

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

The Hancock Telephone Company	:	
Supplement No. 70 to Tariff Telephone -	:	R-2019-3013413
Pa.P.U.C. No. 1	:	
Office of Small Business Advocate	:	
	:	
v.	:	C-2019-3014433
	:	
The Hancock Telephone Company	:	

**RECOMMENDED DECISION**

Before  
Joel H. Cheskis  
Deputy Chief Administrative Law Judge

**INTRODUCTION**

This decision recommends that the Commission grant a request to withdraw a proposed tariff supplement filed by a local exchange telephone company seeking an increase of residential and business local exchange service rates because the request to withdraw is in the public interest and there is no objection to it.

**HISTORY OF THE PROCEEDING**

On October 8, 2019, the Hancock Telephone Company (Hancock) filed Supplement No. 70 to Telephone – Pa.P.U.C. No. 1 to become effective January 1, 2020. The tariff supplement would increase rates for residential and business local exchange services by approximately \$3,240 annually. Hancock is a small independent telephone company located in Hancock, New York. Hancock stated that the filing was prompted by the continued disparity between the rates governing the company’s New York customers and its Pennsylvania

customers. The tariff supplement proposed to increase the monthly rate for residential and business local exchange services by \$2.25. Hancock included with its filing additional material and justification in support of the proposed increase.

On November 19, 2019, the Office of Small Business Advocate (OSBA) filed a formal complaint, public statement and notice of intervention in response to Hancock's filing, docket number C-2019-3014433. In its complaint, the OSBA averred that the materials provided by Hancock in support of its filing are insufficient to justify the rate adjustments and that Hancock's proposed rates, rules and conditions of service may be unjust, unreasonable, unduly discriminatory and otherwise contrary to law, particularly as they pertain to Hancock's small business customers. The OSBA requested that the Commission suspend and investigate the operation of Hancock's tariff filing and reject the proposed tariff changes to the extent required to ensure that Hancock's rates are lawful, just, reasonable and not unduly discriminatory to any class of customers.

On November 25, 2019, Hancock, through its Accounting Manager, filed a letter respectfully disagreeing with the formal complaint filed by the OSBA. Hancock argued why it believes that its proposed rates are just and reasonable.

On December 19, 2019, the Commission issued an Order suspending Hancock's filing by operation of law until August 1, 2020, unless permitted by Commission Order to become effective at an earlier date. The Commission referred the matter to the Office of Administrative Law Judge for further proceedings and the issuance of a recommended decision. The Commission directed that the investigation consider the lawfulness, justness and reasonableness of the existing rates, rules and regulations of Hancock.

On December 20, 2019, the Office of Consumer Advocate (OCA) filed a notice of intervention and public statement formally intervening into the proceeding to represent consumer interests and assure that the rates for local exchange telephone service provided by Hancock are just, reasonable and non-discriminatory.

On December 23, 2019, Hancock, through its Vice President, filed a letter notifying the Commission of its request to withdraw the tariff supplement seeking to increase rates. In the letter, Hancock noted that one of the objectives of the filing was to have the new local rates in effect by January 1, 2020 and that since the filing was suspended beyond that due date, and due to the immaterial amount involved, the company does not feel it would be prudent to spend the time or resources moving forward with this supplement.

On December 26, 2019, the Commission issued a motion judge assignment notice informing the parties that I have been assigned as the presiding officer in this matter and am responsible to resolve any issues that may arise during the preliminary phase of this proceeding.

No party filed a response to Hancock's letter requesting to withdraw its filing.

The record in this case closed on January 6, 2020, the last day that parties could file a response to Hancock's letter seeking to withdraw its complaint. Hancock's request to withdraw its complaint is ready for disposition. For the reasons discussed below, it will be recommended that Hancock's request be granted.

#### FINDINGS OF FACT

1. The Hancock Telephone Company is a small independent telephone company located in Hancock, New York that serves 120 customers local telephone service in the 570-635 Winterdale, Pennsylvania exchange.
2. The OSBA is authorized to represent the interests of small business consumers of utility services before the Commission.
3. The OCA is authorized to represent the interests of consumers before the Commission.

4. On October 8, 2019, Hancock filed Supplement No. 70 to Telephone – Pa.P.U.C. No. 1 to become effective January 1, 2020 seeking to increase rates for residential and business local exchange services by approximately \$3,240 annually.

5. On December 19, 2019, the Commission issued an Order suspending Hancock’s filing by operation of law until August 1, 2020, unless permitted by Commission Order to become effective at an earlier date.

6. On December 23, 2019, Hancock filed a letter notifying the Commission of its request to withdraw the tariff supplement seeking to increase rates.

7. No objections were filed in response to Hancock’s December 23, 2019 letter.

#### DISCUSSION

Section 5.94(a) of the Commission’s regulations provides that 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 other parties. 52 Pa.Code § 5.94(a). This section further provides that the petition must set forth the reasons for the withdrawal and that a party may object to the petition within 10 days. Id. Finally, this section also provides that, 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. Id.

In this case, Hancock indicated in its letter of December 23, 2019 that it seeks to withdraw its tariff filing since the filing has been suspended beyond the date that it sought to have the new rates in effect – January 1, 2020 – and due to the immaterial amount involved – \$3,240 per year. As a result, Hancock stated that it does not feel that it would be prudent to spend the time or resources moving forward with the filing. No objections were received in response to Hancock’s request to withdraw the filing.

Hancock's request to withdraw should be granted because it is in the public interest and there is no objection. It is reasonable that Hancock wishes to now withdraw the tariff filing because the amount of the increase sought does not make it prudent to spend the time or the resources to pursue the increase. Such time and resources would likely include engaging an attorney authorized to practice law in Pennsylvania to litigate the filing, particularly since a formal complaint has been filed against the filing by the OSBA. The cost of an attorney would likely quickly outweigh the potential rate increase. Furthermore, Hancock desired to have the new rates in effect January 1, 2020 and the Commission suspended the filing until August 1, 2020. This delay also supports Hancock's averment that it is no longer prudent to spend the time or resources to move forward with the filing. It may be that Hancock would file another supplement in the future in light of the Commission's ability to suspend and investigate such filings. It would not be reasonable to require Hancock to pursue a rate increase that would not result in an overall increase of the financial ability of the company (i.e., any increase in rates would be offset by the cost to obtain the increase).

Furthermore, it is in the public interest to avoid increasing the local rates of the residential and business customers who would be impacted by Hancock's filing. It is undeniable that customers would prefer to not have their rates increased. Although Hancock provided reasons for its requested increase before it made its request to withdraw, such as bringing its Pennsylvania rates closer to its New York rates and addressing an alleged unadjusted negative intrastate return on equity, the company has not identified as reasons for the rate increase public benefits such as network improvement or offering additional services that would be in the public interest if granted. To the extent, for example, that Hancock originally averred that its tariff filing was needed to remedy substantial network problems that required additional financial resources to ensure adequate and reliable service, it may not be in the public interest to grant the subsequent request to withdraw. Hancock did not, however, make such requests in its original filing. Therefore, Hancock's request to withdraw its tariff supplement is also in the public interest.

Finally, as noted, there are no objections to the request to withdraw.

As such, all elements of consideration of the request to withdraw the complaint have been considered pursuant to Section 5.94 of the Commission's regulations. Such consideration warrants granting the request to withdraw. Therefore, it will be recommended below that Hancock's request to withdraw its tariff filing be granted. Since it will be recommended that Hancock's request to withdraw its tariff filing be granted, it will also be recommended that OSBA's complaint against the filing be deemed withdrawn since it is now moot.

#### CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 66 Pa.C.S. § 1308(d); 66 Pa.C.S. § 701.
2. 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 other parties. 52 Pa.Code § 5.94(a).
3. A petition to withdraw a pleading in a contested proceeding must set forth the reasons for the withdrawal and that a party may object to the petition within 10 days. 52 Pa.Code § 5.94(a).
4. After considering a petition to withdraw a pleading in a contested proceeding, 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. It is in the public interest to allow Hancock to withdraw its tariff supplement in this proceeding.
6. Since Hancock's tariff filing will be withdrawn, the formal complaint filed by OSBA against Hancock's tariff filing will be deemed moot.

ORDER

THEREFORE,

IT IS RECOMMENDED:

1. That the request to withdraw the Supplement No. 70 to Telephone – Pa.P.U.C. No. 1 filed by the Hancock Telephone Company at Docket No. R-2019-3013413 made on December 23, 2019 is hereby granted.
2. That the Supplement No. 70 to Telephone – Pa.P.U.C. No. 1 filed by the Hancock Telephone Company at Docket No. R-2019-3013413 on October 8, 2019 is withdrawn.
3. That the formal complaint filed by the Office of Small Business Advocate against the Hancock Telephone Company at docket number C-2019-3014433 is dismissed as moot.
4. That this matter be marked closed.

Date: January 21, 2020

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/s/  
Joel H. Cheskis  
Deputy Chief Administrative Law Judge