

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Chris Francis	:	
	:	
v.	:	C-2018-3003243
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Gail M. Chiodo
Special Agent

INTRODUCTION

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

HISTORY OF THE PROCEEDING

On July 9, 2018, Chris Francis (Complainant or Mr. Francis) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (PECO). In his complaint, Mr. Francis requested a second Commission-issued payment arrangement (PAR). The Complainant was granted his first Commission-issued PAR by a decision of the Commission’s Bureau of Consumer Services (BCS) at BCS Case No. 3515271, issued on July 20, 2017.

On July 26, 2018, PECO filed an answer in which it stated that Complainant was not eligible for a second Commission-issued PAR, and that he had also defaulted on two company-issued PARs. PECO requested that the complaint be dismissed.

On August 2, 2018, a call-in telephonic hearing notice was issued by the Commission setting an initial call-in telephonic hearing for this matter for August 30, 2018 at 10:00 a.m. The case was assigned to me pursuant to 52 Pa. Code § 56.174.¹ A prehearing order dated August 6, 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 on August 30, 2018. Mr. Francis appeared *pro se* and Ms. Shawane Lee, Esquire, appeared as counsel for PECO. No testimony was taken and no exhibits were offered for the record.

Prior to the start of the hearing, Mr. Francis stated that he wanted to withdraw his complaint because he and PECO intended to work out another company-issued PAR. Mr. Francis explained that prior to the hearing he applied for entry into PECO's Customer Assistance Program (CAP)² and counsel for PECO represented that she expected Complainant's pending CAP application to be approved. PECO did not object to the withdrawal request.

After Mr. Francis placed his request to withdraw his complaint and his reasons for his request on the record, with no objection, the record closed.³ For the reasons discussed below, the Complainant's request to withdraw his complaint will be granted and the complaint will be withdrawn.

¹ 52 Pa. Code § 56.174 provides for review by a special agent of decisions of the BCS and any other case in which the issue is solely the ability to pay.

² CAP is a payment assistance program for low-income households in which customers make monthly payments based on household income and household size and under which customers must comply with certain responsibilities and restrictions to remain eligible for the program. *See*, 66 Pa. C.S. § 1403.

³ Pursuant to 52 Pa. Code § 56.174(c)(3), the hearing was tape recorded. No court reporter was present.

FINDINGS OF FACT

1. The Complainant is Mr. Chris Francis.
2. The Respondent is PECO Energy Company (PECO).
3. The service address is 9909 Northeast Avenue, Apt. A, Philadelphia, Pennsylvania.
4. On July 9, 2018, Mr. Francis filed a formal complaint against PECO requesting a second Commission-issued payment arrangement.
5. The Complainant was granted a prior Commission-issued payment arrangement by a decision of the Commission's Bureau of Consumer Services (BCS) at case number 3515271, issued on July 20, 2017.
6. On August 2, 2018, a call-in telephonic hearing notice was issued setting an initial call-in telephonic hearing for this matter for August 30, 2018.
7. The initial telephonic hearing convened as scheduled on August 30, 2018.
8. Prior to the start of the hearing, Mr. Francis stated that he wanted to withdraw his complaint because he recently applied for entry into PECO's Customer Assistance Program (CAP) and counsel for PECO represented that she expected Complainant's pending CAP application to be approved.
9. Counsel for PECO had no objection to Complainant's request to withdraw his 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 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 August 30, 2018, Mr. Francis stated that he wanted to withdraw his complaint. Specifically, Mr. Francis stated on the record that he wanted to withdraw his complaint because he and PECO intended to work out a payment arrangement plan. Mr. Francis explained that he recently applied for entry into PECO's Customer Assistance Program (CAP) and counsel for PECO represented that she expected Complainant's pending CAP application to be approved.

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, Mr. Francis made his 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 PECO 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.

Mr. Francis's request to withdraw his complaint will be granted. Mr. Francis presented sufficient reasons why his complaint should be withdrawn. Prior to the hearing, he made an application to participate in CAP, which counsel for PECO represented that she believed would be approved. Consequently, Mr. Francis desired to withdraw his complaint. There are no other parties to this proceeding and Mr. Francis's complaint does not impact other PECO customers or the public interest. Finally, there is no objection to the request to withdraw. Therefore, Mr. Francis's request to withdraw his 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 his complaint, along with him stating his reasons for the request, do not affect the substantive rights of the parties and may be treated as a petition to withdraw 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 Mr. Francis to withdraw his complaint in this proceeding.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the verbal on-the-record request of Chris Francis on August 30, 2018 to withdraw his formal complaint against PECO Energy Company at Docket Number C-2018-3003243 is granted.

2. That the formal complaint filed by Chris Francis against PECO Energy Company at Docket Number C-2018-3003243 is hereby withdrawn without prejudice.

3. That this matter be marked closed.

Date: August 31, 2018

_____/s/
Gail M. Chiodo
Special Agent