



Agenda Date: 12/1/21
Agenda Item: IIC

STATE OF NEW JERSEY
Board of Public Utilities
44 South Clinton Avenue, 1st Floor
Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

ENERGY

Gwendolyn Davis)	ORDER ADOPTING
Petitioner,)	INITIAL DECISION
)	
v.)	
)	
Atlantic City Electric Company,)	DOCKET NO. EC18070733
Respondent.)	OAL DOCKET NO. PUC 16048-2018S

Parties of Record:

Alan M. Minato, Esq., for Petitioner, Gwendolyn Davis
Renee E. Suglia, Esq., for respondent, Atlantic City Electric Company

BY THE BOARD:

The within matter is a dispute between Gwendolyn Davis (“Petitioner”) and Atlantic City Electric Company (“ACE”, “Company” or “Respondent”). This Order sets forth the background and procedural history of Petitioner’s claims and represents the Final Order in the matter pursuant to N.J.S.A. 52:14B-10(c). Having reviewed the record, the New Jersey Board of Public Utilities (“Board”) now considers the Initial Decision rendered on October 22, 2021.

PROCEDURAL HISTORY

On July 16, 2018, Petitioner filed a petition with the Board seeking monetary compensation from ACE for “unlawful” encroachments on her property and the removal of equipment from her property (“Petition”). Petition at 1.

In the Petition, the Petitioner alleged that in February 2017, ACE sent a letter that it was going to do an environmental study and replace the wooden electric transmission poles with taller metal poles. Petitioner claimed that the Company directed her to call if she had any concerns. ACE did not conduct any meetings to explain the project, which Petitioner asserted had a major impact on her life. Id. She claims she was feeling ill from the “boring” that occurred for the project and required her to leave on March 28, 2017, the second day of work. Id. On April 6-7, 2017, ACE erected their metal poles next to the Petitioner’s driveway and bolted them down. Petitioner stated that ACE did not operate in good faith and misled Petitioner through misrepresentation and deception. Id. In addition, Petitioner claimed that ACE did not give Hickstown Road residents full

disclosure about the project to install new taller poles. Id. Petitioner further claimed that ACE encroached on her property and that she did not consent to ACE doing the work on her property, which she asserted was in violation of the easement in her deed, which the previous owner agreed to with ACE. Id. at 2. Petitioner also claimed that ACE used past approval as unlimited discretion in regard to the placement of the poles and electrical equipment on the Petitioner's property. Id. Through the Petition, the Petitioner asked that the Board order ACE to remove the equipment from her property and relocate it to the county right of way. In addition, Petitioner requested that ACE compensate her for alleged damage to her property and "unlawful encroachment." Id. Petitioner also asked to have ACE fined for its "misleading and deceptive actions and practices." Id.

In its answer dated October 26, 2018, ACE denied that there were any "unlawful and unethical practices." Answer of Atlantic City Electric Company at 2. ACE admitted that the owner of the property was informed that the project would be commencing. Id. ACE denied that there was no communication between the Respondent and the Petitioner. There were no public hearings about this project, but there were face-to-face meetings with the Petitioner about the project. ACE also informed Gloucester County and the residents on Hickstown Road about the project to install the new taller poles. Id. The Respondent did not admit or deny that the poles create a "big impact" on the Petitioner's life and left it to the Petitioner to prove her case. Id. The Respondent also did not admit or deny that the Petitioner became ill on the second day of work. Id. ACE denied that the transmission pole that was erected on Petitioner's property is close to her driveway. Id. ACE also indicated that it did not make unauthorized and illegal encroachments, nor did it trespass on Petitioner's property. Id. In addition, ACE also denied that the Company failed to obtain consent before starting the project. Id. at 3. ACE used the past easement for placement of the electrical equipment, but they did not exercise unlimited discretion when placing the structures. Id.

This matter was transmitted to the Office of Administrative Law ("OAL") on November 2, 2018, for hearing as a contested case pursuant to N.J.A.C. 1:1-12 et. seq., and assigned to Administrative Law Judge ("ALJ") Tama B Hughes. Subsequently, ACE and the Petitioner (collectively, "Parties") agreed to resolve this matter and entered into a Stipulation of Settlement ("Stipulation") which was submitted to ALJ Hughes on October 5, 2021.

Pursuant to the terms of the Stipulation, and in order to fully resolve this matter, ALJ Hughes issued an Initial Decision on October 22, 2021, which was subsequently submitted to the Board on October 28, 2021. ALJ Hughes found that the Stipulation was voluntary, its terms fully disposed of all issues in controversy, it was consistent with the law, and that it satisfied the requirements of N.J.A.C. 1:1-19.1.

DISCUSSION AND FINDINGS

In customer disputes before the Board, a petitioner bears the burden of proof by a preponderance of the competent, credible evidence. See Atkinson v. Parsekian, 37 N.J. 143, 149 (1962). The burden of proof is met if the evidence establishes the reasonable probability of the facts alleged and generates reliable belief that the tended hypothesis, in all human likelihood, is true. See Loew v. Union Beach, 56 N.J. Super. 93, 104 (App. Div.), certif. denied, 31 N.J. 75 (1959).

In the present instance, the parties reached an agreement pursuant to N.J.A.C. 1:1-19.1, which states in relevant part:

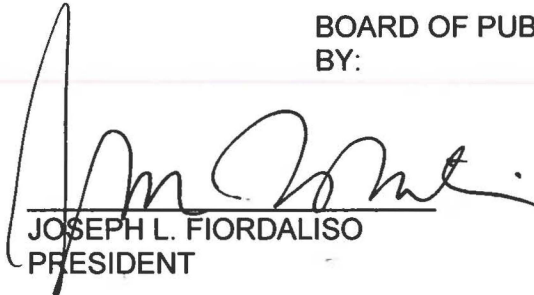
- (a) Where the parties to a case wish to settle the matter, and the transmitting agency is not a party, the judge shall require the parties to disclose the full settlement terms:
1. In writing, by consent order or stipulation signed by all parties or their attorneys;
or
 2. Orally, by the parties or their representatives.
- (b) Under (a) above, if the judge determines from the written order/stipulation or from the parties' testimony under oath that the settlement is voluntary, consistent with the law and fully dispositive of all issues in controversy, the judge shall issue an initial decision incorporating the full terms and approving the settlement.

After review of the Initial Decision and the Stipulation, the Board **FINDS** that the Parties have voluntarily agreed to the settlement as evidenced by their signatures and that, by the terms of the Stipulation, they have fully resolved all outstanding contested issues in this matter. Accordingly, the Board **HEREBY ADOPTS** the Initial Decision and the Stipulation executed by the Parties in their entirety as if fully set forth herein and **ORDERS** the Parties to comply with the terms of the Stipulation.

The effective date of this Order is December 8, 2021.

DATED: December 1, 2021

BOARD OF PUBLIC UTILITIES
BY:



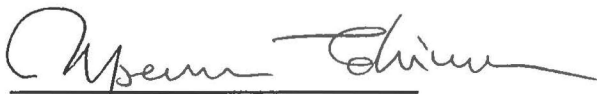
JOSEPH L. FIORDALISO
PRESIDENT



MARY-ANNA HOLDEN
COMMISSIONER



DIANNE SOLOMON
COMMISSIONER




UPENDRA J. CHIVUKULA
COMMISSIONER



ROBERT M. GORDON
COMMISSIONER

ATTEST:



AIDA CAMACHO-WELCH
SECRETARY

**IN THE MATTER OF THE PETITION OF GWENDOLYN DAVIS
V. ATLANTIC CITY ELECTRIC COMPANY**

**DOCKET NO. EC18070733
OAL DOCKET NO. PUC 16048-2018S**

SERVICE LIST

<p><u>Petitioner</u> Gwendolyn Davis Blackwood, NJ 08012</p> <p>Alan M. Minato, Esq. South Jersey Law Center 185 Blue Anchor Road Winslow Twp., NJ 08081 alanminato@comcast.net</p> <p><u>Atlantic City Electric Company</u> 500 N. Wakefield Drive Post Office Box 6066 Newark, DE 19714-6066</p> <p>Renee E. Suglia, Esq. renee.suglia@pepcoholdings.com</p> <p><u>Division of Law</u> Deputy Attorney General NJ Department of Law and Public Safety Richard J. Hughes Justice Complex Public Utilities Section 25 Market Street, P.O. Box 112 Trenton, NJ 08625</p> <p>Pamela Owen, Esq. Assistant Section Chief pamela.owens@law.njoag.gov</p> <p>Terel Klein, Esq. Deputy Attorney General terel.klein@law.njoag.gov</p>	<p><u>Board of Public Utilities</u> 44 South Clinton Avenue, 1st Floor Post Office Box 350 Trenton, NJ 08625-0350</p> <p>Aida Camacho-Welch, Secretary board.secretary@bpu.nj.gov</p> <p>Stacy Peterson, Deputy Executive Director stacy.peterson@bpu.nj.gov</p> <p><u>Division of Energy</u></p> <p>Paul Lupo, Acting Director paul.lupo@bpu.nj.gov</p> <p>Christopher Oprysk christopher.oprysk@bpu.nj.gov</p> <p><u>Counsel's Office</u></p> <p>Carol Artale, Esq., Deputy General Counsel carol.artale@bpu.nj.gov</p> <p>Suzanne Patnaude, Esq. suzanne.patnaude@bpu.nj.gov</p>
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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 16048-18

AGENCY DKT. NO. EC18070733

GWENDOLYN DAVIS/THOMAS FAMILY,

Petitioners,

v.

ATLANTIC CITY ELECTRIC COMPANY,

Respondent.

Alan M. Minato, Esq. for petitioners (South Jersey Law Center, LLC, attorneys)

Renee E. Suglia, Esq., for respondent

Record Closed: October 4, 2021

Decided: October 22, 2021

BEFORE **TAMA B. HUGHES**, ALJ:

This matter was filed with the Office of Administrative Law (OAL) on November 5, 2018, for determination as a contested case, pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -13.

The parties agreed to a settlement of all issues in dispute and have prepared a Settlement Agreement (J-1), which is attached and fully incorporated herein.

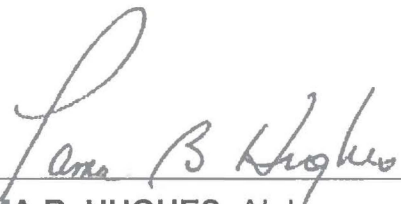
I have reviewed the record and the terms of settlement and I **FIND**:

1. The parties have voluntarily agreed to the settlement as evidenced by their signatures or their representatives' signatures.
2. The settlement fully disposes of all issues in controversy and is consistent with the law.

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.

October 22, 2021
DATE


TAMA B. HUGHES, ALJ

Date Received at Agency:

10/26/2021

Date Mailed to Parties:

10/27/2021

/dw

-APPENDIX
LIST OF EXHIBITS

Jointly Submitted:

- J-1 Settlement Agreement, received by the Office of Administrative Law on October 5, 2021