

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Michael Carr	:	
	:	
v.	:	C-2019-3014144
	:	
PECO Energy Company	:	

INITIAL DECISION

Before
Dennis J. Buckley
Administrative Law Judge

INTRODUCTION

This Initial Decision grants a letter/petition to withdraw the formal Complaint in this matter because the petition is unopposed, and it is in the public interest to allow the withdrawal.

HISTORY OF THE PROCEEDING

On November 4, 2019, Michael Carr (Complainant) filed a formal Complaint with the Pennsylvania Public Utility Commission (Commission) asking that the Commission order PECO Energy Company (PECO) to modify its vegetation maintenance program. Specifically, Complainant asked that PECO be directed to perform tree clearance in Horsham, Pennsylvania every two years and to widen the right of way to fifty feet.

On November 27, 2019, PECO filed an Answer to the Complaint in which PECO asked that the Complaint be dismissed for legal insufficiency as Complainant did not plead for relief that is within the jurisdiction of the Commission to grant.

Also on November 27, 2019, PECO filed a Preliminary Objection on the same grounds, properly endorsed with a Notice to Plead. Specifically, PECO argues that Complainant has not alleged that PECO has violated a provision of the Public Utility Code or a rule or regulation of the Commission. PECO argued that absent such a pleading, the Commission is without jurisdiction in this matter; therefore, the Complaint should be dismissed for legal insufficiency.

Complainant has not filed an Answer to the Preliminary Objection.

On January 2, 2020, this case was assigned to Administrative Law Judge Steven K. Haas as motion judge. On January 7, 2020, the case was re-assigned to me for a ruling on the Preliminary Objection.

On January 11, 2020, Complainant filed a letter/petition withdrawing his Complaint.

FINDINGS OF FACT

1. The Complainant in this proceeding is Michael Carr.
2. The Respondent in this proceeding is PECO Energy Company, a Commission jurisdictional electric distribution company.
3. On November 4, 2019, Complainant filed a formal Complaint against PECO asking that PECO be directed to perform tree clearance in Horsham, Pennsylvania every two years and to widen the right of way to fifty feet.
4. On November 27, 2019, PECO filed an Answer in which it asked that the Complaint be dismissed for lack of Commission jurisdiction.
5. On January 11, 2020, Complainant filed a letter/petition withdrawing his Complaint.

DISCUSSION

The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94(a) permit parties to petition to withdraw pleadings in a contested proceeding and provides:

(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. *Id.*

Considering any objections to the withdrawal of the Complaint, I note that PECO does not object to the proposed withdrawal. There are no other parties to this proceeding.

Further, the public interest is best served by allowing withdrawal of the Complaint which Complainant no longer wishes to prosecute. The Commission has no interest in mandating that a customer continue litigation when the customer indicates no interest in prosecuting the complaint. Granting the Complainant's request will eliminate the need for litigation and save the parties and the Commission any additional costs in time and money that would otherwise be incurred in litigating the case. *Bayala v. Philadelphia Gas Works*, Docket No. F-2017-2624911 (Final Order entered April 19, 2018).

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

3. 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).

4. It is in the public interest to allow the withdrawal of the formal Complaint at Docket No. C-2019-3014144.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the petition of Michael Carr to withdraw his formal Complaint at Docket Number C-2019-3014144 is granted.

2. That the formal Complaint of Michael Carr filed against PECO Energy Company at Docket Number C-2019-3014144 is withdrawn.

3. That this matter be marked closed.

DATE: March 25, 2020

/s/
Dennis J. Buckley
Administrative Law Judge