

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Keystone Cooperative Association Inc.	:	
	:	
v.	:	C-2020-3021238
	:	
Peoples Natural Gas Co., LLC	:	

INITIAL DECISION

Before
Joel H. Cheskis
Deputy Chief Administrative Law Judge

INTRODUCTION

This decision grants a petition to withdraw a complaint filed by a cooperative association against a natural gas distribution company alleging that the company failed to renew an agreement that provided the association with a discounted rate. The petition to withdraw is granted because it is in the public interest and there is no objection to it.

HISTORY OF THE PROCEEDING

On August 10, 2020, Keystone Cooperative Association, Inc. (Keystone) filed a formal complaint with the Pennsylvania Public Utility Commission (Commission) against Peoples Natural Gas Company, LLC (Peoples), docket number C-2020-3021238. In its complaint, Keystone averred that Peoples failed to renew an agreement with Keystone for provision of services at a discount rate as provided for in Peoples' tariff. Keystone noted that Keystone and Peoples were parties to an agreement under which Peoples provided discounted service to Keystone over a 20-year contract and that contract expired, by its own terms, on June 30, 2020.

On September 8, 2020, Peoples filed an answer in response to the complaint. In its answer, Peoples admitted or denied the various averments in Keystone's complaint. In particular, Peoples admitted that it previously provided Keystone a discounted rate and that the discounted rate agreement expired on June 30, 2020. Peoples also admitted that it declined to renew the contract but denied other averments in the complaint.

On January 28, 2021, a hearing notice was issued setting an initial call-in telephonic hearing for this matter for Tuesday, March 9, 2021 at 10:00 a.m. and assigning me as the presiding officer. A prehearing order was issued on January 29, 2021 setting forth various rules that would govern the hearing.

On February 24, 2021, however, Keystone filed a petition for leave to withdraw the complaint. In its petition, Keystone averred that it has decided that it is unlikely to receive any substantial benefit through the instant litigation and that it would be in the best interest of its members if it requested permission to withdraw the complaint. Keystone further stated that it believes that withdrawal of the complaint is in the public interest in that it will save the parties the cost of litigation and will allow those resources to be used elsewhere. Keystone added that if it is permitted to withdraw its complaint, no party will be harmed. Counsel for Peoples indicated via email on February 25, 2021 that Peoples does not object to the petition to withdraw.

A hearing cancellation notice was issued on February 25, 2021 formally cancelling the hearing scheduled for March 9, 2021.

The record in this case closed on February 25, 2021, when Peoples indicated it did not object to the petition to withdraw. The petition to withdraw is ready for disposition. As discussed below, the petition to withdraw will be granted because it is in the public interest and there is no objection to it.

FINDINGS OF FACT

1. The petitioner in this case is Keystone Cooperative Association, Inc.

2. The respondent in this case is Peoples Natural Gas Co., LLC.
3. On August 10, 2020, Keystone filed a formal complaint with the Commission against Peoples.
4. On September 8, 2020, Peoples filed an answer to the complaint filed by Keystone.
5. On February 24, 2021, Keystone filed a petition for leave to withdraw the complaint filed by Keystone.
6. No objections were filed in response to the petition to withdraw.

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 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. 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, Keystone averred in its complaint that Peoples failed to renew an agreement with Keystone for the provision of services at a discount rate as provided for in Peoples’ tariff. In its petition to withdraw, however, Keystone stated that “nonetheless, Keystone has decided that the best interest of its members lies down a different path, and that it is unlikely to receive any substantial benefit through the instant litigation.” Keystone added that it believes that “withdrawal of the complaint is in the public interest in that it will save all parties the cost and aggravation of litigation and will allow those resources to be used elsewhere” and that “no party will be harmed” if the complaint is withdrawn.

The petition to withdraw the complaint will be granted. It is in the public interest to grant the petition to withdraw and there is no objection to it. As Keystone noted, the complaint pertains to an agreement that existed for 20 years between Keystone and Peoples. That agreement no longer exists. Keystone initially determined to file a formal complaint regarding the fact that the agreement no longer exists but subsequently decided that it would not be reasonable to pursue the complaint. Keystone determined instead that “the best interest of its members lies down a different path and that it is unlikely to receive any substantial benefit through the instant complaint.”

It is not unreasonable that a party who has filed a formal complaint will subsequently decide that litigation is not the appropriate path. Furthermore, it is not in the public interest to require parties to continue to pursue litigation that a party believes is not in its best interest, especially where the issue involved in the litigation pertains solely to the two parties. There is no indication that any other entity received the rate that Peoples provided to Keystone. There are no public interest standards to consider because this matter involves an agreement between two parties. Keystone is correct that requiring the parties to continue to litigate this matter when the parties do not wish to pursue the matter any further is not in the public interest and withdrawing the complaint will save the parties costs. In addition, granting the petition to withdraw will save the Commission resources as well.

Again, as noted above, there are no objections to the petition. Although the 10-day period allowed in the regulation for objections to be filed in response to the petition has not yet expired, since the only other party to the proceeding has already indicated there is no objection to the petition, and the complaint does not involve a greater public interest issue, it is reasonable to waive the 10-day period for objections and address the petition at this time.

Therefore, 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, the petition to withdraw the complaint filed by Keystone will be granted.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over the subject matter and the parties to this proceeding. 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 Keystone to withdraw its complaint.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the petition to withdraw the complaint filed by Keystone Cooperative Association, Inc. at docket number C-2020-3021238 is hereby granted.
2. That the formal complaint filed by Keystone Cooperative Association, Inc. against Peoples Natural Gas Co, LLC at docket number C-2020-3021238 is withdrawn.

3. That this matter be marked closed.

Date: March 3, 2021

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