

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Linda Lavender	:	
	:	
v.	:	C-2018-2647114
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Gail M. Chiodo
Special Agent

INTRODUCTION

This decision grants a customer’s request to withdraw her formal complaint because the request is in the public interest and there is no objection to it.

HISTORY OF THE PROCEEDING

On February 10, 2018, Linda Lavender (Complainant or Ms. Lavender) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW) at docket number C-2018-2647114. The complaint is an untimely appeal of a decision of the Commission’s Bureau of Consumer Services (BCS) at case number 3557356, issued on October 6, 2017. At BCS Case No. 3557356, BCS granted Ms. Lavender a six-month extension of a prior BCS-issued payment arrangement at BCS No. 3435427. In her complaint, Ms. Lavender requested a reduction of this October 6, 2017 BCS payment arrangement due to various financial hardships that she has been having for the past three years.

On March 5, 2018, PGW filed an answer in which it stated that Ms. Lavender defaulted on a company payment arrangement and the most recent BCS-issued payment arrangement. PGW attached the decision for BCS Case No. 3557356 as “Exhibit A” to its answer. PGW requested that the complaint of Ms. Lavender be dismissed.

On March 15, 2018, a call-in telephonic hearing notice was issued by the Commission setting an initial call-in telephonic hearing for this matter for April 2, 2018 at 10:00 a.m. The case was assigned to me pursuant to 52 Pa. Code § 56.174. A prehearing order dated March 15, 2018 again advised the parties of the date and time of the scheduled hearing and informed them of the procedures applicable to this proceeding.

The hearing convened as scheduled. Ms. Lavender appeared *pro se* and Mr. Laureto Farinas, Esquire, appeared as counsel for PGW.¹ No testimony was taken and no exhibits were offered.

Prior to the start of the hearing, Ms. Lavender stated that she wanted to withdraw her complaint for all the following reasons: (1) that she did not expect a favorable outcome for her case because she is unable to make any payment; (2) that she was calling from her current place of employment and she did not want to spend any more time on the phone and risk losing her current job; and (3) that she is in the process of consulting an attorney about filing a petition in bankruptcy. PGW did not object to the withdrawal request.

After Ms. Lavender placed her request to withdraw her complaint and her reasons for her request on the record, with no objection, the record closed. For the reasons discussed below, Ms. Lavender’s request to withdraw her complaint will be granted and the complaint will be withdrawn.

¹ A tape recording of the hearing was made, no court reporter being present.

FINDINGS OF FACT

1. The complainant is Ms. Linda Lavender.
2. The respondent is Philadelphia Gas Works.
3. The service address is 4820 Olive Street, Philadelphia, PA 19139.
4. On February 10, 2018, Ms. Lavender filed a formal complaint against PGW requesting a reduction of a Commission-issued payment arrangement.
5. The complaint is an untimely appeal of a decision of the Commission's Bureau of Consumer Services (BCS) at case number 3557356, issued on October 6, 2017.
6. At BCS Case No. 3557356, BCS granted Ms. Lavender a six-month extension of a prior BCS-issued payment arrangement at BCS Case No. 3435427.
7. On March 5, 2018, PGW filed an answer averring that Ms. Lavender defaulted on a company payment arrangement and the payment arrangement extension granted by BCS at Case No. 3557356 above, and requested that the complaint be dismissed.
8. On March 15, 2018, a call-in telephonic hearing notice was issued setting an initial call-in telephonic hearing for this matter for Monday, April 2, 2018.
9. The initial telephonic hearing convened as scheduled on April 2, 2018.
10. Prior to the start of the hearing, Ms. Lavender stated that she wanted to withdraw her complaint, which request and reasons for such she placed on the record.
11. PGW had no objection to Ms. Lavender's request to withdraw her complaint.

DISCUSSION

Section 5.94(a) of the Commission's regulations provides that 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. 52 Pa. Code § 5.94(a). This section further provides that the petition must set forth the reasons for the withdrawal and that a party may object to the petition within 10 days. *Id.* Finally, this section also provides that, after considering the petition, any objection thereto and the public interest, the presiding officer or the Commission will determine whether the withdrawal will be permitted. *Id.*

When the initial telephonic hearing convened on April 2, 2018, Ms. Lavender stated from the outset that she wanted to withdraw her complaint. Ms. Lavender's complaint is an untimely appeal of a decision of the BCS at case number 3557356, which granted Ms. Lavender a six-month extension of a prior BCS-issued payment arrangement.

Specifically, Ms. Lavender stated on the record that she wanted to withdraw her complaint for all the following reasons: (1) that she did not expect a favorable outcome for her case because she is unable to make any payment; (2) that she was calling from her current place of employment and she did not want to spend any more time on the phone and risk losing her current job; and (3) that she was in the process of consulting an attorney about filing a petition in bankruptcy.

The Commission's regulations at 52 Pa. Code § 5.94 contemplate that a party requesting leave to withdraw a pleading should do so in writing. Here, Ms. Lavender made her request orally at the hearing on the record. The regulation at 52 Pa. Code § 1.2(a) provides that the presiding officer or Commission may disregard an error or defect of procedure which does not affect the substantive rights of the parties; therefore, I will treat the oral on-the-record request as if it had been made in writing. I will consider the oral request to withdraw the complaint as a petition to withdraw pursuant to 52 Pa. Code § 5.94 in order to secure a just, speedy and inexpensive determination of this proceeding pursuant to 52 Pa. Code § 1.2(a). Granting the

withdrawal will not adversely affect either party's substantive rights since PGW did not object to the oral form of the request. See, *Jakubik v. PECO Energy Co*, Docket No. C-2014-2453043 (Final Order entered May 22, 2015), which also treated a complainant's oral on-the-record request to withdraw a complaint as a petition to withdraw.

Ms. Lavender's request to withdraw her complaint will be granted. Ms. Lavender presented sufficient reasons why her complaint should be withdrawn. In particular, Ms. Lavender stated that, even if she were given another payment arrangement, she would not be able to make any payment. Consumers should not be required to pursue their complaints when they no longer wish to do so. The withdrawal will eliminate the need for litigation and save resources that would have been used if the case had been fully litigated. There are no other parties to this proceeding and Ms. Lavender's complaint does not impact other PGW customers or the public interest. Finally, there is no objection to the request to withdraw. Therefore, Ms. Lavender's request to withdraw her complaint will be granted.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa. C.S. § 701.
2. 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. 52 Pa. Code § 5.94(a).
3. A petition to withdraw a pleading in a contested proceeding must set forth the reasons for the withdrawal and that a party may object to the petition within 10 days. 52 Pa. Code § 5.94(a).
4. The regulation at 52 Pa. Code § 1.2(a) provides that the presiding officer or Commission may disregard an error or defect of procedure which does not affect the substantive rights of the parties.

5. Complainant's oral on-the-record request to withdraw her complaint, along with her stating her reasons for the request, do not affect the substantive rights of the parties and may be treated as a petition to withdrawal as if it had been made in writing. *Jakubik v. PECO Energy Co.*, Docket No. C-2014-2453043 (Final Order entered May 22, 2015).

6. After considering a petition to withdraw a pleading in a contested proceeding, any 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(a).

7. It is in the public interest to allow Ms. Lavender to withdraw her complaint in this proceeding.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the verbal on-the-record request of Linda Lavender on April 2, 2018 to withdraw her formal complaint against Philadelphia Gas Works at Docket Number C-2018-2647114 is granted.

2. That the formal complaint filed by Linda Lavender against Philadelphia Gas Works at Docket Number C-2018-2647114 is hereby withdrawn without prejudice.

3. That this matter be marked closed.

Date: April 3, 2018

_____/s/
Gail M. Chiodo
Special Agent