



Agenda Date: 1/29/14
Agenda Item: 7A

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CUSTOMER ASSISTANCE

VISHINDAS HARJANI,)	ORDER OF EXTENSION
Petitioner,)	(As within time)
)	
v.)	
)	BPU DKT. NO.
ATLANTIC CITY ELECTRIC COMPANY,)	EC13040348U
Respondent.)	OAL DKT. NO. PUC 9396-13

Parties of Record:

Vishindas Harjani, pro se
Renee E. Suglia, Esq., Atlantic City Electric Company

BY THE BOARD:

The Initial Decision, by Administrative Law Judge ("ALJ") Damon G. Tyner, was received by the Board of Public Utilities ("Board") on October 24, 2013. By previous Order of Extension, the period for issuing a Final Decision was extended to January 23, 2014. The Board had listed this matter on its January 22, 2014 Board Agenda Meeting. However, inclement weather caused early dismissal of state offices on January 21, 2014, and closed state offices on January 22, 2014, resulting in the matter not being heard within the extension period. On January 21, 2014, as soon as it became aware that the regularly scheduled agenda meeting would be cancelled, Board Staff sent an electronic communication to the Office of Administrative Law ("OAL"), advising that, as a result of the inclement weather, the Board would unexpectedly require an extension of time and the Board would execute this request for extension with a vote at the rescheduled meeting. Pursuant to the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq., the Board must vote publicly to execute an Order of Extension and it must give at least 48 hour notice of its public meetings. N.J.S.A. 10:4-8. Thus, the Board could not reschedule the January 22, 2014 Agenda Meeting, nor vote to execute the Extension Order, prior to the expiration of the 45 day period.

Pursuant to N.J.A.C. 1:1-18.8(b), the OAL may extend the 45 day time period for rendering a final agency decision as within time, "in case of emergency or other unforeseen circumstances." On January 21, 2014, Governor Chris Christie issued Executive Order 147, declaring a state of emergency. Subsequently, state offices were closed at 12:15 p.m. on January 21, 2014, and

remained closed on January 22, 2014.

Nonetheless, as noted above, the Board advised the OAL on January 21, 2014 of the need for an additional extension and that this extension order would be voted upon and executed at the January 29, 2014 rescheduled meeting.

Good cause and unforeseeable circumstances 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, as within time, until March 10, 2014.

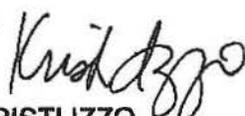
DATED: 1/29/14

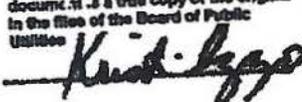
BOARD OF PUBLIC UTILITIES
BY¹:



DIANNE SOLOMON
PRESIDENT

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:

1/30/14

cc:

Service List Attached

DATED:

2/3/14



LAURA SANDERS, ACTING
DIRECTOR & CHIEF
ADMINISTRATIVE LAW JUDGE

Date OAL mailed executed Order to Board:

2/4/14 emailed

Date Board mailed executed Order to Parties:

2/6/14

¹ Authorized by Board to Execute this Order of Extension on its behalf.

VISHINDAS HARJANI
v.
ATLANTIC CITY ELECTRIC COMPANY

BPU DOCKET NO. EC13040348U
OAL DOCKET NO. PUC 9396-13

SERVICE LIST

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Atlantic City Electric Company
500 N. Wakefield Drive
Newark, DE 19702

PROCEDURAL HISTORY

The petitioner requested a hearing and the matter was filed at the OAL on July 2, 2013, to be heard as a contested case pursuant to N.J.S.A. 52:14B-1 to 15 and 14F-1 to 13. The matter was heard on September 6, 2013, and the record closed.

FACTUAL DISCUSSION

The facts presented by this matter are straightforward. Petitioner was a customer of the respondent, receiving electric services. On December 9, 2010, respondent notified petitioner in a written correspondence that they had received notice that petitioner desired to change his electric supplier to a third party provider known as Public Power Company. (R-3). Petitioner was advised that respondent would continue to be the electric distributor, and that future billings would reflect one bill with two billers, respondent as the distributor and Public Power Company as the supplier. Notably, respondent is a utility which is regulated by the State of New Jersey Board of Public Utilities (BPU), whereas the BPU does not maintain jurisdiction over the practices of Public Power Company, a private entity.

In this matter, petitioner initially alleges that Public Power Company fraudulently changed his service without his permission. Whether or not this in fact did occur, petitioner does not challenge that his dispute, billing or fraudulently changing his service is with Public Power Company. He acknowledges such on the record. Additionally, petitioner also seemingly settled his dispute with Public Power Company when he negotiated a settlement, with the assistance of the BPU, and cashed a check in the amount of \$413.50, as demonstrated by a letter dated August 15, 2012. (R-1).

Further, in paragraph 3 of petitioner's counterclaim, dated June 10, 2013, he states:

THE ONLY BIT OF TRUTH SPOKEN BY THE
RESPONDENT'S ATTORNEY IS WHERE IN PARA NO. 8
OF HER ANSWER SHE STATES THAT "ANY AND ALL

DAMAGES ALLEGED TO HAVE BEEN SUSTAINED BY THE PETITIONER WERE CAUSED SOLELY BY THE NEGLIGENCE OF AN INDEPENDENT AND/OR INTERVENING PARTIES OR INSTRUMENTALITIES OVER WHICH ACE HAS NO CONTROL OR NO DUTY TO CONTROL WHICH IS WORTH TO BE NOTED.

On September 3, 2012, petitioner received a letter confirming that his account with Public Power Company had been closed. Petitioner then entered into a new agreement with another third party supplier, Discount Energy Group, to be his electric supplier. This agreement was ended within the month and petitioner returned to respondent for all of his services.

On more than one occasion during the proceeding, petitioner affirmatively indicated that his dispute was with the unregulated, third party provider, Public Power Company. However, he stated that he was seeking damages for pain and suffering from respondent for not assisting him with his dispute against Public Power Company.

Accordingly, respondent made a Motion to Dismiss for failure to state a claim at the conclusion of the petitioner's case.

Based on the foregoing, I **FIND** that petitioner has failed to state a claim against respondent.

I further **FIND** that petitioner accepted a cash settlement in the amount of \$413.50 from the third party provider.

Lastly, I **FIND** that this tribunal has no jurisdiction over the third party provider, Public Power Company.

CONCLUSION

Based on the foregoing, I **CONCLUDE** that petitioner has failed to state a claim, upon which he can recover damages, against the respondent. I further **CONCLUDE** that even if petitioner had a colorable claim against the respondent, petitioner would be

barred from seeking damage due to the principles of accord and satisfaction and estoppels, since petitioner entered into a settlement with another entity for the same or similar damages.

ORDER

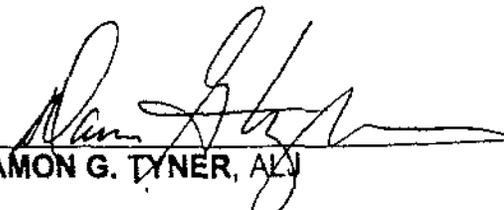
I **ORDER** that the respondent's Motion to Dismiss be **GRANTED** and that this matter be **DISMISSED**.

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 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, 44 South Clinton Avenue, P.O. Box 350, Trenton, NJ 08625-0350**, marked "Attention: Exceptions." A copy of any exceptions must be sent to the judge and to the other parties.

10-17-13
DATE


DAMON G. TYNER, ALJ

Date Received at Agency:

10-17-13

Date Mailed to Parties:

10/23/13

/sjd

WITNESSES AND DOCUMENTS IN EVIDENCE

WITNESSES

For Petitioner:

Vishindas Harjani

For Respondent:

Agnes Carpenter, Senior Analyst

EXHIBITS

For Petitioner:

P-1 Letter, Public Power to Harjani, 9/3/12

For Respondent:

R-1 Letter, Board of Public Utilities to Harjani, 8/15/12

R-2 Harjani Letter to the Editor, 8/28/13

R-3 Letter verifying change of service to Public Power Co., 12/9/10

R-4 Letter verifying change of service to Discount Energy Group, 9.28/11