

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Adam Kessler	:	
	:	
v.	:	C-2017-2630792
	:	
PECO Energy Company	:	

INITIAL DECISION
GRANTING PETITION TO WITHDRAW COMPLAINT

Before
Marta Guhl
Administrative Law Judge

INTRODUCTION

This decision grants Complainant’s request to withdraw this action.

HISTORY OF THE PROCEEDING

On October 15, 2017, Adam Kessler (Complainant) filed a formal complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO or Respondent). In the Complaint, Mr. Kessler sought a payment arrangement.

On November 8, 2017, PECO filed an Answer and New Matter, denying the material allegations of the Complaint and indicating that the Complainant had an active bankruptcy proceeding that was pending.

On January 4, 2018, a Hearing Notice was issued for a call of the docket session on Monday, January 29, 2018 at 9:30 a.m. However, the matter was continued at the request of the parties and the case was rescheduled for March 23, 2018 at 10:00 a.m. via Hearing Cancellation/Reschedule Notice dated January 19, 2018.

A Prehearing Order was issued on January 26, 2018 which provided the parties with the procedures for the hearing.

The matter was set for hearing on March 23, 2018. On March 22, 2018, Mr. Kessler emailed PECO indicating, "I Adam Kessler would like to withdraw my compliant [sic]." On the same date, PECO indicated that it did not oppose the Complainant's request.

The matter is ready for a 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 Adam Kessler.
2. The Respondent in this case is PECO Energy Company.
3. At the time of the Complaint filing, the Complainant was a PECO customer at the service address 1752 Lafayette Drive, Jamison, Pennsylvania 18929.
4. On October 15, 2017, the Complainant filed a Complaint with the Commission against the Respondent seeking a payment arrangement.
5. A Hearing Notice dated January 4, 2018, was issued setting an initial hearing for January 29, 2018, at 9:30 a.m. as part of a call of the docket session.

6. On March 22, 2018, Mr. Kessler sought to withdraw his Complaint and sent an e-mail indicating that, "I Adam Kessler would like to withdraw my compliant [sic]."

7. PECO does not oppose the request to withdraw.

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.

Complainant, acting *pro se*, sent an e-mail requesting to withdraw his Complaint. The communication does not technically comply with the form of a petition required by Section 5.94 of the Commission's regulations. Nevertheless, 52 Pa.Code § 1.2(a) provides 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". *Id.*

Counsel for PECO has stated that the company does not oppose the request to withdraw.

Complainant wishes to withdraw his Complaint and PECO does not object. 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 Complainant's written request to withdraw his Complaint. Rather than requiring that Complainant file a written request in compliance with 52 Pa.Code § 5.94, the e-mail will be accepted as a petition for leave to withdraw because doing so permits a just, speedy and inexpensive determination regarding the request.

In determining whether the withdrawal will be permitted, 52 Pa.Code § 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 impact other customers of the Respondent or the public interest. The Complaint involved only the concerns of the Complainant. Allowing Mr. Kessler to withdraw is in the public interest because it will save the expenditure of resources on a futile effort.

In view of the request to withdraw, absence of objections to the request and the fact that there is no negative impact upon the public interest, there is no reason to deny Complainant's request to withdraw his Complaint.

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.

