

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Louis DiFranco

v.

PECO Energy Company

:
:
:
:
:

F-2020-3022028

INITIAL DECISION

Before
Eranda Vero
Administrative Law Judge

INTRODUCTION

This Initial Decision grants Louis DiFranco’s request to withdraw his Complaint because there were no objections thereto and granting the withdraw is in the public interest.

HISTORY OF THE PROCEEDING

On August 27, 2020, Louis DiFranco (Complainant or Mr. DiFranco) filed a Formal Complaint (Complaint) against PECO Energy Company (Respondent) with the Pennsylvania Public Utility Commission (Commission) alleging that the utility is threatening to shut off his electric service and that PECO “is trying to put another person’s bill on [his] account.”

This formal Complaint is a timely appeal to a decision issued by the Commission’s Bureau of Consumer Services at BCS Case No. 3749588.

On October 9, 2020, Respondent filed an Answer denying the material allegations of the Complaint.

A Hearing Notice dated October 16, 2020, notified the parties that an initial call-in hearing was scheduled for Thursday, December 10, 2020, at 10:00 a.m.

I issued a Prehearing Order on November 23, 2020. 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.

The hearing convened as scheduled on December 10, 2020. Louis DiFranco appeared *pro se* and testified in support of the Complaint. Khadijah Scott, Esq., represented the Respondent, and presented the testimony of Wanda Rucker, who is a regulatory assessor with PECO in charge of reviewing and investigating formal complaints filed with the Commission. The Respondent sponsored five exhibits, which were admitted into the record.

By letter dated December 29, 2020 and delivered via regular mail to the Commission's offices in Philadelphia, Mr. DiFranco informed me that he had reconsidered his Complaint and that he wanted me to close the case.¹ I interpreted Mr. DiFranco's communication to be a Petition for leave to withdraw his Complaint. On February 12, 2021, I sent an electronic copy of Mr. DiFranco's communication to PECO's counsel in this matter, as it was unclear whether Mr. DiFranco had informed the Respondent of his request. By e-mail dated, February 15, 2021, PECO's counsel indicated that the Respondent did not object to Mr. DiFranco's request to withdraw his Complaint.

The record closed on February 15, 2021.

For the reasons set forth below, the Complainant's request to withdraw his Complaint is granted.

¹ During this period of the Governor's Disaster Emergency Declaration in response to the COVID-19 pandemic, Commission staff is working remotely. Regular mail delivered to Commission offices in Philadelphia is being processed regularly but not daily. Mr. DiFranco's letter dated December 29, 2020, was processed on January 29, 2021. Apart from the name of the Complainant, the letter was devoid of case caption or Docket Number.

FINDINGS OF FACT

1. The Complainant is Louis DiFranco.
2. The Respondent is PECO Energy Company.
3. On August 27, 2020, the Complainant filed a Complaint with the Commission against the Respondent.
4. On October 9, 2020, Respondent filed an Answer and New Matter to the Complaint.
5. By Hearing Notice dated October 16, 2020, an initial call-in hearing was scheduled in this matter for December 10, 2020, at 10:00 a.m.
6. The hearing convened as scheduled on December 10, 2020.
7. By letter dated December 29, 2020 and received January 29, 2021, Mr. DiFranco requested leave to withdraw his Complaint.
8. Respondent did not object to the Complainant's request to withdraw his 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. For purposes of this decision, the Complainant's written statement that he no longer

desires to proceed with his Complaint against PECO Energy Company will be treated as a Petition for Leave to Withdraw the Complaint. See 52 Pa.Code § 1.2 which provides that the Commission may, in order to secure the just, speedy and inexpensive determination of actions or proceedings, disregard an error or defect of procedure which does not affect the substantive rights of the parties.

By letter dated December 29, 2020, and received January 29, 2021, Mr. DiFranco requested leave to withdraw his Complaint. Through this communication, delivered via regular mail to the Commission's offices in Philadelphia, Mr. DiFranco informed me that he had reconsidered his Complaint and that he wanted this case to be closed. By e-mail dated February 15, 2021, PECO's counsel indicated that the Respondent did not object to Mr. DiFranco's request to withdraw his Complaint.

The Commission has no interest in mandating that a complainant continue litigation when he has indicated that he no longer wishes to proceed with his complaint. In the present case, the Complainant has effectively abandoned his Complaint. Thus, evaluating Mr. DiFranco'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 his 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 they would otherwise incur litigating the case. Accordingly, the Complainant's request 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. Granting the Complainant's withdrawal request is in the public interest.

ORDER

THEREFORE,

IT IS ORDERED:

1. That the Petition of Louis DiFranco for Leave to Withdraw his Complaint filed at Docket No. F-2020-3022028 is granted.

2. That the Complaint of Louis DiFranco against PECO Energy Company filed August 27, 2020, at Docket No. F-2020-3022028 is withdrawn.

3. That the Secretary's Bureau shall mark Docket No. F-2020-3022028 closed.

Date: April 13, 2021

/s/
Eranda Vero
Administrative Law Judge