

John F. Povilaitis

717 237 4825
john.povilaitis@bipc.com

409 North Second Street
Suite 500
Harrisburg, PA 17101-1357
T 717 237 4800
F 717 233 0852
www.buchananingersoll.com

February 3, 2017

VIA EFILING

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, 2nd Floor
Harrisburg, PA 17120

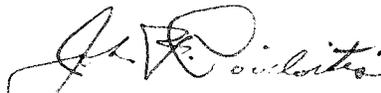
Re: WHEMCO-Steel Castings, Inc. v. Duquesne Light Company
Docket No. C-2014-2459527

Dear Secretary Chiavetta:

On behalf of WHEMCO-Steel Castings, Inc., I have enclosed for electronic filing the Petition of WHEMCO-Steel Castings, Inc. for Leave to Withdraw Complaint and Terminate Formal Complaint Proceeding in the above-captioned proceeding.

This document has been served as indicated in the attached Certificate of Service.

Sincerely,


John F. Povilaitis

JFP/tlg

Enclosure

cc: Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

| | | |
|------------------------------------|---|----------------------------------|
| WHEMCO-STEEL CASTINGS, INC. | : | |
| | : | |
| v. | : | DOCKET NO. C-2014-2459527 |
| | : | |
| DUQUESNE LIGHT COMPANY | : | |

**PETITION OF WHEMCO-STEEL CASTINGS, INC. FOR LEAVE TO WITHDRAW
COMPLAINT AND TERMINATE FORMAL COMPLAINT PROCEEDING**

TO ADMINISTRATIVE LAW JEFFREY A. WATSON:

AND NOW, WHEMCO-STEEL CASTINGS, INC. (“Whemco”), by and through its counsel, hereby files this Petition to Withdraw Complaint and Terminate Formal Complaint Proceeding pursuant to Section 5.94 of the Pennsylvania Public Utility Commission (“Commission”) regulations at 52 Pa. Code § 5.94(a) as follows:

I. Background

1. On December 23, 2014, Whemco filed with the Commission a formal complaint (“Formal Complaint”) against Duquesne Light Company (“Duquesne Light”) alleging, including related allegations, that Duquesne Light wrongfully terminated as of December 31, 2010, for its Rate L customers a certain distribution-rate related discount contained in Rider No. 5 of Duquesne Light’s then-prevailing and Commission approved retail electric service tariff.

2. On January 21, 2015, Duquesne Light filed an Answer and New Matter denying the material allegations in the Formal Complaint.

3. The evidentiary hearings scheduled for June 23-24, 2016 by the Second Prehearing Order were cancelled by Administrative Law Judge Jeffrey A. Watson (the “ALJ”) when a dispute arose over Duquesne Light’s request to provide oral surrebuttal testimony at the hearings and Whemco’s request to be provided adequate time to prepare for and respond thereto.

4. In a prehearing order dated September 13, 2016, the ALJ established revised evidentiary hearing dates in Pittsburgh, Pennsylvania from November 29, 2016 through December 1, 2016, as needed.

5. In an order dated November 18, 2016, the ALJ granted Whemco's request that the hearings scheduled for November 29, 2016 through December 1, 2016 (as needed) be postponed in light of the parties' then-pending settlement discussions.

6. Consistent with the November 18, 2016 order, counsel for Whemco and Duquesne advised the ALJ in a letter dated December 30, 2016 that they have continued their settlement discussions and requested that evidentiary hearings in this proceeding continue to be postponed since "settlement is likely to be achieved in the reasonably near future."

7. As noted further below, Whemco asserts that the withdrawal and termination of the Formal Complaint is in its best interest.

II. Withdrawal and Termination of Formal Complaint

8. Section 5.94(a) of the Commission's Rules and Regulations, 52 Pa. Code § 5.94(a), allows a party to withdraw a pleading in a contested proceeding and provides as follows:

...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.

9. During the course of this proceeding, both Whemco and Duquesne Light, the only two parties in the case, continued to evaluate and discuss their options with respect to resolution of this Formal Complaint and have concluded that based on the costs, risks and uncertainty of outcome associated with continuing to litigate this matter, it is in their mutual best interest to

resolve all issues such that it is no longer necessary or desirable to proceed with the litigation of this proceeding. They have resolved their differences in a manner that requires the timely withdrawal of the Formal Complaint. Subject to such timely acceptance of the withdrawal of the Formal Complaint by the Commission or the ALJ, Whemco represents that its Formal Complaint has been satisfied by Duquesne Light.

10. Whemco is authorized to represent in this Petition that Duquesne Light concurs in the relief requested in this Petition and will be filing a timely letter in support thereof.

11. Whemco believes that the cost of continued litigation to an uncertain result in this contested complaint proceeding is in not in its best interest. *See Application of Peregrine Keystone Gas Pipeline, LLC*, Docket No. A-2010-2200201 (Order entered September 13, 2012 at 11-12) (Commission granted a petition to withdraw based on the applicant's change in plans, noting that withdrawal of the application would conserve time and resources of the parties involved in the proceeding).

12. Whemco requests that the Complaint be withdrawn with prejudice pursuant to 52 Pa. Code § 5.94(a).

13. In addition, pursuant to 52 Pa. Code § 5.24(a) and as noted in paragraph 9 above, Whemco hereby certifies that its Formal Complaint has been satisfied and requests that the complaint docket be marked closed. Whemco notes that the presiding officer is not required to render a decision on the merits of a proceeding upon satisfaction of a complaint.

WHEREFORE, for the foregoing reasons, WHEMCO-STEEL CASTINGS, Inc. respectfully requests that the Commission and/or the presiding ALJ, as appropriate, grant this Petition for Leave to Withdraw Complaint and Terminate Formal Complaint Proceeding and mark this matter closed.

Respectfully submitted,

Ricky L. Bertram
General Counsel
Park Corporation
6200 Riverside Drive
Cleveland, Ohio 44135
Phone: 216-265-2658
Fax: 216-265-2632
E-mail: rbertram@parkcorp.com



Alan M. Seltzer (ID # 27890)
John F. Povilaitis (ID # 28944)
Buchanan Ingersoll & Rooney PC
409 North Second Street, Suite 500
Harrisburg, PA 17101-1357
Phone: 717-237-4800
Fax: 717-233-0852
E-mail: john.povilaitis@bipc.com
alan.seltzer@bipc.com

Date: February 3, 2017

Attorneys for WHEMCO-Steel Castings, Inc.

