



Agenda Date: 1/21/15
Agenda Item: 7B

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

MARCELLA DRAKEFORD,
Petitioner
v.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY,
Respondent

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)

ORDER ADOPTING
INITIAL DECISION

BPU DOCKET NO. EC14030249U
OAL DOCKET NO. PUC 05137-14

Parties of Record:

Marcella Drakeford, Petitioner, pro se
Amanda Johnson, Esq., for Respondent, Public Service Electric and Gas Company

BY THE BOARD¹:

On March 19, 2014, Marcella Drakeford ("Petitioner") filed a petition with the Board of Public Utilities ("Board") requesting a hearing pertaining to the Petitioner's installment payment plan with Public Service Electric and Gas Company ("Respondent"). The Board transmitted this matter to the Office of Administrative Law ("OAL") on April 29, 2014 for hearing as a contested case. The matter was assigned to Administrative Law Judge ("ALJ") Irene Jones who set a hearing date that was scheduled and noticed for October 3, 2014. On the scheduled date, the Petitioner did not appear and did not provide an explanation of the non-appearance. The Respondent then moved to dismiss the petition and ALJ Jones granted the motion on grounds of failure to prosecute noting that the Petitioner had failed to appear, had not contacted her, and as the hearing notice had not been returned, it was appropriate to presume that it had been received.

¹ Commissioner Upendra J. Chivukula recused himself due to a potential conflict of interest and as such took no part in the discussion or deliberation of this matter.

N.J.A.C. 1:1-14.4(a) provides, in pertinent part:

If, after appropriate notice, neither a party nor a representative appears at any proceeding scheduled by the Clerk or judge, the judge shall hold the matter for one day before taking any action. If the judge does not receive an explanation for the nonappearance within one day, the judge shall ... direct the Clerk to return the matter to the transmitting agency for appropriate disposition pursuant to N.J.A.C. 1:1-3.3(b) and (c).

The ALJ concluded that there was no good cause for Petitioner's failure to appear because the Petitioner failed to provide any explanation for her failure to appear on October 3, 2014. The ALJ held the matter for seventy-three days, far longer than the one day required pursuant to N.J.A.C. 1:1-14.4(a), and issued her decision on December 16, 2014, which was filed with the Board on the same date. The ALJ dismissed the matter for lack of prosecution.

N.J.A.C. 1:1-3.3(b) and (c) provides:

(b) A case shall be returned to the transmitting agency by the Clerk of the Office of Administrative Law if, after appropriate notice, neither a party nor a representative of the party appears at a proceeding scheduled by the Clerk or a judge (see N.J.A.C. 1:1-14.4). Any explanations regarding the failure to appear must be in writing and received by the transmitting agency head within 13 days of the date of the Clerk's notice returning the case. A copy of the explanation shall be served on all other parties. If, based on such explanations, the agency head believes the matter should be rescheduled for hearing, the agency head may re-transmit the case to Office of Administrative Law, pursuant to N.J.A.C. 1:1-8.2.

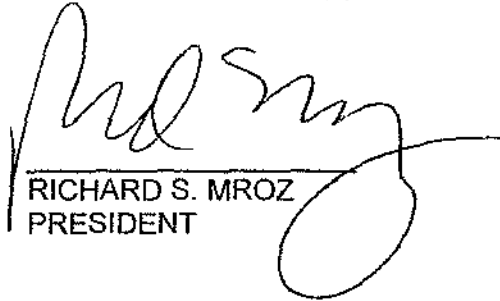
(c) Upon returning any matter to the transmitting agency, the Clerk shall issue an appropriate notice to the parties which shall advise the parties of the time limit and requirements for explanations as set forth in (b) above.


To this date, no exceptions have been filed to the Initial Decision, and no correspondence from Petitioner has been received by the Board explaining her non-appearance.


Accordingly, the Board **HEREBY FINDS** that the Petitioner failed to appear at a hearing scheduled for October 3, 2014, and did not contact the ALJ or the Board with an explanation as required by the rules. Therefore the Board **HEREBY AFFIRMS** the Initial Decision, dismissing the Petition.

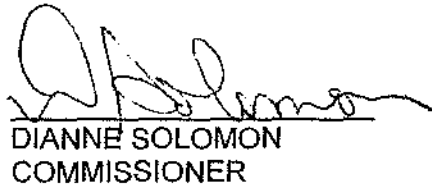
DATED: 1/21/15

BOARD OF PUBLIC UTILITIES
BY:

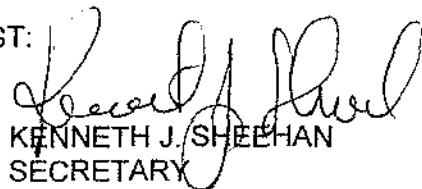

RICHARD S. MROZ
PRESIDENT


JOSEPH L. FIORDALISO
COMMISSIONER

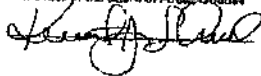

MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER

ATTEST:


KENNETH J. SHEEHAN
SECRETARY

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



MARCELLA DRAKEFORD
Petitioner

v.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY,
Respondent

BPU DOCKET NO. EC14030249U
OAL DOCKET NO. PUC 05137-14

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

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DEC 16 2014

BOARD OF PUBLIC UTILITIES
MAIL ROOM

INITIAL DECISION

DISMISSAL

OAL DKT. NO. PUC 05137-14

AGENCY DKT. NO. EC14030249U

MARCELLA DRAKEFORD,

Petitioner,

v.

**PUBLIC SERVICE ELECTRIC AND GAS
COMPANY,**

Respondent.

Marcella Drakeford, petitioner, pro se

**Amanda Johnson, Esq., for respondent (Schenck, Price, Smith & King,
attorneys)**

Record Closed: October 21, 2014

Decided: December 16, 2014

BEFORE IRENE JONES, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

On March 19, 2014, Petitioner, Marcella Drakeford ("Petitioner" or "Drakeford") filed a petition with the Board of Public Utilities ("Board"). The petition requested a

hearing on charges related to the petitioner's installment payment plan with the respondent. On April 29, 2014, the Board transmitted the matter to the Office of Administrative Law for hearing as a contested case. A hearing was scheduled and noticed for October 3, 2014. The petitioner did not appear at the hearing and the respondent moved to dismiss the matter and the Motion was **GRANTED**.

Since that hearing date, the petitioner has failed to contact this tribunal. Further, the hearing notice was not returned and thus it is presumed as having been received.

Based on the petitioner's inaction, this matter is hereby **DISMISSED** for failure to prosecute.

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.



December 16, 2014

DATE

IRENE JONES, ALJ

Date Received at Agency:

Date Mailed to Parties:

sej