

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Laurie Ruggeri	:	
	:	
v.	:	F-2018-3003225
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Alphonso Arnold III
Special Agent

INTRODUCTION

This Initial Decision grants the Complainant’s Petition to Withdraw her Complaint.

HISTORY OF THE PROCEEDING

On June 25, 2018, Laurie Ruggeri (Complainant) filed a Complaint with the Pennsylvania Public Utility Commission (Commission) against PECO Energy Company (Respondent or PECO). The Complainant requested a payment arrangement that she could afford. The Complaint was served upon PECO on July 9, 2018.

The Respondent filed an Answer on July 26, 2018. The Answer generally denied all material allegations of fact and law in the Complaint and requested that the Commission deny and dismiss the Complainant’s Complaint.

By Hearing Notice dated August 1, 2018, the Commission scheduled this matter for a call-in telephonic hearing on Tuesday, September 4, 2018, at 10:00 a.m. and assigned the case to me.

I issued a Prehearing Order, dated August 2, 2018, addressing, inter alia, the method by which the parties could call-in to participate in the hearing and the procedures applicable to the hearing.

I conducted the telephonic hearing as scheduled on September 4, 2018. The Complainant appeared *pro se*. Attorney Shawane L. Lee was present on behalf of the Respondent. After an off-the-record discussion was held between the two parties, the Complainant informed me that she wished to withdraw her Complaint. The withdrawal request was made orally on the record. PECO did not object to the Complainant's withdrawal request. No witnesses were presented, and no exhibits were introduced for the record.

The record¹ closed on September 4, 2018, following the conclusion of the telephonic hearing. For the reasons discussed below, the Complainant's request to withdraw her Complaint will be granted, without prejudice.

FINDINGS OF FACT

1. The Complainant is Laurie Ruggeri.
2. The Respondent is PECO Energy Company.
3. The Complainant filed a Complaint on June 25, 2018.
4. The Respondent filed an Answer on July 26, 2018.

¹ The telephonic hearing was recorded by means of a tape recorder. No Court Reporter was present.

5. A Hearing Notice, dated August 1, 2018, scheduled the matter for a call-in-telephonic hearing on September 4, 2018, at 10:00 a.m.

6. At the hearing, the Complainant made an oral request to withdraw her Complaint, intending to enroll in PECO's Customer Assistance Program.

7. The Respondent has no objections to the Complainant's request to withdraw her Complaint.

DISCUSSION

A request to withdraw a pleading in a contested proceeding is governed by Section 5.94 of the Commission's regulations, which states as follows:

- (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(a).

The Complainant made her request to withdraw her Complaint orally on the record at the September 4, 2018 hearing for this matter. Specifically, the Complainant desires to withdraw her Complaint because she intends to enroll in PECO's Customer Assistance Program. PECO has no objections to the Complainant's withdrawal request.

It must be addressed that the request to withdraw the Complaint does not comply with the Commission's regulations at 52 Pa. Code § 5.94(a) in that the request was made orally at the hearing instead of in writing through the filing of a Petition with the Commission. I will choose to disregard this error in procedure. Section 1.2 of the Commission's regulations allows for a

presiding officer to disregard an error or defect of procedure which does not affect the substantive rights of the parties. Section 1.2 provides in relevant part:

(a) This subpart shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable. The Commission or 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.

* * *

(c) The Commission or presiding officer at any stage of an action or proceeding may waive a requirement of this subpart when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party.

(d) These liberal construction provisions apply with particularity in proceedings involving pro se litigants.

* * *

52 Pa. Code § 1.2.

PECO's substantive rights will not be affected by my decision to not require the withdrawal request to be made in writing because PECO stated that it has no objections to the Complainant's oral request to withdraw her Complaint. Thus, I will treat the Complainant's oral request to withdraw her Complaint as a properly submitted Petition to Withdraw.

As stated, a presiding officer will determine whether a Petition to Withdraw will be permitted after considering any objections to the Petition and the public interest. PECO has no objections to the Complainant's Petition. The public interest will not be negatively affected by the granting of the Complainant's Petition because the allegations raised in the Complainant's Complaint raise issues that only affect her. The issues raised do not directly impact other customers of PECO or the public interest.

Having reviewed the Petition to Withdraw, PECO's statement that it has no objections to the request, and the public interest, I conclude that the Petition to Withdraw should be granted. Granting the Petition to Withdraw will terminate the litigation, saving the parties costs in terms of the time and money that they would otherwise spend litigating the case.

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. The petition must set forth the reasons for the withdrawal. A party may object to the petition within 10 days of service. 52 Pa. Code § 5.94(a).

3. 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(a).

4. 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. 52 Pa. Code § 1.2.

5. The Complainant's request to withdraw the Complaint should be granted because there is no objection to the request and granting the request is in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Laurie Ruggeri's Petition to Withdraw her Complaint is granted.
2. That the Complaint filed by Laurie Ruggeri against PECO Energy Company at Docket Number F-2018-3003225 is hereby withdrawn without prejudice.

