

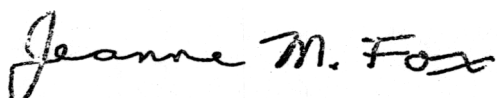
Based on the record, ALJ Moss concluded that as Petitioner had failed to meet his burden of proof and that no cause of action exists, the petition in this matter should be dismissed.

After review of the record, the Board **HEREBY FINDS** that the findings of fact and conclusions of law set out by ALJ Moss in her Initial Decision are reasonable and appropriate. Accordingly, the Board **HEREBY ADOPTS** the Initial Decision in its entirety as if fully set forth herein. The petition in this matter is **HEREBY DISMISSED**.

DATED: 2/10/11

BOARD OF PUBLIC UTILITIES
BY:


LEE A. SOLOMON
PRESIDENT


JEANNE M. FOX
COMMISSIONER

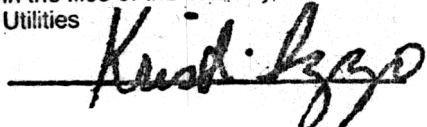

JOSEPH L. FIORDALISO
COMMISSIONER


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



MAXWELL P. CLEMMONS

V.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

BPU DOCKET NO. EC09100851U

OAL DOCKET NO. PUC3267-10

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. PUC 03267-10

AGENCY DKT NO. EC09100851U

MAXWELL P. CLEMMONS

Petitioner,

v.

PUBLIC SERVICE ELECTRIC AND GAS

COMPANY,

Respondent.

Keith O. D. Moses, Esq appearing on behalf of petitioner

Felix Khalatmikov, Esq. appearing on behalf of respondent

Record Closed: October 27, 2010

Decided: November 22, 2010

BEFORE **KIMBERLY A. MOSS, ALJ:**

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

On March 23, 2010, this matter was transmitted to the Office of Administrative Law (OAL) for hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14f 1 TO-13. A telephone prehearing was conducted on May 20, 2010 at which time a hearing was scheduled for July 26, 2010. At that hearing, petitioner failed to appear.

Petitioner's counsel appeared late and informed the Court that he believed petitioner had Alzheimer's and requested an adjournment in order for a guardian to be appointed for the petitioner.

The matter was rescheduled for September 20, 2010, during which time petitioner and petitioner's counsel failed to appear. Petitioner's counsel called within twenty-four hours and stated that he had been ill. A status conference was conducted on September 22, 2010 wherein petitioner's counsel advised that petitioner's family did not feel he needed a guardian and did not want to proceed with a guardian's appearance. He also stated that petitioner was living in Brooklyn at that time.

A Preemptory hearing date was scheduled for October 27, 2010 at 9:30a.m. Petitioner failed to appear. Petitioner's counsel appeared over forty-five minutes late to advise that petitioner is very ill to the point of being demented. Petitioner's counsel requested the option to withdraw the petition. The undersigned requested that petitioner's counsel send a letter indicating same. To date, the undersigned has not received such letter.

Therefore, having considered the testimony, the documents presented and the argument of counsel, as well as applying the standard to be applied in such cases, I **CONCLUDE** that no evidence was submitted that respondent overstated the amount due under account # [REDACTED]. Petitioner failed to meet his burden of proof. further **CONCLUDE** that no cause of action exists. Accordingly, based upon all of the foregoing, and for the reasons placed on the record on October 27, 2010, this matter is not longer a contested case before the OAL.

It is therefore **ORDERED** that the petition in this matter be and is hereby **DISMISSED**.

hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

This recommended decision may be adopted, modified or rejected by **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.

November 22, 2010



DATE

KIMBERLY A. MOSS, ALJ

Date Received at Agency:

November 22, 2010

Date Mailed to Parties:

ljb