

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Edward Elliot	:	
	:	
v.	:	F-2018-3002176
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
F. Joseph Brady
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Complainant’s request to withdraw his Complaint.

HISTORY OF THE PROCEEDING

On May 21, 2018, Edward Elliott (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 a check mark next to the box indicating: “The utility is threatening to shut off my service or has already shut off my service.”

The Complaint is a timely appeal of the decision issued by the Commission’s Bureau of Consumer Services (BCS) on April 9, 2018 at BCS Case No. 3598454.

On June 13, 2018, PGW filed an Answer to the Complaint. In its Answer, PGW averred that the Complainant was enrolled in PGW’s Customer Responsibility Program (CRP)

on April 7, 2018, which resulted in a monthly bill of \$74.48. PGW also averred that the CRP was more beneficial than the \$173.00 per month payment agreement offered by the BCS decision issued on April 9, 2018.

By Hearing Notice dated June 19, 2018, a hearing was scheduled for July 30, 2018, and the matter was assigned to me.

A Prehearing Order was issued on June 22, 2018, reminding the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to this proceeding, and directing the submission of documents prior to the hearing.

The hearing convened as scheduled on July 30, 2018. The Complainant appeared *pro se* and testified on his own behalf. The Respondent appeared and was represented by Graciela Christlieb, Esquire, who was accompanied by a potential witness, Jocelyn Moore.

At the outset of the hearing, the Complainant stated, under oath, that he wished to withdraw his Complaint. Tr. 5. PGW had no objections to the Complainant's request to withdraw. Tr. 5.

The record closed on September 4, 2018, upon my receipt of a copy of the transcript.

FINDINGS OF FACT

1. The Complainant is Edward Elliot.
2. The Respondent is Philadelphia Gas Works.
3. On May 21, 2018, the Complainant filed a Complaint against PGW wherein he placed a check mark next to the box indicating: "The utility is threatening to shut off my service or has already shut off my service."

4. On June 13, 2018, PGW filed an Answer averring that the Complainant was enrolled in CRP on April 7, 2018, which resulted in a monthly bill of \$74.48.

5. By Hearing Notice dated June 19, 2018, a hearing was scheduled for July 30, 2018.

6. The hearing convened as scheduled on July 30, 2018. Tr. 4-6.

7. The Complainant appeared for the hearing and requested to withdraw his Complaint. Tr. 5.

8. The Respondent does not object to the Complainant's request to withdraw his Complaint. Tr. 5.

DISCUSSION

The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94 permit parties to petition to withdraw pleadings in a contested proceeding:

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 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.

52 Pa.Code § 5.94.

A presiding officer or the Commission may disregard an error or defect of procedure or waive a requirement that does not adversely affect a substantive right of a party, particularly in proceedings involving *pro se* litigants. 52 Pa. Code §§ 1.2(a),(c),(d). Thus, the Complainant's statement under oath that he wishes to withdraw his Complaint will be treated as a petition for leave to withdraw his Complaint.

In this case, the CRP in which the Complainant is currently enrolled is more favorable than any agreement the Commission could offer. Once the Complainant understood this, he sought to have his Complaint withdrawn. The Respondent did not object to 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, Mr. Elliot's request to withdraw his Complaint shall be granted.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S. § 701.
2. The Commission's Rules of Practice and Procedure permit parties to withdraw pleadings in a contested proceeding by permission of the presiding officer or Commission. 52 Pa.Code § 5.94.
3. A presiding officer or the Commission may disregard an error or defect of procedure or waive a requirement that does not adversely affect a substantive right of a party, particularly in proceedings involving *pro se* litigants. 52 Pa. Code §§ 1.2(a),(c),(d).
4. It is in the public interest to grant the Complainant's request to withdraw his Complaint.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Edward Elliot's Petition for Leave to Withdraw his Complaint filed at Docket No. F-2018-3002176 is granted;
2. That the Complaint of Edward Elliot against Philadelphia Gas Works filed at Docket No. F-2018-3002176 is withdrawn; and
3. That Docket No. F-2018-3002176 be marked closed.

Date: September 20, 2018

_____/s/
F. Joseph Brady
Administrative Law Judge