



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,)	ORDER ADOPTING INITIAL
Petitioner)	DECISION IN PART AND
V.)	REMANDING
PUBLIC SERVICE ELECTRIC AND GAS CO.,)	
Respondent)	BPU DKT. NO. GC12110992U
)	OAL DKT. NO. PUC01097-13

Parties of Record:

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

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 electric and gas services rendered by Respondent. For the reasons noted herein, the Board now **ADOPTS** the Initial Decision in part and **REMANDS** for further findings of fact.

Petitioner complains 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.

After the filing of Respondent's Answer, the Board transmitted this matter to the Office of Administrative Law ("OAL") on January 25, 2013, for hearing and initial disposition as a contested matter pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. This matter was assigned to Administrative Law Judge ("ALJ") Kimberly A. Moss.

ALJ Moss scheduled a prehearing telephone conference on February 19, 2013. Petitioner could not be reached by telephone at that time. On February 21, 2013, Respondent filed a

motion to dismiss the petition for lack of standing because Petitioner was not the proper customer of record or in privity of contract with Respondent during 2012. Respondent also stated that Petitioner was not billed or provided invoices. Respondent also submitted that Petitioner is precluded from representing the customer of record because Petitioner is not an attorney or non-lawyer as designated in N.J.A.C. 1:1-5.4(a).

On February 22, 2013, ALJ Moss sent Petitioner a letter stating that she had to respond to Respondent's motion by March 11, 2013. Petitioner filed her response on March 6, 2013, stating that the fact that she put her name to the correspondence should not be a reason to have the case dismissed. She acknowledged that she was the property owner, that her daughter, Corri, was the person attending meetings with Respondent, and that the bill was in the name of her daughter, Stephanie. She further stated that as a parent and homeowner she took the initiative to pursue the matter.

By Initial Decision filed with the Board on March 21, 2013, ALJ Moss dismissed the petition following a determination on two issues; first, standing, and second, representation. Regarding standing, ALJ Moss noted Petitioner admitted she is not the customer of record. ALJ Moss, therefore, found Petitioner was not the customer of record consistent with N.J.A.C. 14:3-1.1 or responsible for payment pursuant to N.J.A.C. 14:3-7.1(a). ALJ Moss further found the customer of record for the subject account is not Petitioner, but her daughter, Stephanie Hensle. Based on these findings, ALJ Moss concluded Petitioner had no standing. Relative to Petitioner's representation of Stephanie Hensle, ALJ Moss found that neither Petitioner nor her daughter, Corri, fit the criteria for non-lawyer representation pursuant to N.J.A.C. 1:1-5.4(a). Accordingly, ALJ Moss dismissed the petition.

Exceptions were filed in this matter on March 28, 2013, when Petitioner and Stephanie Hensle both submitted a letter with the Board. That letter reads,

I received this denial due to an issue with the name on the letter. I will begin the whole process again with my daughter's name on it if need be or if you could just make a decision to let the process proceed. My daughter Stephanie could be at the hearing if that is the issue. Please have this issue proceed so it can finally be resolved.

Petitioner and Stephanie Hensle also sought copies of the invoices reflecting the outstanding balance due.

On May 16, 2013,¹ Respondent filed a response to Petitioner's exceptions stating Petitioner has failed to provide any additional facts or law that would require a changed ruling. Specifically as to the standing issue, Respondent noted that Petitioner did not cite to any facts showing that she is or was the customer of record nor did she cite to any law that would allow her to proceed with this action without having the contractual rights necessary for standing. Therefore, Respondent stated that the customer of record issue had been properly decided and the Initial Decision should be upheld.

On April 29, 2013, Stephanie Hensle submitted an informal complaint with the Board (the "informal complaint"). The informal complaint is virtually identical to the petition filed by

¹ Petitioner did not copy Respondent on Petitioner's Exceptions. Therefore, the Exceptions were forwarded to Respondent.

Petitioner. On May 7, 2013, Respondent notified Stephanie Hensle, it had received her informal complaint.

On June 4, 2013, Staff of the Board of Public Utilities ("Staff") notified Petitioner and Respondent that the Board may consider whether to take official notice of the informal complaint filed by Stephanie Hensle. ALJ Moss and Stephanie Hensle were also copied. On June 12, 2013, Petitioner submitted correspondence to Staff requesting that the matter be changed to Stephanie Hensle v. PSE&G because Stephanie Hensle's name is on the bill and to rectify the dismissal. Petitioner did not copy Respondent on the June 4, 2013 letter so it was forwarded to Respondent. Thereafter, Respondent acknowledged receipt of the letter, but did not submit a written response.

After review of the Initial Decision and the record in this matter, the Board **HEREBY FINDS** that ALJ Moss correctly determined Petitioner and her daughter, Corri, were ineligible to appear and represent Stephanie in the OAL pursuant to N.J.A.C. 1:1-5.4(a). The exceptions filed do not dispute the ALJ's finding on this issue. The ALJ's findings were reasonable, accordingly, the Board **HEREBY AFFIRMS** the Initial Decision in part.

Regarding the standing issue, the Board notes that the petition alleged that the first shut off occurred in 2011. The petition further alleged that Respondent had transferred balances from a different service address to the Bogota account. Respondent's dismissal motion, however, focused on the year 2012. The dismissal motion further stated that Petitioner was not the customer of record for the relevant time period. Petitioner's opposition to the dismissal motion acknowledged that she was not the customer of record. ALJ Moss relied on this statement, finding that Petitioner was not the customer of record, therefore she had no standing to maintain the complaint. The Board **HEREBY AFFIRMS** the ALJ's finding that only an appropriate customer of record would have sufficient legal standing to maintain the complaint, but **REJECTS** the conclusion that Cheryl Hensle's petition be dismissed in its entirety, for the reasons set forth below.

Based on this limited record, it is not clear whether Petitioner was the customer of record for either 2011 or for the other property where the balance was allegedly transferred to the Bogota account. Accordingly, the Board **REMANDS** for further findings of fact by the OAL to determine the identity of the proper customer of record, consistent with N.J.A.C. 14:3-1.1 and N.J.A.C. 14:3-7.1(a), in privity of contract with Respondent for some or all of the relevant period, which includes 2011, and to determine whether charges from a different service address were transferred to the Bogota account, and, if so, the identity of the customer of record for that property address.

Pursuant to N.J.A.C. 1:1-15.2(c), the Board may take official notice of any material involving a matter between the parties where the basis for official notice is disclosed and the parties are afforded an opportunity to respond. By filing exceptions and an informal complaint, which complaint is substantially identical to the petition, Stephanie Hensle has taken steps to cure the standing issue by indicating a willingness to pursue the claims against Respondent. Having afforded the parties an opportunity to be heard, and in the interest of administrative expediency, the Board **TAKES OFFICIAL NOTICE** of the informal complaint filed by Stephanie Hensle.

Also in the interest of administrative economy, the Board will transmit the informal complaint to the OAL simultaneously with the remand of the petition so that the OAL could resolve the issues raised in both filings. The OAL should provide Respondent with an opportunity to respond to the informal complaint. Because the Board has affirmed ALJ Moss' ruling regarding Petitioner


and Corri's ineligibility to represent Stephanie Hensle, Stephanie Hensle must appear pro se or be represented by counsel. Should any party fail to appear with appropriate representation, the OAL may return the matter to the Board for disposition or enter an appropriate order.

Upon careful review and consideration of the record, and based on the foregoing, the Board **HEREBY ADOPTS** the Initial Decision in part, **REMANDS** for further findings of facts, and **DIRECTS** the transmittal of the informal complaint to the OAL.

DATED: 7/24/13

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT


JEANNE M. FOX
COMMISSIONER


JOSEPH L. FIORDALISO
COMMISSIONER

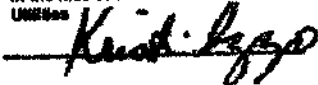

MARY-ANNA HOLDEN
COMMISSIONER


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 HENSEL

V.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

BPU DOCKET NO. GC12110992U
OAL DOCKET NO. PUC01097-13

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MAILROOM

State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

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REG
CASE MANAGEMENT

INITIAL DECISION

SUMMARY DECISION

OAL DKT. NO. PUC 01097-13

AGENCY DKT. NO. GC12110992U

CHERYL HENSLE,

Petitioner,

v.

PUBLIC SERVICE ELECTRIC

AND GAS COMPANY,

Respondent.

Cheryl Hensle, pro se

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

Record Closed: March 6, 2013

Decided: March 14, 2013

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

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

Petitioner Cheryl Hensle (Hensle) filed a complaint before the Board of Public Utilities (BPU) disputing the billing of Public Service Electric and Gas Company (PSE&G). The matter was transmitted to the Office of Administrative Law (OAL) and filed on January 29, 2013. A prehearing telephone conference was scheduled for

February 19, 2013. Hensle could not be reached by phone at that time. An in-person prehearing conference is scheduled for March 19, 2013. On February 21, 2013, PSE&G filed a motion to dismiss petitioner's complaint for lack of standing. On February 22, 2013, I sent petitioner a letter stating that she had to respond to PSE&G's motion by March 11, 2013. Petitioner filed a response on March 6, 2013.

FACTUAL DISCUSSION

PSE&G provides electric and gas service to 419 Leonia Avenue, Bogota, New Jersey. The customer of record for that account is not petitioner Cheryl Hensle. The customer of record is petitioner's daughter Stephanie. Petitioner and her daughter Corri were going to appear at the hearing. Petitioner's daughter, Stephanie, is not named as a party in this matter. Petitioner and her daughter Corri do not fit the criteria for non-lawyer representation before the OAL.

LEGAL ANALYSIS AND DISCUSSION

N.J.A.C. 14:3-1.1 provides:

"Customer of record" means the person that applies for utility service and is identified in the account records of a public utility as the person responsible for payment of the public utility bill. A customer may or may not be an end user, as defined herein.

N.J.A.C. 14:3-7(a) provides:

The customer(s) of record, as defined at N.J.A.C. 14:3-1.1, shall be responsible for payment for all utility service rendered.

The standard for determining whether petitioner has standing to assert a cause of action is whether there is "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."

N.J. Citizen Action v. Riviera Motel Corp., 296 N.J. Super. 402, 409-10 (App. Div. 1997), appeal dismissed, 152 N.J. 361 (1998) (emphasis added).

In this matter petitioner admits that she is not the customer of record. Therefore she is not responsible for payment of the utility service. The customer of record is her daughter. In other words, petitioner does not have a contractual relationship with PSE&G. I **CONCLUDE** that petitioner does not have standing in this matter.

N.J.A.C. 1:1-5.4(a) provides:

Representation by non-lawyers; authorized situations, applications, approval procedures

In conformity with New Jersey Court Rule R. 1:21-1(f), the following non-lawyers may apply for permission to represent a party at a contested case hearing:

1. Persons whose appearance is required by Federal law;
2. State agency employees;
3. County or municipal welfare agency employees;
4. Legal service paralegals or assistants;
5. Close corporation principals;
6. Union representatives in Civil Service and Public Employment Relations Commission cases;
7. Individuals representing parents or children in special education proceedings;
8. County or local government employees in Civil Service cases; and
9. Individuals representing claimants or employers before the Appeal Tribunal or Board of Review of the Department of Labor and Workforce Development.

Petitioner in her response stated that she and another of her daughters, Corri, were going to come to the hearing. Petitioner and her daughter Corri do not fit the

above criteria for non-lawyer representation. I therefore **CONCLUDE** that petitioner does not meet the criteria for non-attorney representation.

ORDER

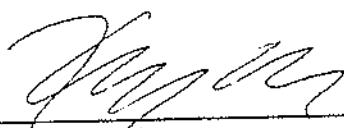
Based on the foregoing, respondent's motion for summary decision is **GRANTED**. It is hereby **ORDERED** that petitioner's formal petition be **DISMISSED**.

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.

3-14-13
DATE


KIMBERLY A. MOSS, ALJ

Date Received at Agency:


DIRECTOR AND
CHIEF ADMINISTRATIVE LAW JUDGE

Date Mailed to Parties:
ljb

MAR 15 2013