

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rozetta Fuller	:	
	:	
v.	:	F-2017-2624053
	:	
PECO Energy Company	:	

INITIAL DECISION
GRANTING PETITION TO WITHDRAW COMPLAINT

Before
Christopher P. Pell
Deputy Chief Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Complainant’s Petition for Leave to Withdraw her Complaint.

HISTORY OF THE PROCEEDING

On September 11, 2017, Rozetta Fuller (Complainant) filed a formal Complaint (Complaint) against PECO Energy Company (PECO or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant placed checkmarks in the boxes indicating “[t]he utility is threatening to shut off my service or has already shut off my service” and “I would like a payment agreement.” Under the “requested relief” section, the Complainant indicated that PECO placed her on the Customer Assistance Program (CAP) without her consent.

On September 27, 2017, Respondent filed an Answer denying all material allegations of fact in the Complaint.

By Hearing Notice dated September 28, 2017, a hearing was scheduled for November 30, 2017, at 1:00 p.m., and the matter was assigned to me.

I issued a Prehearing Order on October 3, 2017. The Prehearing Order directed the parties to comply with various procedural requirements and explained that the Complainant bears the burden of proof to establish that the Respondent violated its tariff, the Public Utility Code, or a Commission Order or regulation, and that she is entitled to the relief requested in the Complaint.

The hearing convened as scheduled on November 30, 2017. Shawane L. Lee, Esq., counsel for PECO, was present with a witness and was prepared to proceed. Ms. Fuller was also present. At the outset of the hearing, the Complainant indicated that she had sold the service address and that she wanted to withdraw her Complaint. Complainant also submitted a hand-written statement indicating that she was withdrawing her Complaint. PECO had no objection to the Complainant's request to withdraw her Complaint.

The record closed upon receipt of the transcript on January 3, 2018. For the reasons set forth below, the Complainant's request to withdraw her Complaint is granted.

FINDINGS OF FACT

1. The Complainant in this proceeding is Rozetta Fuller.
2. The Respondent in this proceeding is PECO Energy Company.
3. On September 11, 2017, the Complainant filed a formal Complaint against PECO.
4. On September 27, 2017, Respondent filed its Answer to the Complainant's Complaint.

5. By Hearing Notice dated September 28, 2017, a hearing was scheduled for November 30, 2017 at 1:00 p.m.

6. On November 30, 2017, the Complainant submitted a written and signed statement indicating her intent to withdraw her Complaint against PECO.

7. Respondent does not object to the Complainant's request to withdraw 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. The provision at 52 Pa.Code § 5.94(a) allows withdrawal of pleadings by filing, with the Commission and service to parties, 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.

Although the Complainant's November 30, 2017 document does not conform to the requirements of a formal petition to withdraw under Section 5.94(a) of the Commission's regulations, waiver of this requirement is permitted. Under Section 1.2, 52 Pa.Code § 1.2, a presiding officer at any stage of an action or proceeding may waive a requirement of a rule when necessary or appropriate, if waiver does not adversely affect a substantive right of a party. Such are the circumstances in this case. Therefore, the document received on November 30, 2017, for purposes of this decision, will be treated as a petition to withdraw a pleading and the procedural defects will be disregarded.

The Complainant has indicated that she wants to withdraw her Complaint against PECO. PECO has indicated that it does not oppose the Complainant's request to withdraw her Complaint. Under these circumstances, granting the Complainant's request to withdraw her Complaint is in the public interest because doing so will eliminate the need for litigation and save the parties any additional costs in time and money they would otherwise incur litigating the case.

Accordingly, the Complainant's request to withdraw her Complaint is granted.

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 Complainant's Petition for Leave to Withdraw her Complaint filed at Docket No. F-2017-2624053 is granted;

2. That the Complaint of Rozetta Fuller against PECO Energy Company filed September 11, 2017 at Docket No. F-2017-2624053 is withdrawn; and

3. That the Secretary's Bureau shall mark Docket No. F-2017-2624053 as closed.

Date: March 12, 2018

_____/s/
Christopher P. Pell
Deputy Chief Administrative Law Judge