



Agenda Date: 1/19/11  
Agenda Item: VIID

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center – Suite 801**  
**Newark, NJ 07102**  
**www.nj.gov/bpu/**

CUSTOMER ASSISTANCE

LORA SOSEMAN,	)	ORDER OF EXTENSION
Petitioner,	)	
v.	)	
JERSEY CENTRAL POWER & LIGHT COMPANY,	)	BPU DOCKET NO. EC09120961U
Respondent.	)	OAL DOCKET NO. PUC1439-10

BY THE BOARD:

The Initial Decision of the Administrative Law Judge was received by the Board of Public Utilities (Board) on December 22, 2010; therefore the 45-day statutory period for review and the issuing of a Final Decision will expire on February 7, 2011. Prior to that date, the Board requests a 45-day extension of time for issuing the Final Decision to ensure that it has sufficient time to review the extensive file in this matter as well as to allow for the filing of timely exceptions.

Good cause having been shown, pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8, **IT IS ORDERED** that the time limit for the Board of Public Utilities to render a Final Decision is extended until March 24, 2011.

DATED: 1/19/11

BOARD OF PUBLIC UTILITIES  
BY:

LEE A. SOLOMON  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER  
JOSEPH L. FIORDALISO  
COMMISSIONER  
NICHOLAS ASSELTA  
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

Date Board mailed Order to OAL:

cc: Service List Attached

DATED:

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LAURA SANDERS, ACTING  
DIRECTOR & CHIEF  
ADMINISTRATIVE LAW JUDGE

Date OAL mailed executed Order to Board:

Date Board mailed executed Order to Parties:

**LORA SOSEMAN**

**v.**

**JERSEY CENTRAL POWER & LIGHT COMPANY**

**BPU DOCKET NO. EC09120961U**

**OAL DOCKET NO. PUC 1439-10**

**SERVICE LIST**

Lora Soseman  
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Hopatcong, New Jersey 07843

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CMG  
Belton  
Holmes  
DAG  
RPA  
Ford  
cust. asst.



**State of New Jersey**  
OFFICE OF ADMINISTRATIVE LAW

10 DEC 22 PM 1:23  
BOARD OF PUBLIC UTILITIES  
NEWARK, N.J.

**INITIAL DECISION**

OAL DKT. NO. PUC 1439-10

AGENCY DKT. NO. EC091209614

LORA SOSEMAN,

Petitioner,

v.

JERSEY CENTRAL POWER & LIGHT

COMPANY,

Respondent.

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Lora Soseman, pro se

Michael J. Connolly, Esq., for respondent (Morgan, Lewis & Bockius, LLP,  
attorneys)

Record Closed: December 16, 2010

Decided: December 16, 2010

BEFORE MUMTAZ BARI-BROWN, ALJ:

**STATEMENT OF THE CASE and PROCEDURAL HISTORY**

Petitioner Lora Soseman (petitioner) filed a complaint before the Board of Public Utilities (Board) disputing the billing charges of Jersey Central Power & Light (JCP&L) for electric service provided to Lincoln Trail, Hopatcong, New Jersey.

On February 2, 2010, the Board transmitted the matter to the Office of Administrative Law (OAL) pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to 13 as a contested case. Thereafter Respondent moved to place the disputed funds into an escrow account and for an order compelling discovery. Petitioner has neither objected nor answered respondent's discovery requests. On November 10, 2010, Respondent moved for Summary Decision in the form of an Initial Decision under N.J.A.C 1:1-12 and an Initial Decision for summarily dismissing the complaint for failure to cooperate and follow the directives of the OAL.

### FINDINGS OF FACT

1. On November 27, 2009, Petitioner filed a petition before the BPU.
2. On January 11, 2010, JCP&L filed a verified answer
3. On January 19, 2010, BPU transmitted the OAL.
4. On August 27, 2010, JCP&L served petitioner with general interrogatories and discovery requests. To date, petitioner has neither objected to the discovery requests nor provided answers.
5. A pre-hearing telephone conference was scheduled for October 6, 2010. Petitioner failed to participate and the telephone conference was rescheduled for November 16, 2010.
6. On October 6, 2010 and November 16, 2010, petitioner failed to appear and could not be reached by telephone.
7. On October 7, 2010, respondent moved to compel discovery and direct petitioner to place past-due and on-going electric bill payments into an escrow account.
8. Petitioner currently resides at Lincoln Tr., Hopatcong, New Jersey 07843.
9. Petitioner currently has a JCP&L electric service account for the premises.
10. Since April 14, 2009, Petitioner has made one payment on the account in the amount of \$1,863.18.
11. As of October 15, 2010, petitioner's JCP&L account has an outstanding past-due balance of approximately \$8,351.47

## DICUSSION

Petitioner's complaint challenges the Basic Generating Service (BGS) rates used by JCP&L as excessive and above those approved by the Board of Public Utilities. Petitioner further claims, "As far back as 01/03/2009 to the current date of 11/10/2009 JCP&L has had a BGS rates ranging from .134005 to .113488." (Petition dated November 27, 2009). According to petitioner, the approved rates were 11.409% up to June 1, 2009, and lowered to 10.351% on February 6, 2009, with an effective date of June 1, 2009. As such, petitioner argues that all of her bills after June 1, 2009, were above the approved 10.351% and "almost all of the bills before June 1, 2009, [were] over [11.409%]". Ibid. Petitioner further contends that she was double billed by JCP&L and thus, paid twice for the months of February, March and April 2009.

Respondent contends that petitioner's arguments demonstrate a fundamental misunderstanding of rate calculations. Indeed, the rates in dispute were approved by the Board. Respondent notes that petitioner's reference to the approved 10.351% and 11.409% rates are misconstrued references to \$0.10351/kWh and \$0.11409/kWh, which reflect the BGS auction price approved by the Board for the 2008 and 2009, respectfully. (Respondent's Answer dated January 11, 2010).

With regard to the billing dispute, JCP&L denies double billing petitioner for the months of February, March and April 2009. Respondent further contends that irrespective of billing, petitioner did not "pay" twice. In fact, petitioner has not paid for her electric service since April 14, 2009. Moreover, petitioner's payment of \$1,863.19 was for past-due payments through December 31, 2008 and "was only paid under a then pending notice of termination with respect to amounts unpaid since the last prior payment on November 19, 2008 for service through October 31, 2008." (Respondent's Answer dated January 11, 2010).

Pursuant to N.J.A.C. 1:1-10.4, "[n]o later than 15 days from receipt of a notice requesting discovery, the receiving party shall provide the requested information, material or access or offer a schedule for reasonable compliance with the notice. . ." N.J.A.C. 1:1-10.4(c). Furthermore, a party who wishes to object to a discovery request

or to compel discovery "shall, prior to the filing of any motion regarding discovery, place a telephone conference call to the judge and to all the other parties no later than 10 days of receipt of the discovery request or the response to a discovery request." N.J.A.C. 1:1-10.4(d). Finally, "[b]y motion of a party or on his or her own motion, the judge may impose sanctions pursuant to N.J.A.C. 1:1-14.14 and 14.15 for failure to comply" with an order to compel discovery. N.J.A.C. 1:1-10.5. If an answering party unreasonably fails to comply with discovery requests, the judge Honor may "[d]ismiss or grant the motion or application", "[s]uppress a defense or claim", "[e]xclude evidence", "[o]rder costs or reasonable expenses, or "[t]ake other appropriate case-related action." N.J.A.C. 1:1-14.14.

Here, respondent served interrogatories and discovery requests on August 27, 2010. Accordingly, petitioner was required, within 15 days of receipt to "provide the requested information or offer a schedule for reasonable compliance with the notice." N.J.A.C. 1:1-10.4 (c). In the alternative, petitioner was afforded 10 days from the receipt of said discovery request to place a telephone conference call to the court and voice objections to some or all the discovery requests. N.J.A.C. 1:1-10.4 (d). To date, petitioner has done neither and has not communicated with respondent or its counsel.

The rules governing motions for summary decision before OAL are embodied in N.J.A.C. 1:1-12.5 and mirror the language of R. 4:46-2 of the Rules Governing the Courts of New Jersey. See also Brill v. Guardian Life Ins. Co., 142 N.J. 520, (1995). Under N.J.A.C. 1:1-12.5(b), the motion for summary decision ". . . may be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law." The opposing party must submit responding affidavits showing that there is a genuine issue of material fact, which can only be determined in an evidentiary proceeding, and that the moving party is not entitled to summary decision as a matter of law. Failure to do so, entitles the moving party to summary judgment. Brill, supra, 142 N.J. 520. Moreover, even if the non-moving party comes forward with some evidence, the Courts must grant summary judgment if the evidence is "so one-sided that [moving party] must prevail as a matter of law." Id. at 536. If the non-moving party's evidence is merely colorable, or is not

significantly probative, summary judgment should not be denied. See Bowles v. City of Camden, 993 F. Supp. 255, 261 (D.N.J. 1998). The New Jersey Supreme Court's standard for summary judgment is thus designed to "liberalize the standards so as to permit summary judgment in a larger number of cases" due to the perception that we live in "a time of great increase in litigation and one in which many meritless cases are filed. Brill, supra, 142 N.J. at 539 (1995).

have carefully reviewed the parties' pleadings and attached exhibits. **FIND** and **CONCLUDE** no genuine issues of fact exist. I agree with Respondent's argument that the only dispute raised in the pleadings is the legal interpretation of the Tariff and charges for BGS. Petitioner has failed to respond to discovery and has not participate in telephone conferences, which would have provided an opportunity to present her interpretation or refute respondent's interpretation of its Tariff, estimated bills and the BGS rates charged. As such, respondent is entitled to prevail as a matter of law.

Pursuant to N.J.A.C. 1:1-14.6, "[t]he judge may render any ruling or order necessary to decide any matter presented to him or her which is within the jurisdiction of the transmitting agency. . ." N.J.A.C. 1:1-14.6(h). As it pertains to electric bill disputes, "the Board may require the customer to place all or a portion of disputed charges in escrow pending resolution of the dispute." N.J.A.C. 14:3-7.6 (f). Accordingly, an administrative law judge (ALJ) may order a party to place funds in an escrow account. N.J.A.C. 1:1-14.6; N.J.A.C. 14:3-7.6; McNamara v. Jersey Cent. Power & Light Co., PUC 11141-02, Initial Decision, (June 11, 2004), <<http://lawlibrary.rutgers.edu/oal/search.html>> ("It is further **ORDERED** that any petitioner, purporting to act on behalf of [the premises] must place all of the disputed charges in escrow.").

### CONCLUSION

I **CONCLUDE** that Petitioner Lora Soseman has failed to participate in the telephone pre-hearing conferences scheduled by the OAL on October 6, 2010, and November 16, 2010 without good cause.



**CONCLUDE** that Petitioner failed to respond to respondent's Motions for Discovery and Escrow Payments without good cause.

**CONCLUDE** that Petitioner Lora Soseman deliberately failed to cooperate with the directives of the administrative law judge.

**ORDER**

It is **ORDERED** that Respondent's Motion for Summary Decision is **GRANTED**.

It is further **ORDERED** that JCP&L submit to the BUP an updated account of monies owed by Petitioner through the date of the final decision by the Board; that amount shall be paid to JCP&L by Petitioner Lora Soseman.

It is further **ORDERED** that the Petition filed by Petitioner Lora Soseman be dismissed with Prejudice.

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, Suite 801, Newark, NJ 07102**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties

December 16, 2010  
DATE

Mumtaz Bari Brown  
MUMTAZ BARI-BROWN, ALJ

Date Received at Agency:

12-16-10

Date Mailed to Parties:  
dr

DEC 20 2010

Laura Sanders  
DIRECTOR AND  
CHIEF ADMINISTRATIVE LAW JUDGE