequent filings, pursuant to the Board's authority under N.J.A.C. 14:1-1.2, the Board considered the information contained therein, despite the fact that the regulations provide for no such filing and the filing was not timely submitted. The Board notes Respondent's request for expedited time to respond to Petitioner's August 13, 2008 Letter should the Board determine to substantively consider it, but declines to allow additional time since the filing contained much of the same exceptions as Petitioner's other filings.

Petitioner's August 13, 2008 Letter clarifies that Petitioner does not believe he should have been characterized as an expert; rather, that Petitioner possessed the requisite understanding of the science of his low-voltage claim. Petitioner further asserts that ALJ Hurd did not possess the requisite background to understand the issues presented. The Board notes that ALJ Hurd conducted a full hearing, where Petitioner was afforded the opportunity to submit documents and testimony into evidence. Petitioner also was afforded the opportunity to cross-examine witnesses and present his own witnesses. The Board concludes that ALJ Hurd appropriately weighed the evidence and testimony at the hearing and that he was apprised of, and took into consideration, all appropriate facts and opinion, both of Petitioner and Respondent's witnesses.

Petitioner's takes exception once again to a "paucity of facts" in the Initial Decision. As stated above, the Initial Decision met the requirements of N.J.A.C. 1:1-18.3. The Initial Decision summarized Petitioner's claim and cited relevant facts he relied upon in making his decision. The transcript of the hearing demonstrates that there was an extensive record supporting ALJ Hurd's decision. Therefore, as noted above, the Board finds that Petitioner's claims with regard to the adequacy of the Initial Decision are without merit.

Petitioner also points to N.J.A.C. 14: 1-8.6 as support for his Motion. The Board notes that it has already determined to consider Petitioner's Motion as a Motion for Reconsideration under N.J.A.C. 14:1-8.6(a) and notes that the Board has not determined to proceed with rehearing, reargument, or reconsideration on its own order.

Petitioner's August 13, 2008 Letter again states that there is ample evidence of low voltage being supplied to Petitioner's residence. Petitioner argues that after twenty years of consistent billing, he returned from vacation to find a trench dug in his yard from his meter to the substation, and that thereafter his billing doubled and he began receiving low voltage. He further claims that after eight years of complaints of low voltage, Respondent's upgrade of transformer size and subsequent reading of low voltage during the peak season provides proof that Petitioner had been receiving low voltage for the previous years. At the hearing, however, Respondent's witnesses testified that there is no record of any work being done to Petitioner's service. (Transcript at 103: 19-24). Furthermore, Petitioner offered no evidence to support that work had been performed while he was away and that it was specifically performed by Respondent.

October Exceptions

Petitioner's October Exceptions contain Petitioner's depiction of a timeline of his dispute with the company from 1998 through the present. Petitioner's timeline of events does not meet the requirements for exceptions. Under N.J.A.C. 1:1-18.4(b), exceptions shall:

1. Specify the findings of fact, conclusions of law, or dispositions to which exception is taken;
2. Set out specific findings of fact, conclusions of law or dispositions proposed in lieu of or in addition to those reached by the judge;
3. Set forth supporting reasons. Exceptions to factual findings shall describe the witnesses' testimony or documentary or other evidence relied upon. Exceptions to conclusions of law shall set forth the authorities relied upon.

Petitioner's timeline presents a combination of procedural history along with Petitioner's unsupported claims. The timeline does not meet the standard for exceptions. First, from a procedural standpoint, the timeline does not set forth findings of facts, law or dispositions to which exception is taken. Secondly, of the one finding of fact that Petitioner does point, namely that Respondent dug a trench in his yard, Petitioner does not provide any support for his exception.

The October Exceptions also include a "Prelude." Petitioner's Prelude again reiterates that he was unable to adequately submit exceptions to the Initial Decision. As explained above, the Board finds that the Initial Decision met the requirements of N.J.A.C. 1:1-18.3. In addition, Petitioner was free to obtain the transcript and exhibits at any point after the April 11, 2008 hearing, but failed to do so. N.J.A.C. 1:1-14.11 provides clear guidance on obtaining a transcript. Additionally, Petitioner was instructed prior to the hearing to bring four copies of each

exhibit he planned on introducing. (Transcript at 45:19-25). Petitioner ignored this request, and was therefore unable to maintain records of his own exhibits. Petitioner's claim that the OAL assigned exhibit numbers to documents after the hearing is incorrect. Exhibits numbers correspond to the documents as they were marked for identification and introduced into the record at the hearing. Regardless, Petitioner was given the exhibits by the Board Secretary and made a copy of the transcript on December 5, 2008 at the Board. Therefore, Petitioner's arguments concerning his inability to adequately submit exceptions is moot; the Petitioner received all of the documents he requested and was given additional time to submit exceptions. In fact, Petitioner has had over nine months since ALJ Hurd's Initial Decision was submitted to the parties.

Additionally, Petitioner's claim that the OAL Decision was a "precipitate of the hearing, memorialized in a transcript..." is without merit. The OAL Decision is not the precipitate of a hearing. Petitioner is mistaken with regard to the process employed by administrative agencies. In fact, Petitioner had a full hearing at the OAL. Once the ALJ has issued an Initial Decision, the Board has forty-five days to adopt, modify, or reject the Initial Decision. After obtaining an extension of the forty-five day limit, the Board issued its Final Decision in this matter. Petitioner has conveniently disregarded process when it does not support his claims, and employed it where it does. Petitioner's decision to represent himself does not excuse him from following the rules promulgated for administrative agencies by the State of New Jersey. Rossenblum v. Borough of Closter, 285 N.J. Super. 230, 241-242 (1995) citing Tuckey v. Harleysville Ins. Co., 236 N.J. Super. 221, 224 (App. Div. 1989). Therefore, the Board finds, contrary to Petitioner's claim, that he was afforded a fundamentally fair process. In fact, the Board has granted Petitioner a substantial amount of leeway and flexibility to submit exceptions.

Petitioner's October Exceptions then provides a bullet-point list of facts that the Petitioner takes exception to. First, Petitioner states that a voltmeter test performed on Petitioner's equipment reported low voltage, even after Respondent had doubled the size of the transformer. This issue was addressed in both the Initial Decision and in the hearing. Respondent admitted to low voltage on that particular instance, in July 2005, but explained that a low voltage reading may occur in times of peak demand. ALJ Hurd objectively heard the evidence during the hearing with regard to this low-voltage recording, and could have reasonably relied on Respondent's expert witnesses explanation for the low-voltage recording in July 2005. Notwithstanding, even considering this reading, Petitioner has not provided any proof that he has received low voltage for over eight years, and that such low voltage has resulted in constant double billing.

Petitioner's exceptions also claim that there is a "plethora of data in the record to show that the substation was faulty and producing low voltage consistently," but does not point to any instance in the record where such data can be found (October Exceptions at 6). To the contrary, Respondent's witness, Lawrence Hayes, testified that the substation was performing without problems. (Transcript at 153-156). Petitioner also points to data in the record showing that Respondent mistakenly changed the transformer size of homes surrounding the Petitioner. Respondent admitted that an internal mistake had been made in 2003 by upgrading the wrong transformer. This mistake was corrected in 2005 and Respondent's witness testified that, in any event, a larger transformer was not necessary, but that Respondent was taking additional steps to be conservative. (Transcript at 215-217). The transformer serves not only the Petitioner, but five additional residents, to which Respondent received no complaints. Respondent introduced meter test results from Petitioner's meter before his complaints began and after his complaints, and each test result was within the Board's regulations. (Transcript at 120:11-13). Respondent also performed a "beast of burden" test, which indicated no voltage irregularity. (Transcript at

208:9-25). A voltmeter test performed on the Petitioner's equipment in April 2005 recorded no low voltage. (Transcript at 175:3-19).

Petitioner's October Exceptions make the same allegations with regard to a trench being dug sometime in 1998 in Petitioner's yard. This argument was submitted in Petitioner's previous exceptions and has been addressed above. The Board notes, however, that in addition to there being no direct evidence that any work was performed by Respondent, Petitioner may have been mistaken with regard to the type of equipment installed on his home. Specifically, Petitioner believed that a power saver was removed from his property while he was away, after a neighbor had installed it. (Transcript at 81:23-25). As Respondent noted, it is not in the business, nor does it support the use of, power savers; rather, Respondent does routinely install service savers. (Transcript at 105:15-25, 106:1-18). Petitioner admitted, on the other hand, to having a neighbor install a power saver, among other pieces of equipment, in Petitioner's home. When he returned from vacation, Petitioner found these devices were removed and there was a trench in his yard. (Transcript at 83:8-9, 18-19). Therefore, it was not unreasonable for ALJ Hurd to conclude that Respondent was not responsible for the alleged trench in Petitioner's yard.

Petitioner also claims that he is "at the end of the line" in terms of electrical service, which resulted in other residents upstream receiving electricity before he did. This issue was raised and discussed at length during the hearing. Lawrence Hayes testified for the Respondent with regard to Petitioner's misconceptions of his electrical system, wherein he stated Petitioner's arguments were flawed because the system uses parallel connecting circuits. (Transcript at 157-158). Even considering Petitioner's claim to be accurate, there is no evidence that Petitioner consistently received low voltage that would have caused a doubling of his bill for over an eight year period. ALJ Hurd reasonably weighed this evidence in comparison with Petitioner's testimony to conclude that Petitioner was mistaken with regard to this argument.

Petitioner also claims that Respondent failed to supply certain discovery with regard to complaints from other residents in the neighborhood. This argument was also addressed in the hearing, wherein ALJ Hurd explained that discovery disputes were to have been resolved prior to the hearing. Additionally, ALJ Hurd expressly noted that if there was additional information he felt necessary, he would order it to be produced. (Transcript at 13:14-16).

Lastly, Petitioner presented the same exception with regard to layman vs. expert testimony as was submitted in his previous filings. Therefore, as noted above, the Board finds that ALJ Hurd appropriately weighed the evidence and considered the testimony of both Petitioner and Respondent's witnesses.

Petitioner's October Exceptions contain what appears to be a request for the Board to stay the collection of the payments past due and owing pending a final decision. Petitioner requested "to rescind the decision to pay the amounts withheld pending a hearing and refund those amounts paid pending a final decision." (October Exceptions at 5). Respondent submitted a response to such request on November 3, 2008, objecting to the imposition of a stay. It is unclear whether Petitioner is seeking a stay of payment pending the Board's final decision of Petitioner's Motion, or the outcome upon appeal. Moreover, Petitioner's one sentence request does not contain any factual or legal support for the stay or refund of payments. Finally, a request for a stay is premature at this juncture, as the Board has not yet decided Petitioner's Motion.

Setting aside the substance of each of Petitioner's arguments in his October exceptions, Petitioner failed to support any of his contentions by citing the record and he failed to set out

findings of facts proposed in lieu of those reached by ALJ Hurd, as is required under N.J.A.C. 1:1-18.4(b). Therefore, because the information contained in Petitioner's October Exceptions is inaccurate in some instances, had been substantively addressed and explained in other instances, and because Petitioner failed to adequately submit exceptions pursuant to N.J.A.C. 1:1-18.4(b), the Board finds after proper review of the record, that Petitioner's October Exceptions are without merit.

December Exceptions

Petitioner's December Exceptions are comprised of five sections: an introduction, findings, facts, exceptions, and exhibits. Petitioner's introduction provides his summary of the dispute, a timeline, and a hand-drawn diagram of Petitioner's interpretation of the electrical systems feeding his home. Petitioner's section containing "findings" contains only a list of Petitioner's depiction of certain findings resulting from the Initial Decision. Petitioner's introduction and findings do not meet the standard for exceptions under N.J.A.C. 1:1-18.4(b) because they do not specify the findings of fact, conclusions of law, or dispositions to which exception is taken.

Petitioner's third section consists of what Petitioner has labeled "Comment on Document." This section appears to be a list of Petitioner's notations on the Initial Decision and transcript. To the extent this section reiterates much of the same arguments as Petitioner's previous filings, the Board has considered the information contained within. The Board notes, however, that this section does not meet the requirements of N.J.A.C. 1:1-18.4(b) and cannot be considered appropriately as exceptions to the Initial Decision.

Petitioner's section titled "Exceptions" provides both generic exceptions and specific exceptions to the Initial Decision, which are substantially the same arguments made in each of Petitioner's previously filed exceptions. Petitioner now asserts for the first time in his December Exceptions that his case is not a billing dispute. First, the Board notes this is an argument that was addressed at the hearing. During the discussion at the hearing with regard to Petitioner's complaint, ALJ Hurd noted that the reason for the billing dispute was the low voltage. (Transcript at 12-13). Additionally, at the hearing Petitioner stated: "That's the billing dispute. The billing dispute is a function of the voltage problems coming into the house. And there were billing disputes prior to this billing dispute..." (Transcript at 14: 7-11). Therefore, Petitioner's argument in his December Exceptions is without merit, since it was addressed at the hearing and Mr. Taylor's position is now contrary to that of his position at the hearing.

Petitioner's December Exceptions contain many of the same arguments addressed above. First, Petitioner again claims that the Initial Decision does not meet the requirements of N.J.A.C. 1:1-18.3. He also claims that he was unable to receive discovery, that the ALJ did not possess the requisite knowledge to understand the issues, and that Respondent's witnesses should not have been considered experts. Because these issues have already been addressed above, the Board simply notes its conclusion, that after review of the Initial Decision and record, that the Initial Decision met the above requirements. Additionally, discovery issues were addressed at the hearing and ALJ Hurd made it clear that if certain documents were necessary, he would have them produced. Petitioner's Exhibit 5 to his December Exceptions must be disregarded as it contains documentation that was not produced in the record, which is prohibited under N.J.A.C. 1:1-18.4(c). Lastly, ALJ Hurd appropriately weighed the evidence objectively with regard to expert witnesses and reasonably concluded that Respondent's witnesses presented credible expert testimony based on their personal experience with Petitioner's claim and their extensive and unique background. Rempfer v. Deerfield Packing Corp., 4 N.J. 135 (1950).

Petitioner's specific exceptions address twenty of Petitioner's interpretation of "findings." These findings are presented in no particular order, and are grouped indecipherably together by Petitioner. Much of them present the same arguments contained in Petitioner's previously filed exceptions, with the addition of unexplained references to the transcript and exhibits. Petitioner asserts that there are no factual findings and no factual data to support the following conclusions which have already been addressed above:

- 1) Petitioner was not receiving low-voltage;
- 2) There was no evidence to support that Respondent dug a trench in Petitioner's yard while he was on vacation;
- 3) Respondent presented four electrical engineers;
- 4) Petitioner's testimony as a layman was outweighed by the testimony of Respondent's experts;
- 5) Respondent took Petitioner's complaint seriously;
- 6) Substation was operating properly;
- 7) Transformer was operating properly before being upgraded;
- 8) Respondent's expert testimony explained that overloading would not lead to low-voltage;
- 9) There is no evidence of complaints from nearby residents;
- 10) The recording voltmeter reported no irregularities in April 2005;
- 11) Low voltage recording was due to peak demand period;
- 12) There is no connection between low voltage and higher kilowatt hours;

Because these arguments are the same as previously submitted, after consideration of the record, the Board finds that the ALJ Hurd's conclusions were reasonable.

Additional Correspondence

Despite the Board Secretary's most recent letter informing Petitioner that Board Staff would recommend no further extensions of time to file documents, on January 26, 2009, Petitioner filed another document, wherein he addresses the "accuracy of the record," "conclusions from testing results," and "fundamental fairness." This filing also contains what appears to be a request to stay Respondent's collection pursuant to the deferred payment plan pending his appeal to the Appellate Division. On January 27, 2009, Respondent responded to Petitioner's letter and objected to his late submission and pre-mature request for a stay.

The Board notes that Petitioner has been afforded great leeway with respect to his filings thus far and the Board is under no obligation to consider Petitioner's replies to Respondent's answers, as the regulations provide for no such filing. Further, in the Board Secretary's letter of December 5, 2008, it had been made clear to Petitioner that no further time would be permitted for filing exceptions. Therefore, the Board is not considering the substance of this filing.

With regard to Petitioner's request for a stay in the event that the Board denies his Motion, the Board declines to address such request at this time. First, Petitioner's one sentence request is pre-mature, as the Board has not decided his Motion. Secondly, his request is not supported by any facts or law. Lastly, Respondent has not had the opportunity to respond to such request. Therefore, the Board declines to consider the request contained in his January 26, 2009 letter, but, by this Order, instructs the Petitioner that he may file a formal request for a stay pursuant to N.J.A.C. 1:1-18.6(f), with supporting documentation demonstrating the need for such stay.

Petitioner's Motion for Reconsideration

After considering each of Petitioner's filings containing exceptions, in addition to Respondent's responses, the Board considers Petitioner's Motion for Reconsideration. A party should not seek reconsideration merely based upon dissatisfaction with a decision. D'Atria v. D'Atria, 242 N.J. Super. 392, 401 (Ch. Div. 1990). Rather, reconsideration is reserved for those cases where (1) the decision is based upon a "palpably incorrect or irrational basis," or (2) it is obvious that the finder of fact did not consider, or failed to appreciate, the significance of probative, competent evidence. E.g., Cummings v. Bahr, 295 N.J. Super. 374, 384 (App. Div. 1996). The moving party must show that the court acted in an arbitrary, capricious or unreasonable manner. D'Atria, supra, 242 N.J. Super. At 401.

In much the same manner, this Board will not modify an Order in the absence of a showing that the Board's action constituted an injustice or that the Board misunderstood or failed to take note of a significant element of fact or law. Here, the Board does not find that the arguments raised by Petitioner are sufficient to warrant reconsideration or modification. Petitioner's allegations of error and incorrect conclusions are, essentially, reiterations of the arguments presented at the hearing, to which ALJ Hurd took note of in making his decision. Additionally, many of Petitioner's exceptions present new evidence or new arguments that Petitioner failed to raise at the hearing. Nothing in the substantive arguments presented now rises to the level to convince the Board that the Initial Decision is fatally flawed or wrong. Therefore, the Board HEREBY AFFIRMS its June 13, 2008 Final Decision adopting ALJ Hurd's Initial Decision, wherein the Petitioner's petition was dismissed and Petitioner was ordered to pay the total currently past due and owing for electric services (\$13, 045.47 in March 2008). As such, the Board HEREBY FINDS that the Petitioner's arguments do not rise to the level to require reconsideration or other modification of the Board's June 13, 2008 Final Decision, and thus the Board HEREBY ORDERS that the motion for reconsideration by Petitioner is DENIED.

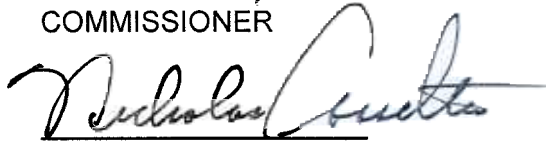
DATED: 2/11/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT


FREDERICK F. BUTLER
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

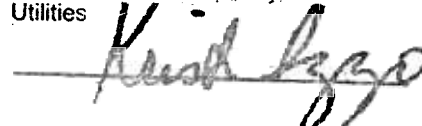

NICHOLAS ASSELTA
COMMISSIONER


ELIZABETH RANDALL
COMMISSIONER

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

ATTEST:

KRISTI IZZO
SECRETARY



WILLIAM TAYLOR

v.

JERSEY CENTRAL POWER & LIGHT COMPANY

BPU Docket No. EC06020077U

OAL Docket No. PUC 06811-07S

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