

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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PHILADELPHIA HGI ASSOCIATES,  
L.P.

v.

C-2008-2069070

PECO ENERGY COMPANY;

PHILADELPHIA HGI ASSOCIATES,  
L.P.

v.

C-2008-2069128

PHILADELPHIA GAS WORKS;

PHILADELPHIA HGI ASSOCIATES,  
L.P.

v.

C-2009-2089696

CELEREN CORPORATION

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**MOTION OF PHILADELPHIA HGI ASSOCIATES, L.P.  
FOR LEAVE TO WITHDRAW THE COMPLAINT**

Complainant Philadelphia HGI Associates, L.P. (“HGI”), by and through its undersigned counsel, hereby submits this Motion for Leave to Withdraw the Complaint in this action (the “Motion”), and in support thereof, avers as follows:

1. In or about 2009, HGI brought a claim against PECO Energy Company, Philadelphia Gas Works, and Celeren Corporation based on certain power issues in the Commonwealth Court and before the Pennsylvania Public Utility Commission.
2. On or about September 12, 2008, upon information and belief, Celeren Corporation (“Celeron”) filed for bankruptcy in the United States Bankruptcy Court for the District of Delaware, styled as *In re Celeren Corporation*, C.A. No. 08-12132-BLS.

3. Due to the bankruptcy proceeding, the above-captioned matter was stayed in both the Pennsylvania Public Utility Commission and Commonwealth Court actions.

4. The Celeren bankruptcy proceeding ultimately was terminated on or about March 19, 2014.

5. By letter dated March 18, 2014, Linda Richenderfer, Esquire, who had served as counsel to George Miller, the Chapter 7 Trustee for the Celeren Corporation, informed the parties that the Chapter 7 estate of Celeren had been fully administered.

6. In her letter dated March 18, 2014, Ms. Richenderfer further informed the parties that, on February 18, 2014, a Final Decree was entered in the Celeren bankruptcy proceeding discharging Mr. Miller and closing the Celeren bankruptcy case.

7. By notice dated March 13, 2014, the Pennsylvania Public Utility Commission issued a Judge Change Notice, stating that the Administrative Law Judge in the action was changed from Administrative Law Judge Guy Koster to Administrative Law Judge Cynthia W. Fordham.

8. Moreover, by Motion to Lift Stay and Re-Activate Proceeding, dated April 22, 2014, PECO Energy Company seeks to activate the litigation and proceed in this case.

9. Notwithstanding the foregoing, due to the length of time that has transpired, HGI has now determined not to pursue its claims against the parties in this litigation at this time.

10. Pursuant to 5 Pa.Code § 5.94:

§ 5.94. Withdrawal of pleadings in a contested proceeding.

... 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

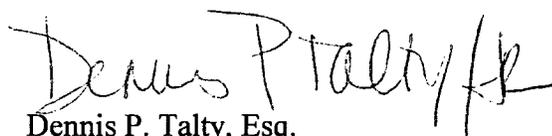
considering the petition, an objection thereto and the public interest, the presiding officer or the Commission will determine whether the withdrawal will be permitted.

5. Pa.Code § 5.94.

11. Courts have freely granted motions to withdraw complaints, particularly where, as here, defendants will not be prejudiced by the withdrawal and the withdrawal of the complaint will best serve the interests of justice. *See, e.g., Mendoza-Martinez v. Ebbert*, C.A. No. 1:11-CV-0832 (M.D. Pa., May 26, 2011). (construing a letter as a Motion to Withdraw the Complaint, and granting the Motion to Withdraw the Complaint); *Mitchell v. Cellone*, 291 F.Supp.2d 368, 370 (W.D. Pa. Nov. 17, 2003). (noting that plaintiffs sought and obtained leave to withdraw their complaint in the Commonwealth Court).

12. Because none of the defendant parties will be prejudiced in any way by the withdrawal of the Complaint in this action, and the withdrawal of the Complaint will best serve the interests of justice at the current time, HGI respectfully requests that the Commission grant it leave to withdraw the Complaint, without prejudice.

Respectfully submitted,



Dennis P. Talty, Esq.  
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1628 JFK Boulevard  
Philadelphia, PA 19103  
*Counsel for Philadelphia HGI Associates,  
L.P.*

Dated: June 23, 2014

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PENNSYLVANIA PUBLIC UTILITY COMMISSION**

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PHILADELPHIA HGI ASSOCIATES, L.P.	:	
v.	:	C-2008-2069070
PECO ENERGY COMPANY;	:	
PHILADELPHIA HGI ASSOCIATES, L.P.	:	C-2008-2069128
v.	:	
PHILADELPHIA GAS WORKS;	:	
PHILADELPHIA HGI ASSOCIATES, L.P.	:	C-2009-2089696
v.	:	
CELEREN CORPORATION	:	

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**CERTIFICATE OF SERVICE**

I, Jennifer L. Reynolds, hereby certify that a true and correct copy of the Motion of Philadelphia HGI Associates, L.P. for Leave to Withdraw the Complaint was served upon the following counsel for the parties and Administrative Law Judge via United States First Class Mail, postage prepaid, on June 23 2014:

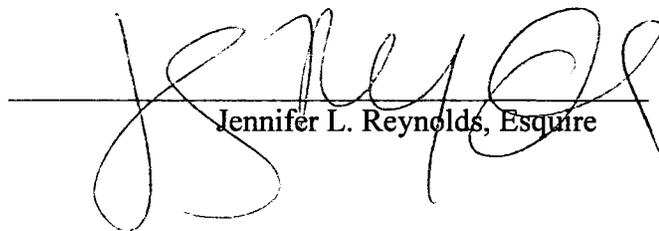
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Cynthia Fordham, Administrative Law Judge  
Pennsylvania Public Utility Commission  
801 Market Street, Suite 4063  
Philadelphia, PA 19107



Jennifer L. Reynolds, Esquire