

by the end of February 2016 whether Petitioner had met all requirements of the Fresh Start Program, such that his past-due balance owed to Respondent would be forgiven. The parties agreed that the case should be placed on a ninety-day inactive list in order to determine whether the issues could be resolved absent a hearing. Judge Bingham issued an order to this effect on December 1, 2015.

In February 2016, Petitioner successfully completed the Fresh Start Program. Respondent sent a follow-up letter to Judge Bingham on May 17, 2016, outlining the status of this matter. Thereafter, Judge Bingham's assistant reached out to Respondent and advised that the Judge had reviewed the May 16, 2016 letter and that His Honor would like the parties to submit a Stipulation of Dismissal, or that Petitioner would submit a letter withdrawing his appeal. Respondent prepared a form of Stipulation of Dismissal and sent same to Petitioner, who did not sign the Dismissal. By letter dated June 20, 2016, Respondent advised Judge Bingham of this development.

On December 15, 2016, this matter was reassigned to the Honorable Elia A. Pelios, ALJ. A telephone prehearing conference was scheduled for January 31, 2017. Petitioner requested an adjournment of this conference to retain counsel, and Judge Pelios granted this request. A dial-in telephone prehearing conference was scheduled for April 4, 2017, but Petitioner failed to participate. Petitioner did not submit a letter explaining his non-participation in this last telephone conference. Respondent submitted a request for dismissal to Judge Pelios on May 5, 2017.

Petitioner has not objected, or otherwise responded in any way, to Respondent's May 5, 2017 request that the case be dismissed.

DISCUSSION AND FINDINGS

Petitioner filed an appeal for review of a billing dispute with respondent and challenging respondent's efforts to recover the alleged debt. Respondent forgave the debt in February of 2016 upon Petitioner's successful completion of the Fresh Start Program. Respondent then prepared a stipulation of dismissal, but Petitioner never signed the stipulation. A telephone prehearing conference was scheduled for January 31, 2017, but Petitioner requested an adjournment in order to retain counsel. However, no letter of representation was ever sent to Judge Pelios. On April 4, 2017, a telephone conference was scheduled and Petitioner failed to dial-in, and has not provided an explanation regarding his failure to dial-in. On May 5, 2017, Respondent requested that the matter be dismissed. Since adequate notice had been given to Petitioner, Judge Pelios dismissed the matter for lack of prosecution, pursuant to N.J.A.C. 1:1-14.4(a) and returned the matter to the Board.

After review of the evidence in this matter, the Board agrees with Judge Pelios that this matter should be dismissed for failure to prosecute by the Petitioner. Moreover, since Respondent forgave all of the charges, the matter was essentially resolved by ACE in the Petitioner's favor. Accordingly, the Board **FINDS** that the matter is concluded. The Board further agrees with Judge Pelios that Petitioner Grimes abandoned his case when he failed to call in to a properly noticed telephone conference.

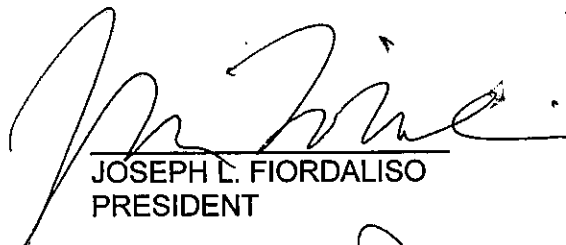
Accordingly, after careful consideration and review of the Initial Decision, and consideration of the entire record, the Board **HEREBY FINDS** that the findings of fact and conclusions of law set out by Judge Pelios are reasonable and supported by law, and **ACCEPTS** those findings.


Therefore, the Board **HEREBY ADOPTS** the Initial Decision in its entirety and **ORDERS** that the Petition be **DISMISSED**.

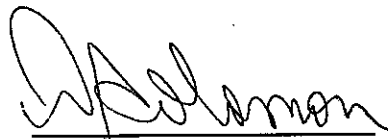
This order shall be effective November 29, 2018.

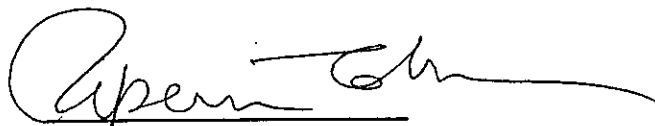
DATED: 11/19/18

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

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.

PHILLIP GRIMES

v.

ATLANTIC CITY ELECTRIC COMPANY

**BPU DOCKET NO. EC14111289U
OAL DOCKET NO. PUC 01414-15**

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RECEIVED
CASE MANAGEMENT

AUG 31 2018

BOARD OF PUBLIC UTILITIES
TRENTON, NJ



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

BOARD OF PUBLIC UTILITIES

AUG 31 2018

MAIL RECEIVED

INITIAL DECISION

DISMISSAL

OAL DKT. NO. PUC 01414-15

AGENCY DKT. NO. EC14111289U

PHILLIP GRIMES,

Petitioner,

v.

ATLANTIC CITY ELECTRIC COMPANY,

Respondent.

Phillip Grimes, petitioner, pro se

Pamela Scott, Assistant General Counsel, Atlantic City Electric Company (Wendy Stark, Vice President and General Counsel)

Carolyn McIntosh, Deputy Attorney General, for Staff of the Board of Public Utilities (Gurbir S. Grewal, Attorney General of New Jersey, attorney)

Record Closed: August 30, 2018

Decided: August 30, 2018

BEFORE ELIA A. PELIOS, ALJ:

STATEMENT OF THE CASE

Petitioner, Phillip Grimes (Grimes), disputes the billing and debt collection by respondent, Atlantic City Electric Company (Atlantic).

PROCEDURAL HISTORY

Petitioner requested a hearing and the matter was transmitted to the Office of Administrative Law (OAL) on January 29, 2018, for hearing as a contested case. This matter was originally assigned to Honorable Robert Bingham, II, ALJ, who presided over multiple telephone prehearing conferences in an attempt to resolve this matter. A hearing was scheduled for August 28, 2015. Petitioner Grimes indicated that he would be represented by attorney Natalie Pavone. Mr. Grimes thereafter advised via electronic mail on August 19, 2015, that he would not be represented by counsel.

On August 25, 2015, petitioner sent a letter to the OAL requesting an adjournment of the hearing scheduled for August 28, 2015, which was granted. Thereafter, on November 23, 2015, Judge Bingham held a telephone prehearing conference with the parties, wherein respondent advised that petitioner was enrolled in the Fresh Start Program (Program), and that respondent would know by the end of February 2016, whether Grimes had met all the requirements of the Program, such that his past due balance owed to respondent would be forgiven. The parties agreed that the case should be placed on a ninety-day inactive list in order to give the parties an opportunity to determine whether the issues could be resolved absent a hearing. Judge Bingham issued an order to this effect on December 1, 2015.

In February 2016, Petitioner Grimes successfully completed the Fresh Start Program so that his past due amounts were forgiven. A follow-up letter was sent to Judge Bingham on May 17, 2016, by respondent, outlining the status of this matter. Thereafter, Judge Bingham's assistant reached out to respondent advising that the Judge had reviewed the May 16, 2016, letter, and that His Honor would like the parties to submit a Stipulation of Dismissal or that petitioner would submit a letter withdrawing his appeal. Respondent prepared a form of Stipulation of Dismissal and sent same to Petitioner Grimes who did not sign the Dismissal. By letter dated June 20, 2016, respondent advised Judge Bingham of this situation.

On December 15, 2016, this matter was assigned to the undersigned. A telephone prehearing conference was scheduled for January 31, 2017. Petitioner's request to adjourn

this conference so that he could retain counsel was granted. A dial-in telephone prehearing conference was scheduled for April 4, 2017, and petitioner failed to participate. Grimes has never submitted a letter explaining his non-participation in this last telephone conference. Respondent submitted a request for dismissal to the undersigned on May 5, 2017.

Petitioner has not objected to nor has he responded in any way, to respondent's May 5, 2017 request that the case be dismissed.

FACTUAL DISCUSSION AND FINDINGS

Based on the procedural record in the file, I **FIND** the following **FACTS**:

Petitioner filed an appeal for review of a billing dispute with respondent and challenging respondent's efforts to recover the alleged debt.

Respondent forgave the debts in February, 2016.

Respondent prepared a stipulation of dismissal. Petitioner never signed the stipulation.

A telephone prehearing conference was scheduled on January 31, 2017 and was adjourned as the petitioner requested an opportunity to obtain counsel.

No letter of representation by counsel on behalf of petitioner was ever received by this office.

A dial-in telephone conferences was scheduled for April 4, 2017, and the petitioner failed to dial-in.

Petitioner never communicated an explanation as to his inability to participate in the dial-in telephone prehearing conference.

On May 5, 2017, respondent requested that the matter be dismissed.

No response to the request for dismissal, nor any other communication by petitioner has been received by this office to this date.

LEGAL ANALYSIS AND CONCLUSION

N.J.A.C. 1:1-14.4(a) provides that, if after appropriate notice, a party does not appear in a proceeding scheduled by the Clerk of OAL, the judge may direct the Clerk to return the matter to the transmitting agency if the judge does not receive an explanation for the nonappearance within one day:

(b) A case shall be returned to the transmitting agency by the Clerk of the Office of Administrative Law if, after appropriate notice, neither a party nor a representative of the party appears at a proceeding scheduled by the Clerk or a judge (see N.J.A.C. 1:1-14.4).

In consideration of the foregoing, along with the procedural history of this matter, I **CONCLUDE** that this matter should be dismissed for lack of prosecution.

ORDER

It is **ORDERED** that Petitioner Grimes' appeal be **DISMISSED** pursuant to N.J.A.C. 1:1-14.4, and that the matter be returned to the **BOARD OF PUBLIC UTILITIES** for appropriate disposition.

I hereby **FILE** my initial decision with the **BOARD OF PUBLIC UTILITIES** for consideration.

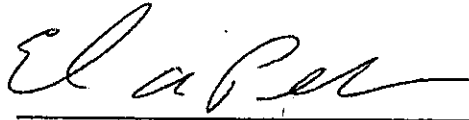
This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the

OAL DKT. NO. PUC 01414-15

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.

August 30, 2018
DATE



ELIA A. PELIOS, ALJ

Date Received at Agency: _____

Date Mailed to Parties: _____

nd