

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Ike Roberts	:	
	:	
v.	:	C-2019-3012274
	:	
Philadelphia Gas Works	:	

**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 August 8, 2019, Ike Roberts (Complainant or Mr. Roberts) filed a Formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Philadelphia Gas Works (Respondent or PGW) seeking a payment arrangement.

On September 9, 2019, PGW filed an Answer to the Complaint, admitting or denying the various averments in the Complaint and requesting that the Commission dismiss the Complaint.

By Hearing Notice served on the parties on September 10, 2019, the Commission scheduled this matter for a telephonic hearing on October 31, 2019 and assigned the matter to me.

A Prehearing Order served on the parties on October 7, 2019, addressed, inter alia, the procedures applicable to the hearing.

The hearing was held on October 31, 2019 as scheduled. Mr. Roberts and Attorney Graciela Christlieb, representing PGW, were present for the hearing. Mr. Roberts made an oral request to withdraw his Complaint on the hearing record. Mr. Roberts' reasons for making the request was because he did not currently have an active gas service account with PGW and was not currently applying for gas service from PGW. PGW did not object to Mr. Roberts' request to withdraw his Complaint.

The record<sup>1</sup> closed on October 31, 2019, following the conclusion of the telephonic hearing. No witnesses were presented and no exhibits were introduced for the record. For the reasons discussed below, the Complainant's Petition to Withdraw the Complaint will be granted.

#### FINDINGS OF FACT

1. The Complainant is Ike Roberts.
2. The Respondent is Philadelphia Gas Works.
3. Mr. Roberts filed a Complaint on August 8, 2019 seeking a payment arrangement.
4. PGW filed an Answer on September 9, 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. Mr. Roberts made an oral request on the record at the hearing in this matter to withdraw his Complaint because he did not currently have an active gas service account with PGW and was not currently applying for gas service from PGW.

6. PGW did not object to the Complainant's request to withdraw his Complaint.

### DISCUSSION

The Complainant made an oral request during the hearing held in this matter to withdraw his 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).

PGW'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 PGW, 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. PGW 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 do not directly impact other customers of PGW or the public interest. Furthermore, Mr. Roberts stated during the hearing that he did not currently have an active gas service account with PGW and was not currently applying for gas service from PGW. The Commission cannot issue a payment arrangement for Mr. Roberts, who is neither a

customer<sup>3</sup> of PGW, nor an applicant<sup>4</sup> for PGW gas service.<sup>5</sup> Thus, it would serve no purpose moving forward with the litigation of this case when the Commission cannot grant the relief the Complainant requested in his Complaint. 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).

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<sup>3</sup> **“Customer.”** A natural person in whose name a residential service account is listed and who is primarily responsible for payment of bills rendered for the service or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested. The term includes a person who, within 30 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location within the service territory of the public utility. 66 Pa.C.S.A. § 1403.

<sup>4</sup> **“Applicant.”** A natural person not currently receiving service who applies for residential service provided by a public utility or any adult occupant whose name appears on the mortgage, deed or lease of the property for which the residential utility service is requested. The term does not include a person who, within 30 days after service termination or discontinuance of service, seeks to have service reconnected at the same location or transferred to another location within the service territory of the public utility. 66 Pa.C.S.A. § 1403.

<sup>5</sup> **(a) General rule.**--The commission is authorized to investigate complaints regarding payment disputes between a public utility, applicants and customers. The commission is authorized to establish payment arrangements between a public utility, customers and applicants within the limits established by this chapter. 66 Pa.C.S.A. § 1405(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 Ike Roberts' Petition to Withdraw the Complaint filed at Docket No. C-2019-3012274, is granted.

2. That the Complaint of Ike Roberts filed against Philadelphia Gas Works at Docket No. C-2019-3012274 is hereby withdrawn.

3. That the docket at Docket No. C-2019-3012274 be marked closed.

Date: November 4, 2019

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/s/  
Alphonso Arnold III  
Special Agent