

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Reese Automotive	:	
	:	
v.	:	C-2019-3008855
	:	
Pennsylvania-American Water Company	:	

**INITIAL DECISION**

Before  
Mark A. Hoyer  
Deputy Chief Administrative Law Judge

**INTRODUCTION**

This initial decision grants the petition for leave to withdraw the formal complaint because there were no objections to the petition and granting the petition is in the public interest.

**HISTORY OF THE PROCEEDING**

On March 28, 2019, Reese Automotive (Complainant) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against Pennsylvania-American Water Company (PAWC or Respondent) alleging that Streets Run Road, in front of Complainant’s business, was closed for PAWC to replace lines without prior notice to Complainant. According to the complaint, Complainant found out about the closure on February 10, 2019, the day before the road closure, from a traffic alert posted to Facebook by the Baldwin Police Department. In addition, Complainant avers that the closure was to be for three weeks, beginning February 11, 2019, but the road remained closed on March 27, 2019 when the complaint was prepared. As relief, the complaint seeks monetary damages.

On April 17, 2019, PAWC filed its answer and new matter denying the material averments contained in the complaint and requesting that the complaint be dismissed.

Through a Hearing Notice issued on June 21, 2019, the case was scheduled for an initial hearing to be held on August 6, 2019. Counsel for Complainant, Kenneth J. Nolan, Esquire, requested that the scheduled hearing be cancelled. The request was granted, and the scheduled hearing was cancelled.

On August 2, 2019, counsel for Complainant filed a petition for leave to withdraw complaint. No objection to the petition for leave to withdraw complaint was filed by PAWC.

On October 30, 2019, the record was closed by interim order. For the reasons set forth below, Complainant's petition for leave to withdraw the complaint will be granted.

#### FINDINGS OF FACT

1. Complainant is Reese Automotive.
2. Respondent is Pennsylvania-American Water Company.
3. On March 28, 2019, the Complainant filed a complaint against the Respondent.
4. On April 17, 2019, the Respondent filed its answer and new mater to the complaint.
5. On August 2, 2019, counsel for Complainant filed a petition for leave to withdraw complaint.
6. No objections to the petition for leave to withdraw the complaint were filed by Respondent.

## DISCUSSION

Section 5.94 of the Commission's regulations, 52 Pa.Code § 5.94, in relevant part, provides:

(a) [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, any objection thereto and the public interest, the presiding officer or the Commission will determine whether the withdrawal will be permitted.

The filing of the instant complaint and the answer thereto constitute a contested proceeding. Therefore, Complainant's petition for leave to withdraw its complaint must be considered under the provisions of Section 5.94. No objection to the petition for leave to withdraw the complaint was filed.

Section 703(a) of the Public Utility Code, 66 Pa.C.S. § 703(a), provides for dismissal of a complaint without a hearing, if in the Commission's opinion, a hearing is not necessary in the public interest. In the instant case, Complainant expressed its intent to withdraw the complaint. Thus, proceeding to hearing would not be in the public interest.

Accordingly, granting Complainant's petition for leave to withdraw its complaint will terminate the litigation, and thereby save the parties and the Commission the costs in time and money of litigating this matter to conclusion without impacting the public interest.

## CONCLUSIONS OF LAW

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

2. Section 5.94 of the Commission's Rules of Practice and Procedure, 52 Pa.Code § 5.94, permits a party to withdraw a pleading 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.

4. Section 703(a) of the Public Utility Code, 66 Pa.C.S.A § 703(a), provides for dismissal of a complaint without a hearing, if in the Commission's opinion, a hearing is not necessary in the public interest.

5. Granting the Complainant's petition for leave to withdraw its complaint is in the public interest.

#### ORDER

THEREFORE,

IT IS ORDERED:

1. That Complainant Reese Automotive's petition for leave to withdraw its complaint against Respondent, Pennsylvania-American Water Company, at Docket No. C-2019-3008855, is granted.

2. That the complaint of Reese Automotive against Pennsylvania-American Water Company at Docket No. C-2019-3008855, is withdrawn.

3. That the Docket in this proceeding, Docket No. C-2019-3008855, be marked closed.

Date: November 5, 2019

\_\_\_\_\_/s/  
Mark A. Hoyer  
Deputy Chief Administrative Law Judge