

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Dorene Schutz	:	
	:	
v.	:	C-2019-3010169
	:	
Pennsylvania-American Water Company	:	

INITIAL DECISION

Before
Darlene D. Heep
Administrative Law Judge

INTRODUCTION

This Initial Decision grants Dorene Schutz’ Petition for Withdrawal of the Complaint because there are no objections and it is in the public interest.

HISTORY OF THE PROCEEDING

On May 20, 2019, the Complainant, Dorene Schutz, filed a Complaint against the Pennsylvania-American Water Company (PAWC, Respondent or Company) seeking reinstallation of an analog meter at her home. The Complainant also alleged that the company changed her meter without her knowledge, that installation of smart meter violates her 14th amendment rights and that the meter is causing her harm.

On June 18, 2019, PAWC filed an Answer with New Matter stating that the Complainant's meter was not working and that the Company replaced it with a meter that includes a radio frequency reader. In the Answer, the Company denied that it violated the Complainant's

rights or caused her injury. In the New Matter, the Company stated that installed meter is safe and that the Company is upgrading its meters to be read remotely and more efficiently.

On July 10, 2019, the Complainant filed a letter stating that she wished to withdraw her Complainant. The request to withdraw is granted, as discussed below.

FINDINGS OF FACT

1. The Complainant in this case is Dorene Schutz.
2. The Respondent in this case is Pennsylvania-American Water Company.
3. On May 20, 2019, the Complainant filed a Complaint with the Commission against the Respondent seeking reinstatement of an analog meter at her residence in Wilkes-Barre, Pennsylvania. (service address).
4. On June 18, 2019, Pennsylvania-American Water Company filed an Answer with New Matter stating that the meter now installed at the service address replaced a meter that was not working and denied that the Company violated the Complainant's rights or caused her injury and in the New Matter, the Company stated that installed meter is safe and that the Company is upgrading its meters to be read remotely and more efficiently.
5. On July 10, 2019, the Complainant filed a letter stating that she wishes to withdraw the Complaint because she does not believe that she can prevail.

I would like to withdraw this case due to the facts that no one can win a case against PUC and Industry as long as collusion exists.

6. Pennsylvania-American Water Company does not object to the Petition to Withdraw.

DISCUSSION

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

§ 5.94. Withdrawal of pleadings in a contested proceeding.

- (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.

Complainant, acting *pro se*, sent a letter to the Commission seeking to withdraw her Complaint. The letter does not technically comply with the form of a petition required by Section 5.94 of the Commission's regulations. Nevertheless, 52 Pa.Code § 1.2(a) provides that the rules of procedure may be "liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable" and that "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". *Id.*

Complainant wishes to withdraw her Complaint and PAWC has not opposed the request to withdraw and does not object. There are no other parties involved in this matter, and the substantive rights of the parties will not be affected by disregarding any procedural error and accepting the Complainant's written request to withdraw her Complaint. Rather than requiring that Complainant file a written request in compliance with 52 Pa.Code § 5.94, the letter will be accepted as a petition for leave to withdraw because doing so permits a just, speedy and inexpensive determination regarding the request.

In determining whether the withdrawal will be permitted, 52 Pa.Code § 5.94 requires a presiding officer to consider any objections thereto and the public interest. First, there are no objections to the request to withdraw. Second, the allegations in the Complaint do not raise issues that impact other customers of the Respondent or the public interest. The Complaint involved only the concerns of the Complainant. Allowing Ms. Schutz to withdraw her Complaint is in the public interest because it will save the expenditure of resources on a matter the Complainant does not wish to pursue.

In view of the Complainant's request to withdraw, absence of objections to the request and the fact that there is no negative impact upon the public interest, there is no reason to deny Complainant's request to withdraw her Complaint. Accordingly, the Complainant's Petition of Leave to Withdraw her Complaint is granted.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the parties to and subject matter of this proceeding. 66 Pa.C.S.A. § 701.
2. The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94(a) permit 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 the Complainant's withdrawal request is in the public interest.

