

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Bevie Chandler	:	
	:	
v.	:	C-2017-2629465
	:	
Philadelphia Gas Works	:	

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 October 17, 2017, Bevie Chandler (Complainant) filed a formal Complaint (Complaint) against Philadelphia Gas Works (PGW or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant placed a checkmark in the box indicating “I would like a payment agreement.”

On November 6, 2017, Respondent filed an Answer to the Complainant’s Complaint.

By Hearing Notice dated December 1, 2017, a hearing was scheduled as part of a call-of-the-docket group of hearings for January 12, 2018, at 1:00 p.m., and the matter was assigned to me.

I issued a Prehearing Order on December 6, 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.

On December 26, 2017, the Complainant faxed a written statement to my attention indicating that she no longer required a hearing on her Complaint against PGW.

The hearing convened as scheduled on January 12, 2018. Laureto Farinas, Esq., counsel for PGW, was present with a witness and was prepared to proceed. At the outset of the hearing, I provided Mr. Farinas with a copy of the Complainant's written statement and advised him that I was treating the Complainant's written statement as a request to withdraw her Complaint. Mr. Farinas advised that PGW had no objection to the Complainant's request to withdraw her Complaint.

The record closed on January 25, 2018, upon receipt of the transcript. 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 Bevie Chandler.
2. The Respondent in this proceeding is Philadelphia Gas Works.
3. On October 17, 2017, the Complainant filed a formal Complaint against PGW.
4. On November 6, 2017, Respondent filed its Answer to the Complainant's Complaint.

5. By Hearing Notice dated December 1, 2017, the parties were advised that a hearing was scheduled for January 12, 2018, at 1:00 p.m.

6. On December 26, 2017, the Complainant submitted a written and signed statement indicating that she no longer required a hearing on her Complaint against PGW.

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 Complainant's December 26, 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 December 26, 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 PGW. PGW 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 that 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. C-2017-2629465 is granted;

2. That the Complaint of Bevie Chandler against Philadelphia Gas Works filed October 17, 2017 at Docket No. C-2017-2629465 is withdrawn; and

3. That the Secretary's Bureau shall mark Docket No. C-2017-2629465 as closed.

Date: March 12, 2018

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