

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Maria Santander	:	
	:	
v.	:	C-2018-3006533
	:	
Duquesne Light Company	:	

INITIAL DECISION

Before
Jeffrey A. Watson
Administrative Law Judge

INTRODUCTION

This Decision grants a Petition to Withdraw a formal Complaint because there was no objection to the Petition and granting the Petition is in the public interest.

HISTORY OF THE PROCEEDING

On December 10, 2018, Maria Santander filed a formal Complaint with the Pennsylvania Public Utility Commission against Duquesne Light Company (Respondent or Company). In her Complaint, Ms. Santander averred that Respondent threatened to terminate her electric service for the alleged failure of Complainant to consent to the installation of a smart meter at her residence. As relief, Complainant requested that the Commission stop Respondent from terminating her service.

On January 2, 2019, Respondent filed an Answer in response to the Complaint. Respondent denied the material averments set forth in the Complaint.

On February 27, 2019, an interim order was entered establishing an initial litigation schedule, including a deadline to exchange witness information, to conclude discovery and to file a status report in this proceeding.

On April 12, 2019, Respondent filed a motion for a Prehearing Conference. Complainant did not object to this request.

On April 23, 2019, an interim order was entered scheduling a prehearing conference for May 21, 2019. Jeremy V. Farrell, Esquire, appeared for Respondent. Complainant also appeared and participated. During the prehearing conference, Complainant indicated that she objected to the installation of a smart meter at her residence. Counsel noted that Complainant averred in her formal complaint that she was unhappy with the termination notice she received from Respondent. The Parties discussed whether Complainant intended on withdrawing her complaint or proceeding with the litigation of this matter. Complainant stated that she was going to visit family out of the country for the summer. Complainant ultimately stated that she was taking care of various health issues and was not going to continue with her complaint at that time. In order to permit Complainant to make certain as to how she wanted to proceed, I asked Complainant to provide counsel and myself with a short letter if it was her desire to withdraw her complaint. No written request to withdraw the complaint was received from Complainant.

On August 16, 2019, an interim order was entered scheduling a second prehearing conference for October 2, 2019 at 9:00 a.m.

Jeremy V. Farrell, Esquire, appeared for Respondent. Complainant also appeared and participated. During the prehearing conference, the Parties agreed to an amended litigation schedule. Accordingly, an interim order was entered on October 4, 2019, permitting Complainant to file an amended complaint by October 25, 2019; requiring the exchange of witness information by November 25, 2019; closing discovery on December 20, 2019; and requiring the filing of status reports by December 20, 2019.

On December 4, 2019, Respondent filed a letter with the Commission Secretary, attaching an email from Complainant stating that Complainant is unable to proceed with this case due to health reasons. Complainant's email communication letter is being treated as a Petition to Withdraw pursuant to Section 5.94 of the Commission's regulations. 52 Pa.Code § 5.94(a).

Respondent, in its letter dated December 4, 2019 indicated that Respondent had no objection to Complainant's request to withdraw her Complaint, with prejudice.

The record closed on December 20, 2019, the due date for status reports from the Parties.

The Petition will be granted and this matter will be marked closed because there was no objection to the Petition and granting the Petition is in the public interest.

FINDINGS OF FACT

1. Complainant in this case is Maria Santander.
2. Respondent in this case is Duquesne Light Company.
3. On December 10, 2018, Maria Santander filed a formal Complaint against Duquesne Light Company averring that Respondent threatened to terminate her electric service for the alleged failure of Complainant to consent to the installation of a smart meter at her residence. As relief, Complainant requested that the Commission stop Respondent from terminating her service.
4. On January 2, 2019, Respondent filed an Answer, denying the material averments set forth in the Complaint.
5. On December 2, 2019, Complainant submitted an email to Respondent seeking to withdraw her formal Complaint.

6. On December 4, 2019, Respondent filed a letter with the Commission Secretary, attaching the email from Complainant stating that Complainant is unable to proceed with this case due to health reasons.

7. Respondent did not object to Ms. Santander's request to withdraw her Complaint.

DISCUSSION

The withdrawal of pleadings in a contested proceeding is governed by Section 5.94 of the Commission's regulations. This Section provides:

§ 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, 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).

In her request to withdraw her Complaint, Ms. Santander stated that she is unable to proceed with her case due to health reasons. Complainant did not request any additional time to process her case or another extension of the litigation schedule in this proceeding. Respondent did not object to Ms. Santander's request to withdraw her Complaint.

To the extent that Ms. Santander no longer wishes to pursue the issues she raised in her Complaint, that is her prerogative as Complainant. It is not in the public interest to require a Complainant to continue to pursue a Complaint if he or she no longer wishes to do so. Various

issues were properly raised against Respondent and two prehearing conferences were scheduled in order to provide Complainant the opportunity to be heard on those issues and to participate in an evidentiary hearing. Yet, Ms. Santander has subsequently determined that she no longer wishes to pursue her Complaint. It is, therefore, in the public interest to allow Ms. Santander to withdraw her Complaint.

Furthermore, Respondent indicated it had no objection to the request to withdraw the Complaint.

As a result, the Petition to Withdraw Application will be granted because it is unopposed and in the public interest. The requirements of Section 5.94(a) of the Commission's regulations governing withdrawal of pleadings in contested proceedings have been satisfied.

CONCLUSIONS OF LAW

1. 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 setting forth the reasons for the withdrawal. 52 Pa.Code § 5.94(a).

2. After considering a petition to withdraw, 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).

3. Ms. Santander's Petition to Withdraw Complaint dated December 2, 2019 should be granted because there was no objection to the Petition and granting the Petition is in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition to Withdraw Complaint filed by Maria Santander dated December 2, 2019 and filed on December 4, 2019 at Docket Number C-2018-3006533 is hereby granted.
2. That the Formal Complaint filed by Maria Santander against Duquesne Light Company on December 10, 2018 at Docket Number C-2018-3006533 is hereby withdrawn.
3. That this matter is marked closed.

Date: December 23, 2019

_____/s/
Jeffrey A. Watson
Administrative Law Judge