

**Prepared by the Court**

FUNTOWN PIER AMUSEMENTS, INC.  
Plaintiff(s)

Vs.

JOAN BETH HANSEN d/b/a BISCAYNE  
ICE CREAM AND ASUNDRIES, et. al.  
Defendant(s)

SUPERIOR COURT OF NEW JERSEY  
LAW DIVISION  
OCEAN COUNTY

CIVIL ACTION

DOCKET No. OCN-L-2438-15

**OPINION**

The plaintiffs in these consolidated actions are business entities operating on boardwalk properties in Seaside Park and Seaside Heights, New Jersey. Defendant Jersey Central Power and Light [(JCP&L), which includes its parent company First Energy Corporation, provided electrical service to the plaintiffs. As a public utility company, JCP&L owns or manages all electrical transmission lines providing service to the boardwalk properties.

In the afternoon hours of September 12, 2013 a fire was first reported within the Borough of Seaside Park at the southern most area of the boardwalk. The two businesses located in the vicinity of the fire's origin are commonly known as Kohr's Ice Cream and Biscayne Candies. The fire spread north into the neighboring municipality of Seaside Heights and continued to burn until the late evening hours of September 12, 2013. Some eleven months prior to the fire, on October 29, 2012, the same area received significant wind and flooding damage from Superstorm Sandy. The storm damage was so significant, JCP&L shut down all power to the barrier island and removed approximately 10,000 meters from both commercial establishments and residences affected by the flooding. Electric meters were removed to permit the municipalities to inspect the property owners' electrical equipment prior to JCP&L re-energizing the premises.

This action concerns the property damage claims on behalf of forty (40) Plaintiffs that arise out of the fire that occurred on the Seaside Park Boardwalk on September 12, 2013. These plaintiffs commenced an action in the Law Division alleging that flooding and high winds from Superstorm Sandy compromised electrical connections servicing the boardwalk businesses. The plaintiffs claim that JCP&L's practices in re-energizing the boardwalk businesses were negligent, and proximately caused the fire on September 12, 2013. The plaintiffs further assert that JCP&L should have ensured that all wiring and connections owned and maintained by private property owners were safe prior to receiving electric service supplied by JCP&L.

These seven consolidated matters come before the court upon the motion of Defendant Jersey Central Power & Light. JCP&L seeks an Order Barring Plaintiffs' Expert and subsequently granting Summary Judgment against Plaintiffs' Complaints. For the reasons set forth herein, the court **GRANTS** the Defendants' Motions.

After Superstorm Sandy, in recognition of the extensive damage caused to properties on the Jersey Shore, JCP&L issued a "Fact Sheet" explaining the risk of hidden electrical hazards in the customers' wiring, connections and equipment. The Fact Sheet required qualified licensed electricians to inspect the customer's wiring and complete repairs before service could be restored. Plaintiffs claim that the fire might have been avoided had JCP&L on its own initiative, inspected the customer's electric wiring connections. In the spring of 2013, inspections performed on properties owned by JCP&L customers were limited to those conducted by qualified licensed electricians and a municipal electrical inspector. The municipal electrical inspector was responsible for inspecting the work performed by the property owner's electrician and verifying that the electrician's work was performed properly. The final step of the process before JCP&L re-energizes a property, is that the municipal electrical inspector completes and signs a "cut-in"

card, indicating to JCP&L that a customer's electrical equipment has been inspected and is approved to be re-energized. The cut-in card verification process is used by all electrical utilities in the State of New Jersey. JCP&L does not inspect, maintain, or repair customer-owned equipment.

In 2015, Plaintiffs instituted this action against Defendant JCP&L. In their Complaint the Plaintiffs allege that JCP&L breached a duty of care by restoring power to the boardwalk properties prior to performing their own inspection. As a result of this practice, Plaintiffs assert that JCP&L's conduct in re-energizing the Kohr's and Biscayne Candies properties after Hurricane Sandy caused the September 12, 2013 fire.

JCP&L has now filed a motion to Bar the Introduction of Testimony from Plaintiffs Expert Christopher Graham, P.E.

Comment #1 to N.J.R.E. 702 indicates,

In New Jersey there are but three basic requirements for the admission of expert testimony:

- (1) The intended testimony must concern a subject matter that is beyond the ken of the average juror;
- (2) The field testified to must be at a state of the art that such an expert's testimony could be sufficiently reliable;
- (3) The witness must have sufficient expertise to offer the intended testimony.

State v. Kelly, 97 N.J. 178 (1984)

The New Jersey courts have also stated that "[a] jury should not be allowed to speculate without the aid of expert testimony in any area where laypersons could not be expected to have sufficient knowledge or experience." Kelly v. Berlin, 300 N.J. Super. 256, 268 (App. Div. 2000).

The electrical issues involved in the Plaintiff's allegations are technically complicated and not within common knowledge of the jury. The Plaintiff's claim that JCP&L prematurely and

improperly re-energized a customer's electrical equipment after Hurricane Sandy. The plaintiff's electrical expert, Christopher Graham has opined:

*The wiring and components under the floor of the two stores was subject to wave action, debris impingement and saltwater submergence. This would have caused conductor insulation damage, wear, abrasion, deposits on exposed copper and aluminum, and corrosion layer intrusion into any electrical contact surfaces. Upon re-energization of these components, overheating, arcing and arc tracking along deposit layers would be expected to occur. Several arc sites were identified-depicted in diagram 2. The paper debris provided a competent initial and sustaining fuel load for these ignition sources.*

Christopher Graham, PE (January 31, 2019)

The testimony offered by the Plaintiffs meet all three requirements of a Rule 702 analysis, (1) the subject matter offered presents information about electrical arcing, overheating and arc tracking. This subject matter is well beyond the knowledge of the average juror. (2) the field of forensic analysis of electrical fires is well established and has been long accepted as sufficiently reliable for presentation to jurors. (3) the witness is a licensed Professional Engineer whose expert qualifications have not been challenged.

Expert testimony must relate to generally accepted standards, and a jury must be able to find that a consensus exists within the particular profession involved which recognizes the existence of an accepted standard. Taylor v. Delosso, 319 N.J. Super. 174, 180 (App. Div. 1999); Fernandez v. Baruch, 52 N.J. 127, 131 (1968). Courts in the State of New Jersey have held that a standard which is personal to the expert is equivalent to a net opinion, an expert must give a "why and wherefore" to support opinion. Crespo v. McCartin, 244 N.J. Super. 413, 422-3 (App. Div. 1990); Buckelew v. Grossbard, 87 N.J. 512, 528-9 (1981).

The plaintiffs have put forth persuasive proof regarding the location of origin of the fire, which remains largely uncontested. The plaintiffs further support their claims by presenting expert

opinion as to the cause of the fire's ignition. After conducting an investigation of the possible sources of ignition, the plaintiffs' expert Mr. Graham indicated,

*Non-metallic sheathed conductors (e.g. Romex) and junction boxes with exposed aluminum and copper connections existed under the stores at the time of the fire. Due to the extensive damage at the scene, a specific mode of failure-high resistance heating, intermittent energized contact and arcing, arc tracking-could not be identified. However, these overheated electrical systems breakdowns and failure cannot be eliminated. The only competent electrical ignition sources for the fire are of the type mentioned from electrical wiring or components underneath the two stores.*

*It is my opinion that more likely than not the fire started as the result of a fault in the electrical conductors, J-boxes or service entrance conductors underneath the Biscayne-Kohr's stores. (emphasis supplied)*

Graham (Jan. 31, 2019) p. 10

Prior to expressing his opinion, Mr. Graham evaluated and analyzed various possibilities as potential sources of ignition for the September 12, 2013 fire. Mr. Graham evaluated photos of the fire location both pre and post-accident, as well as criminal investigation reports issued by the Ocean County Prosecutor's Office and the United States Division of Alcohol, Tobacco and Firearms. After conducting his investigation, Mr. Graham eliminated the building's appliances as a possible source of ignition, along with eliminating the buildings electrical panels, receptacles, lighting switches, or conductors located inside the stores.

In reaching his conclusion that the fire was ignited by faulty electrical connections underneath the Biscayne and Kohr's stores, Mr. Graham provided the factors he considered in reaching his conclusion. He considered that during Superstorm Sandy, the wiring and components under the floor of the two stores were subject to wave action, debris impingement, and saltwater submergence. He considered the extent to which this exposure would have caused conductor insulation damage, wear, abrasion, deposits on the exposed copper and aluminum, and corrosion layer intrusion into any electrical contact surfaces. Mr. Graham also considered the likelihood of

overheating, arcing, and arc tracking along deposit layer and found that these conditions were likely to occur. Finally, he considered that paper debris in the immediate area would provide a competent fuel load for ignition and initial burn of the fire.

In Townsend v. Pierre, the court stated: “A party’s burden of proof on an element of a claim may not be satisfied by an expert opinion that is unsupported by the factual record or by an expert’s speculation that contradicts that record.” See 221 N.J. 36-55 (2013). A causal relationship must be shown by presentation of competent credible evidence which proves material facts. It cannot be satisfied by conjecture, surmise or suspicion of a proffered expert. Lamb v. Barbour, 188 N.J. Super 6, 12 (App. Div. 1982). An opinion given by an expert which fails to explain causal connection is an inadmissible net opinion. Nguyen v. Tama, 298 N.J. Super 41, 49 (App. Div. 1997).

Utility companies are covered by National Electrical Safety Code (NESC), which has been adopted by the New Jersey Board of Public Utilities (BPU) safety code. The established practice for the restoration of electric service, is for the customer to first call a licensed electrician for repairs, then the municipal electrical inspector to inspect and approve the property for safe re-energizing. Only after these steps were completed would JCP&L re-energize a property. This practice was consistent with the industry standard. JCP&L did not re-energize any property until a cut-in card came from the municipality. The cut-in card indicates that customer’s electrical equipment has been inspected, is in compliance with the NEC and local electrical codes and, thus, is safe to energize.

Christopher Graham’s opinions explain a causal connection between a suspected fault in the electrical conductor, J-boxes or service entrance conductors underneath the Biscayne-Kohr’s stores and the initial ignition of the fire. However, Mr. Graham’s assertion that “JCP&L did not

*follow their guidelines by energizing Biscayne and Kohr's in the presence of a hazardous condition"* contains no explanation of which guideline was violated and what hazard was present at the time of the electrical reconnection. Mr. Graham fails to indicate or identify any JCP&L guideline that was violated. Furthermore, the expert failed to put forth any Statute, Administrative Code Regulation, Tariff, or Customer Guide for Electrical Service which was violated. No standard has been identified by Mr. Graham that was ignored or violated by JCP&L. Ultimately, Christopher Graham testified, *"I didn't testify that they were standards... I put them forth as guidelines as a way to illustrate what I believe JCP&L should have done."* (Deposition p. 415, L. 14-16)

The Supreme Court held in Rubanick v. Wiltco Chemical 125 N.J. 421 that a court may admit expert scientific evidence on a causation theory so long as "it is based on a sound, adequately-founded scientific methodology involving data and information of the type reasonably relied on by experts in the scientific field." Rubanick at 449. One year later, in Landrigan v. Celotex Corp. 127 N.J. 404 (1992), the Court reinforced that in matters involving novel theories of causation, the trial court is obliged to review data and studies relied on by experts proffering an opinion "determine whether the expert's opinion is derived from a sound and well-founded methodology that is supported by some expert consensus in the appropriate field."

After extensive investigation into the cause of the fire, the plaintiff's expert admitted that there was no standard requiring JCP&L to review or inspect the electrical wires, connections, and equipment owned and possessed by the customer. Mr. Graham's opinion as to what may have been a better practice is based upon his personal belief. The law requires the court to analyze the duty of public utilities under established regulations, requirements, and practices. The personal

beliefs of Mr. Graham violate an expert's obligation to provide opinions based upon sound and well-founded methodology that is supported by expert consensus in the appropriate field.

Therefore, Christopher Graham's opinions regarding JCP&L's liability for the cause of the fire, constitute net opinions. Both parties' experts agree that the fire was not caused by or originated in electrical equipment owned by JCP&L. Without an expert opinion regarding JCP&L's actions in this case, the Plaintiffs cannot meet their burden of proof as to all elements of negligence, and JCP&L is entitled to Summary Judgment.

To succeed on a cause of action for negligence, a plaintiff must establish: (1) a duty of care owed by the defendant to the plaintiff; (2) a breach of that duty by the defendant; (3) an injury proximately caused by the defendant's breach; and (4) damages. *Jersey Central Power & Light Co. v. Melcar Util. Co.*, 212 N.J. 576, 594 (2013). Plaintiff has the burden of proving, by a preponderance of the evidence, that the accident at the heart of the matter was the result of the Defendant's negligence. *Gardner v. Pawliw*, 150 N.J. 359, 377 (1997). Whether a duty exists is a matter of law decided by the courts determined by a weighing of the relationship of the parties, the nature of the risk, and the public interest in proposed solutions. *Strachan v. JFK Memorial Hospital*, 109 N.J. 523, 529 (1988); *Kelly v. Gwinnell*, 96 N.J. 538, 544 (1984); *Goldberg v. Housing Auth. Of Newark*, 38 N.J. 578, 583 (1962). The salient facts involved in this dispute are viewed by the court in a light which is most favorable to the plaintiff. *Polzo v. Cty. Of Essex*, 209 N.J. 51 (2012) (citing *Brill v. Guardian Life Ins. Co. of Am.* 142 N.J. 520, 523 (1995)).

To pursue defendants on a claim of negligence, plaintiffs need to establish that the defendant had a duty of care and that the defendant breached its duty. [Townsend v. Pierre](#), 221 N.J. 36, 51, 110 A.3d 52 (2015). The existence of a duty of care is a question of law. [Kernan v.](#)



[\*One Washington Park Urban Renewal Assocs.\*, 154 N.J. 437, 445, 713 A.2d 411 \(1998\)](#); [\*Clohesy v. Food Circus Supermarkets\*, 149 N.J. 496, 502, 694 A.2d 1017 \(1997\)](#). It is "ultimately a question of fairness," which "involves a weighing of the relationship of the parties, the nature of the risk, and the public interest in the proposed solutions." [\*Kelly v. Gwinnell\*, 96 N.J. 538, 544, 476 A.2d 1219 \(1984\)](#) (quoting [\*Goldberg v. Hous. Auth. of Newark\*, 38 N.J. 578, 583, 186 A.2d 291 \(1962\)](#)). The court starts by finding whether the danger in question was foreseeable in the circumstances of the particular case, based on "the relationship between the plaintiff and the tortfeasor, the nature of the risk, and the ability and opportunity to exercise care." [\*Carvalho v. Toll Bros. & Developers\*, 143 N.J. 565, 573, 675 A.2d 209 \(1996\)](#) (quoting [\*Carter Lincoln-Mercury, Inc. v. EMAR Grp.\*, 135 N.J. 182, 194, 638 A.2d 1288 \(1994\)](#)).

However, foreseeability does not end the inquiry. "Foreseeability of injury to another is important, but not dispositive." [\*Kuzmicz v. Ivy Hill Park Apartments, Inc.\*, 147 N.J. 510, 515, 688 A.2d 1018 \(1997\)](#). "[B]ecause imposing a duty based on foreseeability alone could result in virtually unbounded liability, [courts] have been careful to require that the analysis be tempered by broader considerations of fairness and public policy." [\*Estate of Desir ex rel. Estiverne v. Vertus\*, 214 N.J. 303, 319, 69 A.3d 1247 \(2013\)](#).

Accordingly, the plaintiff with a negligence claim must establish grounds for a "value judgment, based on an analysis of public policy, that the actor owed the injured party a duty of reasonable care." [\*Kelly\*, 96 N.J. at 544](#). The court must then decide whether "fairness and policy" justify imposing a duty to prevent that danger, which is an inquiry that "involves identifying, weighing, and balancing several factors—the relationship of the parties, the nature of the attendant risk, the opportunity and ability to exercise care, and the public interest in the proposed

solution." [Carter, 135 N.J. at 194-95](#) (quoting [Hopkins v. Fox & Lazo Realtors, 132 N.J. 426, 439, 625 A.2d 1110 \(1993\)](#)).

In deciding whether to recognize a new duty, courts must remember that "the function of the common law is not to achieve a result in a particular case, but to establish generally applicable rules to govern societal behaviors." [Estate of Desir, 214 N.J. at 323](#). "[I]t is essential . . . to take careful consideration of the effect that the creation of a duty will have more generally on the public. Each time that [the Supreme] Court has created a new common law duty, this focus has been paramount." [Id. at 328](#). "By the same token, [the Court has] recognized that a carefully drawn articulation of a duty can serve to confine a defendant's exposure to liability by addressing a specific, articulable risk, thereby achieving the goals of our tort laws without adverse public policy consequences." [Id. at 328-29](#).

Utility companies are covered by National Electrical Safety Code (NESC), which has been adopted by the New Jersey Board of Public Utilities (BPU) safety code. While utilities are required to act swiftly and without delay to prevent harm from palpably identifiable dangers, the danger here was not identifiable, because the storm impacted countless properties on the barrier islands. The actual damage at any particular location was uncertain, as customers were warned that hidden damage to their electrical connections could only be accurately identified by an inspection of the property by a licensed electrician. In the fact sheet provided to JCP&L customers, JCP&L indicated that some properties continued to possess the pre-storm electric meter provided by JCP&L. However, JCP&L removed approximately ten thousand electric meters on the barrier island and notified those customers, "*Residents should have a licensed electrician make repairs to their homes... If the meter was removed due to severe damage or flooding - JCP&L will install*

*a new meter after the service is repaired by a qualified electrician and inspected by a state inspector.*

Utilities are not insurers against damage from service interruptions, or from events such as fires because that would place a crushing financial burden upon them. The plaintiffs' claim for a determination of liability in the absence of an inspection of the premises by JCP&L is distinguishable from the claim in [\*Farrell v. N.J. Power & Light Co.\*, 111 N.J.L. 526, 535, 170 A.25 \(E. & A. 1933\)](#), a case in which a gas company was held liable because it had "both direct and constructive notice of a leakage of gas from its main" at a particular location of the manhole where the explosion that damaged the plaintiff's property later occurred. *Id.*

In New Jersey, the Legislature has placed a statutory duty on the defendant to provide customers with reliable and continuous electric service. The Tariff issued to JCP&L grants the right of monopoly to provide electric service without imposing a far-reaching duty to inspect equipment that remains beyond the utility's ownership and control. The plaintiffs have provided no authority in any jurisdiction that imposed a duty on an electric utility company to inspect and sanction the use of connections and equipment owned and controlled by the customer.

In hindsight, the plaintiffs may have been better protected against fire damage had the municipal inspector required photographic or video evidence of all electrical connections located in areas which were submerged by flood waters. This burden to satisfy the safe condition of electrical equipment owned by the customer and located within a customer's premises ultimately falls upon the property owner, not the provider of the electric power. Under the standards established by the NEMA, DCA, NFPA, Edison Electric Institute, New Jersey Statutes, Administrative Codes, or JCP&L procedures, no obligation has been created to require JCP&L to inspect any part of a customer's premises beyond the point of the power service connection. All

parties concede that JCP&L has a statutory mandate to provide continuous and uninterrupted electric service to all customers who have been certified to receive the electric power. The certification process has been delegated to municipal inspectors. To impose a duty upon JCP&L to investigate the safety of the customer's wires and connections as the plaintiffs have urged, would create a new obligation under the law. The plaintiffs' interest may be appropriately advanced by a new requirement to expand the inspection obligation of public utilities. However, such an expansion of the existing law must come from the Legislature and not the courts.

In this matter, the Plaintiffs are attempting to set forth a duty owed by JCP&L by focusing on JCP&L's Customer Guide for Electrical Service which was published two years after the fire. Plaintiffs cite Section 3.9 regarding inspections: *"When the company deems that a potentially hazardous condition exists, it may refuse to energize the customer's service until the customer remedies any deficiencies."* JCP&L representatives testified that this last line refers to blatantly obvious conditions apparent to JCP&L linemen who are not licensed electricians. The JCP&L representatives gave examples of a meter pan being damaged, obvious damage to overhead service such as mast or weather head, or a meter bank being run over by a utility truck. JCP&L has informed their customers that their policy requires a licensed electrician to be hired by the customer for the purpose of inspecting and making repairs to customer-owned equipment. Imposing a duty on New Jersey Utility Companies to inspect and repair customer-owned equipment contradicts an established industry standard. The NESC has been adopted by the BPU as the prevailing safety code for electric utility companies under N.J.A.C 14:5-1.1. NESC does not require utility companies to inspect customer equipment. Plaintiff's assertion creates liability despite the industry standard that no utility company inspects customer-owned equipment.

During the approaching hours of Superstorm Sandy when public utilities elected to forgo the termination of continuous electric and gas service to the barrier islands, the courts of this State declined to extend liability to JCP&L under a common law negligence analysis for the failure to suspend electric service. In *Roudi v. Jersey Cent. Power & Light*, 2020 N.J. Super. Unpub. LEXIS 608, 2020 WL 1650710. The court has previously stated that there is no duty at common law to suspend utility service unless the circumstances afford specific notice of the location and nature of the danger. The legislature has determined that the better practice in issuing tariffs to public utilities is to limit their exposure as insurers against damage from service interruptions, or from events such as fires.

This court previously held out an example of a claim in which a gas company was held liable because it had direct and constructive notice of a gas leak at a particular entry point where an explosion later occurred. *Farrell v. N.J. Power & Light Co.*, 111 N.J.L. 526, 535 (E. & A. 1933). Nothing in the record indicates that any of the Plaintiffs, or JCP&L were on notice that any electrical defect existed at the Biscayne-Kohr's property. At no time after the property was evaluated by a licensed electrician and approved by the municipal electrical inspector, until the property was re-energized by JCP&L, did any person identify an issue that would indicate the property should not be connected to electrical service by JCP&L.

In the present matter, JCP&L provided a customer guide and fact sheet, indicating the separation of, and separate duties for, customer-owned versus utility owned equipment. In its fact sheet JCP&L warned its customers that, "*Hidden electrical hazards that can cause fires often exist after flooding **Qualified Licensed Electricians** must assess wiring and related electrical equipment for damage and complete repairs before service can be restored.*" JCP&L did not deviate from industry standards by distinguishing that "*The company will not be responsible for*

*the use, care, condition, quality or handling of the service delivered to the customer after same passes beyond the point at which the company's service facilities connect to the customer's wires and facilities."* JCP&L Fact Sheet, 4.10 Liability for Supply or Use Electric Service.

Parties agree this matter is not about JCP&L failing to maintain its equipment, and that no evidence suggests that the fire was caused by any JCP&L owned equipment. Neither the customer, the licensed electrician who evaluated the property or the Municipal Inspector who authorized the reconnection to electric service ever identified or communicated to JCP&L that the customer's electrical equipment was not ready to be safely re-energized.

The imposition of duty requiring public utility companies to inspect customer owned equipment is against the public interest. Such a duty would require utility companies to hire additional personnel that would duplicate the responsibilities of licensed electricians and Municipal Inspectors. These additional obligations placed upon public utility companies would cause delays in service and higher costs to customers. Plaintiffs argue that in circumstances of a known danger such as flooding, JCP&L may not energize a property by relying upon the representations of licensed electricians and Municipal Inspectors. Under a circumstance such as widespread flooding the plaintiffs argue that an additional level of review must occur before a public utility company can comply with its duty to safely transmit electric power. The plaintiffs do not provide a standard or common practice among public power companies, rather they suggest that something more needed to be done in circumstances of widespread flooding. Plaintiffs have suggested that a phone call should be placed to the property owner, or the licensed electrician who worked on the property, to discover the nature of the flooding damage and the extent of repairs performed on the property. No standard or guideline has been brought forth by the plaintiffs for

JCP&L to measure any additional information they might receive, against a requirement for JCP&L to take additional action.

The plaintiffs have suggested to the court that the duty of the electric power utility is to provide the safe transmission of electric power. Executive Order No. 104 was issued on October 27, 2012, by Governor Christie to address the risks anticipated from Superstorm Sandy. One of the risks evaluated by the New Jersey Board of Public Utilities was the danger to the barrier island communities to function in the absence of electric power. Rather than deactivating the electric service to entire municipalities, the Governor Ordered all residents must evacuate the barrier islands until further notice. During the period when residents and business owners were barred from entering the Boroughs of Seaside Park and Seaside Heights, JCP&L removed the electric meters to thousands of commercial and residential properties. Emergency services were still required in the immediate aftermath of the storm. A continuous and sufficient electric power supply was essential to aid in critical rescue and cleanup efforts. JCP&L is charged with the duty to provide safe, adequate, and proper electric service. While the defendant is responsible for providing electric service in a safe and proper manner, no authority exists which would indicate that JCP&L has the obligation to ensure the proper working order of customer owned and controlled equipment. No one contests that the delivery of electricity to the customer was not safe and adequate. The concern of the plaintiff is that a dangerous condition may develop if electricity is provided to a customer who owns and controls faulty equipment. The plaintiffs suggest that public utilities may not delegate the obligation of inspection to the customer or third parties. The plaintiffs further argue that because JCP&L supplies the electricity, JCP&L must protect the public against the dangers of electrical fires by inspecting the connections beyond the point of service. To create such a responsibility on the public utility would create a never-ending series of

inspections. Under such a system, the public utility would be responsible for inspecting every connection to a new appliance or electronic device. The demands of modern living have prompted both state and federal agencies to provide incentives for consumers to convert existing power equipment from fossil fuel energy to electric power. Creating a duty for public utilities to ensure the safe transmission of electricity to the end point of consumption would stretch the capabilities of JCP&L far beyond the requirements of the current tariff.

Here the undisputed source of the boardwalk fire was wiring near or within a junction box located underneath the boardwalk at Kohrs and Biscayne Candies. The fire occurred some four months after the property was reviewed for safety by both a licensed electrician and a Municipal Electrical Inspector. Neither person identified any issue regarding the safety of the premises to receive electric power. Without an expert opinion to show how JCP&L acted against industry standards or with knowledge of a foreseeable risk of fire, Plaintiff's cannot establish a breach of duty by JCP&L. Without expert opinions regarding JCP&L actions in this case, the Plaintiffs cannot meet their burden of proof as to all elements of negligence, and JCP&L is entitled to Summary Judgment.

Defendants' Motion for Summary Judgment is hereby **GRANTED**.