



Agenda Date: 12/18/13
Agenda Item: 7A

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

CHERYL HENSLE, Petitioner)	ORDER ADOPTING
)	INITIAL DECISION
)	
V.)	
)	
PUBLIC SERVICE ELECTRIC AND GAS COMPANY)	BPU DKT. NO. GC12110992U
Respondent)	OAL DKT. NO. PUC 11156-13
)	On remand from PUC 01097-13

Parties of Record:

Cheryl Hensle, pro se
Amanda D. Johnson, Esq., on behalf of Respondent, Public Service Electric and Gas Company

BY THE BOARD:

On November 8, 2012, Cheryl Hensle ("Petitioner") filed a petition with the Board of Public Utilities ("Board") requesting a formal hearing related to a billing dispute with Public Service Electric and Gas Company ("Respondent"). For the reasons noted herein, the Board now **ADOPTS** the Initial Decision filed with the Board on October 3, 2013.

Petitioner complained that beginning November 15, 2011, Respondent repeatedly shut off utility service to a Bogota home based on improperly calculated bills. Petitioner contends that Respondent improperly transferred an outstanding balance for services provided by Respondent to a different property three years prior. According to Petitioner, Respondent demands payment for service delivered to addresses other than Petitioner's.

The matter was transmitted to Office of Administrative Law ("OAL") on January 25, 2013. An Initial Decision was filed with the Board by Administrative Law Judge ("ALJ") Kimberly A. Moss on March 21, 2013, dismissing the petition because the Petitioner lacked standing and did not meet the requirements for non-lawyer representation pursuant to N.J.A.C. 1:1-5.4(a).

On July 24, 2013, the Board affirmed the Initial Decision in part, and remanded the case to the OAL for further findings of fact. The Board affirmed ALJ Moss's finding that only an appropriate customer of record would have sufficient legal standing to make a complaint. However, the Board remanded the petition for further findings of fact by the OAL to determine if the Petitioner

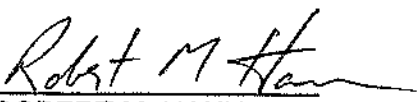
was the proper customer of record for some or all of the relevant period, and to determine whether charges from a different service address were transferred to the Bogota account.

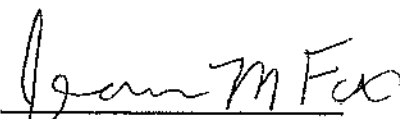
ALJ Moss was again assigned to the matter. ALJ's Moss's secretary attempted to schedule a pre-hearing telephone conference with the Petitioner, but was unable to reach her by telephone. On August 26, 2013, the OAL sent Petitioner a notice of an in-person pre-hearing conference, scheduled for September 16, 2013 at 9:00 a.m. ALJ Moss waited until 10:15 a.m., but the Petitioner did not appear at the pre-hearing conference. Also, ALJ's Moss's secretary placed a telephone call to the Petitioner at 10:00 a.m., but there was no answer, so a message was left for the Petitioner regarding the pre-hearing conference. On October 3, 2013, ALJ Moss filed an Initial Decision with the Board dismissing the Petitioner's application for relief pursuant to N.J.A.C. 1:1-14.4, for failure to appear after appropriate notice.

Petitioner has not filed exceptions to the Initial Decision or provided an explanation for her non-appearance. No good cause is evident for Petitioner's failure to appear. Upon careful review and consideration of the record, and based on the foregoing, the Board **HEREBY ADOPTS** the Initial Decision **AND DISMISSES** the petition.

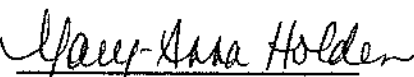
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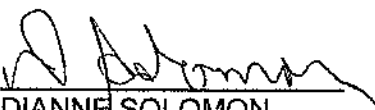
BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER



MARY-ANNA HOLDEN
COMMISSIONER


DIANNE SOLOMON
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.



CHERYL HENSLE

V.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

BPU DOCKET NO. GC12110992U

OAL DOCKET NO. PUC 11156-13

On Remand from OAL DOCKET NO. PUC 01097-13

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. PUC11156-13

AGENCY DKT. NO. GC12110992U

CHERYL HENSLE,

Petitioner,

v.

(on Remand PUC -0197-13)

PUBLIC SERVICE ELECTRIC

AND GAS COMPANY,

Respondent.

Cheryl Hensle, pro se

Amanda Johnson, Esq., for respondent, Public Service Electric and Gas
Company

Record Closed: September 17, 2013

Decided: September 20, 2013

BEFORE KIMBERLY A. MOSS, ALJ:

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner, Cheryl Hensle (Hensle) disputes bills by respondent, Public Service Electric and Gas (PSE&G). She alleges she was overbilled by PSE&G. Hensle's petition was filed with the Board of Public Utilities (Board) on November 8, 2012. The

matter was transmitted to the Office of Administrative Law (OAL) and filed on April 24, 2012. A prehearing conference was scheduled for February 13, 2013. Hensle could not be reached. An in person pre-hearing was scheduled for March 19, 2013. On February 22, 2013 respondent filed a motion to dismiss for lack of standing. Petitioner responded on March 6, 2013. I dismissed the petition for lack of standing on March 14, 2013. On July 24, 2013, the Board of Public Utilities remanded the case for a determination of the following issues:

- Whether petitioner was the customer of record for 2011;
- Whether charges from a different service address were transferred to the Bogota account and if so who is the customer of records for that account.

In addition the Board took official notice of an informal complaint filed by Stephanie Hensle, who is the current customer of record at the Bogeta address. Although the Remand Order of the Board stated that the informal complaint of Stephanie Hensle was transmitted to OAL, I did not receive Stephanie Hensle's informal complaint. It appears that the informal complaint of Stephanie Hensle has not yet been received by OAL.

My secretary attempted to schedule a pre-hearing telephone conference, but could not reach Hensle by telephone. An in-person pre-hearing conference was scheduled for September 16, 2013, at 9:00a.m. Hensle did not appear. My secretary attempted to contact Hensle by phone. The answering machine stated that it was the Hensle residence. My secretary left a detailed message regarding the scheduled in-person pre-hearing conference.

FACTUAL DISCUSSION

I **FIND** the following **FACTS** in this case.

Petitioner could not be reached by telephone to arrange a telephone pre hearing conference. Petitioner was sent notice on August 26, 2013, of an in-person pre-hearing conference scheduled for September 16, 2013 at 9:00 a.m. I waited until 10:15 a.m. but

petitioner did not appear for the in-person conference. My secretary attempted to contact Hensle by phone at approximately 10:00 a.m. Hensle could not be reached. A message was left for Hensle regarding the in-person hearing. To date, Hensle has not attempted to contact OAL regarding her failure to appear.

I have not received the informal complaint of Stephanie Hensle. I have not been able to locate the informal complaint of Stephanie Hensle at OAL.

LEGAL ANALYSIS AND CONCLUSIONS

Pursuant to N.J.A.C. 1:1-14.4(a),

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, unless proceeding pursuant to (d) below, 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).

Therefore, in accord with N.J.A.C. 1:1-3.3(b) and (c) as mentioned above,

(b) If the non-appearing party submits an explanation in writing, a copy must be served on all other parties and the other parties shall be given an opportunity to respond.

(c) If the judge receives an explanation:

1. If the judge concludes that there was good cause for the failure to appear, the judge shall reschedule the matter for hearing; or
2. If the judge concludes that there was no good cause for the failure to appear, the judge may refuse to reschedule the matter and shall issue an initial decision explaining the basis for that conclusion, or may reschedule the matter and, at his or her discretion, order any of the following

I **CONCLUDE** that there was no good cause for petitioner's failure to appear. Hensle has not provided an explanation for her failure to appear at the in person pre-hearing conference on September 16, 2013.

For the above reasons, I **CONCLUDE** that petitioner failed to appear at the hearing and that this matter should be dismissed for lack of prosecution.

ORDER


It is **ORDERED** that Hensle's application for relief be **DISMISSED** pursuant to N.J.A.C. 1:1-14.4, and I **DIRECT** the Clerk to return the matter to the Board of Public Utilities for appropriate disposition.

I hereby **FILE** my Initial Decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

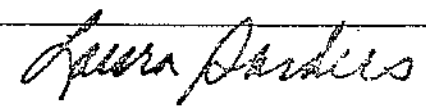
This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is 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.

9-20-13
DATE


KIMBERLY A. MOSS, ALJ

Date Received at Agency:


DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE

Date Mailed to Parties:
ljb

SEP 23 2013