



Agenda Date: 10/15/15
Agenda Item: 2C

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/

ENERGY

IN THE MATTER OF ROUDI et al. vs. JERSEY)
CENTRAL POWER AND LIGHT; FIRST ENERGY)
CORPORATION; NEW JERSEY NATURAL GAS)
COMPANY; NEW JERSEY RESOURCES)
CORPORATION AND ABC COMPANIES NOS. 1-10)
) DOCKET NO. EC15091094

Parties of Record:

Hugh M. Turk, Esq., Plaintiffs' attorney
Kevin H. Marino, Esq., on behalf of New Jersey Natural Gas and New Jersey Resources Corporation
Stephen A. Rudolph, Esq., on behalf of Jersey Central Power and Light and FirstEnergy Corporation

BY THE BOARD:¹

On June 10, 2015, Michael Roudi and other named plaintiffs filed a complaint, In the Matter of Michael Roudi and Lorraine Roudi; Theresa Niles; Emma Jane Deciker; Eugene Durocher, Jr. and Mary Durocher; Patricia Krone; Betty Ann Fuller; Thomas Reinhardt and Susan Reinhardt vs. FirstEnergy Corporation; New Jersey Natural Gas Company; New Jersey Resources Corporation and ABC Companies Nos. 1-10, Docket No. OCN-L-1646 ("Roudi"). This matter was filed in the Law Division, Superior Court – Ocean County.

Plaintiffs are property owners and/or lessees in a neighborhood in the Township of Brick known as Camp Osborn. Plaintiffs seek to recover compensation for damages and destruction of their real and personal property by the fire or fires occurring on October 29, 2012 from Superstorm Sandy. Plaintiffs contend that the fire or fires and resulting damages and destruction were caused by the negligence, gross negligence, carelessness, and recklessness of defendants relating to their failure to de-energize electric lines and suspend the provision of natural gas services during the storm.

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.

Defendants New Jersey Natural Gas Company and New Jersey Resources Corporation moved for entry of orders dismissing Plaintiffs' complaint or in the alternative referring certain issues to the New Jersey Board of Public Utilities ("BPU") pursuant to the doctrine of primary jurisdiction. By Order dated July 27, 2015, the Honorable Robert A. Fall, J.S.C., denied the motions to dismiss, but granted the motions to refer the matters to the BPU pursuant to the doctrine of primary jurisdiction.² The Order further stayed the Superior Court actions pending a determination by the BPU as to whether it intends to exercise jurisdiction as to factual determinations as to any of the issues raised in the complaint.

The doctrine of primary jurisdiction applies

when a case is properly filed in the New Jersey Superior Court but the court declines original jurisdiction, referring specific issues to the appropriate administrative body. The court gives deference to the administrative body's interpretation of its own regulations and findings of fact on particular issues that are within the special competence of the agency pursuant to applicable statutes. Essentially, the court retains jurisdiction but defers action until the agency has reviewed the case and employed its expertise. That doctrine is especially important for promoting proper relationships between the courts and administrative agencies charged with particular regulatory duties.

Magic Petroleum Corp. v. Exxon Mobil Corp., 218 N.J. 390, 405 (2014) (citations omitted) (internal quotation marks omitted).

The BPU has general supervision and regulation of and jurisdiction and control over public utilities. N.J.S.A. 48:2-13(a). The Legislature has endowed the BPU with broad powers to regulate public utilities. In re Pub. Serv. Elec. & Gas Co.'s Rate Unbundling, 167 N.J. 377, 384 (2001) (internal citations and quotations omitted). The Board has jurisdiction of all services necessary for the transmission and distribution of gas electric service. N.J.S.A. 48:2-13(d). The Board has the authority to require any public utility to furnish safe, adequate and proper service. N.J.S.A. 48:2-23. Judicial deference to administrative agencies stems from the recognition that agencies have specialized expertise. In re Adoption of Amendments to Water Quality Management Plans, 45 N.J. Super. 571, 583 (App. Div. 2014). In this case, the Board has the statutory authority as well as expertise to consider whether New Jersey Natural Gas Company and/or Jersey Central Power & Light failed to provide safe, adequate and proper service under the circumstances then existing to the plaintiffs in the underlying action. Therefore, the Board accepts primary jurisdiction in order to consider that issue or any other that it deems appropriate.

The Board, having reviewed the Court's Order and the preliminary documents it has received from the parties, **HEREBY FINDS** issues in the Complaint that are within the Board's

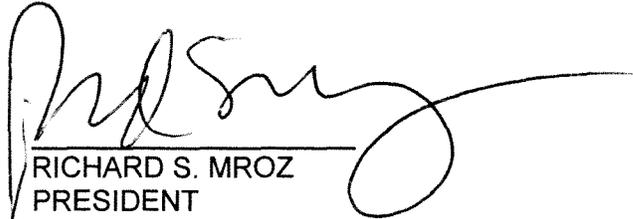
² This matter is the third matter referred to the Board by Judge Fall alleging similar facts and circumstances. By Order dated August 19, 2015, I/M/O Minutella et al. vs. Jersey Central Power and Light; First Energy Corporation; New Jersey Natural Gas Company; New Jersey Resources Corporatoin and ABC Companies Nos. 1-10, Docket No. EC15060657 and I/M/O Harvey et al. vs. Jersey Central Power and Light; First Energy Corporation; New Jersey Natural Gas Company; New Jersey Resources Corporation and ABC Companies Nos. 1-10, Docket No. EC15060658, the Board accepted jurisdiction of those matters.

jurisdiction. As such, the Board accepts primary jurisdiction, will review the matter referred pursuant to Judge Fall's Order and will advise the parties how this matter will proceed.

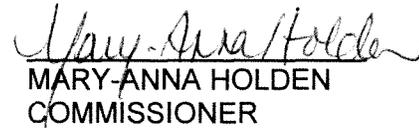
This Order shall be effective on October 25, 2015.

DATED: *October 15, 2015*

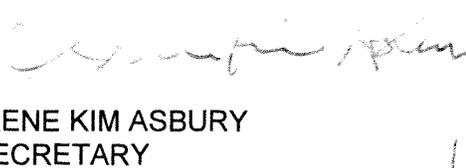
BOARD OF PUBLIC UTILITIES
BY:


RICHARD S. MROZ
PRESIDENT

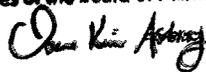

JOSEPH L. FIORDALISO
COMMISSIONER


MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
COMMISSIONER

ATTEST: 
IRENE KIM ASBURY
SECRETARY

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



IN THE MATTER OF ROUDI et al. vs. JERSEY CENTRAL POWER AND LIGHT; FIRST
ENERGY CORPORATION; NEW JERSEY NATURAL GAS COMPANY; NEW JERSEY
RESOURCES CORPORATION AND ABC COMPANIES NOS. 1-10

DOCKET NO. EC15091094

SERVICE LIST

Geoffrey Gersten, DAG
Department of Law & Public Safety
Division of Law
124 Halsey Street
Post Office Box 45029
Newark, NJ 07101-45029

Maureen Wagner, Esq.
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Cynthia Covie, Esq.
Board of Public Utilities
44 South Clinton Avenue, 9th Floor
Post Office Box 350
Trenton, NJ 08625-0350

Kevin H. Marino, Esq.
Marino, Tortorella, &Boyle, P.C.
437 Southern Blvd
Chatham, NJ 07928

Hugh M. Turk, Esq.
Sullivan, Papain, Block, McGrath, &
Cannova, P.C.
126 State Street
Hackensack, NJ 07601

John A. Boyle, Esq.
Marino, Tortorella, &Boyle, P.C.
437 Southern Blvd
Chatham, NJ 07928

Stephen A. Rudolph, Esq.
Rudolph & Kayal
2317 Highway 34, Suite 2C
Manasquan, NJ 08736