

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

John M. Rouse

v.

PECO Energy Company

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C-2017-2611717

INITIAL DECISION
GRANTING REQUEST FOR LEAVE TO WITHDRAW COMPLAINT

Before
Darlene D. Heep
Administrative Law Judge

INTRODUCTION

This decision grants Complainant's request to withdraw this action.

HISTORY OF THE PROCEEDING

On or about June 26, 2017, John M. Rouse (Complainant) filed a formal complaint (complaint) with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO or Respondent). In the Complaint, Mr. Rouse alleged that he has been overcharged by PECO for years and as relief sought credit to his account for the overbilling.

The Respondent filed an Answer on July 17, 2017. The Answer denied all major allegations and contended that Complainant is properly billed and that Complainant's PECO bills are correct as rendered.

The matter was set for hearing September 18, 2017. On August 17, 2017, Mr. Rouse mailed a letter to the Office of Administrative Law Judge in Philadelphia which stated that he would like to withdraw his Complaint against PECO because he is changing his services to gas and “go with gas heat and AC.”. PECO has no objection to Mr. Rouse withdrawing his Complaint.

The request to withdraw is ready for decision. For the reasons set forth below, the request for leave to withdraw is granted.

FINDINGS OF FACT

1. The Complainant in this case is John M. Rouse.
2. The Respondent in this case is PECO Energy Company.
3. The Complainant is a PECO customer in Haverford, Pennsylvania.
4. On June 26, 2017, the Complainant filed a Complaint with the Commission against the Respondent.
5. The Respondent filed an Answer on July 17, 2017.
6. The matter was set for hearing on September 18, 2017.
7. By letter dated August 17, 2017, Mr. Rouse indicated that he wants to withdraw his Complaint.
8. Respondent does not object to the Complainant withdrawing 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. It provides as follows:

§ 5.94. Withdrawal of pleadings in a contested proceeding.

(a) Except as provided in subsection (b), 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.

Complainant, acting *pro se*, mailed a letter to the undersigned requesting to withdraw his Complaint. The letter does not technically comply with the form of a petition required by Section 5.94 of the Commission's regulations. Nevertheless, 52 Pa.Code § 1.2(a) provides that the rules of procedure may be "liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable" and that "the . . . presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties". *Id.*

As Complainant wishes to withdraw his Complaint and PECO does not object, and there are no other parties involved in this matter, the substantive rights of the parties will not be affected by disregarding any procedural error and accepting the Complainant's written request to withdraw his Complaint. Rather than requiring that Complainant file a written request in compliance with 52 Pa.Code Section 5.94, the letter will be accepted as a petition for leave to withdraw because doing so permits a just, speedy and inexpensive determination regarding the request.

In determining whether the withdrawal will be permitted, 52 Pa.Code § 5.94 requires a presiding officer to consider any objections thereto and the public interest. First, there are no objections to the request to withdraw. Second, the allegations in the Complainant's Complaint do not raise issues that impact other customers of the Respondent or the public interest. The Complaint involved only the concerns of the Complainant, and therefore, allowing Mr. Rouse to withdraw his Complaint will not affect the public interest.

In view of the request to withdraw, absence of objections to the request and the fact that there is no impact upon the public interest, there is no reason to deny Complainant's request to withdraw his Complaint.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S.A. § 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 complainant's withdrawal request is in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the request of John M. Rouse to withdraw his Complaint filed at Docket No. C-2017-2611717 is granted.
2. That the record at Docket No. C-2017-2611717 be marked closed.

Date: August 30, 2017

/s/

Darlene D. Heep
Administrative Law Judge