



Agenda Date: 11/20/12
Agenda Item: VIIC

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

DODIE K. HOGAN, Petitioner)	ORDER OF EXTENSION
)	
V.)	
)	
NEW JERSEY NATURAL GAS CO., Respondent)	BPU DOCKET NO. GC10110839U
)	OAL DOCKET NO. PUC 2220-12
)	(ON REMAND: PUC 2765-11)

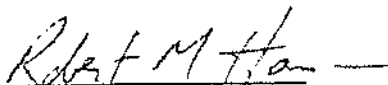
(SERVICE LIST ATTACHED)

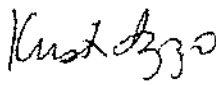
The Initial Decision of the Administrative Law Judge was received by the Board of Public Utilities ("Board") on September 11, 2012. The 45-day statutory period for review and the issuing of a Final Decision was set to expire on October 26, 2012. Prior to that date, the Board requested, and subsequently executed, a 45-day extension of time for issuing the Final Decision in order to fully review the record in this matter. The time for issuing a Final Decision was extended to December 10, 2012. Prior to December 10, 2012, the Board requested a second 45-day extension of time for issuing the Final Decision in order to continue fully reviewing the record in this matter.

Good cause having been shown, pursuant to N.J.S.A. 52:14B-10(c) and N.J.A.C. 1:1-18.8, **IT IS ORDERED** that the time limit for the Board to render a Final Decision is extended until January 24, 2013.

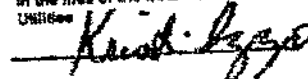
DATED: 11/20/12

BOARD OF PUBLIC UTILITIES
BY:


ROBERT M. HANNA
PRESIDENT

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



¹ Authorized by Board to execute this Order of Extension on its behalf.

Date Board mailed Order to OAL: 11/20/12

cc: Service List Attached

DATED: 11/20/12



LAURA SANDERS, ACTING
DIRECTOR & CHIEF
ADMINISTRATIVE LAW JUDGE

Date OAL mailed executed Order to Board: 11/20/12

Date Board mailed executed Order to Parties: 11/21/12

DODIE K. HOGAN

V.

NEW JERSEY NATURAL GAS COMPANY

BPU DOCKET NO. GC10110839U

OAL DOCKET NO. PUC2220-12

SERVICE LIST

Dodie K. Hogan
34 Gaston Street
Aberdeen, New Jersey 07747

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1415 Wyckoff Road
P.O. Box 1468
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Eric Hartsfield, Director
Julie Ford-Williams
Division of Customer Assistance
Board of Public Utilities
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Trenton, New Jersey 08625-0350

Carolyn McIntosh, DAG
Division of Law
124 Halsey Street
P.O. Box 45029
Newark, New Jersey 07101

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NJ BPU
MAILROOM



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

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NJ BPU
CASE MANAGEMENT

INITIAL DECISION ON MOTION

OAL DKT. NO. PUC 2220-12
(ON REMAND PUC 2765-11)
AGENCY DKT. NO. EC10110829U
AND GC10110839U

DODIE K. HOGAN,

Petitioner,

v.

**NEW JERSEY NATURAL GAS
COMPANY,**

Respondents.

Dodie K. Hogan, petitioner, pro se

Eileen F. Quinn, Esq., for New Jersey Natural Gas Company, respondent

Record Closed: September 4, 2012

Decided: September 6, 2012

BEFORE PATRICIA M. KERINS, ALJ:

Respondent, New Jersey Natural Gas (NJNG) has filed a motion for dismissal dismissed of this action brought by petitioner Dodie Hogan (Hogan). Respondent contends that petitioner is seeking relief based on alleged breach of contract between herself and another subsidiary of its parent company, New Jersey Resource Corporation (NJR). As such, NJNG asserts that the transmitting agency, the Board of Public Utilities (BPU) does not have jurisdiction over the dispute.

PROCEDURAL HISTORY

On November 4, 2010, Hogan filed a petition with the BPU against NJNG and Jersey Central Power & Light (JCP&L). The matter was transmitted to the Office of Administrative Law (OAL) for hearing as a contested case on March 4, 2011, bearing OAL Docket No. PUC 2763-11. Her petition set forth that her dispute with NJNG arose out of the installation of a new gas heating system in her home. She also disputed the manner in which she was billed by JCP&L, and alleged that problems with the new system caused her to incur higher electric bills from JCP&L. On motion, JCP&L was dismissed as a party to that action on October 3, 2011. In early 2012, Hogan's petition was dismissed based upon her failure to appear at the scheduled hearing at the OAL. The matter was retransmitted to the OAL by the BPU for a hearing on February 21, 2012, as OAL Docket No. PUC 2220-12.

On June 14, 2012, respondent NJNG filed a motion requesting the dismissal of Hogan's petition. On June 21, 2012, a telephone conference was held with the parties. At that time, petitioner acknowledged receipt of the motion and, as set forth in a June 25, 2012 letter, she was given until July 6, 2012, to respond to the motion. Hogan then requested an extension of time to respond to the motion and replied to the motion by letter.

FACTUAL DISCUSSION

Hogan is a customer of NJNG and receives gas at her home in Aberdeen, New Jersey. In 2009 Hogan entered into an agreement to purchase a furnace and other HVAC equipment from NJR Home Services (NJRHS), an affiliated company of NJNG. Hogan agreed to pay a \$1,500 deposit, \$850 upon completion of the installation, and pay the remaining \$1,000 over a period of six months. She paid the deposit and the equipment was installed. A dispute then arose between Hogan and NJNG regarding NJRHS's performance under the installation contract and NJNG's action in placing a charge upon Hogan's gas service account for amounts due under the NJRHS contract.

NJNG admits that due to a billing error, charges related to the installation of the furnace were mistakenly placed upon her gas account, resulting in a disconnection notice in October 2010. After receipt of Hogan's original petition, NJNG reviewed her gas billing and corrected the error, removing all charges for the equipment and issuing a credit balance to petitioner in December, 2010. In its pleadings respondent states:

The remaining balance due for the Equipment installation is not connected to the Gas Account and Petitioner's gas service will not be discontinued for her continued failure to pay for the Equipment.

Once the billing error by NJNG was resolved, the issues remaining between the parties related to Hogan's dissatisfaction with the equipment and installation of the new furnace by NJRHS.¹

LEGAL DISCUSSION

The issue raised by respondent's motion is whether the issues remaining between the parties are within the jurisdiction of the BPU and the OAL. The authority of an administrative agency such as the OAL is either expressly granted or necessarily implied by statute. See New Jersey Guild of Hearing Aid Dispensers v. Long, 75 N.J. 544, 562-63 (1978). Pursuant to N.J.S.A. 52:14B-1-15, the OAL derives its authority from the transmitting agencies. In this matter, therefore, jurisdiction over a claim flows from the transmitting agency, the BPU. As noted by respondent, if the BPU lacks jurisdiction, the OAL lacks jurisdiction.

The remaining claims asserted by petitioner in this case relate to her dissatisfaction with the installation and performance of the furnace equipment by NJNG's related company. As such, they essentially arise out of a contract or negligence dispute. While the BPU has broad supervisory and regulatory powers over

¹ As represented by counsel, the contract issues between the parties are the subject of an action pending in the Superior Court of the State of the New Jersey.

public utilities in New Jersey, N.J.S.A. 48:2-13, it has held it does not have the authority to review contracts or award damages as a remedy for breach of contracts. Integrated Telephone Service, Inc. v. Bell Atlantic-New Jersey, Inc., PUC 5737 (1999). It also has held that it does not have jurisdiction over tort actions, such as negligence. Brooks v. Public Serv. Elec. & Gas, 1 N.J.A.R. 24, 244-46 (1981). Further, the courts have given deference to such determinations by an administrative agency charged with implementing legislation. Metromedia, Inc. v. Director, Div. of Taxation, 97 N.J. 313, 327 (1984).

As the gas service billing dispute between NJNG and Hogan has been resolved, the remaining claims arise from an alleged breach of contract or negligent installation by NJNG's related company NJRHS. As those claims are outside of the jurisdiction exercised by the BPU, the OAL has no authority to entertain them.

Based on the above, respondent's motion to dismiss is **GRANTED**.

ORDERED

It is therefore **ORDERED** that this matter is **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.

9/6/12

DATE

Patricia M. Kerins

PATRICIA M. KERINS, ALJ

Date Received at Agency:

9-6-12

Date Mailed to Parties:

9/7/12

/lam