

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Nancy and Harold Zeibari	:	
	:	
v.	:	C-2017-2617281
	:	
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 or about July 27, 2017, Ms. Nancy Zeibari (Complainant) filed a complaint with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO or Respondent). Ms. Zeibari filed her complaint after she received a 72-hour shut off notice from PECO. Ms. Zeibarai had refused installation of a PECO AMI or Smart Meter at her home. In her Complaint, Ms. Zeibari stated that she opposed installation of the meter because of privacy and health concerns.

The Respondent filed an Answer on August 10, 2017. The answer 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 on December 13, 2017. On November 6, 2017, Ms. Zeibari filed a letter stating that she wished to withdraw her Complaint. In the letter, she also stated that she is withdrawing due to health concerns regarding herself and her husband and the "stress of pursuing the matter." She also stated that she did not want a Smart Meter but "cannot face a stoppage of electric current."

Given that her intent to withdraw had the appearance of ambiguity, a telephonic conference was held with Ms. Zeibari and PECO on November 7, 2017 to clarify her intent. During that conference, Ms. Zeibari stated that she did not want a Smart Meter installed but that she did not want to continue with the Complaint. Although she also stated that she did not want to "concede" anything regarding the Smart Meter, she also clearly stated during the conference that she would no longer pursue the matter, that she would not appear for or participate in a hearing and that she wanted to withdraw her Complaint.

PECO has no objection to Ms. Zeibari 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 Nancy Zeibari.
2. The Respondent in this case is PECO Energy Company.
3. The Complainant is a PECO customer in Philadelphia, Pennsylvania.
4. On July 27, 2017, the Complainant filed a Complaint against the Respondent.
5. The Respondent filed an Answer on August 10, 2017.

6. The matter was set for hearing on December 13, 2017.
7. Ms. Zeibari wishes to withdraw her Complaint and no longer wants to pursue the matter.
8. Respondent does not object 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.

Ms. Zeibari, who is acting *pro se* in this matter, submitted a letter seeking to withdraw her Complaint. While the written request does not technically comply with Section 5.94, Commission regulations provide 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.” 52 Pa.Code § 1.2(a).

The letter filed by Ms. Zeibari is accepted as a Petition to Withdraw to permit a just, speedy and inexpensive determination. There are no other parties involved in this matter and the substantive rights of the parties will not be affected by disregarding any procedural error and accepting the written request to withdraw.

In determining whether the Petition to Withdraw will be granted, § 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 directly impact other customers of the Respondent or the public interest. The complaint involved only the concerns of the Complainant, and therefore allowing Ms. Zeibari to withdraw her Complaint will not affect the public interest.

In the absence of objections to the request to withdraw and, given that there is no impact upon the public interest and the Complainant's statement that she does not wish to pursue the matter further, both in writing and during the telephonic conference, there is no reason to deny her request to withdraw her Complaint.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 701.
2. Liberally construing the written request to withdraw promotes a just, speedy and inexpensive determination of this proceeding. 52 Pa.Code § 1.2(a).
3. As there is no objection and there is no public interest served in maintaining the action, the Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94 permit Complainant to withdraw her Complaint.

