



Agenda Date: 11/21/25  
Agenda Item: 2A

**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 1<sup>st</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu](http://www.nj.gov/bpu)

ENERGY

LEE WIDMAN	)	ORDER ADOPTING INITIAL
Petitioner	)	DECISION
	)	
v.	)	BPU DOCKET NO. EC24080613
	)	
ATLANTIC CITY ELECTRIC COMPANY	)	OAL DOCKET NO. PUC 16946-2024 N
Respondent	)	

**Parties of Record:**

**Lee Widman**, Petitioner, *Pro Se*  
**Kenneth L. Wan**, for Respondent, Atlantic City Electric Company

**BY THE BOARD:**

The instant matter involves a dispute between Lee Widman ("Petitioner") and Atlantic City Electric Company ("ACE" or "Respondent"). This Order sets forth the background and procedural history of Petitioner's claims and represents the final decision in the matter pursuant to N.J.S.A. 52:14B-10(c). Having reviewed the record, the New Jersey Board of Public Utilities ("Board") now considers Administrative Law Judge ("ALJ") Tama B. Hughes' ("ALJ Hughes") Initial Decision rendered on August 25, 2025.

**BACKGROUND AND PROCEDURAL HISTORY**

On August 19, 2024, Petitioner filed a petition with the Board regarding the alleged poor condition of utility poles, wiring, and equipment owned by ACE and Verizon New Jersey, Inc. ("Verizon") ("Petition").<sup>1</sup> According to the Petition, the alleged equipment issues were identified at various pole locations in Ventnor City and Atlantic City, New Jersey. Petitioner requested an immediate inspection of the poles by the relevant authorities to assess their condition and identify necessary repairs, a plan of action from ACE and Verizon, regular updates on the progress of the repairs and maintenance of the poles, and a full review of the poles wiring and equipment.

---

<sup>1</sup> This docket solely addresses the issues related to ACE. The Verizon-related issues that were raised by the Petitioner are addressed in a separate docket; Lee Widman v. Verizon N.J., Inc., BPU Docket No. TC24080612.

On November 15, 2024, ACE filed its answer to the Petition (“Answer”). In its Answer, ACE denied Petitioner’s characterization that the referenced poles were in poor condition. Specifically, ACE indicated that it conducted a field check of the listed poles and found no issues with respect to ACE. Respondent also stated that it appears Petitioner has solely communicated his concerns with Verizon, and ACE’s involvement in this matter is unclear. Therefore, ACE denied that Petitioner is entitled to relief with respect to Respondent and to the extent that the allegations constitute conclusions of law.

On November 22, 2024, the matter was transmitted to the Office of Administrative Law (“OAL”) for hearing as a contested case, where it was assigned to ALJ Hughes.

By correspondence dated February 20, 2025, and February 21, 2025, Petitioner provided additional information about the issues described in the Petition in response to ACE’s discovery requests. On May 30, 2025, ACE filed a motion for summary decision seeking to dispose of Petitioner’s claims in this matter. By correspondence dated June 27, 2025, Petitioner responded to ACE’s motion for summary decision. On July 7, 2025, ACE filed a Reply Brief in further support of its motion for summary decision.

On August 25, 2025, ALJ Hughes issued the Initial Decision in this matter, and as such, the forty-five (45)-day statutory period for the Board to enter a Final Decision was October 9, 2025. On September 25, 2025, the Board issued an Order extending the time to issue a Final Decision to November 24, 2025.<sup>2</sup>

### **PETITIONER FEBRUARY 2025 RESPONSE**

By correspondence dated February 20, 2025, and February 21, 2025, Petitioner provided additional information about the issues described in the Petition. Regarding the alleged issues with the wires, Petitioner stated that Plain Old Telephone Service (“POTS”) wires are disrupting trees located on urban streets and contributing to the formation of heat islands. Petitioner further stated that the wires have a negative impact on property values. With respect to the alleged issues regarding the poles, Petitioner stated that various equipment is in poor condition or broken. Petitioner also alleged that ACE is responsible for resolution of these alleged issues pursuant to N.J.A.C. 14:3-2.3 through N.J.A.C. 14:3-2.8. Specifically, Petitioner stated that: 1) N.J.A.C. 14:3-2.3 sets forth requirements for equipment mounted on utility poles; 2) N.J.A.C. 14:3-2.4 requires utilities to display their names on their structures; 3) N.J.A.C. 14:3-2.5 requires that utilities place identifying marks on their equipment; 4) N.J.A.C. 14:3-2.6 requires utilities to maintain their facilities; 5) N.J.A.C. 14:3-2.7 requires utilities to inspect their facilities and take corrective action where necessary; and 6) N.J.A.C. 14:3-2.8 addresses work by non-utility personnel on or around utility facilities and requires that only utility employees or other qualified persons work on utility equipment when the equipment is in use serving customers.

### **ACE MOTION FOR SUMMARY DECISION**

On May 30, 2025, ACE filed a motion for summary decision seeking to dispose of Petitioner’s claims in this matter.

ACE first argued that it was entitled to summary decision because Petitioner lacked standing to

---

<sup>2</sup> Lee Widman v. Atlantic City Elec. Co., BPU Docket No. EC24080613, OAL Docket No. PUC 16946-2024 N, Order dated September 25, 2025.

bring his claims as he has not sustained an injury. ACE contended that, to establish standing, a Petitioner must have: 1) a “sufficient stake in the outcome of the litigation; 2) genuine adverseness regarding the subject matter of the action; and 3) a substantial likelihood that the plaintiff will suffer harm in the event of an unfavorable decision.” ACE stated that Petitioner failed to meet any of the three (3) elements required to establish standing because he suffered no injury from the alleged conduct and admitted that none of the subject poles are located on his property.

ACE further argued that, even if Petitioner did establish standing, the Petition should be dismissed because Petitioner failed to state a claim upon which relief can be granted and/or because Petitioner did not meet his burden of proof. With respect to Petitioner’s claims that ACE is responsible for the wires and equipment on the poles pursuant to N.J.A.C. 14:3-2.3, ACE stated that this claim fails on multiple fronts. In particular, ACE stated that Petitioner failed to submit any evidence that the wires or equipment are not attached in accordance with standard industry practices required by N.J.A.C. 14:3-2.3(a). ACE further asserted that Petitioner failed to submit any evidence that any change, repair or replacement of any facilities on the pole violated New Jersey Uniform Construction Code, N.J.A.C. 5:23, or standard industry practices as required by N.J.A.C. 14:3-2.3(b). Additionally, ACE argued that Petitioner misread N.J.A.C. 14:3-2.3, as the same does not place responsibility solely on ACE to maintain all wires and equipment on poles.

ACE further argued that Petitioner failed to demonstrate that ACE has violated N.J.A.C. 14:3-2.4, as the same pertains to buildings or structures owned by the utility and not to equipment or wires, nor the removal of poles.

With respect to Petitioner’s request for relief under N.J.A.C. 14:3-2.5, which requires that utilities place identifying markers on their equipment, ACE stated that Petitioner failed to provide any evidence of a violation. Additionally, ACE stated that Petitioner’s own Petition provides the identifying code for each pole, evidencing ACE’s compliance with N.J.A.C. 14:3-2.5.

ACE further argued that Petitioner failed to provide evidence that it failed to comply with N.J.A.C. 14:3-2.6, which requires utilities to maintain plant in such a condition as to enable safe, proper, and adequate service. ACE stated that Petitioner does not complain about electrical wires, but only complains about POTS lines. ACE further stated that Petitioner failed to specify what exact equipment he took issue with and provided no evidence that the poles are in disrepair.

With respect to Petitioner’s argument that it violated N.J.A.C. 14:3-2.7, ACE asserted that Petitioner put forth no evidence that: 1) any equipment interferes with safe, adequate and proper electrical service, or 2) ACE did not inspect its equipment in sufficiently frequent intervals. ACE raised similar arguments with respect to allegations that it violated N.J.A.C. 14:3-2.8.

Finally, ACE argued that even if Petitioner satisfied the burden of proof, ACE was not responsible for repairing telephone wires or equipment, which are the subject of the Petition.

### **PETITIONER OPPOSITION TO ACE MOTION FOR SUMMARY DECISION**

By correspondence dated June 27, 2025, Petitioner stated that although the offending wiring is not located on his property, that should not preclude Petitioner from sustaining harm. Petitioner argued that based upon ACE’s contention, only the municipality could be harmed since they own the property where these poles are located. Petitioner also expressed concerns about aesthetic impacts on communities.

## **ACE REPLY BRIEF**

On July 7, 2025, ACE filed a Reply Brief in further support of its motion for summary decision. In its reply, ACE reiterated the arguments it made in its motion for summary decision and contended that Petitioner's response failed to address any arguments raised in the motion. ACE argued that, because the Petitioner failed to address the arguments raised in its motion, any opposition to the motion has been waived.

## **INITIAL DECISION**

On August 25, 2025, ALJ Hughes issued an Initial Decision in this matter.<sup>3</sup>

Regarding the undisputed findings of fact, ALJ Hughes noted that Petitioner does not reside at or own any of the real property at the addresses/poles that he identified in his Petition.<sup>4</sup> ALJ Hughes also noted that ACE does not own all of the equipment that is attached to the poles identified in the complaint, as the poles in question also include equipment for telecommunications service.<sup>5</sup> While Verizon is repeatedly mentioned in the complaint, ALJ Hughes noted that no party other than ACE has been named in this action.<sup>6</sup> Other than Petitioner's claims that POTS lines disrupt trees, form heat islands, and affect property values, and the photographs attached to the complaint, ALJ Hughes stated that "no other evidence has been provided to support any of these claims or that the equipment in question is in disrepair or malfunctioning."<sup>7</sup>

As stated by ALJ Hughes, N.J.A.C. 1:1-12.5 provides that summary decision should 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."<sup>8</sup> ALJ Hughes further stated that our courts have long held that "if the opposing party offers . . . only facts which are immaterial or of an insubstantial nature, a mere scintilla, 'fanciful frivolous, gauzy or merely suspicious,' he will not be heard to complain if the court grants summary judgment."<sup>9</sup> Further, ALJ Hughes indicated that the "judge's function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial."<sup>10</sup> After review of the moving papers, ALJ Hughes concluded that this matter is appropriate for summary disposition.<sup>11</sup>

With respect to standing, ALJ Hughes noted that "a party must present a sufficient stake in the outcome of the litigation, a real adverseness with respect to the subject matter, and a substantial

---

<sup>3</sup> Lee Widman v. Atlantic City Elec. Co., OAL Docket No. PUC 16946-2024 N, Initial Decision dated August 25, 2025.

<sup>4</sup> Id. at 2.

<sup>5</sup> Id. at 3.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Ibid.

<sup>9</sup> Id. at 4; Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520, 529 (1995) (citing Judson v. Peoples Bank & Tr. Co., 17 N.J. 67, 75 (1954)).

<sup>10</sup> Ibid. (citing Brill, 142 N.J. at 540).

<sup>11</sup> Ibid.

likelihood that the party will suffer harm in the event of an unfavorable decision.”<sup>12</sup> ALJ Hughes stated that Petitioner has failed to demonstrate any of the requisite elements for standing, as “[t]he alleged harms raised in his filings are limited to the specter of ‘urban heat islands’ and unspecified ‘aesthetic impacts’ on the community.”<sup>13</sup> According to ALJ Hughes, these potential harms are “too speculative” and “confer neither a sufficient stake in the outcome of the litigation nor a substantial likelihood of injury in the absence of relief.”<sup>14</sup> ALJ Hughes further noted that the subject utility poles are not located on Petitioner’s property, and no claims have been raised that he receives service from the poles in question.<sup>15</sup> Therefore, ALJ Hughes concluded that the Petitioner lacks standing to proceed in this matter.<sup>16</sup> Noting that this finding alone is sufficient to grant summary decision, for the sake of completeness, ALJ Hughes continued to address the rest of Petitioner’s complaint.

Regarding the regulatory violations alleged by Petitioner with respect to N.J.A.C. 14:3-2.3 through N.J.A.C. 14:3-2.8, ALJ Hughes stated that Petitioner failed to provide any evidence that would sustain a cause of action against ACE.<sup>17</sup> As stated by ALJ Hughes, Petitioner’s “broad allegations of ‘unacceptable’ conditions of certain utility poles” fail to provide any specific facts about the individual subject poles that would render their condition “unacceptable” or “identify any kind of hazard” that may result from the condition of the subject poles.<sup>18</sup>

ALJ Hughes further stated that Petitioner failed to raise or provide any statute, regulation, or case law that would support a basis for the requested relief.<sup>19</sup> ALJ Hughes also noted that Petitioner only named ACE as an adverse party in this action and that, at minimum, Verizon, the alleged owner of the POTS lines that form the basis of the complaint, and the municipalities of Ventnor City and Atlantic City, “the possessors of a cause of action regarding the condition of the subject utility poles pursuant to N.J.A.C. 14:3-2.3(c),” would need to be “joined to this action in order for just adjudication to occur.”<sup>20</sup> However, ALJ Hughes stated that it does not appear necessary or appropriate to order the joinder of additional parties to this matter given that ACE’s motion is for summary decision and not dismissal, and given the other deficiencies in Petitioner’s filing.<sup>21</sup>

Accordingly, ALJ Hughes granted ACE’s motion for summary decision.

---

<sup>12</sup> Id. at 5; N.J. St. Chamber of Com. v. N.J. Election Law Enf’t Comm’n, 82 N.J. 57, 67–69 (1980); see also Gerard Felix v. Pub. Serv. Elec. and Gas Co., BPU Docket No. EC12100929U; OAL Docket No. PUC 01332-13, Order dated June 21, 2013 (adopting the Initial Decision).

<sup>13</sup> Id. at 6.

<sup>14</sup> Ibid.

<sup>15</sup> Ibid.

<sup>16</sup> Ibid.

<sup>17</sup> Id. at 10.

<sup>18</sup> Ibid.

<sup>19</sup> Id. at 11-12.

<sup>20</sup> Id. at 12.

<sup>21</sup> Id. at 13.

## **DISCUSSION AND FINDINGS**

Following review of the record in this matter, including the Petition, ACE's Answer, Petitioner's February 2025 response, ACE's motion for summary decision, Petitioner's June 27, 2025 response, ACE's reply brief, and the Initial Decision, the Board agrees with ALJ Hughes' findings set forth in the Initial Decision, as discussed below.

As noted in the Initial Decision, the legal standard for granting a summary decision before the Board is governed by N.J.A.C. 1:1-12.5, which provides that 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.<sup>22</sup> To prevail on a motion for summary decision, an adverse party must by responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding.<sup>23</sup> In reviewing a motion for summary decision, the Board must "consider whether the evidential materials presented, when viewed in the light most favorable to the non-moving party in consideration of the applicable evidentiary standard, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party."<sup>24</sup>

ACE's Motion for Summary Decision sought to dispose of Petitioner's claims on the basis that: 1) Petitioner has no standing to bring the claims; 2) even if Petitioner has standing, he failed to meet his burden of proof or alternatively state any claims upon which relief could be granted; and 3) that ACE is not the proper party for Petitioner to seek relief.

With respect to standing, a party must present a sufficient stake in the outcome of the litigation, a real adverseness with respect to the subject matter, and a substantial likelihood that the party will suffer harm in the event of an unfavorable decision.<sup>25</sup>

The record in this matter establishes that Petitioner did not dispute that the utility equipment identified in the Petition is not located on Petitioner's property. While Petitioner continued to allege that the location of the equipment should not preclude him from sustaining harm, Petitioner has not provided evidence to support his claims that the equipment in question is in disrepair or is otherwise causing harm to Petitioner. Therefore, the Board **HEREBY AFFIRMS** ALJ Hughes' finding that Petitioner lacks standing to proceed in this matter.

Additionally, the record established that the Petitioner failed to meet his burden of proof with respect to any of the regulatory violations cited in the Petition. Petitioner made broad allegations of unacceptable conditions but did not identify any specific issues with the poles. Additionally, Petitioner cited to many regulatory violations but failed to establish how ACE was in fact in violation of the same and how the same entitled Petitioner to any relief.

Pursuant to N.J.A.C. 1:1-12.5(b), when a motion for summary decision is made and supported, an adverse party in order to prevail must by responding affidavit set forth specific facts showing

---

<sup>22</sup> N.J.A.C. 1:1-12.5(b).

<sup>23</sup> Ibid.

<sup>24</sup> Contini v. Bd. of Educ. of Newark, 286 N.J. Super. 106, 122 (App. Div. 1995) (citing Brill, 142 N.J. at 523).

<sup>25</sup> N.J. St. Chamber of Com., 82 N.J. at 67-69.

that there is a genuine issue which can only be determined in an evidentiary proceeding.

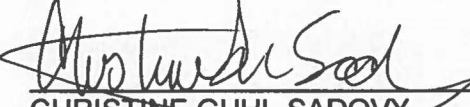
In Petitioner's June 27, 2025 response to ACE's motion for summary decision, which contained no supporting affidavit, Petitioner did not raise any issues of a material nature which would require an evidentiary proceeding or substantively respond to any of the arguments raised in ACE's motion. Accordingly, the Board **HEREBY AFFIRMS** ALJ Hughes' finding that this matter is appropriate for summary disposition.


As such, the Board **HEREBY FINDS** the findings of fact and conclusions of law set forth by ALJ Hughes to be reasonable and supported by law and **HEREBY ACCEPTS** those findings. Accordingly, pursuant to N.J.S.A. 52:14B-10, the Board **HEREBY ADOPTS** the Initial Decision in its entirety and **ORDERS** that ACE's motion for summary decision be **GRANTED**.

This Order shall be effective November 28, 2025.

DATED: November 21, 2025

BOARD OF PUBLIC UTILITIES  
BY:

  
CHRISTINE GUHL-SADOVY  
PRESIDENT

  
DR. ZENON CHRISTODOULOU  
COMMISSIONER

  
MICHAEL BANGE  
COMMISSIONER

ATTEST:

  
SHERRI L. LEWIS  
BOARD SECRETARY

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

LEE WIDMAN, PETITIONER V. ATLANTIC CITY ELECTRIC COMPANY, RESPONDENT

BPU DOCKET NO. EC24080613  
OAL DOCKET NO. PUC 16946-2024 N

SERVICE LIST

**Petitioner**

Lee Widman  
[leewidman@gmail.com](mailto:leewidman@gmail.com)

**ACE**

500 North Wakefield Drive – 92DC42  
Post Office Box 6066  
Newark, DE 19702

Kenneth L. Wan  
Assistant General Counsel  
[kenneth.wan@exeloncorp.com](mailto:kenneth.wan@exeloncorp.com)

**New Jersey Division of Law**

NJ Department of Law and Public Safety  
Richard J. Hughes Justice Complex  
Public Utilities Section  
25 Market Street, P.O. Box 112  
Trenton, NJ 08625

Pamela Owen, ASC, DAG  
[pamela.owen@law.njoag.gov](mailto:pamela.owen@law.njoag.gov)

Meliha Arnautovic, DAG  
[meliha.arnautovic@law.njoag.gov](mailto:meliha.arnautovic@law.njoag.gov)

Matko Ilic, DAG  
[matko.ilic@law.njoag.gov](mailto:matko.ilic@law.njoag.gov)

**New Jersey Board of Public Utilities**

44 South Clinton Avenue, 1<sup>st</sup> Floor  
Trenton, NJ 08625-0350

Sherri Lewis, Board Secretary  
[board.secretary@bpu.nj.gov](mailto:board.secretary@bpu.nj.gov)

Stacy Peterson, Deputy Executive Director  
[stacy.peterson@bpu.nj.gov](mailto:stacy.peterson@bpu.nj.gov)

**Counsel's Office**

Ava-Marie Madeam, General Counsel  
[avamarie.madeam@bpu.nj.gov](mailto:avamarie.madeam@bpu.nj.gov)

Colin Emerle, Deputy General Counsel  
[colin.emerle@bpu.nj.gov](mailto:colin.emerle@bpu.nj.gov)

Elsbeth Faiman Hans, Deputy General Counsel  
[elsbeth.hans@bpu.nj.gov](mailto:elsbeth.hans@bpu.nj.gov)

Kit Burnette  
[kit.burnette@bpu.nj.gov](mailto:kit.burnette@bpu.nj.gov)

**Division of Engineering**

Dean Taklif, Director  
[dean.taklif@bpu.nj.gov](mailto:dean.taklif@bpu.nj.gov)

John Masiello, Deputy Director  
[john.masiello@bpu.nj.gov](mailto:john.masiello@bpu.nj.gov)

David Brown  
[david.brown@bpu.nj.gov](mailto:david.brown@bpu.nj.gov)

Diana Rosario  
[diana.rosario@bpu.nj.gov](mailto:diana.rosario@bpu.nj.gov)





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

**INITIAL DECISION**

**SUMMARY DECISION**

OAL DKT. NO. PUC 16946-24

AGENCY DKT. NO. EC24080613

**LEE WIDMAN,**

Petitioner,

v.

**ATLANTIC CITY ELECTRIC COMPANY,**

Respondent.

---

**Lee Widman**, petitioner, appearing pro se

**Kenneth L. Wan**, Esq., for respondent (Attorney)

**Meliha Arnautovic**, Deputy Attorney General, for Staff of the Board of Public  
Utilities, (Matthew J. Platkin, Attorney General of New Jersey, attorney)

Record Closed: July 11, 2025

Decision: August 25, 2025

BEFORE **TAMA B. HUGHES**, ALJ:

**STATEMENT OF CASE**

Lee Widman (“Widman” or “petitioner”) seeks a formal hearing regarding claims of poor conditions of utility poles, wiring and equipment located within Ventnor City and

Atlantic City as against Atlantic City Electric Company (“ACE” or “respondent”). Petitioner cites multiple poles located in both municipalities. The relief requested is: a determination of who the responsible party is for the maintenance and repair of the poles in question; an immediate inspection of the poles by the relevant authorities to assess their condition and identify necessary repairs; a clear plan of action from Verizon, Atlantic City Electric, and any other responsible parties to address the issues; regular updates on the progress of the repairs and maintenance of the poles; a full review of all poles’ wiring and equipment in all of Ventnor; and use of those results to determine if action is needed in Ventnor and around all of New Jersey.

### **PROCEDURAL HISTORY**

On August 17, 2024, petitioner filed a petition for a formal hearing with the Board of Public Utilities (BPU) as respondent. On November 15, 2024, the respondent filed their answer to the complaint. On November 22, 2024, the matter was transmitted to the Office of Administrative Law, where it was filed on November 25, 2025.

On January 8, 2025, the matter was assigned to Tama B. Hughes, ALJ. An initial call took place on February 3, 2025, at which time the parties requested additional time to complete the discovery process. A status call was held on April 30, 2025, at which time the respondent requested a briefing schedule for the filing of a Summary Decision Motion. Thereafter, on May 30, 2025, respondent filed a Motion for Summary Decision. Petitioner’s opposition was received on June 27, 2025, and respondent’s reply was received on July 11, 2025, at which time the record closed.

### **UNDISPUTED FINDINGS OF FACT**

Petitioner resides at xxxx Boardwalk, in Ventnor City. He does not reside at or own any of the real property at the addresses/poles that he identified in his complaint, which were:

xx S Baton Rouge Avenue, Ventnor City – Pole A8032  
xx N. Jackson Avenue, Atlantic City – Pole A8042  
xx N. Vassar Square, Ventnor City – Pole A8034

x S. Vassar Square, Ventnor City – Pole A7842  
xx S. Vassar Square, Ventnor City – Pole A8294  
xx S. Baton Rouge Avenue, Ventnor City – Pole A8287  
xxxx Ventnor Avenue, Ventnor City – Pole A8032  
xxx N. New Haven, Ventnor City – Pole A846  
xxxx Monmouth Avenue, Ventnor City – Pole A1333

[See Aug. 17, 2024, Petition.]

ACE does not own all of the equipment that is attached to the poles identified in petitioner’s complaint. Additionally, not all of the equipment attached to the poles is for the distribution of electricity. The poles in question also include equipment for telecommunication, which is not owned, operated or maintained by ACE. (Resp’t’s Br., Exh. C.)

Petitioners’ complaint focuses primarily on the telecommunication wires, more specifically, the POTS (Plain Old Telephone Service) lines. While Verizon is repeatedly mentioned in the complaint along with “other relevant” unnamed parties, other than ACE, no other entity has been named in this action. (Resp’t’s Br., Exh. B at 3; See Aug. 17, 2024, Petition.)

It is undisputed that – other than petitioner’s claims that the POTS lines disrupt trees, form heat islands, and affect property values, and the photographs attached to the complaint – no other evidence has been provided to support any of these claims or that the equipment in question is in disrepair or malfunctioning. (Resp’t’s Br., Exh. B. at 3–5.)

### **LEGAL ARGUMENT AND CONCLUSION**

N.J.A.C. 1:1-12.5 provides that summary decision should 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. When a motion for summary decision is made and supported, an adverse party, in order to prevail, must, by a responding affidavit, set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding. Such response must be filed within twenty days of service of the

motion.” Our regulation mirrors R. 4:46-2(c), which provides that “the judgment or order sought shall be rendered if the pleadings, depositions, answers to interrogatories and admissions on file, 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 a judgment or order as a matter of law.”

A determination of whether a genuine issue of material fact exists that precludes summary decision requires the judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational fact finder to resolve the allegedly disputed issue in favor of the non-moving party. Our courts have long held that “if the opposing party offers . . . only facts which are immaterial or of an insubstantial nature, a mere scintilla, ‘fanciful frivolous, gauzy or merely suspicious,’ he will not be heard to complain if the court grants summary judgment.” Brill v. Guardian Life Ins. Co. of Am., 142 N.J. 520 (1995) (citing Judson v. Peoples Bank and Trust Co., 17 N.J. 67, 75 (1954)).

The “judge’s function is not himself [or herself] to weigh the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.” Brill at 540 (citing Anderson v. Liberty Lobby, 477 U.S. 242, 249, 106 S. Ct. 2505, 2511, 91 L. Ed.2d 202, 212 (1986)). When the evidence “is so one-sided that one party must prevail as a matter of law,” the trial court should not hesitate to grant summary judgment. Liberty Lobby at 252.

After review of the moving papers, I **CONCLUDE** that for the reasons set forth more fully below, under the Brill standards, this matter is appropriate for summary disposition.

In support of its motion for summary decision, respondent argues on several fronts. First, petitioner lacks standing to bring his claim. Second, even if petitioner had standing, his petition should be dismissed because he failed to state a claim upon which relief could be granted and/or because he did not meet his burden of proof. Third, even if petitioner satisfied his burden of proof, ACE is not the party responsible for repairing the telephone wires complained of.

Petitioner contends that respondent is in violation of:

N.J.A.C. 14:3-2.3 – Equipment on utility poles

N.J.A.C. 14:3-2.4 – Identification of buildings and structures

N.J.A.C. 14:3-2.5 – Identification of utility equipment

N.J.A.C. 14:3-2.6 – Maintenance of plant, equipment and facilities

N.J.A.C. 14:3-2.7 – Inspection of property

N.J.A.C. 14:3-2.8 – Construction work near utility facilities

In his response to the motion, petitioner states, among other things:

NJBPU<sup>1</sup> needs to modernize the mandates to align with broader state climate goals and incorporate equity and environmental justice considerations, which can include aesthetic impacts on communities. The NJBPU needs to update and work on rules to fix this from happening and the only way is to not close this case with a summary judgment and allow the sunlight of a public hearing.

As for Atlantic City Electric.

The offending wiring is not on my building property but that should not preclude me from sustaining harm. Also the way you are framing it only the municipality could complain since that is the property these poles are on, the governor's strip.

[See June 27, 2025, Opposition Email.]

### Standing

To possess standing in a case, “a party must present a sufficient stake in the outcome of the litigation, a real adverseness with respect to the subject matter, and a substantial likelihood that the party will suffer harm in the event of an unfavorable decision.” New Jersey State Chamber of Com. v. New Jersey Election Law Enf’t Comm’n, 82 N.J. 57, 67–69 (1980); see also Felix v. Pub. Serv. Elec. and Gas Co., 2013 N.J. PUC LEXIS 135, 6 (2013). “The mere assertion of a public interest . . . is not sufficient to

---

<sup>1</sup> New Jersey Board of Public Utilities.

acquire standing”; instead, a “real and direct interest” is required. EnviroFinance Grp., LLC v. Env’t Barrier Co., LLC, 440 N.J. Super. 325 (2015), citing In re Camden Cnty., 170 N.J. 439, 447–448 (2002).

Here, petitioner has failed to demonstrate any of the requisite elements for standing. The alleged harms raised in his filings are limited to the specter of “urban heat islands” and unspecified “aesthetic impacts” on the community. Without more, these potential harms are simply too speculative and, as pled, confer neither a sufficient stake in the outcome of the litigation nor a substantial likelihood of injury in the absence of relief. On this last point, the subject utility poles are not located on petitioner’s property, nor have any claims been raised that he receives service from the poles in question. The poles appear to be located either a block or two away from his residential block or across the city. While geographically close to Ventnor City, one of the listed poles is located in Atlantic City – a completely different municipality.

Given the lack of any real and/or direct personal interest, coupled with a vague assertion of public harm, not personal injury, I **CONCLUDE** that petitioner lacks standing to proceed in this matter.

While this finding alone is sufficient to grant summary decision, for the sake of completeness, the rest of petitioner’s complaint will be addressed.

### Regulatory Violations

Notably, no regulatory violations were cited in the August 17, 2024, petition. However, in response to the interrogatories propounded upon him, petitioner raised the following several regulatory violations.

In response to Question #9 – “State why you believe ACE is responsible for the issues alleged in the petition,” petitioner responded that “the wires and equipment are your responsibility.” See NJ Admin Code 14:3-2.3. In a subsequent email to the respondent, he expanded upon his answer to Question #9 by stating:

N.J.A.C. 14:3-2.3 sets forth requirements for equipment mounted on utility poles. N.J.A.C. 14:3-2.4 requires utilities to display their names on their structures. N.J.A.C. 14:3-2.5 requires that utilities place identifying marks on their equipment. N.J.A.C. 14:3-2.6 requires utilities to maintain their facilities. N.J.A.C. 14:3-2.7 requires utilities to inspect their facilities and take corrective action where necessary. N.J.A.C. 14:3-2.8 addresses work by non-utility personnel on or around utility facilities and requires that only utility employees or other qualified persons work on utility equipment when the equipment is in use serving customers.

[Resp't's Br., Exh. B at 6.]

The regulations relied upon by the petitioner state in relevant part:

N.J.A.C. 14:3-2.3 – Equipment on utility poles

- (a) Each utility owning poles shall ensure that any equipment or facilities placed on the poles, including any wire serving a fire alarm, electric distribution or transmission system, light rail, telecommunications, or cable television system; or any other facilities, private or otherwise, are located and attached in accordance with standard industry practice.
- (b) When existing poles or facilities, and/or equipment placed on the pole or facilities, is repaired, replaced or changed, the utility shall ensure that the affected pole or facilities, and all equipment or facilities then in place, comply with the New Jersey Uniform Construction Code, N.J.A.C. 5:23 and with standard industry practice.
- (c) In the event of disagreement between a utility and a municipality or other utility as to the necessity of repair, replacement or modification of a utility pole, facilities or attached equipment, the matter shall be submitted to the Board for determination.

N.J.A.C. 14:3-2.4 – Identification of buildings and structures

Each group of buildings or structures shall be provided with a sign displaying the name of the operating utility. This rule shall not apply to buildings or structures located on railroad rights-of-way.

N.J.A.C. 14:3-2.5 – Identification of utility equipment

- (a) This section shall apply to each utility that owns, solely or jointly, a fire hydrant, or a pole or other structure that supports wires or cables that run along or over a public roadway. The utility shall mark each such hydrant, pole, and structure as follows:
  - 1. The utility shall mark the equipment with the initials of its name, abbreviation of its name, corporate symbol or other distinguishing mark or code by which ownership may be readily and definitely ascertained;
  - 2. The utility shall mark the equipment with a number or symbol, or both, by which the location of each piece of equipment may be determined on utility office records;
  - 3. The markings may be made with paint, brand or with a soft metal plate; and
  - 4. The marks shall be of such size and so spaced and maintained as to be easily read.
- (b) Compliance with 49 CFR 192.707 by a gas utility constitutes compliance with the marking requirements of this section.
- (c) In the case of two or more utilities jointly owning any structures or equipment, the distinguishing mark or number of each utility shall be placed on such structures and equipment, but not necessarily more than one number shall be placed thereon. The numbering may be in accordance with a code which will indicate joint ownership.
- (d) In the case of structures erected upon private rights-of-way or on public highways of such character that the construction may be deemed to be a through or trunk line, such mark need be affixed only to every fifth structure; provided, however, that each and every structure situated within the limits of any built-up community shall be marked, except as otherwise provided in (c) above. This subsection shall not be deemed to require the marking of railroad structures located on railroad rights-of-way.



- (e) The requirements in this section shall apply to all existing and future structures erected and to all changes in ownership and name.
- (f) Each utility shall have available to Board staff a statement showing:
  - 1. The initials, abbreviations of name, corporate symbol or distinguishing mark;
  - 2. The means of marking employed; and
  - 3. The method followed in numbering structures within the limits of cities, towns or other built-up communities, and upon through or trunk lines.
- (g) Each utility shall make reasonable efforts to prevent the placing upon its pole of any marks, signs, placards, bulletins, notices, or any other foreign object other than as provided in N.J.S.A. 27:5-9, Requirements for a permit, and as prescribed in this chapter.
- (h) In the case of structures carrying or supporting overhead wires, where there is a double line of such structures, one on each side of the track, such marks need be affixed to but one line of such structures.

N.J.A.C. 14:3-2.6 – Maintenance of plant, equipment and facilities

Every utility shall have and maintain its entire plant in such condition as will enable it to furnish safe, proper and adequate service.

N.J.A.C. 14:3-2.7 – Inspection of property

- (a) Each utility shall inspect its equipment and facilities at sufficiently frequent intervals to disclose conditions, if existing, which would interfere with safe, adequate, and proper service, and shall promptly take corrective action where conditions disclosed by such inspection so warrant.
- (b) Whenever any equipment is removed from the system for any reason, it shall be inspected as to safety and serviceability before being reinstalled in the same or other locations.

- (c) Each pole, post, tower or other structure shall be inspected by the utility owning or using it with sufficient frequency and comprehensiveness to disclose the necessity for replacement or repair in order to ensure safe, adequate and proper service.

N.J.A.C. 14:3-2.8 – Construction work near utility facilities

- (a) A utility shall endeavor, to the extent feasible and practicable, to obtain prompt notice and information concerning commencement and progress of construction work in close proximity to its facilities through its qualified employees, or through contractors, government agencies, or others who may be permitted to perform construction work within the confines of its territory.
- (b) All utilities shall comply fully with the Board's rules implementing the Underground Facility Protection Act at N.J.A.C. 14:2, also known as the "One-Call rules."
- (c) Nothing in this section shall affect the duties and obligations of persons working in the vicinity of high voltage lines as set forth in N.J.S.A. 34:6-47.
- (d) Each utility shall ensure that only utility employees or other qualified persons perform work on its equipment and facilities, including poles, while these are in use providing service to customers.

Other than citing the regulations and claiming that respondent was in violation of the same, petitioner has failed to provide anything additional – expert report, data, violation notices, etc. – that would sustain a cause of action against the respondent. His broad allegations of the "unacceptable" conditions of certain utility poles, which purportedly "pose a significant hazard," are just that – broad allegations that fail to provide any specific facts about the individual subject poles that would render their condition "unacceptable"; identify any kind of hazard with specificity that may result from the condition of the subject poles; or establish any connection between himself and the poles in question for the purposes of identifying harm. (See August 17, 2024, Petition.)

For instance: what poles and what equipment are not properly located or attached in accordance with standard industry practice or out of compliance with the New Jersey

Uniform Code (N.J.A.C. 14:3-2.3); what buildings or structures lack proper signage (N.J.A.C. 14:3-2.4); what owned equipment did ACE fail to identify (N.J.A.C. 14:3-2.5); what service does petitioner receive from ACE or what service does petitioner receive that is out of compliance (N.J.A.C. 14:3-2.6); what pole did ACE fail to inspect or that such failure on their part has interfered with safe, adequate and proper service (N.J.A.C. 14:3-2.7); what construction work was done and/or what work was done that was not in compliance with the requirements of the regulation. (N.J.A.C. 14.3-2.8.)

Even if petitioner's interrogatory responses could be considered in determining the sustainability of petitioner's claims, they too were similarly deficient. (Resp't's Br., Exh. B.) As an example, in response to Question Six, which asked what the issue was with regard to the wires that form the basis of his complaint, petitioner responded:

Old Pots Lines are disrupting urban street trees, contributing to the formation of heat islands. The wiring is so bad that it is negatively impacting property values. The process of getting any action on the wiring is just horrible due to pole ownership and so many vendors have equipment on them.

[Resp't's Br., Exh. B at 3.]

POTS lines are telecommunication lines, not electric lines, and respondent is not responsible for telecommunication lines or equipment that are affixed to the poles in question. Additionally, no evidence, certification, documentation or otherwise, was presented that the POTS Lines: were disrupting urban street trees; were contributing to the formation of heat islands; had bad wiring; or were affecting property values.

As stated above, petitioner has failed to state with specificity what equipment is being complained of or identify specific issues with the equipment in question. Instead, he makes vague and general comments on the condition of unspecified equipment that may or may not even belong to the respondent.

Furthermore, petitioner fails to raise or provide any statutory, regulatory, or case law that would support a basis for the requested relief, which is:

1. A formal hearing to address the condition of the utility poles and determine the responsible parties for their maintenance and repair.
2. An immediate inspection of the poles by the relevant authorities to assess their condition and identify necessary repairs.
3. A clear plan of action from Verizon, ACE, and any other responsible parties to address the issues with the poles and ensure their safety.
4. Regular updates on the progress of the repairs and maintenance of the poles.
5. A full review of all poles wiring and equipment in all of Ventnor and use those results to determine if action is needed in Ventnor and around all of New Jersey.

Even assuming arguendo that petitioner met his burden of proof that the respondent was in violation of any one of the enumerated regulations, the relief sought is either not contemplated under the regulations or is beyond the scope of this tribunal's authority.

#### Parties to the Action

Joinder of necessary parties is recognized by the Rules of Court, R. 4:28-1, and where the Uniform Administrative Procedure Rules, N.J.A.C. 1:1-1 et seq., do not specifically address a matter relating to procedure, reference may be made to the Rules of Court for guidance. N.J.A.C. 1:1-3(a). R. 4:28-1(c) states:

A pleading asserting a claim for relief shall state the names, if known to the pleader, of any persons [needed for just adjudication] who are not joined and the reason why they are omitted.

Petitioner names only the respondent as an adverse party in this action. At a minimum, Verizon, the ostensible owner of the POTS lines that form the only specified basis of the complaint, and the municipalities of Ventnor City and Atlantic City – the possessors of a cause of action regarding the condition of the subject utility poles pursuant to N.J.A.C. 14:3-2.3(c) – would need to be joined to this action in order for just adjudication to occur.

The complaint itself appears to functionally acknowledge that the respondent is not the proper party, or at least not the only proper party, to this action. Notably, petitioner refers to communications with “Verizon and other relevant parties” but does not allege any specific communications or complaints with the respondent. In fact, respondent is only mentioned once under the heading of “Relief Requested” at #3: “A clear plan of action from Verizon, ACE, and any other responsible parties to address the issues with the poles and ensure their safety.” (See August 17, 2024, Petition.)

Based on the facts that: (1) the Petition mentions Verizon frequently and ACE only once; and (2) the only identifiable specific complaint raised by the petitioner relates to telecommunication lines and not electrical lines, it is fundamentally unclear why the respondent is the only named party in this action.

Pursuant to R. 4:30, “[m]isjoinder of parties is not ground for dismissal of an action.” Instead, under R. 4:28-1(a), if a necessary party has not been joined, “the court shall order that the person be made a party.” Regarding misjoinder or nonjoinder, the court may only “determine whether it is appropriate for the action to proceed among the parties before it, or should be dismissed” if an identified necessary party “cannot be served with process.”

However, given that the instant motion is for summary decision and not dismissal and given the other fatal deficiencies in petitioner’s filing as described herein, it does not appear necessary or appropriate to order the joinder of additional parties to this matter. Instead, petitioner’s failure to comply with the requirements of R. 4:28-1(c) is informative but not dispositive in the consideration of this application.

For all of the reasons set forth above, I **CONCLUDE** that respondent’s Motion for Summary Decision should be **GRANTED**.

### **ORDER**

Based upon the foregoing, it is hereby **ORDERED** that Atlantic City Electric Company's Motion for Summary Decision is **GRANTED**.

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.

August 25, 2025

DATE



TAMA B. HUGHES, ALJ

Date Received at Agency:

August 25, 2025

Date Mailed to Parties:

\_\_\_\_\_

TBH/dc/gd

## **APPENDIX**

### **Exhibits**

#### **For petitioner**

- Opposition to Respondent's Motion for Summary Decision

#### **For respondent**

- Respondent's Motion for Summary Decision and Reply to Opposition