

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Heather Hoffman	:	
	:	
v.	:	F-2018-3002153
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Christopher P. Pell
Deputy Chief Administrative Law Judge

INTRODUCTION

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

HISTORY OF THE PROCEEDING

On May 21, 2018, Heather Hoffman (Complainant) filed a formal Complaint (Complaint) against PECO Energy Company (PECO or Respondent) with the Pennsylvania Public Utility Commission (Commission). In the Complaint, the Complainant indicated that her Complaint concerns both gas and electric service from PECO. The Complainant placed checkmarks in the boxes indicating that “[t]he utility is threatening to shut off my service or has already shut off my service,” “I would like a payment agreement,” “[i]ncorrect charges are on my bill,” and “[o]ther.” The Complainant further indicated that she had a safety or quality problem related to an address located at 246 Fleetwood Street, and that there is incorrect information in her file. As relief, the Complainant requested the Commission to “set monthly bill at CAP rate” and to provide her with

“relief of monthly bill (9,886.65) @ 246 Fleetwood Street except for \$750.00 to be paid @ 10.00 extra.”

On June 12, 2018, Respondent filed an Answer denying all material allegations of fact in the Complaint. Respondent further indicated: that the Complainant established an account with PECO for service at 246 Fleetwood Street, Coatesville, PA 19320; that the Complainant was originally enrolled in PECO’s Customer Assistance Program (CAP) on April 30, 2012; that the Complainant was actively enrolled in CAP at this address until she discontinued service on September 4, 2014; that the Complainant left an unpaid balance of \$10,028.16 that was charged off to collections; that the Complainant established service at 73 Palmer Avenue (service address) effective August 4, 2017; that on September 1, 2017, PECO transferred the Complainant’s \$10,028.16 unpaid balance from 246 Fleetwood Street to her new account for service; that the Complainant reenrolled in CAP at the service address on January 16, 2018, under PECO’s CAP – Fixed Credit Option; and that the Complainant is now actively enrolled in CAP. The Respondent maintained that the Complainant is not entitled to a Commission-ordered payment agreement on her balance pursuant to 66 Pa.C.S. § 1405(c) as her outstanding balance is comprised of CAP arrears.

By Hearing Notice dated June 18, 2018, a hearing was scheduled for August 10, 2018, at 10:00 a.m., and the matter was assigned to me.

I issued a Prehearing Order on June 20, 2018. The Prehearing Order directed the parties to comply with various procedural requirements and also explained that the Complainant bears the burden of proof to establish that the Respondent violated its tariff, the Public Utility Code, or a Commission Order or regulation, and that she is entitled to the relief requested in the Complaint.

On the morning of August 10, 2018, Shawane L. Lee, Esq., counsel for PECO, forwarded to me an email she received from the Complainant that morning requesting a continuance of her hearing. In the email, the Complainant indicated that she needed a continuance because she was experiencing some medical issues and also needed additional time to gather evidence. Ms. Lee indicated that PECO did not object to this continuance request.

By Interim Order dated August 13, 2018, I granted the Complainant's continuance request.

By Hearing Cancellation/Reschedule Notice dated August 21, 2018, the hearing was rescheduled for October 16, 2018 at 10:00 a.m.

By email dated October 5, 2018, Ms. Lee forwarded to me a request she received from the Complainant requesting a telephonic hearing due to her medical issues. Ms. Lee subsequently indicated that PECO did not object to changing the hearing from in-person to telephonic.

By Hearing Notice Change dated October 9, 2018, the parties were advised that the October 16, 2018, was changed from in-person to call-in telephonic. The notice also informed the parties of the number to call and the PIN number required to participate in the hearing.

The call-in hearing convened as scheduled on October 16, 2018. Complainant appeared *pro se*. The Respondent appeared and was represented by Ms. Lee, who was accompanied by a potential witness.

Following settlement discussions between the parties, the Complainant stated on the record that she wished to withdraw her Complaint. PECO had no objection to the Complainant's request to withdraw her Complaint.

The record closed on November 13, 2018, upon my receipt of a copy of the transcript.

FINDINGS OF FACT

1. The Complainant is Heather Hoffman.
2. The Respondent is PECO Energy Company.

3. On May 21, 2018, the Complainant filed a Complaint against PECO wherein she placed checkmarks in the boxes indicating that “[t]he utility is threatening to shut off my service or has already shut off my service,” “I would like a payment agreement,” “[i]ncorrect charges are on my bill,” and “[o]ther.””

4. On June 12, 2018, Respondent filed an Answer denying all material allegations of fact in the Complaint.

5. By Hearing Notice dated June 18, 2018, a hearing was scheduled for August 10, 2018 at 10:00 a.m.

6. By Hearing Cancellation/Reschedule Notice dated August 21, 2018, the hearing was rescheduled for October 16, 2018 at 10:00 a.m.

7. By Hearing Notice Change dated October 9, 2018, the parties were advised that the October 16, 2018 hearing was changed from in-person to call-in telephonic.

8. The hearing convened as scheduled on October 16, 2018.

9. During the October 16, 2018 hearing, the Complainant requested to withdraw her Complaint. Tr. 9-10.

10. The Respondent did not object to the Complainant’s request to withdraw her Complaint.

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.

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 during the hearing that she wished to withdraw her Complaint will be treated as a Petition for Leave to Withdraw her Complaint.

The Complainant indicated on the record that she wanted to withdraw her Complaint. Tr. 9-10. The Respondent did not object to the Complainant's request to withdraw her Complaint. Under these circumstances, granting the Complainant's request to withdraw her 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, Ms. Hoffman's request to withdraw her 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 her Complaint.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Heather Hoffman's Petition for Leave to Withdraw her Complaint at Docket No. F-2018-3002153 is granted;

2. That the Complaint of Heather Hoffman against PECO Energy Company filed at Docket No. F-2018-3002153 is withdrawn; and

3. That Docket No. F-2018-3002153 be marked closed.

Date: November 16, 2018

/s/
Christopher P. Pell
Deputy Chief Administrative Law Judge