



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350  
[www.nj.gov/bpu/](http://www.nj.gov/bpu/)

CUSTOMER ASSISTANCE

Claudette Johnson,  
Petitioner

v.

Public Service Electric and Gas Company,  
Respondent

) ORDER ADOPTING INITIAL  
) DECISION FOR DISMISSAL

)  
) BPU Docket No. EC11120851U  
) OAL Docket No. PUC 00182-12

**Parties of Record:**

**Claudette Johnson**, Petitioner, appearing *pro se*

**Mally Becker**, Esq., appearing for Respondent, Public Service Electric and Gas Company

**BY THE BOARD:**

On December 2, 2011, Claudette Johnson ("Petitioner") filed a petition with the Board of Public Utilities ("Board") claiming her personal and business electric accounts were incorrectly billed by Public Service Electric and Gas Company (PSE&G) ("Respondent"). She further claimed that PSE&G double billed her account and was unwilling to correct the problem. Ms. Johnson also contended that PSE&G disconnected her service causing the loss of \$300.00 worth of groceries.

PSE&G, in its answer dated January 3, 2012, denied the allegations that Ms. Johnson was incorrectly billed. PSE&G contended that Ms. Johnson's services were supplied and billed in accordance with terms and conditions and rate schedules set forth in its Board approved Tariff. PSE&G requested that the relief sought by Ms. Johnson be denied on the basis that she failed to set forth a claim upon which relief may be granted.

After receipt of Respondent's answer, the Board transmitted this matter to the Office of Administrative Law ("OAL") for hearing as a contested matter pursuant to N.J.S.A. 52:14B-1 to 15 and N.J.S.A. 52:14F-1 to 13. This case was assigned to Administrative Law Judge ("ALJ") Robert Bingham II.

A telephone prehearing conference was held on April 3, 2012, and hearing dates were determined. By Notice of Hearing dated April 4, 2012, the OAL notified the parties that a hearing was scheduled for July 19, 2012 and August 2, 2012, at the OAL in Trenton. Also, by Letter Order dated May 2, 2012, the prehearing schedule and the above hearing dates were sent to the parties. The July 19, 2012 hearing was adjourned because Petitioner notified counsel for Respondent that she was unable to attend on July 19, 2012, although she had made no such request or disclosure during the July 12, 2012 telephone prehearing conference.

On the second hearing date, August 2, 2012, Respondent appeared before the ALJ, but Petitioner failed to appear and provided no explanation for her nonappearance. Therefore, by Initial Decision issued on August 6, 2012, ALJ Bingham dismissed Petitioner's case.

### **DISCUSSION AND FINDINGS**

ALJ Bingham relied on the holding in Henderson v. Jersey Central Power and Light Company, Dkt. No. PUC 2470-10, Initial Decision (January 5, 2011) <<http://lawlibrary.rutgers.edu/new-jersey-administrative-decisions-0>> (citations omitted). In Henderson, Petitioner failed to appear by phone for a status conference, and when the ALJ sent Petitioner a letter, the letter was returned as undeliverable. The ALJ cited cases establishing that, absent exigent circumstances, a petitioner's failure to prosecute a matter should result in its dismissal. ALJ Bingham's reliance on Henderson was appropriate in this circumstance because Petitioner did not communicate with the OAL ahead of time nor did she communicate with counsel for PSE&G that she would not be appearing for the August 2, 2012 hearing date. She was clearly aware of the date because the notice for the July 19, 2012 and August 2, 2012 hearing dates were in the same Letter Order, and she was aware of the July 19, 2012 date since she notified the Respondent that she would not be available for that date. More importantly, ALJ Bingham gave Petitioner a 24-hour window following the August 2, 2012 scheduled hearing, to provide an explanation for her nonappearance, as provided for in N.J.A.C. 1:1-14.4(a). However, Petitioner failed to contact anyone at the OAL to give an explanation for her non-appearance.

It is important to note that N.J.A.C. 1:1-14.4(a) says "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." Here, appropriate notice was provided, Petitioner failed to appear, and ALJ Bingham held the matter for one day before taking action. The ALJ concluded that Petitioner showed no exigent circumstances for her absence, much less any explanation whatsoever regarding her failure to appear. The other provisions of N.J.A.C. 1:1-14.4 do not apply here because the Petitioner provided no explanation and notice to ALJ Bingham or Respondent.

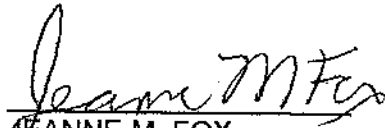
After review of the record, the Board **HEREBY FINDS** that the findings of fact and conclusions of law, as set forth in the Initial Decision of ALJ Bingham, are supported by sufficient, competent, and credible evidence. Accordingly, the Board **HEREBY ADOPTS** the Initial


Decision, a copy of which is attached hereto and made a part hereof, in its entirety without modification. Therefore, the petition in this matter is HEREBY DISMISSED.

DATED: 9/13/12

BOARD OF PUBLIC UTILITIES  
BY:

  
ROBERT M. HANNA  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

  
JOSEPH L. FIORDALISO  
COMMISSIONER

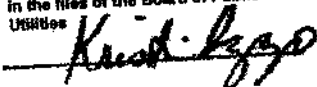
  
NICHOLAS ASSELTA  
COMMISSIONER

  
MARY-ANNA HOLDEN  
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



CLAUDETTE JOHNSON

V.

PUBLIC SERVICE ELECTRIC AND GAS CO.

BPU DOCKET NO. EC 11120851U  
OAL DOCKET NO. PUC 00182-12

SERVICE LIST

Claudette Johnson  
P.O. Box 1434  
Somerset, New Jersey 08875-1434

Mally Becker, Esq.  
PSEG Services Corp.  
80 Park Plaza  
Newark, New Jersey 07102-4194

Eric Hartsfield, Director  
Julie Ford-Williams  
Division of Customer Assistance  
Board of Public Utilities  
44 South Clinton Avenue, 9<sup>th</sup> Floor  
Post Office Box 350  
Trenton, New Jersey 08625-0350

Jennifer S. Hsia, DAG  
Division of Law  
124 Halsey Street  
P.O. Box 45029  
Newark, New Jersey 07101

filed  
8/10/12

RECEIVED  
2012 AUG 10 PM 12 18  
NJ BPU  
MAILROOM



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

REC'D  
2012 AUG 10 PM 1 34  
NJ BPU  
CASE MANAGEMENT

**INITIAL DECISION**

**DISMISSAL**

OAL DKT. NO. PUC 00182-12

AGENCY DKT. NO. EC 11120851U

**CLAUDETTE JOHNSON,**

Petitioner,

v.

**PUBLIC SERVICE ELECTRIC AND GAS CO.,**

Respondent.

---

**Claudette Johnson**, petitioner, pro se

**Mally Becker, Esq.**, appearing for respondent

Record Closed: August 3, 2012

Decided: August 6, 2012

**BEFORE ROBERT BINGHAM II, ALJ**

On or about December 2, 2011, Claudette Johnson filed a petition with the Board of Public Utilities disputing the billing charges of three Public Service Electric and Gas Co. (PSE&G) accounts. This matter was transmitted to the Office of Administrative Law (OAL), where it was filed on January 4, 2012, for a hearing pursuant to N.J.S.A. 52:154B-1 et seq. and N.J.S.A. 52:14F-1 et seq. On April 3, 2012, a telephone prehearing conference was held and hearing dates were determined. Accordingly, by Notice of Hearing dated April 4, 2012, the OAL notified the parties that a hearing was to be held on July 19 and August 2, 2012, at the OAL in Trenton. Also, by Letter Order

dated May 2, 2012, the prehearing schedule and the above hearing dates were sent to the parties.

The July 19, 2012, hearing was adjourned because petitioner Johnson communicated to counsel for respondent, PSE&G, that she was unable to attend, although she had made no such request or disclosure during a July 12, 2012, telephone prehearing conference.

On August 2, 2012, Johnson failed to appear for the scheduled hearing. She did not communicate with the OAL or with counsel for PSE&G, who was present with her witness and prepared to proceed. More than twenty-four hours have passed since the August 2, 2012, scheduled hearing and petitioner has not contacted the OAL to offer any explanation for her nonappearance. Absent exigent circumstances, a petitioner's failure to prosecute a matter should result in its dismissal. Henderson v. Jersey Central Power and Light Company, Dkt. No. PUC 2470-10, Initial Decision (January 5, 2011) <<http://lawlibrary.rutgers.edu/new-jersey-administrative-decisions-0>> (citations omitted).

Here, neither exigent circumstances nor, for that matter, any explanation whatsoever has been offered to excuse petitioner's failure to appear. Respondent PSE&G requests dismissal of this case with prejudice.

### **DECISION AND ORDER**

Accordingly, I **CONCLUDE** that petitioner has failed to prosecute her appeal and no longer requests relief in this matter. Therefore, I **ORDER** that this case be and is hereby **DISMISSED WITH PREJUDICE**.

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.

August 6, 2012  
DATE

  
\_\_\_\_\_  
ROBERT BINGHAM II, ALJ

Date Received at Agency:

August 6, 2012

Date Mailed to Parties:

August 8, 2012

/bdt