

PENNSYLVANIA PUBLIC UTILITY COMMISSION
Harrisburg, Pennsylvania 17105-3265

NetSpeed LLC
v.
Duquesne Light Company

Public Meeting held October 8, 2020
3020212-ALJ
Docket No. C-2020-3020212

MOTION OF VICE CHAIRMAN DAVID W. SWEET

This case involves withdrawal of a complaint by NetSpeed LLC (NetSpeed) against Duquesne Light Company (Duquesne). NetSpeed filed a formal complaint against Duquesne, the pole owner, challenging Duquesne's pole attachment permitting and fee practices. Following extensive discovery and unsuccessful mediation, NetSpeed filed a motion to stay the proceeding and a petition for leave to withdraw. In its motion, NetSpeed requested that the proceeding be stayed pending a decision on its petition, in which it sought permission to withdraw the complaint to better conserve its resources.

Pursuant to our regulation at 52 Pa. Code § 5.94(a), the ALJ reviewed the petition, lack of objection, and the public interest in determining whether to permit withdrawal of the complaint. The ALJ found that "[s]ince this is an individual complaint case, there will be no adverse impact on the public interest in granting the Complainant's petition to withdraw its complaint." He further concluded that "[g]ranted the petition ... will terminate the litigation, saving the parties the costs in time and money [and] conserve administrative hearing resources."¹

We disagree with the ALJ's assessment of the public interest based on the involvement of an individual complainant. It is erroneous to conclude that a single formal complaint cannot implicate the public interest. Similarly, it would be error to conclude that no harm to the public interest may arise simply because only one complainant seeks to address an alleged harm. Here, the complainant wishes to withdraw its formal complaint. No party objects, and we agree that administrative economy directs that continued litigation of the matter is no longer in the public interest. It is sufficient to conclude that under the circumstances, the request to withdraw is reasonable and in the public interest, and on this basis we grant the complainant's petition.²

THEREFORE, I MOVE THAT:

1. The Initial Decision be amended consistent with this Motion;
2. The Initial Decision be affirmed in other respects and withdrawal of the complaint be permitted; and
3. The Office of Special Assistants prepare an Opinion and Order consistent with this Motion.



David W. Sweet, Vice Chairman

October 8, 2020

¹ Recommended Decision at 4.

² See *Whitehead v Verizon Pennsylvania, LLC*, Docket No. C-2019-3008474 (Order entered March 10, 2020).