



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

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| <p>IFEOMA EZEKWO, Petitioner,</p> |) | ORDER ADOPTING |
| |) | INITIAL DECISION |
| v. |) | |
| |) | |
| SUEZ WATER NEW JERSEY, |) | BPU DOCKET NO. WC19040532U |
| Respondent |) | OAL DOCKET NO. PUC 08359-19 |
| <hr/> |) | |
| IFEOMA EZEKWO, |) | |
| Petitioner, |) | |
| v. |) | |
| |) | |
| SUEZ WATER NEW JERSEY, |) | BPU DOCKET NO. WC19040533U |
| Respondent |) | OAL DOCKET NO. PUC 08357-19 |

Parties of Record:

Ifeoma Ezekwo, Petitioner, *pro se*
John P. Wallace, Esq., on behalf of Respondent, Suez Water New Jersey

BY THE BOARD:

The within matters are billing disputes between Ifeoma Ezekwo (“Petitioner”) and Suez Water New Jersey (“Suez Water” or “Respondent”). This Order sets forth the background and procedural history of Petitioner’s claims and represents the Final Order in this matter. Having reviewed the record, the Board of Public Utilities (“Board”) now **ADOPTS** the Initial Decision rendered on April 28, 2021, as follows.

PROCEDURAL HISTORY AND BACKGROUND

On or about April 30, 2019, Petitioner filed two petitions (“Petitions”) with the Board requesting a formal hearing to resolve billing disputes between her and Suez Water regarding water utility service rendered at two properties (“Properties”) located in Englewood, New Jersey under Account Nos. XXXXXXXXXXX111 and XXXXXXXXXXX222, respectively. Petitioner alleged that

Suez Water imposed “inflated meter bills” in connection with the Properties in as early as 2018. The two matters were not consolidated.

On or about May 17, 2019, Suez Water filed an answer to the Petitions. On June 10, 2019, the dispute was transferred to the Office of Administrative Law (“OAL”) for a hearing as a contested case pursuant to N.J.S.A. 52:14B-1 to -15 and N.J.S.A. 52:14F-1 to -23. The matters were assigned to Administrative Law Judge (“ALJ”) Irene Jones.

The OAL scheduled hearing dates for August 11, 2019, August 21, 2019, September 25, 2019, October 13, 2019, November 15, 2019, and December 18, 2019. On or about January 30, 2020, the matters were reassigned to ALJ Irene Jones. While the contested case was pending, the OAL circulated hearing notices to Petitioner, which were not responded to. Additionally, the OAL was unable to contact Petitioner via phone, and no email address was listed. ALJ Jones noted that the OAL notices that were sent to Petitioner’s address were not returned; as such, ALJ Jones presumed that Petitioner was in receipt of the OAL notices.

On or about February 12, 2021, ALJ Jones sent a letter to Petitioner and required a response within ten (10) days; however, as proof of service indicated that the letter was delivered on March 1, 2021, the OAL extended the time to respond to March 11, 2021. ALJ Jones has not received a response from Petitioner.

On March 31, 2021, Respondent filed a Motion to Dismiss (“Motion”) for Petitioner’s alleged failure to prosecute the above-captioned matter. ALJ Jones found that Petitioner has not responded to the Motion and that Petitioner failed to prosecute the matter. As such, ALJ Jones granted Respondent’s Motion on April 28, 2021, and dismissed the Petitions.

The Board did not receive exceptions to ALJ Jones’ Initial Decision.

DISCUSSION AND FINDINGS

If a party does not appear at any scheduled proceeding before the OAL after appropriate notice, the ALJ is required to hold the matter for one day before taking any action. N.J.A.C. 1:1-14.4(a); Blackmon v. Verizon New Jersey, BPU TC08020081U, final decision, (Apr. 27, 2009). If no explanation for the party’s nonappearance is provided within one day, the ALJ shall “direct the Clerk to return the matter to the transmitting agency for appropriate disposition pursuant to N.J.A.C. 1:1-3.3(b) and (c).” N.J.A.C. 1:1-14.4(a); see also Drakeford v. Public Service Electric and Gas Company, BPU EC14030249U, final decision, (Jan. 21, 2015) (finding that the petitioner failed to appear at an OAL hearing and provide an explanation therefor and affirming the OAL Initial Decision in dismissing the petition for the failure to prosecute). Once the matter is returned to the transmitting agency, the party must submit a written explanation for the party’s failure to appear to the transmitting agency head within thirteen (13) days of the Clerk’s notice returning the matter. N.J.A.C. 1:1-3.3(b). Copies of the written explanation are to be served on all other parties. Ibid. Additionally, the Clerk “shall issue an appropriate notice to the parties which shall advise the parties of the time limit and requirements for explanation as set forth in [N.J.A.C. 1:1-3.3(b)].” N.J.A.C. 1:1-3.3(c).

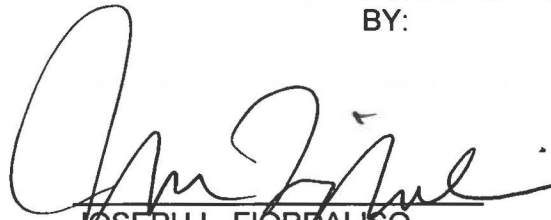
The present record reflects that Petitioner failed to respond to ALJ Jones’ February 12, 2021 letter and Respondent’s Motion. No explanation was provided for Petitioner’s failure to appear or respond to the OAL notices. Additionally, ALJ Jones held the matter for more than one day, in accordance with N.J.A.C.1:1-14.4(a). To this date, the Board has not received any exceptions to the Initial Decision.

Thus, after careful review and consideration of the entire record, the Board **HEREBY FINDS** the ALJ grant of Respondent's Motion to Dismiss to be reasonable and supported by sufficient, competent, and credible evidence. Accordingly, the Board **HEREBY ADOPTS** the Initial Decision in its entirety and **ORDERS** that the Petitions be **DISMISSED**.

This Order shall be effective July 24, 2021.

DATED: 7/14/21

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

IFEOMA EZEKWO, PETITIONER

V.

SUEZ WATER NEW JERSEY, RESPONDENT

**BPU DOCKET NOS. WC19040532U; WC19040533U
OAL DOCKET NOS. PUC 08359-19; 08357-19**

SERVICE LIST

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State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

INITIAL DECISION

DISMISSAL

OAL DKT. NO. PUC 08357-19

AGENCY DKT. WC19040533U

IFEOMA EZEKWO,

Petitioner,

v.

SUEZ WATER NEW JERSEY,

Respondent.

OAL DKT. NO. PUC 08359-19

AGENCY DKT. WC19040532U

IFEOMA EZEKWO,

Petitioner,

v.

SUEZ WATER NEW JERSEY,

Respondent.

Ifeoma Ezekwo, petitioner, pro se

John P. Wallace, Esq., for respondent, Suez Water New Jersey

Record Closed: April 1, 2021

Decided: April 28, 2021

BEFORE **IRENE JONES**, ALJ (Ret. on recall):

STATEMENT OF THE CASE AND PROCEDURAL HISTORY

On April 30, 2019 petitioner, Ifeoma Ezekwo filed two separate petitions with the Board of Public Utilities, Division of Customer Assistance challenging the correctness of utility bills for utility service rendered by the respondent, Suez Water New Jersey, to two properties located at 54 56 Central Avenue and 300 Windsor Road in Englewood, New Jersey. Petitioner is the owner of record of the two properties. On June 10, 2019, the Board transmitted the matters to the OAL for hearing as a contested case. The matters were accepted for filing on June 20, 2019 and assigned OAL docket nos. PUC 08357-2019 and 08359-19. The matters were assigned to the Honorable E. Testa, ALJ for disposition. After a telephone conference, the matter was scheduled for hearing on January 31, 2019. The two dockets are not consolidated.

Thereafter, hearings were scheduled for several dates, to wit: August 11 and 21, 2019, September 25, 2019, October 13, 2019, November 15, 2019 and December 18, 2019. During the pendency of these matters, petitioner was given additional time by ALJ Testa to recover from oral surgery and to answer discovery.

On January 30, 2020 the matters were reassigned to the undersigned for hearing. Petitioner fails to respond to the hearing notices and is unreachable by phone. Further, petitioner has failed to produce an email address. The notices mailed to the petitioner's home address were not returned by the post office, thus it is presumed to have been received. .

On February 12, 2021, a letter from the undersigned to the petitioner advising in petitioner that she had 10 days to contact this tribunal or face dismissal of these matters. Due to extenuating circumstances, the time for the petitioner to respond was extended to March 11, 2021. Proof of service was provided by the UPS reveals that the letter was delivered on March 1, 2021.

On March 31, 2021, the respondent moved to have the matters dismissed for petitioner failure to prosecute. I **FIND** that the petitioner has not responded to the motion

and has otherwise failed to prosecute this matter. Therefore, Motion to Dismiss is hereby **GRANTED**.

ORDER


It is hereby **ORDERED** that this matter be and is hereby **DISMISSED** for failure to prosecute.

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.

April 28, 2021
DATE



IRENE JONES, ALJ (Ret. on recall)

Date Received at Agency: _____
April 28, 2021

Date Mailed to Parties: _____
April 28, 2021

mmm