

Agenda Date: 11/22/13 Agenda Item: VIIC

#### 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/

		CUSTOMER ASSISTANCE
VISHINDAS HARJANI, Petitioner	)	ORDER OF EXTENSION
V.	)	
ATLANTIC CITY ELECTRIC COMPANY, Respondent	, )	BPU DOCKET NO. EC13040348U OAL DOCKET NO. PUC 9396-13
(SERVICE LIST AT	TACHED)	

The Initial Decision of the Administrative Law Judge was received by the Board of Public Utilities (Board) on October 24, 2013; therefore the 45-day statutory period for review and the issuing of a Final Decision will expire on December 9, 2013. Prior to that date, the Board requests an additional 45-day extension of time for issuing the Final Decision in order that it may examine the extensive record in this matter.

Good cause having been shown, pursuant to <u>N.J.S.A.</u> 52:14B-10(c) and <u>N.J.A.C.</u> 1:1-18.8, <u>IT IS ORDERED</u> that the time limit for the Board to render a Final Decision is extended until January 23, 2014.

DATED: ///22//3

BOARD OF PUBLIC UTILITIES

ROBERT M. HANNA PRESIDENT

ATTEST:

KRISTI IZZO SECRETARY HERESY CERTIFY that the within document at a true copy of the original in the filse of the Board of Public

Authorized by Board to execute this Order of Extension on its behalf.

Date Board mailed Order to OAL:

cc: Service List Attached

DATED: 12/2/13

LAURA SANDERS, ACTING

Aur Sanders

**DIRECTOR & CHIEF** 

ADMINISTRATIVE LAW JUDGE

Date OAL mailed executed Order to Board: 12/2/13 emailed

Date Board mailed executed Order to Parties: 2013

#### VISHINDAS HARJANI

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#### ATLANTIC CITY ELECTRIC COMPANY

#### BPU DOCKET NO. EC13040348U OOAL DOCKET NO. PUC9396-13

#### SERVICE LIST

Vishindas Harjani 130 S. Vermont Avenue Apartment 314 Atlantic City, NJ 08401

Renee E. Suglia, Esq. Atlantic City Electric Company 500 N. Wakefield Drive Newark, DE 19702

Mark E. Critchley, DAG
State of New Jersey
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Division of Law
124 Halsey Street
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Newark, NJ 07101-45029

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

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

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OFFICE OF ADMINISTRATIVE LAW

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INITIAL DECISION

OAL DKT. NO. PUC 9396-13 AGENCY DKT. NO. EC13040348U

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VISHINDAS HARJANI,

Petitioner.

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ATLANTIC CITY ELECTRIC COMPANY,

Respondent.

Vishindas Harjani, petitioner, pro se

ELOS / 100

Renee Suglia, Esq., for respondent

Record Closed: September 6, 2013

Decided: October 17, 2013

BEFORE DAMON G. TYNER, ALJ:

# STATEMENT OF THE CASE

Petitioner had been a customer of Atlantic City Electric Company (respondent). In December 2010, his account with respondent was terminated and he became a customer of a third party provider, Public Power Company, an unregulated utility company. Thereafter, a billing dispute arose between petitioner and Public Power Company, which resulted in the petitioner filing a petition seeking the correction to all billing and monetary damages against respondent for "pain and suffering." For the matters discussed herein, this matter must be DISMISSED for the reasons discussed herein.

### PROCEDURAL HISTORY

The petitioner requested a hearing and the matter was filed at the OAL on July 2, 2013, to be heard as a contested case pursuant to N.J.S.A. 52:14B-1 to 15 and 14F-1 to 13. The matter was heard on September 6, 2013, and the record closed.

### FACTUAL DISCUSSION

The facts presented by this matter are straightforward. Petitioner was a customer of the respondent, receiving electric services. On December 9, 2010, respondent notified petitioner in a written correspondence that they had received notice that petitioner desired to change his electric supplier to a third party provider known as Public Power Company. (R-3). Petitioner was advised that respondent would continue to be the electric distributor, and that future billings would reflect one bill with two billers, respondent as the distributor and Public Power Company as the supplier. Notably, respondent is a utility which is regulated by the State of New Jersey Board of Public Utilities (BPU), whereas the BPU does not maintain jurisdiction over the practices of Public Power Company, a private entity.

In this matter, petitioner initially alleges that Public Power Company fraudulently changed his service without his permission. Whether or not this in fact did occur, petitioner does not challenge that his dispute, billing or fraudulently changing his service is with Public Power Company. He acknowledges such on the record. Additionally, petitioner also seemingly settled his dispute with Public Power Company when he negotiated a settlement, with the assistance of the BPU, and cashed a check in the amount of \$413.50, as demonstrated by a letter dated August 15, 2012. (R-1).

Further, in paragraph 3 of petitioner's counterclaim, dated June 10, 2013, he states:

THE ONLY BIT OF TRUTH SPOKEN BY THE RESPONDENT'S ATTORNEY IS WHERE IN PARA NO. 8 OF HER ANSWER SHE STATES THAT "ANY AND ALL

DAMAGES ALLEGED TO HAVE BEEN SUSTAINED BY THE PETITIONER WERE CAUSED SOLELY BY THE NEGLIGENCE OF AN INDEPENDENT AND/OR INTERVENING PARTIES OR INSTRUMENTALITIES OVER WHICH ACE HAS NO CONTROL OR NO DUTY TO CONTROL WHICH IS WORTH TO BE NOTED.

On September 3, 2012, petitioner received a letter confirming that his account with Public Power Company had been closed. Petitioner then entered into a new agreement with another third party supplier, Discount Energy Group, to be his electric supplier. This agreement was ended within the month and petitioner returned to respondent for all of his services.

On more than one occasion during the proceeding, petitioner affirmatively indicated that his dispute was with the unregulated, third party provider, Public Power Company. However, he stated that he was seeking damages for pain and suffering from respondent for not assisting him with his dispute against Public Power Company.

Accordingly, respondent made a Motion to Dismiss for failure to state a claim at the conclusion of the petitioner's case.

Based on the foregoing, I FIND that petitioner has failed to state a claim against respondent.

I further FIND that petitioner accepted a cash settlement in the amount of \$413.50 from the third party provider.

Lastly, I **FIND** that this tribunal has no jurisdiction over the third party provider, Public Power Company.

# CONCLUSION

Based on the foregoing, I CONCLUDE that petitioner has failed to state a claim, upon which he can recover damages, against the respondent. I further CONCLUDE that even if petitioner had a colorable claim against the respondent, petitioner would be

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barred from seeking damage due to the principles of accord and satisfaction and estoppels, since petitioner entered into a settlement with another entity for the same or similar damages.

<u>ORDER</u>

I ORDER that the respondent's Motion to Dismiss be GRANTED and that this matter 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. 52:148-10.

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.

/0-17-13 DATE

Date Received at Agency:

Date Mailed to Parties:

DAMON G. TYNER, AL

10-17-13

10/27/13

/sid

# WITNESSES AND DOCUMENTS IN EVIDENCE

#### <u>WITNESSES</u>

# For Petitioner:

Vishindas Harjani

# For Respondent:

Agnes Carpenter, Senior Analyst

### **EXHIBITS**

## For Petitioner:

P-1 Letter, Public Power to Harjani, 9/3/12

### For Respondent:

- R-1 Letter, Board of Public Utilities to Harjani, 8/15/12
- R-2 Harjani Letter to the Editor, 8/28/13
- R-3 Letter verifying change of service to Public Power Co., 12/9/10
- R-4 Letter verifying change of service to Discount Energy Group, 9,28/11