

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Jean C. Bayala	:	
	:	
v.	:	F-2017-2624911
	:	
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 his Complaint.

**HISTORY OF THE PROCEEDING**

On September 13, 2017, Jean C. Bayala (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 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 he believes his bill is incorrect because he should have been placed in PGW’s Customer Responsibility Program (CRP). Complainant asked to be placed on a payment arrangement.

On October 10, 2017, Respondent filed an Answer to the Complainant’s Complaint.

By Hearing Notice dated November 27, 2017, a hearing was scheduled for January 12, 2018, at 9:30 a.m., and the matter was assigned to Administrative Law Judge (ALJ) F. Joseph Brady.

By Judge Change Notice dated December 1, 2017, the January 12, 2018, hearing was reassigned to me.

I issued a Prehearing Order on December 12, 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 he is entitled to the relief requested in the Complaint.

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. Mr. Bayala was also present. At the outset of the hearing, the Complainant indicated that he wanted to withdraw his Complaint. Complainant also submitted a hand-written statement indicating that he was withdrawing his Complaint. PGW had no objection to the Complainant's request to withdraw his 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 his Complaint is granted.

#### FINDINGS OF FACT

1. The Complainant in this proceeding is Jean C. Bayala.
2. The Respondent in this proceeding is Philadelphia Gas Works.
3. On September 13, 2017, the Complainant filed a formal Complaint against PGW.
4. On October 10, 2017, Respondent filed its Answer to the Complainant's Complaint.

5. By Hearing Notices dated November 27, 2017, and December 1, 2017, the parties were advised that a hearing was scheduled for January 12, 2018, at 9:30 a.m.

6. On January 12, 2018, the Complainant submitted a written and signed statement indicating his intent to withdraw his Complaint against Philadelphia Gas Works.

7. Respondent does not object to the Complainant's request to withdraw 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. 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 January 12, 2018 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 January 12, 2018, 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 he wants to withdraw his Complaint against PGW. PGW has indicated that it does not oppose the Complainant's request to withdraw his Complaint. Under these circumstances, granting the Complainant's request to withdraw his 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 his 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 his Complaint filed at Docket No. F-2017-2624911 is granted;

2. That the Complaint of Jean C. Bayala against Philadelphia Gas Works filed September 13, 2017 at Docket No. F-2017-2624911 is withdrawn; and

3. That the Secretary's Bureau shall mark Docket No. F-2017-2624911 as closed.

Date: March 12, 2018

\_\_\_\_\_/s/\_\_\_\_\_  
Christopher P. Pell  
Deputy Chief Administrative Law Judge