

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Matthew Sesno	:	
	:	
v.	:	F-2018-3005078
	:	
Philadelphia Gas Works	:	

INITIAL DECISION

Before
Gail M. Chiodo
Special Agent

INTRODUCTION

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

HISTORY OF THE PROCEEDING

On September 17, 2018, Matthew Sesno (Complainant) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (PGW). In his complaint, Mr. Sesno requested restoration of his gas service and a payment arrangement for his arrearage. The Complaint is a timely appeal from a decision of the Commission’s Bureau of Consumer Services (BCS) at BCS Case No. 3622619 dated July 21, 2018, which denied Mr. Sesno a payment arrangement.

On October 22, 2018, PGW filed an answer in which it admitted that PGW had terminated Complainant’s gas service and advised Complainant that, in order to restore service, he

would need to pay PGW a total of \$3,303.71. This total included Complainant's outstanding balance of \$3,022.48, a reconnection fee of \$123.23 and half of the security deposit, \$158. Further, PGW stated that on September 25, 2018, Mr. Sesno paid PGW \$3,303.71 and on September 26, 2018, PGW restored Complainant's gas service. PGW requested that the complaint be dismissed.

On November 1, 2018, a telephonic hearing notice was issued by the Commission setting an initial telephonic hearing for this matter for December 14, 2018 at 10:00 a.m. The case was assigned to me pursuant to 52 Pa. Code § 56.174.¹ A prehearing order dated November 8, 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 December 14, 2018. Mr. Sesno appeared *pro se* and Mr. Laureto Farinas, Esquire, appeared as counsel for PGW. No testimony was taken and no exhibits were offered for the record.

Prior to the start of the hearing, Mr. Sesno stated that he wanted to withdraw his complaint as being moot since he had paid his outstanding balance and his gas service had been restored. PGW did not object to the withdrawal request.

After Mr. Sesno placed his request to withdraw his complaint and his reasons for his request on the record, with no objection, the record closed.² 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 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. Matthew Sesno.
2. The Respondent is Philadelphia Gas Works (PGW).
3. The current service address is 2341 S. Marshall Street, Philadelphia, Pennsylvania; the prior service address was 1833 Daly Street, Philadelphia, Pennsylvania.
4. On September 17, 2018, Mr. Sesno filed a formal complaint against PGW requesting restoration of his gas service and a payment arrangement.
5. The Complaint is a timely appeal from a decision of the Commission's Bureau of Consumer Services (BCS) at BCS Case No. 3622619 dated July 21, 2018, which denied Complainant a payment arrangement.
6. On November 1, 2018, a telephonic hearing notice was issued setting an initial telephonic hearing for this matter for December 14, 2018.
7. The initial telephonic hearing convened as scheduled on December 14, 2018.
8. Prior to the start of the hearing, Mr. Sesno stated that he wanted to withdraw his complaint because on September 25, 2018, he paid PGW a total of \$3,303.71; this total included Complainant's outstanding balance of \$3,022.48, a reconnection fee of \$123.23, and half of the security deposit, \$158.
9. On September 26, 2018, PGW restored Complainant's gas service.
10. Counsel for PGW 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 December 14, 2018, Mr. Sesno stated that he wanted to withdraw his complaint as being moot. Mr. Sesno explained that after he filed the formal complaint, he paid PGW in full for his outstanding balance, a reconnection fee, and half of the security deposit. As a result, Complainant's gas service was restored.

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. Sesno 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 PGW 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. Sesno's request to withdraw his complaint will be granted. Mr. Sesno presented sufficient reasons why his complaint should be withdrawn—namely, that his complaint

is moot since, prior to the hearing, he paid his outstanding balance in full and his gas service was restored. There are no other parties to this proceeding and Mr. Sesno's complaint does not impact other PGW customers or the public interest. Finally, there is no objection to the request to withdraw. Therefore, Mr. Sesno'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. Sesno to withdraw his complaint in this proceeding.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the verbal on-the-record request of Matthew Sesno on December 14, 2018 to withdraw his formal complaint against Philadelphia Gas Works at Docket Number F-2018-3005078 is granted.

2. That the formal complaint filed by Matthew Sesno against Philadelphia Gas Works at Docket Number F-2018-3005078 is hereby withdrawn without prejudice.

3. That this matter be marked closed.

Date: December 14, 2018

_____/s/
Gail M. Chiodo
Special Agent