

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission,	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	C-2015-2462735
	:	
Capital City Cab Service, Inc.	:	

**INITIAL DECISION**  
**GRANTING PETITION FOR LEAVE TO WITHDRAW COMPLAINT**

Before  
Steven K. Haas  
Administrative Law Judge

**INTRODUCTION**

The Pennsylvania Public Utility Commission’s Bureau of Investigation and Enforcement (BI&E) filed a formal complaint against Capital City Cab Service, Inc. (Capital City Cab or Respondent) alleging that the company refused to provide service to a customer who requested a trip. This decision grants BI&E’s request to withdraw the complaint.

**HISTORY OF THE PROCEEDING**

On April 13, 2015, BI&E filed a formal complaint against Capital City Cab at Docket No. C-2015-2462735. BI&E alleged in its complaint that, on January 14, 2015, a driver for Capital City Cab refused to provide service to a customer who had requested a ride. BI&E requested the imposition of a \$500.00 civil penalty against the Respondent.

On or about April 20, 2015, Capital City Cab filed an answer to BI&E’s complaint in which it denied the allegations set forth in the complaint.

By notice dated February 22, 2016, the Commission scheduled an initial hearing in this proceeding for Monday, March 28, 2016 and assigned the matter to me.

On March 23, 2016, BI&E filed with the Commission a Petition for Leave to Withdraw Complaint. BI&E noted in its petition that the customer who was allegedly refused service by Capital City Cab had not responded to BI&E's numerous attempts to contact her to discuss the hearing and, as a result, BI&E was unsure if the customer would appear at the hearing. BI&E decided, in light of this uncertainty, to request permission to withdraw its complaint, rather than risk wasting the time and resources of the Commission and parties when it was not at all certain that this necessary witness would appear. By electronic mail dated March 23, 2016, counsel for the Respondent indicated to me that Capital City Cab had no objection to BI&E's request.

The petition to withdraw is ready for decision. For the reasons set forth below, I will grant the petition for leave to withdraw.

#### FINDINGS OF FACT

1. The Complainant in this case is the Commission's Bureau of Investigation and Enforcement.
2. The Respondent in this case is Capital City Cab Service, Inc.
3. On April 13, 2015, the Complainant filed a formal complaint with the Commission against the Respondent.
4. On April 20, 2015, the Respondent filed an answer to the formal complaint.
5. By notice dated February 22, 2016, the Commission scheduled an initial hearing in this matter for Monday, March 28, 2016.

6. On March 23, 2016, the Complainant filed a petition for leave to withdraw its complaint

7. The Respondent does not object to withdrawal of the complaint.

### DISCUSSION

The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94 permit parties to withdraw a pleading in a contested proceeding. The provision at 52 Pa.Code § 5.94(a) allows withdrawal of a pleading by 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. 52 Pa.Code § 5.94(a).

Turning first to the Complainant's petition to withdraw its April 13, 2015 complaint, the petition states that the customer who was allegedly refused service by Capital City Cab has not responded to BI&E's numerous attempts to contact her to discuss the hearing and, as a result, BI&E was unsure if the customer would appear at the hearing. BI&E decided, in light of this uncertainty, to request permission to withdraw its complaint, rather than risk wasting the time and resources of the Commission and parties when it was not at all certain that this necessary witness would appear.

Turning next to any objections to the withdrawal of BI&E's complaint, I was informed by counsel to Capital City Cab, via electronic mail dated March 23, 2016, that the Respondent does not object to the petition. The Complainant and Respondent are the only parties involved in this proceeding. Therefore, there are no objections to the Complainant's withdrawal.

Turning finally to the public interest, the complaint alleges one incident involving one customer. BI&E is requesting permission to withdraw its complaint because the customer has not responded to any of BI&E's attempts to contact her to discuss preparations for the

hearing. BI&E is uncertain, therefore, whether the customer would appear for the hearing. Since this case involves only one incident and one individual customer who does not appear to be interested in pursuing the complaint, the public interest will not be adversely impacted by the withdrawal of the complaint.

Having reviewed the request to withdraw, any objections to the request and the public interest, I conclude that the request to withdraw should be granted. Granting the request to withdraw will terminate the litigation, saving the parties the costs in time and money they would otherwise incur litigating the case. Granting the request to withdraw will not adversely impact the public interest and will conserve administrative hearing resources.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter of and the parties to 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 a pleading 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).

