



Agenda Date: 7/14/11
Agenda Item: VIIC

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

CUSTOMER ASSISTANCE

INDUSTRIAL DRUM COMPANY,
Petitioner,

v.

SOUTH JERSEY GAS COMPANY,
Respondent.

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ORDER REJECTING
INITIAL DECISION

BPU Dkt.No. GC10040300U
OAL Dkt. No. PUC 8369-10

Parties of Record:

David M. DeClement, Esq., Industrial Drum Company
Steven R. Cocchi, Esq., South Jersey Gas Company

BY THE BOARD:

On April 28, 2010, Industrial Drum Company ("Petitioner") filed a petition with the Board of Public Utilities ("Board") requesting a formal hearing related to a billing dispute with South Jersey Gas Company ("Respondent") for utility services rendered by Respondent.

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") John Schuster III.

While this matter was pending at the OAL, the parties engaged in negotiations and executed a Stipulation of Dismissal ("Stipulation") that was attached to and made part of the Initial Decision. The Stipulation provides, "THIS matter having been amicably resolved between the parties, it is hereby stipulated that this claim, and all claims which could have been raised, including claims for costs and counsel fees, be and the same hereby are dismissed with prejudice and without costs."

Judge Schuster submitted the Initial Decision to the Board on May 12, 2011. By Order of extension, the period for the Board to render a final decision was extended until August 18, 2011.

N.J.A.C. 1:1-19.1 provides, in pertinent part, that:

(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:

In writing, by consent order or stipulation signed by all parties or their attorneys; or

2. Orally, by the parties or their representatives.

N.J.A.C. 1:1-19.1(a) requires full disclosure of the settlement terms. The Stipulation attached to the Initial Decision does not specify the precise settlement terms but rather notes that the parties have agreed to dismiss all claims. Accordingly, the Board FINDS that there is no settlement document before the Board which contains specific terms and conditions, as contemplated by N.J.A.C. 1:1-19.1(a). The Board further FINDS that there is no evidence in the record under which the Board can accept ALJ Schuster's conclusion that the provisions of N.J.A.C. 1:1-19.1 have been met. As a result, the Board HEREBY REJECTS the conclusion of ALJ Schuster as set out in the Initial Decision and HEREBY REJECTS the Initial Decision.

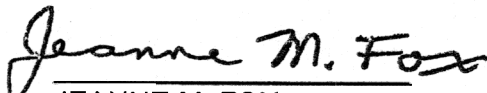
Notwithstanding, the Board will consider this matter to be closed. As stated previously, the Stipulation attached to the Initial Decision clearly indicates the intention of both parties to dismiss all claims. Thus, the Board HEREBY FINDS that the petition is HEREBY WITHDRAWN with prejudice.

The Board HEREBY ORDERS that the Initial Decision is HEREBY REJECTED and that the petition is HEREBY WITHDRAWN with prejudice.

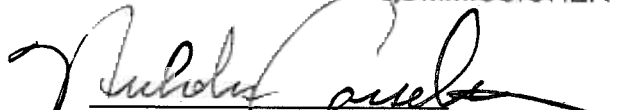
DATED: 7/14/11

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



INDUSTRIAL DRUM COMPANY

V.

SOUTH JERSEY GAS COMPANY

BPU DOCKET NO. GC10040300U

OAL DOCKET NO. PUC 8369-10

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Beslow
JAG (2)
RPA
Lee-Thomas
Lambert
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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

SETTLEMENT

OAL DKT. NO. PUC 8369-10

AGENCY DKT. NO. GC10040300U

INDUSTRIAL DRUM COMPANY,

Petitioner,

v.

SOUTH JERSEY GAS COMPANY,

Respondent.

David DeClement, Esq., for petitioner

Steven R. Cocchi, Esq., for respondent

Record Closed: May 2, 2011

Decided: May 10, 2011

BEFORE JOHN SCHUSTER III, ALJ.

This matter was transmitted to the Office of Administrative Law (OAL) on August 10, 2010, 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 have agreed to a settlement and have prepared a settlement agreement indicating the terms thereof, which is attached and fully incorporated herein.

have reviewed the record and the settlement terms 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 **CONCLUDE** that this agreement meets the requirements of N.J.A.C. 1:1-19.1, and that the settlement should be approved. I approve the settlement and therefore **ORDER** that the parties comply with the settlement terms and that these proceedings be concluded

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

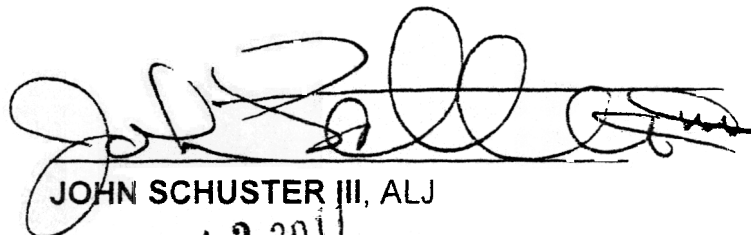
This recommended decision may be adopted, modified or rejected by the **BOARD OF PUBLIC UTILITIES**, which by law is authorized to make a final decision in this matter. If the Board of Public Utilities does not adopt, modify or reject this decision within forty-five days and unless such time limit is otherwise extended, this recommended decision shall become a final decision in accordance with N.J.S.A. 52:14B-10.

May 10, 2011
DATE

Date Received at Agency:

Date Mailed to Parties:

/cad



JOHN SCHUSTER III, ALJ
MAY 12 2011

MAY 12 2011

DAVID M. DECLEMENT, ESQUIRE

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Attorney for Petitioner, Industrial Drum Co., Inc.

OFFICE

INDUSTRIAL DRUM COMPANY, INC

Petitioner

vs.

SOUTH JERSEY GAS COMPANY

Respondents.

OFFICE OF ADMINISTRATIVE LAW

OAL DOCKET NO. PUC 08369-2010 S

AGENCY NO. GC 10040300 U

STIPULATION OF DISMISSAL

THIS matter having been amicably resolved between the parties, it is hereby stipulated that this claim, and all claims which could have been raised in this, including claims for costs and counsel fees, be and the same hereby are dismissed, with prejudice and without costs.

DAVID M. DECLEMENT, ESQUIRE

Attorney for Petitioner

Date

3/23/11

STEVEN R. COCCHI, ESQUIRE

Attorney for Respondents

Date

3-24-11