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November 7, 2011

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- REPLY TO CLINTON, NJ

Mayor and Committee
East Amwell Township
1070 Route 202/31
Ringoes, NJ 08551-1051

Dear Mayor and Committee:

The Mayor asked us to provide you with information about the type of actions citizens who lost power might have against the power company without having to go through the expense of hiring a lawyer. We have provided a description of the most basic remedies below.

1. Petitions to the Board of Public Utilities

Parties who are grieved by actions of public utilities may file a petition with the Board of Public Utilities ("BPU"). The BPU provides for filing of either informal or formal complaints. Attached hereto is a copy of the website page for the BPU which deals with filing informal complaints. These can be done verbally, in writing or electronically. In addition, the BPU provides for the filing of a petition which leads to a formal hearing before the BPU. It costs \$25 to file the petition. Attached is a copy of the documents from the BPU about filing a formal petition.

The type of relief obtained from the BPU is somewhat limited. *Muise v. GPU, Inc.*, 332 N.J. Super. 140 (App. Div. 2000) suggests the damages are not available from the BPU: "In terms of the case before us, these authorities suggest that certain questions about the provision of safe and adequate electric service are within the Board's exclusive jurisdiction, whereas customer damage claims against defendants for the negligent failure to provide service are not." 332 N.J. Super. at 165.

From discussions with BPU representatives, it appears the options available from the BP you are as follows:

(1) If power is out, then a call to the BPU is beneficial. The BPU will contact the utility for information about how the problem is being solved. The number to be called is 1-800-624-0241.

(2) If power is on, the only option available is to file either a written complaint or a petition with the BPU. It will investigate complaints that are made; however, the BPU representatives indicated that it will not compensate customers for spoiled food, injuries to animals or other damages. It will make determinations as to whether the utility companies have taken the proper steps to assure their systems are reliable. Right now, the BPU is evaluating whether the utilities had the proper systems in place to respond to Hurricane Irene. It is anticipated that the BPU will be hiring "special reliability masters" to evaluate the performance of the utilities. In the past the BPU has required utilities to upgrade their operations in order to respond to specific problems. The BPU has not yet had the opportunity to evaluate the October snowstorm formally.

(3) The BPU suggest that those customers who have suffered monetary losses file suit against the utility in Small Claims Court, or if their damages are greater in either the Special Civil Part (jurisdiction: \$15,000) or the Superior Court..

2. Actions Against the Utility in Small Claims Court

An inexpensive remedy to obtain damages is provided by the Small Claims Court. The maximum jurisdiction for this court is \$3,000. The filing fee for a Small Claims case is \$22. There is very little discovery and a plaintiff does not need to have a lawyer. Naturally, a plaintiff still needs to prove both wrongdoing on behalf of the utility and damages. Damages can usually be proven by bills or receipts that document losses. Attached is a packet of information from the New Jersey Judiciary which provides clear instructions on how to file a small claims case

Very truly yours,


RICHARD P. CUSHING

RPC/pmh

Enclosures

CC: East Amwell Committee Members
Terry Stahl, Clerk