



**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/](http://www.nj.gov/bpu/)

ENERGY

IN THE MATTER OF MARK TOLNICK, <u>ET AL.</u> ,	)	ORDER MODIFYING
Petitioners	)	INITIAL DECISION AND
	)	SETTLEMENT AND DISMISSING
V.	)	THE ACTION
	)	
PUBLIC SERVICE ELECTRIC AND GAS COMPANY,	)	BPU DOCKET NO. EC11040210
Respondent	)	OAL DOCKET NO. PUC 5335-11

**Parties of Record:**

**Ann C, Pearl, Esq.**, appearing on behalf of Petitioners, Mark Tolnick, et al.  
**David K. Richter, Esq.**, appearing on behalf of Respondent, Public Service Electric and Gas Company

**BY THE BOARD:**

Mark Tolnick and 16 other individuals or couples ("Petitioners") each own property in the Township of Voorhees in Camden County upon which Public Service Electric and Gas Company ("Respondent" or "PSE&G") has a right-of-way, with a width of 150 feet, for the transmission of electrical energy. On March 20, 2010, Petitioners filed a Complaint and Order to Show Cause against Respondent in Superior Court, Chancery Division, Camden County (Docket No. C-41-10) ("Superior Court Action"). PSE&G subsequently filed an answer. On February 4, 2011, the court granted PSE&G's Motion for Partial Summary as to certain language in a Deed of Easement granting the right-of-way to Respondent through Petitioners' properties.

By and through its March 9, 2011 order granting summary judgment, the court referred the issue of "what trees will be permitted to remain in the 'border zone' pursuant to Integrated Vegetation Management" to the Board of Public Utilities ("Board"). On April 11, 2011, this matter was filed with the Board. After the filing of Respondent's answer, the Board transmitted this matter to the Office of Administrative Law ("OAL") for hearing and initial disposition as a contested case pursuant to N.J.S.A. 52:14B-1 et seq. and N.J.S.A. 52:14F-1 et seq. This matter was assigned to Administrative Law Judge ("ALJ") Susan M. Scarola.

On November 9, 2011, ALJ Scarola issued an Initial Decision based on a Stipulation of Settlement entered into by the parties. Since the issuance of this Initial Decision, the parties engaged in additional settlement discussions to address issues related to the Superior Court Action. On May 29, 2012, the parties executed a Stipulation of Settlement ("Superior Court Stipulation") regarding all issues in the Superior Court Action, including those issues initially referred to the Board. On August 7, 2012, pursuant to the Superior Court Stipulation, the Superior Court Action was dismissed with Prejudice.

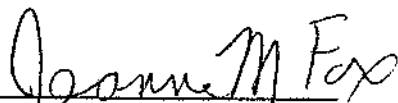
The parties jointly requested that the Board reject ALJ Scarola's Initial Decision and dismiss the action. In light of the joint request of the parties and the Superior Court Stipulation and dismissal with prejudice of the underlying Superior Court Action, the Board HEREBY REJECTS ALJ Scarola's Initial Decision as moot and further ORDERS that the within matter be and is HEREBY DISMISSED.


This Order shall be effective on September 20, 2012.

DATED: 9/13/12

BOARD OF PUBLIC UTILITIES  
BY:

  
ROBERT M. HANNA  
PRESIDENT

  
JEANNE M. FOX  
COMMISSIONER

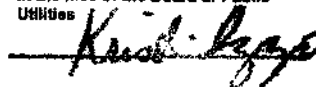
  
JOSEPH L. FIORDALISO  
COMMISSIONER

  
NICHOLAS ASSELTA  
COMMISSIONER

  
MARY-ANNA HOLDEN  
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



SERVICE LIST

MARK TOLNICK, ET AL

V.

PUBLIC SERVICE ELECTRIC AND GAS COMPANY

BPU DOCKET NO. EC11040210  
OAL DOCKET NO. PUC5335-11

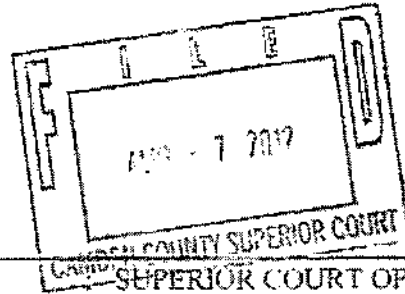
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MARK TOLNICK, ET. AL.

SUPERIOR COURT OF NEW JERSEY

Plaintiffs,

CHANCERY DIVISION  
CAMDEN COUNTY

and

DOCKET NO. C-41-10

THE TOWNSHIP OF VOORHEES

STIPULATION OF DISMISSAL  
WITH PREJUDICE

vs.

PUBLIC SERVICE ELECTRIC & GAS  
COMPANY, A CORPORATION OF THE  
STATE OF NEW JERSEY

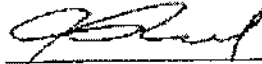
CIVIL ACTION

Defendant

The above captioned matter in controversy having been amicably resolved between the parties, it is hereby stipulated that this matter is hereby dismissed with prejudice without allocation of costs to any of the parties.

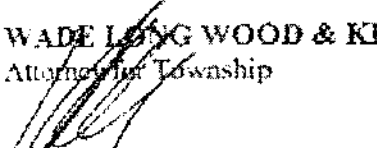
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Howard C. Long, Esq.