

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Pennsylvania Public Utility Commission	:	
Bureau of Investigation and Enforcement	:	
	:	
v.	:	C-2019-3011252
	:	
Lyta Corporation t/a Best Transit	:	

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Initial Decision grants the Bureau of Investigation and Enforcement’s Petition for Leave to Withdraw its Complaint against Lyta Corporation t/a Best Transit as moot.

HISTORY OF THE PROCEEDING

On July 2, 2019, the Bureau of Investigation and Enforcement (Complainant or I&E) of the Pennsylvania Public Utility Commission (Commission) filed a Formal Complaint (Complaint) against Lyta Corporation t/a Best Transit (Respondent or Lyta) alleging that the Respondent failed to satisfy its 2016-2017 and 2017-2018 Fiscal Year Assessments in that it did not pay the amount due within 30 days of receipt of the invoices. As relief, I&E requested that the Commission order the Respondent to pay a total of \$34,373, which consists of its outstanding assessment balance of \$29,873 and a total civil penalty of \$4,500. If payment of the assessment and civil penalty was not made, I&E requested that the Commission issue an Order to cancel the Certificate of Public Convenience issued to the Respondent, and that this matter be referred to the Pennsylvania Office of Attorney General for appropriate action.

On July 23, 2019, Respondent filed an Answer denying the material allegations of the Complaint.

A Hearing Notice dated January 19, 2021, notified the parties that an initial call-in hearing was scheduled for Thursday, February 11, 2021, at 10:00 a.m.

I issued a Prehearing Order on January 27, 2021. The Prehearing Order directed the parties to comply with various procedural requirements and directed that a request to change the scheduled hearing should be sent to me at least five days prior to the hearing date, be in writing and state the agreement or opposition of the other party.

By e-mail dated February 3, 2021, counsel for I&E informed me that the Certificates of Public Convenience of Lyta Corporation t/a Best Transit were cancelled by the Commission by Secretarial Letter dated February 3, 2021 at Docket No. M-2020-3015774. Because Lyta's Certificates of Public Convenience were cancelled, I&E informed me of its intention to withdraw its Complaint as moot, and requested that the hearing scheduled for February 11, 2021, be cancelled.

On February 5, 2021, I&E filed a Petition for Leave to Withdraw the Complaint (Petition) in this matter.

A Cancellation Notice dated February 8, 2021, notified the parties that the initial call-in hearing scheduled for Thursday, February 11, 2021 was cancelled.

Respondent did not object to I&E's Petition.

The record closed on February 18, 2021, when the time for filing objections to the Petition for Leave to Withdraw the Complaint expired.

For the reasons set forth below, I&E's Petition for Leave to Withdraw its Complaint is granted.

FINDINGS OF FACT

1. The Complainant is the Commission's Bureau of Investigation and Enforcement.
2. The Respondent is Lyta Corporation t/a Best Transit.
3. On July 2, 2019, I&E filed a Complaint against Lyta alleging that the Respondent failed to satisfy its 2016-2017 and 2017-2018 Fiscal Year Assessment.
4. As relief, I&E requested that the Commission order the Respondent to pay a total of \$34,373, which consists of its outstanding assessment balance of \$29,873 and a total civil penalty of \$4,500.
5. In the alternative, I&E requested that the Commission issue an Order to cancel the Certificate of Public Convenience issued to the Respondent, and that this matter be referred to the Pennsylvania Office of Attorney General for appropriate action.
6. On July 23, 2019, Respondent filed an Answer denying the material allegations of the Complaint.
7. A Hearing Notice dated January 19, 2021, notified the parties that an initial call-in hearing was scheduled for Thursday, February 11, 2021, at 10:00 a.m.
8. On February 3, 2021, a Secretarial Letter was issued cancelling Lyta's Certificates of Public Convenience at Docket Nos. A-2010-2186555, A-2010-2186707, and A-2010-2206537 for failing to comply with the Commission's February 6, 2020 Tentative Order at Docket No. M-2020-3015774, concerning the Respondent's failure to pay its outstanding assessment balance. See Petition ¶ 12.

9. On February 5, 2021, I&E filed a Petition for Leave to Withdraw the Complainant in this matter as moot.

10. Respondent did not object to I&E's Petition for Leave to Withdraw the Complaint.

DISCUSSION

The Commission's Rules of Practice and Procedure at 52 Pa.Code § 5.94 permit parties to withdraw pleadings in a contested proceeding. The provision at 52 Pa.Code § 5.94(a) allows withdrawal of pleadings, by filing with the Commission and service to parties, a petition for leave to withdraw the pleading. 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.

In its Petition for Leave to Withdraw the Complaint, I&E explained that on February 3, 2021, a Secretarial Letter was issued cancelling Lyta's Certificates of Public Convenience at Docket Nos. A-2010-2186555, A-2010-2186707, and A-2010-2206537 for failing to comply with the Commission's February 6, 2020 Tentative Order at Docket No. M-2020-3015774 (Tentative Order) concerning the Respondent's failure to pay its outstanding assessment balance of \$47,751. The outstanding assessment balance of \$47,751 included \$8,972 for the 2019-2020 Fiscal Year; \$2,593 for the 2016-2017 Fiscal Year; \$27,280 for the 2017-2018 Fiscal Year; and \$8,906 for the 2018-2019 Fiscal Year. See Petition ¶ 12.

Because the Tentative Order addresses Lyta's outstanding assessment balance, including the 2016-2017 and 2017-2018 Fiscal Years which are at issue in the present Complaint, and because Lyta's Certificates of Public Convenience have been cancelled pursuant to the Tentative Order, I&E's Complaint against Lyta is deemed moot.

The Commission has no interest in mandating that a complainant continue litigation when it has indicated that it no longer wishes to proceed with the complaint. In the present case, the Complainant has effectively abandoned the Complaint as moot. Thus, evaluating I&E's claims and preparing a decision would not be in the public interest. Further, the Complaint does not allege any facts that would impact the public interest. The Complaint does not contain any novel issues or issues of public interest. Under these circumstances, granting the Complainant's request to withdraw its Complaint is in the public interest because doing so will eliminate the need for further litigation and save the parties any additional costs in time and money it would otherwise incur litigating the case. Accordingly, the Complainant's Petition for Leave to Withdraw the present Complaint is granted.

CONCLUSIONS OF LAW

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

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

3. In determining whether to permit withdrawal of the pleading, the presiding officer or Commission must consider the petition, any objections thereto and the public interest. 52 Pa.Code § 5.94.

4. There was no objection to the Complainant's withdrawal request, and granting the Complainant's withdrawal request is in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission for Leave to Withdraw the Complaint filed at Docket No. C-2019-3011252 is granted.
2. That the Complaint of the Bureau of Investigation and Enforcement of the Pennsylvania Public Utility Commission against Lyta Corporation t/a Best Transit filed July 2, 2019, at Docket No. C-2019-3011252 is withdrawn.
3. That the Secretary's Bureau shall mark Docket No. C-2019-3011252 closed.

Date: April 9, 2021

/s/
Eranda Vero
Administrative Law Judge