

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Eunice Williams	:	
	:	
v.	:	C-2019-3011218
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
F. Joseph Brady
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Complainant’s request to withdraw her Complaint because there is no objection to it and granting the request is in the public interest.

HISTORY OF THE PROCEEDING

On June 21, 2019, Eunice Williams (Complainant) filed a formal Complaint (Complaint) against PECO Energy Company (PECO or Respondent) with the Pennsylvania Public Utility Commission (Commission) requesting a payment agreement.

On July 5, 2019, PECO filed an Answer to the Complaint. In its Answer, PECO averred that the Complainant was enrolled in PECO’s Customer Assistance Program (CAP) on May 11, 2006 and removed from the program on October 2, 2018 at the Complainant’s request. PECO further averred that the Complainant has an outstanding balance of \$744.08 that is comprised of CAP arrears. As a result, PECO requested that the Complaint be dismissed pursuant to 66 Pa.C.S. § 1405(c).

By Hearing Notice dated July 11, 2019, an Initial In-Person Hearing in this matter was scheduled as part of a Call-of-the-Docket on Tuesday, August 20, 2019, beginning at 9:30 a.m., and the matter was assigned to me.

A Prehearing Order was issued on July 17, 2019, reminding the parties of the date and time of the scheduled hearing, informing them of the procedures applicable to this proceeding, and directing the submission of documents prior to the hearing.

On July 23, 2019, the Complainant filed a Motion for Change to a Partial Telephonic Hearing, which I granted in an Order issued on July 25, 2019.

The hearing convened as scheduled on August 20, 2019. The Complainant appeared *pro se* and testified on her own behalf. The Respondent appeared and was represented by Shawane Lee, Esquire, who was accompanied by a potential witness, Renee Tarplaey.

At the outset of the hearing, the Complainant stated, under oath, that she wished to withdraw her Complaint. Tr. 4-5. PECO had no objections to the Complainant's request to withdraw.

The record closed on September 10, 2019, upon my receipt of the transcript.

FINDINGS OF FACT

1. The Complainant is Eunice Williams.
2. The Respondent is PECO Energy Company.
3. On June 21, 2019, the Complainant filed a Complaint against PECO requesting a payment agreement.

4. On July 5, 2019, PECO filed an Answer averring that the Complainant has an outstanding balance of \$744.08 that is comprised of CAP arrears.

5. By Hearing Notice dated July 11, 2019, a hearing was scheduled for August 20, 2019.

6. The hearing convened as scheduled on August 20, 2019. Tr. 1-5.

7. The Complainant appeared for the hearing and requested to withdraw her Complaint under oath. Tr. 4-5.

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

DISCUSSION

The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94 permit parties to petition to withdraw 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).

The petition is granted only by permission of the presiding officer or the Commission. The presiding officer or Commission must consider the petition, any objections thereto, and the public interest in determining whether to permit withdrawal of the pleading. 52 Pa.Code § 5.94.

A presiding officer or the Commission may disregard an error or defect of procedure or waive a requirement that does not adversely affect a substantive right of a party, particularly in proceedings involving *pro se* litigants. 52 Pa. Code §§ 1.2(a),(c),(d). Thus, the Complainant's statement under oath that she wishes to withdraw her Complaint will be treated as a petition for leave to withdraw her Complaint in order to secure a just, speedy and inexpensive determination of this proceeding pursuant to 52 Pa. Code § 1.2(a). Further, granting the withdrawal will not adversely affect either party's substantive rights since PECO did not object to the oral form of the request.

In this case, prior to the hearing and going on the record, the Complainant engaged in settlement discussions with the Respondent. When the hearing began, the Complainant sought to have her Complaint withdrawn. The Respondent did not object to the Complainant's request to withdraw her Complaint. There are no other parties to this proceeding and Ms. Williams' Complaint does not impact other PECO customers or the public interest. Under these circumstances, granting the Complainant's request to withdraw her Complaint is in the public interest because doing so will eliminate the need for litigation and save the parties any additional costs in time and money they would otherwise incur litigating the case. Accordingly, Ms. Williams' request to withdraw her Complaint shall be granted.

CONCLUSIONS OF LAW

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

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

3. A presiding officer or the Commission may disregard an error or defect of procedure or waive a requirement that does not adversely affect a substantive right of a party, particularly in proceedings involving *pro se* litigants. 52 Pa. Code §§ 1.2(a),(c),(d).

4. It is in the public interest to grant the Complainant's request to withdraw her Complaint.

ORDER

THEREFORE,

IT IS ORDERED:

1. That Complainant's Petition for Leave to Withdraw her Complaint at Docket No. C-2019-3011218 is granted;
2. That the Complaint of Eunice Williams against PECO Energy Company filed at Docket No. C-2019-3011218 is withdrawn; and
3. That Docket No. C-2019-3011218 be marked closed.

Date: October 30, 2019

/s/
F. Joseph Brady
Administrative Law Judge