

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	R-2019-3007103
Office of Consumer Advocate	:	C-2019-3007947
Office of Small Business Advocate	:	C-2019-3008081
	:	
v.	:	
	:	
Buck Hill Water Company	:	

INITIAL DECISION

Before
F. Joseph Brady
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Office of Small Business Advocate’s Petition for Leave to Withdraw Its Complaint at Docket No. C-2019-3008081.

HISTORY OF THE PROCEEDING

On January 11, 2019, Buck Hill Water Company (Buck Hill) filed Supplement No. 32 to Tariff Water – Pa. P.U.C. No. 3 to become effective April 1, 2019. The subject tariff supplement would increase Buck Hill’s total annual operating revenues for water service by approximately \$106,458, or 34.57%.

On February 15, 2019, the Office of Consumer Advocate (OCA) filed a formal Complaint, Public Statement, Verification, and a Notice of Appearance on behalf of Christine Hoover, Esq. The Complaint was docketed at C-2019-3007947.

On February 26, 2019, the Office of Small Business Advocate (OSBA) filed a formal Complaint, Public Statement, Verification, and a Notice of Appearance on behalf of Steven C. Gray, Esq. The Complaint was docketed at C-2019-3008081.

By Order entered March 14, 2019, the Pennsylvania Public Utility Commission (Commission) instituted an investigation into the lawfulness, justness, and reasonableness of rates, rules, and regulations contained in Buck Hill's proposed Supplement No. 32 to Tariff Water – Pa. P.U.C. No. 3. Pursuant to Section 1308(d) of the Public Utility Code, 66 Pa. C.S.A. § 1308(d), Supplement No. 32 to Tariff Water – Pa. P.U.C. No. 3 was suspended by operation of law until November 1, 2019, unless permitted by Commission Order to become effective at an earlier date. In addition, the Commission ordered that the investigation include consideration of the lawfulness, justness and reasonableness of the existing rates, rules, and regulations of Buck Hill. The matter was assigned to the Office of Administrative Law Judge for the prompt scheduling of hearings culminating in the issuance of a Recommended Decision.

In accordance with the Commission's March 14, 2019 Order, the matter was assigned to Administrative Law Judge F. Joseph Brady.

On March 14, 2019, both a Prehearing Conference Order and Notice were issued, scheduling an initial prehearing conference for Friday, March 29, 2019 at 10:00 a.m.

On March 22, 2019, the OSBA submitted a letter to the Secretary's Bureau requesting the Commission to withdraw the OSBA's Complaint.¹

On March 27, 2019, Prehearing Memoranda were filed by Buck Hill and OCA.

A dual location Prehearing Conference was held on March 27, 2019. Counsel for Buck Hill and OCA participated.

¹ Pursuant to 52 Pa. Code § 1.2, this letter will be treated as OSBA's Petition for Leave to Withdraw Its Complaint.

The OSBA's Petition for Leave to Withdraw Its Complaint is ripe for disposition.

DISCUSSION

This matter is a contested proceeding to determine the lawfulness, justness, and reasonableness of Buck Hill's proposed rate increase and its existing rates, rules and regulations. The OSBA filed a formal complaint on February 26, 2019 contesting the proposed rate increase but subsequently determined to withdraw its complaint.

Commission regulations regarding the withdrawal of pleadings in a contested proceeding provide, in pertinent part, the following:

[A] party desiring to withdraw a pleading in a contested proceeding may file a petition for leave to withdraw the appropriate document with the Commission and serve it upon the other parties. The petition must set forth the reasons for the withdrawal. A party may object to the petition within 10 days of service. After considering the petition, an objection thereto and the public interest, the presiding officer or the Commission will determine whether the withdrawal will be permitted.

52 Pa.Code § 5.94(a). Commission regulations define a "pleading" as "[a]n application, complaint, petition, answer, motion, preliminary objection, protest, reply, order to show cause, new matter and reply to new matter or other similar document filed in a formal proceeding."

52 Pa.Code § 1.8.

In a letter dated March 22, 2019, Steven C. Gray, Esq., counsel for OSBA, indicated that since filing its Complaint, the OSBA has learned that Buck Hill does not serve any small business customers, whether commercial or industrial, for the OSBA to represent. Accordingly, Mr. Gray indicated that the OSBA wishes to withdraw its Complaint.

The 10-day period to object to OSBA's Petition to Withdraw Its Complaint has concluded, and no party has objected. Under the circumstances, granting OSBA's request to withdraw from this proceeding is in the public interest since the costs of the Commission and the

other parties will be curtailed if any further consideration of OSBA's Complaint in this matter ceases. There is no public interest served for the OSBA to be involved in this proceeding if Buck Hill does not serve any small business customers. Accordingly, OSBA's Petition for Leave to Withdraw Its Complaint is granted. The remainder of the proceeding will continue pursuant to the Commission's March 14, 2019 Order and the OCA complaint.

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(a) 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(a).

4. Granting the Office of Small Business Advocate's withdrawal request is in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Office of Small Business Advocate's Petition for Leave to Withdraw Its Complaint filed at C-2019-3008081 is granted;

2. That the Complaint of the Office of Small Business Advocate filed at C-2019-3008081 is withdrawn; and

3. That Docket No. C-2019-3008081 be marked closed.

Date: April 3, 2019

/s/
F. Joseph Brady
Administrative Law Judge