



**STATE OF NEW JERSEY**  
**Board of Public Utilities**  
**Two Gateway Center, Suite 801**  
**Newark, NJ 07102**  
**www.nj.gov/bpu/**

CUSTOMER ASSISTANCE

BILLY JOE HENDERSON,	)	ORDER ADOPTING
	)	INITIAL DECISION
Petitioner,	)	
	)	
v.	)	
	)	
JERSEY CENTRAL POWER AND LIGHT COMPANY,	)	
	)	
Respondent.	)	BPU Dkt. No.: EC10010040U
	)	OAL Dkt. No.: PUC 2470-10S

Billy Joe Henderson, Eatontown, New Jersey, appearing *pro se*

Michael J. Connolly, Esq., Morristown, New Jersey, on behalf of Respondent, Jersey Central Power and Light Company

**BY THE BOARD:**

By Petition filed with the Board of Public Utilities ("Board") on January 29, 2010, Billy Joe Henderson ("Petitioner") disputed the billing charges associated with electric service provided by Jersey Central Power and Light Company (JCP&L). 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") Israel D. Dubin. On January 5, 2011, ALJ Dubin issued an Initial Decision ("ID").

**BACKGROUND**

In an undated petition, Petitioner disputed the billing of two JCP&L electric service accounts. The first account, ending in account number 147, provides service to 516 Washington Street, Eatontown, New Jersey ("Account 147"). Account 147 is in Petitioner's name. Among other things, Petitioner alleged that Respondent improperly discontinued service because it believed that Petitioner was underage and that Account 147 was placed in his name to avoid a debt owed by his mother. The second account, ending in account number 154, provides service to 515 Washington Street, Eatontown, New Jersey ("Account 154"). Account 154 is in name of Petitioner's brother. Petitioner complained that the bills for Account 154 were too high.

On February 23, 2010, Respondent filed an answer, asserting, among other things, that Petitioner lacked standing to dispute the bills related to Account 154. Regarding Account 147, Respondent stated that all the actions taken by Respondent are consistent with applicable Board regulations and applicable provision of JCP&L's Tariff for Services on file with the Board. The Initial Decision recounts the procedural history at the OAL. During a status conference held on September 7, 2010, Petitioner was reminded about the scheduled hearing on October 5, 2010. In addition, Petitioner was advised regarding his obligation to respond to Respondent's discovery request and of his right to retain an attorney or represent himself. ID at 2.

At Respondent's request, the October 5, 2010 hearing was converted to a status conference because Petitioner had failed to answer discovery. Petitioner was advised to respond to the discovery demands as well as to a motion for partial summary decision, which had been filed by Respondent to dismiss the claims regarding Account 154. Petitioner was again encouraged to retain counsel. Petitioner was told that a final status conference was scheduled for November 30, 2010 at 4:00 p.m. A confirming scheduling notice was sent out on October 6, 2010. Id. at 3.

On November 30, 2010, Respondent's attorney notified ALJ Dublin's chambers that he was unable to reach Petitioner whose phone continuously rang without being answered. On December 8, 2010, ALJ Dublin issued a letter to Petitioner asking him to explain his reason for not making himself available for the November 30, 2010 conference call and to indicate whether he intended to pursue the matter. Petitioner was also advised that failure to respond to the letter or submit responding papers to the summary decision motion by December 24, 2010, might result in the dismissal of his petition. Ibid.

On December 14, 2010, the United States Postal Service returned the ALJ's December 8, 2010 letter as undeliverable. Petitioner did not contact the ALJ's chambers. Ibid.

Based on the foregoing record, ALJ Dubin found that Petitioner failed to answer his telephone or otherwise contact the Court on November 30, 2010, the scheduled date of the status conference for which Petitioner had received verbal and written notice. ALJ Dublin also found that the December 8, 2010 letter, which had been sent to the Petitioner's address of record, was returned as undelivered. Id. at 3-4. Accordingly, ALJ Dubin determined that Petitioner has abandoned the prosecution of his petition and concluded that the matter should be dismissed with prejudice. Id. at 4.

On January 19, 2011, the Board received a letter from Petitioner following his receipt of the Initial Decision.<sup>1</sup> Regarding the call made by Respondent's counsel on November 30, 2010, Petitioner stated that it may have been made while Petitioner was working and that he is not allowed to accept telephone calls while at work. Petitioner stated that he could not inquire why the Court's December 8, 2010 letter was not delivered because his mail carrier is on sick leave. Finally, Petitioner recognized his need to retain legal counsel but claimed that his attempts to obtain an attorney through Monmouth Ocean Legal Services were futile due to that agency's financial constraints.

On February 28, 2011, Respondent replied to Petitioner's exceptions, stating that the exceptions provided no basis to modify the Initial Decision. Respondent noted that Petitioner did not assert that he (1) was unaware of the November 30, 2010 conference; (2) did not

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<sup>1</sup>The Board will treat Petitioner's letter as exceptions to the Initial Decision pursuant to N.J.A.C. 1:1-18.4.


receive or was not aware of the written October 6, 2010 notice; or (3) was unable to contact the Court or Respondent's counsel to explain his unavailability for the scheduled conference. In sum, Respondent argued that Petitioner failed to establish the existence of exigent circumstances, which prevented him from participating in the November 30, 2010 scheduled conference or from explaining his unavailability.

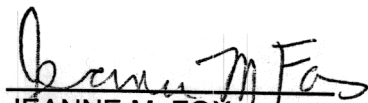
**DISCUSSION**

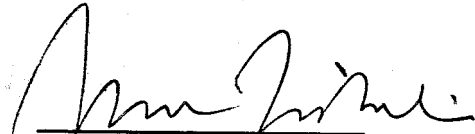
After review and consideration of the entire record, the Board HEREBY FINDS that the findings and conclusions of the ALJ are reasonable. Petitioner did not participate in a scheduled and duly-noticed status conference. In addition, Petitioner could not be reached on November 30, 2010. Petitioner has offered no explanation either to the OAL or to the Board, in his exceptions, for his non-appearance. Thus, the Board FINDS that the ALJ properly dismissed the instant petition, relying on N.O. v. Board of Education of the Bridgewater-Raritan School District, 96 N.J.A.R.2d (Vol. 2) 746 (Education) (Commissioner upheld the ALJ's dismissal of the matter after petitioner failed to appear for a hearing, which was properly noticed and for which the petitioner offered no explanation for her absence); and R.J. v. Board of Education of the Lower Camden County Regional School District, 97 N.J.A.R.2d (Vol. 2) 155 (Education) (Commissioner concurred with the ALJ that Petitioner had failed to show good cause why her failure to prosecute the matter should be excused). Accordingly, the Board HEREBY ADOPTS the Initial Decision in its entirety. The Board ORDERS that the petition of Billy Joe Henderson be HEREBY DISMISSED WITH PREJUDICE.

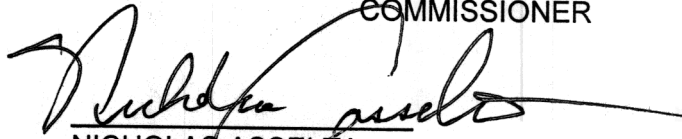
DATED: 4/27/11

BOARD OF PUBLIC UTILITIES  
BY:

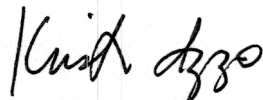
  
LEE A. SOLOMON  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

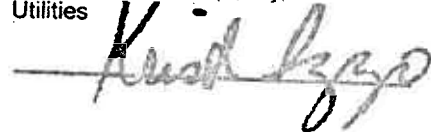
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
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



IN THE MATTER OF BILLY JOE HENDERSON, Petitioner,

v.

JERSEY CENTRAL POWER AND LIGHT COMPANY, Respondent.

BPU DOCKET NO. EC10010040U

OAL DOCKET NO. PUC 2470-10

SERVICE LIST

Billy Joe Henderson  
516 Washington Street  
Eatontown, New Jersey 07724

Michael J. Connolly, Esq.  
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Division of Law  
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State of New Jersey  
OFFICE OF ADMINISTRATIVE LAW

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INITIAL DECISION

DISMISSAL

OAL DKT. NO. PUC 2470-10S

AGENCY DKT. NO. EC10010040U

BILLY JOE HENDERSON,

Petitioner,

v.

JERSEY CENTRAL POWER

AND LIGHT COMPANY,

Respondent.

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Billy Joe Henderson, petitioner, pro se

Michael J. Connolly, Esq. appearing for respondent (Morgan, Lewis & Bockius  
LLP, attorneys)

Record Closed: December 24, 2010

Decided: January 5, 2011

BEFORE ISRAEL D. DUBIN, ALJ:

By way of an undated petition filed with the Board of Public Utilities on or about January 29, 2010, Billy Joe Henderson disputed the billing of two Jersey Central Power & Light (JCP&L) electric service accounts, namely: [REDACTED] in the name of "Billy Henderson" for the service address of Woodlawn Trailer Park, 516 Washington Street, Eatontown, New Jersey, and [REDACTED] in the name of "Leland

Henderson” for the service address of Woodlawn Trailer Park, 515 Washington Street, Eatontown, New Jersey. At all times relevant to this dispute, bills for the electric service at both addresses were mailed to the premises located at 516 Washington Street and paid by Billy Joe and Leland’s mother, Kathleen Henderson.

JCP&L filed its verified objection and answer to the petition on February 23, 2010, asserting, among other things, that Billy Joe Henderson lacked the standing to prosecute a billing dispute relating to the premises located at 515 Washington Street in his and/or his mother Kathleen’s name. The matter was then transmitted to the Office of Administrative Law where it was filed on April 16, 2010, for hearing as a contested case.

An initial pre-hearing conference was conducted on August 23, 2010, at which time Kathleen Henderson sought to speak on behalf of her son, Billy Joe. Mrs. Henderson was advised that she could neither represent nor speak on behalf of her son, although she would be given the opportunity to testify as a witness if the matter proceeded to hearing. From that point on, Billy Joe would have to retain an attorney or represent himself pro se.

A status conference with Billy Joe Henderson and JCP&L’s counsel, Michael J. Connolly, Esq., was subsequently conducted on September 7, 2010. At that time, Billy Joe Henderson was reminded that the hearing in this matter had been scheduled for October 5, 2010. Mr. Henderson was also advised that he had an obligation to respond to the request for discovery Mr. Connolly had sent him on August 18, 2010. And as his mother, Kathleen Henderson, had been advised, he was told he could either retain an attorney or represent himself.

At Mr. Connolly’s request, the October 5, 2010 hearing date was converted into a status conference since he had not yet received a response to his discovery demands. During that conference, Mr. Connolly indicated that on October 1, 2010, he had filed a motion for partial summary decision seeking to have those claims relating to the electric service provided at 515 Washington Street dismissed for lack of standing.

Consequently, Mr. Henderson was advised that now he not only had to respond to Mr. Connolly's discovery demands, but also had to respond to the motion. After encouraging him to retain an attorney and suggesting that he contact Legal Services of New Jersey if he could not afford one, Mr. Henderson was advised that a final status conference would be held November 30, 2010, at 4:00 p.m. A confirming scheduling notice was sent out the following day, October 6, 2010.

On November 30, 2010, at or about 4:10 p.m., Mr. Connolly, who'd agreed to initiate the conference call, notified my chambers that he had been unable to contact Mr. Henderson, whose phone continuously rang without being answered. Consequently, by letter dated December 8, 2010, Exhibit ALJ-1, I asked Mr. Henderson to send me a letter, on which Mr. Connolly was to be copied, explaining why he had not made himself available for the November 30, 2010 conference call, and indicating whether he still intended to pursue this matter. He was also advised that a failure to respond to this letter and/or submit responding papers to Mr. Connolly's motion by December 24, 2010, might result in the dismissal of his petition.

On or about December 14, 2010, the United States Postal Service returned the December 8, 2010, letter to my chambers. A yellow sticker affixed to the outside of the envelope included the following information: "RETURN TO SENDER [-] ATTEMPTED – NOT KNOWN – UNABLE TO FORWARD[.]" To date, neither Billy Joe Henderson nor his mother, Kathleen, has contacted my chambers regarding this matter.

Absent exigent circumstances, a petitioner's failure to prosecute a matter should result in its dismissal. N.O. v. Board of Education of the Bridgewater-Raritan School District, 96 N.J.A.R.2d (EDU) 746 (Final Decision by Commissioner of Education 1996); R.J. v. Board of Education of the Lower Camden County Regional School District. 97 N.J.A.R.2d (EDU) 155 (1996). On the record before me, I find that Billy Joe Henderson failed to answer his phone or otherwise contact my chambers on November 30, 2010, the scheduled date of a status conference for which he'd received verbal and written notice. I also find that my letter of December 8, 2010, sent to the address on file—the same address to which all of the previous notices were successfully sent—was returned

as undeliverable because he was "unknown." Accordingly, I find that Billy Joe Henderson has abandoned the prosecution of his petition and conclude that the matter should be dismissed with prejudice. It is so ordered.

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, 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.

January 5, 11  
DATE

Israel D. Dubin  
ISRAEL D. DUBIN, ALJ

Date Received at Agency:

1-5-11

Date Mailed to Parties

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BOARD OF PUBLIC UTILITIES  
**EXHIBITS**

**ALJ's Exhibits:**

ALJ-1 Letter of December 8, 2010

ALJ-2 Envelope in which the December 8, 2010 letter was mailed