

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Louise Francis	:	
	:	
v.	:	C-2017-2615635
	:	
PECO Energy Company	:	

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 June 20, 2017, Louise Francis (Complainant) filed a Complaint with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO or Respondent). Ms. Francis filed her Complaint after PECO issued her a shut off notice for refusing installation of a PECO AMI or Smart Meter at her home. She stated that she opposed installation of the meter because of health, safety and privacy concerns.

The Respondent filed an Answer on July 17, 2017. In the Answer, Respondent denied all major allegations and contended that PECO was installing Smart Meters in compliance with a Smart Meter Deployment Plan approved by the Commission.

The matter was set for hearing January 9, 2018. On August 21, 2017, Ms. Francis filed a letter stating that she was withdrawing her Complaint. In the letter, she also stated that the meter was now installed and that continuing with the Complaint would be “a lost cause and a practice in futility.” PECO has no objection to Ms. Francis withdrawing her 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 Louise Francis.
2. The Respondent in this case is PECO Energy Company.
3. The Complainant is a PECO customer in Philadelphia, Pennsylvania.
4. On or about June 20, 2017, the Complainant filed a Complaint against the Respondent.
5. The Respondent filed an Answer on July 17, 2017.
6. The matter was set for hearing on January 9, 2018.
7. On August 21, 2017, Ms. Francis filed a letter in which she indicated her intent to withdraw her Complaint.
8. Respondent does not object to Complainant withdrawing her 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 is acting *pro se* and mailed a letter to the undersigned requesting to withdraw her 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 her 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 her Complaint. Rather than requiring that Complainant file a written request in compliance with 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, § 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 Ms. Francis to withdraw her Complaint will not affect the public interest.

In view of the request to withdraw, absence of objections to the request and that there is no impact upon the public interest, there is no reason to deny Complainant's request to withdraw her 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 Louise Francis to withdraw her Complaint filed at Docket No. C-2017-2615635 is granted.
2. That the record at Docket No. C-2017-2615635 be marked closed.

Date: September 7, 2017

_____/s/_____
Darlene D. Heep
Administrative Law Judge