

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Kimberly and Rafael Rodriguez, III	:	
	:	
v.	:	C-2018-3006412
	:	
PPL Electric Utilities Corporation	:	

**INITIAL DECISION GRANTING PETITION FOR
LEAVE TO WITHDRAW COMPLAINT**

Before
Elizabeth H. Barnes
Administrative Law Judge

INTRODUCTION

This Decision approves the request of the Complainants, Kimberly and Rafael Rodriguez, III, to withdraw their formal Amended Complaint in this matter, as there were no objections to the request and granting the request to withdraw the Amended Complaint is in the public interest.

HISTORY OF THE PROCEEDING

On November 30, 2018, Kimberly Rodriguez filed a formal complaint against PPL Electric Utilities Corporation (PPL or Respondent) averring she wished to opt-out of a smart meter installation on her service property and avoid termination of electric service. The Secretary's Bureau served the complaint on December 7, 2018. On December 27, 2018, Respondent filed an Answer and New Matter. On January 14, 2019, a Hearing Notice was issued scheduling a hearing for July 30, 2019. On January 17, 2019, a Prehearing Order was issued. On January 23, 2019, Complainant filed an Amended Complaint seeking to add her husband, Rafael Rodriguez, III, as a Co-Complainant. This was served upon Respondent on

January 28, 2019. On February 19, 2019, an Answer to Amended Complaint was filed. On July 12, 2019, a Motion to Compel was filed by PPL seeking responses to discovery requests. On July 18, 2019, Complainants e-mailed me a request to withdraw the Amended Complaint with a certificate of service. On July 19, 2019, I requested the Secretary attach Complainants' letter to C-2018-3006412. On July 19, 2019, Respondent emailed me a letter indicating the company did not oppose Complainants' withdrawal of the Amended Complaint. The July 30, 2019 hearing was cancelled. This Petition to Withdraw Amended Complaint is ripe for a decision.

FINDINGS OF FACT

1. On November 30, 2018, Kimberly Rodriguez filed a formal complaint against PPL Electric Utilities Corporation averring she wished to opt-out of a smart meter installation on her service property and avoid termination of electric service.
2. The Secretary's Bureau served the complaint on December 7, 2018.
3. On December 27, 2018, Respondent filed an Answer and New Matter.
4. On January 14, 2019, a Hearing Notice was issued scheduling a hearing for July 30, 2019.
5. On January 17, 2019, a Prehearing Order was issued.
6. On January 23, 2019, Complainant filed an Amended Complaint seeking to add as co-complainant her husband, Rafael Rodriguez, III, which was served upon Respondent on January 28, 2019.
7. On February 19, 2019, an Answer to Amended Complaint was filed.
8. On July 12, 2019, a Motion to Compel was filed by PPL seeking responses to discovery requests.

9. On July 18, 2019, Complainants e-mailed me a request to withdraw the Amended Complaint with a certificate of service.

10. On July 19, 2019, I requested the Secretary attach Complainants' letter to C-2018-3006412.

11. On July 19, 2019, Respondent emailed me a letter indicating the company did not oppose Complainants' withdrawal of the Amended Complaint.

DISCUSSION

Complainants stated in their request to withdraw Complaint that in preparing for the hearing, their assistants were not able to continue due to health issues. Ms. Rodriguez and her husband do not feel prepared for the hearing. Instead of requesting a continuance to hire legal counsel, they have decided to pursue writing their legislators to urge the passing of an opt out bill for those who do not wish to have a smart meter installed on their property.

I am treating Complainants' letter e-mailed to me as a Petition for Leave to Withdraw Amended Complainant. Additionally, Respondent does not object to a withdrawal of the Amended Complaint. The Commission's Rules of Administrative Practice and Procedure permit the withdrawal of pleadings in contested proceedings, through the filing of petitions which set forth the reasons for the withdrawal. In deciding whether to permit withdrawal of the complaint, the presiding officer is to consider the petition to withdraw, any objection thereto, and the public interest. 52 Pa.Code § 5.94.

I have considered the petition, the lack of any objections, and the public interest, and have determined that the withdrawal of the Amended Complaint should be allowed. The public interest would not be served by requiring the litigation of a complaint that Complainants do not wish to pursue. Further, there are numerous other similar complaint proceedings involving the same issues before not only the Commission, but also the Commonwealth Court of Pennsylvania. Requiring litigation of the instant case would result in an unnecessary burden and

costs to the parties and the agency, which also would not be in the public interest. There was no objection by any party to the withdrawal of the Amended Complaint. Accordingly, Complainants' Petition for Leave to Withdraw Complaint will be granted and the formal Amended Complaint will be deemed withdrawn.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa. C.S. § 701.

2. The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94(a) permit the parties to withdraw pleadings in a contested proceeding by permission of the presiding officer or Commission.

3. In determining whether to permit withdrawal of the pleading, the presiding officer or Commission must consider the petition, any objections thereto and the public interest. 52 Pa.Code § 5.94(a).

4. Granting Complainants' Petition for Leave to Withdraw Amended Complaint is in the public interest. 52 Pa.Code § 5.94(a).

ORDER

THEREFORE,

IT IS ORDERED:

1. That Kimberly and Rafael Rodriguez's Petition for Leave to Withdraw the Amended Complaint at Docket No. C-2018-3006412 is hereby granted.

2. That the Amended Complaint filed by Kimberly and Rafael Rodriguez, III against PPL Electric Utilities Corporation at Docket No. C-2018-3006412 is deemed withdrawn.

3. That the case at Docket No. C-2018-3006412 be marked closed.

Dated: July 25, 2019

/s/
Elizabeth H. Barnes
Administrative Law Judge