

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Otis Johnson	:	
	:	
v.	:	F-2017-2605672
	:	
Philadelphia Gas Works	:	

**INITIAL DECISION**

Before  
Eranda Vero  
Administrative Law Judge

**INTRODUCTION**

This Initial Decision grants the Complainant’s request to withdraw his Complaint.

**HISTORY OF THE PROCEEDING**

On May 12, 2017, Otis Johnson (Complainant) filed a formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) alleging that his gas bill for the month of January was abnormally high. As relief, he requests that his gas bills be reviewed and corrected.

The Complaint is a timely appeal of the Commission’s Bureau of Consumer Services (BCS) decision at BCS Case No. 3503210.

On June 12, 2017, PGW filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.

A Hearing Notice dated June 19, 2017, notified the parties that an initial hearing was scheduled as part of the afternoon session of a call of the docket hearing on Tuesday, August 8, 2017, at 1:30 p.m. Later it was determined that the present Complaint was not a good candidate for a call of the docket hearing. Consequently, the case was scheduled to be heard separately at a later date.

A Hearing Cancellation/Reschedule Notice dated July 14, 2017, notified the parties that an initial hearing was scheduled for Wednesday, September 6, 2017, at 10:00 a.m.

Due to a conflict in my schedule, a Hearing Cancellation/Reschedule Notice dated August 9, 2017, notified the parties that an initial hearing was scheduled for Wednesday, October 11, 2017, at 10:00 a.m.

A Prehearing Order was issued on September 19, 2017, reminding the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to this proceeding, and directing the submission of documents prior to the hearing.

On October 4, 2017, Mr. Johnson submitted a written request for a continuance of the hearing scheduled for October 11, 2017. He requested that the new hearing be scheduled for December 8, 2017. He also posed several procedural questions with regard to the future hearing.

On October 5, 2017, I sent a copy of Mr. Johnson's request to PGW's attorney, Graciela Christlieb, Esq., who informed me in writing that PGW had no objections to Mr. Johnson's request.

On October 17, 2017, I issued an Order granting Complainant's request for a continuance of the scheduled hearing and answering the procedural questions that he had listed in his October 4, 2017 communication.

On October 27, 2017, Mr. Johnson e-mailed me questions regarding the possibility of talking directly with me in the absence of PGW prior to the hearing. I forwarded a

copy of Mr. Johnson's e-mail to Ms. Christlieb and informed the Complainant that *ex-parte* communications between a party and the presiding officer were prohibited.

A Hearing Cancellation/Reschedule Notice dated November 16, 2017, notified the parties that an initial hearing was scheduled for Friday, December 8, 2017, at 10:00 a.m.

On November 16, 2017, I issued Prehearing Order # 2, reminding the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to this proceeding, and directing the submission of documents prior to the hearing.

The hearing convened as scheduled on December 8, 2017. At the beginning of the hearing, the parties indicated their desire to engage in settlement discussions. Tr. 5-6. Their discussions were successful as the parties were able to resolve the issues raised in the present Complaint. In particular, Mr. Johnson conceded that the disputed bill was correct as rendered and indicated that he no longer wished to prosecute his Complaint against PGW. Tr. 11-12, 14-15.

The record in this matter consists of the pleadings, my Prehearing Orders and the 16-page transcript from the December 8, 2017 hearing. The record closed upon receipt of the transcript on January 8, 2018.

For the reasons set forth below, the Complainant's request to withdraw his Complaint is granted.

#### FINDINGS OF FACT

1. The Complainant in this proceeding is Otis Johnson, whose mailing address is 2530 West Somerset Street, Philadelphia, PA 19132.
2. The Respondent in this proceeding is Philadelphia Gas Works.

3. On May 12, 2017, Mr. Johnson filed a Complaint alleging that his gas bill for the month of January 2017 was abnormally high.

4. As relief, Mr. Johnson requested that his gas bills from PGW be reviewed and corrected.

5. On June 12, 2017, PGW filed an Answer denying all material allegations of fact and conclusions of law in the Complaint.

6. By Notice dated November 16, 2017, the parties were informed that an initial hearing was scheduled for Friday, December 8, 2017, at 10:00 a.m.

7. On the day of the hearing and after discussing the Complaint informally with PGW representatives, Mr. Johnson conceded that the disputed bill was correct as rendered and indicated that he no longer wished to prosecute his Complaint against PGW. Tr. 11-12, 14-15.

8. Respondent did not object to the Complainant's request to withdraw his Complaint.

#### DISCUSSION

The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94 permit parties to withdraw pleadings in a contested proceeding. The provision at 52 Pa.Code § 5.94(a) allows withdrawal of pleadings by filing with the Commission and service to parties, a petition for leave to withdraw the pleading. The petition is granted only by permission of the presiding officer or the Commission. The presiding officer or Commission must consider the petition, any objections thereto and the public interest in determining whether to permit withdrawal of the pleading. For purposes of this decision, the Complainant's statement that he no longer wished to prosecute his Complaint against PGW will be treated as a petition for leave to withdraw his Complaint. Tr. 11-12, 14-15.

On the day of the hearing and after discussing the Complaint informally with PGW representatives, Mr. Johnson conceded that the disputed bill was correct as rendered and indicated that he no longer wished to prosecute his Complaint against PGW. Tr. 11-12, 14-15. The Respondent did not object to the Complainant's request to withdraw his Complaint. Under these circumstances, granting the Complainant's request to withdraw his Complaint is in the public interest because doing so will eliminate the need for litigation and save the parties any additional costs in time and money they would otherwise incur litigating the case. Accordingly, Mr. Johnson's request to withdraw his Complaint is granted.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S § 701.

2. The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94 permit parties to withdraw pleadings in a contested proceeding by permission of the presiding officer or Commission.

3. In determining whether to permit withdrawal of the pleading, the presiding officer or Commission must consider the petition, any objections thereto and the public interest. 52 Pa.Code § 5.94.

4. Granting the Complainant's withdrawal request is in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Otis Johnson's Petition for Leave to Withdraw his Complaint filed at Docket No. F-2017-2605672 is granted.
2. That the Complaint of Otis Johnson against Philadelphia Gas Works filed May 12, 2017, at Docket No. F-2017-2605672 is withdrawn.
3. That the Secretary's Bureau shall mark Docket No. F-2017-2605672 closed.

Date: April 6, 2017

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Eranda Vero  
Administrative Law Judge