

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Ross Schell	:	
	:	
v.	:	C-2019-3012244
	:	
PPL Electric Utilities Corporation	:	

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 granting the Petition is in the public interest.

HISTORY OF THE PROCEEDING

On August 19, 2019, Ross Schell (Complainant or Mr. Schell) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against PPL Electric Utilities Corporation (Respondent or PPL) stating that he would like to pay his bill on the 23rd of August or be issued some kind of payment arrangement.

On September 9, 2019, PPL filed an Answer to the Complaint. PPL stated that it had provided Mr. Schell with the most advantageous payment arrangement to which he is entitled. PPL requested that the Commission deny the Complaint.

By Hearing Notice served on the parties on September 10, 2019, the Commission scheduled this matter for a telephonic evidentiary hearing on October 22, 2019 at 1:00 p.m. and assigned the case to me. By Prehearing Order served on the parties on September 27, 2019, the procedures applicable to the hearing were addressed.

On October 16, 2019, I received a letter from Mr. Schell through fax, in which he stated, inter alia, that he was withdrawing his Complainant since he had paid PPL off. I treated this letter as a Petition to Withdraw the Complaint.¹ A copy of the letter was received by PPL and PPL, through its attorney Graig M. Schultz, Esquire, informed me that it did not object to the Complainant's Petition.

On October 17, 2019, I received two letters from Mr. Schell through U.S. mail. One letter was a copy of the Petition to Withdraw the Complaint. The second letter was a document that I treated as a Motion for Continuance.² To be certain that PPL received a copy of the Motion, I sent a copy of the Motion to Attorney Schultz through email.

Given the contradictory requests in the Petition and Motion that I received from Mr. Schell, I converted the October 22, 2019 evidentiary hearing into a prehearing conference so that I could ascertain from the Complainant how he wanted to proceed with his case. This was effectuated through a Hearing Change Notice, served on the parties on October 18, 2019. The parties were also informed through email to attend the prehearing conference.

The prehearing conference was held as scheduled on October 22, 2019 at 1:00 p.m. Attorney Schultz appeared for the Respondent. The Complainant did not appear. The start of the conference was delayed to give the Complainant additional time to call in or to contact me to inform me that he would not be appearing for the conference. Despite the Hearing Change Notice informing the parties that they would not receive a phone call at the time of the conference, I had a legal assistant call the Complainant to remind him of the prehearing conference. The conference began at 1:15 p.m., without the Complainant. On the prehearing

¹ I caused the Petition to Withdraw to be filed with the Commission's Secretary on October 17, 2019.

² I caused the Motion for Continuance to be filed with the Commission's Secretary on October 24, 2019.

conference record,³ I informed PPL that I would deny the Complainant's Petition to Withdraw and grant the Complainant's Motion for Continuance in an Order that would be issued to the parties. The prehearing conference concluded at approximately 1:20 p.m.

On October 23, 2019, an Order⁴ was served on the parties, in which I denied the Complainant's Petition to Withdraw and granted the Complainant's Motion for Continuance.

By Hearing Notice served on the parties on October 23, 2019, the evidentiary hearing in this matter was rescheduled for December 4, 2019.⁵

On October 24, 2019, an Office of Administrative Law Judge (OALJ) legal assistant informed me that she had spoken to Mr. Schell, who had called the OALJ, and that Mr. Schell requested that his Complaint be closed. I informed PPL of this request through email.⁶ PPL replied that it did not object to this request. Thus, on this date, a Hearing Cancellation Notice was served on the parties cancelling the December 4, 2019 hearing. The record also closed on this date.

As discussed below, the Complainant's request to close his Complaint will be treated as a Petition to Withdraw the Complaint, and the Petition will be granted.

FINDINGS OF FACT

1. The Complainant is Ross E. Schell.
2. The Respondent is PPL Electric Utilities Corporation.

³ The prehearing conference was recorded over the phone by means of a tape recorder. No Court Reporter was present.

⁴ The October 23, 2019 Order noted that if the Complainant wanted to withdraw his Complaint then he may notify the presiding officer again of that intention.

⁵ The October 23, 2019 Hearing Notice mistakenly rescheduled a prehearing conference for December 4, 2019, rather than schedule an evidentiary hearing. Given the ruling in this Initial Decision which grants Complainant's Petition to withdraw his Complaint, a correction to this Hearing Notice is not necessary.

⁶ The Complainant was copied on this email.

3. The Complainant filed a Complaint with the Commission on August 19, 2019.

4. On October 16, 2019, I received from Mr. Schell a Petition to Withdraw his Complaint, wherein he averred, inter alia, that he was withdrawing his Complaint since he had paid PPL off.

5. On October 17, 2019, I received from Mr. Schell a Motion for Continuance of the October 22, 2019 hearing date.

6. On October 23, 2019, an Order was served on the parties, in which I denied the Complainant's Petition to Withdraw and granted the Complainant's Motion for Continuance.

7. The October 23, 2019 Order further noted that if the Complainant wanted to withdraw his Complaint, then he may notify the presiding officer again of that intention.

8. On October 24, 2019, the Complainant called the OALJ and asked that his Complaint be closed.

9. The Respondent does not object to Complainant's request to close (withdraw) his Complaint.

DISCUSSION

The Complainant called the OALJ and informed a legal assistant that wanted to close his Complaint. This request will be treated as a request by the Complainant to withdraw his Complaint. A request to withdraw a pleading in a contested⁷ proceeding is governed by Section 5.94 of the Commission's regulations, which states as follows:

⁷ *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.

§ 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). The request was not made in the form of a Petition being filed with the Commission, nor was it served upon PPL. The request was made verbally through a phone call made to the OALJ on October 24, 2019. This request was the Complainant's second request to withdraw his Complaint. The first request was made on October 16, 2019. In his first request to withdraw his Complaint, the Complainant stated that he was withdrawing his Complaint because he had paid PPL off. The Complainant's first request to withdraw his Complaint was denied, due to the Complainant submitting a Motion for Continuance on October 17, 2019. In the October 23, 2019 Order denying the Complainant's withdrawal request and granting the Complainant's Motion for Continuance, the Complainant was informed that he may notify the presiding officer again of his intention to withdraw his Complaint. In the phone call made to the OALJ on October 24, 2019, the Complainant notified me again of his intention to withdraw his Complaint.

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.

§ 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.

* * *

(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).

PPL's substantive rights will not be affected by choosing to disregard the errors in the Complainant's request as PPL had notice and the opportunity to respond to the request. Thus, it is proper to treat Mr. Schell's request as a properly submitted Petition to Withdraw, governed by 52 Pa.Code § 5.94(a).

A Petition to Withdraw will be permitted after consideration of any objections thereto and the public interest. As noted, PPL did not object 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 PPL or the public interest. It should additionally be noted, that in the Complainant's first Petition to Withdraw made on October 16, 2019, the Complainant averred that he was withdrawing his Complaint because he had paid PPL off. It saves the Commission and the parties time and money to permit a Complainant who no longer wishes to pursue their case to withdraw their Complaint, especially when it appears that the issue raised in the Complaint has been resolved. 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, 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).

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 Ross Schell's Petition to Withdraw his formal Complaint filed against PPL Electric Utilities Corporation at Docket No. C-2019-3012244, is granted.

2. That the formal Complaint filed by Ross Schell against PPL Electric Utilities Corporation at Docket No. C-2019-3012244 is hereby withdrawn.

3. That the docket at Docket No. C-2019-3012244 is marked closed.

Date: October 24, 2019

/s/
Alphonso Arnold, III
Special Agent