

**BEFORE THE  
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

James Hess	:	
	:	
v.	:	C-2020-3019135
	:	
Aqua Pennsylvania, Inc.	:	

**INITIAL DECISION**

Before  
Angela T. Jones  
Administrative Law Judge

**INTRODUCTION**

In this proceeding, James Hess (Complainant or Mr. Hess) filed a formal Complaint (Complaint) with the Pennsylvania Public Utility Commission (Commission) against Aqua Pennsylvania, Inc. (Aqua, Company or Respondent). The Complainant determined it is appropriate to withdraw his Complaint. This decision grants the Complainant’s request to withdraw his Complaint because there is no objection to the request and it is in the public interest to grant it.

**HISTORY OF THE PROCEEDING**

On February 27, 2020, the Complainant filed a Complaint against the Respondent. The Complainant alleged the Respondent increased his wastewater rate from \$800.00 per year to \$1,200.00 per year (50%) after taking over the service from his township. The Complainant requested that the issue be investigated.

The Complaint was electronically served on the Respondent by the Commission’s Secretary on March 9, 2020.

On March 26, 2020, the Respondent filed its Answer and New Matter to the Complaint. The Answer admitted to the service rate increase and alleged it is consistent with its Commission-approved tariff effective January 1, 2020. The Respondent requested that the Commission dismiss the Complaint.

A Hearing Notice was issued on May 20, 2020, scheduling a call-in telephonic hearing on Wednesday, July 29, 2020 at 10:00 a.m. The Hearing Notice assigned the Complaint to the undersigned Administrative Law Judge (ALJ).

A Prehearing Order dated May 14, 2020, was sent to the parties providing the procedural rules to the proceeding and confirming the scheduled call-in telephonic hearing for Wednesday, July 29, 2020.

By letter dated July 7, 2020, the Complainant filed a request to reschedule the hearing. More specifically, Mr. Hess stated that he is in the process of requesting information from Tobyhanna Township and was informed it may take up to 30 days before he obtains a response. Mr. Hess requested a continuance of 60 days but would acquiesce to what is deemed reasonable. Mr. Hess served his request on counsel for the Respondent.

The Respondent answered the request for continuance by electronic mail on July 7, 2020. The Company did not object to the request.

By Order dated July 7, 2020, the request for continuance by the Complainant was granted.

By Hearing Notice dated July 17, 2020, the call-in telephonic hearing was rescheduled for Tuesday, September 22, 2020 at 10:00 a.m.

On September 4, 2020, the Complainant filed a letter stating he wanted to withdraw his Complaint.

On September 10, 2020, the Company filed a letter stating it did not object to the Petition.

This matter is ripe for decision and the record is closed by the ordering paragraphs below.

### DISCUSSION

This was a contested proceeding to resolve the Complainant's request to investigate the rate increase by the Respondent for wastewater service to the Complainant effective January 1, 2020.

The Complainant filed a letter to withdraw his Complaint (Petition). The Respondent does not object to the Complainant's Petition.

Commission regulations address the withdrawal of pleadings in a contested proceeding at Section 5.94(a) of Title 52 of the Pennsylvania Code which states,

§ 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, 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).

Section 1.8 of Title 52 of the Pennsylvania Code states, under “Pleading,”

An application, **complaint**, petition, answer, motion, preliminary objection, protest, reply, order to show cause, new matter and reply to new matter or other similar document filed in a formal proceeding.

52 Pa.Code § 1.8 (emphasis added). Based on the definition for pleading, the instant Complaint is a pleading.

The Complainant is representing himself in this Complaint.

52 Pa.Code § 1.2(a), (c) and (d) state,

(a) This subpart shall be liberally construed to secure the just, speedy and inexpensive determination of every action or proceeding to which it is applicable. The Commission or presiding officer at any stage of an action or proceeding may disregard an error or defect of procedure which does not affect the substantive rights of the parties.

\* \* \*

(c) The Commission or presiding officer at any stage of an action or proceeding may waive a requirement of this subpart when necessary or appropriate, if the waiver does not adversely affect a substantive right of a party.

(d) These liberal construction provisions apply with particularity in proceedings involving pro se litigants.

Pursuant to 52 Pa.Code § 1.2(a), (c) and (d), the undersigned will address the request as it does not affect the substantive rights of the parties. The communication not being in the form of a petition will not delay the undersigned from securing a just, speedy and inexpensive determination in this proceeding.

It is noted that the Complainant performed this action under his own discretion. It is compelling that the Respondent does not object to the withdrawal requested by the Complainants.

It curtails the costs of the Commission and the parties, Mr. Hess and Aqua, to cease any further consideration of the Complaint if the matter is moot or is not viable or no longer in need

of pursuit by the Complainant. For these reasons, I find that the Complainant's request to withdraw his Complaint is in the public interest.

CONCLUSIONS OF LAW

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

2. Granting Complainant's Petition to withdraw his formal Complaint is reasonable and in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition to withdraw the formal Complaint of James Hess against Aqua Pennsylvania, Inc. at Docket No. C-2020-3019135 is granted.

2. The formal Complaint filed by James Hess against Aqua Pennsylvania, Inc. at Docket No. C-2020-3019135 is withdrawn.

3. That the record is closed.

4. That the Secretary's Bureau is to mark this docket closed.

Date: October 1, 2020

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/s/  
Angela T. Jones  
Administrative Law Judge