

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Rebecca Moyer	:	
	:	
v.	:	C-2019-3011587
	:	
Metropolitan Edison Company	:	

**INITIAL DECISION**

Before  
Alphonso Arnold III  
Special Agent

**INTRODUCTION**

This Initial Decision grants the Complainant’s Petition to Withdraw the Complaint because there is no objection to the Petition and because granting the Petition is in the public interest.

**HISTORY OF THE PROCEEDING**

On July 16, 2019, Rebecca Moyer (Complainant or Ms. Moyer) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Metropolitan Edison Company (Respondent or Met Ed) requesting a payment arrangement, asserting that her household size and income has changed.

On August 1, 2019, the Respondent filed an Answer to the Complaint, alleging that Ms. Moyer’s service was terminated on May 28, 2019 and that she is not eligible for a Commission-issued payment arrangement. Met Ed requested that the Commission deny and dismiss the Complaint.

By Hearing Notice served to the parties on August 5, 2019, the Commission scheduled this matter for a telephonic hearing on September 23, 2019, at 10:00 a.m. and assigned the matter to me.

A Prehearing Order served on August 22, 2019, addressed, inter alia, the procedures applicable to the hearing.

The hearing was held on September 23, 2019 as scheduled. Ms. Moyer was present for the hearing. Attorney John L. Munsch was present for the hearing on behalf of Met Ed. During the hearing, Ms. Moyer made an oral request to withdraw her Complaint. Her reasons for doing so was that she no longer lived at the address where she previously received service from Met Ed, and that she would not be applying for electric service anytime in the near future. Met Ed did not object to Ms. Moyer's request to withdraw her Complaint.

The record<sup>1</sup> closed on September 23, 2019, following the conclusion of the telephonic hearing. No witnesses were presented and no exhibits were introduced for the record. The Complainant's Petition to Withdraw the Complaint will be granted.

#### FINDINGS OF FACT

1. The Complainant is Rebecca Moyer.
2. The Respondent is Metropolitan Edison Company.
3. The Complainant filed a Complaint on July 16, 2019.
4. The Respondent filed an Answer on August 1, 2019.

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<sup>1</sup> The telephonic hearing was recorded over the phone by means of a tape recorder. No Court Reporter was present.

5. The Complainant made an oral request at the scheduled hearing in this matter to withdraw her Complaint.

6. The Respondent did not object to the Complainant's request to withdraw her Complaint.

### DISCUSSION

The Complainant made an oral request during the hearing held in this matter to withdraw her Complaint. A request to withdraw a pleading in a contested<sup>2</sup> proceeding is governed by Section 5.94 of the Commission's regulations, which states 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(a).

It must first be addressed that the request to withdraw the Complaint does not comply with the Commission's regulations at 52 Pa. Code § 5.94(a) in that the request was not made through the filing of a Petition with the Commission. I will disregard this error in procedure. Section 1.2 of the Commission's regulations allows for a presiding officer to disregard an error or defect of procedure which does not affect the substantive rights of the parties.

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<sup>2</sup> *Adversarial proceeding*--A proceeding initiated by a person to seek authority, approvals, tariff changes, enforcement, fines, remedies or other relief from the Commission which is contested by one or more other persons and which will be decided on the basis of a formal record. 52 Pa. Code § 1.8.

**§ 1.2. Liberal construction.**

(a) This subpart shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable. The Commission or 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.

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(c) The Commission or presiding officer at any stage of an action or proceeding may waive a requirement of this subpart when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party.

(d) These liberal construction provisions apply with particularity in proceedings involving pro se litigants.

52 Pa.Code § 1.2(a), (c), and (d).

Met Ed's substantive rights will not be affected by my decision to disregard the error in question, as the withdrawal request was made in the presence of counsel for Met Ed, who did not object to the withdrawal request. Thus, the Complainant's request to withdraw the Complaint, made orally at the hearing, will be treated as a properly submitted Petition to Withdraw the Complaint.

As noted, when ruling on a Petition to Withdraw, objections thereto and the public interest must be considered. Met Ed made no objection to the Petition. The public interest will not be negatively affected by the granting of the Complainant's Petition because the allegations raised in the Complainant's Complaint raise issues that affect only the Complainant. The issues raised do not directly impact other customers of Met Ed or the public interest. Furthermore, the Complainant stated during the hearing that she no longer lived at the address where she previously received service from Met Ed and that she would not be applying for electric service anytime in the near future. Thus, it would serve no purpose moving forward with the litigation of this case when the Complainant is no longer seeking any type of relief from the Commission. The Complainant's Petition to Withdraw the Complaint will be granted in the ordering paragraphs below.

## 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 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. 52 Pa.Code § 1.2.

3. 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. 52 Pa.Code § 5.94(a).

4. 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).

5. The Complainant's Petition to withdraw the Complaint should be granted because there is no objection to the Petition and granting the Petition is in the public interest.

## ORDER

THEREFORE,

IT IS ORDERED:

1. That Rebecca Moyer's Petition to Withdraw the Complaint in the matter of Rebecca Moyer v. Metropolitan Edison Company, Docket No. C-2019-3011587, is granted.

