H.E. NO. 2012-3

STATE OF NEW JERSEY
BEFORE A HEARING EXAMINER OF THE
PUBLIC EMPLOYMENT RELATIONS COMMISSION

In the Matter of

HUDSON COUNTY,

Respondent,

-and- Docket No. CO-2009-443

NUHHCE DISTRICT 1199J AFSCME
AFL-CIO,

Charging Party.

SYNOPSIS

A Hearing Examiner recommends that the Commission dismiss a charge alleging that the County unilaterally implemented a new progressive discipline and lateness policy for the department of corrections without negotiations and that the new policy repudiated the parties' collective agreement. She determined that the parties engaged in negotiations over the new policy and reached agreement. The Hearing Examiner found that 1199J's negotiator was authorized to act on behalf of the union without any pre-conditions. Specifically, she rejected the union's contention that the agreement was subject to membership ratification and approval of the 1199J president. The Hearing Examiner found no evidence to support the repudiation claim.

A Hearing Examiner's Report and Recommended Decision is not a final administrative determination of the Public Employment Relations Commission. The case is transferred to the Commission, which reviews the Report and Recommended Decision, any exceptions thereto filed by the parties, and the record, and issues a decision that may adopt, reject or modify the Hearing Examiner's findings of fact and/or conclusions of law. If no exceptions are filed, the recommended decision shall become a final decision unless the Chair or such other Commission designee notifies the parties within 45 days after receipt of the recommended decision that the Commission will consider the matter further.

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NUHHCE DISTRICT 1199J AFSCME
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Appearances:

For the Respondent,
Scarinci and Hollenbeck, attorneys
(Sean Diaz, of counsel)

For the Charging Party,
Oxfeld Cohen, P.C., attorneys
(Arnold S. Cohen, of counsel)

HEARING EXAMINER'S REPORT
AND RECOMMENDED DECISION

On May 19, 2009, NUHHCE District 1199J AFSCME (Charging Party or 1199J) filed an unfair practice charge against Hudson County (Respondent or County) alleging that the County violated 5.4a(1), (3) and (5) of the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-1 et seq. (Act).[1/] Charging Party

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1/ These provisions prohibit public employers, their representatives or agents from: "(1) Interfering with, restraining or coercing employees in the exercise of the rights guaranteed to them by this act; (3) Discriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage employees (continued...)

alleges, specifically, that on or about April 1, 2009, the County unilaterally implemented a new progressive discipline and lateness policy for the Department of Corrections without negotiations. It further contends that the policy repudiates the parties' collective negotiations agreement.

On September 22, 2010, a Complaint and Notice of Hearing issued on the 5.4a(1) and (5) allegations (C-1).[2/] The alleged violation of 5.4a(3) did not meet the Commission's complaint issuance standards and was dismissed.

On November 8, 2010, Respondent filed its Answer (C-2), admitting that it implemented a progressive discipline and lateness policy on or about April 1, 2009 but denying that it implemented the policy unilaterally and without negotiations. Respondent also denies that it repudiated the parties' collective agreement and raises various affirmative defenses.

At the request of the parties, the hearing originally scheduled in January 2011 was adjourned in order for settlement

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1/ (...continued)
in the exercise of the rights guaranteed to them by this act; (5) Refusing to negotiate in good faith with a majority representative of employees in an appropriate unit concerning terms and conditions of employment of employees in that unit, or refusing to process grievances presented by the majority representative."

2/ "C" refers to Commission exhibits received into evidence at the hearing. "J", "CP" and "R" refer to joint, charging party and respondent exhibits, respectively.

discussions to be conducted. The parties were unable to voluntarily resolve the charge and a hearing was conducted on June 22, 2011.[3/] The parties examined witnesses and presented documentary evidence. Briefs were filed by August 17, 2011. Based on the record, I make the following:

FINDINGS OF FACT

1. The County and 1199J are public employer and public employee representative, respectively, within the meaning of the Act (T8).

2. 1199J represents a unit of all non-supervisory blue-and white-collar employees employed by the County (J-1).

3. The County and 1199J are parties to an expired collective negotiations agreement effective from July 1, 2006 through June 30, 2011 (J-1).

4. Grisel Lopez is employed by 1199J as vice-president of the nursing and public sector divisions (T14). Among her responsibilities are negotiating agreements as well as handling grievance arbitrations and hearings before the Commission (T15). According to Lopez, once she negotiates a collective agreement on behalf of 1199J, she recommends it for approval, but the collective agreement is subject to ratification by the membership and approval by 1199J President Susan Cleary (T20-T21).

3/ Transcript references for the hearing are "T".

5. At some point in 2007, the County contacted 1199J representatives regarding a new lateness and progressive discipline policy for employees in the County's department of corrections in order to alleviate problems the County was having with certain civilian employees at the jail (T15, T44). 1199J and the County met a couple of times in 2007 and approximately five times in 2008 to discuss the new policy in the Department of Corrections.

1199J Administrative Organizer Margaret Ebel was at all of the meetings. 1199J Delegates Laverne Gibson and Betty Moore as well as Department of Corrections Delegate Hanna O'Lessy and other delegates also attended. Lopez attended some of the meetings, but particularly the 2008 meetings (T44-T45).

County Personnel Officer Anthony Staltari and County Director of Personnel and Labor Relations Patrick Sheil attended the meetings on behalf of the County (T43, T74).

6. During the meetings, the County explained to 1199J the reasons why a new progressive discipline and lateness policy creating a dual track progressive discipline system was necessary and advantageous for the corrections employees (T45). Specifically, Sheil explained to Lopez that by separating lateness from other types of more serious infractions like insubordination, employees avoided the civil service mandate of increasing penalties requiring major discipline (T75). Sheil

felt it was a more fair and reasonable system for the employees (T75). Ebel and Lopez understood the rationale and advantages of such a system (T75-T76).

7. On April 15, 2008, Staltari wrote Lopez to schedule a meeting in the County's correctional center regarding the new lateness policy. He informed her that after discussing the matter with Ebel and Sheil, all parties were available to meet on May 9, 2008 (CP-1). The letter was written on Hudson County Department of Corrections stationary (CP-1).

8. The meeting took place on the scheduled date at the County jail (T17, T19). At the May 9 meeting, the attendees, including Lopez, Ebel and other delegates, reviewed the lateness policy for the civilian employees in the department of corrections (T44-T45). Lopez suggested a couple of changes regarding lateness related to inclement weather and emergencies, but no agreement was reached that day (R-4, R-5; T19, T50-T51). According to Lopez, she communicated to the County that any recommendation as to a policy change must go for approval to President Cleary and the membership for ratification (T21-T22).

Both Staltari and Sheil deny that Lopez communicated any preconditions circumscribing her authority to act on behalf of 1199J at that meeting or at any time before the parties reached agreement by August 2008 regarding the new policy (T65-T66, T75). According to Staltari, Lopez has agreed in the past to the

implementation of a policy without membership ratification and without the approval of the 1199J president (T65-T66). Lopez did not rebut this testimony.

No witness corroborated Lopez' testimony as to what was communicated regarding her authority at the May 9 meeting or at any subsequent meetings to negotiate the new policy. For instance, no delegate who attended this meeting with Lopez or any other meeting regarding the policy testified nor did President Cleary. I draw a negative inference from the failure to call such witnesses to corroborate Lopez' testimony. State v. Clawins, 38 N.J. 162, 170-171 (1962).

Accordingly, I credit Staltari and Sheil that no precondition for membership ratification or approval by Cleary was communicated to them by Lopez at the May 9 meeting or at any time during negotiations of the new policy and before the parties reached agreement. Exhibits summarized below support their testimony and dispute Lopez' assertions as to what she communicated to them about any preconditions (R-1 through R6; CP-4).

9. By letter dated June 4, 2008, Lopez confirmed to Staltari that she had received the progressive discipline and lateness policy for the civilian employees in the Department of Corrections and asked him to call her office to review minor

changes to the policy (R-2, R-3; T49). As of June 4, 2008, the policy had not been finalized (T50).

10. Subsequently, Staltari called Lopez about the minor changes she suggested and incorporated them into the final draft, namely changes having to do with lateness related to inclement weather and other emergencies (R-4, R-5 at paragraph 4; T50, T53). He forwarded the revised policy to Lopez on June 16, 2008, noting that Sheil had approved the changes (R-4, R-5; T51-T52, T54-T55).

11. By memo dated August 25, 2008 entitled "The Department of Corrections, Protocol and Guidelines for Civilian Lateness Policy" and addressed to the County deputy directors, administrators, unit managers, captains and supervisors, Staltari wrote in pertinent part:

> The Attached Policy has been agreed to, by the Union and the County and will be effect [sic] September 1, 2008. Therefore this policy you should distribute to the effected civilian staff by the August 29, 2008 payday and will be implemented beginning September 13, 2008.
>
> For the pay period of August 30, 2008 until September 12, 2008 a reminder should be issued with the attached policy be [sic] given to any staff who violate the new policy informing them that effective September 13, 2008 the Disciplinary guidelines will be implemented. [R-1]

Staltari explains that when he wrote that the union agreed to the new policy, he meant Lopez had agreed on behalf of 1199J

(T48, T65). Sheil also understood at this time that the policy was agreed to by both 1199J and the County (T74).

12. In a letter dated August 27, 2008 to Sheil with copies to Director of the Department of Corrections Oscar Aviles, Staltari, Ebel, 1199J jail delegates and 1199J youth house delegates, Lopez wrote:

> Pursuant to Anthony Staltari's memo of August 25, 2008 relating [sic] the civilian Lateness Policy (copy enclosed), the Union is requesting that we first meet with the members of 1199J to inform them of this policy before the County distributes such a memo.
>
> Therefore, **I am respectfully asking that you contact me as soon as possible to arrange a mutually convenient date and time to hold a membership chapter meeting in order that we may bring this policy to 1199J members' attention before implementation.** Again, the Union requests that this policy not be implemented until a chapter meeting occurs. [CP-4] [emphasis added]

Lopez testified that she did not recall whether Staltari's August 25 memo (R-1) was the memo that she enclosed with and was referenced in her August 27 letter (CP-4) (T33-T38). Sheil recalled receiving CP-4 with R-1 attached (T72-T73). I credit Sheil's testimony. I find that Lopez's August 27 letter (CP-4) was written in response to Staltari's August 25 memo attaching the new policy (R-1).

13. As far as Staltari was concerned, the policy at this point was a final product having been negotiated with Lopez and

the delegates and agreed to by them (R-5; T54-T55).[4/] Sheil also thought that the policy had been finalized, since Lopez told him she only wanted the membership meeting so that she could advise the members of the policy and specifically of the dual track system which both the County and 1199J (Lopez and Ebel) agreed would be a more fair and reasonable way to handle discipline for lateness (T75-T76).

Although Lopez testified on direct that the purpose of the chapter meeting was to not only bring the membership up to date on the new policy but also to have a ratification vote (T29), a plain reading of her August 27 letter (CP-4) to the County comports with the County's understanding that the policy was finalized and agreed to as of that date. I find that Lopez' request to arrange a membership chapter meeting was solely for the purpose of explaining to the membership what the policy was and to take any questions they might have. She wanted to bring the policy to the members' attention before implementation. No where in this letter does she mention ratification.

4/ According to Staltari, not only had Lopez accepted the terms of the policy, but she also agreed that when the County reversed the suspensions of three or four 1199J employees who were previously disciplined for lateness and gave them back pay, the policy could be implemented (T64). The employees were paid by the County (T65). The timing of these events is not established by the record in this proceeding nor was Staltari's testimony clear as to the context of the settlement - e.g. was the settlement the result of a grievance arbitration. His testimony was too vague, therefore, for me to draw any conclusions or give it weight for purpose of this hearing.

For the foregoing reasons, I credit Staltari and Sheil that at no time prior to August 27, 2008, did Lopez communicate the requirement for a membership ratification vote and Cleary's approval in order for the policy, which she had agreed to on behalf of 1199J, to be implemented.

14. In response to Lopez' request in CP-4 that a membership meeting be arranged before implementation, Staltari emailed Lopez at Sheil's direction on August 28, 2008 about the revised department of corrections lateness policy and requested Lopez call him with dates to hold a union chapter meeting "concerning the implementation of the Lateness Policy" (R-6). Membership chapter meetings are held every three months at the jail, but presumably Staltari was trying to schedule a special meeting so that Lopez could inform the effected employees before implementation (T67). He copied Director Aviles on the email (R-6).

15. After hearing from Lopez, Staltari arranged a chapter meeting for September 2008. The meeting, however, was cancelled, when Ebel was taken ill and died. Sometime thereafter, Anne Berkowitz replaced Ebel as 1199J administrative organizer. The membership meeting was rescheduled and held in November or December 2008 (T59, T63). However, the policy was not brought to the membership at this meeting (T64, T67). Neither Lopez nor any other witness testified as to why the policy was not discussed at

this chapter meeting, but there is no evidence that anyone was prevented from informing the membership of the new policy.

16. On March 6, 2009, Staltari wrote Lopez about the County's progressive discipline and lateness policy:

> I have been instructed to forward you the above reference [sic] Department of Corrections policy. This si [sic] the policy that you reviewed and approved last year. I will be distributing the policy on or about April 1, 2009. Please le [sic] me know if there are any issues with this policy. [R-2]

The policy attached to R-2 was the same policy that had been forwarded to Lopez on June 16, 2008 with the changes Lopez had suggested regarding inclement weather and emergencies (R-4, R-5; T51-T54).

17. In response to Staltari's letter of March 6, 2009, Lopez wrote the following letter dated March 12, 2009:

> This Union is in receipt of your letter dated March 6, 2009, regarding the Policy for Progressive Discipline and Lateness. The Union requested to schedule a Union Membership meeting to review this policy with the membership last year. Therefore, Anne Berkowitz, Administrative Organizer will call and schedule a meeting to inform them regarding this policy.
>
> I also stated to Mr. Patrick Sheil, Personnel Director, that the Union would not approve this policy unless it goes into affect [sic] for the entire County. [CP-2]

Lopez wrote this letter because Berkowitz, who replaced Ebel and was a new staffer, came to her office to tell her that the

County was implementing the policy. Lopez explained to her that there had already been discussions with the County and that she was just waiting for a ratification meeting (T24). Berkowitz did not testify.

As to the second paragraph, Lopez explains that President Cleary told her the policy would not be approved unless it goes into effect for the entire County (T24). It is unclear when exactly Cleary instructed Lopez about the necessity for county-wide implementation before approval of the policy, but I infer that it was sometime contemporaneous with Lopez' March 12 letter to Staltari. At no time prior to this letter did this condition get raised in any correspondence between the parties nor did Lopez testify that it was raised during the 2007 or 2008 meetings between 1199J and the County.

18. On May 5, 2009, Lopez wrote Staltari:

> Once again, the Union has received phone calls that the County is going to implement the policy for Progressive Discipline and Lateness. My understanding is that Ms. Berkowitz will schedule a meeting with Union members to review it with the membership. Therefore, the Union is requesting that you cease and desist this practice until such time and after that meeting the Union will meet with the County to discuss this policy further. Also, please see enclosed letter of March 12, 2009. [CP-3]

Lopez wrote this letter because Berkowitz had spoken to Director Aviles to try to schedule a meeting. According to

Lopez, she just wanted the County to hold off implementation until after the meeting so that "we could move forward with this progressive discipline issue"(T27). When asked on direct what issue at this point was holding up the union's approval, Lopez opined that Aviles would not allow 1199J to hold a meeting on the County property, presumably at the jail (T25, T27). There is no evidence to support that Aviles or any County representative prevented the union from holding a chapter meeting at the jail or at any other location in the department of corrections facilities. Berkowitz who, according to Lopez, contacted Aviles to schedule a meeting did not testify. Since the County had scheduled meetings for 1199J in the past to discuss the new policy, I do not find as a fact that Aviles refused to allow 1199J to hold a meeting on County property.

19. The record is unclear as to exactly when the County implemented the policy. However, based on Lopez' May 5, 2009 letter (CP-3), it appears that as of that date the policy was still not in effect. The parties do not dispute that the policy was implemented.

20. The policy was eventually submitted to the effected employees at the department of corrections at a chapter meeting in December 2010 after the County implemented the new progressive discipline and lateness policy sometime in 2009 (T22-T23). The record is unclear as to why the lapse in time between the

County's 2009 implementation and the presentation of the policy to the membership for consideration in 2010. Lopez states that the membership did not ratify the policy nor did Cleary as 1199J president approve it (T30).

ANALYSIS

1199J alleges that the County violated the Act by unilaterally implementing a progressive discipline and lateness policy in the department of corrections and that the new policy repudiates the parties' collective agreement. The County asserts that it implemented the new policy only after negotiation and agreement. Based on witness testimony adduced at the hearing and the documentary evidence, I determine that the parties negotiated regarding the new policy, that 1199J's representative, Grisel Lopez, had the actual and apparent authority to act on behalf of 1199J, that there was a meeting of the minds on the new policy, and that the parties reached an agreement without conditions precedent or subsequent to its implementation. The County, therefore, acted appropriately in implementing the new policy. Accordingly, I recommend that the charge be dismissed.

Specifically, N.J.S.A. 34:13A-5.3 authorizes the majority representative to negotiate on behalf of unit employees their terms and conditions of employment. This section also defines when an employer has a duty to negotiate before changing working conditions:

> Proposed new rules or modifications of existing rules governing working conditions shall be negotiated with the majority representative before they are established.

The Commission has held that changes in negotiable terms and conditions of employment, therefore, must be addressed through the collective negotiations process, because unilateral action is destabilizing to the employment relationship and contrary to the principles of our Act. Middletown Tp., P.E.R.C. No. 98-77, 24 NJPER 28, 29-30 (¶29016 1998), aff'd 334 N.J. Super. 512 (App. Div. 1999), aff'd, 166 N.J. 112 (2000).

Consistent with our Act and case law, the parties do not dispute that the County's proposed new lateness and progressive discipline policy was negotiable. The disciplinary amendment to 5.3 specifically requires negotiations over disciplinary disputes and review procedures. The Commission has repeatedly held that progressive discipline concepts are negotiable. Morris Cty. College Staff Ass'n v. Morris Cty. College, 100 N.J. 383 (1985); Borough of Roselle Park, P.E.R.C. No. 2006-85, 32 NJPER 162 (¶72 2006), Township of Montclair, P.E.R.C. No. 2000-107, 26 NJPER 310 (¶31126 2000).

The next question for consideration is whether the parties reached agreement on the new policy, such that the County could impose it without violating its 5.3 obligations. This question has two parts: was there a meeting of the minds and did Grisel

Lopez has the apparent authority to act on behalf of 1199J. In a "meeting of the minds" case, in order for an agreement to be binding the parties have to have reached a mutual understanding on the terms of the agreement. All topics must be discussed, and any understanding encompasses not only the specific wording of a provision, but also its meaning or application. Borough of Matawan, P.E.R.C. No. 86-87, 12 NJPER 135 (¶17052 1986); Passaic Valley Water Commission, P.E.R.C. No. 85-4, 10 NJPER 487 (¶15219 1984); Mt. Olive Bd. of Ed., P.E.R.C. No. 84-73, 10 NJPER 34 (¶15020 1983); Borough of Wood-Ridge, P.E.R.C. No. 81-105, 7 NJPER 149 (¶12066 1981).

In this instance, negotiations took place in 2007 and 2008. The parties exchanged proposals and changes were made to the policy at the suggestion of 1199J. Charging Party does not dispute that the substance of the new policy was agreed upon by the negotiators. There is also no dispute about the meaning or application of any wording in the policy or the topics discussed. Basically, its argument hinges on whether Lopez had the authority to bind 1199J or whether she communicated to the County that her authority was subject to membership ratification and approval of 1199J President Cleary.

I did not credit the testimony of the Charging Party's only witness, 1199J Representative Lopez that she told the County that the policy had to be ratified by a membership vote and approved

by 1199J President Cleary. Although this may have been the standard practice when a collective negotiations agreement or a modification of a collective agreement has been finalized, the policy at issue here concerns a non-contractual term and condition of employment; it does not involve either the negotiations of a successor agreement or modification of an existing agreement. The County's witnesses credibly testified that Lopez has negotiated such policies in the past without ratification and approval by Cleary. The parties' past history as testified to by the County's witnesses, namely that Lopez has negotiated and agreed to such policies in the past, is relevant to discerning both the parties' expectations and Lopez' apparent authority. The parties had a history of reaching agreement with Lopez in this fashion. Borough of Palmyra, P.E.R.C. No. 2008-5, 33 NJPER 207 (¶75 2007). Under these circumstances, Lopez had the actual and apparent authority to bind 1199J.

Accordingly, when the County notified Lopez in August 2008 that the lateness and progressive discipline policy that the parties' agreed to would be implemented, Lopez responded simply asking for an opportunity to hold a membership chapter meeting "in order that we may bring this policy to 1199J members' attention before implementation". This statement established that the County and 1199J had reached agreement. The County then extended a courtesy to Lopez, at her request, holding

implementation pending a question and answer session with her membership. The fact that 1199J held chapter meetings thereafter and did not discuss the policy does not prevent the County from implementing the policy that the parties negotiated.

Cleary's subsequent insistence that the policy would only be accepted if the County implemented it county-wide was a new condition, inconsistent with the parties' discussions and understandings during their 2007 and 2008 negotiations. When the County initially proposed the policy, it was attempting to resolve problems only with employees at the County jail. All negotiations took place at the department of corrections. Letters generated by the County to 1199J regarding the policy were written on department of corrections letterhead. The policy was always intended to be implemented for the department of corrections, not county-wide. The policy itself is limited to department of corrections employees. If 1199J now wants to negotiate with the County over this issue, it may propose negotiations prospectively. See generally, Bergen Co. Prosecutor's Office, P.E.R.C. No. 83-90, 9 NJPER 75 (¶14040 1982) (union violated 5.4b(4) by refusing to execute ratified agreement unless employer included two new clauses union preferred).

This matter is distinguishable from City of Newark, H.E. No. 2009-2, 34 NJPER 307 (¶113 2008) where I determined that the City violated the Act when it unilaterally revised procedural aspects

of its random drug testing policy without agreement of the FOP. There, the parties never reached an agreement. Unlike here, the recollection of the City's witnesses as to what occurred during labor-management meetings at which agreement was reached was not good, the minutes of the meetings were unsigned, and there was no other documentary evidence supporting that the FOP President agreed to the policy revisions. Most importantly immediately after receiving the policy revisions, the FOP President protested the changes and filed grievances. Basically, I found no credible evidence that the FOP President agreed to the policy.

Here, the final policy revisions were completed by the end of August 2008. Having received notification that the County intended to implement the policy as of September 2008, Lopez' August 27 letter to Staltari (CP-4) confirmed that she understood that the policy was finalized because she only requested he hold off implementation in order to hold a membership chapter meeting for the purpose of bringing the policy to 1199J members' attention before implementation. If there was any question at this time that 1199J had not yet agreed to the policy, Lopez would not have accepted implementation as the next step in the process. Lopez would have cautioned Staltari that the parties did not have a done deal until the membership ratified and Cleary approved.[5/]

5/ Charging Party relies on Staltari's letter of March 6, 2009 (continued...)

Based on the foregoing, I recommend that the 5.4a(1) and (5) allegations pertaining to a unilateral change without negotiations be dismissed.

Finally, there was no evidence adduced nor did Charging Party argue in its brief that the parties' collective negotiations agreement was repudiated. Therefore, I also recommend that this 5.4a(1) and (5) violations related to this allegation be dismissed.

CONCLUSIONS OF LAW

Respondent did not violate N.J.S.A. 34:13A-5.4a(1) and (5) by implementing a new progressive discipline and lateness policy in the department of corrections or by repudiating the parties' collective negotiations agreement.

5/ (...continued)
to Lopez about distributing the policy in which he encloses the policy that he writes was reviewed and approved by Lopez the year before (R-2). In that letter, he asks Lopez to let him know if there are "any issues with this policy" (R-2). I do not find this generic statement balanced against Lopez' testimony and other documentary evidence sufficient to refute my conclusion that the parties' had a meeting of the minds on the new policy and finalized an agreement. This statement is contained in a letter concerning the distribution of the policy. Staltari's inquiry could just as well be attributed to the distribution as to the contents of the policy.

RECOMMENDATION

I recommend that the Commission dismiss the Complaint.

Wendy L. Young
Hearing Examiner

DATED: November 4, 2011
Trenton, New Jersey

Pursuant to N.J.A.C. 19:14-7.1, this case is deemed transferred to the Commission. Exceptions to this report and recommended decision may be filed with the Commission in accordance with N.J.A.C. 19:14-7.3. If no exceptions are filed, this recommended decision will become a final decision unless the Chairman or such other Commission designee notifies the parties within 45 days after receipt of the recommended decision that the Commission will consider the matter further. N.J.A.C. 19:14-8.1(b).

Any exceptions are due by November 16, 2011.